

● (3:30 p.m.)

[English]

Why the need for special legislation, Mr. Speaker? What are the inadequacies in our existing criminal law? The existing criminal law is not designed to cope with a group or groups of persons organized on a continuing basis with a fanatic dedication to achieving governmental change by resorting to the commission of crime which, of course, is the nature and purpose and organization of the FLQ. While the Criminal Code deals with treason and sedition, it does not do so in relation to an organized group of the kind mentioned. It deals only with the criminal conduct of individuals, which is not necessarily related to the existence of an identifiable group such as the FLQ.

It follows that no matter how criminal in nature an organization might be, membership in itself may not be unlawful. For obvious reasons, the government would not under ordinary circumstances seek to make membership in any organization a crime in itself. There must be severe limitations on that kind of approach because it is one that can easily lead to unwarranted abuse. We recognize that. On the other hand, it must be self-evident that a point can be reached where that course of action is both necessary and justified—and in the view of the government it has been reached with respect to the FLQ. I say that because unless an organization like the FLQ is made illegal, its ability to exist and function is largely unimpaired. The reason for this is that the FLQ can and does, in addition to the criminal behaviour of its membership, pay lip service to causes that are perfectly legitimate; causes such as unemployment, inadequate housing, grievances of taxi drivers, and so on. In the result, persons can with impunity identify with and support the FLQ financially or otherwise by simply pointing to legitimate causes of the kind just mentioned.

Unless, therefore, it can be shown beyond reasonable doubt that an FLQ supporter has stolen dynamite, committed robbery, murder or some other crime, he is beyond the reach of the ordinary law. That is why the organization itself is being made unlawful. When the conclusion is reached that society must defend itself against the very existence of an organization like the FLQ, then that group and support of it must be outlawed. This is what the emergency regulations did, and that is what this bill proposes to do. The aim of outlawing the organization is to render it ineffective to the greatest extent possible by placing its membership in jeopardy, eliminating sources of support, crippling its ability to make propaganda, making communication on its behalf criminal, and so on.

There are two other special measures in the emergency regulations and in the bill which do not exist in the ordinary criminal law. The first is the authority to arrest without warrant where there is reason to suspect that a person is a member of the unlawful association or has committed, or is about to commit, any of the offences prescribed in section 4 of the regulations or clause 4 of the bill. This requirement is less stringent than that contained in the Criminal Code, which requires the exist-

*Public Order Act, 1970*

ence of reasonable and probable grounds to believe that an indictable offence has been committed.

Secondly, under the provisions of the bill, law enforcement authorities will be allowed a maximum of seven days—which is a reduction from the 21 days in the regulations—to develop any leads they may acquire against a person arrested on suspicion. Under the ordinary rules of the criminal law, a person who has been arrested and detained must be charged and brought before a justice within 24 hours.

Mention should also be made, Mr. Speaker, of the special provision regarding search and the provision relating to the refusal of bail. These special measures undoubtedly facilitate investigations into suspected violations of the emergency laws and, just as important, suspected violations of other offences under existing criminal law. They permit law enforcement authorities to detain suspected FLQ members and supporters who would otherwise be completely out of reach. They also give law enforcement authorities more time to develop a case against a suspect who by reason of his detention is not in a position to take steps to frustrate the investigation. There are risks involved. There are potential abuses. We have weighed them carefully and we have attempted, in so far as we can, to be of assistance to the Attorney General of Quebec and to ensure that these abuses are kept to a minimum. Those are the main arguments I wanted to submit for Your Honour's attention and the attention of the House.

October, 1970, was a watershed for this country. Canada changed. We have experienced what Toffler might call "future shock". It is not easy for a people unaccustomed to violence, seemingly secure in the belief that "It can't happen here", to sense that finally it has happened here. We are no longer immune from the contagion of violence that plagues parts of the world. Canada, someone said, has lost its innocence—and that may well be true. But it is a sad and even tragic commentary on our times that the experience of violence seems to be regarded as the final entry permit into the family of nations.

If Canadians were philosophically unprepared, if we were psychologically complacent, so was our law. After all, the law of a nation is the measure of its civilization. Our laws were moving, and will continue to move, toward giving individuals in this country more personal options, more equality and more appeals against those who govern. In a time of peace and tranquility, the impetus of law reform holds forth great promise; but I suppose it tends to leave us vulnerable in a time of violence or insurrection. Our criminal law was unprepared, both in substance and procedure, both operationally and philosophically, to deal with the kind of terrorist activity and violence which we have witnessed in recent weeks. It was not meant for a society wherein terror and violence suddenly became synchronized.

The criminal law, as we have it now, assumes that a crime is primarily an individual act or is committed by a single individual. Our criminal law is not equipped fundamentally to deal with organized group violence or