

of any right or freedom recognized by the Canadian Bill of Rights.

• (3:20 p.m.)

The procedure we are adopting is recognized in the Bill of Rights. In other words, the ultimate constitutional source and the legitimacy of the proclamation by the Governor in Council under the War Measures Act is a power granted to it by Parliament to so enact. It is Parliament which confers this legitimacy, and it is Parliament which can take it away. The power of the Governor in Council flows from Parliament and it is ultimately accountable to Parliament, and thereby to the people of Canada.

I want to move on to address myself to the reason the War Measures Act was used. The question has already been asked: why was the War Measures Act resorted to and why was it brought into force in the early hours of the morning? There are two basic reasons in answer to the first question. The government of Quebec had come to the conclusion, and the government of Canada agreed, that the existing law was inadequate to deal with the crisis in Quebec. This left only two possible courses of action. The government could have sought special legislation of the type embodied in the regulations which have been brought into force under the War Measures or, alternatively, the War Measures Act could have been resorted to.

I suggest to the House that if a special piece of legislation had been resorted to, the provisions might well have been similar to the provisions now found in the regulations. But this government was assured by the government of Quebec, and by senior persons directly involved with attempting to cope with the terrorists, that a search and arrest operation of considerable magnitude directed at the FLQ was necessary and that time was of the essence.

Our initial reaction was the reaction of several members of the House, to seek the authority of Parliament first. But faced with the seriousness of the situation and with the necessity of not broadcasting what the government of Quebec and the government of Canada intended to do, faced with the urgency of anticipating any further escalation in the situation in Montreal, the government of Canada resorted to the War Measures Act. It is my hope that some day the full details of the intelligence upon which the government acted can be made public, because until that day comes the people of Canada will not be able fully to appraise the course of action which has been taken by the government.

The element of surprise was essential, and members of the House will have to rely upon the judgment of the government. I am not saying that other value judgments cannot be brought into play. I am not saying that this debate is not the most legitimate exercise of the parliamentary function. But that was the value judgment we had to exercise and that is how we did it. Also, at this stage, when we are dealing with a situation which is not completely clear, when we are dealing for the first time in Canada with a type of organization which in peace-

Invoking of War Measures Act

time is dedicated to violence and the terroristic overthrow of government, there is advantage in having a certain amount of flexibility, in seeing what we need to deal with this proposition.

There is advantage in having a certain amount of flexibility, particularly in the delicate relationship in the federal system as between Ottawa and Quebec, to mobilize our joint efforts so that the proper result can be obtained. So the purpose of the action was surprise, to render immobile and inefficient, as quickly as we could, the Front de Libération du Québec which menaces the health and the lives not only of individual citizens but of the polity of Canada and the polity of Quebec.

I want to say that this action was taken reluctantly. Throughout his life and throughout his career as a Member of Parliament, the Prime Minister—and, if I may say so, I have so far as I have been able—has tried to advocate those measures of law reform that are needed in an age of confrontation, this age which is dominated by a conflict between freedom and authority, which puts the law in a special delicate position because on the one hand the law is the symbol of authority and on the other hand it is the guarantee of freedom. Between the two the law is caught in the crunch. The administration of the law demands a sensitive type of judgment.

We have tried to ensure that in the administration of the law, in reforming the substance of the law, the personal options open to individuals, the ambit of individual liberty available to citizens shall be made as wide as possible, consistent with public order. We have tried, in terms of public administration of the law, to widen the rights of citizens, accused before the law, particularly the right to bail, to balance the rights of citizens against the rights of the state and to open up for citizens new avenues of appeal and recourse against the government.

The bail reform bill, the criminal law reform bill and the federal court bill, together with other legislative action, are measures based on the premise that the orbit of personal freedom must be widened and guaranteed. The rule of law is the essential condition not only for the existence of the state but for the existence of individual liberty within the state. Freedom is the precondition of liberty, and restraint is the beginning of freedom. The rule of law is the source and condition of that restraint, and through it the freedom and the liberty of the individual in society are maintained.

Insurrection and violence are not only a total denial of the constituted authority of the state but are a denial of the liberty of the individual himself who depends upon the controlled organization of the state. This type of violence defies not only the total integrity of society as a people but the individual integrity of every person in that society. In this sense, then, the concept—

Mr. Speaker: Order, please. Perhaps the minister will not mind my interrupting at this moment to bring to his attention that his time has expired, unless he has the agreement of the House to continue.

Some hon. Members: Carry on.

* Some day; wait to be able fully to appraise what... -