WRITTEN SUBMISSION ON *REPO* DECISION

Court of Appeal File No. CACR3906

IN THE COURT OF OF APPEAL FOR SASKATCHEWAN

JUDICIAL CENTRE OF REGINA

BETWEEN:

ERINN L. KNOLL

Appellant

-and-

HIS MAJESTY THE KING

Respondent

WRITTEN SUBMISSION ON *REPO* DECISION

I. The Appellant in *Repo* relied heavily on absolute rights

1. The *Repo* decisions[1] may have the subject matter of the *Saskatchewan Human Rights Code*[2] and its encapsulated Bill of Rights in common with the case at bar, but the comparison ends there. The notion of absolute rights has never been raised, or in any way implied, in this proceeding in the Saskatchewan Provincial Court, the Saskatchewan Court of King's Bench, or in this Court.

2. The Appellant in this appeal has argued from her initial Notice of Application – Quasi-Constitutional Issue of February 28, 2023[3] the principles of statutory interpretation[4] and the doctrine of the conflict of law[5]. The doctrine of legislative supremacy has inexorably been raised in this Court and the Court of King's Bench as it interrelates with both.[6]

3. The Appellant agrees that there are no absolute rights, particularly with respect to rights conferred by statute or the common law. As the Appellant in *Repo* so strenuously argued- and as it formed the crux and foundation for all of her arguments- this substantial portion of the decision is not in any way applicable to this appeal.[7]

II. The Appellant in *Repo* has an almost non-existent evidentiary record

4. This point was raised at trial[8] and in this Court[9]. Her evidence at trial was deemed inadmissible as a result of either being hearsay, or presumably not having being sworn in the first place.[10]

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1 *R v Repo*, 2023 SKPC 46; *R v Repo*, 2024 SKKB 46; *R v Repo*, 2025 SKCA 84 ("*Repo*" in this Court)
2 *The Saskatchewan Human Rights Code, 2018*, SS 2018, c S-24.2
3 Appeal Book – Tab 9: Notice of Application – Quasi-Constitutional Issue; Appellant's Factum at para. 7
4 *Ibid.* at paras. 32-37
5 *Ibid*. at paras. 38-44
6 Appellant's Factum at paras. 12 and 108; see also Appeal Book – Tab 12: Appellant's Reply Factum at para. 19
7 The word "absolute" appears 36 times in 23 separate paragraphs in *Repo* as rendered by this Court
8 *R v Repo*, 2023 SKPC 46 at paras. 36, 37 and 39
9 *R v Repo*, 2025 SKCA 84 at paras. 15, 24 and 75
10 *R v Repo*, 2023 SKPC 46 at paras. 36-37 and 39

5. There is no indication that any accompanying affidavit was served and filed with her "Notice of Canadian Bill of Rights, Sask Bill of Rights Application"[11] and, for that matter, that any affidavit evidence was ever sworn at all in support of her arguments.

6. The onus was on the Appellant in *Repo* to prove her case and she failed to do so.[12] She was not able to prove, by way of sworn evidence, that any of her rights were violated.

7. She also agreed to an admission of facts, which does not equate to sworn evidence in support of the arguments made regarding the deprivation of her rights.[13]

8. The Supreme Court of Canada has held that a full evidentiary record is required for any *Charter* application that seeks to invalidate law.[14] The Supreme Court concluded in *Ernst* at para. 120: "...this Court should not replace the necessary evidence with its own inferences." In *Repo*, there can only be inferences without any apparent evidence.

9. This appeal couldn't contrast more significantly with *Repo* as it contains a full evidentiary record encapsulated within five affidavits.[15] Not only is a substantial portion of the legal basis of this case far removed from *Repo*, so is its evidentiary basis. Once again, there is little applicability of *Repo* to this appeal.

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11 *R v Repo*, 2025 SKCA 84 at para. 10
12 *R v Repo*, 2025 SKCA 84 at para. 14
13 *Ibid.* at paras. 7-9 and 76
14 *Guindon v. Canada*, 2015 SCC 41, [2015] 3 S.C.R. 3 at paras. 19, 92, 97, 111, 115, 116, 131 and 137-139; *Ernst v. Alberta Energy Regulator*, 2017 SCC 1, [2017] 1 S.C.R. 3 at paras. 71, 99, 100, 109 and 120; see also *The Constitutional Questions Act, 2012*, SS 2012, c C-29.01 at ss. 13-15
15 Appeal Book – Tabs 4-8

III. The cases cited in *Ingram* apply only to equality before the law

10. This is not an insignificant point. In *Ingram*, Romaine J. expanded the Supreme Court's interpretation of the "valid federal/legislative objective" approach as applied to section 1(b) of the *Canadian Bill of Rights*[16] to also apply to s. 1(a).[17]

11. All of the cases cited by this Court in *Repo* at para. 55[18] relate to s. 1(b) of the *Canadian Bill of Rights*, which states:

> **1** It is hereby recognized and declared that in Canada there have existed and shall continue to exist without discrimination by reason of race, national origin, colour, religion or sex, the following human rights and fundamental freedoms, namely,
> ...
> **(b)** the right of the individual to equality before the law and the protection of the law;

12. There is no interpretation or application of the "valid legislative objective" approach to anything outside of the equality provision at s. 1(b) of the *Canadian Bill of Rights* as decided in *Ingram*. Where did it come from? Certainly not from the Supreme Court's jurisprudence, as cited in that decision and by this Court. As such, a valid legislative objective, by itself, should not be able to invalidate, or otherwise deprecate, a duly enacted, quasi-constitutional, statutory Bill of Rights.

13. To do so would undermine legislative supremacy and torture the most basic principles of statutory interpretation, while setting aside the doctrine of the conflict of law.[19] In this appeal, an irreconcilable conflict of law was identified and has been argued since the end of February, 2023. Those arguments are yet to be adjudicated.

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16 *Canadian Bill of Rights*, SC 1960, c 44

17 *Ingram v Alberta (Chief Medical Officer of Health)*, 2023 ABKB 453 at paras. 468-488

18 Copied from para. 55: *R v Burnshine*, 1974 CanLII 150 (SCC), [1975] 1 SCR 693; *Prata v Canada (Manpower and Immigration)*, 1975 CanLII 7 (SCC), [1976] 1 SCR 376; *Bliss v Canada (Attorney General)*, 1978 CanLII 25 (SCC), [1979] 1 SCR 183; *R v MacKay*, 1980 CanLII 217 (SCC), [1980] 2 SCR 370; *Beauregard v Canada*, 1986 CanLII 24 (SCC), [1986] 2 SCR 56; and *R v Cornell*, 1988 CanLII 64 (SCC), [1988] 1 SCR 461. To similar effect, the *valid legislative objective* approach was applied in relation to the *Alberta Bill of Rights* in *Marr v Alberta (Public Trustee)* (1990), 1989 CanLII 3228 (AB KB), 63 DLR (4th) 500 (CanLII) at para 47.

19 *Reference re Broadcasting Regulatory Policy CRTC 2010-167 and Broadcasting Order CRTC 2010-168*, 2012 SCC 68, [2012] 3 S.C.R. 489 (the "*Broadcasting Reference*") at paras. 38-45 in addition to the case law as long cited

IV. The cases cited by the *Repo* Appellant are not binding and outdated

14. At para. 71 of Repo, this Court held:

> ...Ms. Repo's reliance on *R v Naish* (1950), 1950 CanLII 384 (SK MagCt), 97 CCC 19 (Sask SC), and *R v Vogelgsang* (1957), 57 CLLC at para 15,341 (Sask Magistrates Ct), is of no assistance for the reasons outlined by the KB judge in paragraphs 24 to 27 of the *KB Decision*. Not only do these decisions *not* lend support to her "absolute rights" position, but they were not binding on the summary conviction appeal court – as the KB judge properly noted – and are certainly not binding on this Court. I see no such error as alleged by Ms. Repo here.

15. In stark contrast once again, this proceeding established nearly three years ago that the relevant and binding case law regarding the applicability of the Bill of Rights, as encapsulated in the *Saskatchewan Human Rights Code*, are *Whatcott* and *Forsberg*.[20] Despite the existence of this express and unambiguous case law, it received absolutely no mention in any of the *Repo* decisions.

V. The Attorney General of Saskatchewan argued in favour of the *Canadian Bill of Rights* in the Federal Court of Appeal

16. The AG submitted a factum as an intervener in the *Emergencies Act* appeal[21] in October, 2024. At paras. 71-87, it was vigorously argued that the due process provision at s. 1(a) of the *Canadian Bill of Rights* apply to the seizure of bank accounts related to the Freedom Convoy in February, 2022.[22]

17. As excerpted from paras. 72 and 73 (footnotes omitted):

> 72. First, it must be recalled that the *Bill of Rights* is not a mere historical relic. It continues to apply to federal laws today. In their textbook, *Constitutional Law of Canda*, Professors Hogg and Wright discuss the continuing importance of the *Bill of Rights*. While many of the provisions of the *Bill of Rights* have been superseded by their sister provisions in the *Charter*, the *Bill of Rights* provides certain protections that the *Charter* does not. Hogg and Wright note that these provisions of the *Bill of Rights* "continue to be operative restraints on federal activity."

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20 *R v Whatcott*, 2002 SKQB 399 at paras. 34-37; *Forsberg v Saskatchewan*, 2017 SKQB 326 at paras. 12, 13 and 28; see also Appellant's Factum at paras. 103-105 and Appeal Book – Tab 12: Appellant's Reply Factum at paras. 18-19

21 *Canada (Attorney General) v. Canadian Civil Liberties Association*, 2026 FCA 6

22 Attached at Tab 1 to this submission

> 73. This Court's decisions also demonstrate the continuing relevance of the *Bill of Rights* in the post-*Charter* world.

[Emphasis added.]

18. Unfortunately, the Federal Court of Appeal declined to weigh in on any of these arguments. What is telling is the position the AG took in this appeal as an intervener, compared to what has been argued all along in this proceeding. Political emergency, expediency and exigency should not take the place of long-established legal principles and doctrines.

19. It is requested that this Court weigh in on these critical questions of law.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Erinn Knoll
The Appellant, Erinn L. Knoll

DATED at Regina, Saskatchewan, this 13th day of February, 2026.

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TAB 1

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FILED / DÉPOSÉ
FEDERAL COURT
OF APPEAL
COUR D'APPEL
FÉDÉRALE

October 18, 2024
18 octobre 2024

Sherri Ally

TOR | 50

Court File: A-73-24 (Lead Appeal)

FEDERAL COURT OF APPEAL

BETWEEN:

ATTORNEY GENERAL OF CANADA

Appellant

- and -

CANADIAN CIVIL LIBERTIES ASSOCIATION

Respondent

- and –

ATTORNEY GENERAL OF ALBERTA

Intervener

- and –

ATTORNEY GENERAL OF SASKATCHEWAN

Intervener

AND BETWEEN:

Court File: A-29-23

ATTORNEY GENERAL OF CANADA

Appellant

- and -

CANADIAN CIVIL LIBERTIES ASSOCIATION

Respondent

AND BETWEEN:

Court File: A-30-23

ATTORNEY GENERAL OF CANADA

Appellant

- and -

CANADIAN CONSTITUTION FOUNDATION

Respondent

AND BETWEEN:

Court File: A-74-24

ATTORNEY GENERAL OF CANADA

Appellant

- and -

CANADIAN CONSTITUTION FOUNDATION

Respondent

- and –

ATTORNEY GENERAL OF ALBERTA

Intervener

- and –

ATTORNEY GENERAL OF SASKATCHEWAN

Intervener

AND BETWEEN:

Court File: A-75-24

ATTORNEY GENERAL OF CANADA

Appellant

- and -

EDWARD CORNELL AND VINCENT GIRCYS

Respondent

AND BETWEEN:

Court File: A-76-24

CANADIAN FRONTLINE NURSES and KRISTEN NAGLE

Appellant

- and -

ATTORNEY GENERAL OF CANADA

Respondent

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TABLE OF CONTENTS

OVERVIEW

1. The emergency power is the most significant power in the Canadian Constitution. The emergency power authorizes Parliament to temporarily set aside the usual division of powers and to exercise legislative jurisdiction that ordinarily belongs to the provinces. In *Reference re: Anti-Inflation Act*, Beetz J said that an exercise of the power "amounts to a temporary *pro tanto* amendment of a federal Constitution by the unilateral action of Parliament."[1] Use of the emergency power has the potential to fundamentally alter the federal nature of our country. Accordingly, it is a power that must be used with "great caution," just like the other federal powers founded in the peace, order, and good governance clause.[2]

2. The emergency power is not expressly set out anywhere in the *Constitution Act, 1867*.[3] The emergency power has been recognized by the Privy Council and the Supreme Court as a power that is implied as part of Parliament's jurisdiction to make laws for the "peace, order and good government of Canada" set out in the introductory words to s. 91. Therefore, the emergency power, and the limits on its use, are purely judicial constructs.

3. The leading case on the use of the emergency power is *Reference re: Anti-Inflation Act*. In that case, Ritchie J held that the emergency power can only be invoked where there is "an urgent and critical situation adversely affecting all Canadians and being of such proportions as to transcend the authority vested in the Legislatures of the Provinces and thus presenting an emergency that can only be dealt with by Parliament." He added that any measures taken pursuant to the emergency power must be temporary in nature.[4]

4. In 1988, Parliament enacted the *Emergencies Act*[5] to set out the circumstances in which the emergency power can be invoked. Most significantly, for our purposes, the

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[1] [1976] 2 SCR 373 at 463 [*Ref RE Anti-Inflation Act*].
[2] See for example: *Ontario (AG) v Canada (AG)*, [1896] AC 348 at 361, [1896] UKPC 20, *sub nom Local Prohibition Case*.
[3] 30 & 31 Vict, c 3.
[4] *Ref RE Anti-Inflation Act, supra* note 1 at 436-37.
[5] RSC 1985, c 22 (4th Supp).

Act delegated the authority to declare and address an emergency from Parliament to the executive.

5. The issue here is whether the executive properly exercised those powers in February 2022 when the Governor-in-Council declared a public order emergency under s. 17(1) of the Act.

6. The Attorney General of Saskatchewan ["Saskatchewan"] has intervened in this appeal because of the profound implications arising from the use of the emergency power. Saskatchewan's position is that the necessary preconditions for invoking the *Emergencies Act* were not present in February 2022 and therefore invoking the Act was unnecessary, unwarranted and ultimately illegal.

7. Saskatchewan has intervened as of right to address the constitutional issues raised by the appeal. In addition, Saskatchewan was granted leave to intervene to address the non-constitutional issues raised by the appeal. As per the Court's directive, Saskatchewan has consulted with the Attorney General of Alberta to avoid unnecessary duplication.

PART I – STATEMENT OF FACT

8. Saskatchewan accepts the facts as determined by the Application Judge.

PART II – POINTS IN ISSUE

9. Saskatchewan will advance the following positions:

(a) Interpretation of the *Emergencies Act* must be viewed through the lens of federalism.

(b) The proper standard of review is correctness.

(c) The scope of the Governor-in-Council's discretion is limited by the terms of the *Emergencies Act* and the *Canadian Security Intelligence Service Act*.[6]

(d) The consultation with the provinces did not meet constitutional requirements or the requirements of section 25 of the *Emergencies Act*.

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[6] RSC 1985, c C-23 [*CSIS Act*].

(e) The freezing of bank accounts under the *Emergency Economic Measures Order*[7] violated rights under section 1(a) of the *Canadian Bill of Rights*.[8]

PART III – SUBMISSIONS

A. LENS OF FEDERALISM

10. As noted, the emergency power is the single most powerful tool at the disposal of the Parliament under the *Constitution Act, 1867*. The emergency power authorizes Parliament to temporarily set aside the usual division of powers in times of emergency. It can aptly be described as a notwithstanding clause for the division of powers.

11. The emergency power carries with it grave risks for the balance of power in the federation. This is why both the Privy Council and the Supreme Court have indicated that the power must be used with great restraint.[9] The emergency power must be reserved for truly extraordinary circumstances that cannot be dealt with effectively by existing powers under the Constitution. The emergency power should not be used to fill in gaps in the law or to authorize the federal government to act where the provinces have the power to act but have chosen, for whatever reasons, not to do so.

12. Parliament has chosen to set out the circumstances in which it will rely on the emergency power in the *Emergencies Act*. The Act is a partial codification of the emergency power. With respect to the four types of emergencies dealt with in the *Emergencies Act*, the bounds of the Act are co-extensive with the bounds of the emergency power. Therefore, questions about whether the Act has been complied with are also questions of *vires*.

13. Also, Parliament has delegated the power to invoke the emergency power and to take measures pursuant to that power to the executive. It is submitted that this is no

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[7] SOR/2022-22.
[8] SC 1960, c 44 [*Bill of Rights*].
[9] *Re Board of Commerce Act, 1919 and Combines and Fair Prices Act 1919*, [1922] 1 AC 191, [1921] UKPC 107, *sub nom Board of Commerce case*; *Fort Frances Pulp and Paper v Manitoba Free Press*, [1923] AC 695, [1923] UKPC 64.

ordinary delegation. It is a delegation that carries with it profound implications for federalism.

14. In *Reference re Secession of Quebec*,[10] the Supreme Court indicated that our Constitution includes four unwritten principles that "inform and sustain" the Constitution. One of these principles is federalism, which the Court described as the "lodestar" of our constitutional structure,[11] the importance of which "cannot be exaggerated".[12]

15. The Supreme Court has also recognized that the interpretation of the Constitution's specific provisions must be informed by the foundational principles of the Constitution, such as federalism. The principles of federalism can be relied upon as an interpretative tool when courts are called upon to interpret the scope of constitutional powers and when they are called upon to interpret specific statutes.[13] At all times, Courts must take care to ensure that the balance of power in the federation is maintained. Interpretations that would eviscerate provincial powers must always be avoided.[14]

16. Therefore, it is submitted that when considering whether the Governor-in-Council has properly exercised the powers delegated to it under the *Emergencies Act*, the Court must keep foremost in mind the principle of federalism. The delegation of powers must be interpreted strictly. The provinces and the public are entitled to clear and compelling evidence that the necessary preconditions to invoking the Act were satisfied. This is not an ordinary administrative law case where significant deference can and should be accorded to the decision-maker. The overriding principles of federalism require considerable and careful scrutiny of these powers.

B. ADMINISTRATIVE LAW ISSUES

17. Saskatchewan adopts the submissions of the Attorney General of Alberta with respect to the administrative law issues.

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[10] [1998] 2 SCR 217.
[11] *Ibid* at para 56.
[12] *Ibid* at para 37.
[13] *R v Comeau*, 2018 SCC 15 at para 52; *Reference re Securities Act*, 2011 SCC 66 at para 196 [*Ref RE Securities Act*].
[14] *Ref RE Securities Act*, *supra* note 13 at para 71.

18. In addition to those submissions, Saskatchewan wishes to make two points.

i. STANDARD OF REVIEW IS CORRECTNESS

19. First, as this Court noted in *Gitxaala Nation v Canada*[15] and in *Tsleil-Waututh Nation v Canada (Attorney General)*,[16] it is not legally permissible to adopt a "one-size-fits-all" approach to the standard of review for particular administrative decision makers. Rather, the standard of review must be assessed in light of the relevant legislative provisions, the structure of the legislation and the overall purpose of the legislation.

20. Furthermore, in *Canada (Minister of Citizenship and Immigration) v Vavilov*,[17] the Supreme Court recognized that the standard of review for constitutional issues, including questions regarding the division of powers between Parliament and the provinces, is correctness.

21. In this case, the authority to invoke the emergencies power has been delegated by Parliament to the Governor-in-Council. To invoke that power, certain preconditions must be met. If those preconditions are not met, then not only is the Governor-in-Council acting *ultra vires* the Act, it is acting beyond the constitutional authority of Parliament. Therefore, the issue in this appeal is ultimately one concerning the scope of the emergency power and, as a result, the division of powers.

22. It is, therefore, submitted that in assessing the Governor-in-Council's decision to invoke the *Emergencies Act* the proper standard of review is correctness. The delegation to the Governor-in-Council cannot expand the emergency power. Whether the Governor-in-Council adhered to the limits on its authority, both statutory and constitutional, is a question with constitutional implications that must be determined by this Court on an exacting standard.

23. Furthermore, reasonableness (and deference) is already built into the equation. The Governor-in-Council must believe on reasonable grounds that a public order emergency exists before a declaration can be made under the Act. The question for this

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[15] 2016 FCA 187 at para 137.
[16] 2018 FCA 153 at para 204 [*Tsleil-Waututh*].
[17] 2019 SCC 65 at para 55 [*Vavilov*].

Court is not whether it was reasonable for the Governor-in-Council to reasonably believe that a public order emergency existed. The question is whether the Governor-in-Council was correct, in light of the facts and the law, to believe that the requisite reasonable grounds existed.

24. Even if the standard of review is traditional reasonableness, as noted in *Tsleil-Waututh*, a decision must be made in accordance with the terms of the governing statute to be reasonable.[18] Administrative decisions are always constrained by the wording of the governing statute. Also, as noted in *Vavilov*, reasonableness review does not give administrative decision-makers free rein in interpreting their enabling statutes and it does not give them license to enlarge their powers beyond what the legislature intended.[19] Even under reasonableness review, there may only be one reasonable interpretation of the statute and there may only be one reasonable outcome.[20]

25. As aptly noted in *Vavilov*:

> "[121] The administrative decision maker's task is to interpret the contested provision in a manner consistent with the text, context and purpose, applying its particular insight into the statutory scheme at issue. It cannot adopt an interpretation it knows to be inferior – albeit plausible – merely because the interpretation in question appears to be available and is expedient. The decision maker's responsibility is to discern meaning and legislative intent, not to "reverse-engineer" a desired outcome."[21]

ii. DISCRETION IS LIMITED BY THE EMERGENCIES ACT AND THE CSIS ACT

26. Second, the Governor-in-Council in this case was constrained by the wording of the *Emergencies Act* and the *CSIS Act*. Under s. 17(1) of the Act, the Governor-in-Council could only declare a public order emergency if it believed on reasonable grounds that a public order emergency existed. A public order emergency is defined as a threat to security of Canada that is so serious that it constitutes a national emergency.

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[18] *Tsleil-Waututh*, *supra* note 16 at para 217.
[19] *Vavilov, supra* note 17 at para 68.
[20] *Ibid* at para 124.
[21] *Ibid* at para 121.

27. To determine if a public order emergency exists, two things must be considered. First, whether there are threats to the security of Canada within the meaning of the *CSIS Act*. Second, whether those threats have risen to the status of a national emergency as defined by s. 3 of the *Emergencies Act*. This requires consideration of whether the situation exceeds the capacity or authority of a province to address, and whether the situation can be effectively dealt with under any other law of Canada.

28. The relevant definition of "threats to the security of Canada" in the *CSIS Act* requires threats of serious violence or the use of serious violence directed against persons or property for the purpose of achieving a political or ideological objective.

29. To say the least, the definition of a public order emergency is convoluted and confusing.

30. It is also a definition that is hopelessly out of date in the 21st century. When the *Emergencies Act* and the *CSIS Act* were enacted, there was no internet, no cell-phones, no social media and no one had heard of crowd-sourced funding.

31. Most significantly, the definition of "threats to the security of Canada" in the *CSIS Act* is specifically tied to acts of serious violence. The definition simply does not include the types of economic harm, like shortages of essential goods or damage to trade relations with the United States, that the Governor-in-Council relied upon to invoke the Act.

32. The phrase "threats to the security of Canada" has the same meaning in the *Emergencies Act* as it does in the *CSIS Act*. Section 16 of the Act says that for the purposes of this part of the Act, "threats to the security of Canada has the meaning assigned by s. 2 of the *CSIS Act*." The clear words of the Act cannot be ignored. The Attorney General of Canada's suggestion that a different definition of the phrase can be adopted for the purposes of the *Emergencies Act* is inconsistent with well-established rules of statutory interpretation.[22]

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[22] See for example: John Mark Keyes, "Incorporation by Reference in Legislation" (2004) 25:3 Stat L Rev 180 at 182 – **BOA Tab 5.**

33. This is the legal regime that the Governor-in-Council operated within. The Governor-in-Council, as a delegate, could not ignore the statutory regime no matter how serious the situation was. Its actions were confined by the legislation.

34. Quite simply, under the existing (and outdated) legal regime, the Governor-in-Council could not rely upon the economic ramifications of the occupation in downtown Ottawa and the border blockades to invoke a public order emergency. By relying on these economic considerations, the Governor-in-Council exceeded its authority. The Trial Judge had no choice but to conclude that the invocation of the Act did not satisfy the statutory requirements.

C. CONSULTATIONS WITH THE PROVINCES

35. Section 25 of the *Emergencies Act* requires consultations with the provinces before a public order emergency is declared. It imposes a proactive and meaningful duty. However, the need to consult with the provinces before invoking the *Emergencies Act* is not simply a statutory requirement. It is a constitutional imperative.

36. As discussed by Professor Dwight Newman in his article "Constitutional Dimensions of the Consultation and Accountability Systems within Canada's *Emergency Act*",[23] the consultation mechanism in the Act must be held to a constitutional standard.

37. All aspects of the emergency power are judge-made law. Just as the Supreme Court in *Reference re Anti-Inflation Act* read in a requirement that any use of the emergency power must be temporary in nature because of the power's profound effect on federalism, this court should read in a requirement of advance consultations for the same reason.

38. There is precedent for reading a duty to consult into the Constitution. The Supreme Court in *Haida Nation v British Columbia (Minister of Forests)*[24], and a myriad of cases since, has indicated that governments must consult with Indigenous peoples

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[23] Dwight Newman, "Constitutional Dimensions of the Consultation and Accountability Systems within Canada's *Emergency Act*" (2023) 46 Man LJ 101 at 106 – **BOA Tab 2.**
[24] 2004 SCC 73 [*Haida Nation*].

before taking any action that could adversely affect their Aboriginal and Treaty rights, which are protected by s. 35 of the *Constitution Act, 1982*.[25]

39. The duty to consult is not expressly set out in s. 35. It is a judicial construct that was adopted because of the need to protect Aboriginal and Treaty rights from government action. A similar need to protect the interests of the provinces when the federal government relies on the emergency power warrants adopting a similar consultation requirement.

40. While the duty to consult with Indigenous peoples is clearly grounded in the honour of the Crown and reconciliation, the theoretical foundation for the duty, as outlined in *Haida Nation*, includes concerns about government decision-making without sufficient information and shows the Court's willingness to provide an incentive to negotiations between governments and Indigenous peoples.[26]

41. Similar concerns exist here. Invoking the *Emergencies Act* can have significant and unforeseen impacts on provincial powers. It is critical that Parliament, and its delegate, the Governor-in-Council, fully understand the ramifications of what is planned. The only way to achieve this understanding is by consulting with the provinces.

42. Saskatchewan does not suggest that the agreement of the provinces is required before the emergency power can be invoked. As in the Indigenous context, consultations are not a veto. But meaningful, good faith consultations are required.

43. Recognizing the imperative for these consultations will also further the principles of co-operative federalism and subsidiarity.[27]

44. In this case, while there had been ongoing meetings and discussions between federal and provincial officials from the time that the crisis arose in late January, there was no discussion of invoking the *Emergencies Act*.

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[25] *Constitution Act, 1982*, Schedule B to the *Canada Act 1982* (UK), 1982, c 11.
[26] Dwight Newman, *Revisiting the Duty to Consult Aboriginal Peoples* (Saskatoon: Purich Publishing Ltd, 2014) at 23-35.
[27] For a general discussion of subsidiarity, see: *114957 Canada Ltée (Spraytech, Société d'arrosage) v Hudson (Town)*, 2001 SCC 40 at para 3.

45. The only time that the *Emergencies Act* was raised with the provinces was at the First Minsters' Meeting (FMM) between the Prime Minister and the provincial premiers held on the morning of February 14th, mere hours before the public announcement was made that the *Emergencies Act* was being invoked.

46. At this meeting, many Premiers, including the Premier of Saskatchewan, expressed the view that invoking the Act was not necessary and that police had every tool required to deal with the situation. These views were ignored.

47. Saskatchewan's position is that this meeting was not adequate to meet either the constitutional obligation or statutory obligation to consult. There was no meaningful opportunity for the provinces to provide input into the decision to invoke the Act. The meeting was merely window dressing.

48. The adequacy of the consultations with the provinces was considered by Justice Rouleau in the Report of the Public Inquiry into the 2022 Public Order Emergency. While Justice Rouleau concluded that the consultations satisfied s. 25, he held that the consultations could have, and should have, been better. In particular, he held that provinces ideally should have been given an opportunity to provide feedback on the proposed measures.[28]

49. It is submitted that Justice Rouleau's conclusions are in no way binding on this Court. Justice Rouleau's mandate was not to determine if the Act had been legally invoked. His mandate was to examine the circumstances that led to the invocation of the Act and the measures taken thereunder, as a matter of public accountability. It was not his role, and he did not purport to make, legal findings.[29]

50. Furthermore, Justice Rouleau's finding that the consultations were adequate was not made with the view of holding the government to a constitutional standard. He examined the issue simply as a matter of statutory obligation.

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[28] Public Order Emergency Commission, *Report of the Public Inquiry into the 2022 Public Order Emergency*, vol 1 (Ottawa: Privy Council Officer, 2023) at 216 – **BOA Tab 7.**

[29] *Ibid* at 133.

51. Finally, Justice Rouleau's conclusions about consultations suffer from an internal logical flaw. He says on page 214 that the engagements between officials that occurred prior to the FMM could not, on their own, satisfy the consultation requirement. This is obviously correct because there was no discussion of the *Emergencies Act* during any of these engagements. Then on page 216, he says that it is arguable that the FMM standing on its own was not adequate consultation. Again, this is obviously correct given that there was little advance notice of the meeting, no materials were shared with the Premiers either in advance of, or at the meeting, and the concerns of the majority of the Premiers were simply ignored.

52. Justice Rouleau then concludes that the FMM should not be considered in isolation and that when considered in the context of the engagement that came before the FMM, the consultation requirement was met. This is illogical. Two insufficient processes can't be melded together to create a sufficient process. If neither process was satisfactory on its own, their sum can't be a satisfactory process. Therefore, with respect, Justice Rouleau erred in concluding that the consultation requirement was met in this case.

53. The Application Judge also reached the conclusion that the consultations with the provinces were adequate to meet the statutory requirement.[30] However, with respect, the Application Judge dealt with the issue in a cursory fashion. He did not appreciate the constitutional implications. He did not even attempt to grapple with the content of the s. 25 consultation requirement. And he got his facts wrong: He indicated that at the FMM "several" premiers expressed support for the invocation of the Act.[31] However, the Report to Parliament on the Consultations clearly indicated that only British Columbia, Ontario and Newfoundland and Labrador agreed with invoking the Act. The other seven Provinces were opposed. Three is hardly "several".

54. It is submitted that a good starting point for determining what Parliament intended when consultation requirements were included in the *Emergencies Act* is the Working

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[30] *Canadian Frontline Nurses v Canada (Attorney General)*, 2024 FC 42 at para 244 [*Frontline Nurses*].
[31] *Ibid*.

Paper on Bill C-77 that was prepared in 1987.[32] The Working Paper clearly recognizes that the exercise of the emergency power must be done in a way that respects the underlying federal nature of the country. The Working Paper concludes that the provinces should have a role to play in the process leading to any declaration of a national emergency. The consultation requirement was intended to provide this role.

55. At page 55, the Working Paper sets out the following definition:

> "Consultation" in this context is to be interpreted in its fullest dictionary sense of not only exchanging information but also seeking the advice and taking into consideration the interests and views of the provincial governments which may be affected.

56. This is the definition of "consultation" that should be applied to s. 25 of the Act. Based on this definition, the consultations in this case came up woefully short of the required threshold. Very little information was exchanged. No advice was sought. The interests and views of the majority of provinces were ignored.

57. In addition, the Court should rely on the jurisprudence with respect to consultations with Indigenous peoples to determine the required standard of consultation. Professor Dwight Newman suggests that the consultations envisioned by the Act are akin to the consultations with Indigenous peoples that are required under s. 35 of the *Constitution Act, 1982*.[33] Surely, the Provinces are entitled to at least a similar level of consultations when use of the emergency power is under consideration.

58. There has been a great deal of case law on consultations with Indigenous peoples developed over the past twenty years. A number of themes have emerged. First, the consultations must be in good faith. Second, they must be meaningful. As noted by McLachlin CJ in *Haida Nation*, the common thread in the cases is that the Crown must be willing to discuss the concerns of Indigenous peoples in good faith through a

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[32] Canada, Emergency Preparedness Canada, *Bill C-77: An Act to Provide for Safety and Security in Emergencies – Working Paper* (1987) [Working Paper] – **BOA Tab 1.**
[33] Newman, "Constitutional Dimensions", *supra* note 23 at 107.

meaningful process of consultation.[34] Discussing in good faith requires an open-mindedness and a willingness to actually address the concerns that are raised.

59. In *Haida Nation*, the Chief Justice also outlines the elements of a good consultation process – providing adequate notice; providing an opportunity to consider the information and ask questions about it; listening to the response; taking steps to address concerns and, finally, reporting back not only about the decision that has been made but about how the input was taken into account.[35] None of these elements were present in this case. The notice was inadequate, both from a timing and an informational perspective. There was no opportunity for the Premiers to provide input. And the views of the Premiers were ultimately ignored.

60. The situation here is akin to what happened in *Mikisew Cree First Nation v Canada (Minister of Canadian Heritage)*.[36] In that case, Parks Canada decided to build a new all-weather road through Wood Buffalo National Park. The new road would affect Mikisew's Treaty rights to hunt and trap. When Parks Canada finally held a meeting with the Mikisew, the decision about the location of the road had essentially been made. There was no real opportunity for the Mikisew to have meaningful input.

61. Binnie J held that the duty to consult always requires meaningful, good faith consultations and a governmental willingness to make changes to their original plans based on information received during the consultations.[37] Binnie J concluded by saying that "consultation that excludes from the outset any form of accommodation would be meaningless. The contemplated process is not simply one of giving the Mikisew an opportunity to blow off steam before the Minister proceeds to do what she intended to do all along."[38] The situation here is the same. The FMM was a *pro forma* meeting held to "tick the box" of s. 25 of the Act. The decision had already essentially been made and there was no time or intention to take the Premiers' comments into account. The FMM was just an opportunity for the Premiers to blow off steam.

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[34] *Haida Nation*, *supra* note 24 at paras 41-2.
[35] *Ibid* at para 46.
[36] 2005 SCC 69 [*Mikisew Cree*].
[37] *Ibid* at para 55.
[38] *Mikisew Cree*, *supra* note 36 at para 54.

62. Another relevant case is this Court's decision in *Tsleil-Waututh*,[39] which considered the Governor-in-Council's first approval of the Trans Mountain pipeline expansion. The Court held that Canada's consultation efforts with Indigenous peoples were inadequate. Justice Dawson reviewed the principles concerning the duty to consult,[40] She concluded that Canada was required to do more than simply listen to the concerns of the affected Indigenous peoples. Canada was obligated to engage in a meaningful two-way dialogue with them aimed at substantially addressing their concerns.[41] Listening to concerns, without any intention of changing course based on what's heard, is not a consultation. As a result, the approval of the Trans Mountain pipeline expansion was quashed.

63. The situation here is similar. There was no two-way dialogue between the federal government and the provinces with respect to invoking the *Emergencies Act*. As in *Tsleil-Waututh*, the Prime Minister listened to the Premiers' concerns at the FMM but did not engage the Premiers with respect to those concerns. After the FMM, the Prime Minister continued the course that he was on before the meeting.

64. The *Emergencies Act* specifically provides in s. 3 that a national emergency can only be invoked if the matter is "of such proportions or nature as to exceed the capacity or authority of a province to deal with it." The only way to determine the issue is to talk to, and to listen to, the provinces!

65. Saskatchewan is fully cognizant of the fact that things unfold quickly in times of crisis. There will be no opportunity for months of consultations. However, something more than what was done in this case is required by both the Constitution and by s. 25 of the Act. Consultations that are *pro forma* or an after-thought are worse than no consultations at all. In this case, it would have been possible to initiate consultations with the Premiers a few days earlier when the federal government first started to think seriously about invoking the *Emergencies Act*. The Premiers could have been provided with materials in advance of the FMM setting out the steps that were being contemplated under

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[39] *Vavilov*, *supra* note 16.
[40] *Ibid* at para 485.
[41] *Ibid* at paras 558-59.

the *Emergencies Act*. This would have allowed the Premiers an opportunity to provide meaningful input into the actual decisions that were under consideration. A follow-up meeting could have been held. Consultations with the provinces did not need to delay the decision-making process.

66. If this was a case dealing with the Duty to Consult with Indigenous peoples, what occurred would clearly not pass muster. Given the constitutional underpinning to s. 25, it cannot pass muster here either.

D. *CHARTER OF RIGHTS AND FREEDOMS*

67. Saskatchewan makes no submissions about ss. 2(b) and (c) of the *Charter*. In addition, Saskatchewan makes no submissions about whether the provisions of the *Emergency Economic Measures Order* that obligated financial institutions to provide certain information about their "designated person" customers to the RCMP and CSIS complies with s. 8 of the *Charter*. Saskatchewan's submissions are confined to the s. 8 issue arising from the freezing of bank accounts.

68. The *Emergency Economic Measures Order* provides that certain "entities", primarily financial institutions, must immediately cease dealing with "designated persons." These are individuals who are engaged in activities prohibited by the *Emergency Measures Regulations*,[42] such as individuals participating in illegal public assemblies or assisting others to do so. On the face of the Order, the onus was on the financial institutions themselves to determine if their customers were engaged in these illegal activities. However, from a practical perspective, the financial institutions relied on the police to advise them about who were designated persons. Once advised, the financial institution was obligated to "freeze" the person's accounts so that they could no longer withdraw money or transfer money to others.

69. The Application Judge held that the freezing provisions of the Order violated s. 8 of the *Charter*. He concluded that freezing someone's bank account constitutes a seizure of that account. He was also satisfied that the seizures were not reasonable because the Order failed to provide any objective standard for determining whose accounts were to

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[42] SOR/2022-21.

be frozen. The RCMP did not apply a standard of either reasonable grounds or even reasonable suspicion. The standard that they applied was described in the evidence as "bare belief".

70. Saskatchewan agrees with the Application Judge's conclusions on s. 8 of the *Charter*. The Attorney General of Canada argues that s. 8 is not engaged because freezing a bank account is not a seizure of the account. The Application Judge properly rejected this submission on the ground that most members of the public would not understand such fine legal distinctions. A taking is still a taking, even if it is only temporary.

E. *CANADIAN BILL OF RIGHTS*

71. Even if freezing a bank account does not amount to a "seizure" of the account within the meaning of s. 8 of the *Charter*, the *Bill of Rights* is still engaged.

72. First, it must be recalled that the *Bill of Rights* is not a mere historical relic. It continues to apply to federal laws today. In their textbook, *Constitutional Law of Canda*, Professors Hogg and Wright discuss the continuing importance of the *Bill of Rights*.[43] While many of the provisions of the *Bill of Rights* have been superseded by their sister provisions in the *Charter*, the *Bill of Rights* provides certain protections that the *Charter* does not. Hogg and Wright note that these provisions of the *Bill of Rights* "continue to be operative restraints on federal activity."

73. This Court's decisions also demonstrate the continuing relevance of the *Bill of Rights* in the post-*Charter* world.[44]

74. Legislation that is inconsistent with the *Bill of Rights* must be declared inoperative. In *The Queen v Drybones*[45], a provision of the *Indian Act*[46] was declared to

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[43] Peter W Hogg and Wade K Wright, *Constitutional Law of Canada*, loose-leaf (Rel 1, 7/2024) 5th ed, vol 2 (Toronto, Thomson Reuters: 2007) at 35:1 – **BOA Tab 6.**
[44] *Goodman v Canada (Public Safety and Emergency Preparedness)*, 2022 FCA 21; *Prairies Tubulars (2015) Inc v Canada (Border Services Agency)*, 2022 FCA 92.
[45] [1970] SCR 282.
[46] RSC 1985, c I-5.

be inoperative because of its inconsistency with the *Bill of Rights*. The effect of the *Bill of Rights* was described by Beetz J in *Attorney General of Canada v Canard* as follows:

> "The *Canadian Bill of Rights* is more than a canon of interpretation, the terms of which would give way to any contrary legislative intent. It renders inoperative any law of Canada that cannot be construed and applied so that it does not abrogate, abridge or infringe one of the rights and freedoms recognized by the Bill, unless it is expressly declared by an Act of the Parliament of Canada that it shall operate notwithstanding the Bill, and it confers upon the Courts the responsibility to declare any such law inoperative."[47]

75. Second, it is noteworthy that the preamble to the *Emergencies Act* specifically provides that measures taken pursuant to the Act remain subject to both the *Charter* and the *Bill of Rights*.

76. The Application Judge gave the arguments concerning the *Bill of Rights* short shrift. He held, in essence, that the *Bill of Rights* did not apply because individuals were deprived of their property for only a short time. With respect, there are no temporal limits placed on the rights protected by the *Bill of Rights*. The fact that a deprivation of property is only of short duration or does not cause significant harm is not a proper basis for disregarding the *Bill of Rights*.

77. For the reasons that follow, the *Bill of Rights* was both engaged and violated.

78. Section 1(a) of the *Bill of Rights* guarantees individuals the right to the enjoyment of property and the right not to be deprived thereof except by due process of law.

79. In this case, it is not necessary for the Court to grapple with questions about whether the *Bill of Rights* authorizes courts to review the substance of laws to determine if they are consistent with the rights set out therein. Saskatchewan does not suggest that Parliament cannot authorize the freezing of bank accounts in appropriate circumstances. The issue here is purely procedural.

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[47] [1976] 1 SCR 170 at 205.

80. Money in someone's bank account is indisputably property. Individuals are also indisputably deprived of the enjoyment of that property when their bank accounts are frozen at the behest of the state. Therefore, the only issue is whether the freezing of accounts has taken place in accordance with "due process of law."

81. "Due process", under any conceivable definition, was not given. In fact, the Order provides for no procedural steps to be taken at all before someone's bank account is frozen. The Order contemplates that financial institutions will make the assessment themselves about whether their customers are participating in illegal public assemblies. How the financial institutions are supposed to determine this is not set out. Someone's account could be frozen based on nothing more than a bank employee in Saskatoon thinking that they saw a customer on the TV news in a crowd of people in downtown Ottawa. This is a standard of, at best, mere suspicion and, at worst, conjecture. Furthermore, if the bank did not freeze the person's accounts in these circumstances, the bank would be in violation of the Order.

82. In reality, financial institutions acted on the directions of police when it came to freezing bank accounts. But again, the police did not follow any particular process before advising financial institutions to freeze bank accounts and were not required to do so by the Order. As indicated in the testimony of Superintendent Beaudoin, the police were making it up as they went along.[48] They did not apply a standard of reasonable grounds or even a standard of reasonable suspicion. People's bank accounts were frozen simply based on the "bare belief" of a police officer that they were involved in illegal assemblies in some way.

83. Such a process does not meet any conceivable conception of "due process." The reference to "due process" in the *Bill of Rights* is a reference to a phrase that is largely unknown to Canadian law. While the phrase was used in some old English statutes, it is primarily associated with the Fifth and Fourteenth Amendments to the United States Constitution.

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[48] *Frontline Nurses*, *supra* note 30 at para 96.

84. Former Supreme Court Justice Ivan Rand suggested in an article that appeared in the Osgoode Hall Law Journal in 1961 that the word "due" means appropriate or apt and the word "process" refers to procedure.[49] He suggested that the *Bill of Rights* means that Parliament can only interfere with the enjoyment of property if appropriate procedures are followed. In order to determine what are appropriate procedures, judges will need to apply common law legal principles. Rand specifically said that "reasonableness" will always be the prime consideration.

85. It is submitted that some relevant principles can be imported from the jurisprudence concerning s. 8 of the *Charter* such as the requirement for prior judicial authorization which applies in most cases. Whether freezing someone's bank account constitutes a seizure of property or not, the same principles ought to apply. Therefore, in order to meet the due process requirement of the *Bill of Rights*, in this context, before the state can freeze someone's bank account, there ought to have been a requirement of prior authorization from an impartial arbiter, like a judge or justice of the peace. The order should only be issued if the judge or justice of the peace was satisfied by evidence under oath that there were reasonable grounds to believe that the individual was participating in illegal public gatherings or was assisting others to do so.[50]

86. This is not a burdensome requirement. It is the same requirement that is currently applied to search warrants. Police officers are well acquainted with this regime. Orders could have been obtained quickly and with minimal delay. There was no need for a full-blown hearing involving the individual before the order was issued as suggested by the Respondents Cornell and Gircys.

87. The absence of these minimal procedural protections in the *Emergency Economic Measures Order*, as a precondition to the freezing of someone's bank account, and depriving them of their enjoyment of property, means that due process was not provided within the meaning of the *Bill of Rights*. Section 2 of the Order accordingly must be declared inoperative.

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[49] Ivan C Rand, "Except by Due Process of Law" (1961) 2:2 Osgoode Hall LJ 171 – **BOA Tab 4.**

[50] See for example: *Hunter v Southam*, [1984] 2 SCR 145.

PART IV – ORDER SOUGHT

88. Saskatchewan submits that the appeal should be decided in a manner that accords with the arguments set out herein.

89. With respect to costs, Saskatchewan submits that the usual rule should apply. Saskatchewan does not seek costs and requests that costs should be assessed against it.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Dated at Regina, Saskatchewan this 18th day of October, 2024.

P. Mitch McAdam KC
Noah S. Wernikowski
Alexa LaPlante

PART V – LIST OF AUTHORITIES

A. Jurisprudence

1. *114957 Canada Ltée (Spraytech, Société d'arrosage) v Hudson (Town)*, 2001 SCC 40.
2. *Attorney General of Canada et al v Canard*, [1976] 1 SCR 170.
3. *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65.
4. *Canadian Frontline Nurses v Canada (Attorney General)*, 2024 FC 42.
5. *Fort Frances Pulp and Paper v Manitoba Free Press*, [1923] UKPC 64.
6. *Goodman v Canada (Public Safety and Emergency Preparedness)*, 2022 FCA 21.
7. *Gitxaala Nation v Canada*, 2016 FCA 187.
8. *Haida Nation v British Columbia (Minister of Forests)*, 2004 SCC 73.
9. *Hunter et al v Southam Inc*, [1984] 2 SCR 145.
10. *Mikisew Cree First Nation v Canada (Minister of Canadian Heritage)*, 2005 SCC 69.
11. *Ontario (AG) v Canada (AG)*, [1896] UKPC 20.
12. *Prairies Tubulars (2015) Inc v Canada (Border Services Agency)*, 2022 FCA 92.
13. *R v Comeau*, 2018 SCC 15.
14. *Re Board of Commerce Act, 1919 and Combines and Fair Prices Act 1919*, [1921] UKPC 107.
15. *Reference re: Anti-Inflation Act*, [1976] 2 SCR 373.
16. *Reference re Secession of Quebec*, [1998] 2 SCR 217.
17. *Reference re Securities Act*, 2011 SCC 66.
18. *The Queen v Drybones*, [1970] SCR 282.
19. *Tsleil-Waututh Nation v Canada (Attorney General)*, 2018 FCA 153.

B. Legislative Instruments

1. *Canadian Bill of Rights*, SC 1960, c 44

2. *Canadian Security Intelligence Service Act*, RSC 1985, c C-23
3. *Constitution Act, 1867*, 30 & 31 Vict, c 3
4. *Constitution Act, 1982*, Schedule B to the *Canada Act 1982* (UK), 1982, c 11
5. *Emergencies Act*, RSC 1985, c 22 (4th Supp)
6. *Emergency Economic Measures Order*, SOR/2022-22.
7. *Indian Act*, RSC 1985, c I-5.

C. Secondary Sources

1. Canada, Emergency Preparedness Canada, *Bill C-77: An Act to Provide for Safety and Security in Emergencies – Working Paper* (1987) [Working Paper] – **BOA Tab 1.**

2. Dwight Newman, "Constitutional Dimensions of the Consultation and Accountability Systems within Canada's *Emergency Act*" (2023) 46 Man LJ 101 at 106 – **BOA Tab 2.**

3. Dwight Newman, *Revisiting the Duty to Consult Aboriginal Peoples* (Saskatoon: Purich Publishing Ltd, 2014) – **BOA Tab 3**.

4. Ivan C Rand, "Except by Due Process of Law" (1961) 2:2 Osgoode Hall LJ 171 – **BOA Tab 4.**

5. John Mark Keyes, "Incorporation by Reference in Legislation" (2004) 25:3 Stat L Rev 180 – **BOA Tab 5.**

6. Peter W Hogg and Wade K Wright, *Constitutional Law of Canada*, loose-leaf (Rel 1, 7/2024) 5th ed, vol 2 (Toronto, Thomson Reuters: 2007) – **BOA Tab 6.**

7. Public Order Emergency Commission, *Report of the Public Inquiry into the 2022 Public Order Emergency*, vol 1 (Ottawa: Privy Council Officer, 2023) – **BOA Tab 7**.

Court of Appeal File No. CACR3906

Erinn L. Knoll

Appellant

HIS MAJESTY THE KING

Respondent

THE COURT OF APPEAL FOR SASKATCHEWAN

PROCEEDINGS COMMENCED AT REGINA

WRITTEN SUBMISSION ON *REPO* DECISION

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