

Invoking of War Measures Act

Mr. Turner (Ottawa-Carleton): I thank hon. gentlemen and the hon. lady from Vancouver-Kingsway (Mrs. MacInnis) for their courtesy.

In that sense, then, the concept of absolute freedom which at times is dressed up through verbal sleight of hand such as "political prisoners" and "liberation of the people"—this sleight of hand implying that there are absolute rights and absolute liberties in any particular society—is a perversion of the rule of law. It is the replacement of the rule of law by the rule of absolutism. It denies not only the existence of the state but, ultimately, the freedom and liberty of the individuals composing the state. This type of conduct mocks society at the same time that it seeks to destroy it. We have been living through a charade that mocks, a charade that seeks to destroy.

Accordingly, no democratic process can categorically license any absolute or unfettered conduct without endangering the viability of the democratic process itself. The measure of the democratic process is the history of the rule of law. There has never been anything in any constitution of any democratic society, at any time, which sanctions the concept or practice of absolute liberty and lawlessness. Indeed, if there are any absolute rights they reside in the right, both moral and legal, of the democratically constituted authorities to protect the rights and liberties of the citizens. Society itself cannot—because no government constituted in the name of the people can—through countenancing insurrection and violence oblige its members to subject themselves to the deprivation of life, liberty, property or dignity and claim to be democratic. A government which allows that sort of thing to happen cannot claim either to be democratic or to speak on behalf of the people.

If a government is to reflect and articulate community values and community expectations, it must as a fundamental constitutional norm guarantee the basic survival of that community as a collectivity, and the freedom of that community as individuals. No democratic state can be asked to negotiate the terms of its existence or negotiate away the rights of its members.

Some hon. Members: Hear, hear!

Mr. Turner (Ottawa-Carleton): Political morality does not begin at the barrel of a gun, and the state has both a right and an obligation to protect itself and the members of the community which compose it. The proclamation of the War Measures Act and the enactment of the Public Order Regulations, 1970, should not be interpreted as indicating any departure from the government's declared intention to proceed with its law reform and civil rights program. However, it must be underlined that human rights and fundamental freedoms can only exist within a society that respects those rights. We are experiencing today a direct attack on the very fabric of our society which is dedicated to the protection of those rights and freedoms.

A society that fails to protect itself, a society that cannot manifest the will to protect itself, is a society that does not deserve to be preserved. We believe that the

[Mr. Speaker.]

rights and freedoms that all Canadians enjoy are based upon our democratic institutions and upon the principles of representative government. We believe that these elements of our society must be preserved at all cost. While it is a result I regret very much indeed, we cannot be unduly concerned about the rights and freedoms of those who act to subvert our governments by force and intimidation.

The Public Order Regulations, 1970, should therefore be looked at as an unhappy but necessary step in the ultimate preservation of the rights and freedoms of Canadians generally. I wish to assure the House that it is the intention of the government to proceed as rapidly as possible with its announced law reform program. We also intend to bring this matter now before the House to a successful conclusion. I can only express the hope that the initiative which the government has been compelled to take today will eliminate terrorism and violence in our society, that it will be of short duration and that it will produce a new and better climate for the enjoyment of our rights and freedoms.

Some hon. Members: Hear, hear!

Mr. Speaker: Order, please. Since the minister's time had expired, questions can be asked of him only with the consent of the House and of the minister himself.

Mr. Turner (Ottawa-Carleton): I shall answer.

Mr. Nielsen: For the benefit of the House I wonder whether the minister could clarify the government's intentions with respect to the communist party of Canada, because under the terminology used in section 3 of the regulations it would appear that this association is an unlawful one within the definition of the regulations. If one reads the last four lines of that regulation it will be seen that any association that "advocates, promotes or engages in the use of force or the commission of criminal offences as a means of accomplishing a governmental change within Canada" is an unlawful association. Having regard to the ideology of the communist party of Canada and its adherence to the use of force if necessary to accomplish governmental change, can the minister say that the government intended making the communist party of Canada an unlawful association?

Mr. Turner (Ottawa-Carleton): Mr. Speaker, I know the hon. gentleman puts his question in all seriousness, but I would point out that the text will be interpreted by the courts and that prosecutions will be instituted by the provincial attorneys general. So long as there is the separation between the executive and the courts, and between the federal and provincial attorneys general in terms of responsibility for administering justice, that interpretation is not left to me; it is left to the prosecutors and to the courts.

Mr. Nielsen: I appreciate the minister's difficulty in attempting to interpret laws that the government has passed. My question was this: Is it the intention of the government to say that the communist party of Canada shall be deemed to be an unlawful association?