

*Public Order Act, 1970*

Retroactive legislation is always wrong. Retroactive criminal legislation is particularly obnoxious and unjust. There can be no argument about the retroactivity of clause 8 of the bill. It states in simple words that anyone who at any time before the passing of this bill attended a meeting of the FLQ or of any branch, committee or members thereof, who communicated statements on behalf of the FLQ or gave support to it at a time when it was not an unlawful association, can be found guilty of being a member of the FLQ unless that person disproves it through acceptable evidence in court.

Anyone who has had experience in court, and my experience has not been as long or as wide as that of many other members of this House, knows very well that an accused, faced with evidence of past activities when the organization was perfectly legal, would be in a terrible situation. He would have to give evidence he is not now and has not been connected with the FLQ whether he likes it or not. That is contrary to our traditions with respect to criminal charges. In essence, a person is in jeopardy of being convicted for acts performed at a time when the acts were entirely lawful, a time when the law did not prohibit attending meetings or communicating statements on behalf of an organization which was only made illegal on October 16. I want to emphasize that I am not speaking of a person who has committed or is charged with a criminal act.

If the minister had accepted the amendment of the hon. member for Broadview it would have been a different story, but he did not. I am speaking about a person who participated or was present at a number of meetings of the unlawful association, spoke publicly in advocacy of the unlawful association and communicated statements at a time when the association was not unlawful. That is the retroactivity feature of this clause.

The precedent that clause 8 would establish is very regrettable. A precedent will be set that if an organization is declared illegal at some date, after it has been declared illegal we can add that anyone who participated in its activities before it was declared illegal is guilty of an offence. That method is used by dictators throughout the world to stifle freedom of speech and intimidate freedom of association and expression of opinion. Dictatorships throughout the world have done that. There is a danger in legislation which is made retroactive to any date the government may wish so that they may spread their net and take in everyone they do not like or anyone opposed to the social or political situation.

This amendment gives Parliament, assembled in the House of Commons rather than in committee, the opportunity to at least remove this vicious, unnecessary and retroactive feature of the bill. I appeal to hon. members to do so.

• (9:20 p.m.)

**Mr. Colin D. Gibson (Hamilton-Wentworth):** Mr. Speaker, as one who has listened with great attention—

**Some hon. Members:** Hear, hear!

**Mr. Gibson:** —to the hon. member for York South (Mr. Lewis) both in the House in this debate and for many

[Mr. Lewis.]

hours recently on radio and television, as one who has patiently, through force of circumstances created by the generous time allotment enjoyed by a splinter group in this House, been waiting to answer the sardonic and ill-conceived, partisan attacks launched by the said member on the Prime Minister (Mr. Trudeau)—

**Some hon. Members:** Author.

**Mr. Gibson:** —I take great pleasure in responding to the ill-considered views of the said member which, on reflection, I believe to be based on a false appraisal by a man who has no real understanding of the problems of Canada today—

**Mr. MacInnis:** I rise on a point of order, Mr. Speaker, to bring to your attention that it has always been the custom and the rule of this House that no member may read a speech, especially one prepared by somebody else.

**Some hon. Members:** Oh, oh!

**Mr. Speaker:** Order please. The hon. member knows, I am sure, that the rule is not one which has been entirely respected, especially in recent years, and hon. members are familiar with the reply sometimes given by Mr. Speaker to the effect that members may refer to what have been called copious notes. Obviously, this is what the hon. member is indulging in at the present time.

**Some hon. Members:** Oh, oh!

**Mr. Speaker:** I think the point is well taken. I have always felt that as an assembly we should try to enforce the long-standing practice that speeches should not be read, except perhaps for those connected with technical subjects, ministerial statements and the like; the ordinary speeches should be delivered extempore rather than read. I hope hon. members will keep this in mind as far as possible when addressing the House.

**Mr. Gibson:** —by a man who has no understanding of the problems of the day and absolutely no sympathy or tolerance for those in authority in the province of Quebec, which is one of our provinces, a part of Canada and a part of this nation. Moreover, it is a province in which the party to which the hon. member for York South belongs has no representation, never has had any representation and never will have any representation.

**Some hon. Members:** Hear, hear!

**Mr. Gibson:** This situation is, I am sure, partly the result of the asinine comments the hon. member has made against the wishes of the people of Quebec and against the wishes of the people of Canada. It is high time somebody spoke out against the hon. member for York South when he unfairly attacks this administration and the Minister of Justice on a basis which has no legal sanction or support. He has failed to acknowledge that under the laws governing narcotics and many other laws of Canada, the rules of evidence provide for a shifting of the onus of proof in certain circumstances, related to peculiar crimes, where an accused has particular knowledge of the facts.