

Emergency Power and Civil Liberties



War Measures Act

The *War Measures Act* was a statute legislated in 1914, conferring emergency powers on the federal cabinet. This act allowed the Cabinet to govern by orders-in-council when it perceives the existence of "war, invasion, or insurrection, real or apprehended." This legislation was applied during the two world wars, most notably, for the discriminatory treatment of Japanese Canadians during and after World War II - uprooting, detention, confiscation of properties and expulsion from Canada.

The *War Measures Act* was once used in a domestic crisis which occurred in October and November 1970 when a state of "apprehended insurrection" was declared to exist in Quebec and emergency regulations were proclaimed in response to two kidnappings by the *Front de liberation du Quebec*. The application of this Act in internal crisis, such as the arrest and detention of several hundred Quebecers without specific charges, was severely criticized.

The *War Measures Act* authorized the government to do whatever the government thought necessary for the security, defence, peace, order, and welfare of Canada, which could include:

- censorship and suppression of publications and communication;
- arrest, detention, exclusion, and deportation of any person;
- control of all means of transportation;
- control of trading and manufacturing; and
- appropriation, control, forfeiture, and disposition of property.

Emergencies Act

In 1988 under the Mulroney government, the *War Measures Act* was replaced by a more detailed and limited emergency law called the *Emergencies Act*. There are provisions in this act ensuring the parliamentary scrutiny of government's measures in a declared emergency. Further, the Act does not allow the government to make any orders or regulations to detain, imprison or intern Canadian citizens or permanent residents on the basis of race, national or ethnic origin, colour, religion, etc. The *Emergencies Act* specifies several kinds of emergencies with a specific time limit for each emergency.

- Public welfare emergency – e.g. fire, flood, or earthquake. 90 days.
- Public order emergency – an emergency that arises from threats to the security of Canada and that is so serious as to be a national emergency. It could be serious political and social disruptions. 30 days.
- International emergency – an emergency involving Canada and one or more other countries that arises from acts of intimidation or coercion or the real or imminent use of serious force or violence. 60 days
- War emergency – this means war or other armed conflict, real or imminent, involving Canada or any of its allies. 120 days

Under the *Emergencies Act*, the declaration of an emergency should be laid before each House of Parliament within seven sitting days after the declaration is issued. There are provisions for a Parliamentary Review Committee. Even though Parliament can revoke orders and regulations, abuse of power can happen and the safeguard against it may be ineffective or inadequate.

Anti-Terrorism Act

In response to the global nature of terrorism, the *Anti-Terrorism Act* parallels actions taken by Canada's international partners to combat this threat, while adopting an approach that reflects Canadian values. More specifically, the *Anti-Terrorism Act* implements many of Canada's international obligations that are the result of multilateral anti-terrorism treaties or United Nations Security Council resolutions.

Why did the federal government *really* introduce a new anti-terrorism legislation instead of using its powers under the 1988 *Emergencies Act*? Perhaps because the emergency powers available under the *Emergencies Act* are with limited time period and under supervision of Parliament. It seems that the government may have preferred the concentration of power in the executive, resulting in a repetition of the practice under the *War Measures Act*.

Internet Activity

1. What do you know about Pierre Elliott Trudeau and his role as a federal political leader in Canada? Brainstorm recent examples of political leaders facing a major crisis (for example, US President George Bush and the terrorist attacks of September 11, 2001). What important qualities does a leader need when confronting a serious crisis? What special qualities would a Canadian leader have needed during the October Crisis?
2. Browse the October Crisis topic in CBC's archives. Watch and listen to clips that portray Prime Minister Pierre Trudeau's statements and actions during the October Crisis of 1970, and also those that present comments by others on Trudeau's response to it. Especially note the famous interview shown in Clip 6.
3. Make notes about Trudeau's views on the crisis, the actions he took in order to confront it, his justifications for these actions, the positions of other federal and provincial political figures on Trudeau's handling of the crisis, and the response of the Canadian people to his leadership at the time.
4. Based on the information gathered, prepare and present a summary of the kind of leadership Trudeau demonstrated during the crisis, and whether or not you think it was effective. Each group will present its summary and evaluation to the rest of the class for further discussion.
5. After the presentations, reflect on what you learned about Trudeau and his importance in Canadian history. How have your views of Trudeau been influenced, either negatively or positively, by your study of his role during this event. Reflect on the leadership qualities you listed earlier, and to what extent you think Trudeau measured up to this standard.
6. Research specific statements and actions made by Trudeau during the October Crisis, as well as those of other leaders facing a crisis (Brian Mulroney during the Oka Crisis of 1990, US President George Bush at the time of the terrorist attacks of Sept. 11, 2001, U.S. President John F. Kennedy during the Cuban Missile Crisis of 1962). How do the statements and actions compare? Is there one leader you think handled a crisis better than the others? Which one and why?