

I gave the example of the employee who sold gasoline without coupon and without his employer's permission. The judge ruled that this was an offence against public order.

Clause 14 of this legislation states that sections 4, 5 and 6 of the Regulations under the War Measures Act are supposed to be reproduced here. Therefore the judge will interpret them as creating offences of strict responsibility.

I will give some examples of crimes which, in my humble opinion, are cases of "strict responsibility".

Subclause (e) mentions a person who "contributes anything as dues or otherwise to the unlawful association or to anyone for the benefit of the unlawful association".

Any lawyer that would give his time and that of his employees to defend an unlawful association would be guilty, in my opinion, unless were added the words "without legitimate excuse, the proof of which is incumbent on him" or, for example, in subclause (a), "if a police spy admits he is a member to infiltrate an unlawful organization", in my opinion both are committing an offence.

In subclause (b): "acts or professes to act". The same would happen to a spy and I could take all the other cases.

This is why according to the provisions of subclause (c), in my opinion it is forbidden with or without police authorization to pass a communiqué. Jurisprudence is categorical on this point.

The War Measures Act regulations are drastic. We are not interested in the intent of the accused. For my part, I would suggest that the onus lie upon the Crown. Obviously, when we say "being a member", it is impossible to have lawful justification or excuse but in other cases, such as the one I mentioned earlier in connection with subclause (e), an attorney cannot work without a fee and I will attempt to prove that the wording of clause 5 leaves no doubt about that.

I have quoted quite a number of sections from the Criminal Code and even from the omnibus bill passed two years ago which provide that a person who, without lawful justification or excuse, refuses to submit to a breathalyzer test or a person who, without lawful excuse, threatens someone with a weapon commits an offence. Such a law is therefore necessary, otherwise—again, I may be mistaken, but I have taught law at university and I have talked with prominent legal experts and with teachers of criminal law—we have before us a case of "strict liability" under section 14 of this act and in the light of statute law.

• (5:50 p.m.)

[English]

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

Public Order Act, 1970

Some hon. Members: Question.

Amendment (Mr. De Bané) negatived: Yeas, 1; nays, 45.

The Deputy Chairman: I declare the amendment lost.

[Translation]

Before submitting to the House the following amendment of the hon. member for Matane, I will take the liberty of asking him to say what he wants exactly. In the wording before me, a correction was made and I wonder if the hon. member wants to say "dirigeant d'une association illégale" or "dirigeant de l'association illégale"—

Mr. De Bané:—de l'association, Mr. Chairman.

The Deputy Chairman: If I understand the wording of the present act, I find that the amendment moved by the hon. member seems to be on all fours with it. Therefore I do not see how an amendment can be moved to a wording which is on all fours with subclause b).

Mr. De Bané: If you will allow me, Mr. Chairman, I submitted as a translation to subclause (b), not:

b) fait office ou déclare faire office—

—which is a translation of the English, but

b) fait ou déclare faire office—

The Deputy Chairman: It is moved by the hon. member for Matane to replace clause 4b) by the following:

b) fait ou déclare faire office de dirigeant de l'association illégale.

In short, the hon. member deletes the word "office", the second word of the subclause.

Mr. De Bané: Exactly, Mr. Chairman. My amendment reads as follows: change from (b) to (g) in the following manner according to the texts you have on hand.

[English]

The Deputy Chairman: Hon. members of the committee have heard the motion. Is it the wish of the committee that I repeat that amendment moved by the hon. member?

An hon. Member: Dispense.

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

Some hon. Members: Question.

[Translation]

The Deputy Chairman: Those members in favour of the amendment will please rise. Those members opposed to the amendment will please rise.

Amendment (Mr. De Bané) negatived: yeas 3, nays 40.

It is moved by the hon. member for Matane that clause 4(c) be amended as follows:

Mr. De Bané: The amendment being similar to the one that was moved, it is withdrawn.