

*"It (the legislative override) might actually encourage the courts to be more imaginative than they have been thus far. This has been one of the fears of the people who are opposed to the Bill of Rights, and that is that our court record thus far on the existing Bill of Rights wasn't that good. It's possible that what you now have arranged for in the protection of civil liberties would be an interplay between courts and Parliament. In other words, you won't be able to take away human rights without making it patent that you're doing so, and at the same stage the courts might say a certain law contravenes the Charter. It will make that whole argument public."*

*Mr. Walter Tarnopolsky, former president of the Canadian Civil Liberties Association, in an interview on Sunday Morning, CBC Radio Network, November 8, 1981*

*"The 'notwithstanding' clauses will be a red flag for opposition parties and the press ... That will make it politically difficult for a government to override the Charter. Political difficulty is a reasonable safeguard for the Charter."*

*"Canada at the moment is a parliamentary democracy in which the will of Parliament is supreme. If there were no notwithstanding in the proposed Constitution, this supremacy would shift to the judges who would decide whether or not a law offended the Constitution."*

*"By making it legally possible but politically difficult to override the Charter, they have married the two notions ... The result is a strong Charter with an escape valve for the legislatures."*

*Canadian Press news item, quoting Mr. Alan Borovoy, legal counsel to the Canadian Civil Liberties Association, in the Calgary Herald, Nov. 7, 1981*

It is important to note that an override clause is very different from an "opting out" provision. No province will be able to opt out of the Charter of Rights and Freedoms.

Furthermore, as was noted earlier in this publication, the override clause will ensure that legislatures rather than judges have the final say on important matters of public policy, and that the Charter will continue to reflect our changing social values.

There is nothing new about the concept of an override clause. Similar clauses appear in the *Alberta Bill of Rights*, the *Saskatchewan Human Rights Code*, the *Quebec Charter of Rights and Freedoms*, and the *Canadian Bill of Rights*.