

Public Order Temporary Measures Act

(November 2, 1970)

An act to provide temporary emergency powers for the preservation of public order in Canada.

Whereas the Parliament of Canada continues to affirm that men and institutions remain free only when freedom is founded upon respect for moral and spiritual values and the rule of law;

And whereas the public order in Canada continues to be endangered by elements of the group of persons or association known as Le Front de Liberation du Québec who advocate the use of force or the commission of crime as a means of or as an aid in accomplishing governmental change within Canada with respect to the Province of Québec or its relationship to Canada, and who have resorted to murder, threat of murder and kidnapping as well as the commission of other acts involving actual or threatened coercion, intimidation and violence;

And whereas the Parliament of Canada, following approval by the House of Commons of Canada of the measures taken by His Excellency the Governor-General-in-Council pursuant to the War Measures Act to deal with the state of apprehended insurrection in the Province of Quebec on the clear understanding that the authority for such measures should remain in force for a temporary period only, desires to ensure that lawful and effective measures can and will continue to be taken against those who thus seek to destroy our democratic governmental system, and agrees that all such measures as are hereafter determined to be necessary by reason of the present emergency be taken under the authority of and in accordance with the provisions of a law of Canada expressly enacted for that purpose, the terms of which provide for its continuation in force for a temporary period only;

Now therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

1. This act may be cited as the Public Order Temporary Measures Act, 1970.

INTERPRETATION

2. In this act,
 - a. "communicate" includes the act of communicating by telephone, broadcasting or other audible or visible means;
 - b. "peace officer" means a peace officer as defined in the Criminal Code, and includes a member of the Canadian Forces;
 - c. "statements" includes words spoken or written or recorded electronically or electromagnetically or otherwise, and gestures signs or other visible representations; and
 - d. "the unlawful association" means the group of persons or association declared by this act to be an unlawful association.

GENERAL

3. The group of persons or association known as Le Front de Liberation du Québec and any successor group or successor association of the said Le Front de Libération du Québec or any group of persons or association that advocates the use of force or the commission of crime as a means of or as an aid in

accomplishing the same or substantially the same governmental change within Canada as that advocated by the said Le Front de Libération du Québec, is declared to be an unlawful association.

4. A person who

- a. is or professes to be a member of the unlawful association,
- b. acts or professes to act as an officer of the unlawful association,
- c. communicates statements on behalf of or as a representative or professed representative of the unlawful association,
- d. advocates or promotes the unlawful acts of, or the use of the unlawful means advocated by, the unlawful association for accomplishing its aims, principles or policies,
- e. contributes anything as dues or otherwise to the unlawful association or to anyone for the benefit of the unlawful association,
- f. solicits subscriptions or contributions for the unlawful association or
- g. advocates, promotes or engages in the use of force or the commission of crime as a means of or as an aid in accomplishing the same or substantially the same governmental change within Canada as that advocated by the unlawful association,

is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.

5. A person who, knowing or having reasonable cause to believe that another person is guilty of an offence under this act, gives that other person any assistance with intent thereby to prevent hinder or interfere with the apprehension, trial or punishment of that person for that offence is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.

6. An owner, lessee, agent or superintendent of any building, room, premises or other place who knowingly permits therein any meeting of the unlawful association or of any branch, committee or members thereof, or any assemblage of persons who advocate or promote the unlawful acts of, or the use of the unlawful means advocated, by the unlawful association for accomplishing its aims, principles or policies, is guilty of an indictable offence and liable to a fine of not more than five thousand dollars or to imprisonment for a term not exceeding five years or to both.

7. 1. A person charged with an offence under section 4 shall be detained in custody without bail pending his trial unless.

- a. the attorney-general of the province in which the person is in custody has not, within seven days after the later of the time when the person was arrested or the coming into force of this act, filed with the clerk of the superior court of criminal jurisdiction in the province a certificate under this section stating that just cause exists for the detention of that person pending his trial or
- b. any certificate issued under this section in respect of that person has been revoked, or the Attorney-General of the province in which that person is in custody has otherwise consented to the release of that person on bail.

2. Where a person who has been charged with an offence under this act is being detained in custody pending his trial, and the trial has not commenced within ninety days from the time when he was first detained, the person having the custody of the person charged shall, forthwith upon the expiry of those ninety days, apply to a judge of the superior court of criminal jurisdiction in the province in which the person charged is being detained to fix a date for the trial, and the judge may fix a date for the beginning of the trial or give such directions as he thinks necessary for expediting the trial.

8. In any prosecution for an offence under this act, evidence that any person, either before or after the coming into force of this act

- a. participated in or was present at a number of meetings of the unlawful association or of any branch, committee or members thereof,
- b. spoke publicly in advocacy for the unlawful association, or
- c. communicated statements on behalf of or as a representative or professed representative of the unlawful association, is, in the absence of evidence to the contrary, proof that he is a member of the unlawful association.

9. 1 . A peace officer may arrest without warrant

- a. a person who he has reason to suspect is a member of the unlawful association;
- b. a person who professes to be a member of the unlawful association; or
- c. a person who he has reason to suspect has committed, is committing or is about to commit an act described in any of paragraphs b. to g. of section. 4.

2. Subject to subsection 3, a person arrested under subsection 1. may be detained in custody by a peace officer but shall be taken before a justice, magistrate or judge having jurisdiction and charged with an offence under section 4, or shall be released from custody, not later than three days after his arrest, unless the attorney-general of the province in which the person is being detained has, before the expiry of those three days, issued an order that he be further detained until the expiry of a period not exceeding seven days after his arrest, in which case the person arrested shall, forthwith upon the expiry of that period unless he has sooner been released, be taken before such a justice, magistrate or judge and charged with an offence under section 4, or be released from custody.

3. In its application to a person who, immediately before the coming into force of this act, was being detained in custody without his having been charged with an offence under section 4. of the Public Order Regulations, 1970, subsection 2. shall be read and construed as though for the reference therein to "three days" there were substituted a reference to "seven days" and for the reference therein to "seven days" there were substituted a reference to "twenty-one days", except that nothing in this subsection shall be construed to authorize the detention of any such persons in custody, without his having been charged with an offence under section 4. of this act, for any longer period than the attorney general of the province in which he is being detained deems warranted having regard to the exigencies of the situation.

10. A peace officer may enter and search without warrant any premises, place, vehicle, vessel or aircraft in which he has reason to suspect

- a. anything is kept or used for the purpose of promoting the unlawful acts of, or the use of the unlawful means advocated by, the unlawful association for accomplishing its aims, principles or policies;
- b. there is anything that may be evidence of an offence under this act;
- c. any member of the unlawful association is present; or
- d. any person is being detained by the unlawful association.

12. 1. It is hereby declared that this act shall operate notwithstanding the Canadian Bill of Rights.

2. Notwithstanding the declaration contained in subsection 1, nothing in subsection 13 shall be construed or applied so as to prevent the application of paragraphs a to g of section 2 of the Canadian Bill of Rights to this act, in all respects as provided in those paragraphs subject only to the exceptions hereafter expressly provided, namely:

- a. nothing in this act shall be held to be a law of Canada that authorizes, or shall be held to operate so as to authorize, the arbitrary detention or imprisonment of any person; and

- b. for the purposes of that portion of paragraph f of section 2 of the Canadian Bill of Rights that relates to the right of a person charged with an offence not to be deprived of reasonable bail without just cause, just cause shall be presumed to exist where, under this act, the attorney-general of the province in which the person is in custody has filed with the clerk of the superior court of criminal jurisdiction in the province a certificate stating that just cause exists for the detention of that person pending his trial and the certificate has not been revoked.

13. Notwithstanding the proclamation issued on October 16 1970, pursuant to the War Measures Act, sections 3, 4 and 5 of that act shall, on, from and after the day this act is assented to, cease to be in force in consequence of the issue of that proclamation, and that proclamation shall be deemed to have been revoked.

14. On, from and after the day this act is assented to any offence committed under section 4, 5 or 6, respectively, of the Public Order Regulations, 1970, made pursuant to the War Measures Act shall be deemed to be an offence committed under section 4, 5 or 6, as the case may be, of this act, and any investigation, proceeding or other act or thing instituted, commenced or done under the authority or purported authority of those regulations shall be deemed to have been instituted, commenced or done under the authority or purported authority of this act and as though this act had come into force on October 16, 1970.

15. This act expires on the 30th day of April, 1971, or on such earlier day as may be fixed by proclamation, unless before the 30th day of April, 1971, or before any earlier day fixed by proclamation, both houses of Parliament, by joint resolution, direct that this act shall continue in force until a day specified in the resolution, in which case this act expires on that specified day.