

*Emergencies Act*

With the development of rational and modernist philosophy into the eighteenth century, the nature of the state began again to be called into question. There was one stream of thought that tended to the development of anarchism. There was also another stream of thought which tended toward a critical examination of the nature of the state and the powers that the state should hold.

Of course, this debate has extended into our own age and continues today. It may not be in as abstract or intellectual a form, because there exists of course much more opportunity in today's society for the very existence of a state to be challenged. However, we live today in a society that is highly technologized and highly independent. Therefore, the nature of possible disruptions of the functions of government and the functions of the state has expanded exponentially. I believe it would be fair to say that while we have the education, the communications, and the legal and even coercive instruments to completely outclass any other age in human history, nevertheless by the nature and the way in which society functions today, in many cases the state can be as vulnerable as it ever was.

It is in that context of vulnerability that I cannot let some features of this law pass, because it seems to me that in one aspect, at least, the law is inviting the sort of vulnerability that we would like to see it in fact address. Of course, that is the conferring of additional powers on the Senate through Bill C-77.

Presently, the Senate is acting in direct defiance of a democratically elected government. While it is a government that I happen to oppose and disagree with in broad terms, and even passionately in respect of some legislation that has been rejected by the Senate, it is nevertheless being subjected to conduct by the unelected Senate that really is capable of provoking an emergency, if we are to accept the very undefined nature of those emergencies that the law is supposed to address. Indeed, the present conduct of the unelected Canadian Senate could virtually be condemned as being treasonous to the philosophy and practice of democracy. Yet Bill C-77 has the potential for the Senate to act independent of the House of Commons.

While I appreciate that the Government has to produce legislation which is capable of passing in the Senate, given the present obstructive mood of the Senate, it seems to me that if one accepts the premises of the act on the nature of potential public order emergencies, there is a real potential for the Senate itself to provoke a public welfare emergency by some form of obstruction.

Whenever any government in this place, whether it be Conservative, New Democratic or Liberal, presents its borrowing bills, it seems to me that the very capacity for the Senate to abuse its power by excessive delay has the potential to provoke one of the types of emergencies that this Bill is indeed addressing. That may be cause for the Government to address directly with the Senate what its powers would be. I

would simply enjoin the Government to ensure that the powers conferred upon the Canadian Senate in this Bill are the absolute minimum, to ensure that the Bill is able to function as a piece of legislation.

There is a real challenge in the framing of emergency powers legislation within the context of a federal state, and within the context of a federal state as large as Canada. The fact is that we have regional interests within Canada that in many ways are apparently opposed to the interests of other regions. Let us be very careful about what we seek to define as the national interest within the context of a federal state and within the context of very different and very diverse regions.

For example, are we to say that the existence of a separatist party in one province or one region of the country is in some way itself an indication of a potential emergency that might have to be addressed under this law? I hope that we never have to make that sort of qualification or judgment because I believe that the separatist parties that this country has seen have generally conducted themselves responsibly in the context of a federal state and within the context of a Canadian Confederation.

However, let us also not forget that one woman's or one man's unity is another person's bondage. In particular, those who are close to the centres of powers and influence, the centres of economic production, are very prone to adopt unrealistic and profoundly unfair assumptions about the lives, the opinions and the attitudes of those who are living on the periphery of those centres of power.

Let us examine what this could mean in practical terms. When two Members of the Progressive Conservative Party of the Province of Saskatchewan defected to set up a party dedicated to the union of western Canada with the United States, was that an example of something that could have turned into a public order emergency? I would not think so, on the face of it. Of course, we did not see any form of public support for that sort of motive, but we must be careful in the framing of emergency powers legislation to acknowledge that there is a possibility for this sort of movement to adopt positions that could be inimical to what the rest of the country would perceive as the national interest. Therefore, the necessity exists and must be recognized for the maintenance of a very careful and sensitive, indeed, very understanding balance of what is seen as the national interest and what is recognized as legitimate interests of various parts of this country.

● (1530)

Another defect of the legislation I should point out is the way in which it generally does not contemplate a role for the court system. The court system has its own problems. It moves at a speed which has been subject to a lot of condemnation. Yet the court system certainly has some strengths within Canada. We see in the brief of the Canadian Civil Liberties Association, for example, recommendations that the court