To continue the list:

—all orders and regulations must be promptly tabled in Parliament;

—a review committee of both houses, with all-party representation, must be struck to continuously monitor the government's use of the legislation;

— either house can initiate a motion to revoke or amend the declaration, or any order or regulation;

Again, honourable senators, let me depart here from my text. Let us visualize a situation where both houses of Parliament have approved the invocation and then, after that, it has been tested in the courts and the courts have found that what was being done by the government was legal and proper and that the government was capable of justifying the fact that an emergency existed and was able to demonstrate that in all cases what it was doing was consistent with what was acceptable in a free and democratic society. Let us go one step further and say that, even if there had been an attempt, for example, to have it struck down in the House of Commons and the House had voted to leave the measures in the legislation in force, the Senate would be capable of putting down a motion to revoke or amend the declaration or any order or regulation—again, giving that double scrutiny.

—the government must have the continued support of both houses for its actions, since a revocation or amendment motion is effective if passed by either house;

—the declaration automatically expires after a set period unless renewed by Parliament;

—on continuation of a declaration, all active orders and regulations must be confirmed by Parliament;

—the review committee must report regularly to Parliament, and in any case must report whenever a motion to revoke or continue a declaration is tabled;

—there is no automatic closure on debate of motions of confirmation, revocation or continuation of a declaration;

—if there is a need for secret orders or regulations, they will be subject to review and possible revocation or amendment by the review committee meeting *in camera*.

Honourable senators, this might apply in cases where action had to be taken about specific installations that were essential in wartime, for example, where it would not be possible to indicate publicly where those installations were.

—a comprehensive inquiry must be conducted following the termination of an emergency, and reported on within one year.

Honourable senators, if, in spite of this exhaustive system of constraints and safeguards, anyone suffers loss or damage as a result of the government's use of its special powers, that person will be able to obtain compensation. The legislation provides for a compensation process which the government is obliged to put in place and which includes an appeal process overseen by a federal judge acting as an "assessor." If someone is not satisfied with the compensation provided by this administrative process, then he or she is free to seek redress through the more formal, judicial route under the Crown Liability Act.

During second reading debate, several honourable senators raised questions about the powers which Bill C-77 grants to the government during a war emergency and, in particular, how these powers differ from those of the War Measures Act. I can understand these concerns, since a simple comparison of the bare statements of the powers in the two pieces of legislation—clause 40 in Bill C-77 and clause 3 in the War Measures Act—suggests that there is not much difference. Let me assure you that the difference between the two pieces of legislation is very great indeed, and in fact represents much of the reason why Bill C-77 is a longer, more complex piece of legislation.

The War Measures Act incorporates almost no safeguards. Bill C-77 includes a structure of safeguard upon safeguard which taken together render misuse of the legislation virtually impossible. Let me review some of these.

[*Translation*]

First, with regard to the definition of a war emergency, C-77 removes application to "insurrection", and by incorporation of the general definition of national emergency, confines application to situations which seriously threaten the ability of the government to preserve the sovereignty, security and territorial integrity of Canada. In addition, the latter definition adds the important provision that the situation must be such that it cannot be effectively dealt with under any other law of Canada.

Thus the field of application of Part IV of C-77 is narrower than that of the War Measures Act. Under the War Measures Act, the declaration is conclusive evidence that the invocation is necessary; under C-77 the government must justify invocation to Parliament, and furthermore, its action is challengeable in the courts since there must be "reasonable grounds" for invocation. Under the War Measures Act, the only constraint on specific measures is the Charter.

Under C-77, there must be "reasonable grounds" for the necessity of all measures taken, and they are put under continuous scrutiny by Parliament with specific procedures for amendment or revocation of the orders or regulations on which the measures are based.

The War Measures Act has no time limit. C-77 limits the duration of war powers to 120 days, and they can only be renewed if Parliament is pursuaded that renewal is necessary.

Both the War Measures Act and C-77 are subject to the Charter, but only C-77 is subject to the additional protection of the Bill of Rights.

[*English*]

Under the War Measures Act, one could conceive of the government claiming in a particular case that the discriminatory internment was "reasonable and demonstrably justifiable in a free and democratic society," arguing that the terms of section I of the Charter were met. But Bill C-77 rules out this loophole unequivocably.

Honourable senators, I stress that point in particular. Never again in Canada will we have the travesty where Canadian