

*Emergencies Act*

“emergency” was changed substantially, thanks largely to the unrelenting pressure from Canadians concerned about civil liberties. There are several requirements that a situation must meet before emergency powers can be used. The situation must be urgent, critical and temporary. It must endanger the lives, health and safety of Canadians, and it must exceed the capacity of any province to deal with the matter.

Alternatively, the emergency must threaten the Government's ability to preserve the sovereignty, security and territorial integrity of this country. And there is one final hurdle that must be cleared—and I think this is a very important one: emergency powers can only be used when the situation is so drastic that no other law of Canada can deal with the situation.

At the time of the introduction of the War Measures Act of 1970, it was strongly argued by the opponents of the proclamation of that Act that the Criminal Code could have handled that emergency in the City of Montreal, and elsewhere. But, the Government of the day chose to bring forward the Draconian War Measures Act, instead of using the Criminal Code, as many of us thought it should have done.

Looking back at that situation, the Government of the day would have had to have used the Criminal Code, because it was applicable at that time. These conditions should prevent any future Government from invoking emergency powers irresponsibly, on flimsy excuses.

The Cabinet, under Bill C-77, would be prohibited from giving itself new powers by Order in Council. The Act cannot be changed by Cabinet. This means that no Government could give itself the power to override the Charter of Rights and Freedoms in the Constitution. That opinion came to the committee from law officers of the Crown, who were giving us their professional advice and interpretation.

We have ensured that Parliament will have greater oversight powers during an emergency. Cabinet must report to Parliament more frequently and ask permission to continue emergency measures, and the maximum time allowed for emergency powers has been reduced to 120 days—and that is in time of war. So, the maximum time allowable is 120 days, and that for the most critical kind of emergency, that which is set out under Part IV, or an emergency involving Canada at war.

● (1210)

When Parliament debates whether to grant or extend a period of emergency, a full debate is now guaranteed. All references to time allocation have been removed from this Bill. Parliament also can now initiate a debate to revoke emergency powers much more easily. Now only 20 MPs or 10 Senators can force a debate. That debate can no longer be delayed, it must happen within three days. It will be a full debate, allowing all to be heard. We have doubled the length of debate to 10 hours. Neither can the Government avoid the verdict of Parliament. There will be no filibuster to extend emergency powers. A vote is mandatory after those 10 hours of debate.

A similar debate is guaranteed when Members want to challenge an unjust order or regulation. We have also removed any time limit on challenges. There is no longer a limited window of opportunity when MPs would have to decide whether or not to challenge an order. They can do so whenever an injustice or abuse takes place.

Parliament will also get the information necessary to take corrective action quickly. Orders and regulations must be tabled in the House or sent to a parliamentary review committee within two days of their passage by Cabinet. We have also placed more restrictions on the type of orders and regulations that Cabinet can make. For example, travel restrictions can be placed on Canadians only during a public welfare emergency to protect health and safety. Public assembly could only be restricted during a public order emergency if the Government could show reasonable grounds to believe that it would lead to violence. Even there, at the height of an emergency, I anticipate that in most circumstances, unlike under the War Measures Act, Canadian citizens living in Canada will be able to assemble to discuss that specific proclamation and that emergency, provided in the view of the law enforcement agencies that assembly will not by its nature result in violence.

Persons who might be conscripted to provide an essential service during an emergency can no longer be sued for any action committed under orders from the Government. The Government has to provide reasonable compensation to any conscriptee. If that conscriptee is unhappy with the compensation, he or she now has the right to appeal. We have made the appeal process mandatory, “We” meaning the committee. The same rights have been extended to people who might suffer material damage from government action during an emergency. They can also get compensation and appeal any award. No one can be exempted from seeking compensation. That provision of the Bill has been deleted. The Minister cannot be arbitrary or capricious in setting some artificial maximum compensation. He can be overruled by a Federal Court judge acting as an assessor.

Finally, Canadians will not be kept in the dark after the emergency is over. There will be no repeat of the deafening and shameful silence that followed the October, 1970, crisis. An inquiry must be held and its findings made public within 360 days. Any Government that abuses the emergency powers will certainly be made to pay the political price.

I think it is shameful that the people of Canada are still waiting for the official report on all aspects of the proclamation of the War Measures Act in October, 1970. That is almost 18 years ago. Books and articles have been written on it and diaries exposed after death, but we have never really had a comprehensive report. There are still people, particularly in the City of Montreal and the Province of Quebec, very upset that no official report has been provided to the public.

That list of amendments is by no means exhaustive. The Government has already listed others and it would take up too much of the time of the House to hear all the amendments