

citizens are incarcerated in internment camps based upon their country of origin or their racial and ethnic heritage. It is specifically forbidden under the terms of this legislation, unlike the case with the War Measures Act where the rights of hundreds of Canadians have been abrogated in the past.

The War Measures Act makes no provision for compensation for losses suffered by individuals as a result of the application of the act. Bill C-77 includes a compensation regime. Thus, while the bare engine under the hood of Bill C-77 may look a lot like the War Measures Act, the vehicle has vastly improved steering, brakes and speed controls and operates at all times under the watchful eyes of parliamentary and judicial traffic cops.

Let me respond briefly at this time to a few specific points raised during debate by Senator Stewart, although I suspect that honourable senators may want to explore these important matters in more detail later. The senator raised three questions, all in relation to measures taken by order in council during a war emergency. These were: conscription, internment and the imposition of new taxes. First, with regard to conscription, our advice is that this would be legally possible by order in council under Part IV of Bill C-77, but whether it would also be politically feasible is a question that can only be answered at the time. In addition to the various constraints on such action which I have already touched upon, there is additional Charter protection which forbids forcing Canadian citizens to leave the country. Thus, to send conscripted troops overseas, the test of section 1 of the Charter would have to be met. Internment by order in council would be possible in a war emergency under Bill C-77, but, again, only if reasonable grounds for its necessity were present and the Charter conditions were met. *Habeas Corpus* would continue to apply and continued detention would be challengeable under section 1 of the Charter. As I mentioned earlier, discriminatory internment would not be possible under Bill C-77 under any circumstances, since clause 4 specifically rules out the use of Bill C-77 for internment on the basis of race, national origin and so on.

Finally, with regard to taxation, I am pleased to say that I can give a short, unequivocal answer. Taxes cannot be imposed by order in council. The Constitution sets out quite specific procedures for levying taxes and a bill is always required. I think, honourable senators, that that is all I need say about the detail of Bill C-77. I am sure that you will want to explore more deeply specific areas of the act's purview.

I conclude, before inviting any questions or comments from honourable senators, by offering one other personal note. The last time the War Measures Act was invoked, October 1970, it was a case of considerable concern for members of Parliament on all sides of the house. It was an instance, as well, where there was great agonizing among all Canadians. Each one of the political parties represented in Parliament gave a good-faith commitment to Canadians that they wanted to see that odious act, the War Measures Act, scrapped for all time, and to ensure that in future, while the government would have the powers to respond in an effective way in times of emergency,

the basic civil rights of Canadians could never again be abrogated in the way they were taken away in the past under the War Measures Act. That was October 1970. It is now 1988, some 18 years later. I believe that all political parties, all parliamentarians have an obligation to deliver on that commitment and to do so in good faith and with expedition. I think Canadians have a right to expect that we will pass this legislation and a right to expect that we will put in place a regime which will give the government the powers it needs to protect the integrity of Canada, our survival in times of crisis and individual safety in cases where individuals might be put in jeopardy and ensure that we will have at all times adequate protection of the civil liberties of every Canadian. If we can pass this legislation, and do so before more time elapses, then we will have done credit to Parliament and we will have honoured the commitment made in good faith by each of the political parties so many years ago.

Thank you, Mr. Chairman. If honourable senators have any questions, I would be pleased to receive them.

Senator Stewart (Antigonish-Guysborough): Mr. Chairman, I am sure we appreciate the minister's exposition of the bill and his emphasis on safeguards. First, I would like to ask: Is it not true that the Canadian Charter of Rights, the Canadian Bill of Rights and the International Covenant apply now in the case of the War Measures Act?

Mr. Beatty: Mr. Chairman, it is not true. The Canadian Charter of Rights applies in the case of the War Measures Act, but the Bill of Rights does not apply. However, the Bill of Rights will apply in the case of Bill C-77.

Senator Stewart (Antigonish-Guysborough): Where is that provided outside the preamble?

Mr. Beatty: Subsection 6(5) of the War Measures Act excludes the Canadian Bill of Rights.

Senator Stewart (Antigonish-Guysborough): And you are contending that without explicit provision in the operative clauses of this bill the Bill of Rights will prevail?

Mr. Beatty: Yes. I am sure that the honourable senator is aware that there is in the preamble specific reference to the Bill of Rights, which specifically ensures that it will apply. However, without specific exclusion the Bill of Rights would apply in a statute such as this.

Senator Stewart (Antigonish-Guysborough): You have emphasized at considerable length and in detail the safeguards in this bill, and you have talked about wiping out the odious War Measures Act. In what particulars do the powers delegated to the Governor in Council under this legislation differ from the powers of the Governor in Council under the War Measures Act when a declaration has been made in the situation contemplated under clause 38 of this bill, other than those protections afforded under the Charter of Rights, the Bill of Rights and the International Covenant?

Mr. Beatty: Mr. Chairman, Senator Stewart is referring to the declaration of a war emergency. I mentioned some cases where there are substantial differences between Bill C-77 and