

*Emergencies Act*

which is also assured by the Bill, coupled with the accountability of the Governor in Council inherent in this new wording, ensures that the fundamental freedoms of Canadians will be preserved as long as the nation, its institutions and its constitution are preserved.

In addition to this very basic change, a number of further amendments have been made to strengthen the parliamentary supervision, including the following: The sunset periods after which the powers will expire, unless renewed by Parliament, have been substantially reduced. All orders and regulations to be continued past the normal sunset period will have to be explicitly reconfirmed by Parliament. One House alone will be able to revoke a declaration of emergency at any time. Parliament will have a longer time to consider whether orders and regulations passed by the Governor in Council should be revoked, and will be able to reconsider any order or regulation at any time.

The all-Party Parliamentary Review Committee, which will be established whenever the Act is invoked, will keep the Government's use of its extraordinary powers under continuous review and will report to Parliament at least every 60 days. Whenever a declaration expires or is revoked, that is, when the emergency is over, a formal inquiry will be conducted. The number of MPs and Senators required to initiate a motion to revoke either a declaration or a particular order or regulation has been substantially reduced, and the time limits on debate of the motion have been removed. Orders and regulations passed by the Government will have to be tabled with much less delay.

Finally, let me comment briefly on the third category of amendment where the many changes made to the regime for compensation will add significantly to its effectiveness. Amendments include the following: The establishment of the right to reasonable compensation for commandeered services. The provision of reasonable compensation under Part V is now mandatory rather than discretionary. The appeal process in the compensation provisions is now mandatory and will allow the appeal judge to exceed the maximum compensation when to do otherwise would be unreasonable and unfair.

I think it is quite evident from this review of a selection of the amendments made by the legislative committee that it has most effectively and conscientiously acquitted its responsibilities and that Bill C-77 is much the better for its endeavours.

I said earlier that from the beginning we knew that the protection of basic rights in a national emergency would undoubtedly become the focus for public discussion of this Bill. Public discussion has, however, unfortunately led to some misunderstandings about the constitutional and legal protection of fundamental rights and freedoms in our country, both as it applies to normal times and as the protection is further strengthened in time of national emergency by provisions in Bill C-77.

The bulwark is the Canadian Charter of Rights and Freedoms, and Bill C-77 goes to considerable length to ensure

that the normal mechanisms for applying Charter protections will be upheld. The suggestion made by one of the witnesses that the Government could invoke the "notwithstanding" clause of Section 33 of the Charter, using an Order in Council pursuant to this Act, is completely without foundation. The Charter unequivocally states that to use the notwithstanding clause to override certain Charter rights, Parliament must declare the override expressly in an Act of Parliament. Bill C-77 contains no such provision. There is no doubt whatsoever that any attempt to use Section 33 through an Order in Council, should any future government be so ill advised as to try it, would be struck down by the courts.

Any limitation to charter rights a government might consider necessary in a national emergency would be challengeable on two counts. First, under Bill C-77 as I indicated earlier, the Governor in Council could be challenged in court to demonstrate that there are reasonable grounds for the necessity of the measure. Second, under Section 1 of the Charter, the Government could be challenged to demonstrate that the limitations were "reasonable and demonstrably justifiable in a free and democratic society." It is difficult to imagine, Mr. Speaker, a Government going ahead with measures if there were any doubts about its ability to justify its actions in court.

There are additional protections in the system which have been put in place to ensure that all orders and regulations are consistent with the Charter, whether they are passed in normal times or in an emergency. The Statutory Instruments Act, the Canadian Bill of Rights and the Department of Justice Act have been amended, and I might point out that these amendments were made by the current Parliament to place special responsibilities on the Minister of Justice to examine every regulation and every Bill in order to ascertain whether there are any inconsistencies with the Charter and to report such inconsistency to the House of Commons at the earliest opportunity. These responsibilities of the Minister of Justice are, in a sense, separate from his role as a member of Cabinet and confer on him a quasi-judicial role for which he is responsible directly to Parliament.

To carry out this responsibility the Minister, of course, relies on the highly qualified support of the law officers of the Crown. To suggest that a Government might attempt, for some obscure motives of expediency, to pass regulations which were knowingly inconsistent with the Charter, is to impugn the integrity not only of a Minister of the Crown but also of a major and extremely important branch of the Public Service. The emergence of such an eventuality is beyond belief, Mr. Speaker.

Much has been made of mention in this Bill of the possibility of secret orders or regulations. No one has questioned that in very rare and unusual circumstances there may possibly be a need for secrecy to protect the purpose of the action being taken. However, Bill C-77 is not the source of the authority to make secret orders or regulations. This authority stems from