



DEBATES OF THE SENATE

1st SESSION



44th PARLIAMENT



VOLUME 153



NUMBER 20

EMERGENCIES ACT

MOTION TO CONFIRM THE DECLARATION OF A PUBLIC ORDER EMERGENCY—DEBATE

Speech by:

The Honourable Diane Bellemare

Wednesday, February 23, 2022

THE SENATE

Wednesday, February 23, 2022

[Translation]

EMERGENCIES ACT

MOTION TO CONFIRM THE DECLARATION OF A PUBLIC ORDER EMERGENCY—DEBATE

Hon. Diane Bellemare: I would like to first thank senators for their heartfelt and thoughtful speeches during this debate, and I also want to congratulate Senator Gold, who did an amazing job answering all of our questions.

I must admit that I have some concerns about the motion we are debating. I am torn between the arguments for and against the motion, and I have the same misgivings expressed by many, including Senator Patterson, Senator Miville-Dechéne and all others today.

To the Quebecers who are watching this debate and who lived through the War Measures Act in 1970, I want to be clear that the Emergencies Act has nothing in common with the original act. This one is much more moderate.

The Canadian Charter of Rights and Freedoms did not exist at the time, and civil liberties were violated in Quebec during the October crisis, as we all know.

Such attacks on democracy would not be possible today under the Emergencies Act, especially because the act provides for parliamentary and legal safeguards.

I also want to point out that, although I have concerns, I absolutely believe that the police needed to intervene to put an end to the occupation in downtown Ottawa, just like they had to do to reopen the Ambassador Bridge. The protesters were preventing Canadians from exercising their rights, and the protests had a significant impact on the economy.

However, the success of the interventions in Windsor raise the following question: If the act was not necessary in that case, why was it necessary for the situation in downtown Ottawa? We never got an answer to that question.

The Emergencies Act was invoked on February 14, and the occupiers were removed from downtown Ottawa last weekend. I understand that the occupation was extremely hard on the people of Ottawa, particularly the individuals and families who live downtown, and I feel for them.

Most Canadians support the use of the Emergencies Act. Many of them were shocked by some of the unbelievable, movie-worthy scenes from the downtown Ottawa occupation, such as the inflatable hot tub and the refuelling stations, which made it clear that many of the protesters intended to stay for a long time and that action was long overdue.

Today, in theory, the occupation is over. We no longer need this act, which contains a set of rather strict measures, including such financial measures as the power to freeze bank accounts. Even though the act states in its preamble that the measures are subject to the Canadian Charter of Rights and Freedoms, some of those measures raise concerns, such as the economic measures in the proclamation that allow financial institutions to freeze the bank accounts of those who are considered to have broken the law.

Can we be sure that those provisions will withstand court challenges? Time will tell.

Why, then, am I so deeply ambivalent about the motion before us? We are responding to events that have arisen out of the frustrations created by the loss of various freedoms over the past two years, and we are responding with legislation that effectively suspends yet more freedoms. Although several organizers of the occupation appear to have ties to far-right groups, they have nonetheless received support from Canadians who are frustrated by the lockdown measures and the division they create within families and communities.

I cannot ignore the context in which the Emergencies Act was invoked, specifically the loss of freedoms we have experienced during the pandemic. Over the past two years, some of the lockdown measures imposed because of the pandemic have had a real impact on the global state of democracy. On that point, I would like to share a few paragraphs from *Democracy Index 2020*, a report published by the British magazine *The Economist*, and I quote:

The withdrawal of civil liberties, attacks on freedom of expression and the failures of democratic accountability that occurred as a result of the pandemic in 2020 are grave matters. This is why the scores for many questions in the civil liberties category and the functioning of government category of the Democracy Index were downgraded across multiple countries in 2020. Regardless of whether there was public support for the government measures, countries that withdrew civil liberties or failed to allow proper scrutiny of new emergency powers were penalised.

[Translation]

All countries adopted similar measures to fight the pandemic, measures modeled on those implemented by China, the first country affected. This document by *The Economist* states that the same methods were used in both authoritarian and democratic countries because China was the first country affected and there was no vaccine. All but a few countries, such as Sweden, adopted similar measures.

Before we had vaccines, democratic countries had no other options.

Quebec implemented an extreme measure, curfew, a few times, the latest in January 2022. It was poorly received by many and was definitely the straw that broke the camel's back for many communities and households. It led to resentment among adults and, in particular, young people, and I could go on at length about that.

Let's get back to Canada's democracy index. I'd like to quote once again from the document published by *The Economist*:

[English]

Canada continues to score highly in the 2020 Democracy Index, thanks to the country's history of stable, democratic government. Canada's *political participation* score rose to its highest level ever in 2020 . . . propelling Canada into the top five countries in the global ranking for the first time.

[Translation]

That's an achievement. Despite being one of the most democratic countries in the world, however, Canada did lose points in one area.

[English]

The report continues, "Coronavirus restrictions led to a deterioration in the *functioning of government* score in Canada . . ."

[Translation]

The restrictions have in fact prevented us from playing our role as we did in normal times. In short, the pandemic has had a real impact on democracy around the world and also in Canada. We must be aware of this and, above all, take steps to protect it.

I will say in passing that Scandinavian countries received the highest scores.

That said, here are my questions. Are we going to extend emergency measures that destroy freedoms in a context where individual freedoms have already been significantly reduced in Canada during the pandemic — because even though we wish to return to normal, health measures are still in place — without knowing if the act is necessary?

As Senator Dalphond stated, this may create a dangerous precedent, because the bar will not be set very high for the next time this exceptional legislation is invoked. Are we undermining our democratic reflexes?

The Senate is a place of sober second thought, and we are not here to govern in place of the government, but it is difficult to endorse a decision in a vacuum. The act is nevertheless temporary, and will be in force for only 30 days. However, as Senator Cotter explained, the majority of Canadians support it. It will not be enforced in my province, unless the Premier of Quebec decides otherwise. It was adopted by a majority of members in House of Commons. If the Senate does not confirm this measure, which is supported by most Canadians, there will certainly be a great deal of political tension in the air.

Lastly, as Senator Cotter said, I am not convinced that we can legitimately not give the government the benefit of the doubt at the moment, given that the act will stop being in effect very soon, as I said earlier. We can follow up on it and ensure that an extensive inquiry is conducted in the 60 days following the end of the emergency measures and that a parliamentary committee is established. These provisions did not exist in the previous legislation.

In closing, I truly hope that Canada can look to the Scandinavian countries, whose democracy indices are even higher than ours, for inspiration. I have studied a good deal of their public policy, and part of their success stems from social co-operation and dialogue. Our Confederation needs institutions that facilitate co-operation between governments and foster social dialogue with civil society. These emergency measures might not have been needed if there had been more co-operation between the various levels of government.

The fact that the Emergencies Act was invoked speaks volumes about the dearth of institutions that promote social co-operation and dialogue in Canada. As the country becomes more ideologically polarized, we need these kinds of institutions in order to mitigate the polarization that results from misinformation. As you know, working together and fostering dialogue enable people to share the same information and reinforce common values. For these reasons, esteemed colleagues, I believe I will give the government the benefit of the doubt for now. Thank you.
