

not mentioned in subsection 4(b). What would follow from that, in your view?

● (1920)

Mr. Beatty: The advice that I received is that we would be going through such a legal gyration and stretching of the legislation in an attempt to avoid the provisions of the Charter that it would be thrown out by the courts. That is the best advice that I have received. If I can offer my non-lawyer's legal opinion—it is worth what you pay for it—the patent absurdity of an attempt by a government to use such provisions in that way would be turned back by the courts very quickly.

Senator Marsden: Let's hope so.

Can you tell us briefly where, in the last few years in Canada, you think a public welfare emergency might have been declared and where, therefore, this clause of the bill would have been useful?

Mr. Beatty: Yes, I certainly can give an example. You will recall the Mississauga derailment, where there was a potential for a chemical spill which could have seriously damaged the health and threatened the lives of individual Canadians. Say that that had taken place in Prince Edward Island and the resources of the province were stretched so thin that it was impossible for them to respond. It might be necessary for us to use the federal authority to bring in resources from other provinces. That would be an example of a situation where this legislation would be put in place.

Another example would be if there were a serious earthquake in the lower mainland of British Columbia devastating that area, and the consequences were such that it was too acute for the Government of British Columbia alone to be able to deal with. The federal government could intervene and bring in resources from other provinces as a result.

Virtually every other developed country has emergencies legislation to deal with natural disasters and other emergencies like this. Canada, for some reason, simply has a lacuna in the law. If that sort of devastating disaster were to take place in Canada today, our choice would be either not to respond and allow the suffering and loss of lives, or to act illegally and attempt retroactively to validate illegal actions.

Senator Marsden: So that the discussions which your colleague, the Minister of Agriculture, has been having about the possible removal of animals suffering because of the drought could presumably be a situation where the federal government would step in, if necessary?

Mr. Beatty: You would have to look at the definition of "national emergency." First, you would have to demonstrate that it was a national emergency. It would have to meet that test.

Second, you would have to look at the definition of "public welfare emergency." Certainly "drought" applies there; "disease, accident or pollution" is mentioned there also. It states:

—and that results or may result in a danger to life or property, social disruption or a breakdown in the flow of

[Senator Marsden.]

essential goods, services or resources, so serious as to be a national emergency.

You are asking me to give you an opinion in a hypothetical case. I would be surprised if it were to apply in a case like that.

The sort of case where it would be far more likely to apply would be in the case of an incident, similar to the one in Bhopal, taking place in, say, the province of New Brunswick, where you desperately need to bring resources in quickly; the lives of people are in jeopardy; and the immediate effects of a disaster may be confined to one province, but that province may not itself have the ability to respond with the resources within the province itself. In that case, the federal power would have to be used on an emergency basis without wasting time, and you would be able to commandeer resources in other parts of the country and bring them in as necessary to restore conditions and protect people.

The Chairman: Next is Senator Neiman.

Senator Neiman: Mr. Minister, you have reassured me with regard to many of the questions I had respecting Bill C-77, but I have a couple more on which I would like to hear your comments.

In your list of the most important features within the bill, you mentioned that, if Parliament is not in session at the time the emergency is declared, it will be recalled at the earliest possible opportunity.

I have been looking through the bill and I do not see a time specified with respect to recall. Have I missed it?

Mr. Beatty: Let me just find the appropriate section, and I would be pleased to respond.

I believe what you are referring to is clause 58(2), which states:

If a declaration of emergency is issued during a prorogation of Parliament or when either House of Parliament stands adjourned, Parliament or that House, as the case may be, shall be summoned forthwith to sit within seven days after the declaration is issued.

Senator Neiman: In the definition of "public order emergency" it specifies that it arises from "threats to the security of Canada", and that, in turn, is being given the meaning assigned by section 2 of the Canadian Security Intelligence Service Act.

I do not have a copy of that act before me, but I wonder, on the one hand, how broad that definition may be or, on the other hand, how secretive it may be. There are criteria that deal with such matters as subversion or foreign influenced activities, but how specific can we consider this particular definition?

Mr. Beatty: We are searching now for a copy of the CSIS Act, because it was incorporated by reference. If I can find it, I would be pleased to put it on the record.

As a former Solicitor General, I have had a good deal of experience with the CSIS Act. One of the things that was specifically provided for there, for example, is the right to