

*Public Order Act, 1970*

(2) A person shall not be detained in custody under subsection (1)

(a) after the seventh day following his arrest or, if he was arrested before the coming into force of this act, after the seventh day following that date, unless, before expiry of the seven days, the Attorney General of the province in which the person is in custody has filed with the clerk of the superior court of criminal jurisdiction in the province a certificate under this section stating that just cause exists for the detention of that person pending his trial, or

(b) after a certificate issued under this section in respect of that person has been revoked, or the Attorney General of the province in which that person is in custody has otherwise consented to the release of that person on bail.

(3) Where a person who has been charged with an—

[English]

**Mr. Baldwin:** Mr. Chairman, I would ask the minister to clarify one aspect not only of this amendment but of the original clause. I should like to ask a question with respect to the certificate that is to be given by the Attorney General. The certificate would state that just cause existed for the detention of a person, and this would be the reason for detaining that person for up to seven days.

Can the minister indicate whether it is intended that the certificate will state what is the just cause, or will it simply state, "In the opinion of I, Jerome Choquette"—or whoever it may be—"there is just cause for the continued detention of," so-and-so? If this is the case, I would be rather apprehensive about it because I must say, with all due respect, that some of the statements attributed to the Attorney General of Quebec indicate it would be dangerous to leave in the hands of an attorney general, particularly the one I have instanced, the right simply to sign a certificate stating there is just cause.

Is it intended that more than this bald statement would be included in the certificate? Is there to be any reason given beyond the Attorney General saying there is just cause? If there is—and what we say here is not binding upon any court—I assume it is the view of the government and the view, I hope, of hon. members of the committee that the Attorneys General be so advised.

• (3:50 p.m.)

**Mr. Turner (Ottawa-Carleton):** Mr. Chairman, if the hon. member for Peace River compares clause 7(2) with the regulations under the War Measures Act, he will see why the words "just cause" have been inserted. The regulation provides:

A person arrested for an offence under section 4 shall be detained in custody without bail pending trial unless the Attorney General of the province in which the person is being detained consents to the release of that person on bail.

In other words, it was at the discretion of the Attorney General to withhold or to grant bail. It was taken away from the court. The same thing obtains here. The discretion is left in the hands of the Attorney General. The reason the words "just cause" were added is to make clear that since we have the Bill of Rights, and since the words "bail shall be granted on just cause" appear, we have to use the same words to make that particular

exclusion from the Canadian Bill of Rights, leaving the suspension of bail in the hands of the Attorney General. In other words, since bail must be granted under the Canadian Bill of Rights when just cause is apparent, the words "just cause" are repeated here to illustrate that the Attorney General has to say there is just cause for refusal.

The specific answer, then, to the hon. member's question is that the Attorney General will not have to state what the cause is; he will just state that in his opinion just cause exists. The words are inserted to make it clear that this is one of the exceptions to the application of the Bill of Rights.

**Mr. Baldwin:** Does the minister feel there should be a reason stated as to just cause? I understand the point the minister has made in respect of bringing in this provision as it affects the Bill of Rights, but is it the view of the minister that the "just cause" should be particularized? I am not suggesting it be given in great detail but perhaps some indication should be given. That is the point the minister might consider.

**Mr. Turner (Ottawa-Carleton):** Here again, the Attorney General of the province is the chief law enforcement officer and his responsibility in the exercise of his discretion is to the legislature and the people. He will have to substantiate this, but I would prefer to leave it in his discretion.

**Mr. Baldwin:** His "just cause" and yours might be different.

**Mr. Stanfield:** You could say that about anything.

**The Chairman:** Is the committee ready for the question?

**Mr. Lewis:** I just want to understand that we are merely voting on the alternative wording which the Parliamentary Secretary has moved and that this does not settle the discussion on clause 7.

**The Chairman:** The question is on the amendment now before the committee. Shall the amendment carry?

Amendment (Mr. Béchard) agreed to.

**Mr. Gilbert:** Mr. Chairman, I have an amendment in respect of the original wording of clause 7. However, since the Parliamentary Secretary moved an amendment which has changed the wording of clause 7, my amendment will have to be in accordance with the amendment just passed. The Chairman has a copy of my amendment. Just so we are clear in our own minds, I move

That clause 7(1) be amended by striking out all the words in the said clause after the words "pending his trial" in the third line thereof so that the said subclause will read:

"A person charged with an offence under section 4 shall be detained in custody without bail pending his trial unless an order for his release on bail is made by a court having jurisdiction under the Criminal Code".