

**Pages 1 to / à 15
are not relevant
sont non pertinentes**

A
M O M E N T
O F
D E C I S I O N

October 1970

Page 1: Introduction

Page 2: FLQ: A History of Terror

Page 5: The October Crisis

Page 7: The Time of Decision

Page 9: Facts about the War Measures Act and Regulations

Page 10: Civil Liberties

Page 12: A Message to the Nation

On October 16th, 1970, the Government of Canada proclaimed the War Measures Act and brought into effect public order regulations designed to combat the terrorist Front de Libération du Québec. This action followed:

- . A formal notification from Quebec and Montreal authorities that they apprehended an insurrection, and requesting assistance.
- . The kidnapping of a British diplomat and a Quebec cabinet minister, coupled with threats to murder them if blackmail terms were not met.
- . The theft over a period of months of large quantities of dynamite and a sizeable number of small arms, and the existence of a state of confusion and threats of violence in the province of Quebec.

In an address to the nation that same day, Prime Minister Trudeau stated, "... I can assure you that the Government is most reluctant to seek such powers... These are strong powers and I find them as distasteful as I am sure you do. They are necessary, however, to permit the police to deal with persons who advocate the violent overthrow of our democratic system."

The government's action was clearly and specifically directed against the FLQ.

FLQ

A HISTORY OF TERROR

FLQ violence began as early as 1963. On April 20th of that year their first bombing victim was an innocent 65 year old Montreal watchman.

A month later the FLQ placed dynamite in 15 mail boxes. Five exploded, one of them in the hands of an explosive expert, disabling him for life.

1964 witnessed a series of holdups and thefts. The thefts were concentrated on military establishments resulting in the disappearance of large quantities of equipment, weapons and munitions.

On the 29th of August, 1964, during an unsuccessful attempt to hold up the International Fire Arms Store in Montreal, 2 people were killed.

In 1965, FLQ terrorism included the derailment of two trains, endangering the lives of hundreds of citizens.

On May 5, 1966, a 65 year old office employee was killed by an FLQ bomb.

In 1968, 300 sticks of dynamite were stolen from a Chomedey quarry and that year there were 21 bombings or attempted bombings, including Montreal City Hall.

The FLQ bombed the Montreal Stock Exchange on February 13, 1969, injuring 27 innocent people.

On September 28, 1969, Montreal Mayor Jean Drapeau's house was bombed.

In 1970, June 24, an FLQ explosive killed a 50 year old Ottawa civil servant.

In all, since their beginning FLQ terrorists have been responsible for two train derailments, over 100 bombings or attempted bombings, a continual series of thefts and holdups, the deaths of 6 citizens.

THE OCTOBER CRISIS

On October 5th, 1970, the FLQ escalated their tactics of terror. They kidnapped British diplomat James Cross in his home.

Immediately, the federal and Quebec governments established close contact to facilitate consultation and joint action, which has continued throughout the crisis.

For the release of Mr. Cross, the FLQ offered a list of demands including:

- . The release from prison of 17 criminals, and the dropping of charges against 6 others.
- . Safe conduct out of the country for the 23 prisoners.
- . A ransom of \$500,000 in gold.
- . A halt to police investigation.
- . Wide press and TV publicity to an FLQ manifesto.
- . Rehiring of the Lapalme postal drivers.
- . Disclosure of an alleged informer in the FLQ.

Both governments announced that the FLQ demands would not be met, but requested that the abductors "establish communications" to discuss the basis of his release. A series of deadlines set by the kidnappers came and passed.

Then, on October 10th, 1970, the FLQ abducted the Honourable Pierre Laporte, Quebec Minister of Labour and Manpower and Minister of Immigration, from in front of his home.

Negotiations continued. In the House of Commons, Mr. Trudeau said his government agreed completely with the position taken by Premier Bourassa "when he made it quite clear that the only thing that had to be done now was to ensure through negotiation that there be a mechanism established for the release of Mr. Cross and Mr. Laporte."

Both governments appealed to the FLQ to release Mr. Cross and Mr. Laporte, and in exchange offered the kidnappers safe conduct out of the country, thus removing any possible motivation for murdering the kidnapped men who could otherwise identify their abductors.

As events progressed, Montreal police resources become strained beyond their capacity to cope with the situation. At the request of Quebec Justice Minister Choquette, made under Part II of the National Defence Act, armed forces were provided for aid of the civil power, to assist police in the protection of persons and property. The tasks undertaken were in accordance with the requirements of provincial authorities.

THE TIME OF DECISION

At 3 a.m. Friday, October 16th, 1970, a letter from Premier Bourassa was received by Prime Minister Trudeau. In it, Mr. Bourassa wrote:

"... I request that emergency powers be provided as soon as possible so that more effective steps may be taken ... we are facing a concerted effort to intimidate and overthrow the government and the democratic institutions... through a planned and systematic illegal action, including insurrection."

Mr. Trudeau has also received a letter from the Montreal city authorities, Mayor Jean Drapeau and Chairman of the Executive Committee, Lucien Saulnier, requesting urgent aid.

"... the assistance of higher levels of government has become essential for the protection of society against the seditious plot and the apprehended insurrection in which the recent kidnappings were the first step."

Immediately, two Orders in Council were passed at 4 a.m., proclaiming the War Measures Act and establishing Public Order regulations considered necessary to deal with the situation.

As soon as the House of Commons met later that morning, the proclamation and regulations were tabled, along with the letters from Premier Bourassa and the Montreal authorities, and Mr. Trudeau submitted a resolution requesting the support of the House of Commons for the government's action.

After two days of debate, the resolution was approved by a vote of 190 to 16. All of the Members from Quebec constituencies supported the resolution.

Facts about the War Measures Act and Regulations

The government has recognized that the War Measures Act is an unsatisfactory legislative authority to meet the situation.

However, no other adequate law was immediately available.

Because of this, in drafting the Public Order regulations, the government permitted the exercise of only a limited number of the very broad powers available under the Act.

For that same reason, immediate measures were undertaken to prepare legislation of a more restricted and specific nature to deal with this kind of civil insurrection.

The present regulations are specifically directed at the destruction of the FLQ. On October 26th, Justice Minister John Turner said in the Commons that he had told the Attorneys-General of the provinces that,

" . . . the purpose and intent, as I interpret the resolution of the House, is that the emergency to which the War Measures Act and its proclamation related had to do with the FLQ in Quebec and that any use of this proclamation or the regulations beyond that purpose might well be harmful."

The Attorney-General of Quebec is charged with administering the emergency regulations in that province just as, under the Constitution, he is responsible for administering the normal criminal law.

A CONCERN

Prime Minister Trudeau has recognized the concern of many people that the invocation of the War Measures Act restricts civil liberties. On October 16th, speaking in the House, he said he sympathizes with their attitude.

" ... I hasten to suggest, however, that the legislative record of this Parliament, in the field of individual liberties contributes unequivocally to its credibility and good faith."

In the same speech he said:

" ... It is a matter of deep regret and grave concern to me, as I am sure it is to all hon. members, that the condition of our country makes necessary this proclamation. We, in this House, have all felt very strongly, I know, that democracy was nowhere in a healthier state than in Canada; that nowhere was there less need for frustrated men to turn to violence to attain their political ends.

"I still believe firmly that this is so. Yet in recent years we have been forced to acknowledge the existence within Canada of a new and terrifying type of person - one who in earlier times would have been described as an anarchist, but who is now known as a violent revolutionary. These persons allege that they are seeking social change through novel means. In fact they are seeking the destruction of the social order through clandestine and violent means.

"Faced with such persons, and confronted with authoritative assessments of the seriousness of the risk to persons and property in the Montreal area, the government had no responsible choice but to act as it did last night."

A MESSAGE TO THE NATION

In a broadcast to the Canadian people on October 16th, the Prime Minister said:

"This government is not acting out of fear. It is acting to prevent fear from spreading. It is acting to maintain the rule of law without which freedom is impossible. It is acting to make clear to kidnappers and revolutionaries and assassins that in this country laws are made and changed by the elected representatives of all Canadians - not by a handful of self-selected dictators. Those who gain power through terror, rule through terror. The government is acting, therefore, to protect your life and your liberty.

"... within Canada there is ample room for opposition and dissent, but none for intimidation and terror... I am confident that those persons who unleashed this tragic sequence of events with the aim of destroying our society and dividing our country will find that the opposite will occur. The result of their acts will be a stronger society in a unified country. Those who would have divided us will have united us."

**Pages 30 to / à 38
are not relevant
sont non pertinentes**

1974

D-1-7 (h)

(not sent)

CONFIDENTIEL

le 8 septembre 1971

D-1-7 (h)

MEMOIRE AU PREMIER MINISTRE

Suspension par le Procureur général du Québec
des poursuites prises sous l'empire de la Loi
sur les mesures de guerre

Vous serez sans doute intéressé au contenu du communiqué d'information ci-annexé qui émane du Cabinet du ministre de la Justice de Québec.

Ce communiqué dit tout et rien à la fois car il ne répond pas à la question qui est dans les journaux constamment depuis notre dernier mémoire du 25 août, à savoir pourquoi les plaintes n'ont pas été retirées et si techniquement elles ne peuvent pas être retirées comme le prétend le ministre, pourquoi alors le ministère public n'a-t-il pas appelé les causes et déclaré n'avoir aucune preuve à offrir ce qui aurait automatiquement amené l'acquittement pur et simple des personnes concernées. D'ailleurs le 2e paragraphe du communiqué d'information est pour le moins farfelu car de dire que "le fait de retirer les plaintes n'aurait donné aucun avantage additionnel aux accusés" indique tout au moins une restriction mentale dans l'esprit du ministre.

Vous constaterez qu'à plusieurs endroits dans son communiqué d'information le ministre renvoie la balle au gouvernement fédéral.

P.M.P.

Pj.

D-1-76

CONFIDENTIEL

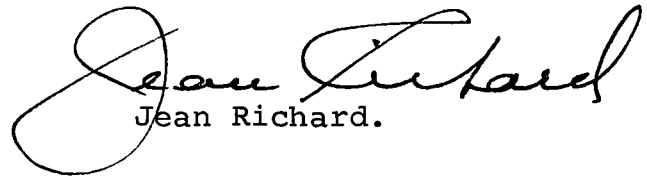
le 8 septembre 1971

MEMOIRE A MONSIEUR PITFIELD

Suspension par le Procureur général du Québec
des poursuites prises sous l'empire de la Loi
sur les mesures de guerre

Le communiqué d'information émanant du ministère de la Justice à Québec et daté du 2 septembre 1971 est peut être d'intérêt pour le Premier ministre étant donné la note ci-annexée que je lui ai fait parvenir le 25 août.

Peut être jugeras-tu approprié de le lui transmettre avec le mémoire ci-joint et les coupures de journaux depuis le 25 août.


Jean Richard.

Pj.

(n'a pas été
envoyé)

**Pages 42 to / à 45
are not relevant
sont non pertinentes**

D-1-7 h



MINISTÈRE DE LA JUSTICE
GOUVERNEMENT DU QUÉBEC

CONTENTIEUX CRIMINEL

CABINET DU SOUS-MINISTRE ASSOCIÉ.

Québec, le 3 septembre 1971.

"PERSONNELLE"

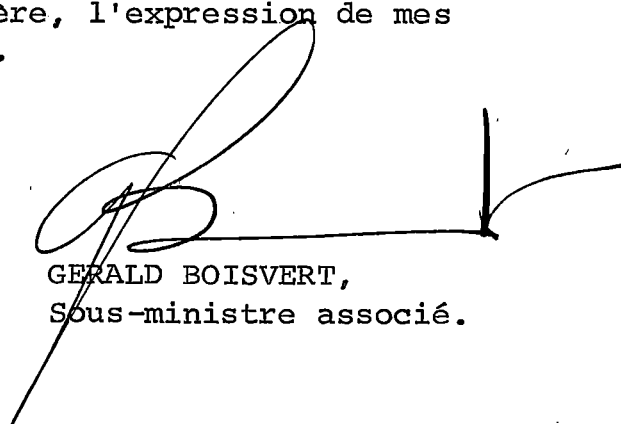
Me Jean Richard, avocat
Bureau du Premier Ministre du Canada
Hôtel du Gouvernement
Ottawa, ONTARIO.

Cher confrère,

Suite à notre conversation téléphonique, tu trouveras, ci-joint, la copie du communiqué de presse que Me Choquette a émis hier, concernant l'arrêt des procédures dans les causes intentées contre les personnes accusées en vertu de la loi de 1970 concernant l'Ordre public.

Je demeure à ta disposition pour tout renseignement additionnel et te prie d'agréer, cher confrère, l'expression de mes meilleurs sentiments.

GB/mc


GERALD BOISVERT,
Sous-ministre associé.

incl.

GOUVERNEMENT DU QUÉBEC
MINISTÈRE DE LA JUSTICE
CABINET DU MINISTRE

COMMUNIQUE D'INFORMATION

(pour diffusion immédiate)

Québec, le 2 septembre 1971 -- Le ministre de la Justice et Procureur général du Québec, Me Jérôme Choquette, a tenu à préciser que la procédure d'arrêt (nolle prosequi) relative aux accusations portées à la suite de l'adoption de la Loi de l'ordre public (mesures temporaires) 1970 représentait à ses yeux le moyen d'arrêter définitivement les poursuites et était la seule procédure prévue comme telle au Code criminel.

Dans les causes en question, a précisé M. Choquette, le fait de retirer les plaintes n'aurait donné aucun avantage additionnel aux accusés; d'ailleurs cette dernière procédure n'est pas prévue au Code criminel et ne peut être utilisée devant les assises criminelles.

De plus, a déclaré M. Choquette, dans une communication écrite transmise à la presse, il n'est nullement question de porter des accusations nouvelles à l'égard de ces personnes en vertu de la loi maintenant expirée.

Cette décision, d'ajouter M. Choquette, la seule offerte au Procureur

général en vue d'arrêter de telles causes criminelles, s'inspire de deux motifs principaux, à savoir:

1. La Loi de l'ordre public (mesures temporaires) 1970 est expirée le 30 avril 1971, le gouvernement fédéral, qui a la compétence en matière de législation criminelle, n'ayant pas choisi d'en prolonger l'existence. Par conséquent, même s'il avait été techniquement possible pour le ministère de la Justice de continuer les causes déjà entreprises, il n'était pas logique de rechercher la condamnation de personnes pour des infractions qui n'en étaient plus au moment de leur procès. De plus, il n'était pas raisonnable de présumer qu'un jury aurait tenu un accusé responsable d'une infraction qui n'en était plus une. En conséquence, il n'était plus dans l'intérêt public de poursuivre des procès qui comportent des coûts considérables à l'égard de crimes qui n'en sont plus.
2. La procédure de "nolle prosequi" est le moyen accordé par le Code criminel au Procureur général d'une province de faire cesser toute procédure à l'égard d'une accusation criminelle. La coutume adoptée dans la province de Québec est à l'effet que le "nolle prosequi" constitue un arrêt final des procédures dans un dossier donné. Dans le passé, et encore présen-

tement, ce moyen a été employé à de nombreuses reprises par des procureurs généraux pour arrêter une cause. Certaines suggestions ont déjà été formulées pour clarifier l'effet de la procédure de nolle prosequi. Le Ministre a déclaré en conclusion qu'il faisait étudier la question par les officiers de son ministère afin de faire des représentations utiles au gouvernement fédéral.

- 30 -

Source : Cabinet du ministre

643-4210

CONFIDENTIEL

le 26 août 1971

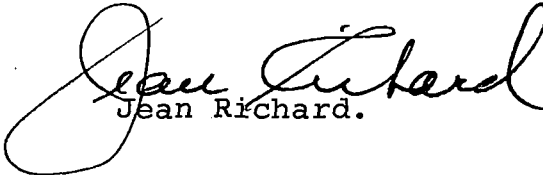
MEMOIRE A MONSIEUR CROWE

Suspension par le Procureur général du Québec
des poursuites prises sous l'empire de la Loi
sur les mesures de guerre

August 25, 1971

Veillez trouver ci-annexé une note documentaire destinée au Premier ministre que M. Nixon m'a suggéré de préparer relativement à la suspension des procédures judiciaires entreprises sous l'empire de la Loi sur les mesures de guerre.

Je vous saurais gré de la transmettre au Premier ministre si vous le jugez à propos.


Jean Richard.

Pj.

Page 51
is not relevant
est non pertinente

CONFIDENTIEL

le 25 août 1971

MEMOIRE AU PREMIER MINISTRE



Suspension par le Procureur général du Québec
des poursuites prises sous l'empire de la Loi
sur les mesures de guerre

Le Solliciteur général du Québec a confirmé le 16 août, la rumeur à l'effet que les procédures avaient été suspendues dans les 32 poursuites non terminées, prises en vertu des règlements d'octobre 1970 mis en vigueur sous l'empire de la Loi sur les mesures de guerre (voir coupures de journaux ci-annexées).

Certains journaux rapportent que les plaintes (32) ont été retirées mais il s'agit bien de suspension des procédures et non pas de retrait. En effet, une déclaration de "nolle prosequi" émanant du Procureur général de la province a été déposée dans chacun des dossiers antérieurement au 16 août et semble-t-il c'est d'une indiscretion d'un greffier à Montréal qu'à résulté la nouvelle de l'affaire.

Cette procédure n'équivaut pas à un retrait de plainte encore moins à un acquittement et légalement les procédures interrompues peuvent toujours être ravivées quoique il semble qu'il y aurait des précédents au contraire dans la jurisprudence anglaise. Le communiqué de presse mentionne comme raison principale à ces suspensions la situation créée par l'expiration en avril dernier de la Loi temporaire sur l'ordre public qui a rendu difficile la continuation des procédures en question.

Par l'entremise de Paul Tellier nous avons obtenu du Solliciteur général de Québec les informations suivantes quant aux motifs principaux qui auraient amené la décision de suspendre les procédures:

- (i) L'atmosphère générale dans le Québec qui a résulté de la Loi sur l'ordre public;

- 2 -

CONFIDENTIEL

- (ii) La perte de nombreuses causes identiques;
- (iii) L'analogie faite par les Procureurs du gouvernement avec certaines décisions rendues par les tribunaux québécois postérieurement à l'adoption du bill omnibus sur le Code criminel. La Cour d'Appel aurait semblablement confirmé des décisions des tribunaux inférieurs rejetant des accusations d'homosexualité portées sous l'ancienne loi suite à des crimes qui ne l'étaient plus après l'adoption du bill omnibus. Il existerait en Angleterre des précédents à l'effet qu'une mise en accusation sous une loi abrogée avant le procès n'était plus valide.

d'accord | On peut se demander cependant pourquoi le gouvernement de Québec n'a pas purement et simplement retiré les accusations si les motifs énumérés plus haut ont réellement le poids qui leur a été attribué. La seule raison que nous puissions voir est que le Procureur général veut attendre l'issue des procès de Vallières et de Gagnon (accusés sous le Code criminel) au cas où au cours de ces procès, soit que la coopération d'une ou plusieurs des 32 personnes dont les accusations ont été suspendues deviendrait nécessaire, soit que des témoignages impliquant une ou plusieurs de ces personnes soient entendus. Paul Tellier à qui nous avons proposé ces possibilités n'a pas nié que la Sûreté du Québec pouvait avoir entrevue de telles possibilités.

A tout événement il demeure qu'en principe la suspension plutôt que le retrait des procédures crée une situation injuste pour les personnes accusées qui risque d'être soulevée plus qu'elle ne l'a été à date dans la presse et de refléter inévitablement sur le gouvernement fédéral éventuellement. D'ailleurs, le communiqué de presse passablement évasif du Solliciteur général n'a pas fourni de raison sérieuse justifiant une telle suspension plutôt qu'un retrait des procédures.

Peut être jugerez-vous opportun d'en parler avec M. Turner.

M. A. C.

M.A.C.

P.S. Voir découpures du Devoir et du Gazette, 26 août, ci-annexées.

(par Jean Ridoux)

000053

**Pages 54 to / à 80
are not relevant
sont non pertinentes**

Bureau de Conseil privé

Cabinet du Premier ministre

TELEX

URGENT

TO: MONSIEUR GUY D'ANGELOIS, CHEF DE CABINET
À: DE L'HONORABLE ROBERT BOURASSA
PREMIER MINISTRE
FROM: NOREL DU GOUVERNEMENT
DE: QUEBEC (QUEBEC)

DATE: LE 5 AVRIL 1971

File G35

LE PRESENT TELEGRAMME A POUR BUT D'ACCUSER RECEPTION AU NOM
DU PREMIER MINISTRE DE LA LETTRE EN DATE DU 2 AVRIL DE L'HONORABLE
ROBERT BOURASSA LAQUELLE A ETE REMISE DE LA MAIN A LA MAIN A
L'ADJOINT EXECUTIF DE MONSIEUR TRUDEAU, SAMEDI, LE 3 AVRIL.

Henri Alain Lawless
Secrétaire à la correspondance
(Bureau du Premier ministre)

cc: M. R. G. Robertson (BCP) +
+ pour une réponse ultérieure, s.v.p.

A titre de renseignement

- Ministre de la Justice
Compétence de M. Michael Hunter, chef de cabinet
- M. Tim Porteous (CPM)
- M. Marc Lalonde (CPM)
- - M. F.A.G. ~~Carter~~ (BCP)
- M. Peter Roberts (CPM)
- Mlle Joyce Fairbairn (CPM)
- Mlle Mary E. Macdonald (CPM)

SMC/lc

Originator: ~~S.M. Cook (CPM)~~
Expéditeur: ~~Marilite Varette~~

Date & Time dispatched:
Date et heure de l'envoi:

Approved: _____
Approuvé par: _____

Operator:
Télexiste:

No. of Copies to be returned
to originator:
Nombre de copies à renvoyer
à l'expéditeur: _____

000081

COUVERNEMENT DU QUÉBEC
LE PREMIER MINISTRE

Québec, le 2 avril 1971

Monsieur le Premier Ministre,

La loi des pouvoirs d'urgence provisoires doit cesser de s'appliquer le 30 avril prochain et je vous fais part des positions adoptées par le gouvernement du Québec dans ces circonstances.

Le gouvernement du Québec croit qu'il est nécessaire que soient adoptées des dispositions permanentes déclarant le Front de libération du Québec une association illégale de même que tout groupe et toute association lui succédant ou préconisant l'emploi de la force ou la commission de crimes comme moyen de réaliser au Canada un changement de gouvernement, et faisant un acte criminel de l'appartenance à un tel mouvement et de la collaboration avec celui-ci dans le même sens que les dispositions de la loi des pouvoirs d'urgence provisoires.

Il nous paraît impératif que ne soient pas tolérés au Canada des mouvements subversifs préconisant l'emploi de la force ou la commission de crimes comme moyen de réaliser un changement de gouvernement.

D'autre part, nous ne prévoyons pas que les mesures spéciales autorisées par la loi des pouvoirs d'urgence provisoires soient encore nécessaires après le 30 avril. Le gouvernement du Québec croit néanmoins essentiel, dans l'intérêt public, que soient édictées des dispositions législatives à caractère permanent qui permettraient, après proclamation d'un état d'urgence, l'adoption de mesures spéciales de façon qu'en pareille situation, il ne soit pas besoin de recourir à la loi des mesures de guerre.

... 2

...2

Des mesures spéciales se sont avérées indispensables au cours des événements de l'automne dernier et il est nécessaire que l'Etat soit pourvu d'un mécanisme lui permettant d'user de mesures appropriées avec la diligence requise en des circonstances analogues.

Au nom du gouvernement du Québec, je vous prie de considérer cette demande dans les meilleurs délais.

Veillez agréer, monsieur le Premier Ministre, l'expression de mes sentiments distingués.

A handwritten signature in dark ink, reading "Robert Bourassa". The signature is written in a cursive, flowing style with a large initial 'R'.

Le Très Honorable Pierre Elliott Trudeau,
Premier Ministre du Canada,
Hôtel du Gouvernement,
Ottawa,
Canada

Privy Council Office
Bureau de Conseil privé

MAY 12 1971

Office of the Prime Minister
Cabinet du Premier ministre

TELEX

FPR *Jules*
TO: M. Guy Langlois
À: Chef du Cabinet
Bureau du Premier ministre
Gouvernement du Québec, Québec

DATE: le 12 mai 1971

FROM:
DE: M. Alain Lawless, Bureau du Premier ministre, Ottawa K1A 0A2

Le 7 mai dernier le Premier ministre écrivait à monsieur Bourassa en réponse à une lettre du 2 avril et à une dépêche du 29 avril au sujet de la Loi concernant l'ordre public (mesures provisoires).

Malheureusement une erreur s'est glissée dans le texte de la lettre du Premier ministre. En effet la lettre dit que "nous avons mis sur pied un comité mixte du Sénat et de la Chambre des communes". Il aurait fallu dire que "le Gouvernement a proposé la mise sur pied d'un comité mixte du Sénat et de la Chambre des communes", la résolution visant à constituer un tel comité n'ayant pas encore fait l'objet d'un vote.

Le Premier ministre a écrit aujourd'hui à monsieur Bourassa pour lui faire part de cette correction.

Originator: E. GILVANT
Expéditeur:

Date & Time dispatched:
Date et heure de l'envoi:

Approved: *[Signature]*
Approuvé par:

No. of Copies to be returned
to originator:
Nombre de copies à renvoyer
à l'expéditeur: _____

Operator:
Télexiste:

71 MAY 12 PM 1 40

*

TELTEX B QBC

PMO PCO OTT

LE 12 MAI 1971

M. GUY LANGLOIS
CHEF DU CABINET
BUREAU DU PREMIER MINISTRE
GOUVERNEMENT DU QUEBEC, QUEBEC

LE 7 MAI DERNIER LE PREMIER MINISTRE ECRIVAIT A MONSIEUR BOURASSA EN REPONSE A UNE LETTRE DU 2 AVRIL ET A UNE DEPECHE DU 29 AVRIL AU SUJET DE LA LOI CONCERNANT L'ORDRE PUBLIC (MESURES PROVISOIRES).

MALHEUREUSEMENT UNE ERREUR S'EST GLISSEE DANS LE TEXTE DE LA LETTRE DU PREMIER MINISTRE. EN EFFET LA LETTRE DIT QUE 'NOUS AVONS MIS SUR PIED UN COMITE MIXTE DU SENAT ET DE LA CHAMBRE DES COMMUNES'. IL AURAIT FALLU DIRE QUE 'LE GOUVERNEMENT A PROPOSE LA MISE SUR PIED D'UN COMITE MIXTE DU SENAT ET DE LA CHAMBRE DES COMMUNES', LA RESOLUTION VISANT A CONSTITUER UN TEL COMITE N'AYANT PAS ENCORE FAIT L'OBJECT D'UN VOTE.

LE PREMIER MINISTRE A ECRIT AUJOURD'HUI A MONSIEUR BOURASSA POUR LUI FAIRE PART DE CETTE CORRECTION.

M. ALAIN LAWLESS,
BUREAU DU PREMIER MINISTRE, OTTAWA K1A 0A2

PMO PCO OTT

000085

**Pages 86 to / à 88
are not relevant
sont non pertinentes**

SECRET

March 10, 1971.

MEMORANDUM FOR MR. J. DAVEY

Justification for Invocation of the
War Measures Act - October 16, 1970

You will recall my expressing to you my concern that no definitive action appears to have been taken, either on the political or on the official level, to prepare for the Government's use in the House and for the edification of the public, a carefully researched justification for the invocation of the War Measures Act and for the passage of the Public Order (Temporary Measures) Act. You may not be aware that, at the last joint meeting of the Cabinet Committee on Security and Intelligence and the Cabinet Committee on Legislation and House Planning, the Minister of Justice made, in this connection, the request that the Solicitor General be asked to prepare a case demonstrating the need for continuing legislation to deal with emergency situations.

It seems to me that these two issues are very closely related, and that it is desirable well before the new legislation is introduced in the House that the Government carefully consider them and come to an agreed view as to their presentation to the House and to the country.

You will also recall my suggesting that someone be asked to make a detailed analysis of certain of the incidents in Montreal (other than the kidnappings and eventual murder) which led the Government to the conclusion that it had no choice but to accede to the joint request of Montreal and the Province of Quebec that the War Measures Act be invoked. In particular, I mentioned the mass meeting in the Paul Sauve Arena on the evening of October 15, some hours prior to the invocation of the Act, and some hours after the arrival of the first troops in Montreal. It has always struck me that this and one or two other mass occasions had such a potential for disorder and possible bloodshed that they were significant factors in that crucial decision.

... 2

SECRET

000089

SECRET

- 2 -

I had occasion yesterday to discuss the Sauve Arena meeting with a fairly reliable newsman, (Gerry McNeill of Canadian Press), who described the meeting in some detail. He said it began as an auction with paid admission, the funds to be used to support FRAP in the forthcoming civic election in Montreal. In his view, it began as a very cheerful, political meeting which attracted people of all sorts. Certainly their numbers included Separatists, students and FRAP supporters, but also a much larger number of ordinary citizens interested in the auction, large numbers of hippies and other young people simply interested in a lively meeting. There were rumours that Messrs Vallieres, Gagnon, Lemieux and Chartrand would be attending, and it was expected that they would speak. They did arrive after the meeting had been in progress for some hours, and their speeches were described by McNeill as being dull and unprovocative with the exception of that made by Chartrand. Chartrand's speech was apparently immensely humorous, and could only be regarded as being provocative in a very indirect sense. Indeed, he was described by McNeill as having made his "political" statements as though a policeman were standing at his shoulder taking notes and that its general tenor was a plea for controlled and responsible unified action, not in any sense violent. During the earlier speeches by the other members, people began moving out of the hall in apparent boredom, and while copies of the FLQ manifesto were being passed out at the door, it appeared that very few of the audience regarded the meeting as being in support of the FLQ. Many of the comments made about this aspect of the meeting were disinterested and often cynical. McNeill noted only one policeman in attendance, and while another carload of policemen arrived at one point, apparently in response to a false report that a policeman had been beaten up at the meeting, they soon emerged and commented that their services were not required. The meeting broke up early in the morning, but prior to the invocation of the Act, without any untoward incidents.

When asked why neither he nor any other reporter present had reported this very interesting story along these lines, McNeill replied that the invocation of the Act shortly after the meeting changed the whole atmosphere and situation, and that no one ever seemed to have "caught up" on the strange nature of the meeting. (So much for thoughtful journalism!).

... 3

SECRET

000090

SECRET

- 3 -

The impression was therefore perpetuated that this was an occasion as a result of which enraged students by the thousands might have poured out into the streets of Montreal to face newly arrived federal troops. According to MacNeill, this was highly unlikely bearing in mind the overall tone of the meeting.

If McNeill's description is accurate (and I have read similar descriptions in publications such as Last Post), it is probable that any attempt by the Government to justify the invocation of the War Measures Act on the basis of incidents such as this will be laughed out of court. I cite this description simply to emphasize my concern that, if the Government does decide to introduce continuing emergency legislation, it be fully prepared to make a realistic case for so doing. We are both aware of the critical views that have been expressed with increasing intensity by an apparently growing number of academics and professionals about the use of the War Measures Act, and an apparent lack of recognition on their part of the significant changes which have been taking place in our society and in that of many other western nations. While I welcome the performance of the critical function, as a necessary part of this kind of political system, I think it is inescapably incumbent upon the Government to increase understanding of the nature of these changes, not just among academics but among the populace as a whole. I think it would be very short-sighted indeed to expect that the massive public support for the Government's action which was indicated early in the crisis will continue unchanged unless there is further explanation. I think it was in large part a reaction of shock and fear, and was by its nature instinctive rather than reasoned. If this is true, it is probable that public reaction in the next crisis, depending on its nature, will be more critical.

It is not clear to me that these concerns, if they are valid, have been seized upon by the Cabinet as a whole or, indeed, by very many of the Ministers. If you agree, you may find it useful to seek out their views informally with a view to having the political aspects of the matter thoroughly considered and discussed.

D.F.W.

Privy Council Office,
O t t a w a.

SECRET

000091

Page 92
is not relevant
est non pertinente

~~Mr. Wall~~
Mr. Gallant

CONFIDENTIAL

February 24th, 1971.

DBS
HL
File

D-1-7(h)

X D-1-7(g)

MEMORANDUM FOR MR. LALONDE:

War Measures Act; payment of costs for
troops in Quebec

See the attached extract from the Montreal Gazette of today concerning a statement by Mr. Bourassa about troop costs. I showed this to the Prime Minister this morning and discussed it briefly with him.

You will note that Mr. Bourassa seems to be implying a willingness by Quebec to pay a part of the costs - namely those incurred after the War Measures Act was replaced by the Public Order (Temporary Measures) Act on December 3rd. The Prime Minister thinks this may well indicate the basis on which a final settlement should be made but he is still disposed, as he was the other day, to feel that the best course would be to leave the matter open for the time being.

This question may come under discussion in the Cabinet tomorrow or shortly in connection with the supplementary estimates.

R.G.R.

Page 94
is not relevant
est non pertinente

Mr. D. Watt
D-1-7 (L)

January 29, 1971.

s.19(1)

MEMORANDUM TO MR. MARC LALONDE

From: J. M. Davey

Re: English Reaction in English Canada
to FLQ Crisis.

While you will be concerned primarily with the Quebec aspect of the aftermath of the FLQ crisis, there still remains the question of the so-called intellectual body in English Canada. The attached clipping from the Globe and Mail illustrates the problem, as does the attached booklet on an answer to the War Measures Act. The fact that a person like [REDACTED] and some of the others listed on the back of the booklet, could support its publication concerns me. At some stage, there has to be a formal reply, either in a letter or in a speech, and you might want to think about the attached letter that I have sent to [REDACTED] on a personal basis.

If it is decided to make such a formal reply, it should be analytic and serene in character for I see no point in merely replying to polemics with another polemic. Perhaps Ivan might think about the development of such a document.

ORIGINAL SIGNÉ PAR
ORIGINAL SIGNED BY
J.M. DAVEY

J. M. Davey.



CANADA

OFFICE OF THE PRIME MINISTER • CABINET DU PREMIER MINISTRE

s.19(1)

Ottawa (4),
January 28, 1971.

[REDACTED]

Dear [REDACTED]:

I have just finished reading the pamphlet "Strong and Free - A Response to the War Measures Act". I note that you are among the people listed on the back who feel that these thoughts should receive a wider circulation to stimulate further public discussion, and hence I thought I would give you my personal reaction.

Fundamentally, the underlying thesis of many of these articles, and others like them, is that the War Measures Act, and that the activities it gave rise to, are oppressive (fascist, totalitarian - you name it) and hence by induction so is the government that introduced them. There are a number of variants of this thesis and many peripheral or irrelevant arguments that often contain completely incorrect information, and that certainly includes a number of the articles in the pamphlet. I must say in this regard that one of the interesting sidelights of the recent Quebec crisis for me has been the clear revelation of the stereotyped image of Quebec that many so-called well informed English Canadians possess.

I don't think, however, that it is particularly profitable pursuit to get into some of these side issues, and I would rather return to the main line of discussion. The question is not whether the War Measures Act and its side effects are good or bad in themselves, for it is conceded right from the start that they are, to say the least, thoroughly unpleasant. The question, rather, is whether or not the government had an acceptable alternative course of action that it could have followed. The Government says that, in its judgment, it did not. The question is clearly one of judgment, for although the information and the facts that were available to the government have been repeated many, many times, people keep saying that that is not enough. So we are back to the question of what is

Periodical perspective on the FLQ crisis

By WILLIAM FRENCH

ENGLISH CANADA has a very sound reason for opposing the independence of Quebec. If Quebec ever became a foreign country just like the others, we would at once lose our single most challenging and provocative subject of national debate and discussion.

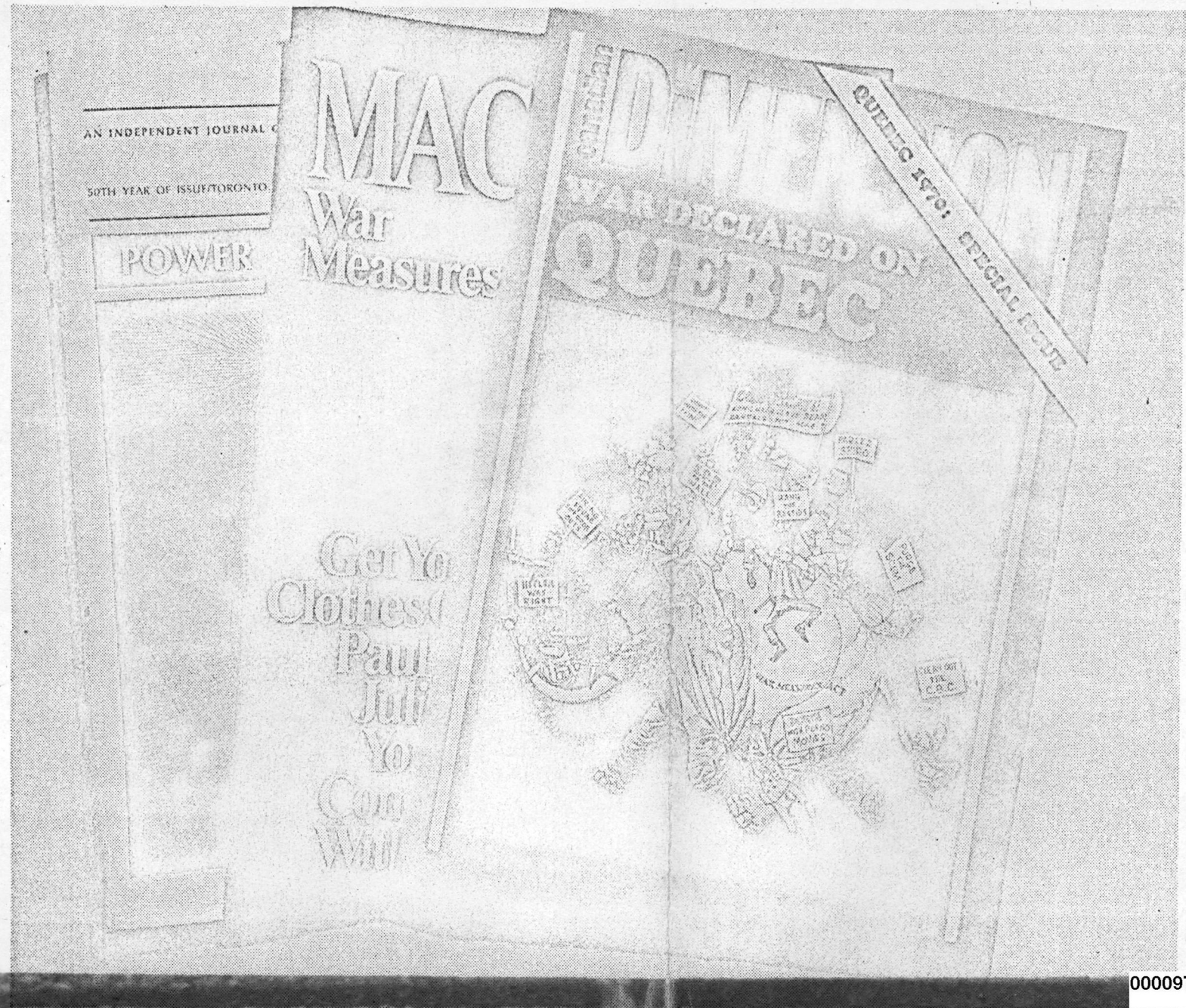
That discussion has, of course, reached new intensity since the Front de Liberation du Quebec crisis last fall. It reaches some kind of peak in three magazines currently on the newsstands—Maclean's, Canadian Forum and Canadian Dimension. All of them deal with the crisis and its aftermath, particularly the implications of Ottawa's drastic response.

The contributions range from irresponsibly kooky—Dave Godfrey's ranting anti-Americanism in Canadian Forum, culminating in a declaration of war—to the anguish and fright and sense of foreboding of Laurier LaPierre in Canadian Dimension to the occasionally penetrating insight of academics like George Grant, Charles Taylor and Abraham Rotstein. Much of the discussion, predictably, falls into predictable grooves.

Entire issues on subject

The Forum and Dimension have devoted their whole issues to the subject. Maclean's, on the other hand, gives us a preview of a forthcoming book—two excerpts from Rumors of War by Ron Haggart and Aubrey Golden. Perhaps it would be wise to suspend judgment on their efforts until we see the whole book; about all we know so far is that Pauline Julien is a very charming woman who drinks beer in the morning. It's fair to hope, I think, that in the book an apparent conflict between style and content evident in the excerpts will be resolved.

The contributors to the other two periodicals are nearly all Socialists or nationalists or both. This means that at some or several points their aims coincide with the aims of the leftist independents of Quebec, particularly Rene Levesque and the Parti Quebecois. In their fondest dreams they tend to see the two nations—an independent Socialist Quebec and an independent Socialist Canada.



Three magazines deal with the FLQ crisis and its aftermath. Many contributors predict more violence and repression for Quebec.

the two nations—an independent Socialist Quebec and an independent Socialist Canada—marching off into a utopian sunset, hand in hand, while Washington watches in an agony of anguish and frustration.

But that, even for the most optimistic, is a long way off. The short-term view for Quebec is full of foreboding and pessimism. Almost without exception the contributors predict more violence, followed by more repression and further erosion—perhaps permanent—of civil liberties.

Resentments sharpened

"Too many new forces have been unleashed," writes Forum editor Abraham Rotstein, "too many old resentments have been sharpened and projected onto the scene, too many appetites whetted for violence (both governmental and guerrilla), to write a peaceful scenario any more . . . We should abandon the vain hope that violence will suddenly destroy itself and that its heritage will evaporate."

Daniel Latouche, in a curious Dimension article, attempts to put violence in perspective. Latouche, a political scientist at McGill and former aide to Rene Levesque, points out that in a study of instability and political violence in 84 countries between 1955 and 1961, Canada rated as only the 21st most stable country. Another study of the same period gave Canada 34th position among 114 countries rated on the absence of internal violence. Latouche seems to think his argument is strengthened by pointing out that among the countries which had better records were the Soviet Union, Poland, Romania, Bulgaria and Egypt.

He demonstrates that the social scene in Canada was no calmer; from 1910 to 1966, we had 227 strikes marked by violence, 66 of them in Quebec. Then he makes his point: "Let us not then accuse the FLQ, regardless of what other charges we may lay at their doorstep, of adding to the Canadian experience a dimension of hitherto inexperienced violence."

Three magazines deal with the FLQ crisis and its aftermath. Many contributors predict more violence and repression for Quebec.

It has a hollow ring. But it serves merely as prelude to Latouche's prediction that Quebec faces not one but two revolutions, one a social revolution, the other rooted in nationalism. And, in Marxist theology, when two such revolutions coincide the result is very violent indeed.

Prime Minister Trudeau emerges as the villain of the drama, which is perhaps not surprising, given the leftist political orientation of most of the contributors. But even those who once expressed admiration for him turned sour after his implementation of the War Measures Act. If he has any liberal intellectual supporters left, they seem to have been shamed into silence.

To Laurier LaPierre, Mr. Trudeau is behaving as if he were a modern Mussolini (with Jean Marchand as the reincarnation of Maurice Duplessis). And Abraham Rotstein sums up the disillusionment: "Could we ever have imagined that the leading convert in this country to Lord Acton and to Manchester liberalism would be the architect of unprecedented repression?"

Common conclusion

There is general agreement that the federal and Quebec governments had all the power they needed under existing legislation to deal with the crisis, and that the emergency powers achieved nothing positive. The most common conclusion is that Mr. Trudeau invoked the act not to deal with the FLQ, but to suppress all the leftist independent groups who disagreed with his federalist view of Canada, particularly members of the Parti Quebecois. A long, unsigned staff-written piece in Dimension suggests the Prime Minister felt personally insulted by the seemingly growing tide against Ottawa. This is probably the first time the politics of vanity has been introduced as a reason for the repression.

The theory of a general and deliberate repression of the whole separatist left will have a certain appeal for those anxious to compile a dossier on Mr. Trudeau's enormities. But surely any such move by him would have been self-defeating, unless he had the power to hold his antagonists in jail and out of circulation indefinitely. The experience of the 400-plus individuals who were scooped up without warning and held without charge—undeniably a shocking occurrence—will undoubtedly harden them in their anti-federalist attitudes and win new sympathizers and supporters for their cause. How can Mr. Trudeau possibly gain from that?

A contradiction

The proponents of the theory seem to reach the same conclusion, without being aware of the contradiction in their argument, by suggesting that Mr. Trudeau's action will not eliminate the opponents of federalism, but hasten the victory of the separatists.

Donald Smiley, a political scientist at the University of Toronto, suggests in the Forum that Mr. Trudeau and Premier Bourassa are co-ordinating an attempt to reduce Quebec nationalism to impotence by polarizing the province on federal-provincial lines. It won't work, he predicts, and will furthermore create profound instability in the whole federal system. The most dangerous possibility is that Quebec will become so polarized that it can be governed only by repressive methods.

As might be expected, George Grant advises Quebec that it would be better off out of the North American technological race, and George Woodcock suggests a system of benevolent anarchy as the solution to Canada's problems. And Alan Borovoy

makes some eminently sane suggestions for reform of our civil rights laws. Charles Taylor, in a reasoned contribution, suggests that Quebec's crisis is one of alienation, and Quebec's drama today may be that of the rest of North America tomorrow.

Among the more intriguing contributions is a short piece by political scientist Gad Horowitz. English Canadians, he claims, have no leaders interested in their welfare as a community who will take the necessary initiatives on their behalf toward a radical restructuring of the Canada-Quebec relationship. He sees the Quebec situation as incipient civil war, with Mr. Trudeau leading one of the factions in the struggle.

"The ignorance, the prejudice, the economic and military power of English Canadians are for him essentially resources to be used against his enemies in Quebec," writes Horowitz. What English Canada desperately needs, if the situation is not to get much worse, is a counterpart to Rene Levesque.

Poetry seems dated

The Forum has some special poetry contributions on the crisis by Eli Mandel, Al Purdy, Peter Stevens and James Bacque. If one word could sum up the poems, the word would be overwrought. They were written in the heat of the moment—most good poetry is, of course—but already seem curiously dated, like old headlines. But they are useful in recalling the mood and emotion of those October days.

The Forum, on the whole, has done a better job of its special issue than Dimension, which has too much predictable Socialist rhetoric and too much stuffing to pad out the issue. The Forum is better written, has risen to the occasion with a sense of style, and is better balanced. And balance, in time of vertigo, is what we need.

- 2 -

s.19(1)

"judgment". I would define it as a decision that is made at a particular point in time, not as an isolated and discreet exercise but as an extension of a continuum of past decisions, and the experience that they have produced. I think that as a [REDACTED] that definition might have some meaning for you. I myself remember the official inquiry into the decision of former Justice Minister Guy Favreau. It ended up with a Supreme Court Justice saying that he believed that Mr. Favreau had erred in his judgment. I believe that that inquiry was conceptually unsound from the outset for the simple reason that a judgment cannot be analyzed by courtroom procedure. How do you simulate the conditions under which a judgment is exercised? How do you recreate in the minds of the analyst, be he a jurist or historian, the sum total of all the past experience and knowledge of the participants in the decision? And do people realistically expect those participants to articulate the components of their decision, the assessment they made of the strengths and weaknesses of all of the players who might be involved?

Surely a judgment decision can only be assessed in terms of:

- (1) the statistical record of the soundness of previous judgments and later, of subsequent judgments;
- (2) the motives that likely prevailed in the minds of the key personnel involved in the steps leading to the exercise of judgment.

I can deal with the second point more readily. I am attaching a copy of a memo that was prepared well in advance of the FLQ crisis that attempts to analyze/rationalize past government action and to project it into the future. What I particularly call your attention to, is the discussion of the thrusts of the last two Speeches from the Throne, which are primarily concerned with the protection and enhancement of the rights and the dignity of the individual. The idea that the government that is trying to do those things and that is seriously pressed for time, would, for political advantage or just for the hell of it, seize on the occasion of the incidents in Quebec to get itself involved in all of the things that it knew it would get involved in when it invoked the War Measures Act, seems to me to be manifestly preposterous. I hope that Mr. Littleton, whose article in the pamphlet quotes Stepniak on terrorism in the Russian Revolution, doesn't believe that knowledge of such things exists only outside of government. If that is the case, perhaps he

- 3 -

s.19(1)

might like to explain the Prime Minister's speech two years ago last fall at Queen's on the possibility of violence in Canadian cities, and his speech on the night the War Measures Act was invoked in which he said clearly some people would think we were responding to a deliberate trap. I would also like to suggest to Mr. Littleton that if, as he indicates on page 9 of the pamphlet, the exact motivation of Quebec terrorists is by no means as yet clear to him, he might try reading a few of their published documents.

The first point, namely the soundness of past judgments, is somewhat more difficult to deal with because one has to judge what might have happened in various instances against what in fact did happen. But to take a case in point, Mr. Clarke, in his article on page 27, talks about the attitude of this government towards various economic disadvantaged or underprivileged groups and mentions specifically Canadian Indians. I think that if he would care to examine the contents of the newspapers of eighteen months ago, the theme of the exploited Indian was as common as is that of pollution today. If one takes a look at what is the relationship of the governments and the Canadian Indians today, one will find that many of the problems that existed a couple of years ago still exist but there is the beginning of a very healthy relationship that can, over the long term, lead to their solution and certainly one which contrasts vividly with that of a short period ago. In other cases, what can one say. This country has been so comparatively devoid of crisis that there has been an influx of foreign investment capital that caused foreign exchange problems. As I mentioned in the attached document, a government that avoids crisis is obviously not going to get credit. I've suggested jokingly to Bryce Mackasey that he would sometimes do better politically not to settle labour disputes until the strike has started and provide a dramatic resolution to the problems on the second day. I don't think it would serve any purpose to come out with a litany of problems that didn't happen because the government took action in time, but this government is trying to be anticipatory and creative rather than reactive. This record of judgments cannot be ignored in assessing the handling of the Quebec crisis.

But what is the balance sheet of the Quebec crisis? Over 400 people were arrested and put in prison for various periods of time, which is clearly something that no one is very happy about. But there were no people killed in the street, and there are no martyrs to the Quebec cause, which there might very well have been. You, as a [REDACTED], will know very well what would be the symbolic importance of four or five CEGEP kids killed in the "cause of Quebec". Remember

- 4 -

what happened after four such kids were killed at Kent State. Over 400 people were arrested and several have complained of various kinds of abuse. That kind of treatment is not condoned, but what is remarkable is that during this very tense situation the control of the authorities and the police was such that there was not considerably more.

A judgment was made, a choice was exercised. Unfortunately, government doesn't involve making the clear cut or easy decisions. I think it was Kennedy who said that if a problem was easy to solve, it wouldn't be on his desk. I would like to take some of the critics of the government's policy down with me sometime on a police line in the middle of a demonstration. I would like to ask them to make the decision of whether or not to pull out from the crowd certain people who you apprehend might very well cause trouble with the result of innocent people being hurt and accept the almost certain charges of brutality or provocation. Or whether, on the other hand, you let them do their work so that the people actually do get hurt and you then use that as your justification for arresting them. These aren't easy decisions and yet they clearly indicate the nature of many aspects of government today.

What I reproach many of the people who have written and spoken about the crisis is their obvious stereotype of a massive stable political system with Canadian government of the most solid St. Laurent type sitting majestically in the middle. The reality is that government is operating very close to the margin on many issues. What power do elected or appointed officials have today? A judge can be verbally assaulted in his courtroom, a mayor in the council chamber, or an elected representative in his house of assembly, by all kinds of dissident groups. The only authority that now has validity is the moral authority that is gained daily and which is based on the respect that an individual politician commands as a result of his relationships with his electorate.

The FLQ, as a hidden group holding men they had kidnapped, for many days commanded more space in the electronic and written media of this country than the elected representatives. How stable is a government such as that in Quebec which had been on one hand threatened with a withdrawal of services by doctors if their demands were not met, and on the other hand with a general strike by labour unions if they were? This was a province in which there had been a police strike not long before. This was a province in which "the editor of a respected newspaper" idly speculated on the life of the government. This was a province in which some of the

s.19(1)

- 5 -

"elite" recommended that the government give in to the demands of the FLQ. This was a province in which, to my knowledge, virtually no intellectual stood up at the height of the crisis and gave any kind of moral support to the government.

The problem of government today is not to be re-elected, that's too simple. Government is a race against time. It's a race to deal with problems before they come up so that if you are re-elected there is still some room left to manoeuvre.

I have taken some time to give you, not necessarily an answer to all the question that has been raised about the Quebec crisis, but at least some kind of a background understanding. Perhaps elected politicians and those who work for them ought to spend more time in this kind of an exercise; unfortunately, the problems that face them won't stand still long enough to permit them this luxury.

This government is certainly not afraid of criticism and if I had more time I would like to analyze in detail each article. Those of Nurgitz and Dian Cohen have merit. The Forward (sic) is puerile. Were the civil rights of all Canadians abrogated? The others contain in varying degrees such gross inaccuracies, lack of logic, half truths, expressions of personal emotion, and fuzzy thinking as to contribute little to a constructive debate.

I am writing this to you [REDACTED] on a personal basis, as a measure of the respect I have for you and your opinions. I hope it will be useful.

With best wishes,

Yours sincerely,



J. M. Davey.

new press

h R O R

\$1.25

“STRONG

AN

A Response to the War Act

“nos...rs et
nos...its...”

"... Strong and Free ..."

"... Nos Foyers

et nos Droits ..."

A Response

to the War Measures Act

new press/Toronto/Chicago/1970

TABLE OF CONTENTS

FORWARD	(i)
THE OFFICIAL OPPOSITION AS THE SILENT MAJORITY	pat watson 1
J'ÉTAIS INQUIÈT	claire parisée 4
SOME IMPLICATIONS OF TERROR IN QUEBEC	james littleton 7
THE ECONOMICS OF CRISIS	dian cohen 13
THE ADEQUACY OF THE LAW	nate nurgitz 16
THE ADEQUACY OF THE POLICE, ...	peter desbarats 24
THE WAR MEASURES ACT AND CITIZEN ACTION	alan clarke 27
THE LOSS OF A GENERATION	hugh segal 30
INCIDENTS OF INJUSTICE	james eayrs 33
SOME UNANSWERED QUESTIONS. .	george bain 36
WHERE THE REAL DANGER LIES	david macdonald, M.P. 39

"Copyright © 1970 by the authors. All rights reserved. The reproduction of all or part of this book by any means whatsoever, including photocopying or any other means of mechanical or electronic process, or storage or retrieval by informative systems, is forbidden, except for brief quotations for review purposes only."

"ISBN 0-88770-086-1 (paperbound)"

FORWARD

"Strong and free . . ." is not a diatribe. It is not a political manifesto. It is a statement by some worried Canadians.

The Canadians who have taken the initiative of publishing this text may be known to you. Some hold political office. Some are regular contributors to our nation's newspapers and broadcast media.

Although the contributors to this pamphlet may hold elected or appointed positions, they are writing as representatives of no one but themselves. They are writing as concerned Canadians. They seek to advance the fortunes of no single political party or group.

The War Measures Act and the Public Order Act have changed the history and future of this country very directly. The contributors to this pamphlet feel that the introduction of both acts was not only unnecessary, but representative of the worst type of political arrogance and authoritarianism that any government can be found guilty of. Those who refused to shoulder the responsibility of opposing these acts, must share in that guilt.

There is no decent man or woman in this country who doubts that the F.L.Q. must face our system of justice and reap the harvest of their terror. Yet, to enlarge this assertion into a blanket abrogation of the civil rights of all Canadians, is to render the F.L.Q. victorious after but the first skirmish with democracy.

The fact that the government chose to act by Order in Council, without reference to the people through their elected representatives, compounded the guilt.

The freedoms of all Canadians are too sacred to be threatened by either a group of political criminals, or an arrogant government. And by the very means by which the government chose to invoke the name of freedom, they eroded irreparably that very freedom which they were striving to uphold.

The response to a group of criminals could and should have been through the criminal code.

A civilized nation, with sane government and a system of law, need not lower itself to declaring war on a group of criminals.

A civilized nation should look less at the symptoms and more at the causes of terror and disaffection.

The contributors believe Canada to be such a civilized nation. And that is why we must all join together in bringing her **back** to democracy.

(ii)

THE OFFICIAL OPPOSITION AS THE SILENT MAJORITY

Pat Watson

Ottawa, Nov. 10, 1970

When a parliament most needs the intelligence of a dogged, lucid, and vocal opposition is when fear and anger have temporarily united the nation and its representatives in a spasm of numbed reaction. And that may be precisely the time when the opposition abdicates its role.

Of all the hard-won gains of our democracies, respect for difference and dissent is the most fragile. Whenever difference and dissent pose a real or fancied threat to peace or prosperity we are too quick to suspend them, to reach for the weapons of suppression.

These are not always weapons of physical force. In the present crisis, while troops and police and arrests in the night have made an unfamiliar intervention in our landscape, the most potent weapons have been symbolic and psychological. The War Measures Act and the Bill designed to replace it are, first of all, instruments of persuasion and intimidation whose results can be seen across the land, not least in the protected corridors of parliament. There, where elected representatives are held in law and in tradition to be free to challenge and inquire to the fullest, critical intelligence appears to have been put to sleep by the simple enormity of the government's initiative.

"If it's **that** bad," the Opposition seems to say, "we'd better fall in line, at least until it's over."

Fall in line with what?

In Quebec, the provincial government is considering a compulsory identity card. Parliamentary employees in Quebec City already must carry temporary cards, soon to be replaced with permanent ones bearing their photographs and fingerprints. The identity card is not a very useful tool for combatting organized crime: it is too easy to forge. But it is very useful for intimidating a population. That is its real purpose. To make you fear to walk the streets without it, to wonder always when you will be stopped and asked for it, to hope — if stopped and

asked — that you've done nothing, gone nowhere, met no-one, said no questionable words that might lead to your being taken in for questioning.

The motif of intimidation has already touched the universities, whose academic freedom we boasted about when McCarthy had the American academic establishment terrorized. History professors at McGill felt they had to ask the Principal if it was all right to continue studying the works of FLQ notables Vallières and Gagnon. Michael Oliver told them that it was all right, of course, but the grave fact that they had to ask if their academic freedom was still intact has hardly been noticed.

The CBC withdrew its **Legacy of Lenin** and now will not discuss it.

In Montreal a respected French-speaking journalist told me that six policemen searched his apartment while he was at work, and that several of his colleagues have had similar attentions. Their only conceivable conclusion, right or wrong: Intimidation, a signal not to probe too deep or ask too much.

The present Federal Government is remarkable for its failure to understand that it is a nation's emotional response to symbol and gesture that unites or divides it, not its reasoned assessment of legislation and administration. Symbolically the civil liberties of Quebec have been suppressed by English Canada. To the Quebecer Ottawa is the government of English Canada; it is not his government. For now he may accept and be reassured by the origination in Quebec and Montreal of the request for Federal Force. But when the physical terror recedes he may well say: "Ottawa took over and none of us protested."

The 16th of October may come to be a day of division and a mark of shame.

So now take stock. Effective opposition in parliament has been suspended. Men and women are nervous about speaking or even reading critical words. A political party is outlawed. A national tolerance for suppression has been honoured by the state.

And for what?

To deal with a murder and kidnaping? There have been

murders and kidnapings before, and laws and police to fight them with.

A burgeoning insurrection? Tell us about it. The gang who took poor Mr. Laporte appear to have worked in ignorance, fundless, and impulsively.

The Federal Minister of Justice, showing haughty contempt for his critics, raised the spectre of a huge, well-organized conspiracy. Powerful, terrifying. But there are thoughtful people, seeking in vain for credible evidence of insurrection, who begin to doubt the FLQ, to wonder if it exists other than as myth.

It is a well-tried technique of nervous editors to say to the investigating reporter: Lay off for a while. The country is distressed. Asking that question or writing that view just now will only alarm the people.

It is a seductive argument; it appeals to your civic responsibility. It seems to be what the government is putting to the Opposition now, indeed to all the people. Trust us. Let us be arbitrary. Things are terrible. If you only knew how terrible, you would agree.

If only we knew.

Patrick Watson is an independant television broadcastee and producer.

J'ÉTAIS INQUIÈT

Claude Parisée

A la radio on prédit 15 pourcent de chômage au Québec cet hiver. Ça ne s'est jamais vu depuis la dépression des années '30.

Trudeau dit que le chômage est un sous-produit malheureux de la lutte contre l'inflation; on ne peut rien y faire. Les profits nets des banques à charte ont augmenté de 25 pourcent sur l'an passé; il faut respecter l'entreprise privée du libéralisme fédéral.

James Richard Cross a été enlevé. On va avoir l'air d'une république de banane.

Pierre Laporte est enlevé. Ces terroristes! De plus en plus banane.

Le gouvernement fait appel à la loi sur les mesures de guerre. Le gouvernement s'y met. Complètement banane. Réveil; une femme pleure, hystérique, à la radio. Son mari vient d'être arrêté. Pourquoi? La petite de deux ans ne comprend pas pourquoi il y avait des mitraillettes. L'annonceur dit "ils exagèrent ces séparatistes".

Marcel Vaive a été arrêté. Pourquoi? Bon diable, salaire; \$3,000, seul soutien de sa mère de 66 ans. R.I.N., P.Q. Parfois un peu impatient. C'est tout.

Portes défoncées, laine isolante déchirée, 6, 10, 12 soldats dans la maison avec des mitraillettes.

On apprend que les gars de Hull, la police n'a rien contre eux. Pourquoi les avoir arrêtés?

Le voisin, libéral enragé, va-t-il me dénoncer? de quoi? Quelle inspiration peut-il lui venir?

Au travail, de mes amis disent que les détenus on dû faire quelque chose puisque la police les a arrêtés. Ou bien ils ont dû être associés avec le F.L.Q. d'une façon ou l'autre.

Certains détenus sont de mes amis. Suis-je coupable par Association?

Un ami me demande "Ta ligne est-elle tapée?"

Ma femme veut que je brûle tous mes livres et mes notes.

Elle sait qu'il n'y a rien mais elle veut quand même que je brûle.

Question: Ai-je fait par le passé un geste, dit une parole qui aurait pu être interprété comme étant du genre du F.L.Q.? " L'agent de police d'en face envoie sa femme chez ses parents. Il a peur. De qui? Va-t-il m'arrêter? Pourquoi? Un ancien agent de la police me dit qu'il réglerait le cas de certaines personnes s'il était toujours dans la police. Caouette dit qu'il faut tuer tous ces felquistes, ces péquistes et ces séparatismes. A la radio j'entends quelqu'un dire "Il faut que le gouvernement donne à la population une procuration lui permettant de tuer tous ceux qu'on peut soupçonner d'être du F.L.Q., du P.Q. ou sympathisant." Ca va réchauffer les fanatiques de droite. Mon dieu, il faut s'attendre à une balle dans le dos ou dans la tête toutes les secondes de la journée.

Nouveaux visages au Front Commun. Des espions? Une auto me suit, deux hommes, un avec un micro de radio-téléphone à la main. La R.C.M.P., Climat de méfiance, de soupçons: on commence à tomber dans le jeu de Trudeau. Faut pas. Faudrait rien dire contre le gouvernement. Ça pourrait être interprété par un espion à commission qui a failli sa 9^e année comme étant sympathique au F.L.Q. Mais bon Dieu, ce ne l'est pas. Mais ça pourrait être interprété comme . . . Faudrait arrêter de penser contre le gouvernement. La pensée pourrait sortir en glissant sur la langue. C'est si facile. La police va arrêter tout le conseil du P.Q. de Hull. Rumeur? La source est pourtant digne de foi. Téléphoner à ma femme toutes les demies-heures pour la rassurer que je ne suis pas dedans. Savoir s'ils sont rentrés dans la maison. Je me conduis comme si j'étais sûr d'être arrêté, comme si j'étais coupable. Cette conduite va pourtant me rendre suspect. Faudrait pas que je téléphone à ma femme . . . elle est enceinte de sept mois . . . notre quatrième . . . faudrait que je téléphone . . . je ne sais plus.

Trudeau dit que ceux qui n'ont rien à faire n'ont rien à craindre. Vaive, Auby, Lorrain, Casavent, Dulac, X, Beaudry, Bélanger n'ont rien fait, mais ils sont dedans. Oui, X aurait parti une pétition contre la Loi . . . dedans . . . Beaudry et Bélanger sont directeurs d'un journal étudiant, dedans . . . le président du P.Q. de Hull, Dedans? Je suis

poigné aux tripes par la peur, vraiment poigné. Je m'en rends compte. Faut que je me donne une dose de détermination irraisonnée assez grande pour surmonter cette peur irraisonnée . . . et irraisonnable . . . la raison ne tient plus dans ce climat de fou.

Tard. Confusion. Exténué. Journée folle, Demain aussi: organisation difficile d'un front commun, fonctionnement normal du P.Q. de Hull, aide aux familles des détenus (ça pourrait être interprété comme aide aux sympathisants du F.L.Q. sous la loi: 5 ans, \$5,000), organisation du prochain congrès régional du P.Q., aide légale. Me Y ne veut pas: il a peur d'être mis dedans . . . sympathisant . . . Robert Lemieux l'est dedans, travail régulier au bureau à l'Université.

Je suis crevé. Ah, si seulement ils pouvaient m'arrêter cette nuit! me garder dedans sept jours, trois semaines! Là je me reposerais pour de vrai. J'en ai besoin. Je me couche. Est-ce que je vais dormir? L'armée va-t-elle venir?

— As-tu embrassé les enfants?

— Oui, ils sont bien. Bonne nuit chérie. Je t'aime bien.

M. Parisée est le président du Parti Québécois, comté de Hull.

SOME IMPLICATIONS OF TERROR IN QUEBEC

James Littleton

The ironies of the events of the autumn of 1970 in Canada are many. Pierre Elliott Trudeau, who suspended the civil liberties of all Canadians by invoking the War Measures Act on October 16, is the same person who stated six years previously that it is true that "freedom is often less efficacious than authority as the basis of short-term organization. And reason is often not so strong as emotion as a public driving force." (Cité Libre, May, 1964).

By utilizing an extreme form of authority, the Federal Government has generated a wave of emotion in the country that has certainly become a strong driving force. What is in question is whether in the long run freedom will again become effective.

The fact that most Federal legislators have failed to seriously question the need for the prolonged curtailment of civil liberties, either through the War Measures Act or succeeding statutes, indicates that a real danger exists of Canada becoming a country without the political checks and balances once held to be of supreme importance by Pierre Trudeau. This danger is magnified by the Federal Government's having succeeded in acting on the basis of an "apprehended state of insurrection" without yet explaining the exact nature of the alleged insurrection, or even proving that it ever really existed. The ultimate risk lies in the possibility that the Canadian people and their leaders will gradually come to accept what has happened as an ordinary series of events and will cease to press for the accounting from the government that is due them.

Whatever explanation might or might not be forthcoming it is possible to understand some of the characteristics of terrorism from an historical point of view.

"A victory, immediate, splendid, and decisive, such as that obtained by an insurrection, is utterly impossible by means of terrorism. But another victory is more probable, that of the weak against the strong . . . In a struggle against an invisible, impalpable, omnipresent enemy, the strong

is vanquished not by arms of his own, but by the continuous extension of his own strength, which ultimately exhausts him more than he would be exhausted by defeat . . . The terrorists cannot overthrow the government . . . but having compelled it, for so many years running, to neglect everything and do nothing but struggle with them, by forcing it to do so still for years and years, they will render its position untenable. Already the prestige of the imperial government has received a wound which it will be very difficult to heal. An emperor who shuts himself up in prison for fear of the terrorists is certainly not a figure to inspire admiration."

This statement could have been written by an intelligent propagandist for the F.L.Q. In fact, it was written in 1892 by the Russian populist theoretician Stepniak, and is quoted by Feliks Gross in a report to the National Commission On The Causes And Prevention Of Violence in the United States. It demonstrates most poignantly the pathetic situation in which a political leader who resorts to repression as a counter to terrorism finds himself. The events which occurred in Russia subsequent to Stepniak's statement indicate how little our present Canadian leaders have learned from history. The fact that it has been quoted in a report of the National Commission On The Causes And Prevention Of Violence shows that by some misfortune of fate, the U.S. appears to be more willing to inquire into and attempt to reveal something of the nature of the malaise with which it is afflicted than is Canada willing to do. And this brief part of a statement made seventy-eight years ago in Russia reveals something of the nature of terrorism with which all persons who are concerned should be familiar.

Terrorism is distinctly different from insurrection. Insurrection is the act of rising in open armed rebellion against civil authorities or established governments. It is by definition a mass movement in that to rise in arms against the legally constituted authority requires a sufficiently large number of committed belligerents to engage in open combat with the forces of the established state.

On the other hand, terrorism is the instrument of a weak minority. It can succeed only because of the ineptitude or mistakes of its adversary.

By focusing their attention and that of the public primarily on the terrorists, the authorities bestow upon

them legitimacy that they would not otherwise have. In its obsession with "security" the government ignores the social conditions which lead to popular discontent and thereby leave to the terrorists the platform for articulating the grievances of the people. It is for this reason that so many labour, student, and political groups have supported in principle the F.L.Q. manifesto, not because those groups were in active collaboration with the terrorists.

The exact motivation of the Quebec terrorists is by no means clear as yet, but the nature of their actions have numerous precedents in history. The Spanish Inquisition, the Reign of Terror in Eighteenth Century France, and the Stalinist Purges in the 1930's are examples of mass terror. The bombings, kidnappings, and assassination in Quebec appear, however, to be more in the tradition of indiscriminate terror. This tactic was practised as early as 1903 by Bulgarian revolutionaries in their struggle against the Turkish Empire. More recently and more to the point, indiscriminate terror was carried out by the F.L.N. in Algeria in its rebellion against the Government of France. Members of the F.L.N. planted explosives in public places and fired into crowds of innocent people. The French authorities responded with massive repression which appeared to be successful for a time; the final result was a massive revolutionary war in which the Algerian people freed themselves from domination by France. Although it is obvious that some members of the F.L.Q. have drawn inspiration from the F.L.N., it is also apparent that the practice of terrorism in Quebec is at a far less advanced and widespread stage than was the action in Algeria during the 1950's. The catalogue of terrorism through recent world history includes many variations as to motivations, methods, and results. For instance, Gross delineates several general categories: tactical, random, random-focused, mass terror, and dynastic assassination, in addition to acts of individual unorganized violence.

At this time it appears that the manifestations of terrorism which have occurred in Quebec fall into the latter category. When two brothers, their friend, and their mother, while on a trip to Texas, hear of a kidnapping in

Montreal over their car radio and decide that they must quickly return to take part in the action, and then proceed to kidnap and assassinate a Cabinet Minister, it seems reasonable to assume that their acts were essentially individual and unconnected in nature rather than being part of a massive and well-organized conspiracy. Further information may change this point of view. But two facts stand out glaringly.

First, the evidence so far clearly indicates that the terrorism to which we have been witness in Quebec has been of a minimally political nature. There appears to have been little planning or coordination, let alone mass organizing or strategic thinking. Consequently, the reaction of the government and of the majority of the Canadian public is inappropriate. The intensity of these reactions generates an aura of political importance for the terrorists which they scarcely deserve. The hysteria has been counter-productive.

Secondly, the governmental and public reaction as well as the general lack of availability of hard analysis of the situation has created a condition in which a frightened and essentially uninformed public goads an eager government into action of greater and greater excess. This is a vicious cycle. The enthusiasm of the public spurs the government on, while in turn the government, anxious to maintain the crest of public approval which it has achieved, acts dramatically to sustain the mood of crisis. This is accomplished through judicious withholding of information and the proposal of increasingly dramatic measures to deal with the purported danger.

The situation is self-perpetuating. Because they do not receive concrete information regarding the nature of the crisis, members of the public naturally assume that the nature of the situation is so dangerous that any excess is somehow justifiable. Simultaneously the government astutely aware of the lack of political opposition to the basic assumptions on which it has acted, enhances its own position in the short run by continuing to act in a highly dramatic fashion. Its members speak ominously of a threat

to democratic institutions while simultaneously minimizing the role of parliament in debating the issues at stake, and it feeds the fires of apprehension among the populace by keeping it uninformed.

This cycle can be broken only by providing the public with the information it requires to make a rational assessment of the entire situation. If the governments of Montreal, Quebec, and Canada have really apprehended an insurrection they should immediately furnish the peoples of these constituencies with the evidence upon which they acted. To do less would be to practise the most dangerous kind of elitism, and would truly undermine democratic institutions. In the absence of specific information, people tend to speculate about hypothetical situations which invariably are far more drastic and fearsome than any real situation could possibly be. A bad dream or fantasy, especially when fed by snippets of reality, is more terrifying than the most barbarous and cruel reality could ever be. Have murderous thugs infiltrated the seats of power, the police forces, the government itself? Is there a super-clandestine organization in the heart of Montreal with a nuclear bomb which it will set off if its every demand is not met? Are three thousand armed insurrectionists of murderous intent quartered in some strategic corner of Quebec? These questions have not been explicitly raised by members of the government. But they have crept into the consciousness of many an otherwise solid Canadian citizen.

Only by clarifying the whole series of events since and before October 5th can the situation in this country be stabilized. If in the course of explaining the measures it has taken the Government of Canada reveals that it acted hastily and without a great deal of explicit evidence, its judgment will have to be questioned and it will have to bear the consequences of that questioning. If it can justify fully its actions then a sense of equilibrium will be restored. In either case, the real interests of democracy would be served.

To return to an earlier theme, it is indeed ironic, as well as being extremely painful to those of us who have prided ourselves on being citizens of a nation whose principal characteristics we smugly thought were those of

reasonableness and calm, to see in the United States several precedents for the kind of inquiry which is now so badly needed here. We must have an inquiry which will be competent to deal with the intricacies of sedition, treason, terrorism, revolution, social change, and the underlying causes of these manifestations, as well as with the reasons for a series of events which has created a sense of crisis unparalleled in our national history. Such a commission must be capable of calmly ascertaining these facts and placing them in their proper perspective.

It is a lot to ask of any government to consent to having its actions, and the events which have led up to them, examined by an impartial body. But if it fails to do so, we can only conclude that there is something to hide. It is an even greater imposition to ask any group of individuals to carry out such an investigation. They would, of course, be subject to every kind of pressure imaginable. But it is only if such persons come forward, and if the government consents to give them the appropriate mandate, that the real interests of democracy can be served. The greatest imposition would be on the Canadian people if they should be expected to forget the greatest crisis they have ever endured.

James Littleton is a consultant with the National Film Board of Montreal and a writer.

THE ECONOMICS OF CRISIS

Dian Cohen

It would be irresponsible to suggest that there is a direct cause and effect relationship between the current terrorism we are suffering in Quebec, and the unemployment situation here. But it would be equally irresponsible to pretend that such a dismal employment outlook doesn't contain the seeds of great danger to the province's already shaky political stability.

The imposition of the War Measures Act and its successor, the Public Order (Temporary Measures) Act, appear to be implicitly based on the assumption that a man is converted because he is silenced. Unhappily, **the underlying factors that feed FLQ-type terrorism will not vanish because the FLQ has been outlawed.**

Here are some facts.

1. In the past year, the number of jobless Quebecers increased by 23,000. The increase in the age group under 25 was 21,000 — 91 percent of the total rise.
2. The jobless rate of Quebecers 25 and over is 4.5 percent. The jobless rate of Quebecers under 25 is 11.5 percent.
3. Of the approximately 150,000 people unemployed in Quebec right now, almost half of them are under 25.
4. Of the approximately 400,000 unemployed people in Canada, 40 percent live in Quebec. Yet Quebecers comprise only a little over a quarter of Canada's labor force.
5. Fully 75,000 Quebecers are joining the labor force each year. This means that at least 75,000 new jobs must be created each year to absorb the new workers coming onto the labor market. In 1970, according to the Economic Council of Canada, 3,000 new jobs will be created in Quebec.
6. Employment in Quebec increased by 85,000 in 1965, and by 104,000 in 1966. In the following 3 years, 1967-69, an average of 40,000 new jobs were created. 1968 was a low point, when only 2,000 new jobs came into existence.

7. The unemployment rate in Quebec has, for many years years been 20 to 50 percent higher than the Canadian average, and twice as high as the rate in Ontario. Each 1 percent of unemployment in Quebec represents about 20,000 people. In order to reduce the unemployment rate here to a more tolerable level of say, 5 percent, another 80,000 new jobs must be created, and added on to the 75,000 needed to take care of the new workers entering the labor force.
8. The Bilingual and Bicultural Commission concluded in 1964 that French-speaking employees, who represent 70 percent of Quebec's labor force, hold 82 percent of jobs in the \$5,000-\$6,500 bracket. English-speaking employees, who are 30 percent of the labor force, hold 77 percent of the jobs in the \$15,000-plus bracket.
9. The B & B Commission concluded that the average income of English-speaking workers in Quebec is 40 percent higher than that of French workers.
10. The B & B Commission concluded that the 13 percent of Quebecers whose mother tongue is English have relatively higher incomes and are relatively lower unemployment risks than Quebecers whose mother tongue is French.
11. New jobs are created when increased capital investment occurs.
12. From 1959 to 1965, the level of total investment in Quebec has averaged 72 percent of Ontario's investment. Since 1965, Quebec investment as a percent of Ontario's investment has declined to 52 percent.
13. Quebec's comparable share of the total investment in Canada over the period 1959-69 has declined from 26 percent to 20 percent. Money is shying away from La Belle Province.
14. Even Montreal, historically the focal point for economic development in the province, has drifted into a precarious position. It has long been a "head office" city, with fully one-third of Canada's head offices located here. Recently however, many companies have been transferring all or part of head-office operations to other parts of Canada.
15. It has been estimated that just to keep unemployment from getting worse, Quebec needs a minimum of \$4 billion a year for the next decade.

16. Over the next 7 years, according to Quebec's General Council of Industry, public and private investment in Quebec must average over \$5-1/2 billion a year, if unemployment is to be reduced to tolerable levels.
17. Last year and the year before, just over \$3 billion was invested in Quebec. In the decade of the 1960's, it has never been higher.

Facts like these add up to an economy not doing very well for the majority of its people. Facts like these have been around for a long time. Facts like these, if they persist long enough, lay the foundation for the social discontent we are faced with today.

Canada is faced with a frightening and major challenge.

Dian Cohen is a well known Montreal economist, writing with the Toronto Star.

THE ADEQUACY OF THE LAW

Nate Nurgitz

In the early hours of Friday, October 16th, 1970, a Proclamation was issued by the Federal Government, the preamble of which stated:

"And whereas there is in contemporary Canadian society an element or group known as Le Front de Libération du Québec who advocate and resort to the use of force and the commission of criminal offences including murder, threat of murder and kidnapping as a means of or as an aid in accomplishing a governmental change within Canada and whose activities have given rise to a state of apprehended insurrection within the Province of Quebec."

As a concerned private citizen and an interested practicing lawyer, I was somewhat alarmed that my Country and, indeed, my own safety could perhaps be threatened by wrongdoers and that the laws of Canada did not provide an adequate form of protection. This article, therefore, will deal principally with specific sections of The Criminal Code and other statutes for the purpose of demonstrating the adequacy of the Law prior to October 16th, 1970.

Let us first, therefore, deal with those sections of the Criminal Code of Canada that appear to cover situations such as have arisen in the past while in the Province of Quebec. I propose to deal with these sections in no particular order. The first of these is Treason.

"TREASON AND OTHER OFFENCES AGAINST THE QUEEN'S AUTHORITY AND PERSON

46. (1) TREASON. Every one commits treason who, in Canada,

- (a) kills or attempts to kill Her Majesty, or does her any bodily harm tending to death or destruction, maims or wounds her, or imprisons or restrains her;
- (b) levies war against Canada or does any act preparatory thereto;

- (c) assists an enemy at war with Canada, or any armed forces against whom Canadian forces are engaged in hostilities whether or not a state of war exists between Canada and the country whose forces they are;
- (d) **uses force or violence for the purpose of overthrowing the government of Canada or a province;**
- (e) without lawful authority, communicates or makes available to an agent of a state other than Canada, military or scientific information of any sketch, plan, model, article, note or document of a military or scientific character that he knows or ought to know may be used by that state for a purpose prejudicial to the safety or defence of Canada;
- (f) **conspires with any person to do anything mentioned in paragraphs (a) to (d);**
- (g) **forms an intention to do anything mentioned in paragraphs (a) to (d) and manifests that intention by an overt act; or**
- (h) **conspires with any person to do anything mentioned in paragraph (e) or forms an intention to do anything mentioned in paragraph (e) and manifests that intention by an overt act.**

(2) CANADIAN CITIZEN OR PERSON OWING ALLEGIANCE. Notwithstanding subsection (1), a Canadian citizen or a person who owes allegiance to Her Majesty in right of Canada commits treason if, while in or out of Canada, he does anything mentioned in subsection (1).

(3) OVERT ACT. Where it is treason to conspire with any person, the act of conspiring is an overt act of treason."

The most telling sections of The Criminal Code, however, dealing with the question of advocating the overthrow of a government would be those sections dealing with Sedition:

" SEDITION

- 60. (1) "Seditious Words". Seditious words are words that express a seditious intention.
- (2) "Seditious Libel". A seditious libel that expresses a seditious intention.
- (3) "SEDITIONARY CONSPIRACY". A seditious conspiracy is an agreement between two or more persons to carry out a seditious intention.

(4) **"SEDITIONOUS INTENTION".** Without limiting the generality of the meaning of the expression "seditious intention", every one shall be presumed to have a seditious intention who

- (a) teaches or advocates, or
- (b) publishes or circulates any writing that advocates, the use, without the authority of Law, of force as a means of accomplishing a governmental change within Canada."

This section itself is rather startling since it makes a crime out of thought and word without any actual or overt act.

As for public gatherings or meetings conducted by groups such as the FLQ one need only look at those sections dealing with Unlawful Assembly.

"UNLAWFUL ASSEMBLIES

64. (1) **AN UNLAWFUL ASSEMBLY.** An unlawful assembly is an assembly of three or more persons who, with intent to carry out any common purpose, assemble in such manner or so conduct themselves when they are assembled as to cause persons in the neighbourhood of the assembly to fear, on reasonable grounds, that they

- (a) will disturb the peace tumultuously, or
- (b) will by that assembly needlessly and without reasonable cause provoke other persons to disturb the peace tumultuously.

(2) **LAWFUL ASSEMBLY BECOMING UNLAWFUL.** Persons who are lawfully assembled may become an unlawful assembly if they conduct themselves with a common purpose in a manner that would have made the assembly unlawful if they had assembled in that manner for that purpose."

Those sections of The Criminal Code dealing with kidnapping and murder being so obvious and for the most part well known will not be repeated here. Suffice to say that **they are serious crimes well covered** in the Code.

A good deal has been said and written about the administrative difficulty in being able to apprehend those persons responsible for the recent kidnappings and murder in the Province of Quebec and that the difficulty, in large

measure, was in obtaining warrants for arrest. To cover this situation one need only refer to Sections 434 to 436, both inclusive, of The Criminal Code dealing with the right of not only police officers but others in apprehending those persons responsible or those persons who in some way aided or abetted guilty parties.

"ARREST WITHOUT WARRANT

434. **BY ANY PERSON.** Any one may arrest without warrant a person whom he finds committing an indictable offence.

435. **BY PEACE OFFICER.** A peace officer may arrest without warrant

- (a) a person who has committed or who, on reasonable and probable grounds, he believes has committed or is about to commit an indictable offence, or
- (b) a person whom he finds committing a criminal offence.

436. **BY ANY PERSON ON FRESH PURSUIT.** Any one may arrest without warrant a person who, on reasonable and probable grounds, he believes

- (a) has committed a criminal offence, and
- (b) is
 - (i) escaping from, and
 - (ii) freshly pursued by, persons who have lawful authority to arrest that person."

I should like to refer the reader as well to those sections dealing with parties to an offence so that there will be no doubt as to who could conceivably be charged and arrested, with or without warrant, during this entire episode, ie. not only the actual participants but also those who either counsel, aid or abet.

"PARTIES TO OFFENCES

PARTIES TO OFFENCE. — Common intention.

- 21. (1) Every one is a party of an offence who
 - (a) actually commits it,
 - (b) does or omits to do anything for the purpose of aiding any person to commit it, or
 - (c) abets any person in committing it.
- (2) Where two or more persons form an intention in common to carry out an unlawful purpose and

to assist each other therein and any one of them, in carrying out the common purpose, commits an offence, each of them who knew or ought to have known that the commission of the offence would be a probable consequence of carrying out the common purpose is a party to that offence.

PERSON COUNSELLING OFFENCE.

22. (1) Where a person counsels or procures another person to be a party to an offence and that other person is afterwards a party to that offence, the person who counselled or procured is a party to that offence, notwithstanding that the offence was committed in a way different from that which was counselled or procured.

(2) Every one who counsels or procures another person to be a party to an offence is a party to every offence that the other commits in consequences of the counselling or procuring that the person who counselled or procured knew or ought to have known was likely to be committed in consequence of the counselling or procuring.

ACCESSORY AFTER THE FACT. Husband or wife, when not accessory. — When wife not accessory.

23. (1) An accessory after the fact to an offence is one who, knowing that a person has been a party to the offence, receives, comforts or assists him for the purpose of enabling him to escape.

(2) No married person whose spouse has been a party to an offence is an accessory after the fact to that offence by receiving, comforting or assisting the spouse for the purpose of enabling the spouse to escape.

(3) No married woman whose husband has been a party to an offence is an accessory after the fact to that offence by receiving, comforting or assisting in his presence and by his authority any other person who has been a party to that offence for the purpose of enabling her husband or that other person to escape."

And wouldn't a reasonable man interpret the "six demands" of the FLQ as being an intimidation of Parliament sufficient to come within the four corners of:

"51. INTIMIDATING PARLIAMENT OR LEGISLATURE. Every one who does an act of violence in order to intimidate the Parliament of Canada or the legislature of a province is guilty of an indictable offence and is liable

to imprisonment for fourteen years.

An indictment under s. 51 must show the overt acts upon which the prosecution is based: see Code, ss.55, 492 (4). The power to amend an indictment under s.510 does not include any power to add to the overt acts stated in the indictment: see Code, s.510 (9).

What then is the failing of our Law as it existed up to the early morning hours of October 16th, 1970? Why then the failure of governmental and police authorities to act or apprehend those persons who apparently have been openly publishing pamphlets and other writings and those who have openly spoken out in favour of the violent overthrow of either the Government of the Province of Quebec or the Federal Government in Ottawa? The public is led to believe that we do not have laws capable of handling the situation that existed especially in the month of September and early days of October, 1970. Where is the inadequacy of sections 46, 51, 60, 64, 434, 435 and 436 above referred to in addition to those of Murder and Kidnappings?

The reason for the Proclamation of the War Measures Act as set out in the preamble that I have quoted is:

"... an element or group ... who advocates or resort to the use of force and commission of criminal offences ... as a means of or as an aid in accomplishing a governmental change within Canada ..."

One must question the authorities for not arresting those persons and charging them under The Sedition sections of The Criminal Code of Canada (as they ultimately did).

In no way is this review of the existing Law or the Laws invoked by the War Measures Act meant to be a "soft line" on either the FLQ or person seeking to destroy Canada. In fact, the real argument arises as to why those persons who have openly advocated violence for so many months (and years) have not been arrested and dealt with under the provisions of The Criminal Code.

What, therefore, might be accomplished by The War Measures Act and the regulations proclaimed thereunder:

1. The outlawing of an association known as Le

Front de Liberation du Quebec — is it the association that is the root of the problem or those persons actively engaged in it that we seek to punish. Surely if guilty of anything those persons responsible are guilty of criminal offences and not the membership or non-membership in any organization.

2. Arrest without warrant of persons that the police have reason to **suspect** are engaged in these unlawful activities. Surely one expects that the suspicion necessary would be based upon reasonable and probable grounds and in that case what then is the need or effect of these newer provisions as opposed to the existing Laws.

Dealing specifically with the death of the Quebec Cabinet Minister, Pierre LaPorte, and those persons directly or indirectly involved, one would think that the provisions of "The Coroner's Act" (Statutes of Quebec, 1967) provide what could be considered to be sweeping powers of both arrest and detention of not only those responsible but those persons whose testimony the Coroner deems necessary.

Section 22,

"When the Coroner is of the opinion that a person whose testimony he deems necessary will fail or refuse to be present at the Inquest, he may order such person arrested, with or without a warrant, and brought before him within twenty-four hours after his arrest or, if that is impossible, within the shortest possible delay; the Coroner may then, in order to ensure his presence at the Inquest, require bail of such person or direct that such person be detained in a common gaol."

Section 23 of the Quebec Coroner's Act further provides that witnesses must testify after having been sworn by the Coroner and are compellable to answer questions under penalties respecting witnesses who refuse to answer questions before any Superior Court.

The Coroner further has power within the terms of that Statute to seize or take possession of all things that

may be useful for the purposes of the Inquest.

In summary, therefore, after careful examination of those relevant Statutes, **one can only conclude that the crisis in the Nation and the apparent paralysis of the authorities to act was not as a result of either inadequate Laws or for that matter a vacuum within the Law but rather an inability or an unwillingness of the authorities to act upon the powers conferred upon them many, many years ago.**

Many people question the Government for failing to disclose many of the relevant and important facts surrounding the Quebec crisis. The tragedy of the situation, in my opinion, is **that the Government has not disclosed to the people the fact that they are adequately protected under the existing Laws and that same properly administered will provide for the "Preservation of Public Order in Canada".**

Mr. Nurgitz is a Winnipeg Lawyer, and is National President of the Progressive Conservative Party.

THE ADEQUACY OF THE POLICE

Peter Desbarats

For some time now, we've all heard the same question being asked in the street, the office, wherever people get together. And now it's finally being asked in Ottawa. What's wrong with the police? Why haven't they been able to break the Cross-LaPorte case?

Up to now, there's been a reluctance to criticize the police too harshly. There was a feeling that there was enough pressure on them. But now, four weeks after the Cross kidnapping, people are questioning the competency of the police . . . questions that have grown more urgent in the past few days following reports that the police actually were trailing Paul Rose **after** Pierre LaPorte was kidnapped, and then lost sight of him. And this is only one of many examples, the worst one being their absolute ignorance of the hideout that Rose had maintained for months in suburban Montreal — the house where LaPorte was kept.

Now the police will talk about the "urban guerrilla" and the difficulty of tracking him down. But this doesn't stand up, particularly for the Montreal force, when you realize that the failure of the police here is part of **an overall pattern**. There are three forces primarily involved; Montreal, Quebec Provincial Police and the RCMP. Let's look first at the Montreal department because the FLQ operates mainly in its home territory.

Almost no one realizes how bad the record of the Montreal police has been. Because Mayor Drapeau seems efficient, most people assume that the police force is too. "It may not be democratic," we say, "but at least the trains run on time." Well, in this case, they don't. The Federal Government recently put out statistics which enable us, for the first time, to rate police forces in Canada. The figures are for 1968 and they reveal that for practically all types of criminal activity, there's a better chance of getting away with it in Montreal than anywhere else in Canada.

We all know that Montreal claims to be the bank robbery capital of the world. The police say it's because the courts aren't harsh enough. No. It's because **the police aren't good enough**. In 1968, 95 chartered banks in the

Montreal area were robbed. The police solved 22 of these cases, 50 banks were robbed in the Toronto area that year; and the police solved 28 cases. The robbery rate in Montreal is three times the Canadian average, and the solution rate is the second lowest in the country. The lowest is in Quebec City.

Like the Montreal force, the Quebec Provincial Police underwent a clean-up about 10 years ago and undoubtedly it's a better force than it used to be. But that's not saying a great deal. Although Ontario has 70 percent more cars than Quebec, Ontario police on the average give out double Quebec's total of summonses for traffic offences under the Criminal Code. If the basic work of policing highways and cutting down Quebec's tremendous accident rate isn't being done, you can have doubts about the rest of the operation.

As for the RCMP, they don't always get their man, at least in Quebec. Here the RCMP suffers from an "anglo" image, and apparently it's done little in recent years to adjust itself to the realities of a new Quebec.

All this leads back to the governments which direct these police forces.

Democratic society depends on an efficient police force operating within the law. The radicals of the left have obscured this sometimes with blanket condemnation of the "pigs". But the excesses of the radicals and the police shouldn't obscure the fact that our rights depend on good police work. When the police fall down on the job, our rights are threatened from both sides: by the police who try to cover up inefficiency by resorting to illegal tactics, and by the government which tends to over-react to a breakdown in police efficiency by introducing authoritarian measures.

In the Cross-LaPorte case, the police have much to answer for. They have not only failed so far in their primary job of catching criminals: it is on their intelligence — a service proved dangerously weak as the Cross-LaPorte case — that the government primarily based its decisions to invoke the War Measures Act. It's impossible to avoid the suspicion that all this might have been unnecessary if the police had been doing their job properly.

Mr. Desbarats is an Associate Editor of Saturday Night and is a host of CBC-TV's Hourglass, broadcast five days a week in Montreal. The above text was delivered on "Viewpoint" on the CBC National Network, November 3rd, 1970.

THE WAR MEASURES ACT AND CITIZEN ACTION

Alan Clarke

We have had some remarkably blatant attacks on citizen participation in recent weeks. Mayor Jean Drapeau tells us he has "no use for this so-called 'participatory democracy' and citizens' groups that now demand a say in government." These statements, and others, such as those of Mayor Tom Campbell of Vancouver, should concern Canadians, but mainly because they represent an appalling lack of understanding and respect for democratic values on the part of some of our municipal leaders.

A more insidious attack on citizen action, however, has been the imposition of the War Measures Act, by the Federal Government, without explanation. **How a government handles information on a day to day basis and particularly during a crisis may be a good indication as to how that government views the intelligence and courage of the public.** In this instance, not only was the public not informed, but neither were the Opposition leaders nor the members of the Privy Council.

The free flow of information between citizens and government is essential to the democratic process. Information is vital to the relationship between citizen action groups and government. If it is withheld or distorted, divisiveness usually results. This works both ways. Citizen groups that work secretly are potentially as dangerous to society as secretive governments.

Beyond the information issue is the considerable evidence that the present government sees only one agenda for growth and development — its own. All too often their agenda reflects powerful vested interests rather than the people most directly affected by development. It has been this attitude of government, perhaps more than anything else, that has given rise to citizen action groups, not only in our cities but in smaller communities and some regions. Not only the economically disadvantaged, but also the young, the Indian, the middle class, in increasing numbers, have organized in opposition to the 'agenda'.

the government has proposed, or more often adopted, for them. The confused and contradictory development policies and programs of the federal government have an increasing number of critics. None are better located, and better qualified, to criticize than the people in the areas or regions under development. In most cases, where these people have organized, they have rejected the traditional political game of 'broker politics' and secret deals. Most of them seek, not the transfer or shifting of power, but the sharing of power on an open and democratic basis. They recognize, as the government appears not to, that growth and development cannot occur in democratic terms without the open involvement and participation of people.

If the experience in Hull, Quebec, which is slowly becoming public, is any indication of the rest of the province, many persons active in, or closely associated with citizen groups in Quebec have been arrested. As the province is one of the major recipients of federal development funds, a complete and independent inquiry into the reasons for these arrests is essential. Realistic development policies and programs are vital to the survival of Canada and only a judicial inquiry with the broadest terms of reference can adequately review this serious challenge to the concept of citizen participation.

If, as many believe, social change and progress is possible within existing institutions, or at least within the present system, the fullest public scrutiny should occur when those institutions are set aside, even temporarily, as they have been under the War Measures Act.

One unfortunately is left with the impression that the act was one of impulse as reflected in the confused and contradictory statements of the Ministry. If the government, however, really faced an insurrection, what other choices, if any, were open to them. It has been implied that swift and sudden action was required to apprehend the kidnappers. The Taschereau-Kellock inquiry, in 1946, into the allegations of espionage against Canadian citizens, 'supervised' the arrest of a number of persons including one Member of Parliament. This Commission, without the aid of recent technological advances, was able to present an interim report to Parliament within a month. **The security of the nation was at stake in 1947, yet care was taken to guard against misuse of power and to protect civil liberties.**

Similar protection ought to have been provided in the current challenge to our collective security.

One other aspect of the current situation is the marked tendency of some members of the government to equate criticism of the imposition of the War Measures Act with sympathy for the criminal activities in Quebec. This is another indication of the extent to which this government may go, to curb dissent, an integral part of all citizen action.

Let us have a full and independent inquiry. Let it be an examination in detail of the events in Quebec, and particularly in Montreal, prior to, and during October 1970. Let it be a full examination of the role of the various levels of government, the police and all forms of citizen action. Anything short of a full and independent inquiry will leave many of us uneasy about the future of citizen participation and democracy in Canada.

Alan M. Clarke, formerly Director of the Canadian Citizenship Council and the Company of Young Canadians is now Director of the Demonstration Project in Community Development at Algonquin College, Ottawa

THE LOSS OF A GENERATION

Hugh Segal

There were many varied reactions to the suspension of all civil rights by the government. Perhaps the greatest variations occurred amongst our nation's younger citizens.

Those on the campuses, both English and French who justified their existence through mindless rhetoric of the new left had a field day. To them, we had achieved, with the help of the F.L.Q., the ultimate in Maoist analysis-armed repression by what was normally considered to be a moderate governmental group. The bigots on the campuses (and the above thirty's have no monopoly on prejudice) also had a field day. Those who were anti-French and those who were anti-English were able to share in the same sick fantasies on that fateful Friday morning.

Many student government leaders could not restrain themselves at the prospect of actually being arrested. Many had only to read the proclamation in order to map out a strategy aimed at antagonizing the local officers of the law.

Yet, like most other citizens, the large majority of responsible student leaders sought to react in a reasonable and responsive fashion. Many held urgent information sessions so that students could be made aware of the extent of the act and govern themselves accordingly. Most realized that their student constituents, like any other group of Canadians, were, at that time in our nation's history, fully prepared to give our duly elected government the benefit of the doubt. Indeed, while opposition to the government may have been more vocal among the students of the country, it would seem fair to say that their overall reaction was not far removed from the general Canadian reaction to the government's position.

If students joined in in this 'national act of faith' in the Trudeau government, they did so because of the leadership of many moderates, who, in the emotion of the moment assumed natural leadership roles in pressing their fellow students to shy away from open criticism and to give the government the benefit of the doubt. In a liberal

democracy, it is surely not too much to ask of a free people to just once, assume that their government cannot disclose all the facts, and must be supported pending release of the pertinent details.

In cities like Ottawa, Montreal and Quebec, this path was a hard one to hold. In Ottawa, news of the 'wrong type of arrests' spread quickly. Anti-Vietnam types were having their apartments searched. Were they a threat to the government? Posters were being torn down from University walls. Was reading now a crime? Student Councils were called by their printers, several minutes before the R.C.M.P. were called by the same printers. Moderates who had built their case on the essential democratic spirit of Canadian government, found themselves defending something right out of **Mein Kampf**.

The moderates waited for the further information. Please show us proof of the insurrection. Tell us that you will return the legally prepared files of the free, legal, democratic, peaceful and parliamentary Parti-Québécois. Don't laugh at questions in Parliament. In the name of all those who supported you, please answer the questions.

It appeared that the government in Ottawa wasn't interested in any answers. The pundits had made it clear that, with the present national mood, the government could win an election without uttering a sentence.

The young people looked to the parties of the Opposition. The Tories played the responsible role of giving the government the benefit of the doubt. The New Democrats put up the only real opposition in the entire country. Many students began to feel that Tommy Douglas was younger than Pierre Trudeau, in mind and body.

The journalists hung their skates with the government. Men like Charles Lynch and Ron Collister made it look as if we had finally reached the unification of deity and human, liberal and authoritarian, playboy and saviour. The Prime Minister had made a tough decision.

After about one week, the moderates on the campuses, found their positions increasingly illogical. The government had no intention of justifying its abrogation of the rights of all Canadians with anything other than emotional televised imagery. Keep the people crying or screaming or hoping or praying and they won't be thinking.

When the government moved to institutionalize, with no further justification, through The Public Order Act the principles of authoritarianism established by the W.M.A., the Tories and the New Democrats ran for cover. On second reading, men like Brewin and Fairweather and Lewis and Stanfield lost the one chance they had to salvage something of intermidable value for what we thought Parliament should be. When only one young M.P. stood to oppose the Public Order Act, it became clear that, the government of the day had, for all intents and purposes, destroyed what was left of the backbone of Parliament as an institution. What it could not destroy, was the spirit of the individuals in that Parliament.

Yet, for the moderates on the campuses, those who supported the government and preached that those who express faith in the government would be vindicated by an open and realistic explanation on the part of the government, the battle was clearly lost.

A generation that desired so deeply to trust, was aliented so completely by the man they helped make Prime Minister of Canada.

Mr. Segal is a Montrealer studying History at the University of Ottawa, and is president of that university's Student's Federation.

INCIDENTS OF INJUSTICE

James Eayrs

"The government decided to introduce a new bill with as wide powers as were granted before They followed the course of face-lifting But the same tell-tale wrinkles are there, the same wrinkles that spell dictatorship in this country if we do not oppose the granting of these powers to the government"

So John Diefenbaker thundered against replacing the War Measures Act by the Emergency Transitional Powers Act in December, 1945. A quarter of a century has passed, and Dief's speech is as serviceable as ever. Hardly a word need have been changed, hardly a metaphor unmixed, for it to have been used last week to attack the replacement of the War Measures Act by the Public Order Temporary Measures Act.

But in the bellies of the Tories the fires have gone out. The old chief is an extinct volcano, his leader has not yet been known to erupt. The NDP has crumpled in the crunch, as socialists always seem to do. Only an isolated Prince Edward Islander, David MacDonald (PC-Egmont), saved Parliament from shame.

Canada's record of resort to emergency measures shows them to have been monuments to folly.

Using the War Measures Act, the federal government early in 1942 deprived all "members of the Japanese race" whether Canadian citizens or not, of their jobs, their domiciles, their properties, their liberties. A livestock building in Vancouver served as a reception centre for some 22,000 men, women and children on their way to work camps in the interior.

Not since the expulsion of the Acadians had there been such mass injustice. "The bitterness, the anguish, is complete," wrote T. M. Kitagawa to the custodian of Japanese properties after the government had sold the home from which he and his family had been forcibly evicted. "You who deal in lifeless figures, files and statistics could never measure the depth of hurt and outrage dealt out to those of us who love this land. It is because we are Cana-

dians that we protest the violation of our birthright." Will those Quebecers imprisoned without charge or reason these past few weeks emerge with their patriotism so unscathed?

Wards of the state

V-J Day brought no restitution to Canadians of Japanese descent. Their pleas before the Supreme Court of Canada and the Judicial Committee of the Privy Council were quashed by jurists more impressed by the division of power than by the loss of human rights. They remained wards of the state, citizens with no recourse to justice. Three years later they were still unable to travel freely in British Columbia or to fish along the Pacific Coast — restrictions, a study of their predicament noted in 1948, which "will undoubtedly disappear with the final expiration of the extension of the war powers of the government." These were not permitted to expire until 1954.

Another war measure was censorship. Here was more of an indignity than an injustice. There were no brutal operations against press rooms, few pre-emptions of the airwaves. It was all very Canadian. "The censorship system was voluntary," the man in charge of it has explained. "The law was there, and it was severe, and editors needed to take heed of it, but they were under no compunction to go near the press censors If we examined material and expressed the view that it violated the law, an editor could still go ahead and print it and take the risk, if he chose."

An odd country. It now seemed free, or nearly so; but appearances were deceptive. A secret order-in-council, passed on Oct. 6, 1945 under the War Measures Act and kept in force under the Emergency Transitional Powers Act, allowed the minister of justice to hold without trial anyone suspected of acting in a manner prejudicial to the public safety.

Scores of Canadians were accordingly detained for alleged spying for the Soviet Union. But Igor Gouzenko, clerk in the Soviet embassy who went to the RCMP, not the order-in-council, deserves credit for apprehending the guilty parties. Half of those imprisoned were later acquitted in the courts. "The arbitrary character of this piece of subsidiary legislation," write R. M. Dawson and Norman Ward in their latest edition of their political science text, *The Government of Canada*, "and the degree to which

it abrogated some of the most cherished rights of the citizen afford the best illustration of how extreme was the authority which had been delegated by Parliament to the government."

The best, but far from only illustration. Orders-in-council became the order of the day, rule by fiat replaced the rule of law. On Dec. 16, 1947, Parliament debated yet another bill by which the Liberals were to cling to wartime powers. The CCF supported it; only the Conservatives were opposed.

J. M. Macdonnell of Toronto led the Tory attack. "We who have been free, moderately, are asked to put shackles on ourselves. We who have struggled for generations to achieve the position of living under the rule of law are now to live to a very large extent under the arbitrary powers of one man It may well be asked how people who called themselves Liberals were ever brought to agree to this."

A telling reply

Across the aisle, Prime Minister W. L. Mackenzie King gloomily asked himself the same question, for the cabinet had drafted the bill to C. D. Howe's specifications during King's absence overseas. "A pretty telling reply," King wrote in his diary of Macdonnell's speech, "He is quite right in his criticism of powers being given Howe under the act. They are far too arbitrary and quite contrary to the Liberal method Both he and the government will regret these features of the bill."

Emergency powers are here again. The case against them stays the same. Nothing that needs doing can't be done without them. Much that should not be done is done on account of them. The evil that they do lives after them. The good are oft interned by means of them.

Where then to find a place to stand? Dealing with the dilemma of liberal democracy confronted by the terror of a super-power, retired U.S. diplomat George Kennan offers advice even more helpful to a liberal democracy tempted to resort to repressive legislation to counter the terror of a tiny band: "Let us divest ourselves of this weapon altogether; let us stake our safety on God's grace and our own good consciences and on that measure of common sense and humanity which even our adversaries possess."

James Eayrs is a professor of International Relations at the University of Toronto. The above was reprinted from the Toronto Daily Star.

SOME UNANSWERED QUESTIONS

George Bain

There is a list of questions as long as anyone's arm that may be asked about the circumstances which led to the proclamation of the War Measures Act and the enactment of the successor legislation, the Public Order (Temporary Measures) Act, 1970.

It will be a long time before we get answers to all of them. But what has been astonishing has been the extent to which government has been able to get away with — and more than get away with: to be applauded for — the undocumented assertion that a crisis existed which justified the use of extra-ordinary powers of arrest and detention.

Even this long after the kidnappings of James Cross and Pierre Laporte (and it should be remembered that the War Measures Act was invoked before, not after, Pierre Laporte's death) there has been nothing really from Ottawa or Quebec City to say that those acts, dreadful crimes, but not in themselves constituting insurrection, were not all.

There have been references, of course, to the scattered other acts of violence which the Front de Liberation du Québec has been known to have committed during the past seven or eight years, and there have been hints about plots and about information which, if only it could be made public, would clear up all doubts.

But, for the most part, the public has been asked to take on trust that a serious threat existed to the maintenance of public order and even to the life of democratic government in Quebec, and that nothing less would do than that the police have power to jerk people out of their beds and hold them in jail, without warrant or bail. As time goes on, trust may begin to wear a bit thin; as matters stand, it deserves to.

As this is written, there is a Canadian Press report at hand from Quebec City which says — the debate in the National Assembly on the nature of the crisis — that:

"The only disclosure Mr. (Robert) Bourassa made Thursday was that Lucien Saulnier, former Montreal executive

committee chairman, gave the Quebec government information upon which it based its decision to make its appeal to Ottawa.

"Mr. Saulnier had repeated to the Quebec government a statement he had made a year earlier before a House of Commons committee that Montreal police had come upon terrorist plans for a four-step campaign to create disorder leading to the overthrow of the government . . ."

The government in Ottawa has insisted throughout that, in proclaiming the War Measures Act and bringing into being certain extensive regulations under it, it was acting to satisfy the Quebec government, and secondarily, the municipal government of the City of Montreal, both of which divined the presence of circumstances which warranted their saying that a state of apprehended insurrection existed.

But, if Quebec City took its information from Montreal, and Montreal had communicated the same information to Ottawa a year earlier — and had had it dismissed as unfounded — where are we? Certainly we are in a situation in which the federal government can hardly escape either the criticism of having been inexcusably complacent last year or inexplicably sensitive this.

In fact, it can be argued that circumstances which had nothing to do with insurrection led the two governments to grasp eagerly at an interpretation of events which it was useful to Montreal's Mayor Jean Drapeau to put forward, running for re-election, as he was, as the embodiment of law, order and stability against opponents who (he wanted the voters to believe) were certainly wicked radicals and were quite possibly physically dangerous.

And those circumstances were that the governments in Ottawa and Quebec City were diverging on what should be done about the two kidnapped men, and particularly Pierre Laporte. Mr. Bourassa was under intense pressure to make a deal — which, whatever his own feelings in the matter, he could not make on his own because most of the prisoners who would be exchanged were in federal hands. Pierre Trudeau, for his part, was publicly committed to the proposition that there would be no end to it if governments once started doing business with FLQ blackmailers.

In such a situation, there would be a certain obvious attraction to evidence of a larger issue which, superimposed, would both distract attention from the kidnappings — the police, it had become evident, were not near solving them — and would make it easy to maintain a united front.

Perhaps it would be going too far to say that the threat of a breakdown of public order in Quebec was manufactured; however, it does seem to have been eagerly seized upon, largely on the strength of information which earlier had been examined and discarded.

If this interpretation of events is correct, Mr. Trudeau and Mr. Bourassa are certainly entitled to sympathy; their dilemma undeniably was an awkward one. However, whether sympathy needs to run to condoning a serious circumscription of civil liberties and the imposition of a sort of quasi-censorship on the communications media of the Province of Quebec is another matter. There are circumstances in which such actions no doubt are justifiable, but the public deserves to be assured that they are both the true circumstances and sufficient circumstances — and neither can be said to have been assured in the present instance.

Mr. Bain is an Associate Editor and Ottawa Columnist of the **Globe and Mail**.

WHERE THE REAL DANGER LIES

David Macdonald, M.P.

The official explanation for the invoking of the War Measures Act and the subsequent temporary Public Order Bill must stand as a classic example of triple think and self deception.

When the government announced the invoking of the War Measures Act its justification for such action was basically threefold: Firstly, it described a serious state of terror and possible insurrection in the Province of Quebec. Secondly, it indicated it was responding to requests from Quebec and Montreal governments. Thirdly, there was other information which, for obvious reasons, could not be disclosed at that time. Later, under increasing pressure to justify its intervention the official line was altered so as to enumerate the acts of violence and terror carried out in Quebec over the past half dozen years. Finally, when this was seen to be insufficient, a third explanation was forthcoming stating that because an insurrection had not occurred you could not prove that which had not taken place.

If the public's acceptance of this trilogy of explanation is astonishing the gullibility of the Opposition parties is even more so. For not only did they accept the various interpretations offered at almost every step, but they gave the government the legitimacy which it so badly required. Not only did they accept the government's interpretation but they encouraged it to respond with appropriate legislation and, in particular, the temporary Public Order Bill (which, while milder in its repressive aspects than the War Measures Act and its regulations, was, in fact, more dangerous because of its statutory nature). The Opposition became a willing ally in the government's myth-making by urging it to bring forth appropriate legislation to deal with the problem. Apart from mild objection and indecisive questioning as to what, in fact, the problem was, they happily concurred in government policy.

One of the amazing insights resulting from the invoking of the War Measures Act was the willingness of most Canadians to accept, without question, **the suspension of**

many of their basic rights and protections under the law.

It has been suggested that Canadians willingly allowed their civil liberties to be placed in cold storage because of the gravity of the situation. Yet, the logic of and the necessary relationship between these two events was never seriously examined. Canadians have traditionally regarded themselves as staunch defenders of human rights. The Canadian Bill of Rights passed in 1960 was proof positive, if such were necessary, that we hold strong belief in our basic freedoms. How important these rights are to us is a matter now in very serious question. Was our commitment to these various freedoms a commitment of the mind, heart and will? Or, was our commitment only similar to a religious or political tradition; important if exercised of some use in identification if not. Either way, the commitment appears to have been of personal interest and little else.

A second virtue accepted as inherent to all Canadians was our tolerance for dissent. We have taken pride in a past which we believe to be most tolerant in accepting a divergence of opinions and ideals. Indeed, we have seen ourselves as more tolerant than most. When repressive waves of intolerance for political or religious ideals have swept other countries, we have kept our tolerance and remained cool. Indeed, we have taken comfort that such intolerance could not happen here. But those who now express public disagreement with the policy of the government re the War Measures Act, know not only that **dissent is now unwelcome here**, but is now regarded by many as dangerously close to subversion. In fact, when political figures have dared to disagree, they are met with charges of "playing politics" as if that alone was sufficient to indicate the selfish irresponsibility of the dissenter. As an aside, how anyone could imagine that political advantage could be gained from taking a position directly in opposition to that most widely supported, is difficult to understand. We have discovered in a time of perceived national crisis that we are no more tolerant of dissent than our neighbours to the south and in some respects a good deal less so. The Prime Minister well knew this when he indicated that he liked people to make clear choices and avoid "wishy-washy" thinking. He was pushing a polarization of public opinion which would make it easier, in his terms, to govern.

Perhaps the most disturbing element which has emerged

from the crisis is the high degree of authoritarianism latent in Canadian society. For decades, this authoritarianism has been an accepted feature of Quebec political life, best evidenced in the concept and cult of "le chef". The Prime Minister in his earlier writings has specifically acknowledged this. Yet, what we have now learned is the even greater predisposition in English Canada for the imposition of "le chef". The primary acquiescence in October, 1970 to "le chef" was not in French Canada, but primarily in English Canada. **Trudeau said he knew what was best for Canada and Canadians accepted without question. The paternalism of his performance was gratefully received by a most willing English speaking Canada.**

It would appear that the presence of Pierre Elliot Trudeau is, in effect, the ideal solution for English speaking Canadians who want to settle the Quebec problem once and for all. Beneath the veneer of polite acceptance and tolerance there has smouldered a resentment that feeds on long standing racial antipathy and misunderstanding coupled with more recent social and economic difficulties. It would have been impossible for English Canada to take a tough position with those who in their estimation have made intolerable demands on them if they had not found their ideal French Canadian. What was required was someone who had all the appearances of a French Canadian but who in reality saw the world in general and Canada in particular through Anglo Saxon glasses, as shaded as their own. They needed their "tame French Canadian". Posing, therefore, as a representative French Quebecer in Ottawa he has said and done all those things that they have longed to have happen. His response to delineated FLQ terror provided convenient cover in their view to "put them all in their place" and settle that "Quebec problem" for good. Quite obviously the dangers inherent in this outlook threaten the very existence of the country, and the freedom of **every one** of its citizens.

Mr. MacDonald is the Member of Parliament for Egmont, Prince Edward Island, and has represented that constituency in the House of Commons since 1965.

This book expresses a variety of thoughts which the following Canadians felt should receive wider circulation to stimulate further public discussion:

Norman Atkins, Toronto
Lloyd Axworthy, Winnipeg

Guy Beaugrand-Champagne,
Outremont

Tom Berger, Vancouver
Henry Best, Toronto
Claude Bissell, Toronto

June Callwood, Toronto
Donald Cameron, Fredericton
Dalton Camp, Toronto
John Carter, St. John's
A. P. Cohen, Kingston
Ramsay Cook, Toronto
John Courtney, Saskatoon

Muriel Duckworth, Halifax
Leo Dorais, Montreal

Gordon Fairweather,
M.P., Fundy-Royal

Nick Fillmore, Halifax
Brian Flemming, Halifax
Waldren Fox-Decent, Winnipeg

E.A. Goodman, Toronto
Charles Gordon, Brandon
Claude Gousse, Montreal
George Grant, Hamilton
Hubert Guindon, Montreal
Roger Graham, Kingston
Lionel Guravich, Saint John

Alan C. Holman, Ottawa
Tom Hockin, Toronto
Charles Huband, Winnipeg

Pauline Jewett, Ottawa
Keith Jobson, Halifax
Jack Johnson, Calgary

William Kilbourn, Toronto

David W. Kilgour, Winnipeg
Ruth Krindle, Winnipeg

Brenda Large, Halifax
Jim Laxer, Kingston
Delmas Levesque, Montreal

William Macadam, Ottawa
James A. Macaulay, Vancouver
Flora MacDonald, Kingston
Marilyn MacDonald, Halifax
Robert B. McClure, Toronto
Roy McMurtry, Toronto
John Meisel, Kingston
Mel Myers, Winnipeg

Carol Ann and David Nicholson,
Fredericton

Nate Nurgitz, Winnipeg

Michael Oliver, Montreal

Marcel Pepin, Montreal
George Perlin, Kingston

Harry Rankin, Vancouver
R. A. H. Robson, Vancouver
Abraham Rotstein, Toronto
Doug Rowland, M.P., Selkirk
Claude Ryan, Montreal
H. R. S. Ryan, Kingston

William Saywell, Toronto
Lloyd Shaw, Halifax
Donald Smiley, Toronto
Denis Smith, Peterborough
Denis Stairs, Halifax
John Stanton, Vancouver
Hon. H. H. Stevens, Vancouver

Melville Watkins, Toronto
Max Wolfe, Calgary
Gordon Wright, Edmonton

printed by Bonanza Press, Ottawa
cover design by Joe Furmanczyk, Ottawa

FOLDER No. Sp. 4284
MACMILLAN OFFICE APPLIANCES
COMPANY, LIMITED