



**PUBLIC ORDER  
EMERGENCY  
COMMISSION**

**COMMISSION  
SUR L'ÉTAT  
D'URGENCE**

**Public Hearing**

**Audience publique**

**Commissioner / Commissaire  
The Honourable / L'honorable  
Paul S. Rouleau**

**VOLUME 29**

**Held at :**

Library and Archives Canada  
Bambrick Room  
395 Wellington Street  
Ottawa, Ontario  
K1A 0N4

Wednesday, November 23, 2022

**Tenue à:**

Bibliothèque et Archives Canada  
Salle Bambrick  
395, rue Wellington  
Ottawa, Ontario  
K1A 0N4

Le mercredi 23 novembre 2022

**INTERNATIONAL REPORTING INC.**

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Mr. Tom Curry

Ms. Rebecca Jones

Mr. Nikolas De Stefano

Ottawa Police Service

Mr. David Migicovsky

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Mr. Christopher Diana

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## V

### Appearances / Comparutions

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Ottawa Coalition of Residents and Businesses	Mr. Paul Champ Ms. Emilie Taman Ms. Christine Johnson
The Democracy Fund, Citizens for Freedom, JCCF Coalition	Mr. Rob Kittredge Mr. Antoine D'Ailly Mr. Alan Honner Mr. Dan Santoro Mr. Hatim Kheir Mr. James Manson
Canadian Civil Liberties Association	Ms. Cara Zwibel Ms. Ewa Krajewska
The Convoy Organizers	Mr. Brendan Miller Ms. Bath-Sheba Van den Berg
Insurance Bureau of Canada	Mr. Mario Fiorino

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Ottawa, Ontario

--- Upon commencing on Wednesday, November 23, 2022 at 9:30 a.m.

**THE REGISTRAR:** Order. À l'ordre. The Public Order Emergency Commission is now in session. La Commission sur l'état d'urgence est maintenant ouverte.

**COMMISSIONER ROULEAU:** Good morning. Bonjour.

So this morning we have a presentation, and then it'll be followed by three witnesses. So first, the presentation.

**--- PRESENTATION: OVERVIEW SUMMARY BY MR. JEFFREY LEON:**

**MR. JEFFREY LEON:** Good morning, Commissioner.

Jeff Leon, Commission Counsel.

This morning, we're going to shift gears and focus on what has been a very important part of this Commission's work, that is, the views of the Canadian public. It's our pleasure to present to you an overview summary of the results of our public submission process.

As you know, shortly after your appointment, you committed to providing an opportunity for members of the public to participate in the work of the Commission. That's essential to have a full and complete picture for the Commission's deliberations.

The public submission process was launched in August. At that time, you again commented on the importance of the Commission receiving, and I quote:

"...meaningful public input from a wide range of Canadians, not just those individuals and entities who have been



1 granted standing. This is in keeping  
2 with my commitment to conduct an open  
3 and transparent public inquiry that  
4 provides an opportunity for involvement  
5 by all Canadians." (As read)

6 The public submission process ran until  
7 October 31st, and I am pleased to report that it was a success.  
8 The Commission received almost 9,500 submissions from a broad  
9 cross-section of Canadians. In terms of age, respondents self-  
10 identified as being from all age groups, but primarily 25 to 44  
11 and 45 to 64, which is consistent with Canadian statistics as  
12 being representative of the Canadian population.

13 In terms of location, we heard from respondents  
14 in nine provinces or territories across Canada, primarily  
15 British Columbia, Alberta, Ontario, and Quebec, which again is  
16 consistent with the fact that these provinces contain the  
17 largest concentrations of population in Canada.

18 In terms of those who were -- responded, we heard  
19 from those involved in the protests, community members affected  
20 by the protests, and members of the public, who wanted to tell  
21 the Commission about their views in terms of the work that the  
22 Commission has undertaken. Indeed, the Commission undertook to  
23 review all these submissions, a final report is being prepared,  
24 and this presentation will be a summary of the matters to be  
25 covered in that report.

26 You will see that we have been successful in  
27 collecting, indeed, a wide variety of views, observations,  
28 ideas, and experiences of Canadians on all aspects of the

1 Commission's mandate, including the circumstances that led to  
2 the declaration of a Public Order Emergency, and the measures  
3 taken for dealing with the declared emergency in February of  
4 2022.

5           We received submissions in three ways: through an  
6 online questionnaire, email, and mail. Overall, these  
7 submissions have been of great assistance to the Commission in  
8 appreciating how the matters being considered affected and  
9 impacted Canadians. They provide background and context for the  
10 Commission to inform its deliberations in this Inquiry, which,  
11 after all, is a public inquiry.

12           I note that this overview that we will now  
13 present is not evidence. Like some of the other background  
14 presentations that have been tabled, it will be posted on the  
15 Commission's website.

16           On behalf of the Commission, we extend our thanks  
17 to the many Canadians who generously took time and made the  
18 effort to assist in the Commission's process. You have  
19 performed an important service as Canadians.

20           I will now ask my colleague, Sajeda Hedaraly, to  
21 present the summary, after which I will share with you excerpts  
22 from a few of the actual submissions we received to give a  
23 first-hand flavour of the breadth and quality of these  
24 submissions.

25           **COMMISSIONER ROULEAU:** Go ahead. allez-y.

26 **--- PRESENTATION: OVERVIEW SUMMARY BY MS. SAJEDA HEDARALY:**

27           **MS. SAJEDA HEDARALY:** Good morning,  
28 Mr. Commissioner. For the record, I'm Sajeda Hedaraly,

1 Commission Counsel.

2                   As mentioned by Mr. Leon, this presentation is a  
3 summary of the comments that the Commission received from the  
4 public. It would be impossible to attempt to convey every point  
5 made in the over 9,000 submissions we received in this  
6 presentation, but we hope to convey important parts of what was  
7 shared with us.

8                   As you will see, we have organised the  
9 presentation around various themes that were collated from the  
10 comments that we received.

11                   La présentation de ce matin sera bilingue. Les  
12 personnes qui ont besoin d'un casque d'écoute devraient les  
13 garder à portée de main.

14                   So first...

15                   If we can go to the next slide, please,  
16 Mr. Clerk.

17                   D'abord, parlons du contexte de la pandémie de  
18 COVID-19 qui a été exprimé par plusieurs membres du public.  
19 Plusieurs personnes ont discuté d'un sentiment d'exclusion et  
20 d'isolement qui était dû ou bien de leur statut vaccinal ou de  
21 leurs opinions contre les mesures sanitaires.

22                   Si on pouvait aller à la prochaine diapositive,  
23 s'il vous plait.

24                   Selon ces personnes, ces commentaires que nous  
25 avons reçus, les mesures sanitaires ont été en place pendant  
26 trop longtemps et ceci a aggravé les difficultés que ces  
27 personnes éprouvaient dans les autres sphères de la société –  
28 par exemple le travail, les événements sociaux, et cetera – et

1 ils sentaient une certaine discrimination due à la politisation  
2 des questions entourant le statut vaccinal.

3 We also heard from people who felt pride in the  
4 convoy. For them, the convoy brought a sense of belonging among  
5 people who shared similar views on the pandemic. These people  
6 had a sense of obligation to participate in these protests to  
7 defend the rights and freedoms of Canadians.

8 Some of those people also acknowledged the impact  
9 on the Ottawa residents of the protests, but in their view the  
10 Nation's Capital belonged to all Canadians and they were still  
11 justified to be there. They were proud to have been part of an  
12 important grassroots movement.

13 Ces mêmes personnes avaient généralement une  
14 vision pacifique des manifestations. Par exemple, nous avons ici  
15 une citation d'un manifestant qui nous dit qu'il a été touché  
16 par la gentillesse et le respect dont ont fait preuve ses  
17 concitoyens canadiens pendant les manifestations. Plusieurs  
18 personnes nous ont fait part du fait que les trois semaines de  
19 manifestation à Ottawa ont été absentes de violence, de  
20 vandalisme, de misogynie, de racisme et de haine. Les écarts  
21 qu'on pouvait voir de haine, comme des pancartes sur lesquelles  
22 on voyait des injures, étaient les exceptions. Au contraire, ce  
23 qui émanait des manifestations pour ces personnes était des  
24 bonnes actions de la part des manifestants, la distribution de  
25 nourriture, le nettoyage de rues, le pelletage de neige, et  
26 cetera.

27 We also received comments from community members  
28 who were affected by the protests. Many people expressed that

1 their mental health was impacted by the protests. Some felt  
2 trapped in their homes.

3 Next slide, please, Mr. Clerk.

4 The continuous honking was disturbing to them.  
5 They also had difficulty breathing and headaches due to the  
6 diesel emissions from stationary truck engines. They also  
7 talked about the impact of road closures and limited public  
8 transport. For example, various appointments had to be  
9 rescheduled for health services. They also reported lack of  
10 mental health support.

11 Ces personnes craignaient également pour leur  
12 sécurité. Ils trouvaient qu'ils n'avaient jamais vu autant de  
13 personnes commettre des crimes et mettre les autres en danger  
14 pour des opinions politiques. Ces personnes avaient une  
15 expérience régulière d'anxiété, de stress, de colère et de peur  
16 face aux évènements.

17 Certains nous ont également parlé du harcèlement  
18 et du comportement agressif qu'ils ont vus de la part de  
19 manifestants ou qu'ils ont vécus. Certains, par exemple, ont été  
20 ciblés et interpellés pour avoir porté des masques dans des  
21 espaces publics et – si nous allons à la prochaine diapositive,  
22 s'il vous plait – certains avaient l'impression que des  
23 manifestants s'étaient donné pour mission personnelle  
24 d'intimider les personnes masquées à Ottawa.

25 Certains groupes avaient peur de quitter leur  
26 domicile spécifiquement parce qu'ils trouvaient qu'ils avaient  
27 un risque accru de faire l'objet d'un discours haineux et  
28 plusieurs personnes ont également estimé que la police ne les

1 protégéaient pas parce qu'ils signalaient des incidents, mais  
2 que ceux-ci ne faisaient pas l'objet d'enquêtes et ils  
3 trouvaient que les lois et les règlements n'étaient pas  
4 appliqués.

5                   We've also heard a lot about disruption to daily  
6 life. We have here a quote:

7                   "I'm a 65-year-old retired high school  
8 teacher, who relies on my volunteering  
9 shifts at the museum to remain active,  
10 both physically and mentally. The  
11 prolonged COVID shutdown of the museum  
12 was difficult for me, and the ensuing  
13 protest exacerbated the personal  
14 impact." (As read)

15                   These personal impacts included deprivation of  
16 peace, quiet, and sleep. Many people also reported being unable  
17 to work effectively or work at all. And as mentioned earlier,  
18 many residents had to make drastic changes to their schedules.

19                   There were also impacts on non-governmental  
20 organizations and charity who had to adjust their services and  
21 could not serve the community in the way that they would have  
22 hoped to.

23                   There were also impacts on local businesses and  
24 services. Residents reported difficulties obtaining various  
25 services or getting groceries, for example, and some downtown  
26 businesses also had to close, which resulted in an important  
27 loss of income which was particularly important to them because  
28 of the previous COVID-19 measures that had been imposed.

1           Les membres du public qui s'opposaient aux  
2 manifestations nous disent qu'ils soutiennent la liberté  
3 d'expression, mais que les limites étaient dépassées ici.  
4 Lorsque la liberté d'une personne à s'exprimer empiétait sur  
5 leurs droits, ils trouvaient que ça allait trop loin; même s'ils  
6 supportaient la liberté d'expression, ils pensaient qu'il y  
7 avait des limites qui devaient être imposées. Un membre du  
8 public nous a dit : « Les manifestants parlaient de liberté,  
9 mais pas de leurs responsabilités en tant que citoyens. » Pour  
10 ces personnes, les manifestations portaient atteinte à la  
11 démocratie canadienne – nous y reviendrons un peu plus tard dans  
12 la présentation.

13           Ces personnes qui s'opposaient aux manifestations  
14 avaient un sentiment de colère du fait que les manifestants  
15 prétendaient s'exprimer au nom de tous les Canadiens et  
16 Canadiennes alors que ce n'était pas le cas. Pour plusieurs  
17 personnes, les manifestations n'étaient plutôt qu'une  
18 opportunité pour des individus frustrés de participer à un  
19 évènement unique et de bruler un excès d'énergie au nom de la  
20 liberté, mais sans plus.

21           Let's now turn to media coverage of the protests.

22           We've heard several comments on misrepresentation  
23 and excessive media coverage. We have a comment here:

24                           "Media lied about all of it. They  
25                           wanted people not in Ottawa to think  
26                           the protesters were a bunch of redneck  
27                           hooligans causing mayhem." (As read)

28           This is fairly representative of many comments

1 that we received, which expressed low levels of trust for  
2 mainstream media compared to new media such as YouTube or other  
3 social media.

4 In their view, mainstream media was  
5 misrepresenting the facts surrounding the protests, and in their  
6 view that was often because these organizations receive  
7 subsidies from the States and therefore are mouthpieces for the  
8 government.

9 Many people also expressed that excessive media  
10 coverage of the exceptions in Ottawa, who displayed signs with  
11 profanity or historical symbols -- historical hate symbols, were  
12 being represented excessively and didn't actually represent the  
13 people who were at the protests, and these people expressed  
14 emotional distress at being associated with these hateful  
15 symbols.

16 On nous a également parlé du discours du  
17 gouvernement fédéral par rapport aux manifestants et  
18 manifestantes et que celui-ci visait à diviser la population.  
19 Pour plusieurs personnes, les représentants et représentantes  
20 politiques au fédéral cherchaient à discréditer le mouvement du  
21 convoi, ils ne cherchaient qu'à alimenter, selon eux, la trame  
22 narrative selon laquelle les manifestants ne représentaient  
23 qu'une minorité. Ce discours a affecté négativement l'opinion du  
24 public à l'égard des manifestants et ceux-ci, tel que mentionné  
25 plus tôt, se sentaient ostracisés et avaient de la détresse  
26 émotionnelle à ce sujet.

27 Indeed, for those people the government used a  
28 double standard when it dealt with protests. It perceived that



1 the federal government had different standards when it came to  
2 different types of protests. They expressed that in recent  
3 years there had been numerous protests of a violent nature in  
4 Canada that led to various blockades, for example, led by  
5 different groups with different interests than theirs, and yet  
6 the Act had never been invoked to deal with these excesses; and,  
7 indeed, the Prime Minister had met with most of these groups.

8           Those people found that the invocation of the Act  
9 not only was disproportionate but was also vindictive toward  
10 protesters with whom the government did not share values.

11           Plusieurs nous ont dit que les manifestations  
12 auraient pu être résolues de manière pacifique si seulement des  
13 négociations avaient eu lieu. Tout ce qu'il y avait à faire,  
14 comme nous dit ce manifestant, « tout ce qu'il y avait à faire  
15 était de s'entretenir avec les camionneurs et résoudre le  
16 problème, mais au lieu de cela, on a choisi d'appeler les  
17 personnes 'a small fringe minority with unacceptable views' ».

18           Ce que les manifestants voulaient, ils nous  
19 disent dans leurs soumissions publiques, c'était une forme de  
20 dialogue, une conversation, ils voulaient simplement que leurs  
21 opinions soient prises en compte, mais, pour eux, il y avait un  
22 manque de volonté de la part du gouvernement fédéral d'entendre  
23 d'autres points de vue et de résoudre la situation de manière  
24 pacifique. Certains ajoutent même qu'en signe de bonne volonté,  
25 des camions avaient été déplacés et qu'on s'attendait à ce que  
26 cette action conduise à de nouvelles négociations avec des  
27 représentants du gouvernement et ça n'a pas fonctionné, et on  
28 nous a exprimé que c'était similaire... l'utilisation de la Loi

1 suite à ce geste de bonne volonté équivalait à un abus de  
2 pouvoir. On nous a notamment mentionné que les blocages à Coutts  
3 et à Windsor avaient été levés avant l'invocation de la Loi, ce  
4 qui, à leurs yeux, justifiait... justifie leur opinion que  
5 l'invocation de la Loi était un abus.

6 We have heard of many different kinds of  
7 frustrations against politicians. This time, in this slide,  
8 expresses frustrations towards politicians who supported the  
9 protests, rather than those who didn't meet with the protesters.

10 So some people expressed that extra frustration  
11 because some politicians chose to support the protesters for  
12 what seemed to be merely political gain, and for them the  
13 invocation of the Act was the only possible outcome to clear the  
14 occupation, and all political debates and discussions between  
15 different political parties were unnecessary and non-  
16 collaborative and not in the best interest of residents,  
17 especially in Ottawa.

18 Ce sentiment d'abandon nous a été exprimé par  
19 plusieurs personnes qui nous ont aussi parlé de leur perte de  
20 confiance envers les autorités. Ce sentiment d'abandon était  
21 également étendu à la police en raison de son inaction dans  
22 l'application des lois et plusieurs se demandaient comment trois  
23 forces policières à Ottawa n'ont pas pu contenir une  
24 manifestation qui était pourtant prévisible et ils nous ont  
25 mentionné que la Loi n'aurait peut-être pas été nécessaire si la  
26 police avait été mieux organisée et agi plus tôt. On se  
27 demandait également les raisons pour lesquelles des outils  
28 règlementaires n'avaient pas été utilisés, tels que des

1   contraventions.

2                   Une personne nous a également dit que l'inaction  
3   de la police a incité des résidents et résidentes à se  
4   rassembler pour empêcher l'accès à plus de camions au centre-  
5   ville et le *counter-protest* dont nous avons entendu parler  
6   préalablement.

7                   This leads to the next point. Some people told  
8   us the Act might not have been necessary if law enforcement had  
9   acted earlier.

10                  People spoke of failures by multiple levels of  
11   government. For the City of Ottawa, they said that the City  
12   should have limited truck access to designated zones throughout  
13   the city, which would have avoided the blockade, what they call  
14   a blockade.

15                  They also say that the Ottawa Police remained  
16   inactive, despite various complaints that they received of  
17   harassment and intimidation by residents of Ottawa.

18                  We were also told that -- we also received  
19   criticisms concerning the Province of Ontario, that only took  
20   action once the economic impacts of the border blockade in  
21   Windsor became apparent. And these people told us that Ontario  
22   could have dealt with the crisis, but instead passed on  
23   responsibility to the Federal Government.

24                  And of course, we also received criticism from  
25   the Federal Government -- about the Federal Government's  
26   actions, pardon.

27                  Je vais maintenant me tourner plus spécifi... plus  
28   généralement à des commentaires sur l'invocation de la Loi. Je

1 vous parlerai d'abord de ceux qui trouvaient l'invocation de la  
2 Loi nécessaire avant de discuter de ceux qui la trouvaient  
3 injustifiée.

4                   Pour ceux qui la trouvaient nécessaire,  
5 l'invocation de la Loi a apporté un soulagement. Les résultats  
6 qui ont suivi l'invocation de la Loi, pour ces personnes, ont  
7 montré sa nécessité, le fait que c'est ce qui a permis de  
8 dégager les foules et d'ouvrir les routes. La Loi a permis aux  
9 résidents d'Ottawa de retrouver un semblant de vie normale et un  
10 sentiment de sécurité et, pour plusieurs personnes, de regagner  
11 leur domicile parce qu'ils l'avaient quitté. Pour ces personnes,  
12 l'invocation de la Loi est une réponse tout à fait appropriée,  
13 mesurée et ciblée pour mettre fins aux manifestations.

14                   Ces personnes nous ont également parlé du fait  
15 que les éléments extrémistes et violents du convoi présentaient  
16 un danger pour les Canadiens et pour la démocratie. Pour eux,  
17 toutes les autres options avaient été épuisées, il s'agissait  
18 effectivement d'un dernier recours. Le gouvernement fédéral  
19 avait la responsabilité d'agir afin de protéger la population,  
20 et ce, par tous les moyens possibles.

21                   We've also heard from others that the invocation  
22 of the Act was unjustified and inappropriate. For those people,  
23 the protests in Ottawa were peaceful and did not meet the  
24 requirements needed to invoke the Act. There was no serious or  
25 immediate danger to the lives, health, or safety of Canadians.  
26 The Act was invoked while all other options had not been  
27 exhausted, and that led to violent confrontations between police  
28 and protestors.

1                   These people also told us that existing laws  
2 should have been enforced by local and provincial authorities,  
3 the *Criminal Code*, notably, other laws, and bylaws, could have  
4 been sufficient to manage any illegal behaviour.

5                   For them, the decision to use the Act was a  
6 political one by frustrated federal officials who had no  
7 sympathy for the protestors.

8                   On nous a parlé de craintes au moment de la  
9 déclaration de la situation de crise. Une personne par exemple  
10 nous a dit, une fois que la Loi a été adoptée, il se posait des  
11 questions : « Mon compte bancaire serait-il gelé parce que  
12 j'avais partagé des vidéos du convoi sur mes réseaux sociaux? Je  
13 suis allé à la banque et j'ai vidé mon compte. » « Serai-je  
14 arrêté pour avoir été présent au convoi à Ottawa? J'ai décidé de  
15 ne pas attendre et de voir ce qui était pour se passer. J'ai fui  
16 le pays. » Et plus tard, il me dit : « Lorsque la Loi a été  
17 invoquée, on m'a montré qu'aucune loi, constitution ou charte  
18 n'est au-dessus d'eux – du gouvernement – et que la Loi ne  
19 m'offre aucune protection. »

20                   Ces craintes étaient multiples : il y a eu des  
21 craintes de violence physique par la police, une peur à la vue  
22 de gaz lacrymogènes, peur à la vue de la force utilisée pour  
23 déplacer et remorquer des camions, la peur de faire l'objet  
24 d'une enquête et d'être arrêté pour des activités antérieures à  
25 l'invocation de la Loi, la crainte de répercussions pour avoir  
26 appuyer en ligne les manifestants, une crainte que ses comptes  
27 bancaires soient gelés et d'ainsi perdre ses moyens de  
28 subsistance, et certains ont quitté ou ont considéré quitter le

1 pays.

2                   Ça nous amène aux impacts directs de la Loi sur  
3 la vie des manifestants et des gens qui les ont appuyés.

4                   Some people reported that they suffered physical  
5 injury from the use of cayenne pepper, batons, and anti-riot  
6 gear. Many found themselves in a precarious situation because  
7 of their inability to access their bank accounts for various  
8 periods of time, and many questioned their trust in banking  
9 institutions.

10                   Cette perte de confiance est également étendue  
11 envers le gouvernement et les institutions, notamment la police  
12 et les banques. Pour certaines personnes, l'invocation de la Loi  
13 a créé un précédent risqué, elle était perçue comme une attaque  
14 contre tout groupe qui a des opinions opposées à celles du  
15 gouvernement. Certaines personnes nous ont également dit  
16 qu'elles ne feraient plus de dons à des organismes de  
17 bienfaisance parce qu'elles auraient peur de ce qui arriverait à  
18 leur compte bancaire si ces organismes s'opposaient au  
19 gouvernement au pouvoir dans l'avenir. Pour ces personnes, leurs  
20 droits liés à la liberté d'expression et à la manifestation ont  
21 été détruits.

22                   This lost of trust for some also led to  
23 persistent fear of the government and of institutions. Some  
24 people expressed that they were now anxious to participate in  
25 general political discourse because of the repercussions it  
26 might have in their lives. They were scared of being monitored  
27 for their political view, and they also are now scared in the  
28 presence of police and are scared of being arrested for their

1 political views.

2                   D'autres personnes nous ont également invoqué un  
3 sentiment de peur pour des raisons différentes. Nous avons ici  
4 quelqu'un qui nous dit : « Au fur et à mesure que les  
5 manifestations se poursuivaient, j'ai commencé à réaliser  
6 qu'elles étaient plus antigouvernementales qu'antivaccins. C'est  
7 à ce moment-là que j'ai commencé à avoir peur. Ces gens  
8 réclamaient le renversement du gouvernement et, au fil des  
9 semaines, personne ne les arrêtait. J'ai commencé à avoir peur  
10 pour notre pays. »

11                   En effet, ces personnes avaient une anxiété par  
12 rapport à la chute des systèmes démocratiques au Canada. Pour  
13 eux, le cynisme... ils avaient du cynisme relativement à  
14 l'affichage continu de rhétoriques anti-gouvernementales, ils  
15 soulignaient qu'il s'agissait là d'un nouveau phénomène qui  
16 était plutôt inquiétant. Ils exhortent... ces personnes exhortent  
17 les institutions à prendre au sérieux les menaces envers le  
18 système démocratique au pays; ce type de mouvement peut  
19 ressurgir à tout moment et ces personnes voyaient les  
20 manifestations de janvier-février dernier comme un signal  
21 d'alerte pour ce qui pourrait se reproduire à l'avenir.

22                   We have also heard about the damage and changing  
23 perception to Canadian symbols. We have heard of people who are  
24 now anxious when they see Canadian flags, while they used to be  
25 proud of being Canadians. A community member told us, "I want  
26 my flag back, quite simply."

27                   For these people, the image of the Canadian flag  
28 has changed, its symbolism has been tainted, and they were

1 heartbroken by the use of Canadian symbols by the protestors.  
2 They now associate these symbols with the protests, with hate  
3 speech, and with intolerance. And they were -- these people do  
4 not understand the casual behaviour of the authorities.

5           The use of the flag for political purposes, and  
6 also the symbolic gesture of flying it upside altered people's  
7 attachments to the Canadian flag and their sense of pride, and  
8 they now have a sense of distrust when they see cars flying a  
9 Canadian flag.

10           On nous a également exprimé une inquiétude par  
11 rapport à la réputation du Canada à l'international, et ce, de  
12 tous bords tous côtés. Certaines personnes ont exprimé un  
13 sentiment de honte à l'égard de la gestion de la manifestation  
14 par les autorités et, pour ces personnes, c'est l'inaction du  
15 gouvernement face aux manifestations et l'attention médiatique  
16 qui a été accordée qui a atteint la réputation du Canada. Pour  
17 d'autres, c'est l'invocation de la *Loi sur les mesures d'urgence*  
18 qui était injustifiée et qui a nui à la réputation du Canada en  
19 tant que société démocratique qui ne laissait pas les gens  
20 exprimer leurs opinions.

21           Donc, d'abord, la perte de fierté dans l'identité  
22 canadienne -- un peu comme on a discuté tantôt avec le drapeau --  
23 en raison de l'association du convoi avec des éléments  
24 extrémistes; pour ces personnes, avait également un impact sur  
25 la réputation du Canada à l'international. Et des gens nous ont  
26 également exprimé une inquiétude par rapport à la relation entre  
27 le Canada et les États-Unis, notamment des blocages aux postes  
28 frontaliers. Cet impact, pour ces personnes, a un impact tant



1 symbolique, économique, que diplomatique sur les relations du  
2 Canada avec le reste du monde. Et d'autres personnes, tel que  
3 mentionné plus tôt, se sentent au contraire moins en sécurité  
4 relativement à leur capacité à faire des affaires au Canada, par  
5 exemple en raison du gel de leurs comptes bancaires.

6 We have also heard some concerns over foreign  
7 influence. There was a perception that the online donations  
8 allowed foreign donors to interfere in a domestic issue, and  
9 people -- many people believed that the convoy was inspired by  
10 the events of January 6th, 2021, in the United States Capitol.

11 There was a widespread belief that far right  
12 ideologies and anti-government rhetoric is growing and  
13 spreading, and that that was reinforced by actors in the United  
14 States during the protests.

15 Passons maintenant aux recommandations du public.  
16 D'abord, les recommandations du public relativement à la *Loi sur*  
17 *les mesures d'urgence* spécifiquement et ensuite nous irons à des  
18 recommandations plus générales par le public.

19 Par rapport à la Loi, plusieurs personnes nous  
20 ont dit qu'il ne devrait pas être possible d'invoquer la Loi par  
21 simple majorité au Parlement. Le seuil pour invoquer la Loi  
22 devrait être plus restrictif, et on nous a donné plusieurs  
23 suggestions sur les façons avec lesquelles ça pourrait être plus  
24 restrictif. On nous a également dit que le pouvoir d'invoquer la  
25 Loi devrait faire preuve d'une plus grande surveillance de la  
26 part d'autres institutions gouvernementales. Et enfin, on nous a  
27 dit que les termes et le langage dans la Loi devraient être  
28 mieux définis.

1           On nous a dit que la Loi avait eu pour effet de  
2 permettre aux forces de l'ordre de travailler ensemble à Ottawa  
3 et de supprimer des frontières juridictionnelles, et donc, on  
4 nous a dit qu'à l'avenir la Loi devrait être revue pour que les  
5 différents niveaux d'intervention soient ajustés en fonction de  
6 la gravité de la situation. Spécifiquement par rapport à la  
7 région de la Capitale nationale, on nous a dit que la Loi  
8 devrait tenir compte des compétences... des problèmes de  
9 compétences uniques auxquels est confrontée la région d'Ottawa  
10 et que plus de clarté était nécessaire concernant le rôle des  
11 différents corps policiers dans le maintien de l'ordre à Ottawa.

12           I'm sorry, can you go back to the previous slide.  
13 Thank you.

14           Plusieurs personnes nous ont dit que le seuil  
15 pour invoquer la Loi doit rester élevé pour s'assurer que son  
16 utilisation n'est pas disproportionnée par rapport à la gravité  
17 de la situation.

18           Finally, let's turn to general recommendations  
19 from the public.

20           Many people told us that future protests should  
21 always require a permit and that the use of motorised vehicles  
22 in a protest should be prohibited. We also heard that a by-law  
23 or a law to mitigate engine idling should be adopted.

24           In times of crisis, various legal entities and  
25 government bodies must coordinate with one another to resolve  
26 jurisdictional disputes. And we were told that that should be  
27 clarified.

28           We also were told that there should be more

1 consequences, more legal consequences for people who  
2 deliberately spread lies, misinformation and hate, and that  
3 social media platforms that host mis-information and  
4 dis-information should also be targeted by such laws.

5 We were told that the use of the Confederate flag  
6 and other hate symbols in Canada should be banned, and that the  
7 government must do better to educate and prevent the  
8 radicalisation of Canadians. Laws that curtail foreign funding  
9 of anti-democratic group and movements within Canada should be  
10 enacted.

11 There should be a firmer application of standard  
12 behaviour in police forces and in military forces, and screening  
13 practices for hiring these personnel is necessary.

14 And finally, we were told that there should be  
15 better support for the press and journalists, given their  
16 essential function in countering mis-information and  
17 dis-information.

18 I will now pass the baton back to Mr. Leon, who  
19 will conclude with a few quotations from the comments that we  
20 have received.

21 Encore une fois, merci à tous ceux et celles qui  
22 ont participé au processus de soumissions publiques. Your input  
23 is very much appreciated by the Commission.

24 **--- PRESENTATION: OVERVIEW SUMMARY BY MR. JEFFREY LEON(cont'd):**

25 **MR. JEFFREY LEON:** Commissioner, Jeff Leon,  
26 Commission Counsel.

27 Having heard this summary, which is of necessity,  
28 given the large number of submissions, is at a high level, it

1 will be helpful to understand in the respondents' own words  
2 their views and how the events under consideration impacted  
3 them. You will hear a variety of views from across Canada,  
4 which is reflective of the diverse reaction of Canadians to the  
5 issues before this Commission.

6 First:

7 "I live in Victoria, B.C., in the  
8 neighbourhood behind the provincial  
9 legislature, James Bay to be exact. At  
10 the height of the Freedom Convoy, I  
11 worked part-time for a small, family-  
12 run retail establishment located in  
13 Victoria. We were forced to close the  
14 shop early three Saturdays in a row due  
15 to the constant honking, some of it  
16 amplified over loudspeakers. The  
17 constant honking was anxiety-inducing.  
18 Customers who did come in did not stay.  
19 I do not know how much revenue was  
20 lost, but winter is our busiest season,  
21 Saturday the busiest day. The owners  
22 were kind and gracious enough to pay  
23 us. I felt bad taking the money.  
24 This is only part of how the convoy  
25 affected me. I walk to work, so the  
26 entire way home constant horns blasting  
27 could be heard blocks away. It is a  
28 half-hour walk. Once I reached my

1 neighbourhood, protesters were also on  
2 foot. They were loud, in some cases  
3 inebriated and menacing, they exhibited  
4 behaviour as a group I am sure they  
5 would not attempt individually. This  
6 behaviour continued daily for months.  
7 Elderly were scared to leave their  
8 homes. I was most distressed that it  
9 took as long as it did to invoke the  
10 *Emergency Act.*"

11 Second:

12 "The convoy protest in Winnipeg  
13 impacted our mental health  
14 significantly. We live near the  
15 legislature where the convoy honked,  
16 blocked streets, emergency vehicles  
17 forced to take longer routes, waved  
18 offensive signs, harassed locals for  
19 wearing masks at a bus, or in local  
20 food or coffee shops, parked on  
21 streets, blocking locals. The loud  
22 honking for hours, long vehicle parade  
23 with flags was an assault.  
24 Our mental health was severely  
25 impacted, and any complaints to police  
26 were seen as a few complainers  
27 repeating and therefore of no real  
28 consequence. Our police did nothing.

1 Plus the abuse of the Canada flag  
2 caused us not to put up our flag on  
3 July 1st. We felt helpless. We had to  
4 get away to a hotel for several days to  
5 keep our sanity. We felt on the edge  
6 of sanity. Until the *Emergency Act*  
7 finally came in, and suddenly things  
8 happened. With that, our police would  
9 not have ended this as quick.  
10 We kept hoping the Federal Government  
11 would enact that step because this  
12 protest should never, ever, ever have  
13 gotten away with this outright  
14 lawlessness and disregard for fellow  
15 citizens. This lack of action has  
16 forever changed our country for the  
17 worse, shaken our confidence in  
18 protection. The *Emergency Act* was  
19 absolutely necessary. We also believe  
20 it was ended quickly, showing there was  
21 no intent to abuse its power. It was  
22 the reason we finally got some relief,  
23 even here in Winnipeg. As a lasting  
24 impact, we are attempting to find a way  
25 to move out of this area, because even  
26 now, any significant honking on  
27 Broadway hits with a fear the  
28 protestors are back. Hours of honking

1 past our apartment block change our  
2 life because no one stopped it until  
3 the *Emergency Act* came in and Ottawa  
4 was being cleaned up, and then, and  
5 only then, did our police act. We were  
6 shattered." (As read)

7 Third.

8 "I am a hospital pharmacist in Windsor,  
9 Ontario. Our border was blocked by  
10 protestors connected to the Ottawa  
11 protest. I did not personally need to  
12 cross the border during that time, but  
13 I did experience shortages of some food  
14 and commodities that are transported  
15 through the border. I am also angry  
16 that my city had to use tax payer's  
17 money to deal with these circumstances.  
18 I resent the fact that money could have  
19 been used constructively to improve the  
20 city, was instead used to manage and  
21 contain the protestors.

22 As a health care worker, I literally  
23 risked my life to go into the hospital  
24 where I work and care for sick people  
25 who required our services. If a  
26 protestor was one of the people needing  
27 my skills, I would provide it with the  
28 same diligence and empathy as with any

1 other patient.  
2 In contrast, the protestors seem not to  
3 respect the needs of community members,  
4 at best inconvenienced, and at worst,  
5 terrorized by their occupation.  
6 Everyone has a right to protest, but  
7 they do not have the right to prevent  
8 others from carrying out daily  
9 activities, having access to food, or  
10 supplies, or simply feeling safe in  
11 their neighbourhoods.” (As read)

12 Number four.

13 “I am writing to express my sincerest  
14 opinions and experiences regarding the  
15 Freedom Convoy protest and the  
16 implementation of the *Emergencies Act*.  
17 This letter will provide what I hope to  
18 be a useful recount of a working-class  
19 Canadian citizen who believes in  
20 freedom and the *Charter* of guaranteed  
21 right to democratic protest.  
22 In the months of January and February  
23 of 2022, I made the long drive to  
24 Ottawa from Scarborough to peacefully  
25 protest in the Freedom Convoy. As a  
26 COVID-19 unvaccinated Canadian, I had  
27 already been facing discrimination,  
28 oppression, and hate for two years as a



1 direct result of the Federal  
2 Government's politicization of the  
3 vaccine. I am a young, active, healthy  
4 woman who had no medical need or  
5 personal desire to take an experimental  
6 vaccine. I was ridiculed by my peers  
7 and strangers alike, banned from  
8 leaving and re-entering my own country,  
9 public transit, sports leagues,  
10 restaurants, and shopping centres, to  
11 name a few. My decision to maintain  
12 medical and bodily autonomy nearly cost  
13 me my job.

14 These vaccine mandates were  
15 systematically being imposed sector by  
16 sector, leaving hard working Canadians  
17 to be either coerced into sacrificing  
18 bodily autonomy or stripped of their  
19 livelihoods.

20 Many of my COVID-19 unvaccinated family  
21 and friends were horrified and panicked  
22 at the very real possibility of having  
23 to flee our own country, a country  
24 which has stood for freedom and  
25 equality for over 150 years, until the  
26 truckers stopped them.

27 The Freedom Convoy was a beacon of hope  
28 for millions of Canadians, millions of

1                   Canadians who faced threats, job  
2                   suspension, and getting cancelled  
3                   online as a result of expressing  
4                   dissent.

5                   Through propaganda and polarization of  
6                   the media, myself and many others were  
7                   made to believe that there was nobody  
8                   else out there who held the same  
9                   perspective. We were made to believe  
10                  that we had no ground to stand on and  
11                  that if we spoke up, there would be no  
12                  one there to back us up. And then came  
13                  the news of the trucker convoy bound  
14                  for our Nation's capital, and inviting  
15                  anyone and everyone to join. Here was  
16                  finally a place where we could take a  
17                  stand and show our government that we  
18                  did not agree.

19                 The Freedom Convoy protests represent a  
20                 new marker in Canadian history. They  
21                 brought Canadians together. They  
22                 brought the world together, inspiring  
23                 protests in countries all over the  
24                 world. The repercussions of the convoy  
25                 spread far beyond what we could have  
26                 ever imagined. Citizens of other  
27                 countries waved Canadian flags, sang  
28                 the Canadian National Anthem, and

1                   messed and commented on social media  
2                   in support of the Canadians. We became  
3                   the pinnacle of a peaceful protest.  
4                   I would like the Commission to take a  
5                   moment to process what that must have  
6                   felt like, to have spent hours, even  
7                   days, waving a Canadian flag, singing  
8                   O'Canada shoulder to shoulder with  
9                   strangers, inviting our government to  
10                  engage in a discussion about our  
11                  democratic rights, and instead being  
12                  labeled and criticized so harshly.  
13                  Please imagine enduring the extreme  
14                  cold temperatures holding a sign above  
15                  your head just so you can finally have  
16                  your voice heard and your life back.  
17                  Imagine seeing people laughing together  
18                  and dancing and standing guard on the  
19                  Tomb of the Unknown Soldier. Imagining  
20                  just wanting your freedom back. Not  
21                  more, nothing demanding. Just what you  
22                  already had before. Then you come  
23                  home, watch the news, and see yourself  
24                  labeled as a domestic terrorist, as  
25                  someone who does not represent the  
26                  views of Canadians." (As read)

27                  Five.

28                  "I supported the trucker convoy for

1 many reasons and in many ways. I have  
2 truckers in my family and they were  
3 coerced into taking the vaccines and  
4 one family member was out of a job.  
5 The mandates and vaccine policies in  
6 this country have affected my children,  
7 myself, and my family in so many ways.  
8 They have created a huge divide amongst  
9 us: those who opted to take the vaccine  
10 and those who abstained. My family  
11 will never get back to where we were  
12 before covid. So when the trucks  
13 rolled out on their way to Ottawa, I  
14 supported them however I could. I  
15 donated to the GoFundMe page and then  
16 doubled my portion to GiveSendGo when  
17 GoFundMe shut down. I have yet to see  
18 my money back from GiveSendGo.  
19 I sent my kids out to the bridge  
20 overpass to wave on the trucks as they  
21 rolled down the highway towards Ottawa.  
22 The second weekend of the protest, I  
23 took the seven-hour car ride to Ottawa  
24 to see for myself what was happening  
25 downtown. I have never in my life seen  
26 such selfless people giving their time  
27 and energy to support such a noble  
28 cause. It was crowded and noisy due to

1 the trucks running in the streets, and  
2 honking, and the immense amount of  
3 people there made noise. But it was  
4 music to my ears. It was a reuniting  
5 of Canadian people. It was the Canada  
6 I knew from 25 years ago when I  
7 travelled abroad. People from all  
8 provinces had gathered to become  
9 family. All nationalities were  
10 represented. It was wonderful. It was  
11 the best Canada Day celebrations I have  
12 ever participated in. It gave me such  
13 pride for Canada again. Such joy to be  
14 a part of the waving Canadian flags,  
15 the happy people singing, dancing, and  
16 yes, there were bouncy castles for the  
17 little people. There was food in the  
18 streets to feed armies. It was  
19 unbelievable. The joy I felt watching  
20 the videos of the trucks rolling down  
21 the highway for this reunification of  
22 our people who had been so isolated and  
23 trapped for two years, and then seeing  
24 it set up in Ottawa to be able to  
25 partake in was phenomenal. There was  
26 no violence and the police were  
27 literally standing around everywhere  
28 trying to keep warm, but in reality,

1 had nothing to do in the areas that I  
2 walked around downtown. There was  
3 nothing to fear and people were kind  
4 and loving all weekend.

5 Two weeks later, I took the trip to  
6 Ottawa again. unfortunately, this trip  
7 was much less enjoyable, because the  
8 police had already blocked the downtown  
9 entrances, and we heard of the violence  
10 that had already occurred with regard  
11 to the trucks, the vandalism, the tear  
12 gas.

13 I made it to Coventry and heard from  
14 the trucks that got out just in time.  
15 They described the violence they had  
16 already experienced and witnessed. One  
17 trucker described as having been  
18 teargassed, his eyes were still itchy.

19 I ran into a reporter who had been  
20 physically harmed by officers during  
21 covering the story. It got ugly due to  
22 the officers. It wasn't the supporting  
23 protesters causing this. I met many of  
24 the helpers at Coventry who had been  
25 there since day one and the stories we  
26 were able to share with one another  
27 about the purpose of this protest were  
28 beautiful." (As read)

1                   Number six,

2                   "Thank you for the opportunity to give  
3                   feedback on this polarizing issue in  
4                   our country. I believe that evoking  
5                   the *Emergencies Act* was the correct  
6                   thing to do, and if anything, I would  
7                   like to have seen a more forceful  
8                   dispersion of protesters and others who  
9                   engaged in these reckless and  
10                  irresponsible actions. I was not a  
11                  protester myself, nor was I in the  
12                  capital city at the time of this event.  
13                  However, I can attest to the broad  
14                  reach of this group's influence and the  
15                  effects it had on other provinces  
16                  besides Ontario.  
17                  These individuals threatened the entire  
18                  country with their negligence by  
19                  attacking our already frail food chain  
20                  supply through the use of blockades.  
21                  Living in Newfoundland, a large concern  
22                  has always been if we will have enough  
23                  food shipped onto the island to make  
24                  sure everyone can get by. Although  
25                  this group was unsuccessful with  
26                  completely stunting the food supply  
27                  chain, it did -- still did a number on  
28                  our ability to get needed goods.

1 Walking into the grocery store for some  
2 time was a stressful experience, as you  
3 would just have to hope that enough of  
4 what you needed made it to our isolated  
5 province. This in turn created a  
6 greater pressure on truckers who were  
7 continuing to do their job to the best  
8 of their ability while having to make  
9 unnecessarily long routes to avoid the  
10 blockades." (As read)

11 Seven,

12 "I lived in the red zone during the  
13 convoy occupation of Ottawa, six blocks  
14 from Parliament. The abuse and  
15 harassment from the convoy was constant  
16 and unacceptable. The 18 hours of  
17 honking day in, day out was torment.  
18 Implements such as the air horns used  
19 for commercial trains were employed,  
20 which were designed for announcing  
21 presence in a wide space at high  
22 speeds. When used in a dense, urban  
23 setting, they resonate off all the  
24 buildings and penetrate walls. The  
25 idling of trucks was also dangerous and  
26 destructive. The air quality at street  
27 level with the 24/7 generation of  
28 diesel fumes being trapped by cold air



1 made breathing difficult for me as  
2 someone with asthma. I live in an  
3 apartment on the third floor of my  
4 building. And even if the trucks  
5 hadn't been honking incessantly, I  
6 would still have needed to keep all my  
7 windows shut and not use my balcony  
8 because I could taste the diesel fumes  
9 in the air on my balcony.

10 Having people shout at me when I went  
11 for groceries was frustrating as well.  
12 For all the generalizations people like  
13 to make about what it's like to live  
14 downtown, the reality is, I've never  
15 felt unsafe or harassed on the street.  
16 And aside from the occasional event  
17 promoter on street corners, I've never  
18 been accosted on the streets. The  
19 convoy people made it very clear that  
20 I, by virtue of wearing a mask in  
21 public, was their enemy.

22 On multiple nights, convoy people shot  
23 off commercial grade fireworks from the  
24 street in the middle of the night.  
25 These were the kind of fireworks that  
26 have spread -- have a spread of greater  
27 than 25 meters being fired from 2-lane,  
28 1-way streets directly adjacent to

1 apartment buildings with open  
2 balconies. The sleep disruption of  
3 having fireworks go off at midnight  
4 literally outside my building was  
5 infuriating, but the fire hazard this  
6 presented was completely unacceptable.  
7 Police were called multiple times every  
8 time and their response was always that  
9 they're keeping an eye on it. Their  
10 standing policy appeared to be being  
11 ready to call the fire department just  
12 in case, with no intent to intervene  
13 otherwise.

14 As an addendum to all this, seeing  
15 people openly flying swastikas outside  
16 my home did not make me feel remotely  
17 safe. I am Jewish, and to see a symbol  
18 which unambiguously advocates for the  
19 systematic murder of myself and my  
20 family being displayed with impunity  
21 sends the message genocide is not  
22 something the public deems a concern.  
23 The general media response to this  
24 further seemed to convey a tone of what  
25 are you going to do, it's a couple of  
26 swastikas, that happens, but neglected  
27 to consider the presence of the  
28 swastika in isolation is very different

1 from when it's owned by a group of  
2 hundreds, if not thousands of people,  
3 with large vehicles who have surrounded  
4 your living space while actively  
5 intimidating you. While I'm no  
6 stranger to discrimination, I have  
7 never at any other point in my life  
8 felt surrounded by people who wished me  
9 dead. It's abhorrent that I am  
10 expected to view this kind of behaviour  
11 in my community as just how life is  
12 when it very much is not." (As read)

13 Eight,

14 I am a 73-year-old Ottawa resident of  
15 Sandy Hill, just across the canal from  
16 the area occupied by the protesters. I  
17 am writing not because I am important,  
18 but because I am not. What happened to  
19 us happened to tens of thousands in  
20 Ottawa from January 28 until the  
21 *Emergencies Act* was enforced.  
22 Centretown residents had it much worse.  
23 Within three days of the occupiers  
24 setting up, we were stymied. My  
25 regular trip on the O-Train was  
26 disrupted by anti-maskers who  
27 aggressively jeered at the masked  
28 around them, getting right into their

1 faces. I had to transfer at the Rideau  
2 Centre to a street-level bus, and twice  
3 had white, middle-aged men snatch at my  
4 mask while demanding freedom from  
5 mandates. Returning, I witnessed a  
6 large crowd of people near the bus  
7 stop, harassing passers by, making an  
8 extraordinary amount of noise, blocking  
9 traffic, pissing on the street, and  
10 generally being obnoxious. I can't say  
11 they impressed me, but like many, I  
12 thought they'd go home after the  
13 weekend. Instead, their continued  
14 presence shut down our food stores,  
15 pharmacy, bank, medical clinic for all  
16 but telephone consultations.  
17 The disruption of O-Train and bus  
18 service meant we could not access  
19 anything in Centretown or North Leeds.  
20 We could not get cabs because drivers  
21 would not risk crossing Centretown, as  
22 several had apparently been attacked by  
23 occupiers who objected to the colour of  
24 their skin and/or to their face mask or  
25 both. Gig drivers were also refusing  
26 to come to the area. We were prisoners  
27 in the few blocks in which we lived,  
28 due to the threat of illness or

1 violence from people who refused to  
2 leave and were able to intimidate the  
3 local authorities into acquiescing.  
4 Only by shopping at a supermarket a  
5 little farther out and early in the  
6 day, as the occupiers appeared to be  
7 late risers, we were able to get food.  
8 The pharmacist at our officially closed  
9 pharmacy actually had to sneak in to  
10 fill urgent prescriptions for regular  
11 customers and arrange back-door pickup  
12 by phone. Like many during the siege,  
13 he risked himself and his business to  
14 help others.

15 We had to cancel medical appointments  
16 and tests, one of which was to  
17 ascertain if a lump on my husband's  
18 head was a tumour, and if so, whether  
19 it was cancerous. Answer received  
20 weeks later, yes, it was a tumour, no,  
21 it was not cancerous. I had to suspend  
22 ongoing treatment for a non-fatal  
23 intestinal issue and start over when  
24 the *Emergency Act* took hold. Sleep was  
25 hard to come by as pickups and SUVs  
26 drove around our area blasting horns  
27 and a couple of airhorns. Sleep is  
28 pretty basic to human health and

1 function. (As read)  
2 Nine,  
3 In living in the Gladstone Bay area,  
4 Centretown, there was no disruption to  
5 my life whatsoever by the protest. I  
6 could not hear the trucks or their  
7 horns at this location, and my freedom  
8 of movement on foot or by car was not  
9 affected at all. My access to the 417  
10 was entirely unaffected by the protest.  
11 I passed through the protest a number  
12 of times, usually went out for a run,  
13 sometimes went out for a walk, and a  
14 couple of times to see the protest  
15 itself. I did not experience any  
16 harassment on any of these occasions.  
17 In terms of signage, I did not  
18 personally see anything resembling a  
19 swastika or a Confederate flag. I did  
20 not wear a mask, but when observing  
21 people wearing masks within the  
22 protest, I did not see them being  
23 harassed. Framing the issue as one  
24 where people, such as myself, who live  
25 in the City core, were held hostage by  
26 the protest, is, in my case, incorrect  
27 and unwanted. The protest in no way  
28 affected me negatively. How many

1 people were actually affected, and to  
2 what extent, remains an open question  
3 for me. Trucks were parked  
4 north/south, from Wellington to Slater,  
5 and east/west from Lyon to Elgin. Most  
6 of the buildings in this area are  
7 office buildings, the workers of which  
8 were still working from home due to  
9 prior government actions. There are  
10 some street level businesses, most of  
11 which had been required to shut down  
12 for extended periods over the previous  
13 two years. Those that wanted to stay  
14 open during the protest were able to do  
15 so.

16 For those who were living there, I have  
17 no doubt that the protest was  
18 incredibly annoying. The problem for  
19 me is that the concerns of a group of  
20 protesters, who possibly outnumbered  
21 the residents in the affected, were  
22 ignored, dismissed, and vilified, while  
23 the inconvenience of a small number of  
24 people was made to appear as if all of  
25 us living in Ottawa were being held  
26 hostage in our homes. I found and find  
27 the lack of balance disturbing."

28 And then finally:

1 "I would like to express my experience  
2 with the illegal occupation of Ottawa  
3 that was brought to end by the  
4 invocation of the *Emergencies Act*. I  
5 am a secondary teacher, I work in  
6 Ottawa, and I live in Quebec. My route  
7 to work was made longer and more  
8 complicated by the illegal occupation.  
9 After nearly two years of trying to  
10 support my students through the demands  
11 of COVID crisis, I really did not need  
12 the added strain that was created by  
13 the so-called 'convoy'. More  
14 importantly, my students did not need  
15 even more stress. I teach students who  
16 were affected by the noise of the  
17 constant honking, and the odour from  
18 the vehicles that idled in Ottawa's  
19 core. As well, it was certainly  
20 disheartening to see the behaviour of  
21 adults as they danced in the streets,  
22 while so many young people, that had  
23 sacrificed so much so that we could  
24 follow protocols as safely as possible,  
25 students who missed music, dance,  
26 theatre, sports and graduation  
27 ceremonies, still followed the  
28 protocols, while some adults acted as



1 if our public health crisis was a hoax.  
2 Finally, it was deeply troubling to see  
3 the racist, violent, and threatening  
4 message coming from these occupiers. I  
5 was most incensed when one organiser  
6 threatened to roll schools. He did not  
7 organise a roll past my school, but my  
8 understanding is that the elementary  
9 school down the street was targeted.  
10 On my route to work and back, not only  
11 was I delayed, I also felt intimidated  
12 by the vehicles with flags of various  
13 kinds driving aggressively to and from  
14 their camp.  
15 The most drastic impact that the  
16 illegal occupation had on my life was  
17 that I was unable to visit my mother on  
18 the last weekend she was alive. My  
19 mother was grieving for the loss of her  
20 son, and after my brother's death in  
21 2019, her quality of life changed  
22 radically. While my sister, an  
23 essential worker, and her husband were  
24 primary caregivers, I tried to visit my  
25 mother every weekend.  
26 You are probably aware that those of us  
27 who live in the Ottawa/Gatineau Region  
28 experience our communities as more

1 unified than separated. For me to take  
2 two trips to Orleans on a weekend was  
3 not at all unusual until the convoy.  
4 On both the Saturday and the Sunday of  
5 the last weekend in January, I tried to  
6 get across the bridge from Wakefield to  
7 Orleans to see my mom. I was not  
8 successful either day. The police had  
9 closed the route.

10 While I had just seen her on the  
11 Tuesday prior to that, I felt she was  
12 slipping away and I was concerned. So  
13 these people have taken something from  
14 me that I can never get back. My mom  
15 was a dedicated educator; she was my  
16 role model. The illegal occupation of  
17 Ottawa stole my mom from me -- stole  
18 from me the last moments of my mother's  
19 life. I am grateful that the Federal  
20 Government stepped in to end it when  
21 local and provincial authorities could  
22 not."

23 Commissioner, I believe that reflects the, as I  
24 said, the diverse submissions that we received from the public.  
25 Thank you.

26 **COMMISSIONER ROULEAU:** Diverse and somewhat  
27 divided.

28 So thank you very much. So those -- that's the

1 presentation of the public consultation results.

2 I'm going to take a short break just to get our  
3 next witness in and come -- we can move to the next phase. So  
4 five minutes only to get the next witness in. Thank you.

5 **THE REGISTRAR:** The Commission is in recess for  
6 5 minutes. la commission lever pour 5 minutes.

7 --- Upon recessing at 10:35 a.m.

8 --- Upon resuming at 10:44 a.m.

9 **THE REGISTRAR:** Order. À l'ordre. The  
10 Commission has reconvened. La Commission reprend.

11 **MR. ERIC BROUSSEAU:** Good morning,  
12 Mr. Commissioner. Eric Brousseau, Commission Counsel.

13 Just very briefly before we get going with the  
14 next witness. I'm just going to formally bulk enter a number of  
15 documents that were on lists in several categories.

16 The first being 28 documents, which were the  
17 subject of objections, which were worked out amongst counsel.  
18 They are HRF, OPP, OPS, City of Ottawa, and several Commission  
19 documents.

20 The second is a list of largely, but not  
21 exclusively, Federal Government documents, which was circulated  
22 to the parties on November 9th. And objections were dealt with,  
23 were removed, and that's a total of 1,766 documents.

24 The third is a list, again, of largely Federal  
25 Government documents, but as well as a number of others, which  
26 was sent on November 14th. Objections were removed and dealt  
27 with, and that's another 819 documents.

28 And the fourth, as the parties were advised this

1 morning, is the affidavit of Superintendent Bernier, which was  
2 circulated by counsel for OPS on Monday. No objections were  
3 received, no parties sought leave to cross-examine on it, and  
4 the parties were advised that it was being admitted today.

5 And with that done, I'll let Mr. Cameron take the  
6 floor.

7 **COMMISSIONER ROULEAU:** Okay, thank you.

8 **MR. GORDON CAMERON:** Thank you, Mr. Commissioner.  
9 It's Gordon Cameron for Commission Counsel.

10 And my friend for the Attorney General has a  
11 statement she would like to make with respect to the evidence of  
12 this witness before I commence my questioning.

13 **COMMISSIONER ROULEAU:** Okay.

14 **MS. ANDREA GONSALVES:** Thank you. Good morning,  
15 Commissioner. It's Andrea Gonsalves, counsel for the Government  
16 of Canada.

17 The next witness will be Minister of Justice,  
18 David Lametti. In addition to being Minister of Justice, of  
19 course, the Minister is the Attorney General of Canada, the  
20 lawyer to the Government of Canada.

21 And I wanted to put on the record that the  
22 Government of Canada continues to assert and maintain all of its  
23 claims of solicitor/client privilege in respect of all legal  
24 advice and opinions. Mr. Lametti's attendance here as a witness  
25 is not a waiver of any claims of privilege by the Government of  
26 Canada, which he has an obligation to protect. We will be  
27 objecting to and Minister Lametti will be refusing to answer all  
28 questions that would delve into areas of solicitor/client

1 privilege.

2 So I just wanted to put that on the record at the  
3 front end, and hopefully examinations can be appropriately  
4 tailored to keep the objections to a minimum.

5 **COMMISSIONER ROULEAU:** Okay. Well, it will be an  
6 interesting manoeuvre throughout the testimony, but I'm sure  
7 everyone will be on their guard.

8 So with that, perhaps we can swear the witness.

9 **THE REGISTRAR:** Minister Lametti, will you swear  
10 on a religious document, or do you wish to affirm?

11 **MINISTER DAVID LAMETTI:** On a Bible, please.

12 **THE REGISTRAR:** For the record, please state your  
13 full name and spell it out.

14 **MINISTER DAVID LAMETTI:** David Lametti, D-A-V-I-D  
15 L-A-M-E-T-T-I.

16 **--- MINISTER DAVID LAMETTI, Sworn:**

17 **--- EXAMINATION IN-CHIEF BY MR. GORDON CAMERON:**

18 **MR. GORDON CAMERON:** Again, Commissioner, Gordon  
19 Cameron for Commission Counsel.

20 And good morning, Minister Lametti.

21 **MINISTER DAVID LAMETTI:** Good morning.

22 **MR. GORDON CAMERON:** I will begin with some  
23 housekeeping and ask you to cast your mind back to September 6<sup>th</sup>  
24 of this year when I interviewed you along with some of my  
25 colleagues from Commission Counsel, and we prepared a summary of  
26 that interview. And for the record, in case anybody's looking  
27 for the number, it is WTS6077.

28 Minister Lametti, did you have an opportunity to

1 review that summary for accuracy?

2 **MINISTER DAVID LAMETTI:** Yes, I did.

3 **MR. GORDON CAMERON:** And can you confirm it's  
4 accurate and that you adopt it as a part of your evidence in  
5 this proceeding?

6 **MINISTER DAVID LAMETTI:** I confirm its accuracy.

7 **MR. GORDON CAMERON:** Thank you. Now if we can  
8 begin, I suppose, with the basics, I think a lot of what we  
9 would describe as your position and your responsibilities are  
10 already familiar to many of the parties here, but just so that  
11 those for whom it isn't familiar and for members of the public,  
12 could you describe your office? And since I'm going to be  
13 taking you to some particulars, but also if you could give us an  
14 overview of the dual role you play as Minister of Justice and  
15 Attorney General and just describe how that plays out in the  
16 context of the work you do in conjunction with the Government  
17 and Cabinet?

18 **MINISTER DAVID LAMETTI:** Thank you. It's -- they  
19 are two complicated roles, and it is an important question. As  
20 Minister of Justice, I'm a member of Cabinet. I'm responsible  
21 for what one might call justice policy and the development of  
22 justice policy, the curation of the *Criminal Code*, various  
23 institutions, Human Rights Commission, for example, and Privacy  
24 Commission, other Commissions that are associated with justice  
25 policy writ large in Canada, so they fall under my purview. I  
26 do not -- I'll frame that, I'll come back to that when I talk  
27 about the Attorney General role. So in that role, I'm a member  
28 of Cabinet, I participate in Cabinet discussions, give my

1 opinions, as would any other Cabinet Minister, and do the work  
2 reading my documents but also other documents from other  
3 Ministers in that regard and in giving informed opinions.

4           The other role is Attorney General. I'm the  
5 government lawyer, also sit at the Cabinet table as Attorney  
6 General, and I give legal advice to the government. I receive  
7 legal advice from time to time through the Department of  
8 Justice, which has lawyers dedicated to giving legal advice in  
9 that Attorney General role. I'm the titular head on litigation,  
10 all litigation that the Government of Canada does. And I have a  
11 role in shaping that litigation, particularly as it approaches  
12 higher courts, courts of appeal and the Supreme Court. And  
13 again, in that role, I will give advice to the Cabinet and to  
14 the Prime Minister directly from time to time. On most pieces  
15 of legislation, for example, there will be opinions being given,  
16 although there are occasional mentions in the *Justice Act* of the  
17 Minister of Justice giving that role, so I will -- the lines are  
18 reasonably well demarcated. They certainly are well demarcated  
19 in my mind.

20           We've had the Anne McLellan Report of a few years  
21 back, which helped in the framing of certain kinds of litigation  
22 to distinguish the roles. And certainly, I would say that in  
23 all of my interactions with colleagues, including informal  
24 interactions, I will always try to be clear which hat I am  
25 wearing as I'm speaking, and if that hat changes in the course  
26 of a conversation, I will give them a flag. And so I'm well  
27 aware of that two -- of those two roles.

28           What I will also say -- this is the part that I

1 had bracketed out before, is unlike the Attorney General of the  
2 United States, I do not lead investigations and prosecutions.  
3 We have an independent prosecution service, and there are other  
4 rules that guide my relationship with the Director of Public  
5 Prosecutions, but that's important to remember as well.

6 **MR. GORDON CAMERON:** Thank you. And thank you  
7 for referencing the report of the Honourable Anne McLellan, and  
8 I'm going to make a few references to it because I think they  
9 help -- as you might remember, she had some compact and forcible  
10 ways of describing the two roles, and I'm going to ask that that  
11 be put up on the screen, just so that we can look at it and I'll  
12 ask you to see if you -- if they accord with your understanding  
13 of your role.

14 And, Mr. Clerk, the document number is COM, C-O-M  
15 00000952. And if you can get that up on the screen, I'll ask  
16 you to go to page 6 at the top. We don't need to know, for my  
17 purposes at least, Minister Lametti, the background to Anne  
18 McLellan's report, but ---

19 **MINISTER DAVID LAMETTI:** I know it well.

20 **MR. GORDON CAMERON:** I imagine you read it very,  
21 very carefully when it came out, but we're just -- she was  
22 reviewing the roles of the Attorney General and the Minister of  
23 Justice, and she had things to say about it in other context,  
24 but I'm just going to talk about her introductory comments where  
25 she describes in an overview way, I think in most cases quoting  
26 from Professor Edwards about the roles as they're known in our  
27 constitutional system of government.

28 So the first one, if -- I'm trying to get the top



1 of page 6, Mr. Clerk, and that doesn't look like it to me. It  
2 might be that it's a different PDF number. The top says  
3 "Introduction". There we go.

4           And the sentence I'll read is the second one,  
5                           "The Attorney General of Canada has a  
6                           unique and profoundly important role.  
7                           They stand at the heart of accountable  
8                           government as the person responsible  
9                           for defending the rule of law by  
10                          ensuring that all government action is  
11                          in accordance with the Constitution,  
12                          including the *Charter of Rights and*  
13                          *Freedoms.*"

14           And I take it from your earlier description that  
15 you would agree with her description of that part of your role?

16           **MINISTER DAVID LAMETTI:** Completely.

17           **MR. GORDON CAMERON:** And then if we go over, Mr.  
18 Clerk, to page 10, if we're working with the same page numbers,  
19 it is the page that has the heading "The Attorney General of  
20 Canada". There we go.

21           And I'll just read this historical introduction  
22 here. The sentence I wanted to concentrate on was the second  
23 one,

24                           "For that reason, the Attorney General  
25                           is often referred to as the Chief Law  
26                           Officer of the Crown."

27           And you're probably familiar with that phrase.  
28 Again, I think if not invented by, certainly most written about

1 by Professor Edwards in his work.

2 And then two paragraphs down there, the paragraph  
3 that begins "In their role..."

4 "In their role of Chief Law Officer of  
5 the Crown, the Attorney General is not  
6 accountable to a particular government.  
7 They are required to act according to  
8 the law and the broader public  
9 interest, not according to personal or  
10 partisan interests."

11 And again, as I understand your introductory  
12 comments, you'd agree with those observations of Anne McLellan  
13 as well?

14 **MINISTER DAVID LAMETTI:** Again, completely.

15 **MR. GORDON CAMERON:** Right. And then if we can  
16 go over a page, perhaps two pages, Mr. Clerk, to the page that  
17 has at the top of it "The Minister of Justice". And here we  
18 have the description of the other role, and we'll just do this  
19 as compactly as possible, with the first sentence,

20 "Under the *Department of Justice Act*,  
21 the Minister of Justice is the legal  
22 advisor to the Governor General, which  
23 means, in practice, that they are the  
24 legal advisor to Cabinet."

25 And again, that would accord with your  
26 understanding of your role?

27 **MINISTER DAVID LAMETTI:** That's right. I alluded  
28 to that in my opening remarks.

1           **MR. GORDON CAMERON:** Thank you. I'd like to take  
2 you to some of the documents. These were produced fairly  
3 recently to us, and so they aren't organized in my papers, or at  
4 least to the extent Commission Counsel has been able to organize  
5 them relative to the way they were filed. And I know just from  
6 some emails that have come in as we've been preparing for this  
7 morning's appearance by you, other parties might have struggled  
8 with this as well, so I'll try to help parties along with the  
9 way I've organized them at least. And the first one, Mr. Clerk,  
10 if you could call up SSM.CAN.00007845. And, Minister Lametti,  
11 we're all going to -- you and I and I think the people following  
12 are going to have to struggle with two things here. One is how  
13 one reads a text conversation when it gets printed out like  
14 this, especially when it's broken up into multiple pages, who is  
15 speaking in which bubble as we go down. So I'll ask you to help  
16 me with that.

17           I believe that the first bubble there, "Do we  
18 have a contingency," that is you speaking; am I correct there?

19           **MINISTER DAVID LAMETTI:** I believe that's right.

20           **MR. GORDON CAMERON:** Okay. The date here is  
21 Sunday, January 30<sup>th</sup>, which would be, you might remember, the  
22 Sunday of the first weekend of the convoy arrival in Ottawa.

23           **MINISTER DAVID LAMETTI:** That's correct.

24           **MR. GORDON CAMERON:** Okay. And can you explain  
25 -- by the way, if I understand it correctly, and just look down  
26 a bit, this is a text exchange you're having with your -- with  
27 Alex Steinhouse, who I believe is your Chief of Staff?

28           **MINISTER DAVID LAMETTI:** I believe so, yes.

1                   **MR. GORDON CAMERON:** Okay.

2                   **MINISTER DAVID LAMETTI:** And I believe it's a  
3 text exchange with him. I know he's my Chief of Staff.

4                   **MR. GORDON CAMERON:** And as near as I can follow  
5 it, you're in grey and he's in blue ---

6                   **MINISTER DAVID LAMETTI:** Correct.

7                   **MR. GORDON CAMERON:** --- for this page, and that  
8 gets tricky because it switches around as we go between --  
9 depending on whose phone the message is from.

10                   Anyway, if we look at the first paragraph there:

11                                    "Do we have a contingency for these  
12                                   trucks to be removed tomorrow or  
13                                   Tuesday? (If they were black of  
14                                   indigenous...)"

15                   And I was wondering if you can help explain what  
16 point you were making to your Chief of Staff when you added the  
17 parenthetical comment to the initial statement.

18                   **MINISTER DAVID LAMETTI:** Certainly. There is  
19 evidence of systemic racism in our justice system. It's in my  
20 mandate letter. I do my best to try to root it out with various  
21 policies. And certainly there was legitimate criticism being  
22 levelled at police authorities with respect to that weekend,  
23 that if it had been a Black Lives Matter protest or an  
24 Indigenous protest that perhaps the police reaction might have  
25 been different.

26                   This is a conversation between Mr. Steinhouse and  
27 myself, it's not meant to be public; obviously, it's in a text.  
28 But I am sensitive to claims of systemic racism in our policing.

1 I'm sensitive to systemic racism in our criminal justice system,  
2 and I'm doing my best in the areas of my purview to identify and  
3 to weed it out.

4 **MR. GORDON CAMERON:** And so if I understand that  
5 answer, the point you're making in your parenthetical comment to  
6 your Chief of Staff is we must approach this situation mindful  
7 of the potential for systemic racism and careful that we don't  
8 ---

9 **MINISTER DAVID LAMETTI:** I would interpret it  
10 more as, are the police moving in the same way that they would  
11 be, were the protesters Indigenous or Black?

12 **MR. GORDON CAMERON:** That's well put.

13 So I'll move on to the next paragraph:

14 "What normative authority do we have or  
15 is some order needed? EA?"

16 And there's been an evolution in the language,  
17 and in particular the use of the word, "Normative". So could  
18 you just help us with what you meant by its use there?

19 **MINISTER DAVID LAMETTI:** What kinds of laws,  
20 bylaws exist at the municipal level, at the provincial level, or  
21 at the federal level with respect to this kind of occupation,  
22 which already -- it was clear that when they didn't leave it  
23 ceased being a protest and began being an occupation. What kind  
24 of authorities existed for the -- for the regulation or the ---

25 **MR. GORDON CAMERON:** Okay, so we can ---

26 **MINISTER DAVID LAMETTI:** --- safe removal of ---

27 **MR. GORDON CAMERON:** If we can just put, "What  
28 existing authority" in there if "Normative" is giving us pause.

1           **MINISTER DAVID LAMETTI:** I meant legal rules by  
2 the word "Normative". I'm an old academic as ---

3           **MR. GORDON CAMERON:** So you're in the old school  
4 with me, okay.

5           But the end of the sentence is interesting, "EA,  
6 I'm sure is a reference to the *Emergencies Act*.

7           **MINISTER DAVID LAMETTI:** Absolutely.

8           **MR. GORDON CAMERON:** And this is the -- depending  
9 on how you count it, it's the second day of the first weekend,  
10 maybe the third day of the protest if we count Friday as a day.  
11 So the second or third day of the protest, and your mind goes  
12 straight to the *Emergencies Act* in the first text we get  
13 produced in these proceedings. Can you explain why that came so  
14 quickly to your mind?

15           **MINISTER DAVID LAMETTI:** I was being prudent.

16           **MR. GORDON CAMERON:** Hmm?

17           **MINISTER DAVID LAMETTI:** I was being prudent.

18           **MR. GORDON CAMERON:** Thank you.

19           **MINISTER DAVID LAMETTI:** I had been through the  
20 pandemic with my Cabinet colleagues. It is no secret that we  
21 did discuss the *Emergencies Act* in the context of the pandemic,  
22 and I became quite familiar with the requirements for  
23 consultation and for the standards that would have to be met for  
24 different kinds of emergencies.

25           And so I knew that we had to begin thinking about  
26 it, whether or not it was ever going to be an option. As was  
27 the case with the pandemic, we never actually used it.

28           So it's something that I prudently raised; this

1 is -- there's a question mark there, as we see. Something I'm  
2 prudently raising with my Chief of Staff to begin thinking  
3 about, to get the department to begin thinking about, in case we  
4 need it. Because the worst scenario would be something  
5 explodes, and we are not ready to use it because we haven't done  
6 the kinds of consultations necessary or asked the appropriate  
7 questions to the appropriate people in order to get it done.

8                   So this is me being prudent, and it's based on my  
9 experience and the work that I put in during the pandemic, again  
10 with the *Emergencies Act* and the possibility of using it in that  
11 context.

12                   **MR. GORDON CAMERON:** That's helpful, thank you.

13                   And we'll go to another one of these texts next.

14                   This is, Mr. Clerk, the one with the same  
15 preceding numbers but the last four digits 7850.

16                   Now, again, trying to follow the bubbles here.  
17 The blue is now you, or Mr. Steinhouse?

18                   **MINISTER DAVID LAMETTI:** I don't believe it's me  
19 because I'm generally required to go to what's called a "min dm"  
20 which is a ministerial, deputy ministerial meeting. So if  
21 anyone's missing the meeting, it's not me.

22                   **MR. GORDON CAMERON:** Right. And I think actually  
23 the first bubble there doesn't sound like you talking, it sounds  
24 like someone talking to you about what your Deputy has told you,  
25 that you're being invited to a meeting about the convoy. And if  
26 it matters, we can look at the PCO's chronology to confirm that  
27 there was, indeed, a briefing on the convoy on that date.

28                   But the part that interests me here is your Chief

1 of Staff in the second bubble says -- and here he's talking --  
2 before you were talking about your initial thoughts on first  
3 encountering the convoy. We're now at Wednesday, February 2<sup>nd</sup>,  
4 so fourth, fifth day, perhaps, in.

5 **MS. ANDREA GONSALVES:** I apologize for  
6 interrupting, ---

7 **MR. GORDON CAMERON:** Go ahead.

8 **MS. ANDREA GONSALVES:** --- but it's February the  
9 4<sup>th</sup> where those bubbles appear, not Wednesday the 2<sup>nd</sup>.

10 **MR. GORDON CAMERON:** Sorry. Sorry; thank you.  
11 Yes, Friday, February 4<sup>th</sup>.

12 And the comments your Chief of Staff makes is:

13 "I believe the angle is incoming the  
14 emergencies act."

15 Now, we'll have to -- can you help us with  
16 "Incoming" or does it just mean what we would infer it, as a  
17 sort of slang way of saying the introduction of or the ---

18 **MINISTER DAVID LAMETTI:** I would say the  
19 preparatory work for, ---

20 **MR. GORDON CAMERON:** Right.

21 **MINISTER DAVID LAMETTI:** --- is what I understood  
22 by that. and certainly in the context of the previous bubble,  
23 but also in the context of other discussions. It was about  
24 preparing for the possibility. Not preparing for the -- not  
25 preparing in any way for the introduction of the Act, but rather  
26 doing our due diligence as lawyers within the Justice Department  
27 and in our Ministry in order to make sure that if we were to use  
28 it, we would be prepared.



1                   **MR. GORDON CAMERON:** Understood, and that's  
2 helpful. Thank you.

3                   And do you recollect the meeting and what was  
4 discussed at it?

5                   **MINISTER DAVID LAMETTI:** You're going to have to  
6 help me with the dates. It could be referring -- it could be  
7 referring to the SSE Committee. I believe at that point, that's  
8 what it would be. It could have been -- it could have been a  
9 Cabinet meeting; I'm not certain. You'll have to help me with  
10 the dates.

11                   **MR. GORDON CAMERON:** Well, if -- it sounds a bit  
12 early for an SS meeting to me, but I guess the point is that, as  
13 near as you can recollect, it is exactly as you described it; a  
14 meeting to get ready.

15                   **MINISTER DAVID LAMETTI:** Yeah. There's no -- I  
16 don't believe there's an extraordinary meeting yet, and so this  
17 is really about being ready for all eventualities.

18                   **MR. GORDON CAMERON:** Okay. The next text I'd  
19 like to take you to is really leading up to a discussion about  
20 how you and Minister of Public Safety Marco Mendicino talked  
21 about the situation that Ottawa was facing, and to some extent,  
22 the country was facing, even at this early date.

23                   And so, Mr. Clerk, if you could turn up the  
24 document that is the same prefix, but with the number 7852?

25                   And if I'm reading the dates correctly, we are  
26 still on Friday, February 4<sup>th</sup>, as in the last exchange, but that  
27 was with your Chief of Staff, I think.

28                   This, if I'm understanding correctly, and you can

1 confirm this for me, please, is an exchange between you and  
2 Minister Mendicino?

3 **MINISTER DAVID LAMETTI:** I certainly believe it  
4 is. I certainly recognize my words there. But I -- and I  
5 believe the other would be Minister Mendicino.

6 **MR. GORDON CAMERON:** And ---

7 **MINISTER DAVID LAMETTI:** But I'm not 100 percent  
8 certain.

9 **MR. GORDON CAMERON:** And which words do you  
10 claim?

11 **MINISTER DAVID LAMETTI:** I claim the green.

12 **MR. GORDON CAMERON:** Okay. So Minister Mendicino  
13 says to you:

14 "[The] [p]olice have all the legal  
15 authority to they need to enforce the law  
16 They just need to exercise it, and do  
17 their job"

18 You might -- if you've been following the  
19 evidence of Minister Blair and others who've made similar  
20 comments?

21 **MINISTER DAVID LAMETTI:** Loosely. We do have  
22 other work to do while we're here.

23 **MR. GORDON CAMERON:** Understood. And then you  
24 make a comment, again, perhaps not unique to yourself, but  
25 expressed very, very frankly here:

26 "I was stunned by the lack of a  
27 multilayered plan"

28 Now, we've heard other expressions like

1 "contingency plan", but not multilayered. Can you -- is that --  
2 are they the same thing? Is that what you mean here?

3 **MINISTER DAVID LAMETTI:** I don't believe so. I  
4 believe it's a structured plan in stages to get protestors to  
5 leave peacefully, get occupiers to leave peacefully, and if not  
6 peacefully, begin to move them out in an orderly fashion, in a  
7 safe fashion. So there are different layers to that.

8 **MR. GORDON CAMERON:** I'll just interrupt you to  
9 see if I can anticipate what you're going to say. you're  
10 actually thinking of a plan to deal with the protest, but by  
11 now, by February 4<sup>th</sup>, you're stunned by the absence of a plan?

12 **MINISTER DAVID LAMETTI:** Right. And this is  
13 referring to local police, the police of jurisdiction.

14 **MR. GORDON CAMERON:** The Ottawa Police not having  
15 a plan ---

16 **MINISTER DAVID LAMETTI:** That's correct.

17 **MR. GORDON CAMERON:** --- by that Friday? And you  
18 make again, in stark terms, the observation:

19 "Sloly is incompetent"

20 And the words speak for themselves, but was that  
21 an observation you were making specific to the situation you  
22 were looking at, or was that an opinion that you had developed  
23 from some other ---

24 **MINISTER DAVID LAMETTI:** That's -- I'm a part  
25 time resident of Ottawa. I was a part time resident of Ottawa  
26 during this. I was forced out of my living arrangements in  
27 Ottawa because I felt that the place I was living was living was  
28 unsafe, given the protests. So I spent part of my time

1 elsewhere in Ottawa and I spent part of my time in Montreal in  
2 order to escape Ottawa.

3           So I was frustrated. I have to admit. This is a  
4 complete product of the heat of the moment. It is frank. I  
5 think I would soften it now with the benefit of hindsight, with  
6 respect to the former Ottawa Chief of Police. But it reflects,  
7 I think, the fact that my life had been altered by this, my  
8 staff was being harassed when they went into work, by convoy  
9 members who took issue with them wearing masks, particularly my  
10 female staff members on my Ministerial team. And I was quite  
11 frustrated. I will admit.

12           **MR. GORDON CAMERON:** Thank you for that. Now,  
13 for a second, I'd like us to revert to the comments we talked  
14 about at the beginning, where your role was described as, and  
15 you acknowledged as being the Chief Law Officer of the Crown in  
16 your capacity as Attorney General, and effectively Cabinet's  
17 lawyer, and your capacity as Minister of Justice. And is it  
18 fair to say that you would expect your Cabinet colleagues to  
19 place considerable weight on your views of the legal issues that  
20 were facing the government as it encountered the convoy, the  
21 protests, and indeed the policing situation that you just opined  
22 on in your note about Chief Sloly?

23           **MINISTER DAVID LAMETTI:** In these kinds of  
24 interactions, I'm interacting, first of all, with a colleague  
25 and a friend. So there will be banter. There will be  
26 occasional attempts at bad humour, on both of our parts, and  
27 with others as well. And there will be occasional movements of  
28 frustration, which you've seen here.

1 I'm speaking here more as a Cabinet colleague, as  
2 a Minister. I'm not speaking as Attorney General. I will guard  
3 my comments when I'm giving legal advice to my Cabinet  
4 colleagues, and I do that often.

5 In general, I think it's fair to say that when  
6 I'm interacting on text messaging with my colleagues, I'm acting  
7 as one of their contemporaries as a Minister..

8 **MR. GORDON CAMERON:** Okay. Well let's see how  
9 that plays out with respect to the particular point that has  
10 come under discussion by a number of senior officials, a number  
11 of police officials, indeed the two witnesses at least who have  
12 preceded you, Minister Mendicino and Minister Blair, and that is  
13 the line between I think it was perhaps first Commissioner Lucki  
14 who called it the line between church and state but it's  
15 generally understood as the appropriate role for governance or  
16 oversight of police forces and that it not tread too far into  
17 the realm of directing the police and their activities.

18 So that is -- I take it that is a topic on which  
19 you, as the Attorney General of the country, would have and  
20 would be expected by your colleagues to have fairly well-  
21 developed views. Is that fair?

22 **MINISTER DAVID LAMETTI:** Absolutely. And you'll  
23 see that in these exchanges, I'm in no way saying we need to  
24 direct the police. The Ipperwash Inquiry was clear in that  
25 regard, although we identify, as a government, according to that  
26 Inquiry, priorities for us. But we can, in no way, make  
27 operational decisions for police of jurisdiction.

28 **MR. GORDON CAMERON:** Let's look at these texts,

1 then we'll come back to exactly that question of where you were  
2 relative to the line.

3 Mr. Clerk, could we call up 7851? Again, same  
4 prefix, but with the last four letters 7851?

5 The date, if I'm following this  
6 correctly, is February 2<sup>nd</sup>. So the Wednesday of the first week  
7 of the convoy's presence in Ottawa.

8 And again, if I'm following the bubbles  
9 correctly, you are having a text conversation with Minister  
10 Mendicino and you are in blue and he is in grey? Have I got  
11 that right?

12 **MINISTER DAVID LAMETTI:** That's correct.

13 **MR. GORDON CAMERON:** And the comment you make at  
14 the top of the first bubble, and again, though we'll take your  
15 caveat that you are texting here and not submitting a memo to  
16 Minister Mendicino, you're sending him a text, but time is  
17 short, events are unfolding quickly, and you are entering into,  
18 if not already a crisis. And your first comment is you -- you,  
19 Marco:

20 "...need to get the police to move."

21 Right? And then if we look at another text,  
22 again, I apologize for the way these -- these are just not filed  
23 in order, so I have to go through various documents.

24 The next one I talk to you about is -- Mr. Clerk,  
25 it is again same prefix, 7854.

26 So we're going to go from:

27 "You need to get the police to move."

28 And again, this is the Attorney General of Canada

1 talking to the Minister of Public Safety of Canada.

2 Now, at this time, I think you're aware, but  
3 correct me if I'm wrong, Minister Lametti, that Minister  
4 Mendicino has become, in effect, the interface between the  
5 Federal Government, and the City of Ottawa, the Mayor, and the  
6 OPS; correct?

7 **MINISTER DAVID LAMETTI:** I believe so. And I  
8 would add I spoke to the Province of Ontario as well.

9 **MR. GORDON CAMERON:** Yes. But here you're  
10 speaking to the Minister of Public Safety, whom you know is the  
11 Government's interface with the Ottawa force and city, and you  
12 say to him ---

13 **MINISTER DAVID LAMETTI:** Actually, that I -- I'm  
14 not going to accept that. I know that he is interacting with  
15 Minister Blair, and I presume at this stage that Brenda Lucki is  
16 having a role in these interactions. So I'm in no way certain  
17 that he is directly interacting with the OPS. I know that he's  
18 interacting with the Ontario Government, I know that he's  
19 interacting with Minister Blair and Minister Lucki [sic], but  
20 it's not a fair presumption to say that I know he's got direct -  
21 --

22 **MR. GORDON CAMERON:** You might not have known it.

23 **MINISTER DAVID LAMETTI:** Yeah.

24 **MR. GORDON CAMERON:** If I remind you that he  
25 actually had the discussion with the Mayor in respect to the  
26 Mayor of Ottawa in respect of additional resources being  
27 provided by the Federal Government and confirmed to Cabinet that  
28 he had authorised that ---

1                   **MINISTER DAVID LAMETTI:** With political actors,  
2 yes.

3                   **MR. GORDON CAMERON:** Yes.

4                   **MINISTER DAVID LAMETTI:** I knew he was having  
5 those relationships. But you had mentioned the OPS ---

6                   **MR. GORDON CAMERON:** Thank you.

7                   **MINISTER DAVID LAMETTI:** --- and that's quite  
8 different.

9                   **MR. GORDON CAMERON:** Thank you. And that's a  
10 fair qualification.

11                   But with that in mind, again, the Attorney  
12 General speaking to the Minister of Public Safety, who is the  
13 liaison to the Mayor of Ottawa, and this is what you say at the  
14 bottom of this text.

15                   If you can just scroll down a bit more. Thank  
16 you.

17                   "Spoke to Doug Downey", and here, again, you are  
18 speaking these words to Minister Mendicino, "Need Sloly to be  
19 quick, quick, quick."

20                   Now, I guess the question I would pose is this:  
21 Do you think that the question of whether Chief Sloly should be  
22 dealing with the Ottawa protesters "quick, quick, quick" or wait  
23 until he believes he has the resources to perform the operation  
24 safely, do you think the decision between those two options is  
25 an Operational decision for Chief Sloly or a decision that  
26 should be influenced by you and Minister Mendicino?

27                   **MINISTER DAVID LAMETTI:** It's definitely an  
28 Operational decision. Remember, I'm interacting here as a



1 colleague and Minister of Justice around the Cabinet table, I'm  
2 not interacting as Attorney General. Minister Mendicino and I  
3 have a close relationship, there's some banter here, there's  
4 some humour here. That's a reference to my favourite Christmas  
5 movie, the "quick, quick, quick" part, and so I think we could  
6 take the temperature down here.

7 We, as the Government, according to the Ipperwash  
8 Report, can identify our priorities to police services, that's  
9 the role that a Minister of Public Safety has, in this case,  
10 possibly also the Minister of Emergency Preparedness, but we  
11 can't make Operational decisions, we know that. And remember,  
12 I'm not the one interacting with the police, and I'm assuming  
13 that Minister Mendicino is working with Cabinet colleagues on a  
14 level of principle.

15 **MR. GORDON CAMERON:** And happily for the point  
16 that you've just made, Minister Lametti, you do get sort of air  
17 time for that point in the texts that were filed.

18 And so I'll ask the Clerk to call up, same  
19 prefix, 7853.

20 And I believe this is an extract of a text  
21 between you and Doug Downey. Is that right?

22 **MINISTER DAVID LAMETTI:** That's correct.

23 **MR. GORDON CAMERON:** Can you remind us of who  
24 Doug Downey is?

25 **MINISTER DAVID LAMETTI:** He's the Attorney  
26 General for Ontario.

27 **MR. GORDON CAMERON:** Okay. And the words that  
28 are on the screen read for themselves. It's the second bubble

1 that I am interested in, and I think at the end of the second  
2 bubble you make roughly the point that you were just making to  
3 me unprompted. You say:

4 "We can't make operational decisions,  
5 but sol Gen can make government  
6 priorities clear in these situations,  
7 as per Ipperwash Report."

8 And so I'm going to -- I think you've made the  
9 point already, and I just wanted to, in fairness to you, point  
10 out that you had indeed been adopting that position at the time  
11 in your own words, although maybe, even though this is a text  
12 will elevate them to the level of seriousness, because you've  
13 actually incorporated reference to a Commission of Inquiry  
14 report. And ---

15 **MINISTER DAVID LAMETTI:** This is also a different  
16 conversation with a counterpart in Ontario ---

17 **MR. GORDON CAMERON:** Right.

18 **MINISTER DAVID LAMETTI:** --- with whom I have a  
19 very productive working relationship, but this is not the banter  
20 that one has between friends with the same sense of humour.

21 **MR. GORDON CAMERON:** Understood. And on that  
22 point, you've -- we've heard from a couple of your colleagues  
23 and a number of senior officials, including police officials at  
24 all levels of government, police at the RCMP, OPP and municipal  
25 levels, about this question of the topics discussed in the  
26 Ipperwash Report in Justice Linden's report and in the Morden  
27 Report with respect to the G20 protests in Toronto, and your  
28 colleagues, who have spoken before you, have expressed an

1 opinion on this very point you make here in your text:

2 "We can't make operational decisions,  
3 but sol Gen can make government  
4 priorities clear in these situations,  
5 as per Ipperwash Report."

6 Now, I think the Commissioner has set the  
7 precedent here that I have to give spoiler alerts in fairness to  
8 you, but this question was put by me by Minister Blair about  
9 whether it would be appropriate in the case of competing  
10 problems in different parts of the province, say, if it would be  
11 appropriate for Government or the Solicitor General in Ontario  
12 to advise the Commissioner of the OPP, if we take that  
13 jurisdiction, though, presumably, it could also apply in other  
14 contexts, to advise the Commissioner that among the two public  
15 order situations facing the province, the government of the day  
16 or the Solicitor General, in particular, considers City X to be  
17 the priority situation. The example might be as between Ottawa  
18 and Windsor. Windsor is causing huge impacts on the national  
19 economy, and so the Province considers that the priority  
20 objective for a public order getting public order back under  
21 control.

22 Leaving it to the police to decide if they want  
23 to do anything about that input, and if so, how they would do  
24 about it. They might decide that they can't address that  
25 priority question, but the question is, is it fair that that  
26 priority be, perhaps even appropriate and necessary that that  
27 priority be expressed to the police.

28 And Minister Blair seemed to think not. That

1 that would be going too far even to express a priority. I think  
2 we're seeing from your text here that you're going to differ,  
3 but again, spoiler alert, Minister Mendicino also had a view on  
4 it, though I think his view covered the spectrum from all the  
5 way at no to all the way at yes, depending on which part of his  
6 answer you focussed on, so you don't have to worry about  
7 disagreeing with him.

8           So what would you say about that scenario, where  
9 there are competing priorities, and put it at the federal level  
10 if that's something that you can identify with more  
11 appropriately, where the Federal Government is facing public  
12 order issues, perhaps not public order, perhaps environmental  
13 issues, that have caused the need for policing resources, but in  
14 one way or another a view is expressed or could be expressed by  
15 the Government about its priorities, do you think that would be  
16 appropriate to communicate that to the police of jurisdiction?

17           **MINISTER DAVID LAMETTI:** In all cases. I mean, I  
18 think I'm probably, in most contexts, probably closer to  
19 Minister Blair in the answer that I'm going to give, although  
20 there will be some contexts where I might move towards a more  
21 flexible answer. In all cases, the Operational decisions will  
22 be made by the police of jurisdiction. In all cases.

23           What I was referring to in the Ipperwash Report,  
24 and what the Ipperwash Report was referring to is legitimate for  
25 Government to say "We have an important public security  
26 situation here, we need to have something done about it." And  
27 then it ends there; right? And then it's up to the police of  
28 jurisdiction to take care of it.

1           The scenario that you have given me is forcing me  
2 to choose or to articulate my priority as, in this case, a  
3 member of the Federal Government, to say "We need something done  
4 in X place or Y place", and I think the inference in your  
5 question is that there is a -- there may be a different priority  
6 elsewhere.

7           **MR. GORDON CAMERON:** That's the premise of the  
8 question ---

9           **MINISTER DAVID LAMETTI:** Yeah.

10          **MR. GORDON CAMERON:** --- not just an inference.

11          **MINISTER DAVID LAMETTI:** It's always going to be,  
12 first of all, the Solicitor General of Ontario in the  
13 jurisdiction that we're talking about right now who is going to  
14 articulate that priority. And then, again, the operational  
15 decisions were going to be made by the police. So we're an  
16 input into that decision-making process in the province. So I'm  
17 probably closer to Minister Blair on that, although there will  
18 be, I believe, situations that -- where we may have to say as a  
19 federal government, "Look, something is quite urgently happening  
20 here. We urge you to do something." But in all cases, it  
21 depends on the police of jurisdiction to make operational  
22 decisions.

23          **MR. GORDON CAMERON:** Again, to be fair, there  
24 were parts of Mr. Blair's answer where one could draw the  
25 inference that the police of jurisdiction and the police who  
26 might be able to help from out of jurisdiction would have  
27 welcomed some input on this point. For example, you might  
28 imagine the OPP saying, "We've got lots of Public Order Units.

1 We can deploy them where the government considers it most  
2 appropriate. Operationally, they're roughly equivalent to us.  
3 What is your priority? Help us decide." If you got that type  
4 of request, it sounds to me like you'd feel comfortable  
5 answering the question.

6 **MINISTER DAVID LAMETTI:** I guess what I would say  
7 is I would commend everyone to read the Ipperwash report, quite  
8 frankly, because it's nuanced and tries to deal with the variety  
9 of these kinds of situations.

10 **MR. GORDON CAMERON:** Well, we're hoping that the  
11 Commissioner might be able to add something to the Ipperwash  
12 report by his observations on the events here, so we'd really  
13 benefit from more than just ---

14 **MINISTER DAVID LAMETTI:** Fair point.

15 **MR. GORDON CAMERON:** --- punch to Ipperwash, if  
16 you could give some ---

17 **MINISTER DAVID LAMETTI:** Well, it's -- I'll be  
18 honest with you, it's hard for me to answer hypothetical  
19 questions. I am suggesting to my colleagues that we make our  
20 priorities known to the Solicitor General of Ontario in a  
21 situation where a number of people felt Ottawa was being  
22 neglected with respect to the occupation that was happening on  
23 Parliament Hill. I'd rather, to be honest, as a prudent  
24 Attorney General, I would rather avoid giving public legal  
25 opinions on hypothetical situations. But the nuance is there in  
26 the report. It isn't, I believe, a black or white answer, other  
27 than to say that operational decisions will always be made by  
28 the police of jurisdiction. The identification of priorities is

1 a much more complex matter.

2 **MR. GORDON CAMERON:** Okay. Thank you for that.  
3 I'm going to take you to another series of texts, and this does  
4 get messy, so I'm not going to bother with a whole bunch of  
5 document numbers. I'll just -- I'm just going to read these in,  
6 Mr. Commissioner, and if parties want to try to follow, just  
7 because I figured out the sequence of them and it helps follow  
8 the -- there's a series of texts between you, Minister Lametti,  
9 and your Chief of Staff, and you have to jump back and forth  
10 between his set of texts and yours to get the sequence right.  
11 So I won't ask you, Mr. Clerk, to call these all up. I'm just  
12 going to read them in and then I'll ask you if you can remember  
13 what I'm talking about, Minister Lametti.

14 They are 7861, and 7864, and 7863 and 7860, and  
15 that takes us through a series of texts between you and your  
16 Chief of Staff on ---

17 **MINISTER DAVID LAMETTI:** Counsel, do you mind if  
18 I see them? This is going to be ---

19 **MR. GORDON CAMERON:** Not at all. Let's ---

20 **MINISTER DAVID LAMETTI:** --- very difficult for  
21 me to ---

22 **MR. GORDON CAMERON:** Okay. That's a fair point.  
23 And ---

24 **MINISTER DAVID LAMETTI:** Okay.

25 **MR. GORDON CAMERON:** --- certainly the first one,  
26 and because I think that will twig what we're talking about  
27 here.

28 Mr. Clerk, could you call up 7861?

1                   Now it's the morning of Sunday the 13<sup>th</sup>, so this  
2 is leading up to the IRG meeting at which serious consideration  
3 is going to be given and ultimately conclude with the decision  
4 being given ad referendum to the Prime Minister. And you -- am  
5 I correct that you're in the grey there? Have I got the ---

6                   **MINISTER DAVID LAMETTI:** Yes, it is.

7                   **MR. GORDON CAMERON:** Right. So you observed that  
8 we, by which I assume you mean the government,

9                                   "...are on an inexorable march to the  
10                                   EA. Not enough happening in Windsor."

11                   And then I will, just again, to help you because  
12 I can appreciate that you want to be accurate on this, just I'll  
13 mention that this is a series of texts in which you are anxious  
14 to know the status of two things, whether the Windsor Bridge,  
15 the Ambassador Bridge is getting cleared and whether the plan,  
16 the Ottawa Police plan to clear the city of the protesters is  
17 coming to maturity. And you appear to want in this morning of  
18 the 13<sup>th</sup> the most up-to-date information you can get on those two  
19 points.

20                   So, Mr. Clerk, if you could ---

21                   **MINISTER DAVID LAMETTI:** I can see the first  
22 point. I'll wait and ---

23                   **MR. GORDON CAMERON:** Sure.

24                   **MINISTER DAVID LAMETTI:** --- on the second but --

25 -

26                   **MR. GORDON CAMERON:** Let's see ---

27                   **MINISTER DAVID LAMETTI:** --- certainly ---

28                   **MR. GORDON CAMERON:** --- let's see -- we'll skip



1 ahead to 7863, Mr. Clerk, if you can bring that up, because  
2 there you state it quite clearly. And then just scroll down to  
3 the "Thanks Alex". Take a second to read that, Minister.

4 **MINISTER DAVID LAMETTI:** Okay.

5 **MR. GORDON CAMERON:** And do you take -- do you  
6 understand now what I was talking about that am I correct to say  
7 you are anxious to get as -- the most up-to-date and clearest  
8 information you can on those two points?

9 **MINISTER DAVID LAMETTI:** That's right, and I'm  
10 giving my Chief of Staff a heads up that this is what I will be  
11 asking at a meeting, a Cabinet meeting later. So I'm asking him  
12 to send out appropriate feelers to people who can answer this  
13 question to -- so that we can have the most up-to-date  
14 information at a meeting that I'm going to participate in.

15 **MR. GORDON CAMERON:** Fair enough. And I take it  
16 that's because the status of these two points will be at least  
17 among the most important points you will want to brief the IRG  
18 on, or at least be competent to talk to the IRG about when you  
19 have your meeting?

20 **MINISTER DAVID LAMETTI:** It's more that I want  
21 the people at the IRG to be able to answer those questions.

22 **MR. GORDON CAMERON:** I see.

23 **MINISTER DAVID LAMETTI:** It bears repeating that  
24 this is a rapidly evolving situation with imperfect information.  
25 It's an unprecedented situation, and we are all doing our best  
26 to try to get the information that we need to make appropriate  
27 decisions under the circumstances. And I think this is what I'm  
28 doing. I work closely with my Chief of Staff in that regard and

1 other members of my team and other members around the Cabinet  
2 table in order to do that.

3 **MR. GORDON CAMERON:** Thank you. In the interest  
4 of time, I'm going to move on to another topic, and thank you  
5 very much for helping us understand those texts because they --  
6 as you can appreciate, when you see just the little snippets  
7 like that, it's hard to understand the context and you've been  
8 very helpful in giving that to us.

9 **COMMISSIONER ROULEAU:** Is this a good time to  
10 take the morning break or ---

11 **MR. GORDON CAMERON:** Yes, indeed, it would be  
12 perfect, Mr. Commissioner.

13 **COMMISSIONER ROULEAU:** Okay. So we'll take 15  
14 minutes.

15 **MR. GORDON CAMERON:** Yes.

16 **COMMISSIONER ROULEAU:** Thank you.

17 **THE REGISTRAR:** The Commission is in recess for  
18 15 minutes. La commission est levée pour 15 minutes.

19 --- Upon recessing at 11:36 a.m.

20 --- Upon resuming at 11:50 a.m.

21 **THE REGISTRAR:** Order. À l'ordre. The  
22 Commission is reconvened. La commission reprend.

23 **--- MINISTER DAVID LAMETTI, Resumed:**

24 **--- EXAMINATION-IN-CHIEF BY MR. GORDON CAMERON(cont'd):**

25 **MR. GORDON CAMERON:** Thank you, Mr. Commissioner.  
26 I'll resume the questioning.

27 Just before I move to my new topic, I think it  
28 would be a good time just to put on the record, and by all

1 means, Minister Lametti, I'm going to put the Ipperwash report  
2 on the record. If it occurs to you to make any reference to it,  
3 please feel free. But that would be COM C-O-M 00000828. I  
4 don't need it called up, Mr. Clerk, unless the Minister wants to  
5 make reference to it, but we'll just put it on the record so  
6 it's there in case any other -- so that it's an exhibit on this  
7 examination in case any other party wants to have access to it.

8 Now, Minister, history that you and I lived  
9 through in our early law careers, and that was the invention or  
10 the development of the *CSIS Act* out of the MacDonald Commission  
11 report in the early '80s. If you weren't familiar with that  
12 before you took your current role, you're probably pretty  
13 familiar with it by now; correct?

14 **MINISTER DAVID LAMETTI:** That's true.

15 **MR. GORDON CAMERON:** And you're aware that the  
16 *CSIS Act* was borne out of a very long royal commission of  
17 inquiry and longer, I think, in its product than even this  
18 Commission will be able to produce in terms of the volume and  
19 scope of its recommendations, one of which was the invention of  
20 Canada's first secret intelligence agency, first national  
21 security agency as an independent entity. You remember that and  
22 the evolution through the McDonald Commission Report, then a  
23 separate Senate Inquiry into even further restrictions on the  
24 scope of *CSIS* powers and the ultimate emergence in 1984 of the  
25 *CSIS Act*?

26 **MINISTER DAVID LAMETTI:** To be honest, it's  
27 vague, but you are reminding me.

28 **MR. GORDON CAMERON:** Thank you. And I think

1 you'll either remember at the time or you'll have learned since  
2 that the reason the *CSIS Act* was so highly contentious -- and  
3 indeed, I'll just make a parenthetical comment here. We heard a  
4 comment by the CCLA, the Canadian Civil Liberties Association,  
5 that they were instrumental in the evolution of the *Emergencies*  
6 *Act*, and as a matter of fact, they were probably as or more  
7 active in the development of the *CSIS Act*, and Alan Borovoy was  
8 lead counsel for the input to the McDonald Commission. And the  
9 reason that he was there, and the reason people were so  
10 concerned was that it is the development of a secret  
11 intelligence agency in a democracy is something that Parliament  
12 wants to do very carefully; right?

13 **MINISTER DAVID LAMETTI:** I think that's fair. I  
14 remember Mr. Borovoy's work. Although, I must admit, I was  
15 following the *Charter* and the creation of the *Charter* more  
16 closely than I was following this.

17 **MR. GORDON CAMERON:** Fair enough. And the points  
18 of contention, even if you weren't following it at the time, you  
19 can see from the terms of the Act, now one of the major points  
20 of contention was to make sure that the scope of investigation  
21 that CSIS was permitted to engage in would be very tightly  
22 defined; right?

23 **MINISTER DAVID LAMETTI:** I can only base -- I'll  
24 take your word. I can only base what I see in the Act and the  
25 rules of thumb that we see from people from CSIS who have  
26 testified. So I think that's right.

27 **MR. GORDON CAMERON:** Right. Now then along came,  
28 a few years later, Parliament and its interest in another new

1 development, and that was the creation of a new *Emergencies Act*  
2 to replace the *War Measures Act*. And you'll agree with me that  
3 again Parliament was faced with the challenge that it was about  
4 to create, in this case a power, rather than an institution,  
5 that had to be treated very carefully in a constitutional  
6 democracy; right? That is, the power that the *Emergencies Act*  
7 would give to Cabinet to create extraordinary authorities in  
8 advance of their approval by Parliament; right?

9 **MINISTER DAVID LAMETTI:** I think that's right.  
10 The potential power was great, and therefore seemed to be very  
11 serious.

12 **MR. GORDON CAMERON:** And you'll agree with me  
13 that Parliament could have gone pretty much anywhere it wanted  
14 to find the threshold that it thought appropriate before Cabinet  
15 was able to exercise that power?

16 **MINISTER DAVID LAMETTI:** Certainly.

17 **MR. GORDON CAMERON:** And what it went to, we now  
18 know, was the *CSIS Act*, where they had just had a similar  
19 situation of wanting to make sure that extraordinary powers were  
20 appropriately controlled; right?

21 **MINISTER DAVID LAMETTI:** I think that's fair.

22 **MR. GORDON CAMERON:** Okay. And the way they did  
23 that in the *Emergencies Act* was to make part of the threshold  
24 for the declaration of a public order emergency the existence of  
25 a threat to the security of Canada, as that term is defined in  
26 the *CSIS Act*; right?

27 **MINISTER DAVID LAMETTI:** That's correct.

28 **MR. GORDON CAMERON:** And indeed, the thing you've

1 -- I don't know how much of your -- we've all become -- to the  
2 extent we weren't experts on the *Emergencies Act* before, we've  
3 all had a very fast education of it in this hearing process, and  
4 probably you know more about it now than you did a couple of  
5 years ago. But one thing we've learned is that when Parliament  
6 enacted the *Emergencies Act*, they didn't simply repeat the  
7 definition. They didn't extract it and reprint it in the  
8 *Emergencies Act*. They actually stipulated that in the  
9 *Emergencies Act*, the expression "threat to the security of  
10 Canada", has the meaning assigned to it by the *CSIS Act*;  
11 correct?

12 **MINISTER DAVID LAMETTI:** That's correct. It's an  
13 incorporation by reference.

14 **MR. GORDON CAMERON:** And we've tried to find  
15 compact ways, just for the purposes of these examinations, to  
16 describe the relevant part for a public order disturbance as  
17 it's typically likely to arise in the case of a declaration of a  
18 public order emergency, a compact way of describing the  
19 subsection (c) of the definition of threat to the security of  
20 Canada, sometimes called the terrorism section. It's the  
21 section that you're probably now as familiar as the rest of us  
22 with that talks about activities directed towards, in support  
23 of, a threat of et cetera, et cetera, serious violence, and I'm  
24 going to paraphrase here, with an ideological, religious, et  
25 cetera motivation.

26 So they, in effect, said that in addition to  
27 whatever, I'll call them downstream requirements one might have  
28 to also find, cabinet might also have to find, the starting

1 point would be a threat to the security of Canada as that  
2 expression is -- with the meaning assigned to that expression in  
3 the *CSIS Act*; correct?

4 **MINISTER DAVID LAMETTI:** I think that's right,  
5 but it is only the starting point.

6 **MR. GORDON CAMERON:** Right. And the starting  
7 point, assuming you get there, is you add on to that the  
8 features of the situation facing Cabinet that cause it to be a  
9 national emergency and not just an isolated threat to the  
10 security of Canada.

11 **MINISTER DAVID LAMETTI:** Yeah, do you mind if I  
12 just interject one minute? What Parliament did not do with the  
13 creation of the *Emergencies Act* was delegate the decision making  
14 by CSIS. So there's an incorporation by reference to the  
15 standard that's contained, or the definition that's contained in  
16 the *CSIS Act*. So there's a conveyance of the magnitude, if you  
17 will, or the seriousness of the standard or the threshold, but  
18 they did not delegate the decision making, and again, I'm not --  
19 I'm speaking here as a jurist. I'm not speaking in any way as  
20 the Attorney General giving advice to the Government. I'm just  
21 giving my ---

22 **MR. GORDON CAMERON:** Fully understood.

23 **MINISTER DAVID LAMETTI:** Yeah. This is ---

24 **MR. GORDON CAMERON:** And we appreciate ---

25 **MINISTER DAVID LAMETTI:** So this is -- I'm just  
26 drawing my own inferences here. But there is -- there's a  
27 magnitude or a seriousness conveyed in that.

28 But the decision-making power is always in the

1 hands of Cabinet, in the Governor-in-Council in the *Emergencies*  
2 *Act*, as well as other framing provisions that need to happen for  
3 the invocation of a national emergency.

4           So there is a definition that is incorporated by  
5 reference. It's moved into the *Emergencies Act* and the  
6 decision-making power remains with Cabinet.

7           So there's also a purpose change. What CSIS is  
8 doing is determining whether a threshold is met for the purposes  
9 of further investigations, generally clandestine, according to  
10 CSIS protocols, with warrants, et cetera, they're all -- you've  
11 heard testimony already from the CSIS Director, as well as Madam  
12 Tessier, about the rules of thumb that CSIS uses for proceeding  
13 in their analysis under section 2.

14           That isn't incorporated in here because the  
15 decision maker is different. And the inputs can be much wider -  
16 - have to much wider when you're a member of Cabinet, when  
17 you're making a decision Governor-in-Council. There are other  
18 inputs that can go into the meeting of that definitional  
19 standard that CSIS wouldn't normally use. And so that's very,  
20 very important to underline, that it is -- while it is the same  
21 standard of the same magnitude, the interpretation of that  
22 standard is being done according to a wider set of criteria by a  
23 very different set of people with a different goal in mind, and  
24 that goal is given by the *Emergencies Act* and not the *CSIS Act*.

25           **MR. GORDON CAMERON:** Okay. I want to back you up  
26 a little bit. You're familiar, I think, probably from your  
27 academic work, as well as your work as a lawyer, with a strawman  
28 argument?



1                   **MINISTER DAVID LAMETTI:** I am indeed.

2                   **MR. GORDON CAMERON:** Has any ---

3                   **MINISTER DAVID LAMETTI:** I try not to make them,  
4 but go right ahead.

5                   **MR. GORDON CAMERON:** Has anyone suggested that  
6 the *Emergencies Act* delegates to CSIS the decision as to whether  
7 Cabinet can invoke the *Emergencies Act* or declare a public order  
8 emergency?

9                   **MS. ANDREA GONSALVES:** Sorry, I just want to be  
10 clear. When you say "Has anybody suggested," we have to be  
11 concerned about Cabinet confidence, as well as solicitor/client  
12 privilege. So when you say "anybody", it would be helpful if  
13 you specify who you're asking about.

14                   **MR. GORDON CAMERON:** Has anybody who is a party  
15 to this proceeding, let me put it that way, advanced the  
16 argument, you just purported, to debunk that Parliament had  
17 delegated the decision to invoke the *Emergencies Act* to CSIS?

18                   **MINISTER DAVID LAMETTI:** Even if it -- delegation  
19 is one end of the extreme, but even if -- even using the same  
20 standard, or purporting that it be the same standard that is  
21 contained, the actual substantive standard that's contained in  
22 the *CSIS Act* is effectively doing the same thing.

23                   **MR. GORDON CAMERON:** The substantive standard  
24 contained in the *CSIS Act* is the one that Parliament said is  
25 assigned to the meaning of that standard in the *Emergencies Act*.  
26 That's not CSIS, that's not Cabinet, that's Parliament, what it  
27 did in 1985; right?

28                   **MINISTER DAVID LAMETTI:** No, not exactly, because

1 there's been evolution of the Act. You've heard from CSIS, how  
2 they interpret that provision, and it's markedly different in  
3 terms of the goals that CSIS has in order to investigate  
4 Canadians and others on Canadian soil.

5           And so there's a very serious, and you pointed it  
6 out yourself, sir, in the preparatory statements that you made  
7 about the *CSIS Act* and citing Mr. Borovoy. There's a very  
8 serious matter going on here when we are allowing a Canadian  
9 agency to investigate Canadians on Canadian soil. It is -- and  
10 the rules of thumb that they have developed since that time are  
11 very, very different, I think, I would suggest, than the kind of  
12 decision that we had to make under the *Emergencies Act*. And I  
13 would suggest that proper rules of statutory interpretation gets  
14 me to this conclusion.

15           **MR. GORDON CAMERON:** For a second there, I  
16 thought you were arguing my case because you were trying to tell  
17 me how important the threshold was in the *CSIS Act* before  
18 Parliament would let a secret intelligence agency investigate  
19 Canadians in a democracy.

20           **MINISTER DAVID LAMETTI:** That's right.

21           **MR. GORDON CAMERON:** We totally agree on that.  
22 And then a few years later, Parliament adopted that definition  
23 as the threshold for the invocation of the Act. It set the very  
24 same threshold; right?

25           **MINISTER DAVID LAMETTI:** The threshold, as  
26 applied, as you've seen in testimony before this Commission, has  
27 evolved. The rules of thumb for interpreting that have evolved.  
28 The purpose of that Act is very different. So while the words

1 were incorporated ---

2 **MR. GORDON CAMERON:** Right.

3 **MINISTER DAVID LAMETTI:** --- and I would -- I  
4 have put to you the magnitude of importance was conveyed, and  
5 the kind of threat was conveyed, given a different  
6 decisionmaker, given a broader set of inputs, the very same  
7 words will have, not a wider meaning, but can be -- will have a  
8 wider area of interpretation, according to the very structure of  
9 the *Emergencies Act*. And I think that is the interpretation  
10 that I would put to you as the one that best bears out in  
11 practice and is correct.

12 **MR. GORDON CAMERON:** Let me see if I can approach  
13 it this way: Again, just as we -- I won't ask you opinions on  
14 legal matters, I just want to see if you agree with me for the  
15 purposes of this discussion. That what section 16 of the  
16 *Emergencies Act*, 16 and 17, require is a -- is what lawyers  
17 sometimes refer to as a combined subjective, an objective test.  
18 That is, Cabinet has to have had a belief that the threshold was  
19 met, that there was a threat to the security of Canada, and the  
20 belief has to have been on reasonable grounds. Right?

21 **MINISTER DAVID LAMETTI:** That's correct.

22 **MS. ANDREA GONSALVES:** Mr. Commissioner, I am  
23 concerned that we're going down the road of arguing the case.  
24 Minister Lametti is here as a fact witness. There will be a  
25 stage to come after this evidentiary portion of the hearing  
26 where legal arguments are submitted. The Government of Canada  
27 will be submitting detailed legal arguments. And I am concerned  
28 that having Minister Lametti on the stand is not the opportunity

1 to be arguing the case.

2 **MR. GORDON CAMERON:** Mr. Commissioner, I think I  
3 can approach it in a way that addresses my friend's concern.  
4 Though, to his credit, Minister Lametti was fully able to answer  
5 my question and answered it the way I'd have expected him to.  
6 But to address my friend's concern, I'll simply read section 17  
7 of the *Act* to him and then use that as the preface for my point:

8 "When the Governor in Council  
9 believes..."

10 And we'll just stop here to say that if we speak  
11 compactly and effectively we're talking about when Cabinet  
12 believes. Can we work with that premise? Yes? You're nodding.

13 **MINISTER DAVID LAMETTI:** That's fine.

14 **MR. GORDON CAMERON:** Thanks:

15 "When the Governor in Council believes,  
16 on reasonable grounds, that a public  
17 order emergency exists..."

18 So this is why I say that lawyers, especially so  
19 highly qualified lawyers as you, see that the Governor in  
20 Council has to "believe", it doesn't just have to have  
21 reasonable grounds, it has to believe, and that belief has to be  
22 on reasonable grounds. So it's -- now, mind you, I don't want  
23 to -- your -- if this is pushing the level where you're  
24 comfortable talking about it, but that you can see those are two  
25 additive things. One, they have to have believed it, and that  
26 belief has to have been on reasonable grounds. And I'm just  
27 reading the words of the *Act*.

28 Can you follow me that far?

1                   **MINISTER DAVID LAMETTI:** I can indeed.

2                   **MR. GORDON CAMERON:** And then the other thing  
3 that the *Act* requires in section 58 is, and again, I'm just --  
4 I'm not asking for opinions, I'm just going to read the *Act* to  
5 the Minister, that you filed a -- what we called a section 58  
6 explanation, and it's all over the place in the record of this  
7 proceeding, and that has, and I'm just reading from the *Act*:

8                                   "...an explanation of the reasons for  
9                                   issuing the declaration..."

10                   Okay? So would you agree with me this far, what  
11 your section 58 explanation has in it are the grounds upon which  
12 Cabinet formed its reasonable belief that a Public Order  
13 Emergency existed; right?

14                   **MINISTER DAVID LAMETTI:** That's correct.

15                   **MR. GORDON CAMERON:** Okay. Now, if you were  
16 asked to, could you -- the -- or, sorry, I'm going to back up a  
17 little further. The section 58 explanation, that is an --  
18 that's not an *ex post facto* justification of the invocation is  
19 it? The *Act* says that it is to stipulate the reasons that the  
20 emergency was in fact declared; right?

21                   **MINISTER DAVID LAMETTI:** That's correct.

22                   **MR. GORDON CAMERON:** Okay. And that section 58  
23 explanation, then, is where the Commission, and parties to the  
24 extent they're exploring the issue, can find all of the facts on  
25 which Cabinet relied to come to its conclusion that it had  
26 reasonable grounds to believe. That it has formed a belief, and  
27 that that belief was on reasonable grounds; correct?

28                   **MINISTER DAVID LAMETTI:** The facts, yes.

1           **MR. GORDON CAMERON:** Okay. Now, that section 58  
2 explanation is going to include other material, isn't it,  
3 because it's going to include the material on which -- because  
4 the threat to the security of Canada is the starting point. And  
5 then what arises from, again, to use the words of the Act, the  
6 threat to the security of Canada is an emergency of such a scope  
7 that it's a national emergency. Again, I'm just trying to  
8 follow the framework of the Act, I'm not asking for opinions.  
9 But you -- as I'm saying, that's why there'll be more in the  
10 section 58 explanation than just the threat to the security of  
11 Canada; right?

12           **MINISTER DAVID LAMETTI:** It is true that there is  
13 more in that section 58.

14           **MR. GORDON CAMERON:** And probably in the  
15 section 58 explanation you would have included the reasons why  
16 existing authorities weren't adequate to deal with the  
17 situation; correct?

18           **MINISTER DAVID LAMETTI:** Now, you're pushing me  
19 to an area where this may or may not have been covered by a  
20 legal opinion or -- but you're pushing me to a point where I am  
21 going to rely on solicitor/client privilege.

22           **MR. GORDON CAMERON:** Okay.

23           **MINISTER DAVID LAMETTI:** I'll leave the argument  
24 to be made by our lawyers.

25           **MR. GORDON CAMERON:** Let's -- I'll just see if I  
26 can -- just see if I can move you a bit by taking you back to  
27 section 58 of the Act. It is in your section 58 explanation  
28 that you are supposed to have the reasons for issuing the

1 declaration. So I was just following through the three things  
2 that one might expect to find in the section 58 explanation:  
3 The grounds for the threat to the security of Canada, the  
4 reasons that that -- that arising out of that threat we had a  
5 national emergency, and the reasons why existing authorities  
6 were inadequate or insufficient to deal with it. I'm not trying  
7 to be technical here, but those would be the three topic areas.

8 If you're not comfortable going along with me  
9 there, what I'm just trying to find ---

10 **MINISTER DAVID LAMETTI:** Yeah, I'm actually not  
11 comfortable. I'm not sure I accept the premise of your  
12 organisation of this section 58 itself. I'm not sure -- I don't  
13 believe you've had experience drafting one, I think this was the  
14 first time.

15 So I think what is important is what is in  
16 section 58, which are the facts upon which the Governor-in-  
17 Council based its decision. And for the rest, the legal  
18 argument and legal interpretation, I will leave that to my  
19 lawyers and rely on solicitor/client privilege.

20 **MR. GORDON CAMERON:** Okay. Is that because you  
21 consider it too subtle or complicated? Because the Act sort of  
22 lays it out so formulaically about the process by which Cabinet  
23 comes to this decision, finds a threat to security of Canada,  
24 out of which or from which arises a national emergency and  
25 existing authorities are inadequate; that's sort of exactly what  
26 you'd expect. And, frankly, when you read your section 58  
27 explanation that looks like what you're trying to do.

28 So I'm pausing by -- if there's some way we can

1 move ahead with this, that you're more comfortable with.

2 **MINISTER DAVID LAMETTI:** I think you're -- I  
3 think the section 58 text speaks for itself, that we were -- as  
4 the law requires, we put out the reasons for which we arrived at  
5 the conclusions we arrived at, and the conclusions are there.

6 As for the process that got us to those  
7 conclusions, I'm going to leave that to the final argument of my  
8 lawyers. That pushes me into an area where I can't really  
9 answer the question without infringing on solicitor/client  
10 privilege. So you're putting me in an awkward position, ---

11 **MR. GORDON CAMERON:** And ---

12 **MINISTER DAVID LAMETTI:** --- and I'm going to --  
13 I'm going to have to rely on that privilege.

14 **MR. GORDON CAMERON:** And I'm going to respect  
15 your decision to rely on it. What I'm going to ask you is,  
16 again, I think a factual question, in a sense.

17 Presumably, you could -- you could have by now or  
18 you could in final submissions -- or one could, the parties  
19 could -- identify in the section 58 explanation those facts on  
20 which Cabinet relied to conclude that there was a threat to the  
21 security of Canada.

22 **MINISTER DAVID LAMETTI:** In addition to this  
23 proceeding, there are other legal proceedings, upon judicial  
24 review, for example. So it would be derelict of my duties as  
25 Attorney General to pronounce on that here. I'm going to let  
26 lawyers in each particular context, whether it be here or  
27 whether it be in those other proceedings, I'm going to let them  
28 do that, as they should.



1                   **MR. GORDON CAMERON:** And I hope my question  
2 didn't ask you to go as far as actually doing it. What I was  
3 asking you was if you could confirm that it should be possible  
4 for your counsel; frankly, could have been possible before we  
5 started this whole thing, but it's at least possible now, for  
6 them to go into the section 58 explanation and tell the  
7 Commissioner, perhaps in their final submissions, where in that  
8 section 58 explanation one finds the grounds on which Cabinet  
9 formed its reasonable belief that there was a threat to the  
10 security of Canada.

11                   **MS. ANDREA GONSALVES:** Mr. Commissioner, the  
12 section 58 report is there; it's in the record, certainly will  
13 feature in closing submissions. I'm not sure there's much to be  
14 done about what is or isn't in the report. It speaks for  
15 itself.

16                   **MR. GORDON CAMERON:** Okay.

17                   But can we at least agree on this, Minister; if  
18 there are, or to the extent there were -- to the extent Cabinet  
19 did have reasonable grounds to believe that there was a threat  
20 to the security of Canada, the Commission will find them in that  
21 section 58 explanation, right?

22                   **MINISTER DAVID LAMETTI:** The Commission will find  
23 the factual basis for it in the section 58 report.

24                   **MR. GORDON CAMERON:** In?

25                   **MINISTER DAVID LAMETTI:** The factual basis will  
26 be in the section 58 report, and that is outlined there.

27                   **MR. GORDON CAMERON:** Thank you. And with that  
28 answer, which was helpful, thank you, Minister.

1                   With that answer, Commissioner, I will end my  
2 examination of the witness.

3                   **COMMISSIONER ROULEAU:** Okay. So thank you.

4                   We can now go to the next phase, the cross-  
5 examinations. First are the convoy organizers, please.

6   (SHORT PAUSE)

7 **--- CROSS-EXAMINATION BY MR. BRENDAN MILLER:**

8                   **MR. BRENDAN MILLER:** Good morning, sir.

9                   **MINISTER DAVID LAMETTI:** Good morning.

10                  **MR. BRENDAN MILLER:** For the record, my name is  
11 Brendan Miller; I'm counsel for Freedom Corp., which is the  
12 entity representing the protesters that were in Ottawa in  
13 January and February ---

14                  **MINISTER DAVID LAMETTI:** Good to meet you.

15                  **MR. BRENDAN MILLER:** --- 2022.

16                  First, Professor Lametti, it's actually an honour  
17 to meet you. I've used some of your articles in my litigation  
18 practice, so I'm a fan.

19                  **MINISTER DAVID LAMETTI:** Thank you.

20                  **MR. BRENDAN MILLER:** In any event, sir, we'll  
21 just get right into this. As the Attorney General and the  
22 Minister of Justice, your powers and duties come from the  
23 Department of Justice Act; that's correct?

24                  **MINISTER DAVID LAMETTI:** And in part the common  
25 law, so the *Department of Justice Act* in particular with respect  
26 to the formal roles.

27                  **MR. BRENDAN MILLER:** Right. And under section 4  
28 of that Act, your powers and duties include that you shall:

1                    "...see that the administration of  
2                    public affairs is in accordance with  
3                    law;"

4                    Is that correct?

5                    **MINISTER DAVID LAMETTI:** That's correct.

6                    **MR. BRENDAN MILLER:** And under (b) it also has  
7 you as:

8                    "...the superintendence of all matters  
9                    [coming within] the administration of  
10                    justice...[federally]..."

11                    Is that fair?

12                    **MINISTER DAVID LAMETTI:** That's fair. There are  
13 nuances in terms of how that plays out, but, yes, that's fair.

14                    **MR. BRENDAN MILLER:** And then under section 5(d),  
15 you:

16                    "...shall have the regulation and  
17                    conduct of all litigation for or  
18                    against the Crown or any  
19                    department,..."

20                    Is that right?

21                    **MINISTER DAVID LAMETTI:** That's correct.

22                    **MR. BRENDAN MILLER:** And that, of course,  
23 includes the Department of Justice, including the legal team  
24 here today?

25                    **MINISTER DAVID LAMETTI:** Indeed it does.

26                    **MR. BRENDAN MILLER:** Yes. And you might have --  
27 I'm sure you've got it that in a ruling yesterday, Commissioner  
28 Rouleau ruled that the Department of Justice and all the parties

1 were able to produce any legal authorities for the DOJ to redact  
2 records on the basis of Parliamentary privilege. Are you aware  
3 of that?

4 **MINISTER DAVID LAMETTI:** I'm not particularly  
5 aware of that. Normally the Parliamentary privilege is dealt  
6 with by others, such as the Clerk, and that's an ongoing  
7 discussion. So I'm not aware of the particulars of that ruling.

8 **MR. BRENDAN MILLER:** So what Justice Rouleau  
9 ruled was that there's just no authority for redacting documents  
10 on the basis of a Parliamentary privilege.

11 So I'm wondering if under your powers under  
12 section 5(d) of the *Department of Justice Act* if you can direct  
13 that the Department of Justice release all the records that  
14 they've provided in this proceeding, with the redactions for  
15 Parliamentary privilege unredacted.

16 **MS. ANDREA GONSALVES:** Mr. Commissioner I don't  
17 think that's an appropriate question. It doesn't suit the  
18 purposes -- fall within the purposes for which Minister Lametti  
19 is here to testify.

20 My friend is well aware that you have made a  
21 ruling, and this is something to be dealt with through the  
22 normal Commission processes, and not through a witness.

23 **MR. BRENDAN MILLER:** Very well.

24 And from being a lawyer and a law professor and  
25 Attorney General, I take it you have an intimate understanding  
26 of solicitor/client privilege; is that correct?

27 **MINISTER DAVID LAMETTI:** A reasonably good one,  
28 yes.

1                   **MR. BRENDAN MILLER:** And of course you also have  
2 an understanding of section 39 of the *Canada Evidence Act* and  
3 Cabinet confidence; is that fair?

4                   **MINISTER DAVID LAMETTI:** Again, reasonably good  
5 understanding.

6                   **MR. BRENDAN MILLER:** Now, one of the documents  
7 produced by DOJ in the record -- and I'm assuming it was just  
8 produced to prove it was done -- is the redacted legal opinion.  
9 It's just the document itself that was given to Cabinet; it's  
10 fully redacted. But, of course, you agree that Cabinet received  
11 a legal opinion about the *Emergencies Act*; is that fair?

12                   **MINISTER DAVID LAMETTI:** I will not confirm or  
13 ---

14                   **MS. ANDREA GONSALVES:** Mr. Commissioner, I'm  
15 going to object to this question. It gets into areas of  
16 solicitor/client privilege.

17                   **MR. BRENDAN MILLER:** Okay.

18                   Now, we have evidence in this proceeding from the  
19 Privy Council Office and Ms. Jody Thomas that the Government of  
20 Canada's position is that -- of course, as you've said, that  
21 section 2 of the *CSIS Act* has a different meaning and that is  
22 has a different scope based in its reference in the *Emergencies*  
23 *Act*, that's right?

24                   **MINISTER DAVID LAMETTI:** I will neither confirm  
25 nor deny that. I spoke giving an opinion based on the text of  
26 the Act.

27                   **MR. BRENDAN MILLER:** Right.

28                   **MINISTER DAVID LAMETTI:** That is, as I was

1 careful to point out at the time, that that was neither a waiver  
2 nor a confirmation of any advice that was given based on that  
3 text and based on the facts that were given. I took great care  
4 to not link the two, and I have no comment on what Ms. Thomas  
5 said. I will leave that to our lawyers to discuss in final  
6 argument.

7 **MR. BRENDAN MILLER:** Right. And you've testified  
8 to the same thing; that you're going to leave it to counsel.  
9 And I take it that as a lawyer, in preparing your testimony here  
10 today, you reviewed all the relevant records and documents that  
11 you had access to and in your possession and power to obtain;  
12 fair?

13 **MINISTER DAVID LAMETTI:** I reviewed documents,  
14 yes.

15 **MR. BRENDAN MILLER:** Yeah. In the record in the  
16 proceedings and in the documents that you reviewed, and the ones  
17 that we have available unredacted, can you point to me of a  
18 document, of a record in this proceeding that existed prior to  
19 the invocation of the *Emergencies Act* where there's any recording  
20 whatsoever or discussion that there is a broader scope of  
21 section 2 of the *CSIS Act* when it is applied to the *Emergencies*  
22 *Act*? Can you point me to a document that says that?

23 **MINISTER DAVID LAMETTI:** Again, ---

24 **MS. ANDREA GONSALVES:** Mr. Commissioner, I think  
25 that's an inappropriate question. There are thousands and  
26 thousands of documents in the record. It's just -- it's unfair  
27 to the witness.

28 **MR. BRENDAN MILLER:** I'll, then, narrow it down.

1           Was there any such document, that you reviewed in  
2 preparing for your testimony here today, that existed prior to  
3 the invocation of the *Emergencies Act*, that it was discussed --  
4 that isn't subject to solicitor-client privilege -- that it was  
5 discussed that there was a broader scope of Section 2 as it  
6 applied in the Evidence Act.

7           **MINISTER DAVID LAMETTI:** But once again, that's a  
8 question that's asking me to effectively divulge legal  
9 arguments. I remind my learned that it is very odd to put a  
10 lawyer on the stand. I'm really here as ---

11           **MR. BRENDAN MILLER:** I know.

12           **MINISTER DAVID LAMETTI:** --- a cabinet minister  
13 in order to speak to facts.

14           **MR. BRENDAN MILLER:** I know.

15           **MINISTER DAVID LAMETTI:** And it is, to some  
16 extent, an obligation for me to try to answer questions as best  
17 I can, but ---

18           **MR. BRENDAN MILLER:** Right.

19           **MINISTER DAVID LAMETTI:** --- you're asking me to  
20 answer questions as a lawyer and it is -- it would be remarkable  
21 to put a lawyer up on the stand in the middle of a ---

22           **MR. BRENDAN MILLER:** Well, I understand, sir.  
23 And so, again, I just -- I would like the question answered.  
24 Did you see any documents that talked about this interpretation  
25 that you're discussing that existed prior to the invocation of  
26 the *Emergencies Act*?

27           **MINISTER DAVID LAMETTI:** Again, I'm going to rely  
28 on solicitor-client privilege.

1           **MR. BRENDAN MILLER:** And, sir, as the Attorney  
2 General of the country, of course, you have ultimate authority  
3 both to and to advise on when to waive solicitor-client  
4 privilege; do you not?

5           **MINISTER DAVID LAMETTI:** That's not true.  
6 Solicitor-client privilege is not mine to waive. It is up to  
7 the Governor-in-Council to waive.

8           **MR. BRENDAN MILLER:** Right, but you advise on  
9 that?

10          **MINISTER DAVID LAMETTI:** I could advise on that,  
11 yes.

12          **MR. BRENDAN MILLER:** Right, okay.

13          **MINISTER DAVID LAMETTI:** I would remind counsel  
14 that this is a -- this is a right that the Supreme Court of  
15 Canada has set as a quasi-constitutional right. It is  
16 fundamental for good governance, as it is fundamental for any  
17 relationship between a solicitor and a client, that the  
18 solicitor be able to give full and frank legal advice, including  
19 all its warts, to a client. In my case, the client is the  
20 Government of Canada and my cabinet colleagues, and the  
21 Department of Justice needs to be able to tell truth to power.  
22 In order to do that, I have to rely -- I have a responsibility  
23 to rely on solicitor-client privilege, and the Supreme Court has  
24 effectively held that this is one of the highest forms.

25          **MR. BRENDAN MILLER:** Well, I'm not going to ask  
26 you that question again, but I take it, you know, as an eminent  
27 law professor, an academic, with the many publications you have,  
28 that between February 13<sup>th</sup> and 14<sup>th</sup>, when you were considering



1 this decision, you didn't personally -- personally -- believe  
2 that Section 2 of the *CSIS Act* was any different in the  
3 *Emergencies Act*, did you?

4 **MINISTER DAVID LAMETTI:** Again, I am -- you're  
5 asking me to give legal advice ---

6 **MR. BRENDAN MILLER:** Well, I'm asking ---

7 **MINISTER DAVID LAMETTI:** --- or advice that I  
8 might have given to the Governor-in-Council.

9 **MS. ANDREA GONSALVES:**

10 **MINISTER DAVID LAMETTI:**

11 **MR. BRENDAN MILLER:** No, I understand, but I'm --  
12 no, I'm asking you what you personally believe as a member of  
13 cabinet.

14 **MINISTER DAVID LAMETTI:** I am -- I am -- in this  
15 case, I can't distinguish because of the dates and the context  
16 that you've given me. You're asking me to apply facts to law  
17 and I can't do that without breaching solicitor-client  
18 privilege. I'm not sure if you've understood point.

19 **MR. BRENDAN MILLER:** I understand. But, sir, we  
20 all know, as lawyers, that sometimes we give advice and it's not  
21 followed. And I'm not asking you to tell me what you advised.  
22 I'm asking you, as a member of cabinet, was it your personal  
23 belief that -- on February 13<sup>th</sup> or 14<sup>th</sup>, did you personally  
24 believe that Section 2 of the *CSIS Act* had a different scope in  
25 the *Emergencies Act*, as you -- is now being argued? Was that  
26 your personal belief?

27 **MS. ANDREA GONSALVES:** Mr. Commissioner, the  
28 problem here is that asking that personal belief of the Attorney

1 General of Canada inherently gets into matters of solicitor-  
2 client privilege. I object to the question.

3 **MR. BRENDAN MILLER:** Sir, I'm asking his personal  
4 belief as he's also a member of cabinet.

5 **COMMISSIONER ROULEAU:** I'm not sure. I mean he's  
6 not a -- he's there as Attorney General as a member of cabinet.  
7 That's the problem, I think ---

8 **MR. BRENDAN MILLER:** Okay.

9 **COMMISSIONER ROULEAU:** --- that we're running  
10 into.

11 **MR. BRENDAN MILLER:** But again, you understand,  
12 under Section 4 of the *Department of Justice Act*, it's your duty  
13 to see that the administration of public affairs is carried out  
14 in accordance with the law?

15 **MINISTER DAVID LAMETTI:** Absolutely.

16 **MR. BRENDAN MILLER:** And ---

17 **MINISTER DAVID LAMETTI:** And if you were to ask  
18 me the factors that were going on, the events that were going on  
19 across Canada that I deemed to be important as a member of that  
20 cabinet, I would answer the question, but you're asking me to  
21 interpret facts through the law, which is the kind of advice an  
22 attorney would give, and I won't do that.

23 **MR. BRENDAN MILLER:** Right. And I don't want to  
24 know about what you would give as an attorney but -- with  
25 respect to what you actually gave -- but when you're advising on  
26 whether to waive solicitor-client privilege, what factors do you  
27 consider?

28 **MINISTER DAVID LAMETTI:** Again, I am -- you're

1 asking me a hypothetical question. I would -- in probably  
2 virtually all cases advise that it shouldn't be waived simply  
3 because it is such an important fundamental principle.

4 **MR. BRENDAN MILLER:** But you can agree that it's  
5 been waived in the past by the government?

6 **MINISTER DAVID LAMETTI:** I only know of one  
7 example.

8 **MR. BRENDAN MILLER:** Okay. Now, just one last --  
9 -

10 **COMMISSIONER ROULEAU:** You're going to have to  
11 wrap up.

12 **MR. BRENDAN MILLER:** Yeah, I am. And just,  
13 dealing with Section 39 of the *Evidence Act* -- we just had that.  
14 I had mentioned that -- you understand that, of course, Section  
15 39 of the *Evidence Act* applies to cabinet confidences?

16 **MINISTER DAVID LAMETTI:** Would you read me the  
17 provision of the Act or show me the provision of the Act,  
18 please?

19 **MR. BRENDAN MILLER:** It's ---

20 **MINISTER DAVID LAMETTI:** I get 38 and 29 mixed  
21 up.

22 **MR. BRENDAN MILLER:** Okay. No, it's ---

23 **MINISTER DAVID LAMETTI:** Please show me.

24 **MR. BRENDAN MILLER:** I don't have the ability to  
25 show it to you but Section 39, it speaks to confidence of the  
26 Queen's Privy Council; can we agree about that?

27 **MINISTER DAVID LAMETTI:** I really would like to  
28 see the text.

1                   **MR. BRENDAN MILLER:** Okay.

2                   **MINISTER DAVID LAMETTI:** Again, there are a  
3 number of ---

4                   **MR. BRENDAN MILLER:** Right.

5                   **MINISTER DAVID LAMETTI:** --- numerous texts that  
6 I read on a day-to-day basis and I would like to see the text.

7                   **MR. BRENDAN MILLER:** Can you agree with me that  
8 it's your understanding that a cabinet confidence is something -  
9 - or a record that's a cabinet confidence or has a cabinet  
10 confidence in it is something that cabinet would have knowledge  
11 of, that someone within cabinet would have knowledge of the  
12 contents of the document?

13                   **MINISTER DAVID LAMETTI:** Cabinet confidence is  
14 wider than simply what is discussed at cabinet and the recorded  
15 version of those but, with that caveat, yes.

16                   **MR. BRENDAN MILLER:** Okay. And so with the  
17 Section 39 redactions that are in all the correspondence between  
18 staffers, everything the staffers say, cabinet would have  
19 knowledge of that, then?

20                   **MINISTER DAVID LAMETTI:** That -- that's -- again,  
21 that's a legal opinion you're asking me to give on a  
22 controversial point.

23                   **MR. BRENDAN MILLER:** Thank you very much, sir.  
24 It's been a pleasure.

25                   **MINISTER DAVID LAMETTI:** Thank you.

26                   **COMMISSIONER ROULEAU:** Next, I'll call on the  
27 City of Ottawa, please.

28                   **MS. ALYSSA TOMKINS:** Happy news again, Mr.

1 Commissioner. Alyssa Tomkins for the City of Ottawa. We will  
2 not be using our time today. I have ceded it to the Canadian  
3 Constitution Foundation.

4 **COMMISSIONER ROULEAU:** Okay. That's good. We  
5 have trading system that has been initiated, so ---

6 **MINISTER DAVID LAMETTI:** Okay.

7 **COMMISSIONER ROULEAU:** And it's encouraged ---

8 **MINISTER DAVID LAMETTI:** Okay.

9 **COMMISSIONER ROULEAU:** --- so that those who feel  
10 they have a good pitch will have a couple more throws at you.

11 **MINISTER DAVID LAMETTI:** Right, okay.

12 **COMMISSIONER ROULEAU:** So that's what's happened  
13 -- happening, just so you know.

14 Next is the Ottawa Coalition.

15 **--- CROSS-EXAMINATION BY MS. CHRISTINE JOHNSON:**

16 **MS. CHRISTINE JOHNSON:** Good afternoon, Minister  
17 Lametti.

18 **MINISTER DAVID LAMETTI:** Good afternoon.

19 **MS. CHRISTINE JOHNSON:** My name's Christine  
20 Johnson. I'm counsel for the Ottawa Coalition of Residents and  
21 Businesses.

22 **MINISTER DAVID LAMETTI:** Pleasure.

23 **MS. CHRISTINE JOHNSON:** I only have a few moments  
24 with you here today -- or a few minutes, I should say, and I'm  
25 going to use it to just ask some questions about your own  
26 experience of the situation in Ottawa. You've testified today  
27 that you were personally impacted by these events and -- as a  
28 part-time resident of Ottawa and, in fact, you felt forced to

1 leave Ottawa to go spend time in Montreal; that's fair to say?

2 **MINISTER DAVID LAMETTI:** Yeah, in addition to  
3 changing where I was living in Ottawa as well. I won't say  
4 where in either case, but I had to change where I lived, too,  
5 for the time I was up here.

6 **MS. CHRISTINE JOHNSON:** And can you tell us what  
7 it was specifically that made you feel like you both needed to  
8 change where you were living in Ottawa and then go to spend time  
9 in Montreal?

10 **MINISTER DAVID LAMETTI:** Well, I felt personally  
11 threatened. When you walk -- when you walked through the convoy  
12 and saw some of the banners, saw the prime minister hanging off  
13 the end of a rope, for example, violent -- violent images, and  
14 you saw some of the rhetoric that was coming out from the  
15 protesters, they -- sorry, I shouldn't say protestors because it  
16 wasn't much of a protest -- the occupiers, and when you saw what  
17 the occupiers were doing to my staff and the experiences that  
18 they were coming in with, at one point I said, "I'm going to  
19 Montreal. We're going virtual," because I didn't want to put my  
20 staff at risk to have to come into work. All of that made me  
21 feel threatened. It only takes one person to recognize me, and  
22 I'm often alone, and I would have been vulnerable.

23 **MS. CHRISTINE JOHNSON:** Right. And you mentioned  
24 about concerns for your staff, and I think earlier you told us  
25 about concerns specifically for female staff, that they were  
26 concerns for their safety to you.

27 **MINISTER DAVID LAMETTI:** Correct.

28 **MS. CHRISTINE JOHNSON:** Mr. Clerk, if we could

1 pull up, please, document SSM.CAN.000007840.

2 And while this is coming up, Minister Lametti, I  
3 can tell you that this document is a series of text messages  
4 between yourself and Minister Anand, where it looks to be that  
5 you're discussing the situation of threats to your staff.

6 Unfortunately, we don't see a date on these  
7 texts, but if you take a moment to review it, I'm going to ask  
8 you whether you can confirm for me that you are the blue  
9 bubbles?

10 **MINISTER DAVID LAMETTI:** Yes, I am.

11 **MS. CHRISTINE JOHNSON:** And you say:

12 "Had a tough week in Ottawa. Team  
13 members harassed. Back in Montreal and  
14 will do virtual to spare my team."

15 And further down, you tell Minister Anand:

16 "Even worse, it is the women who feel  
17 unsafe. Got my driver to drive them  
18 when I could."

19 **MINISTER DAVID LAMETTI:** That's right.

20 **MS. CHRISTINE JOHNSON:** And just to be clear, you  
21 were hearing firsthand stories or concerns reported by your  
22 staff?

23 **MINISTER DAVID LAMETTI:** That's correct.

24 **MS. CHRISTINE JOHNSON:** That's right. And you  
25 know, we've heard that you were able to residences in Ottawa and  
26 then go to Montreal, but you would obviously be aware that there  
27 were many residents of downtown Ottawa who unfortunately didn't  
28 have that luxury or the means to move elsewhere and were stuck

1 in the midst of this convoy?

2 **MINISTER DAVID LAMETTI:** Yes, that's right. I  
3 mean, a number of friends who live in the Ottawa with whom I am  
4 very close.

5 **MS. CHRISTINE JOHNSON:** And is it fair to say  
6 then that you didn't need government intelligence to tell you  
7 whether the convoy was causing harm to people and businesses in  
8 downtown Ottawa, that you saw this in fact for yourself with  
9 your own eyes?

10 **MINISTER DAVID LAMETTI:** Absolutely true. I  
11 mean, the Rideau Centre was closed. Again, I'm not going to  
12 disclose where I live, but it's something that I see often. I  
13 saw other businesses impacted, and I saw and heard from people  
14 who were impacted whose movements changed. And I could see  
15 that, as you have said, with my own eyes.

16 **MS. CHRISTINE JOHNSON:** Thank you. Those are my  
17 questions.

18 And Commissioner, I think I have one minute left  
19 and I would cede that to the CTLA.

20 **COMMISSIONER ROULEAU:** I'm not sure I allow that  
21 type of trade as I've said before.

22 Okay. The OPP, please.

23 **MR. CHRISTOPHER DIANA:** Good morning,  
24 Commissioner. Chris Diana for the OPP. I have no questions,  
25 sorry, Justice Minister.

26 I will be ceding my time to the CCLA as well, and  
27 next time I'm going to drive a harder bargain.

28 **COMMISSIONER ROULEAU:** Okay.



1 Next is former Chief Sloly's counsel, please.

2 --- CROSS-EXAMINATION BY MR. TOM CURRY:

3 **MR. TOM CURRY:** Mr. Tom Curry for the former  
4 chief. Pleased to meet you.

5 Towards the end of your evidence to my friend Mr.  
6 Cameron's -- in response to my friend Mr. Cameron's question,  
7 you describe the circumstances of Cabinet towards the period of  
8 time when it was deliberating, I suppose, about the *Emergencies*  
9 *Act* invocation, I think you've said it was rapidly -- a rapidly-  
10 evolving situation?

11 **MINISTER DAVID LAMETTI:** That's correct.

12 **MR. TOM CURRY:** You had imperfect information?

13 **MINISTER DAVID LAMETTI:** That's correct.

14 **MR. TOM CURRY:** You described the circumstances  
15 as unprecedented?

16 **MINISTER DAVID LAMETTI:** Very much so.

17 **MR. TOM CURRY:** And that you were, as a Cabinet,  
18 I think you said, trying to do your best to get information upon  
19 which you could make decisions and take action?

20 **MINISTER DAVID LAMETTI:** That's correct.

21 **MR. TOM CURRY:** A complex issue?

22 **MINISTER DAVID LAMETTI:** Very much so.

23 **MR. TOM CURRY:** And do you accept that it was a  
24 complicated and complex unprecedented issue for the Ottawa  
25 Police Service?

26 **MINISTER DAVID LAMETTI:** Absolutely.

27 **MR. TOM CURRY:** And for Chief Sloly, of course?

28 **MINISTER DAVID LAMETTI:** Yes, indeed.

1           **MR. TOM CURRY:** And that that very same things  
2 that you experienced as a Cabinet at the -- you know, in and  
3 around the last meetings that you had prior to the invocation  
4 were the very same circumstances in which the Ottawa Police  
5 Service and Chief Sloly found themselves at the beginning?

6           **MINISTER DAVID LAMETTI:** In part, yes. I mean, I  
7 also witnessed as an Ottawa resident OPS officers standing idly  
8 by while people wheeled cans of gasoline down Wellington Street.

9           **MR. TOM CURRY:** Yes. Now, you've not -- if -- I  
10 don't know enough about your background to be 100 percent sure,  
11 but I'm pretty confident you never served in a police service?

12           **MINISTER DAVID LAMETTI:** I have not.

13           **MR. TOM CURRY:** And in your role as Attorney  
14 General and Minister of Justice, you have no interaction with  
15 police services?

16           **MINISTER DAVID LAMETTI:** I do have interaction  
17 with police services for reasons of personal security.

18           **MR. TOM CURRY:** Sorry, of course. Apart from  
19 your personal security detail, you don't have interactions in  
20 your role as the Minister of Justice or Attorney General in  
21 police -- with police services, right?

22           **MINISTER DAVID LAMETTI:** In police operations,  
23 no, but I've got friends who are police officers.

24           **MR. TOM CURRY:** Different thing. You've not --  
25 you're talking about why a police service member of the Ottawa  
26 Police Service stood idly by while a jerry can was by.

27           **MINISTER DAVID LAMETTI:** All I was trying to do,  
28 Counsel, was to say that Chief Sloly's concerns also included a

1 number of other things that weren't on my purview.

2 **MR. TOM CURRY:** Okay. Perhaps I misunderstood.  
3 You're not criticizing them for decisions that they may have  
4 made about whether to intercept a particular protester, for  
5 example, owing to whether they had the resources to do it?

6 **MINISTER DAVID LAMETTI:** I'm not criticizing  
7 Chief Sloly.

8 **MR. TOM CURRY:** Okay. The reason I ask, of  
9 course, is because you did, in the messages that my friend Mr.  
10 Cameron showed you, describe him as incompetent.

11 **MINISTER DAVID LAMETTI:** Yeah. As I said, that  
12 was in the heat of the moment. We were all living through a  
13 difficult situation, and I'm a human being. I do have personal  
14 opinions. I will happily walk that back in the light of  
15 hindsight.

16 **MR. TOM CURRY:** Thank you.

17 **MINISTER DAVID LAMETTI:** But it is the  
18 frustration that I felt at the time.

19 **MR. TOM CURRY:** Understood, and I think all of us  
20 understand the heat of the heat of the moment, the text message,  
21 and so on.

22 But in this particular case, accepting as you  
23 have that it was an expression to a -- really, to a friend,  
24 happens to be a Cabinet colleague -- but this was to a friend --  
25 -

26 **MINISTER DAVID LAMETTI:** Correct.

27 **MR. TOM CURRY:** --- you did not imagine that --  
28 and no one should take your words as expressing a view of the

1 Minister of Justice or the Attorney General of Canada?

2 **MINISTER DAVID LAMETTI:** I think that's  
3 absolutely right.

4 **MR. TOM CURRY:** Okay. Because you can understand  
5 how when such a thing is made public that not only Canadians but  
6 the eyes and ears of Canadians through the media take the words  
7 to be the weight of your office.

8 **MINISTER DAVID LAMETTI:** I take that point.

9 **MR. TOM CURRY:** And they oughtn't take those  
10 words to be the weight of your office?

11 **MINISTER DAVID LAMETTI:** That's correct.

12 **MR. TOM CURRY:** Equally, am I right that in the  
13 other expressions that you made as a Cabinet colleague, the same  
14 thing is true, that those words were expressed as a -- as no  
15 doubt, as a human experiencing these traumatic events as you've  
16 described them, but not expressions of the Attorney General or  
17 the Minister of Justice?

18 **MINISTER DAVID LAMETTI:** To what are you  
19 referring?

20 **MR. TOM CURRY:** Well, some of the other -- I  
21 won't go through them; I don't have the time -- but some of the  
22 other text messages that expressed what might have been -- I  
23 think you may have described or Mr. Cameron described as "bad  
24 humour" or -- about Chief Sloly's surname. "Sloly in relation  
25 to quick, quick, quick." That was an attempt at a humorous  
26 remark, not spoken as Attorney General or ---

27 **MINISTER DAVID LAMETTI:** That's correct. And as  
28 I said, it was a humorous reference to a ---

1           **MR. TOM CURRY:** Understood. But as from the  
2 chief's perspective, you can appreciate at the time, if your  
3 Cabinet colleagues form the view that they should have less  
4 confidence in him, that that was neither your intention, nor  
5 would it be fair? Is that fair?

6           **MINISTER DAVID LAMETTI:** That's fair.

7           **MR. TOM CURRY:** Okay. And of course, the issue  
8 becomes trying to separate a remark made ---

9           **MINISTER DAVID LAMETTI:** I will say though,  
10 Counsel, that it was very frustrating that we were promised  
11 plans or plans were forthcoming or plans were in the offing and  
12 that didn't seem to materialize.

13           **MR. TOM CURRY:** Yes. Although of course, you're  
14 not entitled to review an operational plan as the Minister of  
15 Justice or as the Attorney General.

16           **MINISTER DAVID LAMETTI:** Just wanted to know the  
17 existence of it.

18           **MR. TOM CURRY:** Yes. And as to that, just in the  
19 time I have remaining, I take it that you didn't know what -- no  
20 one was providing you with information about what the OPS had as  
21 a plan or didn't have as a plan at the Cabinet table, correct?

22           **MINISTER DAVID LAMETTI:** Not the details, but ---

23           **MR. TOM CURRY:** Right.

24           **MINISTER DAVID LAMETTI:** --- we were getting  
25 reports from the Commissioner of the RCMP ---

26           **MR. TOM CURRY:** Right.

27           **MINISTER DAVID LAMETTI:** --- about the OPS and  
28 its development of a plan.

1           **MR. TOM CURRY:** And do you now appreciate that  
2 some of the information that you received from the Commissioner  
3 up through the Commissioner of the RCMP was not accurate?

4           **MINISTER DAVID LAMETTI:** I can't speak to that.  
5 I'm not in a position to say.

6           **MR. TOM CURRY:** Okay. Suffice it to say that you  
7 were relying on what was told to you about what resources were  
8 available and whether there were plans at certain dates, but you  
9 can't vouch for any of that?

10          **MINISTER DAVID LAMETTI:** Absolutely right.

11          **MR. TOM CURRY:** Okay. Last thing, please, if I  
12 may, just as to resources.

13                 You sent a note to the attorney general, your  
14 opposite number now, Attorney General Downey, in Ontario, to  
15 urge him to speak to the solicitor general about priorities,  
16 Windsor and Ottawa?

17          **MINISTER DAVID LAMETTI:** Well, it was -- no, it  
18 was more that the priority -- the reason why I reached out was  
19 there was a perception that Ontario was not looking at or not  
20 dealing with federal counterparts ---

21          **MR. TOM CURRY:** Yes.

22          **MINISTER DAVID LAMETTI:** --- and that the  
23 solicitor general should be at the table with others. That was  
24 it. it wasn't -- it had no way -- it wasn't in any way meant to  
25 direct them, but we could identify priorities across Ontario,  
26 and there were many.

27          **MR. TOM CURRY:** And I share your -- for what it's  
28 worth, I share your view that that is the role of government, to

1 set priorities and for police to make decisions afterwards.

2 But just as to that, did you have an appreciation  
3 in Cabinet that there was a kind of unfortunate "After you,  
4 Alphonse" moment between the Federal Government and the Ontario  
5 Government as to who was the first -- which government was the  
6 first port of call for the Ottawa Police Service to receive  
7 resources?

8 **MINISTER DAVID LAMETTI:** My understanding is that  
9 as a matter of jurisdiction Wellington Street was a provincial  
10 jurisdiction.

11 **MR. TOM CURRY:** Right. Did you appreciate that  
12 Ontario took the opposite view?

13 **MINISTER DAVID LAMETTI:** I can't speak for  
14 Ontario on that.

15 **MR. TOM CURRY:** Okay. I'm out of time. Thank  
16 you, Minister.

17 **COMMISSIONER ROULEAU:** Thank you.

18 The Union of British Columbia Indian Chiefs,  
19 please.

20 **--- CROSS-EXAMINATION BY MS. CHEYENNE ARNOLD-CUNNINGHAM:**

21 **MS. CHEYENNE ARNOLD-CUNNINGHAM:** Good afternoon,  
22 Minister Lametti. My name is Cheyenne Arnold-Cunningham, and  
23 I'm counsel for the Union of B.C. Indian Chiefs.

24 **MINISTER DAVID LAMETTI:** Good afternoon.

25 **MS. CHEYENNE ARNOLD-CUNNINGHAM:** This Inquiry is,  
26 among other things, considering the extent to which state  
27 emergency powers or exceptional policing powers should be used  
28 when there is a Public Order event. For Indigenous peoples,

1 it's often been the case that they must assemble and organise  
2 into a social movement to seek attention to the denial of their  
3 rights or even advance the recognition of their rights.  
4 Sometimes the response of police and the Government of Canada  
5 has been to target or punish Indigenous peoples for organising  
6 or speaking up for their rights or upholding their traditional  
7 laws, and treating these events as emergency events.

8                   Should the approach to Public Order events,  
9 specifically when it's Indigenous peoples involved in defending  
10 their rights, take into account their distinct and unique  
11 contexts as Indigenous peoples, including the long history of  
12 government denial of their rights, and as you mentioned earlier  
13 in your testimony today, the reality of racism and anti-  
14 Indigenous discrimination in policing and our justice system?

15                   **MINISTER DAVID LAMETTI:** Thank you, Counsel.  
16 Thank you for that question. It is a long question, and a  
17 complicated one.

18                   I guess the easiest way is to say yes, from the  
19 outset, that I do think that we need to move towards, and we  
20 need to move quickly towards a series of practices, procedures,  
21 and principles that make consultation with, cooperation with,  
22 even co-policing with Indigenous peoples part and parcel of what  
23 we do in every situation, including emergencies.

24                   The *Emergencies Act* itself didn't have a  
25 consultation requirement with Indigenous peoples, that's just a  
26 result of the day -- the years in which it was drafted, I think,  
27 and the difference sensibilities at the time. That's something  
28 I would commit to change if -- as we move forward from, we'll



1 get the report from Commissioner Rouleau, and we will see what  
2 recommendations are in there.

3 But I do think that we need to have a more  
4 formally incorporated consultation requirement in the  
5 *Emergencies Act* with respect to Indigenous peoples. We did that  
6 informally, the Minister of Crown and Indigenous Relations did  
7 reach out in this case to the heads of the three national  
8 Indigenous organisations, but it could be better done down the  
9 road, and it needs to be more sensitively tailored to different  
10 nations, regions, and Indigenous organisations as we move  
11 forward.

12 **MS. CHEYENNE ARNOLD-CUNNINGHAM:** Okay, thank you.  
13 As Minister of Justice, you brought forward Bill C-15 to  
14 implement the United Nations Declaration of the Rights of  
15 Indigenous peoples, also known as UNDRIP, and this was a major  
16 shift in affirming the recognition of Indigenous rights, and now  
17 there's a process to prepare a federal action plan. Under this  
18 legislation, at section 5, the Government of Canada is mandated  
19 to take all measures necessary to align the laws of Canada with  
20 the requirements and minimum standards embedded in UNDRIP.

21 Can you describe how Justice Canada is meeting  
22 this obligation, and considering we only have a little bit of  
23 time, if you could keep it specific to policing and public order  
24 events that would be helpful.

25 **MINISTER DAVID LAMETTI:** Okay. We are developing  
26 the action plan as we speak, and we're working hard with the  
27 variety of forms of Indigenous leadership across Canada to  
28 decide together how we move forward, so which laws to change

1 according to Article 5 of UNDRIP. I suspect the *Emergencies Act*  
2 will be one of them.

3 But I can also tell you that my colleague,  
4 Minister Mendicino, as the Minister of Public Safety, is working  
5 very hard with questions of reforming Indigenous policing or  
6 peacekeeping or the better policing of Indigenous nations and  
7 peoples by police officers, whether Indigenous or not  
8 Indigenous, and that will wrap into how we move forward.

9 **MS. CHEYENNE ARNOLD-CUNNINGHAM:** Okay, thank you  
10 very much for your time today. Those are all of our questions.

11 **MINISTER DAVID LAMETTI:** Thank you.

12 **COMMISSIONER ROULEAU:** Okay, thank you.

13 Next, call on the Canadian Constitution  
14 Foundation, please.

15 **--- CROSS-EXAMINATION BY MS. JANANI SHANMUGANATHAN:**

16 **MS. JANANI SHANMUGANATHAN:** Yes. Good afternoon,  
17 sir. Can you hear me okay?

18 **MINISTER DAVID LAMETTI:** I can indeed.

19 **MS. JANANI SHANMUGANATHAN:** All right. So my  
20 name is Janani Shanmuganathan, and I am counsel for the Canadian  
21 Constitution Foundation. And the issue I would like to talk to  
22 you about today is the definition of threats to the security of  
23 Canada in the *Emergencies Act*. Okay?

24 So we know that section 16 of the *Emergencies Act*  
25 refers to the definition in the *CSIS Act*, and says:

26 "...threats to the security of Canada  
27 has the meaning assigned by section 2  
28 of the *Canadian Security Intelligence*

1                                   *Service Act.*"

2                                   Now, we heard from Mr. Vigneault earlier this  
3 week, and he's the Director of CSIS, and he told us that CSIS  
4 has a very clear understanding of what threats to security of  
5 Canada means in the *CSIS Act* based on legal interpretation,  
6 jurisprudence and Federal Court rulings. And we also heard from  
7 him that as far as CSIS was concerned in terms of what was going  
8 on during the convoy, the definition of threats to the security  
9 of Canada in the *CSIS Act* had not been met.

10                                  Now, are you aware of this evidence on this  
11 point?

12                                  **MINISTER DAVID LAMETTI:** I am, but then the CSIS  
13 Director did go on to say that he supported the invocation of  
14 the *Emergencies Act* in this context.

15                                  **MS. JANANI SHANMUGANATHAN:** So you'll agree that  
16 as far as CSIS was concerned the definition under the *CSIS Act*  
17 had not been met.

18                                  **MINISTER DAVID LAMETTI:** I disagree with that. I  
19 have already, with counsel in a descriptive way, again, I'm -- I  
20 should start with the initial caveat that I am not going to --  
21 I'm going to be careful with respect to solicitor/client  
22 privilege. I'm not going to link facts to arguments in a way  
23 that can be -- that can impute the kind of legal advice I may or  
24 may not have given or may or may not have been given to me in  
25 this process. And I have to maintain that privileged argument.

26                                  But I think you have heard from a series of  
27 witnesses this week, including Mr. Vigneault, including the  
28 exchange I had earlier with counsel, that the incorporation by

1 reference of section 2 of the *CSIS Act* into section 16, given  
2 the different purposes of the *CSIS Act*, given the different  
3 goals that CSIS has with respect to why it is using a section 2  
4 definition for one of its investigations in order to get to  
5 further inquiries, is different from the context in which it has  
6 been incorporated into the *Emergencies Act*, and the decision-  
7 making body is different. It is not CSIS, it is the Governor in  
8 Council.

9                   So there is wider, as you've heard from a number  
10 of different witnesses this week, there is a wider set of inputs  
11 that are more than just CSIS inputs. You've also heard from  
12 CSIS about the specific rules of thumb that they use in order to  
13 interpret section 2, which aren't necessarily imported into  
14 section 16 because it's a different decisionmaker.

15                   **MS. JANANI SHANMUGANATHAN:** And all I want to  
16 confirm, sir, is that as far as CSIS was concerned, using their  
17 interpretation of threats to the security of Canada, that  
18 definition was not met under the *CSIS Act*.

19                   **MINISTER DAVID LAMETTI:** And for the purposes of  
20 CSIS in the *CSIS Act*, yes, I'll agree with that.

21                   **MS. JANANI SHANMUGANATHAN:** All right. And now,  
22 you know, we've also heard that Mr. Vigneault was provided a  
23 legal opinion that explained the separate interpretation of this  
24 definition under the *Emergencies Act*. And I take it if I asked  
25 you anything about the substance of that opinion you'd say it's  
26 covered by solicitor/client privilege?

27                   **MINISTER DAVID LAMETTI:** Indeed I would.

28                   **MS. JANANI SHANMUGANATHAN:** All right. And now,

1 I just want to understand, who is the client in the  
2 solicitor/client privilege? And the reason why I ask is who is  
3 the person that we need to approach to waive this privilege so  
4 that Canadians can understand how the Government arrived at this  
5 different interpretation of threats to the security of Canada.  
6 Who is this client?

7 **MINISTER DAVID LAMETTI:** Well the client is the  
8 Government of Canada. The -- and I don't think I'm telling  
9 tales out of school when I say that in closing argument, I  
10 believe these kinds of questions will be addressed by counsel.

11 **MS. JANANI SHANMUGANATHAN:** All right. So I want  
12 to now shift and take you back in time to look at what Minister  
13 Beatty, the Minister of National Defence, who was a sponsor of  
14 Bill C-77, the *Emergencies Act*, said about the definition in the  
15 *Emergencies Act* when the legislation was introduced.

16 So if I can ask to bring up POE.CCF0000003?

17 And just for context, this is a speech that  
18 Minister Beatty gave to the House of Commons debates during Bill  
19 -- when Bill C-77 was debated.

20 And specifically, I'd like to go to page 5,  
21 please. Is that page 5? Perfect.

22 So I just want to take you to the highlighted  
23 portion. Perhaps if we could make it bigger so that Minister  
24 Lametti can see it?

25 **MINISTER DAVID LAMETTI:** I'd prefer it smaller,  
26 so that I can see the context, please.

27 **MS. JANANI SHANMUGANATHAN:** So just want to take  
28 you to ---

1                   **MINISTER DAVID LAMETTI:** This is fine. It's fine  
2 the way it is.

3                   **MS. JANANI SHANMUGANATHAN:** So the highlighted  
4 portion where it says "Likewise," what Minister Beatty says is:  
5                   "Likewise, it has been said that probably  
6 the most contentious clause in this Bill  
7 is the one that deals with public order  
8 emergencies. This is the type of  
9 situation which gave rise to the use of  
10 the War Measures Act in 1970. This clause  
11 takes its definition of threat from the  
12 Canadian Security and Intelligence  
13 Service[s] Act. This fact alone should  
14 make us very cautious because of the  
15 difficulties already encountered with CSIS  
16 in determining what is subversion and what  
17 is legitimate dissent. That was one view  
18 of the legislation."

19                   He goes on to say:

20                   "I would remind Members of this House that  
21 the definition of 'threats to the security  
22 of Canada' received exhaustive scrutiny by  
23 Parliament in 1983 during deliberations on  
24 the CSIS Act. The language in this  
25 definition has, therefore, already  
26 received Parliament's blessing."

27                   So I pause here to note that what Minister Beatty  
28 is saying is, you know, we are specifically incorporating the

1 definition that's found in the *CSIS Act*, because this is a  
2 definition that Parliament has already blessed. Is that fair?

3 **MS. ANDREA GONSALVES:** Commissioner, again, going  
4 to Hansards is something that is frequently done in the course  
5 of legal argument to interpret a statute. It's my submission  
6 this is not a matter of fact evidence. This is a matter of  
7 argument, which will be done at the end of the case and it's not  
8 a proper line of questioning for this witness.

9 **MS. JANANI SHANMUGANATHAN:** So I would say in  
10 response that, you know, this is something that I'm asking  
11 Minister Lametti to explain about how -- you know, he's offered  
12 an explanation for why there's a different interpretation under  
13 the *Emergencies Act*, because the purpose for that definition is  
14 different, or determining the purpose is different.

15 And what I say is, well, I'd like to look to see  
16 what was described as the purpose under the *Emergencies Act* and  
17 why they use that particular definition. So I would say that it  
18 is an appropriate line of questioning.

19 **COMMISSIONER ROULEAU:** I think it's appropriate  
20 to ask him what the purpose of the *CSIS Act* is, if that's what  
21 you're doing, as I understand it, and I'm not sure that that  
22 requires anything beyond his understanding. I mean, I -- if  
23 it's a legal interpretation of what the *CSIS Act* means, that's  
24 different.

25 So what is it you're trying to get at from him?

26 **MINISTER DAVID LAMETTI:** So what I'd like to do  
27 is I would like to go through Hansard and have him confirm what  
28 the understanding was in terms of what Hansard said about why

1 they used the *CSIS Act* definition and incorporate it into the  
2 *Emergencies Act*.

3 **COMMISSIONER ROULEAU:** I'm not sure he can  
4 interpret anymore than read the words, but I think that's the  
5 best you can get from him.

6 **MS. JANANI SHANMUGANATHAN:** Okay.

7 **MINISTER DAVID LAMETTI:** The point that I was  
8 going to make, Commissioner Rouleau, was in the very next  
9 paragraph, which was the *CSIS* definition is embedded in the  
10 *Emergencies Act* and it must be read in conjunction. And that  
11 changes the scope, and the decision maker has changed, and  
12 that's all, really, I'm comfortable saying.

13 **MS. JANANI SHANMUGANATHAN:** And sorry, Justice  
14 Rouleau, or Commissioner Rouleau, you know, Minister Lametti has  
15 referred to the following passage in the highlighted portion and  
16 if I could, I just want to go to the next passage so I can ask  
17 him a couple of questions about it, because he's now commented  
18 on that.

19 **COMMISSIONER ROULEAU:** Sure, go ahead.

20 **MS. JANANI SHANMUGANATHAN:** All right. So you --

21 -

22 **COMMISSIONER ROULEAU:** Let's see where it goes.

23 **MS. JANANI SHANMUGANATHAN:** Thank you. So

24 Minister Lametti, you referred to the fact that:

25 "...must be read in conjunction with the  
26 definition of national emergency..."

27 So when you move to the next page, to page 6,  
28 what the entire paragraphs says is:



1 "I would also remind the House that the  
2 definitions at the head of each of the  
3 four major parts of this Bill, including  
4 the definition of 'threats to the security  
5 of Canada' do not stand alone. They must  
6 be read in conjunction with the definition  
7 of a national emergency in the preamble of  
8 the Bill and in conjunction with other  
9 restriction provisions. In other words,  
10 before the Government can declare a public  
11 order emergency under Part II, the  
12 emergency situation must correspond to the  
13 definition of a national emergency as  
14 stated in the preamble."

15 They go on to say:

16 "I am told that this double test, as it is  
17 called, will be used by the courts to  
18 assess the Government's compliance with  
19 the deliberate constraints and safeguards  
20 that have been built into the definitions  
21 of this Bill."

22 So what I'm saying Minister Beatty is saying here  
23 is that you have to, one, meet the threats to the security of  
24 Canada, that's the first part, but also meet the definition of a  
25 national emergency under their preamble? That's what he's  
26 referring to as this double test?

27 **MINISTER DAVID LAMETTI:** That's certainly your  
28 point of view.

1                   **MS. JANANI SHANMUGANATHAN:** All right. And is it  
2 fair to say that they're not saying here that the interpretation  
3 of threats to the security of Canada changes because you're  
4 looking at it through the lens of a national emergency? They're  
5 talking about this two-part test, a double test.

6                   **MINISTER DAVID LAMETTI:** I ---

7                   **MS. ANDREA GONSALVES:** Again, Mr. Commissioner,  
8 my friend's question is calling upon the witness to interpret  
9 what we see in the Hansard. The Hansard is what it is, and  
10 beyond that, we're getting into legal argument on the  
11 interpretation of the legislation.

12                   **COMMISSIONER ROULEAU:** I'm afraid you're also out  
13 of time. So you're going to have to wrap up. And I think  
14 you've probably gone about as far as you can with interpreting  
15 Hansard.

16                   **MS. JANANI SHANMUGANATHAN:** Okay. Those are all  
17 my questions on that. Thank you very much.

18                   **COMMISSIONER ROULEAU:** Okay. Thank you.  
19 Unfortunately, you're going to have to come back after lunch, if  
20 that's not a problem, because I think we have over a half hour  
21 of material left.

22                   **MINISTER DAVID LAMETTI:** That's fine. Thank you.

23                   **COMMISSIONER ROULEAU:** Okay. So we'll adjourn  
24 and take the lunch break for one hour, come back at 2:00  
25 o'clock.

26                   **THE REGISTRAR:** The Commission is in recess until  
27 2:00 o'clock.

28                   La Commission est levée jusqu'à 14h.

1 --- Upon recessing at 1:00 p.m.

2 --- Upon resuming at 2:05 p.m.

3 **THE REGISTRAR:** The Commission is reconvened. La  
4 commission reprend.

5 **--- MINISTER DAVID LAMETTI, Resumed:**

6 **COMMISSIONER ROULEAU:** Okay. Je m'excuse pour la  
7 retard. I apologize for the slight delay. I'm sure  
8 anticipation for a continued, exciting examination.

9 So the next, I believe, is the JCCF, Democracy  
10 Fund.

11 **--- CROSS-EXAMINATION BY MR. ALAN HONNER:**

12 **MR. ALAN HONNER:** Good afternoon, Minister. My  
13 name's Alan Honner. I'm a lawyer at the Democracy Fund. We  
14 share status with the JCCF and Citizens for Freedom. Can we  
15 please pull up SSM.CAN.00002665?

16 Minister, while we're waiting for that, you will  
17 recall that on February the 14<sup>th</sup> at or around 4:30 p.m., you held  
18 a press conference with the Prime Minister as well as other  
19 Ministers, and at that press conference, Prime Minister  
20 announced the invocation of the *Emergencies Act*.

21 If we could scroll down to the bottom of this  
22 document, about halfway down the fourth page -- no, I think we  
23 have the wrong document. 2665.

24 That's it. If we can scroll down to the bottom  
25 of the document?

26 **MINISTER DAVID LAMETTI:** Can I see the top of the  
27 document, please, first?

28 Okay.

1           **MR. ALAN HONNER:** Okay. At the bottom of the  
2 document, we see that this is an email from Emily Kanter of the  
3 PMO's office and it's dated February the 13<sup>th</sup>, 2022, and it is  
4 sent to David Taylor, among others. Can you confirm for me that  
5 David Taylor was your Director of Communications?

6           **MINISTER DAVID LAMETTI:** I can confirm to you  
7 that he still is my Director of Communications.

8           **MR. ALAN HONNER:** Okay. Thank you. And this  
9 email is referring to a noon press conference happening on the  
10 14<sup>th</sup> with the Prime Minister and a number of Ministers, and it  
11 says ---

12           **MINISTER DAVID LAMETTI:** I'm not a party to the  
13 email, so I'll take your word for it.

14           **MR. ALAN HONNER:** That's right, but you can see  
15 it in front of you; right? And it says the press conference,  
16                                 "...is to provide an update on the  
17                                 federal government response to the  
18                                 Blockade as well as the Ukraine."

19           **MINISTER DAVID LAMETTI:** That is correct. That's  
20 what it says.

21           **MR. ALAN HONNER:** And that ended up being the  
22 press conference at which you and the Prime Minister announced  
23 that the *Emergencies Act* was being invoked?

24           **MINISTER DAVID LAMETTI:** That would be the timing  
25 of it.

26           **MR. ALAN HONNER:** Okay. So let's just scroll up  
27 to the top -- sorry, the bottom of the second page. That's  
28 great. And if we can just scroll down a little bit, so we can

1 see this entire email. That's good. Thank you. Here we have  
2 an email from Vanessa Hage-Moussa at the PMO's office saying,  
3 "Presser tracking for 4pm. This is not  
4 to be shared publicly until [First  
5 Minister's Meeting] over and PM updated  
6 itinerary is out..."

7 Do you see that?

8 **MINISTER DAVID LAMETTI:** I do.

9 **MR. ALAN HONNER:** And, Minister, I put it to you  
10 that the reason this press conference was not to be shared  
11 publicly until after the First Minister's meeting is because the  
12 Prime Minister and Cabinet had already decided to invoke the  
13 *Emergencies Act* before the First Minister's meeting took place  
14 and it would not look right if the press conference, which would  
15 ultimately announce the *Emergencies Act* was scheduled before the  
16 end of that First Minister's meeting.

17 **MINISTER DAVID LAMETTI:** You're completely off  
18 base.

19 **MR. ALAN HONNER:** Okay. Well ---

20 **MINISTER DAVID LAMETTI:** See, the communications  
21 teams -- I mean, first of all, I'm not party to the email, but  
22 the decision-making process was tracking. The decision -- the  
23 final decision was not made until the Prime Minister did, but  
24 communications teams will prepare for the eventuality that this  
25 might happen. I have seen in my political career in the past  
26 seven year ---

27 **MR. ALAN HONNER:** Oh ---

28 **MINISTER DAVID LAMETTI:** No, you asked me the

1 question ---

2 MR. ALAN HONNER: Yeah.

3 MINISTER DAVID LAMETTI: --- sir.

4 MR. ALAN HONNER: But, sir, I just want ---

5 MINISTER DAVID LAMETTI: I've seen ---

6 MR. ALAN HONNER: --- you to read this ---

7 MINISTER DAVID LAMETTI: --- I have seen in my  
8 political career tracking announcements. You see the word  
9 tracking?

10 MR. ALAN HONNER: Yeah.

11 MINISTER DAVID LAMETTI: Tracking announcements  
12 get completely pulled at various stages, including the last  
13 minute.

14 MR. ALAN HONNER: Thank you, sir.

15 MINISTER DAVID LAMETTI: So you cannot ---

16 MR. ALAN HONNER: I only have five minutes.

17 MINISTER DAVID LAMETTI: --- you cannot read ---

18 MR. ALAN HONNER: If I could just continue with  
19 this email.

20 MINISTER DAVID LAMETTI: No, but you want the  
21 context of this email because ---

22 MR. ALAN HONNER: No, I don't want the context.

23 MINISTER DAVID LAMETTI: Well ---

24 MR. ALAN HONNER: I just want ---

25 MINISTER DAVID LAMETTI: --- I would like ---

26 MR. ALAN HONNER: --- I just wanted to ---

27 MINISTER DAVID LAMETTI: --- to give you the  
28 context of it.

1           **MR. ALAN HONNER:** --- put it to you to see if you  
2 agree with it or not, and you ---

3           **MINISTER DAVID LAMETTI:** I ---

4           **MR. ALAN HONNER:** --- disagree.

5           **MINISTER DAVID LAMETTI:** --- I disagree ---

6           **MR. ALAN HONNER:** I can move on.

7           **MINISTER DAVID LAMETTI:** --- strongly that this  
8 means absolutely nothing in terms of ---

9           **MR. ALAN HONNER:** Thank you, sir.

10          **MINISTER DAVID LAMETTI:** --- decision making.

11          **MR. ALAN HONNER:** Then if you disagree, I would  
12 like to take you to another part of this email. You'll see that  
13 this email that we're looking at right now is at 11:05, and  
14 obviously, from the context here, the First Minister's meeting  
15 has not yet finished. You can agree with that, yes?

16          **MINISTER DAVID LAMETTI:** Is 11:05 the time,  
17 because there have been some emails that ---

18          **MR. ALAN HONNER:** Well, but from the context, it  
19 says this is not to be shared publicly until the First  
20 Minister's meeting is over. So from the context, the First  
21 Minister's meeting is not over at the time this email is  
22 written; correct?

23          **MINISTER DAVID LAMETTI:** As I had said, the  
24 communications teams will be preparing for the possibility that  
25 there will be announcement. They do not go with it unless it  
26 happens, and ---

27          **MR. ALAN HONNER:** Sir, you can agree ---

28          **MINISTER DAVID LAMETTI:** --- but they do have to

1 prepare -- they do have to prepare. They're doing their jobs.  
2 They do have to prepare. I'm sorry that you don't ---

3 **MR. ALAN HONNER:** Sir ---

4 **MINISTER DAVID LAMETTI:** --- like that answer ---

5 **MR. ALAN HONNER:** --- you cannot ---

6 **MINISTER DAVID LAMETTI:** --- but it is the truth.

7 **MR. ALAN HONNER:** I just want to know if you  
8 agree with me that the First Minister's meeting had not taken  
9 place yet.

10 **MINISTER DAVID LAMETTI:** I'm not a party to the  
11 email so ---

12 **MR. ALAN HONNER:** Okay.

13 **MINISTER DAVID LAMETTI:** --- I'll take it in  
14 terms of what it says, but they're just planning for their job -  
15 --

16 **MR. ALAN HONNER:** Okay. So, sir ---

17 **MINISTER DAVID LAMETTI:** --- quite frankly.

18 **MR. ALAN HONNER:** --- if we can continue here,  
19 this email says,

20 "As discussed with you, [Minister]

21 Lametti will also have brief remarks."

22 And if we look up the page, there's a response to  
23 this email from David Taylor, your Communication's Director,  
24 saying that he is drafting your remarks. Do you see that?

25 **MINISTER DAVID LAMETTI:** Yes, I do.

26 **MR. ALAN HONNER:** And the timing of that email is  
27 11:06. That's exactly one email -- one minute after the email  
28 we just read.



1                   **MINISTER DAVID LAMETTI:** That's correct.

2                   **MR. ALAN HONNER:** And so, sir, what we see here  
3 is that David Taylor is drafting remarks, your remarks for the  
4 4:30 meeting at which the invocation of the *Emergencies Act* was  
5 announced, and he's drafting those remarks before the end of the  
6 First Minister's meeting.

7                   **MINISTER DAVID LAMETTI:** Yes, but it's all  
8 hypothetical because if ---

9                   **MR. ALAN HONNER:** Well, I put it to you, sir ---

10                   **MINISTER DAVID LAMETTI:** --- because I have seen  
11 -- and you can put it to me and I'll give you the answer, which  
12 is ---

13                   **MR. ALAN HONNER:** Sure, then I put it to you ---

14                   **MINISTER DAVID LAMETTI:** --- they're not final  
15 until it's final. I have seen these announcements pulled five  
16 seconds before it's supposed to happen. They are preparing in  
17 order that it might happen. That is their job. That's why I  
18 pay David Taylor. And same is true for PMO communications and  
19 everyone else.

20                   **MR. ALAN HONNER:** Sir, I put it to you ---

21                   **MINISTER DAVID LAMETTI:** That's good governance.  
22 We're preparing for the eventuality that it will happen, but it  
23 does not happen until the final decision's made.

24                   **MR. ALAN HONNER:** Commissioner, may I have two  
25 more minutes?

26                   **COMMISSIONER ROULEAU:** Sure.

27                   **MR. ALAN HONNER:** Sir, I put it to you, you'll  
28 agree with me that the remarks you did make at 4:30 were, in

1 fact, though, the invoking the *Emergencies Act*? And I will not  
2 put it -- I will not call it up, but it's in the record, it's  
3 OTT00007224-0001. That is what happened at 4:30 that day on the  
4 14<sup>th</sup>?

5 **MINISTER DAVID LAMETTI:** I made remarks only  
6 after the final decision was made.

7 **MR. ALAN HONNER:** Okay. Can we please pull up  
8 SSM.CAN.00008737?

9 Sir, this is a text message exchange between you  
10 and Greg Fergus, and if we can just stop for a moment, he says,  
11 "Marco is talking, talking, talking at the meeting with..." And  
12 we can't see it because it's covered up by the date, which is  
13 February 13<sup>th</sup>. It says "caucus". And if we just go down a  
14 little bit ---

15 **MINISTER DAVID LAMETTI:** M'hm.

16 **MR. ALAN HONNER:** --- you talk a little bit about  
17 that -- it's you in the purple, "Our only other legal option is  
18 the emergencies act." Mr. Fergus says, "That['s] exactly where  
19 people are at. It is where I am at." You respond, "And me.  
20 And Marco, but he is being a good soldier."

21 If we can scroll down, now we have Mr. Fergus say  
22 at 1:28 p.m. on the 13<sup>th</sup>, "Consensus from our call: 1. Use [the]  
23 *Emergencies Act*." He goes through a couple of other criteria,  
24 but let's just scroll down a little bit. And you don't  
25 contradict him; do you? You don't contradict him at any point  
26 that that was the consensus coming out of your call on the 13<sup>th</sup>.

27 **MINISTER DAVID LAMETTI:** He's not a member of  
28 Cabinet, so I'm not going to confirm or deny that. He's a

1 colleague, he's a Caucus colleague. This was -- if you scroll  
2 up, please ---

3 **MR. ALAN HONNER:** M'hm.

4 **MINISTER DAVID LAMETTI:** --- this was after a  
5 Caucus call, so those are his reflections after a Caucus call.  
6 They are, I think, a good reflection in Mr. Fergus's view ---

7 **MR. ALAN HONNER:** Right.

8 **MINISTER DAVID LAMETTI:** --- of what this was.  
9 And I think this confirms, quite frankly, that a decision had --  
10 a final decision had not been taken even though ---

11 **MR. ALAN HONNER:** Well, let's go through the text  
12 message then.

13 **MINISTER DAVID LAMETTI:** --- even though, I must  
14 admit, that I was now at the point by February 13<sup>th</sup> where I  
15 thought the *Emergencies Act* should be invoked.

16 **MR. ALAN HONNER:** M'hm.

17 **MINISTER DAVID LAMETTI:** It is -- I prepared my  
18 colleagues from the beginning for the possibility that this  
19 would happen, as a good Attorney General would do, as a good  
20 Minister of Justice would do, from my experience from the  
21 pandemic where I also prepared my colleagues, and we didn't use  
22 it. By the time we got to this last -- this third weekend, I  
23 had come to that conclusion. That's evident here. But as you  
24 can see, no decision had been taken.

25 **MR. ALAN HONNER:** Sir, the text messages in  
26 evidence, we'll leave it for submissions, if I can just put one  
27 more document to you, and this is SSM.CAN.00008754. Sir, I  
28 started off this examination by talking to you about the

1 invocation of the *Emergencies Act*. Now I just want to talk to  
2 you very briefly, for about 30 seconds, about its revocation.

3 **MINISTER DAVID LAMETTI:** Sure.

4 **MR. ALAN HONNER:** This is another email exchange  
5 between you and Greg Fergus, and he says on February 23<sup>rd</sup>:

6 "I am glad we ended the EA, but it  
7 would have been more appropriate if we  
8 waited until Friday? Forty-four (44)  
9 after the vote seems unseemly."

10 And your response is:

11 "No, we needed to stay ahead of the NDP  
12 and the senators were saying that they  
13 would vote against based on their view  
14 that there was no longer an emergency."

15 That is your text message with Mr. Fergus?

16 **MINISTER DAVID LAMETTI:** It is indeed, and I --  
17 and although we did have the votes, and although the vast  
18 majority of senators understood that they were being asked to  
19 vote on the *Emergencies Act* at the time at which it was invoked,  
20 there were a number that didn't understand that. We had said  
21 from the beginning, sir, that we would not keep the Act a minute  
22 than we needed to. It's something we said to the NDP, and it's  
23 something that we said to senators. And I'm being completely  
24 consistent here to say that we needed to be ahead of that in  
25 terms of keeping our promise in order to -- in order to not keep  
26 the Act in place a minute longer than necessary, and that's  
27 precisely what we did.

28 **MR. ALAN HONNER:** And this my last question. I

1 put it to you that this text message shows that, in fact, you  
2 would have kept the *Emergencies Act* in place for longer had it  
3 not been for the fact that you were concerned that the NDP would  
4 withdraw their support and that the senators would vote against.

5 **MINISTER DAVID LAMETTI:** I reject that premise.  
6 There are other -- there are other text messages that you will  
7 see where have predicted that we had sufficient votes.

8 **MR. ALAN HONNER:** We'll leave that to  
9 submissions. Thank you very much, Minister.

10 **MINISTER DAVID LAMETTI:** Thank you.

11 **COMMISSIONER ROULEAU:** Okay, next is the CCLA,  
12 please.

13 **--- CROSS-EXAMINATION BY MS. CARA ZWIBEL:**

14 **MS. CARA ZWIBEL:** Good afternoon, Minister  
15 Lametti. My name is Cara Zwibel. I'm counsel for the Canadian  
16 Civil Liberties Association.

17 **MINISTER DAVID LAMETTI:** Pleased to meet you.

18 **MS. CARA ZWIBEL:** I'm no Alan Borovoy, but I am  
19 big fan.

20 **MINISTER DAVID LAMETTI:** As am I.

21 **MS. CARA ZWIBEL:** So I'm going to -- and I do  
22 have some time. I want to thank my friends from the OPP and the  
23 Ottawa Coalition for giving me some of their time. Mr. Cameron  
24 took to the McLennan Report and there was some discussion about  
25 your roles. Would you agree with me that you're not only the  
26 chief advisor, legal advisor to the government, you are also  
27 considered as Attorney General, the guardian of the rule of law  
28 and of the constitution?

1                   **MINISTER DAVID LAMETTI:** Very much so, yes.

2                   **MS. CARA ZWIBEL:** Okay. And in your witness  
3 statement -- and we can pull it up if we need but I don't think  
4 I'm misstating it here -- you noted that the decision as to  
5 whether there was a national emergency was a political one; do  
6 you agree with that?

7                   **MINISTER DAVID LAMETTI:** Well, it was a political  
8 application of the various textual rules based on facts that we  
9 had, so ---

10                  **MS. CARA ZWIBEL:** Okay.

11                  **MINISTER DAVID LAMETTI:** --- it's made by -- what  
12 I meant -- what I mean there is it's made by political actors.  
13 It's made by the Governor-in-Council.

14                  **MS. CARA ZWIBEL:** Okay. And do you agree,  
15 thought, that although it's a political decision, your role --  
16 one of your roles was to assess the legality or the  
17 constitutionality of both the decision to involve and the orders  
18 that were ---

19                  **MINISTER DAVID LAMETTI:** Could I see that text,  
20 please, because I think you're reading something in that doesn't  
21 represent what I thought.

22                  **MS. CARA ZWIBEL:** Sure. Can we get witness  
23 summary WTS00000077? And it's on page 4, the bottom of page 4.  
24 It's under the heading "Existence of a National Emergency". And  
25 of you scroll down to the last paragraph, it says:

26                                   "Minister Lametti further explained  
27                                   that the determination as to the  
28                                   existence of a national emergency was a

1 political one. It was formed of the  
2 basis of factual inputs from implicated  
3 government departments including PCO  
4 and legal opinions provided by the  
5 DOJ."

6 **MINISTER DAVID LAMETTI:** Yeah, I meant -- I meant  
7 -- I mean there, and the context now makes it clear, that it's  
8 made by political actors, so the Governor-in-Council. It's not  
9 made by -- it's not made, for example, by CSIS.

10 **MS. CARA ZWIBEL:** Understood.

11 **MINISTER DAVID LAMETTI:** And it's -- and I have  
12 now clearly -- I've clearly stated in that what the inputs were,  
13 and I think it makes it clear. So when I say a "political" one,  
14 I mean it's a decision made by political actors, but it's not a  
15 -- it's not a political decision in the sense that I think you  
16 were understanding.

17 **MS. CARA ZWIBEL:** Okay. You talked with some my  
18 friends about the different -- the different possible, I guess,  
19 interpretations of threats to the security of Canada as set out  
20 in the *CSIS Act* versus the *Emergencies Act* -- and I don't want  
21 to get into and I'm not asking about your legal advice here --  
22 would you agree with me that in the *CSIS Act* what we're talking  
23 about is whether, for example, CSIS can wiretap an individual?

24 **MINISTER DAVID LAMETTI:** Amongst other things,  
25 yes.

26 **MS. CARA ZWIBEL:** Okay. And with the *Emergencies*  
27 *Act*, what we're talking about is whether the government can put  
28 in place orders that have the potential to restrict the rights

1 of every person across the country?

2 **MINISTER DAVID LAMETTI:** Have the potential, yes,  
3 but of course the *Emergencies Act* is subject to the charter and,  
4 as you have quite rightly mentioned, part of my role is to make  
5 sure that whatever we do is charter compliant.

6 **MS. CARA ZWIBEL:** Okay. We're going to get to  
7 the charter. The -- I want to talk a bit about the  
8 communication around the invocation of the Act. We can pull it  
9 up if we need to. Actually, it's SSM.CAN.00004415. These are  
10 technical briefing notes, I think, that would have been prepared  
11 for you by someone in your -- in your office around potential  
12 questions that you might get about the *Emergencies Act*. And if  
13 we can go to page 3 -- sorry, you can see the beginning of the  
14 document there.

15 **MINISTER DAVID LAMETTI:** Yeah.

16 **MS. CARA ZWIBEL:** Page 3, the CSIS threat  
17 definition is discussed, and the second question is:

18 "On what basis does the Governor-in-  
19 Council determine that the ongoing  
20 protest situation reaches the level of  
21 threats to the security of Canada?"

22 And it says:

23 "As defined in Section 16 of the  
24 *Emergencies Act*, given the meaning  
25 assigned in Section of the *CSIS Act*,  
26 threats to the security of Canada  
27 includes..."

28 And it lists those four things. Do you see that?



1                   **MINISTER DAVID LAMETTI:** I do.

2                   **MS. CARA ZWIBEL:** Okay. I can take you to it if  
3 you want, but are you aware that in the *CSIS Act*, threats to the  
4 security of Canada means those four things? It doesn't include  
5 them, it means them. And I'm sure, as a law professor, you know  
6 the statutory interpretation difference between those two  
7 things.

8                   **MINISTER DAVID LAMETTI:** I do.

9                   **MS. CARA ZWIBEL:** Okay. So would you -- do you  
10 need me to take you to the *CSIS Act*?

11                   **MINISTER DAVID LAMETTI:** Oh, no, it's fine. I  
12 have -- I believe I have answered to the point that I can answer  
13 with previous counsel, so ---

14                   **MS. CARA ZWIBEL:** Okay.

15                   **MINISTER DAVID LAMETTI:** --- I'm not sure I can  
16 add anything else. If you want me to repeat myself, I will ---

17                   **MS. CARA ZWIBEL:** No.

18                   **MINISTER DAVID LAMETTI:** --- but it's your time.

19                   **MS. CARA ZWIBEL:** No, thank you. And I know now  
20 -- we've heard over the course of the Commission's time that, in  
21 terms of the *CSIS Act*, it's Section C that the government was  
22 relying on here.

23                   **MINISTER DAVID LAMETTI:** That's correct.

24                   **MS. CARA ZWIBEL:** Okay. But here we have all  
25 four, potentially, laid out. There's also a news release that  
26 was put out when the Act was invoked, and that's COM00000657.  
27 And you know what, I'm not sure I have a page number written  
28 down here. Let's just take a look, if we can scroll down

1 further. So it lists the measures that we will be put in place,  
2 and here it's describing what has to happen in order to declare  
3 a public order emergency. Sorry, stop right there, thank you,  
4 Mr. Clerk. It says:

5 "Threats to the security of Canada may  
6 include the threat or use of acts of  
7 serious violence against persons or  
8 property."

9 So again they were using discretionary language  
10 instead of sort of the mandatory language that's in the Act; do  
11 you agree?

12 **MINISTER DAVID LAMETTI:** This is a news release.

13 **MS. CARA ZWIBEL:** Understood.

14 **MINISTER DAVID LAMETTI:** It isn't meant to be  
15 comprehensive.

16 **MS. CARA ZWIBEL:** Understood. This is what's  
17 communicating to the public about why the government is doing  
18 what it's doing.

19 **MINISTER DAVID LAMETTI:** Right. I would put to  
20 you that it's not misleading, although it's ---

21 **MS. CARA ZWIBEL:** Okay.

22 **MINISTER DAVID LAMETTI:** --- although you may  
23 have wished to have more technical detail as a lawyer, but it is  
24 not misleading in terms of its general direction.

25 **MS. CARA ZWIBEL:** Okay. Let's talk about the  
26 charter. I know that when the Emergencies Act was invoked --  
27 and I think we've seen some documents -- there's concern that  
28 some people think that the Emergencies Act suspends the

1 operation of the charter, and I take it that that is something  
2 that you are concerned about and that you want to provide people  
3 assurances that that's not, in fact, what the *Emergencies Act*  
4 does?

5 **MINISTER DAVID LAMETTI:** That's true.

6 **MS. CARA ZWIBEL:** Okay. And you said, I think,  
7 in a couple of your statements publicly when the Act was invoked  
8 that lawful protest was permitted?

9 **MINISTER DAVID LAMETTI:** Correct.

10 **MS. CARA ZWIBEL:** Now, were you getting a sense  
11 by this point that maybe people that were participating in these  
12 protests did not have a clear understanding of what a lawful  
13 protest was?

14 **MINISTER DAVID LAMETTI:** I think that's -- that  
15 may be true for some, but they were participating in an unlawful  
16 protest. They were participating in a protest that was  
17 trampling on the rights of other Canadians, the section 7 rights  
18 to security. They were having a negative impact on mental  
19 health. They were having a negative impact on people's  
20 mobility, both in urban areas like Ottawa but also at border  
21 crossings. As a group, they were harassing Canadians, and there  
22 were threats of violence. We saw a plot uncovered in Coutts,  
23 Alberta. There were reports of violence, reports of guns  
24 possibly present in Ottawa, and there was the tracking of  
25 potential IMVE throughout.

26 So they were participating in that, and despite  
27 messaging to try to say, "Go home," people weren't listening.

28 **MS. CARA ZWIBEL:** Okay.

1                   **MINISTER DAVID LAMETTI:** So this was not a legal  
2 protest by any stretch of the imagination. It was quite illegal  
3 and the *Emergencies Act* dealt with it.

4                   **MS. CARA ZWIBEL:** When Minister Mendicino was  
5 here yesterday, he said that he believes that although the -- he  
6 would characterize, I think, it the same way, that the protest  
7 was illegal, that there were thousands of people who were aiming  
8 to protest lawfully and thousands of people who were, so not  
9 people who were blocking trucks, people who were simply on the  
10 streets on their feet protesting peacefully.

11                   **MINISTER DAVID LAMETTI:** Yeah, I grant you that  
12 possibility.

13                   **MS. CARA ZWIBEL:** Okay. And the orders that were  
14 put in place under the *Emergencies Act* required those people to  
15 leave the area as well?

16                   **MINISTER DAVID LAMETTI:** That's correct.

17                   **MS. CARA ZWIBEL:** Thank you.

18                   **MINISTER DAVID LAMETTI:** They always had the  
19 option to go somewhere else to protest legally. When the  
20 blockade was cleared, people moved down the street, Wellington  
21 Street in Ottawa towards Booth and they protested on the side of  
22 the road, not impeding traffic, not impeding pedestrians,  
23 manifesting their political beliefs, waving signs. That was  
24 completely legal. Throughout all of this, those people had an  
25 option to move to protest legally, and they didn't.

26                   **MS. CARA ZWIBEL:** Okay. I want to talk about the  
27 financial measures that were put in place, and if we can go to  
28 SSM.CAN00004423?

1                   Would you agree that the financial measures gave  
2 both police and financial institutions discretion to freeze  
3 assets of individuals who were engaged in unlawful activity as  
4 it was defined under the emergency orders?

5                   **MINISTER DAVID LAMETTI:** Yeah, I think that's  
6 right. The language used, to my recollection, was generally  
7 mandatory, but nobody would have quibbled with discretion, had  
8 it been applied.

9                   Again, this is a hypothetical situation. I don't  
10 know any cases where this actually happened.

11                  **MS. CARA ZWIBEL:** You don't know any cases where  
12 people's assets were frozen?

13                  **MINISTER DAVID LAMETTI:** No, where discretion may  
14 have been applied.

15                  **MS. CARA ZWIBEL:** Oh, okay. Well, we did hear  
16 from police, for example, that even though the orders captured  
17 insurance companies, for example, they didn't provide any  
18 information to insurance companies. It sounds like they partly  
19 didn't have time to get to that, but also, they were concerned  
20 that if insurance policies were suspended, trucks would not be  
21 able to leave the area. So that's one example of where some  
22 discretion appears ---

23                  **MINISTER DAVID LAMETTI:** That may be true. There  
24 was anecdotal evidence though that the measures put into place  
25 had the impact of inciting people to go home and to take their  
26 trucks home.

27                  **MS. CARA ZWIBEL:** Okay. This is an email from  
28 you to some of your staff, and it's actually further down that

1 we're interested in, if we can just scroll a bit.

2                   So this is one of your staffers is telling you  
3 that there is a part of your interview -- I think this is with  
4 Evan Solomon -- that's circulating on Twitter with clickbait-  
5 style captions saying that people who have donated to a pro-  
6 Trump cause, any pro-Trump cause, could face legal, financial  
7 consequences. Matt Gurney has seen this being circulated, has  
8 asked for clarification, and they've got a little statement that  
9 they are asking you to approve.

10                   **MINISTER DAVID LAMETTI:** That's right.

11                   **MS. CARA ZWIBEL:** And it says:

12                   "We always ask our police forces as  
13 well as our prosecutors to act  
14 reasonably where they're going to work  
15 with the banks to ensure that they act  
16 reasonably. Obviously, there are going  
17 to be judgement calls that will be made  
18 and serious contributors will be  
19 treated more seriously, but as always,  
20 we're going to leave it to law  
21 enforcement to work with the banks as  
22 they already do in other areas that  
23 already exist such as in anti-terrorism  
24 financing and in others areas through  
25 FINTRAC."

26                   And further down in this email is the transcript  
27 from your interview with Evan Solomon, and he's asking you about  
28 the possibility of donors being targeted by these measures.

1           And if you can scroll down to the third page, the  
2 bit that's highlighted, this is the bit that sort of led to the  
3 confusion, but would you agree with me that here, you're not  
4 saying that someone who's donated couldn't have their assets  
5 frozen? That is contemplated by the orders?

6           **MINISTER DAVID LAMETTI:** That's right. What -- I  
7 mean, I chose language that I probably shouldn't have used in  
8 the framing of this. What I meant to say is that if you happen  
9 to live in the United States and you're supporting what's going  
10 on in Canada, then you ought to be worried that these financial  
11 measures could kick in.

12           **MS. CARA ZWIBEL:** Okay.

13           **MINISTER DAVID LAMETTI:** The other clarification  
14 I would also stand by with respect to the discretion -- and I  
15 think that was a legitimate follow-up question to which we gave  
16 a legitimate clarification.

17           **MS. CARA ZWIBEL:** And then this will be my final  
18 bit.

19           This is -- I guess we've heard about CSIS 101. I  
20 want to talk about Oakes 101. Talked about the proportionality,  
21 the need for all of the measures under the Act to be  
22 proportional.

23           And would you agree with me that proportionality  
24 is assessed in context? So when a court is looking at whether a  
25 government action or measure is proportional, it assesses it  
26 against the objective that the government is trying to achieve?

27           **MINISTER DAVID LAMETTI:** Absolutely right. And  
28 I'm glad you asked that because it allows me to say that we took

1 targeted, time-limited, temporary measures that focused on  
2 specific areas of the occupation that we needed to get at, the  
3 financing as well as the geographical definitions and a few  
4 other things. The measures we took were specific to the  
5 blockades, they were time limited. I believe they passed  
6 Charter muster and they were quite proportional to the task at  
7 hand, and I think in -- this is the one time I will go to  
8 hindsight -- they worked quite well and quite efficiently.

9 **MS. CARA ZWIBEL:** Okay. And the -- by invoking  
10 the *Emergencies Act*, the objective is to address a national  
11 emergency, a threat to the security of Canada under the  
12 *Emergencies Act*?

13 **MINISTER DAVID LAMETTI:** That's correct.

14 **MS. CARA ZWIBEL:** Would you agree that but for  
15 the invocation of the Act, the orders that were in place would  
16 be unlikely to withstand Constitutional scrutiny?

17 **MS. ANDREA GONSALVES:** Mr. Commissioner, I don't  
18 think that that's a fair question. It's a hypothetical and it's  
19 seeking a legal opinion.

20 **MS. CARA ZWIBEL:** I think the Minister's  
21 indicated by his nod that he might agree with me, but I'll leave  
22 it there. Thank you, Minister.

23 **MINISTER DAVID LAMETTI:** Oh, I was actually just  
24 thinking.

25 **MS. CARA ZWIBEL:** Thank you, Commissioner.

26 **COMMISSIONER ROULEAU:** Okay, thank you.

27 Next call on the City of Windsor.

28 **--- CROSS-EXAMINATION BY MS. JENNIFER KING:**



1                   **MS. JENNIFER KING:** Good afternoon ---

2                   **MINISTER DAVID LAMETTI:** Good afternoon.

3                   **MS. JENNIFER KING:** --- Minister Lametti. My  
4 name is Jennifer King. I am legal counsel to the City of  
5 Windsor.

6                   **MINISTER DAVID LAMETTI:** Pleased to meet you.

7                   **MS. JENNIFER KING:** Mr. Clerk, I would like to  
8 show Minister Lametti WIN00000932, and if you could go to page  
9 8, I'll explain to the minister what this is.

10                   Minister Lametti, you are aware that the  
11 Automotive Parts Manufacturers Association supported by Windsor  
12 and Ontario successfully sought an injunction to end the  
13 blockade of the Windsor Bridge -- or the Ambassador Bridge.  
14 Were you aware of that?

15                   **MINISTER DAVID LAMETTI:** Yes, I was.

16                   **MS. JENNIFER KING:** So the first injunction was  
17 effective Friday, February the 11th. Windsor Police and the  
18 OPP, together with their policing partners, safely cleared the  
19 bridge over that weekend, and then although the bridge was  
20 reopened to traffic just after midnight the morning of February  
21 the 14th, the City of Windsor sought to continue the injunction.  
22 You're aware of this?

23                   **MINISTER DAVID LAMETTI:** I am indeed.

24                   **MS. JENNIFER KING:** Okay. So the chief justice  
25 granted this extension on February the 18th. This is the Chief  
26 Justice of Ontario's decision regarding the extension.

27                   Have you seen it?

28                   **MINISTER DAVID LAMETTI:** I have seen parts of it,

1 and I now have it in front of me.

2 **MS. JENNIFER KING:** Great. So I'm just going to  
3 ask you some questions about the findings that the chief justice  
4 made on the evidence that was before him on February the 18th.

5 "The chief justice found that the City  
6 had established a prima facie case,  
7 that protesters had breached multiple  
8 bylaws, and continued to do so after  
9 the order came into effect."

10 Are you aware of this?

11 **MINISTER DAVID LAMETTI:** I am.

12 **MS. JENNIFER KING:** Okay. The court also found  
13 that protesters breached the February the 11th order as  
14 evidenced by multiple arrests under the Criminal Code for breach  
15 of an order.

16 **MINISTER DAVID LAMETTI:** I'm aware of that as  
17 well.

18 **MS. JENNIFER KING:** Did you share the chief  
19 justice's concern that protesters would continue to breach the  
20 law?

21 **MINISTER DAVID LAMETTI:** Yes, and it's certainly  
22 consistent with the information that we were getting, both from  
23 Windsor and other places.

24 **MS. JENNIFER KING:** Right. So the Chief Justice  
25 also found in this paragraph 47 of the decision which is before  
26 you, it shows that the Chief Justice also found based on the  
27 evidence that was presented to him on that day, that there was a  
28 risk that protestors would reassert presence on the roadways to

1 block access to the bridge.

2 Minister Lametti, were you also concerned at that  
3 time about the risk that protestors would return and block the  
4 bridge again?

5 **MINISTER DAVID LAMETTI:** Very much so, including  
6 even after the bridge was cleared later that day and the next  
7 day. We were monitoring very closely what police reports were  
8 saying. There were reports that people were coming back or in  
9 fact when the blockades began to be cleared in Ottawa, that  
10 trucks would leave Ottawa and go to Windsor to the Ambassador  
11 Bridge. So we were monitoring all of that but it was very much  
12 alive in our concerns.

13 **MS. JENNIFER KING:** Right. And that was all  
14 before the Chief Justice on February 18<sup>th</sup> when he heard the  
15 continuation of the injunction?

16 **MINISTER DAVID LAMETTI:** That's correct.

17 **MS. JENNIFER KING:** Mr. Clerk, if you could  
18 please go to page 10, paragraph 59.

19 In considering whether a permanent injunction was  
20 appropriate to enforce municipal by-laws, the Chief Justice used  
21 strong words about the importance of the rule of law. And he  
22 says in paragraph 59:

23 "The rule of law requires that everyone obey  
24 the law. Significant, organized, deliberate  
25 and persistent defiance of the law and court  
26 orders is a serious threat to the rule of  
27 law, which is one of the foundations of a  
28 functioning democracy."

1 Minister, in your view did the protests and border blockades in  
2 particular, threaten the rule of law?

3 **MINISTER DAVID LAMETTI:** Absolutely. Absolutely.  
4 And I would add, as I stated with the previous counsel, that  
5 there was always the opportunity to conduct legal protests, but  
6 the method chosen had a deleterious effect on many, many other  
7 people.

8 **MS. JENNIFER KING:** And can you tell the  
9 Commission, in your view, what are the consequences of these  
10 threats you saw to the rule of law?

11 **MINISTER DAVID LAMETTI:** Well, it undermines - it  
12 undermines the ability of people to live, to work, to function;  
13 it undermines their mental health; it undermines their sense of  
14 security. And that undermines our functioning democracy. It  
15 undermines the ability of decision-makers to make decisions,  
16 democratically elected decision-makers to make decisions. And  
17 you can agree or disagree but there is a process for  
18 disagreement and that process has served our country well since  
19 its inception. This completely undermines that. It's the rule  
20 of the mob as opposed to the rule of law.

21 **MS. JENNIFER KING:** Mr. Lametti, the next  
22 paragraph we see that the Democracy Fund, which is a party here  
23 before this Commission, attended at that hearing as an  
24 intervenor friend of the court and argued that an injunction was  
25 not warranted as there were other enforcement remedies to  
26 address the unlawful conduct, including the *Emergencies Act*.  
27 Because as we know the *Emergencies Act* was already invoked at  
28 that time. And I just wanted to point out for you, I'm not sure

1 if you knew the decision in detail, but that argument was  
2 rejected on the basis that the test for a statutory injunction  
3 under the *Municipal Act* does not require consideration of the  
4 availability of other enforcement remedies.

5 **MINISTER DAVID LAMETTI:** Right. I knew that.

6 **MS. JENNIFER KING:** Oh you did?

7 **MINISTER DAVID LAMETTI:** I would add that nobody  
8 has a monopoly on irony.

9 **MS. JENNIFER KING:** Right. So in paragraph 68,  
10 I have one more question, Minister Lametti, although perhaps  
11 your answer may take more time than I have.

12 At paragraph 68 the Chief Justice concluded by  
13 repeating a statement from his Reasons on the initial  
14 injunction, and he says:

15 "Simply put, freedom of expression does not  
16 extend to the point that the protestor's  
17 activities can result in the denial of  
18 fundamental rights and freedoms to all those  
19 detrimentally effected by the blockade."

20 Could you just - I know we don't have much time, but can you  
21 unpack this balancing of rights for us, just briefly. Does the  
22 extent of an individual right or freedom under the *Charter* have  
23 to be measured against its effect on other members of the  
24 community and their rights and freedoms?

25 **MINISTER DAVID LAMETTI:** Thank you. I agree with  
26 every word that Chief Justice Morawetz has written here. Rights  
27 are not absolute and one's own individual rights go as far as  
28 they do not detrimentally effect the rights of others, it's

1 always a balance.

2                   With respect to peaceful protests, there's always  
3 going to be a bit of inconvenience for a short period of time,  
4 but when you lock in and you block people from living and  
5 working and sleeping at night because you're honking your horns  
6 or can't get your children to school or to the hospital because  
7 you've impeded traffic, or you've blocked a bridge in Windsor  
8 that is vital for the economy of not just south western Ontario,  
9 but the whole country, and the impact that that has on families  
10 and on mental health and stress that it puts on people, all of  
11 that is so far beyond the legitimate exercise of free speech and  
12 freedom of expression, particularly when there's always an  
13 option to do it legally in a time and place and space that  
14 doesn't have that deleterious impact on other people.

15                   **MS. JENNIFER KING:** Thank you, those are my  
16 questions.

17                   **MINISTER DAVID LAMETTI:** Thank you.

18                   **COMMISSIONER ROULEAU:** Okay, next the Windsor  
19 Police Service, please.

20 **--- CROSS-EXAMINATION BY MS. HEATHER PATERSON:**

21                   **MS. HEATHER PATERSON:** Good afternoon, Minister  
22 Lametti; can you hear me okay?

23                   **MINISTER DAVID LAMETTI:** I can indeed. Good  
24 afternoon.

25                   **MS. HEATHER PATERSON:** Okay, wonderful. My name  
26 is Heather Paterson and I'm the lawyer for the Windsor Police  
27 Service. I just have a couple of questions for you today. You  
28 said several times this morning that Government cannot direct

1 operational decisions of police; correct?

2 **MINISTER DAVID LAMETTI:** That's correct.

3 **MS. HEATHER PATERSON:** And that extends to the  
4 police decision of how to allocate news resources; correct?

5 **MINISTER DAVID LAMETTI:** Yes, in terms of  
6 operations, but there are larger decisions where at the very  
7 least, according to what was written in the Ipperwash Report,  
8 governments can make their priorities known in certain  
9 contracts, particularly these kinds of emergency context.

10 **MS. HEATHER PATERSON:** Right. And you said that,  
11 you referenced the Ipperwash a couple of times this morning.

12 **MINISTER DAVID LAMETTI:** That's right.

13 **MS. HEATHER PATERSON:** And that sort of non-  
14 directional would also apply to the police operational decision  
15 on the timing of actioning their plans; correct?

16 **MINISTER DAVID LAMETTI:** Yes, indeed. Although  
17 as I've pointed out it is legitimate for the Government to ask  
18 that there be a plan in existence.

19 **MS. HEATHER PATERSON:** Right. And you'd agree  
20 that any enforcement operation by police needs to be planned and  
21 methodical and properly resourced?

22 **MINISTER DAVID LAMETTI:** Absolutely.

23 **MS. HEATHER PATERSON:** And that it should be  
24 peaceful as possible and in line with protecting protestor  
25 rights and *Charter* rights?

26 **MINISTER DAVID LAMETTI:** That's true.

27 **MS. HEATHER PATERSON:** Okay. And my friend just  
28 took you to it, but I just want to confirm, you were aware that

1 enforcement actions were underway in Windsor on February 12<sup>th</sup> and  
2 the 13<sup>th</sup> and that the bridge was reopened just after midnight on  
3 the 13<sup>th</sup> or morning of the 14<sup>th</sup>; correct?

4 **MINISTER DAVID LAMETTI:** That's right. And a I  
5 had said, even conversations later on the 14<sup>th</sup> indicated that we  
6 were still worried that continued occupations might be  
7 reasserted of the Ambassador Bridge.

8 **MS. HEATHER PATERSON:** Okay. And prior to those  
9 enforcement actions on the 12<sup>th</sup> and 13<sup>th</sup> you weren't provided with  
10 a copy of the operational plan; correct?

11 **MINISTER DAVID LAMETTI:** That's correct.

12 **MS. HEATHER PATERSON:** And you're not receiving  
13 regular briefings by Windsor Police Service on the operations;  
14 correct?

15 **MINISTER DAVID LAMETTI:** That's correct as well.

16 **MS. HEATHER PATERSON:** And you're not ---

17 **MINISTER DAVID LAMETTI:** I was receiving  
18 indirectly the news that an operation would happen but no detail  
19 provided to me directly.

20 **MS. HEATHER PATERSON:** Okay. And you also were  
21 not being - receiving regular briefings from the OPP as the  
22 enforcement action took place in Windsor; correct?

23 **MINISTER DAVID LAMETTI:** That's correct.

24 **MS. HEATHER PATERSON:** So was the source of the  
25 information you were receiving about the enforcement action at  
26 the Ambassador Bridge on February 12<sup>th</sup> and 13<sup>th</sup>, was that mostly  
27 from say television or news reports?

28 **MINISTER DAVID LAMETTI:** It was information we



1 received around the Cabinet table, often through the RCMP  
2 Commissioner or I believe it's also possible through the  
3 National Security Intelligence Apparatus. But I'm pretty sure  
4 it was mainly Commissioner Lucki.

5 **MS. HEATHER PATERSON:** Okay. And just to be  
6 clear, because I actually don't remember. So February 12<sup>th</sup> and  
7 13<sup>th</sup> was a weekend and it was actually Super Bowl weekend; was  
8 there Cabinet meetings happening over the course of that  
9 weekend?

10 **MINISTER DAVID LAMETTI:** Yes, there were.

11 **MS. HEATHER PATERSON:** Okay. So I just want to  
12 take you -- we've looked at a lot of your text this mornings so  
13 I'm just going to bring this particular one up.

14 If we could have SSM.CAN.00007861. So when you  
15 said at 10:30 in the morning that not enough was happening in  
16 Windsor, that wasn't based on any situational awareness as the  
17 plans were undergoing in Windsor that morning; correct?

18 **MINISTER DAVID LAMETTI:** Well, it was based on a  
19 report that I would have gotten from Minister Mendicino saying  
20 that although the bridge had been cleared, traffic hadn't been  
21 -- it wasn't yet open to traffic at the time I was texting.

22 **MS. HEATHER PATERSON:** Okay, thank you. Those  
23 are my questions.

24 **COMMISSIONER ROULEAU:** Thank you. Next I'll call  
25 on the Government of Saskatchewan, please.

26 **--- CROSS-EXAMINATION BY MR. MITCH McADAM:**

27 **MR. MITCH McADAM:** Good afternoon, sir.

28 **MINISTER DAVID LAMETTI:** Good afternoon.

1                   **MR. MITCH McADAM:** I'm Mitch McAdam, one of the  
2 lawyers for the Government of Saskatchewan. And I want to ask  
3 you a few questions about something that you said during your  
4 interview with Commission counsel.

5                   So I would ask the clerk to please pull up the  
6 interview summary. It's WTS00000077. And if we could go to the  
7 top of page 5, please.

8                   Sir, in the second paragraph from the top of that  
9 page, you referred to the non-use of provincial legislation by  
10 provincial governments as being a factor that informed Cabinet's  
11 decision to invoke the *Emergencies Act*. My question is, were  
12 you referring to Ontario's delays in declaring a provincial  
13 emergency under their *Emergency Management and Civil Protection*  
14 *Act*?

15                   **MINISTER DAVID LAMETTI:** In part. I was also  
16 referring to inconsistency. For example, applying insurance  
17 measures across the country. That's one of the reasons why we  
18 invoked the *Emergencies Act* in order to get to that particular  
19 solution.

20                   **MR. MITCH McADAM:** Okay. Sir, were you also  
21 referring to the fact that laws like Ottawa City by-laws or  
22 Ontario's Highway Traffic laws were not being enforced in  
23 downtown Ottawa?

24                   **MINISTER DAVID LAMETTI:** Well, certainly a number  
25 of people felt in the public space that ticketing wasn't  
26 happening, for example, when it could have been happening. Rigs  
27 could have been ticketed as an example. So yes, that's  
28 possible.

1                   **MR. MITCH McADAM:** Okay. So that possibly was a  
2 factor that was being taken into account?

3                   **MINISTER DAVID LAMETTI:** Well, it was certainly  
4 something that I took into account.

5                   **MR. MITCH McADAM:** Okay. Thank you, sir.

6                   And we've heard a lot of evidence at this  
7 Commission about various reasons why laws aren't enforced, such  
8 as the safety of police officers and the public, the lack of  
9 resources, the lack of plans. So you're aware that there could  
10 be very good reasons why provincial laws are not being enforced?

11                   **MINISTER DAVID LAMETTI:** Certainly possible.

12                   **MR. MITCH McADAM:** Okay. And we've also heard  
13 this morning in your testimony about what's been called the  
14 separation of church and state and the fact that governments,  
15 whether they're municipal, provincial, or federal don't  
16 interfere with the operational decisions of police. Do you  
17 recall that?

18                   **MINISTER DAVID LAMETTI:** Very well.

19                   **MR. MITCH McADAM:** Okay. I believe we're having  
20 a fire alarm in our building but I'm just going to plow ahead  
21 and continue. I'm not sure if you can hear the beeping in the  
22 background.

23                   I'm curious, Minister, how does the federal  
24 government assess whether the non-use of provincial legislation  
25 warrants invoking the Emergencies Act. You're reviewing the  
26 operational decisions of police, aren't you?

27                   **MINISTER DAVID LAMETTI:** Not at all. What we're  
28 doing is we're assessing facts on the ground in order to

1 determine whether there is a national emergency and whether,  
2 according to the *Emergencies Act* provincial laws are adequate to  
3 the task. That includes whether there are gaps in provincial  
4 laws or whether there is a necessary -- or whether there is a  
5 non-application of laws.

6 I mean, I could give you examples but it's your  
7 time.

8 So it's really just an assessment of the adequacy  
9 of the current state of laws both in terms of their use or their  
10 non-use as a way of determining whether we've met the threshold  
11 for the *Emergencies Act*.

12 **MR. MITCH McADAM:** Okay. But you will agree with  
13 me, sir, that it's a very different thing to be identifying gaps  
14 in existing laws so that new tools can be provided, as opposed  
15 to reviewing how existing tools are being employed. Those are  
16 quite different things, aren't they?

17 **MINISTER DAVID LAMETTI:** Oh yes, they are. And  
18 I'm not being judgmental about the non-use. I'm just saying  
19 that's a factor. It's a fact on the ground. I'm not being  
20 judgmental about the non-use at all.

21 **MR. MITCH McADAM:** Okay. And you'll also agree  
22 with me, sir, that to the extent it is a provincial decision as  
23 opposed to an operational decision by police, so with respect  
24 does something like a province's decision to invoke its own  
25 *Emergencies* legislation -- that's ordinarily a matter that falls  
26 within exclusive provincial jurisdiction, correct?

27 **MINISTER DAVID LAMETTI:** Yes, that's true. But  
28 we had a situation, for example -- I saw with my own eyes the

1 licence plates of the rigs that were sitting on Wellington  
2 Street in Ottawa. And they came from across the country. And  
3 in order for a number of the financial measures that we put into  
4 place to work, we needed national application. And although a  
5 number of those measures fell within provincial jurisdiction, I  
6 think it was quite a reasonable observation on our part to have  
7 come to the conclusion that not every province would have put  
8 these measures into place in order for us to implement these  
9 kinds of financial measures.

10 So again, it's not a -- it's a question of  
11 efficacy and using -- creating a useful tool that will fill a  
12 gap. It's not a judgement on the operational plans of any  
13 province.

14 **MR. MITCH McADAM:** Okay. And sir, you also  
15 talked about looking at the existence of effective laws and  
16 looking for gaps in the laws. And I take it that could be gaps  
17 in wither federal laws of provincial laws, correct?

18 **MINISTER DAVID LAMETTI:** That's correct.

19 **MR. MITCH McADAM:** Yeah. And you would agree  
20 with me again that in the ordinary course the decision about  
21 whether to enact laws to fill gaps in provincial laws is a  
22 matter that falls within the exclusive jurisdiction of the  
23 provinces; isn't it?

24 **MINISTER DAVID LAMETTI:** Oh absolutely. But  
25 we're talking about an emergency here, a temporary limited  
26 measure with very specific purposes.

27 **MR. MITCH McADAM:** Okay. So just so that I'm  
28 clear then, it's your position and the federal government's

1 position that when there is a national emergency, the federal  
2 government can review what provincial laws exist and how those  
3 laws are being applied and if it thinks it's necessary, can step  
4 in and deal with those matters by orders and regulations under  
5 the *Emergencies Act* even though those matters would ordinarily  
6 fall under provincial jurisdiction, correct?

7 **MS. ANDREA GONSALVES:** I just want to say, when  
8 it comes to the position, for the purposes of legal argument,  
9 that we'll leave the matter of submissions at the end of the  
10 case.

11 **MINISTER DAVID LAMETTI:** And my short answer is  
12 No, I don't agree that -- with the way you've characterized it.

13 **MR. MITCH McADAM:** Okay. And can you tell me  
14 what part of what I've said you disagree with?

15 **MINISTER DAVID LAMETTI:** I would suggest you read  
16 the *Emergencies Act* which says to examine the laws that exist  
17 and fill in gaps in that matter. And ---

18 **MR. MITCH McADAM:** But you would agree with me  
19 that under section 19 of the *Emergencies Act*, the federal  
20 government can make orders and regulations that deal with  
21 matters that in ordinary times would come under the exclusive  
22 jurisdiction of the provinces, correct?

23 **MINISTER DAVID LAMETTI:** I think that's fair.  
24 But it's not something one does lightly.

25 **MR. MITCH McADAM:** Thank you, sir. Those are all  
26 of my questions.

27 **COMMISSIONER ROULEAU:** Thank you. And good luck  
28 with the fire.

1                   **MR. MITCH McADAM:** I'm hoping it's a false alarm.

2 Thank you.

3                   **COMMISSIONER ROULEAU:** I hope so.

4                   **MINISTER DAVID LAMETTI:** You need to replace the  
5 portrait of the Sovereign as well.

6                   **MR. MITCH McADAM:** Yes, I know.

7                   **COMMISSIONER ROULEAU:** Okay. Next is the  
8 Government of Canada, please.

9                   **MS. ANDREA GONSALVES:** Thank you, Commissioner.  
10 And I am advised that the minister needs to go and vote by 3:15.  
11 I expect to be done well before that, but just so we're all  
12 keeping an eye on the clock.

13                   **COMMISSIONER ROULEAU:** Well, I have to ask  
14 questions and maybe a re-examination. So we're going to have to  
15 figure it out. But one step at a time.

16                   **MS. ANDREA GONSALVES:** Okay, thank you.

17 **--- CROSS-EXAMINATION BY MS. ANDREA GONSALVES:**

18                   **MS. ANDREA GONSALVES:** Let's start with  
19 SSM.CAN.00007845.

20                   Minister, just to remind you, in a text message  
21 to your chief of staff on January 30<sup>th</sup>, which we'll put on the  
22 screen to refresh your memory, you raised a question about the  
23 *Emergencies Act*. Do you see that?

24                   **MINISTER DAVID LAMETTI:** Yes.

25                   **MS. ANDREA GONSALVES:** And your testimony in  
26 response to questions from Commission counsel was that you're  
27 raising it as a matter of prudence. This is the Sunday evening  
28 on the first weekend of the protest.

1 Do you start thinking about the *Emergencies Act*  
2 every time there is a protest?

3 **MINISTER DAVID LAMETTI:** No. But this was quite  
4 extraordinary. We'd already seen a weekend of a blockade which  
5 wasn't going anywhere soon. So this was -- this is just  
6 prudence on my part.

7 **MS. ANDREA GONSALVES:** And on January 30<sup>th</sup> your  
8 testifying that it's a matter of prudence. On what date or at  
9 what stage did consideration of the *Emergencies Act* move from a  
10 matter of prudence and a mere possibility to a step that was  
11 being given serious consideration by Cabinet?

12 **MINISTER DAVID LAMETTI:** I think towards -- as we  
13 moved into the -- the sense I got as we moved into the sort of  
14 11<sup>th</sup>, 12<sup>th</sup>, 13<sup>th</sup>, of February it began to be serious. Certainly,  
15 for me, it was moving into that weekend that it became a serious  
16 possibility for me.

17 **MS. ANDREA GONSALVES:** Okay. Let's go to  
18 SSM.CAN.00007851. And this was a text message exchange with  
19 Minister Mendicino that you were taken to by Commission Counsel.  
20 You'll recall that Mr. Cameron asked you about your first  
21 sentence there, "You need to get the police to move." The  
22 exchange goes on to talk -- you say, "And the CAF if necessary."  
23 Mr. Mendicino writes,

24 "How many tanks are you asking for  
25 I just wanna ask Anita how many we've  
26 got on hand"

27 You respond, "I reckon one will do!!"

28 On February 2<sup>nd</sup> or at any other point were you



1 seriously suggesting that CAF be brought in or that there be  
2 tanks brought in to Ottawa to deal with the situation?

3 **MINISTER DAVID LAMETTI:** No. This exchange is  
4 meant to be a joke between two friends. CAF if necessary. The  
5 CAF is always the last resort under the *National Defence Act*,  
6 the very last resort, even after the *Emergencies Act*. So, in a  
7 sense, the *Emergencies Act* is the second-last resort. And I  
8 think it's fair, particularly as we moved along, that the CAF  
9 was not an option.

10 **MS. ANDREA GONSALVES:** Okay. You recall  
11 questions from Mr. Honner on behalf of the Democracy Fund about  
12 the timing of revocation. Let's please put up SSM.CAN.00007902.

13 And, Minister, he put to you the suggestion that  
14 but for some concern about getting ahead of the NDP, your  
15 government would have continued the *Emergencies Act*. Do you  
16 recall those questions?

17 **MINISTER DAVID LAMETTI:** Yeah, I do.

18 **MS. ANDREA GONSALVES:** And you mentioned in your  
19 evidence that there were other text messages. This is the text  
20 message between yourself and Eric Antoine, February 23<sup>rd</sup>. Who is  
21 Mr. Antoine?

22 **MINISTER DAVID LAMETTI:** No, it's actually  
23 between my Chief of Staff and Mr. Antoine. So I didn't write  
24 this text. But with my team, I was tracking the numbers, so  
25 with my Chief of Staff and my Director of Parliamentary Affairs.

26 **MS. ANDREA GONSALVES:** Sorry, I just want to be  
27 clear, who is Mr. Antoine?

28 **MINISTER DAVID LAMETTI:** I believe he is the

1 Chief of Staff to the Government leader in the Senate.

2 **MS. ANDREA GONSALVES:** Okay. And in his text  
3 message he says on February 23<sup>rd</sup>, "Our count as of right before  
4 the announcement..." That's the announcement of revocation?

5 **MINISTER DAVID LAMETTI:** That's right.

6 **MS. ANDREA GONSALVES:** "...was 51 declared yes,  
7 22 declared against and 18 undecided..." Was that the text  
8 message you were ---

9 **MINISTER DAVID LAMETTI:** That's correct.

10 **MS. ANDREA GONSALVES:** --- referring to?

11 **MINISTER DAVID LAMETTI:** That's correct.

12 **MS. ANDREA GONSALVES:** And SSM.CAN.00007903.

13 Just to continue -- it just continues where the bottom is that  
14 says,

15 "Yea we worked our ass off, but the  
16 right and proper thing to do was to  
17 revoke as soon as the..."

18 **MINISTER DAVID LAMETTI:** Emergency was over.

19 **MS. ANDREA GONSALVES:** Oh, if you recall it being  
20 emergency was over ---

21 **MINISTER DAVID LAMETTI:** Something to that gist,  
22 yeah.

23 **MS. ANDREA GONSALVES:** And your evidence is that  
24 that's the timing that the government chose for revocation is  
25 when the emergency was over?

26 **MINISTER DAVID LAMETTI:** Very true. We said from  
27 the beginning, when the emergency -- was objectively over.  
28 There we are. Pretty close. Notwithstanding the senate

1 process.

2                   So we said from the beginning, we wouldn't leave  
3 it in place a minute longer than we had to. That's exactly what  
4 we did. We promised, as I said, the NDP that. We promised  
5 Canadians that and that's how we react.

6                   **MS. ANDREA GONSALVES:** Okay. And you testified  
7 in response to questions from Commission Counsel and Ms. Johnson  
8 for the Coalition of Ottawa Businesses and Residents about some  
9 of your own observations and experiences in the City of Ottawa  
10 during the protests, during the occupation. You call that  
11 evidence?

12                   **MINISTER DAVID LAMETTI:** I do.

13                   **MS. ANDREA GONSALVES:** I want to take you to some  
14 online incidents that I understand were directed toward you.  
15 And seeing the time available, how many I can come to,  
16 SSM.CAN.00007896. And this reads,

17                                   "You're the fucking real terrorist bud.  
18                                   Too bad this wasn't a few decades ago  
19                                   because you'd already be hanging from a  
20                                   light pole downtown Ottawa for your  
21                                   treasonous crimes against Canadians."

22                   And it goes on from there. Is that a direct  
23 message that you received over social media after the Government  
24 of Canada announced the invocation of the *Emergencies Act*?

25                   **MINISTER DAVID LAMETTI:** Yes, I did.

26                   **MS. ANDREA GONSALVES:** Okay. Let's go to  
27 SSM.CAN.00007897.

28                   And while we're pulling that up, just to be

1 clear, the Government of Canada did introduce invocation for a  
2 vote in the House of Commons?

3 **MINISTER DAVID LAMETTI:** Yes.

4 **MS. ANDREA GONSALVES:** And you spoke to that?

5 **MINISTER DAVID LAMETTI:** I did.

6 **MS. ANDREA GONSALVES:** And we see a photo of you  
7 in the Commons. There's a caption "motion for confirmation of  
8 the declaration of emergency," and there's a response to that,  
9 "hashtag assassinate Lametti". And this is another social media  
10 message that you became aware of?

11 **MINISTER DAVID LAMETTI:** That's right.

12 **MS. ANDREA GONSALVES:** SSM.CAN.00007899.

13 **MINISTER DAVID LAMETTI:** I note another person  
14 was insulting me in Italian, which is my mother tongue.

15 **MS. ANDREA GONSALVES:** This one says,

16 "You and your support structure of  
17 corrupt officials need to be drug out  
18 into the street and stoned... I think  
19 that day is coming for you sooner than  
20 you think..."

21 You also received this message over Instagram  
22 around the time that the *Emergency Act* was invoked?

23 **MINISTER DAVID LAMETTI:** Yeah, sadly, I did.

24 **MS. ANDREA GONSALVES:** And last one

25 SSM.CAN.00007900. This is a Facebook message. I won't read it  
26 all, but,

27 "Time to die David Lametti for peace  
28 and security of mankind..."

1                   There's a line here,  
2                    "You[r] death date is overdue udas with  
3                   bullet to your head, rope around your  
4                   neck, guts cut open and bled out on the  
5                   ground..."

6                   And then it continues from there. Minister  
7 Lametti, were all of these threats reported to the RCMP?

8                   **MINISTER DAVID LAMETTI:** I believe they were. My  
9 team, both my constituency team, this was my constituency, and  
10 my Ministerial teams to routinely report any threats I receive.

11                   **MS. ANDREA GONSALVES:** And I don't think we have  
12 time to pull it up, but there is an email to that effect,  
13 SSM.CAN.00008683. And, Minister, we'll just go to one last  
14 document TS.NSC.CAN.001.00000183.

15                   Minister Lametti, you have been a Member of  
16 Parliament since 2015 I understand?

17                   **MINISTER DAVID LAMETTI:** That's correct.

18                   **MS. ANDREA GONSALVES:** And the sorts of threats  
19 that we just walked through, there was one more, we don't need  
20 to pull it up, but it was a photo of a noose, SSM.CAN.00007898,  
21 have you ever experienced anything like that in your years as an  
22 MP prior to the events of January and February 2022?

23                   **MINISTER DAVID LAMETTI:** Not to that degree. I  
24 have had threats. I have had threats online. My family has had  
25 threats from time to time and I have reported them from time to  
26 time. Often, I think from an anecdotal perspective, it's --  
27 they're often a product of mental illness and that's a problem  
28 we need to fight. But there really was a market increase in the

1 virulence and the threats, like, threat -- the threats to kill  
2 me, I think, are -- and the manner in which people would like to  
3 kill me have been, I think, they've accelerated immensely.

4 **MS. ANDREA GONSALVES:** So on this screen it's an  
5 ITAC report of February 22<sup>nd</sup>, Threats to Canadian Political  
6 Figures and Government Locations in the Context of Protests and  
7 Emergency Response Measures. Could we please go, Mr. Clerk, to  
8 page 2? And there's a heading "Increased Threats to Elected  
9 Officials During Protests". And the second paragraph after the  
10 redaction observes,

11 "There has been a noticeable increase  
12 in threatening behaviour towards  
13 members of Parliament and incidents at  
14 constituency offices since the  
15 beginning of the protests, including a  
16 recent fire believed to be an arson and  
17 a few minor physical altercations with  
18 staff. This threatening behaviour has  
19 been primarily focussed on vaccine  
20 mandates and the Government's enacting  
21 of the *Emergencies Act* and has been  
22 directed at members of all political  
23 parties." (As read)

24 Minister Lametti, is that consistent with your  
25 experience?

26 **MINISTER DAVID LAMETTI:** Very much so. In fact,  
27 at the beginning of the occupation, a number of us living  
28 fulltime or parttime in the Ottawa/Gatineau areas were worried

1 that our addresses were going to be published online.

2 **MS. ANDREA GONSALVES:** Thank you, those are my  
3 questions.

4 **MINISTER DAVID LAMETTI:** Thank you.

5 **COMMISSIONER ROULEAU:** Thank you. Okay, any re-  
6 examination?

7 **MR. GORDON CAMERON:** There is, and will try to  
8 get it in before the division bells call the witness to ---

9 **COMMISSIONER ROULEAU:** Okay, well, somebody will  
10 signal when that time comes, I take it?

11 **MR. GORDON CAMERON:** Yes.

12 **COMMISSIONER ROULEAU:** Okay. Go ahead.

13 **--- RE-EXAMINATION BY MR. GORDON CAMERON:**

14 **MR. GORDON CAMERON:** Mr. Chairman, one of the  
15 parties, in particular the CCF, the Canadian Constitutional  
16 Foundation, and a number of parties by implication indirectly,  
17 raised the point that was before you on Monday when the CSIS  
18 panel was us, and so I'm going to ask this witness some  
19 questions about the evidence that Mr. Vigneault gave and see if  
20 he can help us at all with the basis on which Mr. Vigneault that  
21 it was appropriate for him to give an opinion to the prime  
22 minister about invoking the Act even though he had an opinion as  
23 the Director of CSIS that the threshold of 2.c had not been met.

24 So with that in mind, let me ask you, Minister  
25 Lametti, if you followed that -- either live or in preparing for  
26 the hearing, that exchange in which the Director of CSIS, Mr.  
27 Vigneault, had said in a closed session, which go summarized  
28 into an open session, that based on assurances he had received,

1 he thought it was appropriate to give an opinion to the prime  
2 minister on whether or not the Act should be invoked  
3 independently of his view on the fact that 2.c had not been met?  
4 Did you follow that issue?

5 **MINISTER DAVID LAMETTI:** I read the transcript of  
6 it.

7 **MR. GORDON CAMERON:** Thank you. Well, that helps  
8 us. When the matter came up -- and I -- Mr. Clerk, are you able  
9 to pull up the transcript of the 21<sup>st</sup> for us just in case  
10 Minister Lametti want to see the way that Director Vigneault put  
11 it? And I'm looking at page 58 of the transcript. Let me --  
12 while it's coming up on the screen, Minister Lametti, I'll --  
13 you've read the transcript, but just to put some context from  
14 the question, I'll you about it. I'm at the top of page of the  
15 transcript and -- oh, it looks like we might get it up -- 58.  
16 And yes, if you could just zoom in so we can get that "So  
17 when...". Okay. And this Director Vigneault speaking:

18 "So when that was first brought up, the  
19 fact that the Emergencies Act was using  
20 the same words as the *CSIS Act* to  
21 define the threat, so imported into the  
22 *Emergencies Act*, I needed to understand  
23 for myself and for, you know, the  
24 course of this, what was the  
25 implication of that. And that's when I  
26 was assured that, you know, they were -  
27 - it was a separate understanding. You  
28 know, the confines of the *CSIS Act*, the



1 same words, based on legal  
2 interpretation, jurisprudence, Federal  
3 Court rulings and so on, there was a  
4 very clear understanding of what those  
5 words meant in the confines of the *CSIS*  
6 *Act*, and what I was reassured by is  
7 that there was, you know, in the  
8 context of the *Emergencies Act* there  
9 was to be a separate interpretation  
10 based on the confines of that Act"

11 And so my question to you, Minister Lametti is,  
12 what assurance had Mr. Vigneault received that allowed him come  
13 to that conclusion that there were different interpretations of  
14 the -- of the test under the *CSIS Act* and under the *Emergencies*  
15 *Act*?

16 **MS. ANDREA GONSALVES:** Commissioner, I need to  
17 object to that question on the grounds that it may get into  
18 areas of solicitor-client privilege.

19 **MINISTER DAVID LAMETTI:** In addition to the fact  
20 you're asking me to comment on a conversation which I was not  
21 part of.

22 **MR. GORDON CAMERON:** Commissioner, the Commission  
23 counsel are in a conundrum here, as I think are the parties who  
24 have tried to pursue this issue with Director Vigneault, with  
25 Minister Lametti, and with others as the hearing has proceeded.  
26 We recognize, though, that solicitor-client privilege poses a  
27 special challenge for the Commission, not only because of issues  
28 of the extent to which you're able to adjudicate on those

1 issues, but also because the time it takes to resolve them,  
2 especially if the matter ends up getting referred to a Court of  
3 Superior jurisdiction would be frankly fatal to the timetable  
4 that you're obliged to work by.

5           And so, Commission counsel are not going to call  
6 on you to make a ruling on this issue. We would observe that we  
7 have, throughout -- that is, from the beginning of this  
8 proceeding though until now -- attempted to find a way to lift  
9 the veil that has made such a black box of what has turned out  
10 to be a central issue before the hearing.

11           Now, if we believed that that prevented you from  
12 assessing the basis on which the government came to its  
13 conclusion, we would ask you for a ruling on it, but we are  
14 confident that there are other ways that we can get the same  
15 information on the record or get the same result through legal  
16 arguments, and so we're not pressing you for an issue, we just  
17 regret that it ends up being an absence of transparency on the  
18 part of the government in this proceeding.

19           **MS. ANDREA GONSALVES:** Mr. Commissioner, I  
20 apologize for interrupting, but the Minister does need to go and  
21 vote now, I understand.

22           **COMMISSIONER ROULEAU:** Okay.

23           **MS. ANDREA GONSALVES:** Perhaps my friend and I  
24 can -- we can continue to deal with this issue in his absence.

25           **COMMISSIONER ROULEAU:** Okay, well, maybe you can  
26 go -- go and vote, then, if -- and vote wisely. So ---

27           **MINISTER DAVID LAMETTI:** I'll take that, thank  
28 you.

1                   **COMMISSIONER ROULEAU:** I will adjourn until, I  
2 guess, what -- about 10 minutes?

3                   **THE REGISTRAR:** The Commission is in recess for  
4 10 minutes. La Commission est levée pour dix minutes.

5 --- Upon recessing at 3:12 p.m.

6 --- Upon resuming at 3:36 p.m.

7                   **THE REGISTRAR:** The Commission is reconvened. La  
8 Commission reprend.

9                   **COMMISSIONER ROULEAU:** Okay, I understand it's  
10 now my turn? Okay. I don't have many questions. I apologize  
11 for making you bounce back and forth. I just want to start with  
12 one easy one, which is the -- in one of the cross-examinations,  
13 you talked about the insurance and the need to make it national.  
14 And I take it you would agree that by the exercise you went  
15 through, you're overriding a provincial right, if you like, to  
16 control insurance, at least in that limited respect?

17                   **MINISTER DAVID LAMETTI:** That's correct, yes.

18                   **COMMISSIONER ROULEAU:** So it's an exercise --  
19 when we look at it, it's not just a -- sort of a power of the  
20 federal government that's exercised within its discretion. It  
21 becomes, in a way, a constitutional exercise that goes into  
22 another area of constitutional jurisdiction, and that may have  
23 some impact on how this has to be looked at; would that be fair?

24                   **MINISTER DAVID LAMETTI:** I think that's fair. In  
25 response, I guess I would say that it is an emergency, that this  
26 an extraordinary set of powers which requires an extraordinary  
27 set of steps both before and after.

28                   **COMMISSIONER ROULEAU:** Yeah, I'm more thinking in

1 terms of the review test ---

2 **MINISTER DAVID LAMETTI:** That's right.

3 **COMMISSIONER ROULEAU:** --- to give you a bit of a  
4 hint at what it was. And, as a spoiler, I don't think Madam  
5 Drouin agreed with you, but that's -- that's okay, I gather.  
6 The second I wanted to just raise quickly, which is -- was also  
7 raised, is the role of injunctions. And, as I understand it --  
8 I may be wrong -- you're not a big fan the injunctions being  
9 taken by the government?

10 **MINISTER DAVID LAMETTI:** Well, I -- it is -- I  
11 think that's generally fair in the sense that I've always felt  
12 that governments had other -- had other tools at their disposal.  
13 That being said, I did join, as Attorney General, the injunction  
14 in the City of Ottawa in order to give complete coverage --  
15 territorial coverage to the citizens seeking injunctive -- the  
16 citizens groups seeking injunctive relief because some of that  
17 would have been federal land, so I wanted to make sure that they  
18 had complete coverage. I guess it's an old private lawyer's  
19 bias that I see injunctions as a private law remedy for citizens  
20 to use in the courts. It is a public-law setting, and I  
21 understand that, but it is a remedy that citizens can use, and I  
22 think government has other tools.

23 **COMMISSIONER ROULEAU:** And I appreciate that, and  
24 ---

25 **MINISTER DAVID LAMETTI:** We did talk about it.

26 **COMMISSIONER ROULEAU:** And there is also an issue  
27 about enforceability and so on. But I guess one of the areas  
28 that has come up in the course of these hearings is that law

1 enforcement and -- sometimes has issues in terms of clarity, and  
2 an injunction gives them clarity as to what's legal and what is  
3 not. And do you see a role in this type of a protest for  
4 injunctions to give police a clear line when it goes from  
5 protest to, as you've described it, an occupation?

6 **MINISTER DAVID LAMETTI:** Fair point. It worked,  
7 I suppose, or had a positive role in Windsor. The question of  
8 who seeks an injunction, again it's not necessarily in the  
9 toolkit of the Federal Government if it's not on land that falls  
10 within federal jurisdiction or if the police of jurisdiction  
11 doesn't fall within federal authority, but it is -- it's  
12 definitely there as an option.

13 **COMMISSIONER ROULEAU:** Okay. And I'm going to go  
14 back to the decision to -- or what we call the church and state  
15 distinction and Ipperwash. And I guess one of the things that  
16 may or may not be an issue in what we're doing is understanding  
17 how Ipperwash would extend to the types of situations that you  
18 and your government were faced with. And to put it in a, maybe  
19 in an unreasonable way, but as I understand it, the RCMP, the  
20 decision to deploy RCMP officers to do provincial -- to support  
21 the province would not be something that is -- the province has  
22 a right to call on.

23 **MINISTER DAVID LAMETTI:** It depends on the nature  
24 of their agreement with the Federal Government and the RCMP.  
25 Some provinces have contractual policing and don't.

26 **COMMISSIONER ROULEAU:** Yes.

27 **MINISTER DAVID LAMETTI:** But yes, it would be  
28 something that they would request of the government or the RCMP,

1 the Federal Government.

2                   **COMMISSIONER ROULEAU:** Yeah. And I guess what  
3 I'm wondering is does that -- is that something that should be  
4 reviewed or should be structured in the sense that what is the  
5 role of different police and how are they dispatched? In other  
6 words, is that purely a decision, and I don't know, by your  
7 Commissioner to decide to support, for example, the Windsor  
8 Police, where there's no agreement and it would be deploying  
9 resources and money?

10                   **MINISTER DAVID LAMETTI:** I think the question is  
11 probably best asked to Minister Mendicino in the sense that I  
12 believe there are agreements in place for the RCMP to move its  
13 effective resources around, and I know that's true in provinces  
14 where they have contractual policing arrangements. The  
15 relationship in Ontario, or Quebec for that matter, where you  
16 have multiple levels of policing, including provincial police  
17 forces I think would be different, but I can't say I know the  
18 answer to that.

19                   **COMMISSIONER ROULEAU:** Yeah, because  
20 Minister Mendicino did speak about the arrangements, and he did  
21 say the political level he is involved ---

22                   **MINISTER DAVID LAMETTI:** Right.

23                   **COMMISSIONER ROULEAU:** --- in a decision to  
24 deploy from one province to the other, as I understand it, a  
25 joint decision ---

26                   **MINISTER DAVID LAMETTI:** Right.

27                   **COMMISSIONER ROULEAU:** --- by the province and  
28 the government?

1                   **MINISTER DAVID LAMETTI:** I would take his word  
2 for it.

3                   **COMMISSIONER ROULEAU:** But I neglected to ask him  
4 about the -- how it would work in Ontario and whether there is  
5 any advantage in that being looked into.

6                   **MINISTER DAVID LAMETTI:** It's a question that we  
7 can answer for you, sir. I can't answer the question offhand.

8                   **COMMISSIONER ROULEAU:** Okay. And just on one  
9 final, and I may get into trouble here, so -- but it's -- your  
10 counsel can weigh in if need be. But I'm just trying to  
11 understand, the job that the Commission is to do is to look at  
12 the decision by Cabinet, and as was mentioned by  
13 Commission Counsel, there's an issue of the reasonableness of  
14 it. And I'm having a little trouble, and I don't know if you  
15 can help me, how we assess reasonableness when we don't know  
16 what they were acting on. And do we just presume they were  
17 acting in good faith without knowing the basis or structure  
18 within which they had made that decision? And you know of what  
19 I speak.

20                   **MINISTER DAVID LAMETTI:** Yeah. I mean, I think  
21 we have done our best to provide all the information we can.  
22 The section 58 report effectively gives you the conclusions that  
23 we got to.

24                   **COMMISSIONER ROULEAU:** Yeah.

25                   **MINISTER DAVID LAMETTI:** The -- and the various  
26 factors identified in there, facts on the ground, as well as the  
27 testimony that you've received from my colleagues, but also  
28 including me and other officials, gives you a picture of the

1 actual events that were causing us to move in the direction that  
2 we did.

3           You've had some, through testimony, some  
4 indication of what the views of the legal standards were, and  
5 I'm hoping that our lawyers will make the legal argument to you  
6 in their final submissions about the legal basis for what we  
7 did, I would expect them to do that, and I'm hoping that that  
8 will give you a complete picture.

9           I -- I've said this a number of times, but I do  
10 think we, in an unprecedented circumstance, made a reasonable  
11 series of decisions. We went through the various possibilities  
12 throughout. That's not something we touched in testimony today,  
13 but I know my colleagues have, looking at alternatives and  
14 trying to figure out what we could do as the Federal Government  
15 in these circumstances. And I do hope we have given the  
16 picture.

17           It's awkward for me, as Attorney General, to be  
18 here as Attorney General. It would have been easier just to  
19 come as the Minister of Justice, but that is what it is, and  
20 it's awkward to have the legal arguments at the end I suppose.

21           **COMMISSIONER ROULEAU:** Yeah. I guess, and I  
22 don't mean it in any sort of derogatory or negative way, but the  
23 final arguments as to the law are obviously important as to  
24 whether or not what was done was -- met the requirements of the  
25 law, I have no trouble with that because that's something that  
26 has to be decided. But what I don't know, and I'm not saying we  
27 necessarily need to know, is what was the belief of those who  
28 made the decision as to what the law was? And I guess the



1 answer is we just assume they acted in good faith in application  
2 of whatever they were told. Is that sort of what you're saying?

3 **MINISTER DAVID LAMETTI:** I think that's fair.

4 **COMMISSIONER ROULEAU:** Okay. Because I think you  
5 understand what I am saying, and I'm just trying to figure how I  
6 get from A to B because I'm close to starting to do that.

7 **MINISTER DAVID LAMETTI:** I understand.

8 **COMMISSIONER ROULEAU:** Okay. Those are my  
9 questions. Thank you very much, and I'm sorry you had to bounce  
10 in and out ---

11 **MINISTER DAVID LAMETTI:** No, that's fine.

12 **COMMISSIONER ROULEAU:** --- but it's good of you  
13 to come.

14 **MINISTER DAVID LAMETTI:** Merci. Bonne chance.

15 **COMMISSIONER ROULEAU:** Merci, beaucoup, et bonne  
16 chance à vous.

17 So we'll -- I am not sure how it's going to work,  
18 but someone will tell me when someone is available? So do we  
19 start now?

20 Okay. Well, we'll take five minutes to sort it.

21 **THE REGISTRAR:** The Commission is in recess for  
22 5 minutes. La Commission est levée pour 5 minutes.

23 --- Upon recessing at 3:48 p.m.

24 --- Upon recessing at 3:54 p.m.

25 **THE REGISTRAR:** Order. À l'ordre. The  
26 Commission has reconvened. La Commission reprend.

27 **COMMISSIONER ROULEAU:** Take your time.

28 D'accord. Alors, on y va? D'accord.

1                   **MR. GORDON CAMERON:** Good afternoon again,  
2 Mr. Commissioner. Gordon Cameron for Commission Counsel.

3                   We have to testify now Minister Anita Anand, the  
4 Minister of National Defence. And she will be sworn, and she  
5 has her own religious book.

6                   **THE REGISTRAR:** Minister Anand, for the record  
7 please state your full name and spell it out.

8                   **MINISTER ANITA ANAND:** My name is Indira Anita  
9 Anand, I-N-D-I-R-A A-N-I-T-A A-N-A-N-D.

10 --- MINISTER ANITA ANAND, Sworn:

11 --- EXAMINATION IN-CHIEF BY MR. GORDON CAMERON:

12                   **MR. GORDON CAMERON:** If I may begin, Minister  
13 Anand, by thanking you very much for being here today. I know  
14 it was a special challenge for you to fit in and we had hoped it  
15 to be like a puzzle piece in you schedule and ours, and  
16 unfortunately one thing led to another and that didn't quite  
17 happen.

18                   But fortunately, it won't be one of the longest  
19 exams we've had before the Commission.

20                   Let me begin by just doing some housekeeping, and  
21 in particular I'm going to ask you to cast your mind back to  
22 September of this year when you were interviewed by me and some  
23 of my colleagues and then a summary of that interview was  
24 prepared. And for the record -- I don't need this called up,  
25 Mr. Clerk, but I'll just put it on the record -- the summary of  
26 Minister Anand's interview is WTS.00000076.

27                   And did you have a chance to review that summary  
28 for accuracy, Minister Anand?

1                   **MINISTER ANITA ANAND:** I did.

2                   **MR. GORDON CAMERON:** And can you firm that it's  
3 accurate to the best of your information and belief and that you  
4 adopt it as part of your evidence for the Commission?

5                   **MINISTER ANITA ANAND:** It is. Thank you.

6                   **MR. GORDON CAMERON:** And also the Department of  
7 National Defence filed an institutional report. For the record,  
8 that's DOJ.IR00000012. And, again, Minister Anand, can you  
9 confirm that that was filed by the Department of National  
10 Defence as part of its evidence in this hearing?

11                   **MINISTER ANITA ANAND:** Yes, I can.

12                   **MR. GORDON CAMERON:** Thank you very much.

13                   Now, even though we won't be having a lot of  
14 questions for you, they are very, very important questions that  
15 have come up before the Commission and been raised by the  
16 parties in two areas that I'm going to concentrate Commission  
17 Counsel's questions on. And I'll just begin by headlining those  
18 two areas.

19                   One is, the role that the Department of National  
20 Defence plays when a province makes a request for assistance to  
21 the Federal Government for assistance that is potentially or  
22 perhaps best provided by the Canadian Forces.

23                   And the second area is, your views as the  
24 Minister of National Defence, of the times, if ever, and the  
25 circumstances in which it would or would not be appropriate for  
26 personnel and equipment of the Canadian Armed Forces to be used  
27 in an otherwise civil public order incident.

28                   So with that said, I will just ask you to

1 describe a little bit about your position. I'll begin by asking  
2 you to confirm that you were appointed as the Minister of  
3 National Defence in October of 2021; is that correct?

4 **MINISTER ANITA ANAND:** Oui.

5 **MR. GORDON CAMERON:** And as Minister of National  
6 Defence you're responsible for both the Department of National  
7 Defence and the Canadian Armed Forces; correct?

8 **MINISTER ANITA ANAND:** Well, I'd like to be a  
9 little bit more specific than that in section ---

10 **MR. GORDON CAMERON:** Please, you can almost  
11 certainly do better than I could on that one.

12 **MINISTER ANITA ANAND:** And Section 4 of the  
13 National Defence specifies that the Minister of National Defence  
14 has management and direction of the Canadian Armed Forces. I  
15 work very closely with a senior team and in particular the Chief  
16 of Defence staff who under section 18 of the *National Defence*  
17 *Act* has control and administration of the Canadian Armed Forces.  
18 I also work closely with my Deputy Minister who under section 7  
19 is appointed and the Deputy Minister has jurisdiction over  
20 running the Department of National Defence, Human Resources in  
21 that Department, as well as advising the Minister on decisions.  
22 And that is the -- I would say the "Triumvirate" within which we  
23 work and the framework for the decision-making in the Department  
24 of National Defence, with of course me as Minister at the Apex.

25 **MR. GORDON CAMERON:** Now, we've heard a fair bit  
26 of evidence about the role that the Ministry of Emergency  
27 Preparedness and the Department of Public Safety play in the  
28 initial receipt, processing, consideration et cetera of request

1 for assistance from provinces.

2 At a high level can you describe the role that  
3 the Canadian Armed Forces and the Department of National plays  
4 in that process?

5 **MINISTER ANITA ANAND:** I certainly can. I will  
6 say that that process is not run out of the Department of  
7 National Defence although we sometimes are the subject matter of  
8 a request for assistance that may come to Minister Blair who is  
9 the Minister responsible for the RFA process and under section  
10 4(h) of the *Emergency Management Act* has the jurisdiction to  
11 continue to address request for assistance.

12 And so in terms of the Department of National  
13 Defence, as I said, sometimes the Canadian Armed Forces and the  
14 resources of the Forces are the subject matter of requests for  
15 assistance.

16 So for example, in hurricanes and floods, during  
17 Covid, for example the Canadian Armed Forces have been the  
18 subject of request for assistance from the provinces and we do  
19 our very best to respond in whatever way we can.

20 **MR. GORDON CAMERON:** Your institutional report,  
21 which is -- again, Mr. Clerk, I don't need it called up, but the  
22 one that you adopted early in your evidence refers to two main  
23 mechanisms under the *National Defence Act* by which the Canadian  
24 Armed Forces can be called on to support civil authorities,  
25 again at a high level. Can you just describe those briefly?

26 **MINISTER ANITA ANAND:** Could you clarify the  
27 question? Sorry.

28 **MR. GORDON CAMERON:** I'll tell you what I can

1 do, is I can repeat it.

2                   Your institutional report outlines two main  
3 mechanisms by which -- under the *National Defence Act*, the  
4 Canadian Armed Forces can be called on to support civil  
5 authorities.

6                   **MINISTER ANITA ANAND:** Under section 273.6 of the  
7 *National Defence Act* the Minister of National Defence can  
8 authorize any duty involving public service. And under (2) of  
9 that *Act* it is in the case of law enforcement, only if it is in  
10 the national interest to do so and only if all other means have  
11 been exhausted. That is one particular way in which I, as  
12 Minister, can authorize the use of the Armed Forces and the  
13 other way is the aid to civil power.

14                   I will say, it's very, very important to clarify  
15 that under 273 of the *National Defence Act* the Canadian Armed  
16 Forces are the force of last resort. What that means is, that  
17 the matter cannot be effectively dealt with other than the  
18 assistance of the Canadian Armed Forces. That is almost  
19 verbatim from the *Act*.

20                   And I take that very seriously. It was the main  
21 framework in which I operated as Minister, not only during the  
22 months of February and March of 2022, but since the inception of  
23 my role as Minister. It's a very important section and we have  
24 to remember its import in all circumstances.

25                   **MR. GORDON CAMERON:** Thank you.

26                   Can you describe again -- we have heard evidence  
27 from Public Safety and Emergency Preparedness about this.  
28 You're actually probably in the best position to look from the

1 top down at the process and describe how you would expect a  
2 request from a province to arrive at the Federal Government and  
3 make its way through the system and ultimately come to your  
4 desk.

5 **MINISTER ANITA ANAND:** Most definitely.

6 First of all we have to remember that this is a  
7 regular process, that receiving requests for assistance at the  
8 Federal Government occurs quite often and where the request  
9 concerns the Canadian Armed Forces, Minister Blair will  
10 typically have a conversation with me. I will also task my  
11 officials with questions relating to whether we can fulfill the  
12 request for assistance, understanding at all times that my goal  
13 is to ensure that we can be as helpful as possible to the entity  
14 or the person or the Governmental body requesting assistance for  
15 the purposes of serving the Canadian public.

16 **MR. GORDON CAMERON:** Now, we've heard some  
17 evidence about and your -- both your institutional report and  
18 your interview summary give some description of the two requests  
19 for assistance, the two RFAs for a logistical support from the  
20 Canadian Armed Forces that did come through in the early days of  
21 the convoy protest blockades, as the name might be appropriate  
22 in each context. One was for the Cartier Drill Hall and the  
23 other was for some rations, if that's the right term, for the  
24 use on Parliament Hill.

25 And can you just give, again, a thumbnail sketch  
26 of each of those RFAs?

27 **MINISTER ANITA ANAND:** In each of those  
28 circumstances, my officials asked me whether I agreed with

1 providing assistance of the forms you mentioned, the parking  
2 lot, firstly, the food rations, secondly, and I, of course,  
3 asked questions as to our ability, our resources to provide that  
4 assistance. And once I was satisfied that the resources were  
5 there for us, for example, a parking lot that was not otherwise  
6 being used and of the other example being food rations, over  
7 1,000 packages of rations being available to the Parliamentary  
8 Protective Service, those were items that we had on hand and we  
9 could easily provide them.

10 I want to make two further points, the first  
11 being that that triumvirate that I outlined at the beginning  
12 relating to the decision-making structure in the Department of  
13 National Defence is extremely important. Decisions that I make  
14 are based on information and advice that I receive from my  
15 officials and in particular, the Chief of Defence staff and my  
16 deputy minister.

17 So in each of the cases that you are  
18 highlighting, I received and considered their advice before  
19 making the final decision on the RFA that came to me.

20 Furthermore, I will say that the RFA process is  
21 one that works very well. It is robust in the sense that it is  
22 a vehicle for the federal government to offer assistance. And  
23 as I said, most recently, during Hurricane Fiona, it was the  
24 vehicle through which we at the Canadian Armed Forces were able  
25 to deliver assistance to the provinces of Newfoundland, Nova  
26 Scotia, and Prince Edward Island.

27 **MR. GORDON CAMERON:** Thank you. Now, the next  
28 topic, I'm, as Commission counsel, just going to ask you to



1 speak on at a relatively high level -- and to the extent parties  
2 want to provide the Commission with more information through  
3 you, they will pursue it -- but it appears from the evidence  
4 we've heard from Emergency Preparedness in particular and to  
5 some extent, Public Safety that what gets called in this  
6 proceeding the Alberta RFA, the request by the Province of  
7 Alberta for assistance from the CAF, didn't follow the same  
8 process to what you call the triumvirate or ultimately to your  
9 desk as the first two that you described it.

10 Can you again, at a high level, describe how that  
11 process was different from what was ---

12 **MINISTER ANITA ANAND:** It did follow the same  
13 process. As I mentioned, Minister Blair will initially ask me  
14 about CAF resources, as he did in the case of the Alberta  
15 request for assistance.

16 When I received an inquiry from Minister Blair  
17 relating to the use of CAF resources in Alberta, and in  
18 particular, the tow trucks, I then asked my officials, and  
19 particularly the chief of defence staff, to provide me with  
20 information relating to the number of trucks, the utility or  
21 usability of those trucks, and the consequences of providing  
22 that assistance. And he did provide me with his advice, and it  
23 was that advice upon which I made a preliminary decision about  
24 whether we could accede to what I heard from Minister Blair was  
25 a request.

26 **MR. GORDON CAMERON:** Fair enough. I hadn't meant  
27 to say "followed a different process"; I guess I meant "came to  
28 a different conclusion.

1                   So can you tell us what -- and I will caution  
2 you. You might remember that there's a limit on the details  
3 with which you can describe the difficulty of this machinery  
4 being applicable to the context in which it was hoped to be used  
5 that your documents ended up getting redacted on some fine  
6 points there. So speak at a high level.

7                   What was it in general terms that you were told  
8 about -- by your Armed Forces personnel about the suitability of  
9 the tow trucks that were otherwise based in the same general  
10 area, about their suitability for the task that they were being  
11 asked for?

12                   **MINISTER ANITA ANAND:** First of all, I'll expand  
13 on the answer to that specific question about suitability  
14 because the response that I received from my team was broader.  
15 It didn't only relate to suitability.

16                   So first and foremost, the number of trucks that  
17 the Canadian Armed Forces had available to assist were very few  
18 in number.

19                   Second of all, is the suitability point, that  
20 being that these vehicles were not suitable for the task at  
21 hand. These vehicles are typically used for very very large  
22 scale purposes. For example, pulling a tank out of the ditch,  
23 is the type of mission that we would typically use those  
24 vehicles for.

25                   And thirdly, because they are so large and so  
26 heavy, there would be likely considerable damage to any roads on  
27 which they travelled.

28                   And then finally, using these vehicles, even if

1 we got past the first three points that I just mentioned, would  
2 likely cause some escalation because the Canadian Armed Forces  
3 would be therefore involved in a personnel capacity and we have  
4 not discussed this yet, but I did have concerns about deploying  
5 the Canadian Armed Forces as did my chief of defence staff, as  
6 did my deputy minister for escalatory reasons.

7 **MR. GORDON CAMERON:** Okay.

8 **MINISTER ANITA ANAND:** And so for all of those  
9 four reasons, that decision relating to the suitability of  
10 acceding to the request from Alberta did not go the same way as  
11 the first two requests for assistance.

12 **MR. GORDON CAMERON:** That's a perfect segue to  
13 the second category that is of interest to the Commission and to  
14 the parties which is the propriety of the Canadian Armed Forces  
15 being deployed for the purposes of dealing with civil unrest or  
16 law and order issues.

17 And you've just touched on one that intersects  
18 the two points and if I understood your answer correctly -- and  
19 I'll just put it in my own terms -- the mere appearance of  
20 Canadian Armed Forces tow trucks at what is otherwise a public  
21 order disturbance, you and your chief of defence staff would  
22 worry could be a provocation because the equipment would be  
23 immediately recognizable as Army equipment. Is that  
24 hypothetical?

25 **MINISTER ANITA ANAND:** I'd like to take a step  
26 back to give some more context to why I made the point about  
27 potential escalation which I sense is your -- the gist of your  
28 question.

1           Any Minister of National Defence in a democracy  
2 would be loath to deploy the Canadian Armed Forces except in the  
3 most dire of circumstances. Our country's soldiers are not  
4 police officers. They are not trained in crowd control. They  
5 are not trained in protest management. They are not law  
6 enforcement. And that reality was one that the chief of defence  
7 staff and my deputy minister and I carried with us throughout  
8 this time.

9           Furthermore, the National Defence Act itself  
10 specifically states that the Canadian Armed Forces are the force  
11 of last resort. And I've already taken you through the legal  
12 analysis there. But if you put those two points together, we  
13 need -- and we need to make sure that the Canadian Armed Forces  
14 are not deployed in cases where we are addressing protest  
15 management or anything related to that, given the potential for  
16 escalation.

17           **MR. GORDON CAMERON:** Let me see if I can break  
18 that out into at least two parts.

19           One point, which you were quite eloquent on, and  
20 frankly, certainly wasn't evident to Commission Counsel until we  
21 interviewed you back in September on this point, is that there  
22 is -- it's probably very evident to all of the parties who are  
23 representing police forces, but the training of a soldier, I  
24 will say no longer, because I think it might once have, but no  
25 longer includes the type of training that public order units in  
26 law enforcement would get in terms of crowd management and the  
27 dynamics of that situation, so they simply don't know what to do  
28 when they encounter the crowd. At least, they haven't been

1 trained to deal with crowds as part of their basic training. Is  
2 that the functional point?

3 **MINISTER ANITA ANAND:** I like to look at it in  
4 terms of what they are trained to do. They are trained to  
5 protect our country. they are trained to ensure the sovereignty  
6 and the security of our country. They are trained for combat.  
7 And that is why I make the point that any Minister of National  
8 Defence would be loathe to deploy the military, except in the  
9 most dire of circumstances, especially in a case like this.

10 **MR. GORDON CAMERON:** Well put. And so let me --  
11 I think implicit in what you're saying, especially with the  
12 eloquence with which you put it, is in addition to being not  
13 well trained to engage in a law enforcement context, especially  
14 a public order disturbance context, there could be an element of  
15 escalation and provocation merely by the appearance of uniformed  
16 soldiers appearing in what is otherwise a situation of civil  
17 unrest? Is that part of your concern?

18 **MINISTER ANITA ANAND:** My concern is escalation,  
19 yes.

20 **MR. GORDON CAMERON:** Okay.

21 **MINISTER ANITA ANAND:** And a potential heightened  
22 threat to protestors, Canadians. And so my view across the  
23 board was while we need to ensure that the Canadian Armed Forces  
24 are understood to be the force of last resort, we must also, at  
25 the Department of National Defence, do what we can to support  
26 the Government of Canada in its response to the protests. And  
27 so providing the parking lot, the food rations, offering to  
28 transport RCMP officers, those were the types of supports that

1 we were able to offer. In other words, it wasn't simply the  
2 case that we said we are the force of last resort and therefore  
3 we can do nothing. It was more how can we be helpful within the  
4 confines of the legal parameters that define our role in the  
5 *National Defence Act*?

6 **MR. GORDON CAMERON:** That's very clear. And let  
7 me see if I can bring this close to the end by asking you  
8 whether, at the time the Government began contemplating  
9 invocation of the *Emergencies Act*, there was any sense in which  
10 your department or the Canadian Armed Forces developed  
11 contingency plans or were ready for the possibility that  
12 circumstances might degrade to the point where your assistance  
13 as the last, the very last resort, might be required?

14 **MINISTER ANITA ANAND:** So simply because you're  
15 the force of last resort doesn't mean you're the force of no  
16 resort.

17 In other words, of course it is important to  
18 undertake some contingency planning in case there is the moment  
19 where you are called upon. And the Canadian Armed Forces are  
20 excellent planner. And there was work going on in the  
21 background at a conceptual level in case that need for options  
22 arose. But it was not formulated, it was not brought to me,  
23 given that we were still in the mode of we are the force of last  
24 resort. And that was well understood by my colleagues as we  
25 structured the Government's response to the protests.

26 **MR. GORDON CAMERON:** Thank you very much.

27 Commissioner, those are the questions of  
28 Commission Counsel. I think some parties might want to drill

1 down a little further than I have, but that puts the information  
2 on the record that we thought was important.

3 **COMMISSIONER ROULEAU:** Okay. Thank you.

4 So first, if I can call on the CCLA, please?

5 **--- CROSS-EXAMINATION BY MS. EWA KRAJEWSKA:**

6 **MS. EWA KRAJEWSKA:** Sorry, I'm trying to get --  
7 there we go. I was trying to get my video to work.

8 I don't know if you can see me, Minister Anand?

9 **MINISTER ANITA ANAND:** I can.

10 **MS. EWA KRAJEWSKA:** Perfect. Good afternoon,  
11 Minister. My name is Ewa Krajewska and I'm counsel for the  
12 Canadian Civil Liberties Association. And I doubt I'm going to  
13 take the entire time that I've been allotted to ask you  
14 questions this evening.

15 Minister Anand, my first question really relates  
16 to going back to your personal experience of the demonstrations  
17 in Ottawa. I understand that you weren't in Ottawa the first  
18 weekend of the demonstrations; correct? You were away?

19 **MINISTER ANITA ANAND:** If I could specify in  
20 response to your question, you are correct. I will provide  
21 information as to the length of time that I was actually out of  
22 the country. I was in Ukraine, I was in Latvia, and I was in  
23 Belgium. This was just before the onset of the further illegal  
24 invasion by Russia of Ukraine. We had been following  
25 intelligence that there was a build up of Russian troops at the  
26 Ukrainian border and it was important for me to have discussions  
27 with my counterparts in those three countries to ensure that  
28 they were aware of Canada's support for Ukraine through

1 Operation UNIFIER and further donations of lethal and non-lethal  
2 aid.

3 **MS. EWA KRAJEWSKA:** Right. And would it be fair  
4 to say that the crisis that was happening in Ottawa, this was  
5 not just something that you were consuming in the media or  
6 through social media, but it was also something that you and  
7 your staff were experiencing personally in Ottawa? Would that  
8 be fair?

9 **MINISTER ANITA ANAND:** That is correct.

10 **MS. EWA KRAJEWSKA:** And I think -- I'm not sure  
11 if you watched Minister Lametti's earlier examination, but he  
12 was taken to some text messages that he exchanged with you  
13 earlier today. Did you have a chance to see that?

14 **MINISTER ANITA ANAND:** I did not see it. I heard  
15 Minister Lametti's voice in the background. There was a TV. I  
16 heard my name mentioned. But I was trying to prepare for these  
17 questions.

18 **MS. EWA KRAJEWSKA:** Right. And I think the text  
19 message that you exchanged with him was that either you or him  
20 allowed your driver to take some of your staff home during some  
21 of the demonstrations; correct?

22 **MINISTER ANITA ANAND:** That is something that I  
23 was very concerned about. The safety and security of my staff  
24 is something that concerns me greatly. You know, we work  
25 together every day. They're family.

26 **MS. EWA KRAJEWSKA:** Right.

27 **MINISTER ANITA ANAND:** And very concerned. Yes.

28 **MS. EWA KRAJEWSKA:** And I think that was the case



1 for Minister Lametti as well. He said that he decided to leave  
2 Ottawa and spend some of his time in Montreal. Do you recall  
3 that?

4 **MINISTER ANITA ANAND:** Minister Lametti not being  
5 in Ottawa? I do recall that.

6 **MS. EWA KRAJEWSKA:** And I understand that there  
7 was also -- some of the text messages that have been produced  
8 from you were also you exchanging text messages about one of  
9 Matthew Gurney's articles. It was entitled "Dispatch from the  
10 Ottawa Front: Sloly is telling you all he's in trouble. Who's  
11 listening?" Do you remember that article from Mr. Gurney?

12 **MINISTER ANITA ANAND:** I remember reading it,  
13 yes.

14 **MS. EWA KRAJEWSKA:** And that article kind of  
15 summarized that there may be a more serious threat coming from  
16 the protestors than maybe what was being reported at the time.  
17 Do you recall that?

18 **MINISTER ANITA ANAND:** I do recall that. But I  
19 will say that there was a lot of literature being written about  
20 the protests during this time and it continues. And I don't  
21 base any government decision making on articles in the press.  
22 I'm focused on intelligence. I'm focused on advice based on the  
23 intelligence that comes forward. It's fair peripheral, I would  
24 say, an article like that.

25 **MS. EWA KRAJEWSKA:** Okay, well, you are getting  
26 to where I'm going with this, Minister Anand. And what I was  
27 trying to ask is, how do you place what you are consuming  
28 personally and in the media alongside the advice that you may be

1 receiving from the RCMP, or CSIS, or other professional  
2 advisors? And just, before I ask you about that, just, would  
3 you agree that, kind of, the review of intelligence, the review  
4 of information is something that is best kind of understood  
5 through the lens of the experts who are providing that  
6 information?

7 **MINISTER ANITA ANAND:** Well, I'm a rational  
8 decision-maker so I do welcome advice from experts, and I make  
9 my decisions based on the advice that I am provided with. Many  
10 times, my decisions accord with the advice that I am given.  
11 Sometimes, they don't. But I always take information that is  
12 provided to me into account and that is why I am always asking  
13 my officials for the most amount of information they have as  
14 earlier as possible.

15 **MS. EWA KRAJEWSKA:** Right. And so, for example,  
16 if someone posts a threat on social media, it would often be --  
17 and it got one like, it would often be helpful to hear from CSIS  
18 or the RCMP whether that is a serious threat that the government  
19 should take into account or whether it is something that is not  
20 as significant? I mean you would normally rely on expert advice  
21 as to how to contextualize that type of information?

22 **MINISTER ANITA ANAND:** I do. I tend not to,  
23 again, make decisions about my security or decisions relating to  
24 my portfolio based on a like on a tweet, so I will definitely be  
25 searching for in-depth substantive information before making any  
26 decisions. Having said that, this was a time when I was  
27 concerned for the safety of my staff and myself, and I  
28 encouraged my staff to work at home. For example, the

1 Department of National Defence was surrounded by protesters and  
2 it was a time where we did need to be concerned for our safety,  
3 including my safety in going to the West Block.

4 **MS. EWA KRAJEWSKA:** Right. And in terms of the  
5 IRG meetings and the cabinet meetings, I assume, based on what  
6 you've said, that the information that you would have received  
7 from both the RCMP and CSIS would have significantly informed  
8 your own decision-making process at those table?

9 **MINISTER ANITA ANAND:** I do not have a direct  
10 line to the RCMP and CSIS in my decision-making. So the  
11 assumption, it appears, in your questions is that they are  
12 feeding into my decision-making, and they are not. They fall  
13 under the Minister of Public Safety's portfolio. My decision-  
14 making is based on the information that that -- I'm not sure if  
15 you heard the first part of my testimony -- that that  
16 triumvirate of decision-makers forms, the deputy minister, the  
17 chief of defence staff, and both of those individuals feeding  
18 information to me for my decisions.

19 **MS. EWA KRAJEWSKA:** Okay, but with respect to the  
20 decision to invoke the *Emergencies Act* and the Governor-in-  
21 Council's decision, you would have been part of that decision-  
22 making process both at the IRG and cabinet; correct?

23 **MINISTER ANITA ANAND:** That is correct.

24 **MS. EWA KRAJEWSKA:** And at those tables, you  
25 would have received information and advice from the RCMP and  
26 CSIS as well?

27 **MINISTER ANITA ANAND:** Yes, but the advice was  
28 not coming to me directly. The advice was by way of reports to

1 the table. So I want to be clear that I was not having a one-  
2 on-one conversation with either of those organizations.

3 **MS. EWA KRAJEWSKA:** Okay. And that -- I wasn't  
4 suggesting that they were reporting to you directly, but when  
5 they are speaking at either the IRG or the cabinet meetings, you  
6 are listening to that advice as part of -- and you are a  
7 decision-maker at those tables; correct?

8 **MINISTER ANITA ANAND:** I am a Minister of the  
9 Crown, and I am executing my duties as such, and I am a person  
10 who undertakes due diligence in all circumstances, and I was  
11 listening intently to whomever it was reporting in those  
12 meetings.

13 **MS. EWA KRAJEWSKA:** Okay, so I think you agree  
14 with my question that you would have been listening to their  
15 advice and any other advice that you would have received at  
16 those tables as part of your decision-making process.

17 **MINISTER ANITA ANAND:** Yes.

18 **MS. EWA KRAJEWSKA:** Thank you, Minister. Those  
19 are all my questions.

20 **MINISTER ANITA ANAND:** Thank you.

21 **COMMISSIONER ROULEAU:** Okay, thank you. Next,  
22 I'll call on the JCCF and Democracy Fund.

23 **MR. ROB KITTREDGE:** Commissioner, I believe we've  
24 been ceded 10 minutes by the Convoy Organizers, so that tacks me  
25 up to 15 minutes.

26 **COMMISSIONER ROULEAU:** That's my understanding  
27 also.

28 **MR. ROB KITTREDGE:** All right, thank you.

1 --- CROSS-EXAMINATION BY MR. ROB KITTREDGE:

2 **MR. ROB KITTREDGE:** Minister Anand, I'm ---

3 **COMMISSIONER ROULEAU:** We have a trading system  
4 here, so ---

5 **MINISTER ANITA ANAND:** Merci, ça marche.

6 **COMMISSIONER ROULEAU:** Okay.

7 **MR. ROB KITTREDGE:** We're a bit loosey-goosey.  
8 Minister Anand, I'm Rob Kittredge, counsel for the Justice  
9 Centre for Constitutional Freedoms and we share standing at  
10 these hearing with the Democracy Fund and Citizens for Freedom.  
11 I take it you'd agree with me that the public order emergency  
12 declaration earlier this year did not meet the requirements for  
13 such a declaration set out in the *Emergencies Act*, wouldn't you?

14 **MINISTER ANITA ANAND:** I do not agree with that.

15 **MR. ROB KITTREDGE:** You don't agree. There'd be  
16 no particular reason for you to remember but the last time we  
17 saw each other you were Professor Anand and I was working on a  
18 B- in Business Associations, just figured I'd drop that in  
19 there. And I guess I'd like to start out with a bit of a chat  
20 about the principle of cabinet solidarity. As Minister of  
21 National Defence, you're a member of cabinet and the Privy  
22 Council; right?

23 **MINISTER ANITA ANAND:** I am.

24 **MR. ROB KITTREDGE:** And on November -- and  
25 somewhere around November of 2019 when you were sworn in, you  
26 took the Oath of the Members of the Privy Council; right?

27 **MINISTER ANITA ANAND:** I did.

28 **MR. ROB KITTREDGE:** And can we pull that up?

1 It's POE.JCF00000001.

2 **MINISTER ANITA ANAND:** I have the oath in front  
3 of me if you want pursue it.

4 **MR. ROB KITTRIDGE:** Do you? Okay, perfect. And  
5 all of the cabinet ministers appearing before this Commission  
6 took the same oath; right?

7 **MINISTER ANITA ANAND:** I assume. I was pretty  
8 nervous that day. I was focused on what I was going to try to  
9 say.

10 **MR. ROB KITTREDGE:** I'm sure. And the prime  
11 minister takes that oath as well; right?

12 **MINISTER ANITA ANAND:** I assume.

13 **MR. ROB KITTREDGE:** You swore to speak your mind  
14 and express your opinions on issues before cabinet freely and  
15 fully in private meetings, debates, and conversations with your  
16 cabinet colleagues; right?

17 **MINISTER ANITA ANAND:** Yes. And I also committed  
18 to ensure that those shall be secretly treated of in-council and  
19 I would do so as a faithful and true servant ought to do for,  
20 now, His Majesty.

21 **MR. ROB KITTREDGE:** Right. And that -- that --  
22 the principle of cabinet confidence is in there, where you swore  
23 your oath to secrecy and -- or you're swearing yourself to  
24 secrecy in there. That's the principle of cabinet confidence;  
25 right?

26 **MINISTER ANITA ANAND:** The principle is based on  
27 the idea that a full-fledged discussion can only occur if those  
28 matters are kept confidential. The rationale is important to

1 remember.

2 **MR. ROB KITTREDGE:** Right. And you're  
3 anticipating some of my questions here, and the next one  
4 certainly, because -- and that's because once cabinet policy is  
5 presented to the public, those -- that policy is the agreed  
6 collective decision of all members of the cabinet; right?

7 **MINISTER ANITA ANAND:** The executive branch of  
8 government in a democracy.

9 **MR. ROB KITTREDGE:** Right. In fact, from a  
10 constitutional perspective, cabinet decisions are, in effect,  
11 your decisions, aren't they?

12 **MINISTER ANITA ANAND:** Our collective decisions  
13 as the executive branch of government in a parliamentary  
14 democracy, yes.

15 **MR. ROB KITTREDGE:** And you -- wouldn't say  
16 they're "your" decisions but you're certainly party to the  
17 decisions?

18 **MINISTER ANITA ANAND:** They are collective  
19 decisions.

20 **MR. ROB KITTREDGE:** All right. The invocation of  
21 the *Emergencies Act* this year was a cabinet decision; wasn't it?

22 **MINISTER ANITA ANAND:** Yes, it was.

23 **MR. ROB KITTREDGE:** So it was a collective  
24 decision that was, in part, your decision?

25 **MINISTER ANITA ANAND:** Of the executive branch of  
26 government.

27 **MR. ROB KITTREDGE:** Right. And you can't  
28 publicly repudiate or criticize it, can you?

1                   **MINISTER ANITA ANAND:** The importance of the  
2 declaration of a public order emergency is one with which I  
3 agree, one I support. Given the circumstances of the time, the  
4 inability of children to go to school, the inability of people  
5 to go to work, the inability of trade to cross the border, the  
6 inability of citizens to live peacefully in certain of our  
7 country, the build-up of arms in certain areas, certainly the  
8 threats that were present, led me to the conclusion that this  
9 was the right approach for our government.

10                   **MR. ROB KITTREDGE:** Right, but if you felt  
11 differently, you couldn't repudiate or criticize the decision  
12 unless you stepped down from your post as minister?

13                   **MINISTER ANITA ANAND:** That is a hypothetical  
14 that I do not need to respond to given that I agreed with the  
15 decision and I agreed with the principle embedded in our  
16 Parliamentary democracy that the executive branch of government  
17 makes decisions collectively.

18                   **MR. ROB KITTREDGE:** The government has waived  
19 certain aspects of Cabinet confidence with regard to these  
20 proceedings. For example, as you know, some records have been  
21 produced that could have been withheld on Cabinet confidence  
22 grounds.

23                   This has been a partial selective waiver, and  
24 Cabinet confidence has been used to keep some evidence from  
25 being put before the Commission, but there hasn't been any  
26 waiver of Cabinet solidarity, has there?

27                   **MINISTER ANITA ANAND:** I believe that we are all  
28 committed to our oath and we will make decisions, as I said, on



1 a collective basis. We've done that to date and we will  
2 continue to do that. That is foundational to the way in which  
3 decisions are made in this country as part of our Parliamentary  
4 democracy.

5 **MR. ROB KITTREDGE:** I asked you at the outset  
6 whether you agreed that the Public Order Emergency declaration  
7 earlier this year did not meet the requirements for such a  
8 declaration as set out in the *Emergencies Act*, and you  
9 disagreed.

10 If you had agreed with me, you would have to  
11 resign your Cabinet post, wouldn't you?

12 **MINISTER ANITA ANAND:** I -- again, it's a  
13 hypothetical. I am not going to respond to it. I will say the  
14 definition of Public Order Emergency being an emergency that  
15 arises from threats to the security of Canada and that is so  
16 serious as to be a national emergency was one that I strongly  
17 believed was met, and I am quoting from the Act itself.

18 **MR. ROB KITTREDGE:** Do you understand the  
19 principle of Cabinet solidarity?

20 **MINISTER ANITA ANAND:** I understand the oath that  
21 I took and I understand the principles on which our  
22 Parliamentary democracy are based.

23 **MR. ROB KITTREDGE:** Right.

24 **MINISTER ANITA ANAND:** And one of those  
25 principles is that the executive branch of government makes  
26 decisions collectively.

27 **MR. ROB KITTREDGE:** Right, and that if you  
28 disagree or repudiate those decisions, you have to resign your

1 position as a Cabinet minister, right?

2 **MINISTER ANITA ANAND:** I am not aware of that  
3 principle, and I think that it is not relevant at this time.

4 **MR. ROB KITTREDGE:** So you're saying that you  
5 don't understand that Cabinet ministers cannot repudiate the  
6 decisions of Cabinet without resigning their post as Cabinet  
7 minister?

8 **MINISTER ANITA ANAND:** I'm saying that I  
9 understand the way in which Parliamentary democracy works and  
10 the executive and legislative branches of government and their  
11 respective functions. And in this case and all cases in which I  
12 have been involved, that decision making process is functioning  
13 robustly.

14 **MR. ROB KITTREDGE:** I can respect the response, I  
15 guess, but you -- so are you saying that you are free to  
16 criticize and repudiate the decisions of Cabinet without  
17 resigning your post?

18 **MINISTER ANITA ANAND:** I will continue to  
19 reiterate the point that at all times, we are able to have a  
20 full and robust discussion to satisfy ourselves that decisions  
21 that we are making are in the best interests of our country, as  
22 was the case in the Public Order Emergency.

23 **MR. ROB KITTREDGE:** At all times in private  
24 Cabinet meetings you are free to express yourself, but in  
25 public, if you repudiate or disagree with the decisions of  
26 Cabinet, you're not allowed to say that publicly, are you?

27 **MINISTER ANITA ANAND:** Again, I don't find this  
28 line of questioning relevant to the case at hand. I fully

1 support the Public Order Emergency and the situation that was  
2 gripping our country was dire, and it was extremely important  
3 for our government to take steps after three weeks of protests  
4 where existing law enforcement had not been able to effectively  
5 respond to them.

6 **MR. ROB KITTREDGE:** Right. Well, I find it  
7 relevant, and I see no objections from my friends.

8 **COMMISSIONER ROULEAU:** Well, I think you've got  
9 your answer, and I think ---

10 **MR. ROB KITTREDGE:** All right.

11 **COMMISSIONER ROULEAU:** --- you've gone about as  
12 far as you can on this.

13 **MR. ROB KITTREDGE:** Fair enough.

14 At any point -- well, I've read your interview  
15 summary and listened to your testimony today, and until we  
16 started talking about this, there wasn't any clear statement in  
17 support of the invocation of the *Emergencies Act*.

18 At any point since February 14th, have you  
19 considered resigning your post as Minister of National Defence?

20 **MINISTER ANITA ANAND:** I most definitely have  
21 not.

22 **MR. ROB KITTREDGE:** All right.

23 I'd like to show you a document. Can we please  
24 pull up SSM.CAN.00007851\_REL0001?

25 So this is a text message exchange that came up  
26 earlier today between Minister Lametti and Minister Mendicino in  
27 which they discuss making a request to you for tanks to be  
28 deployed in Ottawa.

1 Minister Mendicino asks, "How many tanks --" oh,  
2 maybe that's not it. Do you need the number again?

3 **COMMISSIONER ROULEAU:** It's coming up.

4 **MR. ROB KITTREDGE:** Oh, there we go.

5 **COMMISSIONER ROULEAU:** And go slowly when you're  
6 reading, please.

7 **MR. ROB KITTREDGE:** Sure, sure.

8 Minister Mendicino asks how many tanks Minister  
9 Lametti would like deployed and Minister Lametti reckons that  
10 just one will do.

11 Do you agree with Minister Lametti that one tank  
12 would have been sufficient to deal with the Canadians who had  
13 gathered in Ottawa to express their grievances about government  
14 policy?

15 **MINISTER ANITA ANAND:** Two points. First, I  
16 believe Minister Lametti has mentioned that that was made in  
17 jest.

18 Second, I have already provided my comments  
19 relating to the fact that the Canadian Armed Forces is the force  
20 of last resort, therefore, we were not considering deploying  
21 tanks in any number.

22 **MR. ROB KITTREDGE:** Could we scroll up to the top  
23 of this? So can you read the date at the top of this message  
24 exchange?

25 **MINISTER ANITA ANAND:** Me?

26 **MR. ROB KITTREDGE:** Can you read it aloud for us,  
27 please?

28 **MINISTER ANITA ANAND:** "You need to get the

1 police to move and --- "

2 **MR. ROB KITTREDGE:** No, I'm sorry, not the full  
3 text. I won't put you through that. I just meant the date at  
4 the very top.

5 **MINISTER ANITA ANAND:** Wednesday, February 2nd,  
6 8:09 p.m.

7 **MR. ROB KITTREDGE:** Right. And Minister Lametti  
8 earlier on in testimony to this Commission wrote the exchange  
9 off as a joke between friends.

10 Do you think this is a joke?

11 **MINISTER ANITA ANAND:** I take no part of my role  
12 as Minister of National Defence as something in jest, obviously.  
13 I am very concerned and was very concerned, not only about the  
14 situation in Canada but about the global strategic situation  
15 that we all find ourselves in. And so I am very concerned to  
16 make sure that we are making decisions with full information,  
17 and I know that's the case with Minister Lametti as well as the  
18 other colleagues around the table. This was a very difficult  
19 time, and we were all doing our very best in our respective  
20 portfolios.

21 **MR. ROB KITTREDGE:** Right. But at the same time,  
22 on February 2nd, just a few days after the arrival of the  
23 protesters in Ottawa, this was the sort of joke that was  
24 considered funny among your Cabinet colleagues, wasn't it?

25 **MINISTER ANITA ANAND:** I was actually not in  
26 Canada at the time. I was in Europe, as previously indicated,  
27 trying to launch Canada's response to a potential further  
28 invasion of Ukraine by Russia.

1 I will say that I know that my colleagues take  
2 their work extremely seriously.

3 **MR. ROB KITTREDGE:** Does Cabinet solidarity  
4 require you to find this joke funny?

5 I'm sorry, that was a little frivolous.

6 So just one final set of a couple of questions.

7 After Minister Lametti wrote this off as a joke,  
8 he changed the subject and he went -- moved on to talking about  
9 how bringing in the CAF was a last resort, even more so than the  
10 *Emergencies Act*, which he characterized as a second-last resort.

11 That's not precisely accurate, is it?

12 **MINISTER ANITA ANAND:** Do you mean Minister  
13 Lametti's statement or the content of his statement?

14 **MR. ROB KITTREDGE:** That the *Emergencies Act* is -  
15 - I'm sorry, that bringing in the CAF is the last resort and the  
16 *Emergencies Act* is the second-last resort.

17 **MINISTER ANITA ANAND:** I think that is accurate.

18 **MR. ROB KITTREDGE:** Well, the *Emergencies Act*  
19 requires that an emergency be such that it can't be effectively  
20 dealt with under any other law of Canada. Would you agree with  
21 that?

22 **MINISTER ANITA ANAND:** Are you reading from a  
23 particular statutory section of the *Emergencies Act*?

24 **MR. ROB KITTREDGE:** I can show it to you, if  
25 you'd like.

26 **MINISTER ANITA ANAND:** I have it here.

27 **MR. ROB KITTREDGE:** Okay. It's section 3, the  
28 end bit of section 3.

1                   **MINISTER ANITA ANAND:** So the statute is a legal  
2 instrument, and the reference here is any other law of Canada.

3                   **MR. ROB KITTREDGE:** Yeah. All right, thank you.  
4                   The *National Defence Act* is a law of Canada,  
5 wouldn't you agree?

6                   **MINISTER ANITA ANAND:** Section ---

7                   **MR. ROB KITTREDGE:** Those are my questions.

8                   **MINISTER ANITA ANAND:** --- 273 points to any  
9 other method of addressing law enforcement other than with the  
10 assistance of the CAF. So one deals with a statutory instrument  
11 and instruments that are available to address a particular  
12 situation, and the other deals with instances in which the CAF  
13 can be deployed.

14                   **MR. ROB KITTREDGE:** Nonetheless, the *Emergencies*  
15 *Act*, as a precondition, requires that a matter can't be dealt  
16 with under any other law of Canada, and I'm asking you, the  
17 *National Defence Act* is a law of Canada, isn't it?

18                   **MINISTER ANITA ANAND:** The *National Defence Act*  
19 is a statute with a section that specifies that the Canadian  
20 Armed Forces will only be deployed if there is no other means of  
21 addressing a particular situation from a law enforcement  
22 perspective. Those two items are different. One deals with the  
23 activities of the Canadian Armed Forces; one deals with the  
24 potential basket of laws wherein the public emergency is the  
25 last item from a legal perspective of any other statute.

26                   **MR. ROB KITTREDGE:** Would you agree that the  
27 *National Defence Act* is a statute of Canada, a Canadian statute?

28                   **MINISTER ANITA ANAND:** Of course, I would.

1                   **MR. ROB KITTREDGE:** And so you would agree that  
2 the *National Defence Act* is a law of Canada?

3                   **MINISTER ANITA ANAND:** I believe you're splitting  
4 hairs now and you're misconceiving the point that I am making.  
5 The point that I am making is that the *Emergencies Act* is a  
6 legislative mechanism of last resort.

7                   **MR. ROB KITTREDGE:** Yes, I would agree with that.

8                   **MINISTER ANITA ANAND:** The *National Defence Act*  
9 in section 273 simply says that the Canadian Armed Forces cannot  
10 supersede other law enforcement mechanisms ---

11                   **MR. ROB KITTREDGE:** Right.

12                   **MINISTER ANITA ANAND:** --- unless there is no  
13 other option for the law enforcement.

14                   **MR. ROB KITTREDGE:** And just as one final  
15 question to kind of clarify my understanding of your testimony  
16 here, are you telling me that the *National Defence Act* is not a  
17 law of Canada?

18                   **MINISTER ANITA ANAND:** I believe I've already  
19 answered that question.

20                   **MR. ROB KITTREDGE:** All right. Thank you very  
21 much. Have a great day.

22                   **COMMISSIONER ROULEAU:** Okay, next is counsel for  
23 former Chief Sloly.

24                   **MR. TOM CURRY:** Commissioner, Tom Curry, we have  
25 no questions for Minister Anand.

26                   **COMMISSIONER ROULEAU:** Okay. Next is the  
27 Government of Alberta, please.

28 --- CROSS-EXAMINATION BY MS. MANDY ENGLAND:



1                   **MS. MANDY ENGLAND:** Good afternoon, my name is  
2 Mandy England; I am a lawyer for the Government of Alberta. I  
3 have just a few questions for you this afternoon, Minister.

4                   First, I'd like to ask, just in terms of next  
5 steps after your assessment of Alberta's request for assistance,  
6 could you tell us who did you tell about that assessment? For  
7 example, did you tell Minister Blair?

8                   **MINISTER ANITA ANAND:** Do you mean the assessment  
9 that we made once Minister Blair had asked me to look into  
10 whether we could provide the tow trucks?

11                   **MS. MANDY ENGLAND:** That's right. Sorry for  
12 being unclear.

13                   You mentioned that you had a conversation with  
14 your Chief of Defence staff. There may have been other  
15 individuals present. I understand that.

16                   In terms of the usual process of an RFA, that was  
17 more of an informal assessment because you hadn't formally  
18 received the RFA but you had notice of it and then had a  
19 discussion about it.

20                   **MINISTER ANITA ANAND:** Yes, I did.

21                   **MS. MANDY ENGLAND:** And then following that  
22 discussion where you had considered the use of equipment from  
23 the Canadian Armed Forces, did you tell Minister Blair about  
24 your assessment?

25                   **MINISTER ANITA ANAND:** Yes, I did. And if I  
26 could just take a step back and clarify that at all times I was  
27 seeking to be as helpful as possible in the RFA process and  
28 certainly to the Government of Alberta in any way, shape or

1 form.

2                   You'll recall that I led the country's  
3 procurement effort of PPE, vaccines and rapid tests and in that  
4 capacity we were trying our very best to supply those materials  
5 across the country in the spirit of making sure we got through  
6 the pandemic together, and that was exactly the approach that I  
7 was taking in the RFA process as well.

8                   **MS. MANDY ENGLAND:** Thank you. And no doubt  
9 those PPE efforts were greatly appreciated.

10                   In terms of who you did tell after the  
11 assessment, did you -- I think you indicated that you did speak  
12 to Minister Blair?

13                   **MINISTER ANITA ANAND:** We had a phone call, yes.

14                   **MS. MANDY ENGLAND:** Okay. Would you be able to  
15 tell us when that phone call was?

16                   **MINISTER ANITA ANAND:** It was on or about  
17 February 7<sup>th</sup> or 8<sup>th</sup>.

18                   **MS. MANDY ENGLAND:** Okay, thank you. And did you  
19 go into some detail about the analysis that you described or did  
20 you sort of simply communicate, you know, no, we don't see it to  
21 be fit?

22                   **MINISTER ANITA ANAND:** Not at all. I went into  
23 extensive detail, as I have here. My conversations with  
24 Minister Blair tend to be extensive on requests for assistance  
25 and go into significant detail about past CAF resources. That's  
26 the approach we've taken on hurricane Fiona, on floods and such  
27 was the case as well with regards to the request for assistance  
28 from Alberta.

1                   **MS. MANDY ENGLAND:** Okay, thank you. And did you  
2 communicate it with any other ministers or with the Prime  
3 Minister?

4                   **MINISTER ANITA ANAND:** I did not.

5                   **MS. MANDY ENGLAND:** Okay, thank you.

6                   You outlined to us your considerations in going  
7 through Alberta's RFA and I'd like to go through those in a  
8 little bit more detail.

9                   One of the concerns that you indicated played  
10 into the decision was the concern that using the trucks might  
11 cause some damage to roads.

12                   Would you agree that generally speaking the roads  
13 in question would have been within Alberta's jurisdiction?

14                   **MINISTER ANITA ANAND:** I agree that the roads are  
15 within the property and civil rights under the constitution of  
16 the province of Alberta but I would like to highlight that the  
17 primary reason was one relating to suitability and that the  
18 trucks being requested were not only low in number, they were  
19 not suitable for the task, nor were they guaranteed to achieve  
20 the outcome that was sought.

21                   **MS. MANDY ENGLAND:** And I will circle back to  
22 some of those points.

23                   In respect of the transportation on the roads,  
24 did you consider that you might communicate to Alberta that this  
25 was a concern or a potential issue and have a discussion with  
26 them about the possible scope of the damage, if there's anything  
27 that could mitigate it and allow Alberta to consider whether it  
28 was willing to incur some risks in exchange for being able to

1 allow the RCMP to carry out its enforcement action early in the  
2 Coutts blockade?

3 **MINISTER ANITA ANAND:** So I was not in direct  
4 touch with the Province of Alberta on these items. The RFA  
5 process runs through Minister Blair's office and so my having a  
6 direct conversation with Alberta was not something that would  
7 have been in keeping with our process, and nor was I in the  
8 country at the time.

9 **MS. MANDY ENGLAND:** That's fair. Did you suggest  
10 to Minister Blair that that might be something that he could  
11 consider doing?

12 **MINISTER ANITA ANAND:** I did not.

13 **MS. MANDY ENGLAND:** Okay. Thank you.

14 And when you say they were a small number, and I  
15 respect and understand that there may be restrictions on  
16 elaborating on that, so I'm not trying to go there and so  
17 obviously, you know, feel free to stop me if that's a concern.

18 Was the concern that the number wouldn't be  
19 enough to in your view effectively assist Alberta or was the  
20 concern that you felt it was necessary to keep all of the  
21 equipment available on the base at CAF Edmonton, for purposes  
22 there?

23 **MINISTER ANITA ANAND:** There are two reasons.  
24 One of sufficiency for the task at hand, but also, two, for  
25 operational efficacy in maintaining sufficient resources for the  
26 Canadian Armed Forces to be able to do its role as the military  
27 of Canada.

28 **MS. MANDY ENGLAND:** In terms of sufficiency for

1 the task at hand, would you agree that again that would be an  
2 option that Minister Blair perhaps could have discussed with  
3 Alberta, whether they were willing to accept just one piece of  
4 equipment and whether that might be of some assistance to them  
5 in meeting the goal for, you know, accumulating equipment to  
6 achieve the enforcement action?

7 **MINISTER ANITA ANAND:** Again, I'm the Minister of  
8 National Defence. My job is to provide information to Minister  
9 Blair when he requests information about CAF resources; that's  
10 exactly what I did in that circumstance. I don't tell other  
11 Ministers and my colleagues how to effectively perform their  
12 jobs and I believe Minister Blair is a very effective Minister.

13 **MS. MANDY ENGLAND:** And did you maintain the view  
14 that perhaps the number and sufficiency of CAF equipment to  
15 respond and assist Alberta, even as the threat grew to -- or as  
16 the event grew to what has been characterized by your Government  
17 as a threat to national security, sufficient to justify the  
18 invocation of the *Emergencies Act* or did you at any point  
19 consider when it had reached that point, that you might  
20 reconsider that assessment?

21 **MINISTER ANITA ANAND:** Could you repeat the  
22 question? What is the precise question?

23 **MS. MANDY ENGLAND:** Did you maintain your view  
24 that the quantity of equipment was a concern that would prevent  
25 the use of Canadian Armed Forces equipment, even as the event  
26 grew to what your Government has characterized as one that  
27 necessitated invoking the *Emergencies Act*?

28 **MINISTER ANITA ANAND:** Your question focuses on

1 quantity, whereas my response focussed on quantity, suitability,  
2 usability and efficacy to reach the expected or designed  
3 objective. And so it is the totality of those factors which led  
4 to my conclusion and I maintained that that was the right  
5 conclusion all the way along until the Government of Canada made  
6 the prudent decision to invoke the *Emergencies Act*.

7 **MS. MANDY ENGLAND:** Okay, taking perhaps -- and I  
8 anticipate that you may give the same answer based on what you  
9 said, but taking it a step back and out of simply that factor,  
10 did you at any time re-evaluate your assessment of the totality  
11 of factors during the course of the event prior to invoking the  
12 *Emergencies Act*.

13 **MINISTER ANITA ANAND:** You'll have to remember  
14 that an RFA did not come to me for signature and I provided this  
15 information to Minister Blair after discussion with my  
16 officials. And after I provided that information, I remained  
17 confident in its veracity and applicability and I continued  
18 going about my business at a very difficult time at the Ministry  
19 of National Defence because of external factors like the  
20 potential further invasion of Ukraine by Russia.

21 **MS. MANDY ENGLAND:** On to the next factor that  
22 you indicated that you considered. I understand that you had a  
23 concern about deploying members of the Canadian Armed Forces to  
24 assist, and in that RFA from Alberta, there was an inquiry about  
25 both equipment and personnel.

26 Do those pieces of the RFA -- or were those  
27 pieces of the RFA may be a better way to put it, were they  
28 looked at separately and communicated separately, in your

1 opinion, to Minister Blair, for example, you know, the equipment  
2 might be one piece and the resources might be a second piece in  
3 terms of the suitability of responding?

4 **MINISTER ANITA ANAND:** I believe we have reviewed  
5 this already. I have indicated there were more main factors  
6 that underpinned my decision relating to the deployment of CAF  
7 resources in Alberta. I conveyed those factors to Minister  
8 Blair in a phone call and my response rests there.

9 **MS. MANDY ENGLAND:** Okay. I'll rephrase the  
10 question, because I'm not sure if I stated it clearly. Was it  
11 your view that perhaps a request for personnel might be  
12 extractable, or a request for equipment? So for example, "Yes,  
13 I might loan you equipment, but I have concerns about using  
14 personnel." Was that ever something that was considered, or was  
15 it always treated as both items together?

16 **MINISTER ANITA ANAND:** All four items together  
17 led to the decision that we made.

18 **MS. MANDY ENGLAND:** Okay. and if you had the  
19 knowledge that -- if, operationally, individuals had been  
20 cleared from the blockade, so that only trucks remained to be  
21 cleared, would you agree that there might not have been the same  
22 concerns that were raised in your assessment about escalation  
23 and optics about engaging the Canadian Armed Forces in an  
24 enforcement action?

25 **MINISTER ANITA ANAND:** You're putting a  
26 hypothetical to me, which I do not believe is relevant and I have  
27 no response to it.

28 **MR. MANDY ENGLAND:** Sorry, I'll explain the

1 relevance of it. Evidence was given earlier that the  
2 operational plan was anticipating that the civilians would be  
3 removed from the blockade with the equipment to be cleared at a  
4 secondary time. And I had understood from what you said, and  
5 perhaps I had a misunderstanding, that one of the concerns would  
6 be interactions between the Canadian Armed Forces and civilians  
7 and a concern that that might not be appropriate or something  
8 that they were trained to do. My question is whether your  
9 assessment of that might change with the information that an  
10 operation to clear equipment would be varied out at a time after  
11 individuals had been arrested or otherwise dispersed from the  
12 scene?

13 **MINISTER ANITA ANAND:** It would not change,  
14 primarily because I am not, I've said this a number of times  
15 now, separating out the various factors that led to the decision  
16 not to provide the tow trucks in Alberta.

17 And secondly, the deployment of the Canadian  
18 Armed Forces as a general matter has the potential to be  
19 escalatory, given that the Canadian Armed Forces are not trained  
20 in crowd control or protest management and the visual of having  
21 Canadian Armed Forces was concerning in many circumstances  
22 during this time, including in this one.

23 **MS. MANDY ENGLAND:** Okay. Thank you, Minister.

24 Thank you, Commissioner. Those are my questions  
25 this afternoon.

26 **MINISTER ANITA ANAND:** Thank you.

27 **COMMISSIONER ROULEAU:** Okay. Thank you. I gave  
28 you a lot of extra time, just so you know for next time ---



1                   **MS. MANDY ENGLAND:** It was appreciated.

2                   **COMMISSIONER ROULEAU:** --- when I'm a little  
3 tougher.

4                   Okay. Next is the Government of Canada.

5 **--- CROSS-EXAMINATION BY MS. CAROLINE LAVERDIÈRE:**

6                   **MS. CAROLINE LAVERDIÈRE:** Good evening, Minister.  
7 Caroline Laverdière.

8                   **MINISTER ANITA ANAND:** Bonjour.

9                   **MS. CAROLINE LAVERDIÈRE:** I'm one of the lawyers  
10 for the Government of Canada, as you know. I have about two or  
11 three fairly quick questions.

12                   Can we put up document SSM.CAN.00003512? Do we  
13 not have that -- yeah, okay. It's coming. Excellent. Thank  
14 you.

15                   Could you, Mr. Clerk, scroll down a little bit  
16 until we reach the -- further down until we reach the other  
17 email down the chain? Okay. Just got up a little bit. Okay.  
18 So -- oh, just -- sorry, I want to see the subject. Down a  
19 little bit more please.

20                   Okay. Minister, this is an email from the Chief  
21 of Defence Staff, Wayne Eyre to yourself, dated January 28<sup>th</sup>.  
22 And the subject is: "Pre-emptive RFA Authorization - Cartier  
23 Square Drill Hall and other NCR Infrastructure".

24                   If we scroll down, Minister, for you to just get  
25 reacquainted with this email, this is an email by which the  
26 Chief of Defence Staff provided his advice for approving  
27 assistance -- for your approval to provide infrastructure  
28 assistance to police forces in the form of the Cartier Drill

1 Hall parking lot and other similar infrastructure. Do you  
2 acknowledge that document?

3 **MINISTER ANITA ANAND:** Yes, I do.

4 **MS. CAROLINE LAVERDIÈRE:** If we scroll back up  
5 just a tiny bit, we'll see your response on the same day:

6 "Thank you for this email. I approve.

7 Best Anita"

8 So this is the email by which you approved the  
9 RFA, or the pre-emptive RFA.

10 And if we scroll back up a little bit, this is  
11 just, as the first line states, this is an update from the Chief  
12 of Defence Staff to you. If we scroll back a little bit more,  
13 we can see the date and your email address.

14 So the next day, the following day, on the  
15 Saturday, the Chief of Defence Staff is providing you with an  
16 update.

17 And then if scroll back down just a little bit  
18 more, the second paragraph, so you can see he states:

19 "As per your email below, you approved an  
20 anticipated request from Public Safety to  
21 have law enforcement organizations use  
22 some of our CAF infrastructure..."

23 Skipping a little bit:

24 "You may have heard through your office  
25 that MPS has received the request, as we  
26 received this morning [a] request  
27 officials level and I have directed the  
28 CAF to provide the use of our parking lot

1 and infrastructure to support law  
2 enforcement organizations.”

3 And then that last sentence is what I want to  
4 bring your attention -- bring to your attention:

5 “At no time with CAF members be employed  
6 in a security of enforcement role, nor  
7 will they conduct any assistance to law  
8 enforcement tasks.”

9 Now, do you agree with that statement from CDS  
10 that this should be avoided?

11 **MINISTER ANITA ANAND:** Of course I do. That's  
12 been my testimony to date.

13 **MS. CAROLINE LAVERDIÈRE:** Now, can you just --  
14 I'm going to use that statement, just to make sure that we are  
15 clear, did that state of affairs, or your position on that, and  
16 the CDS', did that remain steady throughout the convoy  
17 occupation and throughout the invocation and the revocation of  
18 the *Emergencies Act*?

19 **MINISTER ANITA ANAND:** Yes.

20 **MS. CAROLINE LAVERDIÈRE:** Your position on that  
21 never changed?

22 **MINISTER ANITA ANAND:** Never changed.

23 **MS. CAROLINE LAVERDIÈRE:** So I was wondering if  
24 you could explain a little bit the difference between approving  
25 an RFA for infrastructure, such as a parking lot at the Cartier  
26 Drill Hall in Ottawa and potentially considering and the Alberta  
27 request for assistance for military tow trucks?

28 **MINISTER ANITA ANAND:** Okay. I will do that.

1 But I want to build on my last answer relating to that sentence  
2 because I thought you were going to ask me one more question on  
3 that, and you have not, so I will just say what else I wanted to  
4 say.

5 **MS. CAROLINE LAVERDIÈRE:** Go ahead.

6 **MINISTER ANITA ANAND:** And that is that the  
7 sentence:

8 "At no time will CAF members be  
9 employed in a security of enforcement  
10 role, nor will they conduct any  
11 assistance to law enforcement tasks."

12 The Chief of Defence Staff knew that that was an  
13 issue that was very important to me. I had done extensive  
14 analysis and discussion relating to section 273.6(1) and (2) of  
15 the *National Defence Act*, and in particular, (b) of 273.6(2),  
16 which states that the matter cannot effectively be dealt with  
17 other than with the assistance of the Canadian Armed Forces.

18 And in this email, he is, I believe, responding  
19 and addressing my concern that we are aligned on the point that  
20 the Canadian Armed Forces are the force of last resort because  
21 in a democracy the Minister of Defence, and certainly this was  
22 the case for me, would be loathe to deploy the Canadian Armed  
23 Forces in a law enforcement capacity except in the most dire  
24 circumstances.

25 And I believe that he knew that that was my view  
26 and my interpretation of the law. It reflected our discussions,  
27 and the advice he gave me in that sentence I believe is based on  
28 those conversations that we have had and the concerns I have.

1 And I'm sure he knew that I would -- if it wasn't in there I  
2 would have replied and indicated that it should be.

3 Now on to the question relating to RFAs, and the  
4 substance of the RFAs. So your question is a good one. The  
5 question highlights how we have to consider each RFA on its  
6 merits, and in particular, each RFA should be evaluated on the  
7 subject matter of the RFA.

8 The Cartier Drill Hall was a parking lot, very  
9 easily handed over for use during this time. Not being used by  
10 the Canadian Armed Forces at the time, and certainly, we wanted  
11 to support law enforcement efforts wherever possible.

12 Et aussi, c'est la même chose avec la nourriture.  
13 We said can we help? How can we help? We have more than a  
14 thousand meal packs, and we can provide those to the  
15 Parliamentary Protective Service.

16 And so, c'était facile avec les deux choses-là,  
17 la « calculation » et notre réponse, c'était très important  
18 d'avoir toute l'information, mais ce n'était pas le même sujet  
19 avec le troisième RFA en Alberta.

20 **MS. CAROLINE LAVERDIÈRE:** Dans le même ordre  
21 d'idée, Madame la Ministre, pouvez-vous expliquer la différence  
22 entre potentiellement considérer le déploiement de matériel  
23 militaire comme des camions à remorque et le déploiement de  
24 personnel militaire ou d'équipement militaire pour des  
25 situations différentes comme des catastrophes naturelles ou  
26 comme les instances qu'on a vues pendant la COVID?

27 **MINISTER ANITA ANAND:** Bien sûr. Il y a une  
28 différence, bien sûr, avec les soldats à l'un côté, à l'autre

1 côté, c'est beaucoup de soldats, mais aussi l'équipement  
2 militaire pour aider les gens dans les provinces atlantiques.

3           So in one case, we're talking about tow trucks,  
4 which were few in number, not suitable for the task and not  
5 clear that they would reach the objective desired, as well as  
6 having potential escalation by the deployment of CAF, and on the  
7 other hand, we have a natural disaster in the form of a  
8 hurricane sweeping the Atlantic provinces, and the question was  
9 can the Canadian Armed Forces help with the clearing of debris.

10           And so as you would have seen in the news,  
11 Canadian Armed Forces were deployed in Newfoundland, PEI and  
12 Nova Scotia to make sure that the provinces had the support they  
13 needed in the clearing of debris, the restoring of power lines,  
14 the repairing of roadways and those types of undertakings. So,  
15 c'était très différent entre les deux choses et, ça, c'est le  
16 cas avec toutes les choses avec les forces armées canadiennes. À  
17 l'un côté, il y a de RFA, y'a un sujet très différent de l'autre  
18 côté, donc on doit « anihiler » chaque RFA avec une voix  
19 différente. It's a different analysis each time.

20           **MS. CAROLINE LAVERDIÈRE:** I take it that the  
21 potential to inflame, in the context that you -- well, to the  
22 extent that you considered that in the context of the RFA from  
23 Alberta, is not a factor that is in play for the types of  
24 deployment you just mentioned, you know, following hurricanes or  
25 in the context of helping ---

26           **MINISTER ANITA ANAND:** The nub of the issue is  
27 whether it is a law enforcement situation. And in Operation  
28 LENTUS, which is the operations that we utilise for assisting

1 with hurricanes and floods and the like, that is all assisting  
2 citizens trying to recover from hurricanes and natural  
3 disasters. So clearing large trees off of roadways, lifting  
4 them off of power lines so that power can be restored. Ça, c'est  
5 très différent, n'est-ce pas, entre les deux choses parce qu'en  
6 Alberta, c'était un cas de camions et... and our trucks were  
7 simply not suitable for the task at hand, nor were they large in  
8 number. Also, they could lead to escalation and potentially  
9 damage roadways.

10 **MS. CAROLINE LAVERDIÈRE:** Mr. Clerk, can we pull  
11 up another document, please? TS.NSC.CAN.0001.00000183, and I  
12 would ask you go to the top of page 2, please.

13 While this is -- the document is being brought  
14 up, Minister, I would ask just generally, just to jump off of  
15 the question from my friend from the CCLA about your concerns  
16 about safety and security. Can you just elaborate a little bit  
17 about your concerns during the period of the convoy,  
18 specifically those -- the period that you were perhaps in the  
19 country during that time?

20 **MINISTER ANITA ANAND:** I did have concern for my  
21 safety and the safety of my team, but it wasn't just about us,  
22 it was about the citizens of Ottawa writ large. It was about  
23 the safety of people going to work and a need to allow people to  
24 continue on with their daily lives. Parents were keeping their  
25 kids home from school, businesses were closed, people were not  
26 living their normal lives. Trade was not flowing across the  
27 border, Canadians couldn't travel across the border at all, and  
28 we saw and heard about weapons at Coutts. All of these were

1 very concerning items to me from a public safety perspective.

2                   And so when you ask about my personal safety,  
3 yes, I was concerned, yes, I was concerned about the safety of  
4 my team always, but I was generally concerned about public  
5 safety writ large across our country.

6                   **MS. CAROLINE LAVERDIÈRE:** I'm going to come back  
7 to that point if I have time, Mr. Commissioner.

8                   **COMMISSIONER ROULEAU:** You're -- in theory,  
9 you've got a ---

10                   **MS. CAROLINE LAVERDIÈRE:** I'm borderline?

11                   **COMMISSIONER ROULEAU:** --- little over a minute.

12                   **MS. CAROLINE LAVERDIÈRE:** Okay. Well, then, I'll  
13 end with this, then.

14                   Minister, I would bring your attention to the  
15 first full paragraph, actually the first and second, under the  
16 heading, Increased Threats to Elected Officials During Protests.  
17 And more specifically, in the second part after the redaction,  
18 it states that:

19                                   "...there has been a noticeable  
20                                   increase in threatening behaviour  
21                                   towards Members of Parliament and  
22                                   incidents at constituency offices since  
23                                   the beginning of the protests,  
24                                   including a recent fire believed to be  
25                                   an arson and a few minor physical  
26                                   altercations with staff. This  
27                                   threatening behaviour has been  
28                                   primarily focused on vaccine mandates



1 and the government's enacting of the  
2 Emergencies Act and has been directed  
3 at members of all political parties."

4 Does that accord -- does that statement accord  
5 with your lived experience, Ms. -- Minister?

6 **MINISTER ANITA ANAND:** Yes, it does.

7 **MS. CAROLINE LAVERDIÈRE:** Thank you.

8 **COMMISSIONER ROULEAU:** Okay, thank you. Any re-  
9 examination?

10 **MR. GORDON CAMERON:** No, thank you, Mr.  
11 Commissioner.

12 **COMMISSIONER ROULEAU:** Okay, I just have two  
13 quick questions. One is probably and obvious one but -- well,  
14 maybe not. You mentioned you were in Ukraine at the time the  
15 convoy started and, obviously, things did not get better. Was  
16 Ukraine a factor in your analysis in deciding -- or in  
17 supporting the invocation of the Act -- of the *Emergencies Act*?

18 **MINISTER ANITA ANAND:** No, the importance of my  
19 analysis relating to the *Emergencies Act* related to Canada and,  
20 in particular, I had reference, as someone familiar with  
21 statutes to Section 16 of the Act and the definition of "public  
22 order emergency" being an emergency that arises from threats to  
23 the security of Canada and that is so serious as to be a  
24 national emergency, and I believed the information that I had  
25 fulfilled that definition.

26 In terms of what we are witnessing generally  
27 around the world and including in Ukraine, with a further  
28 invasion of a sovereign democratic country, I am also concerned

1 about that, of course ---

2 **COMMISSIONER ROULEAU:** Yeah. No, I ---

3 **MINISTER ANITA ANAND:** --- but it is not -- it is  
4 not part of the analysis that I undertook in terms of agreeing  
5 with the decision that our government made.

6 **COMMISSIONER ROULEAU:** And the reason I asked is  
7 -- and maybe I should have been more specific -- is not in terms  
8 of the security of Canada as much as it being a national  
9 emergency and the impact on supply lines that we've heard was --  
10 certainly, some have testified that that was an important impact  
11 on Canada that was only worsened or likely to be worsened  
12 because of the war in Ukarine. So that's why I was asking, but  
13 obviously it was not a factor for you in terms of why it was a  
14 national emergency as opposed to the security issue.

15 **MINISTER ANITA ANAND:** M'hm, that's right.

16 **COMMISSIONER ROULEAU:** Okay. And then the second  
17 is -- it's just to -- and I know -- I'm quite certain what your  
18 answer will be, but I think what Alberta was trying to raise  
19 with, and you wouldn't necessarily be aware, is that there's a  
20 suggestion that, at one point, the RFA -- well, let me give you  
21 the background. Alberta secured some tow trucks, heavy tow  
22 trucks, and at one point was looking for drivers. Was there a  
23 separate -- are you aware or were you separately asked, by way  
24 of an RFA, not for heavy tow trucks ---

25 **MINISTER ANITA ANAND:** M'hm.

26 **COMMISSIONER ROULEAU:** --- but for drivers who  
27 could operate the tow trucks that had neem acquired by Alberta?  
28 And I think that's what -- I suspect that's what the questioner

1 was trying to get out.

2 **MINISTER ANITA ANAND:** I was not.

3 **COMMISSIONER ROULEAU:** Okay.

4 **MINISTER ANITA ANAND:** I did not have any  
5 conversations relating to drivers of trucks.

6 **COMMISSIONER ROULEAU:** Okay. Well, that's --  
7 thank you very much for accommodating the ---

8 **MINISTER ANITA ANAND:** Thank you so much.

9 **COMMISSIONER ROULEAU:** --- schedule for the  
10 Commission and for coming to testify.

11 **MINISTER ANITA ANAND:** Thank you so much. Merci  
12 beaucoup.

13 **COMMISSIONER ROULEAU:** So think we'll take the  
14 afternoon break and we'll come back in 15 minutes, assuming  
15 there are no other issues such as votes.

16 **THE REGISTRAR:** The Commission is in recess for  
17 15 minutes. La Commission est levée pour 15 minutes.

18 --- Upon recessing at 5:20 p.m

19 --- Upon resuming at 5:36 p.m.

20 **THE REGISTRAR:** The Commission is reconvened. La  
21 Commission reprend.

22 **MR. GORDON CAMERON:** Good afternoon,  
23 Commissioner, our last witness for today is Minister Alhabra,  
24 Minister of Transportation. Could I have the witness sworn,  
25 please.

26 **THE REGISTRAR:** Minister Alhabra, will you swear  
27 on a religious document or do you wish to affirm? For the  
28 record, please state your full name and spell it out.

1                   **MINISTER OMAR ALGHABRA:** Omar Alghabra, o-m-a-r  
2 a-l-g-h-a-b-r-a.

3 **--- MINISTER OMAR ALGHABRA, Affirmed:**

4                   **THE REGISTRAR:** Thank you.

5 **--- EXAMINATION IN-CHIEF BY MR. GORDON CAMERON:**

6                   **MR. GORDON CAMERON:** Good afternoon, Minister  
7 Alghabra. I'm going to start with a bit of housekeeping, as we  
8 usually do with the witnesses. I'm going to ask you to remember  
9 that a couple of months ago we had an interview where we got  
10 some information from you that ended up getting put into a  
11 summary form and then sent to you and your staff for review.  
12 And what I'd like you to do is confirm that you reviewed, that  
13 you considered it to be generally accurate, and that you adopt  
14 it as part of your testimony before the Commission today.

15                   **MINISTER OMAR ALGHABRA:** Yes and yes.

16                   **MR. GORDON CAMERON:** Thank you. And for the  
17 record -- I don't need this, Clerk, but for the record, it's  
18 WTS00000075. And you know, Minister, we've already heard from  
19 your deputy who -- with whom I canvassed pretty much the same  
20 issues that we're going to talk about today, but our perspective  
21 -- our point of interest today is your perspective as the  
22 minister. And so let me just begin. As I recollect our  
23 interview, you were appointed the Minister of Transport in  
24 January 2012; is that correct?

25                   **MINISTER OMAR ALGHABRA:** That's correct.

26                   **MR. GORDON CAMERON:** And can you give us just a  
27 brief account of your professional training and how you came  
28 into politics and, ultimately, to the position of Minister of

1 Transport?

2 **MINISTER OMAR ALGHABRA:** Okay, I'll take the two  
3 hours, then.

4 **MR. GORDON CAMERON:** The one or two-minute  
5 version.

6 **MINISTER OMAR ALGHABRA:** I'm a mechanical  
7 engineer by education, with an MBA, Master of Business  
8 Administration. I worked for many years in the private sector  
9 in the energy field. I used to volunteer for politics, knocking  
10 on doors for candidates, and one day, a vacancy came in my  
11 riding and I decided to run for office, and I got elected for  
12 the first time in 2006. And then, in 2008, the voters sent me  
13 back to the private sector, and then I was lucky enough to re-  
14 elected in 2015. And between 2015 and 2021, I served as  
15 Parliamentary Secretary on different roles. And in January  
16 2021, the Prime Minister asked me to be the Minister of  
17 Transport.

18 **MR. GORDON CAMERON:** And if we can pick up the  
19 narrative here, so to speak, at the beginning of the development  
20 of the convoy and how it first came to your attention and what  
21 your perspective was, what you saw coming and what concerned you  
22 with respect to the mandate of your department.

23 **MINISTER OMAR ALGHABRA:** Because of my role, I've  
24 been involved heavily in government's policies when it came to  
25 vaccine mandates and keeping Canadians safe. So I was involved  
26 with my colleagues in developing those policies and I was  
27 involved in the development of the decision to include a vaccine  
28 mandate for the transportation sector. We had an election on

1 that and we got re-elected as a government, and I was tasked by  
2 the Prime Minister to complete -- it was part of mandate letter,  
3 to ensure the protection of the safety of those who work in the  
4 industry and those who use the industry. And there were  
5 eventually some opposition and -- where it manifested in this  
6 form of convoy protests that I heard about. I was briefed about  
7 it by the department first and then through law enforcement  
8 agencies.

9 **MR. GORDON CAMERON:** And what issues first --  
10 what issues did the convoy present? I mean, obviously, it's a  
11 convoy of trucks and you're the Minister of Transport, but can  
12 you tell me about the connection between the federal  
13 responsibility for transport and the provincial responsibility  
14 for transport, and how you decided your department could become  
15 involved helpfully in managing the protest and the convoy?

16 **MINISTER OMAR ALGHABRA:** You know, it wasn't --  
17 the protests at the beginning was against all mandates, and at  
18 that time, there were vaccine mandates at all levels of  
19 government. In fact, there were vaccine mandates by -- in the  
20 private sector as well, there were vaccine mandates in  
21 universities.

22 So I felt that there wasn't clear who they're  
23 asking. I mean, there was a sense that they're asking the  
24 federal government, but the reality is that whatever they  
25 protesting crossed or transcended all governments and private  
26 sector.

27 So we though were still concerned about safety,  
28 about the outcome of -- because we heard different reports on

1 what the objective of these protests. People linked it to  
2 potentially what happened in the U.S. in Washington, DC on  
3 January 6th. So there was a lot of anxiety, and we certainly  
4 wanted to make sure that the federal government was prepared for  
5 this protest.

6 So we were briefed by law enforcement agencies  
7 that -- and again, Ottawa is not unaccustomed to protests. It  
8 is, after all, the capital of our nation where there are typical  
9 protests.

10 So we were briefed that law enforcement agencies  
11 were prepared. The hope that this was going to be like most  
12 protests, it might last the weekend, it might last a few days  
13 after the weekend, but the hope and the expectation that it  
14 wasn't going to go on for a very long time.

15 **MR. GORDON CAMERON:** Right. And needless to say,  
16 it didn't last just the weekend. When did it become apparent  
17 that your department was going to be more heavily involved than  
18 just observing the events unfold and that you would be asked by  
19 the government to take a role in finding solutions?

20 **MINISTER OMAR ALGHABRA:** I would say a few days  
21 into the protest where it had become clear that this was not a  
22 usual protest.

23 There was a sense that there is some stalemate by  
24 law enforcement and other type of agencies. So what I decided  
25 to do, what our government decided to do is to task our  
26 officials to figure out what tools that we have in the federal  
27 authority to deal with the occupation, because by that time, it  
28 had become an occupation.

1           So we tasked officials to do this. They did a  
2 lot of work, looking -- we couldn't -- they couldn't find any  
3 legislation or a regulation because the jurisdiction was local  
4 law enforcement. It either was the responsibility of the local  
5 police or the provincial authorities.

6           So then what we did and what I tasked the -- our  
7 department is to put together a toolkit, to be proactive, out of  
8 a sense of being proactive and collaborative and constructive,  
9 to put together a toolkit based on the rules and the regulations  
10 that the department has found to be utilized to help enforce the  
11 law and to help mitigate or manage the escalation of the  
12 situation.

13           So that's where eventually the Strategic  
14 Enforcement Strategy became to be.

15           **MR. GORDON CAMERON:** And we heard from your  
16 deputy about the development of what I think was originally  
17 called the Maximum Enforcement Strategy, ended up evolving into  
18 the Strategic Enforcement Strategy, about seeing what laws from  
19 various jurisdictions could be brought to bear on the situation.

20           And we don't need to rerun the evidence that he  
21 gave us because he gave us quite a thorough account of it, but  
22 the point I remember him mentioning -- and I'll ask you to  
23 comment on from the ministerial perspective, is that just the  
24 way the Department of Transport works, because it has to take  
25 its federal responsibility and coordinate that with all of the  
26 provinces and territories, there's already a very strong network  
27 within the Department of Transport with all of the partner  
28 agencies or equivalent agencies, including law enforcement and



1 regulation in each of the provinces and territories.

2 And would that level of connectivity and  
3 intergovernmental relations also apply at the ministerial level?

4 **MINISTER OMAR ALGHABRA:** Indeed. I would say I  
5 have very constructive, positive relationship with my provincial  
6 counterparts. We meet at least once a year in Council of  
7 Ministers.

8 Transportation is one of those areas that has a  
9 lot of shared responsibilities between the federal and  
10 provincial governments, so we either meet as a council or one on  
11 one. This is quite a common practice throughout my year and a  
12 half as the Minister of Transport.

13 **MR. GORDON CAMERON:** And at the ministerial  
14 level, did you, for the purposes of implementing -- or I suppose  
15 I should say originally developing and then hopefully getting  
16 the cooperation of the provinces and territories to implement  
17 the Strategic Enforcement Strategy, were you reaching out to  
18 your ministerial colleagues at the provincial and territorial  
19 level on the plan?

20 **MINISTER OMAR ALGHABRA:** Yes. You know, after  
21 the first week, it's become clear that the situation, as I said,  
22 has become a lot more complex and a lot more volatile. And it  
23 seemed that there was a bit of confusion about whose  
24 responsibility it is to deal with enforcing the law, or is there  
25 capacity enough locally to enforce the law?

26 So we -- I was proactive in reaching out to my  
27 provincial counterpart, particularly in Alberta, in Ontario, in  
28 BC as well, and in Manitoba.

1                   **MR. GORDON CAMERON:** Let's start with your  
2 efforts to engage with Ontario. The timeframe I'm going to  
3 concentrate on, just to get the matter focused quickly, is the  
4 sort of February 7th, 8th, 9th timeframe.

5                   So we are at the point where the convoy has put  
6 down roots, so to speak, in Ottawa. There are other events at  
7 Coutts and Emerson.

8                   And if I could ask the clerk to call up  
9 SSM.CAN.00005289, and Minister Alghabra, this will be a text, a  
10 series of texts between you and Minister Mulroney, Caroline  
11 Mulroney of the Province of Ontario. And would you describe  
12 here as your counterpart in the Ontario government?

13                   **MINISTER OMAR ALGHABRA:** Correct, yes.

14                   **MR. GORDON CAMERON:** And if you can just look at  
15 the text there, see if that reminds you of the exchange you had  
16 -- it might not be necessary for us to go to the ones on the 8th  
17 and 9th, though if that would help you remember, we can -- can  
18 you tell us what you are attempting to do with Minister Mulroney  
19 of the Ontario government with respect to the effort you've just  
20 been describing?

21                   **MINISTER OMAR ALGHABRA:** Sure. I talked about  
22 the -- how the idea of strategic enforcement strategies come to  
23 being.

24                   I just want to add another context to this, is  
25 that we were looking for tools that will help end the blockades  
26 and the occupation with as minimum confrontation as possible  
27 too. So that's where the idea of utilizing some of the  
28 provincial powers that they have in regulating commercial

1 vehicles became obvious, because it really will -- creating -- I  
2 mean, I don't want to call it incentive, but certainly, dissuade  
3 people who are using commercial vehicles from using them  
4 illegally and hopefully discourage people who are thinking of  
5 joining the occupation to realize that there is significant  
6 consequences. So that's where the idea has come about.

7                   And I wanted to -- when we finalized or developed  
8 this, it wasn't completely finalized, but when we have the  
9 outline of what we were thinking I reached out to Minister  
10 Mulroney to share with her what we have put in place or what we  
11 are proposing. So I texted her on Monday. By the way also that  
12 day I had participated in a press conference with my colleagues,  
13 Minister LeBlanc and Minister Mendicino. We felt it was -- up  
14 until that moment the Federal Government had not spoken out  
15 publicly about our role or in dealing with the blockades and the  
16 occupation. So I reached out to her and I asked if she would  
17 have time to speak with me so I can share with her what I  
18 thought was constructive ideas.

19                   **MR. GORDON CAMERON:** And how did that go?

20                   **MINISTER OMAR ALGHABRA:** Well, as you can see  
21 from the response, he said that he's heard my comments through  
22 the media, because in my comments at the press conference I did  
23 outline some ideas that the provincial governments can use and  
24 she responded saying that our deputies are in communication and  
25 she would get back to me later.

26                   **MR. GORDON CAMERON:** Clerk, if I could ask that  
27 you call up WPS000000966. Now this is a bit of a cluttered  
28 document, Mr. Clerk, and you can either word search "potato" or

1 scroll down until you come to it. It's a document -- it's hard  
2 to find; it's a fair ways in. And you'll come to a heading  
3 "Protests - a political hot potato".

4                   There we go. Thank you. And can you tell me  
5 what this - as a I say it's a bit of a cluttered document and  
6 there's a lot happening in it, but do you recognize this?

7                   **MINISTER OMAR ALGHABRA:** No. Is this an article?

8                   **MR. GORDON CAMERON:** Yes, an account, a readout  
9 of multiple events. But if we look at the paragraphs under  
10 "Protests - a political hot potato", the first paragraph, it  
11 reads - and I'll quote:

12                                 "There are growing calls for Ford to get  
13 more involved in bringing the protest to an  
14 end, after all, Ottawa and Windsor are in  
15 Ontario."

16 And then this is a quotation from you:

17                                 "I call on the Government of Ontario to join  
18 us in securing an end to these illegal  
19 blockades in several Ontario cities, and to  
20 apply the law. Transport Minister Omar  
21 Alghabra will hold a news conference on  
22 Wednesday."

23 Now, was this part of your effort to get Ontario engaged in the  
24 enforcement plan?

25                   **MINISTER OMAR ALGHABRA:** Yes.

26                   **MR. GORDON CAMERON:** And were you briefed by your  
27 deputy or your other staff on the reasons that Ontario was  
28 giving for not being fully enthusiastic about the enforcement

1 plan?

2 **MINISTER OMAR ALGHABRA:** There's a lot of  
3 speculation, but I -- it's not my -- really I can't give you a  
4 reason that I feel I can speak on behalf of the Ontario  
5 Government, but there was a lot of speculation about the  
6 apparent hesitation.

7 **MR. GORDON CAMERON:** Right. But one thing, I was  
8 wondering if your deputy or your staff briefed you on, was the  
9 concern certainly that the lawyers observing the situation could  
10 have had, which is that if you start using enforcement  
11 mechanisms for what might be called an ulterior purpose or for  
12 some objective other than those mechanisms were designed for,  
13 you run into legal issues, including the procedural fairness  
14 that has to be applied before the enforcement can be effective,  
15 before it can take effect.

16 So you recognized that there were genuine issues  
17 that Ontario was concerned about before it could become fully  
18 invested in the enforcement plan?

19 **MINISTER OMAR ALGHABRA:** I mean I think it was  
20 clear, even through my conversations, direct conversations with  
21 Minister Mulroney, that we have a difference of opinion; we had  
22 a difference of opinion. In my understanding, in my opinion, we  
23 were asking for the laws to be applied. We were not asking for  
24 an extra interpretation of the law. We thought the laws are  
25 what the laws are and they can be applied to help mitigate or  
26 deal with the illegal blockades and the occupation.

27 **MR. GORDON CAMERON:** Okay. Well, that's helpful.  
28 And as I understand it from our interview on February 9<sup>th</sup>, you

1 met with Minister Mulroney to pursue this issue further; and can  
2 you tell us about that meeting?

3 **MINISTER OMAR ALGHABRA:** Yes. So in between the  
4 text and the meeting, her deputy had sent my deputy an official  
5 response to our outreach. And in that response they outlined  
6 why that are request was not doable.

7 **MR. GORDON CAMERON:** And that's on the records,  
8 so thank you for pinpointing that in this chronology.

9 **MINISTER OMAR ALGHABRA:** And she texted me a copy  
10 of that letter, but I still asked if its possible to have a  
11 conversation with her and that's when we ended up virtually  
12 meeting. And we, as I said, it was clear that we had a  
13 different opinion on how to deal with it. She thought that this  
14 was a federal jurisdiction and I was saying that the roads, the  
15 blockaders and the occupiers were on were under municipal or  
16 provincial jurisdiction and that we hope that the province would  
17 take the lead and utilize their existing laws and enforcement to  
18 apply the law. And so we had a difference of opinion on who  
19 should take the lead on this.

20 **MR. GORDON CAMERON:** All right. Maybe you could  
21 flush that out a little bit. I mean it's a federal problem in  
22 the sense that there's serious problems in Ottawa by this stage,  
23 at Coutts and some of the other ports of entry. But I  
24 understand that the message you were trying to get across to  
25 Minister Mulroney, is that it was primarily the provincial  
26 enforcement tools that would be able to solve the problem; is  
27 that he gist of it?

28 **MINISTER OMAR ALGHABRA:** That is correct.

1                   **MR. GORDON CAMERON:** Yeah. Clerk, could you call  
2 up, please, SSM.NSC.CAN00000256. Can you tell us who Mike Maka  
3 is?

4                   **MINISTER OMAR ALGHABRA:** He's my Chief of Staff.

5                   **MR. GORDON CAMERON:** Thank you. This is an email  
6 -- it will come up in a second. It will be an email chain. And  
7 if we can just scroll down to page two and -- there we go. A  
8 readout of your meeting with a member of parliament. And I'm  
9 sorry, you might be better at that name than I am.

10                  **MINISTER OMAR ALGHABRA:** Kuzmierczak.

11                  **MR. GORDON CAMERON:** Kuzmierczak, thank you. Who  
12 as I understand it, is a liberal MP from Windsor, Ontario?

13                  **MINISTER OMAR ALGHABRA:** Correct.

14                  **MR. GORDON CAMERON:** Thanks. And can you tell us  
15 about that; the Clerk can help you scroll down through the notes  
16 if you would like to remind yourself, but it might be that by  
17 looking at points there you can be reminded of what it was you  
18 talked about and what it was of concern to you and your  
19 colleague.

20                  **MINISTER OMAR ALGHABRA:** Well, you know, I was  
21 doing a lot of outreach at the time and my colleague and friend  
22 Eric Kuzmierczak also wanted to convey to me the facts on the  
23 ground as he sees them in Windsor and the impact that the bridge  
24 blockade has had on the community, from the automotive sector,  
25 to retailers, to law enforcement, to trade. So he reached out  
26 to share with me what's he seeing, his community's sentiments,  
27 and to inquire about what else can we do as a federal  
28 government; what else can I do as a member of parliament to help

1 deal with the reality and the pain that the people of Windsor  
2 are dealing with?

3 **MR. GORDON CAMERON:** Right. And then by now I  
4 think most of us know what happened very shortly after that  
5 meeting on February 10<sup>th</sup> when Ontario adopted its emergency  
6 measures order, and can you tell me how that had an impact on  
7 your perspective of things going forward once Ontario was, if I  
8 can put it this way, more onside with the approach that you had  
9 been trying to encourage them to take?

10 **MINISTER OMAR ALGHABRA:** I was relieved that the  
11 Ontario Government is taking that measure. They certainly --  
12 what I feel, built on the advice or the suggestions that we  
13 proposed to them, and I was relieved to see the Government of  
14 Ontario taking that step.

15 **MR. GORDON CAMERON:** Now, I'd like to take you to  
16 your international effort because, I suppose, not exclusively,  
17 but perhaps primarily with respect to the Ambassador Bridge, but  
18 presumably with all of the border points, you also, in terms of  
19 your ministry's multi-jurisdictional efforts to coordinate your  
20 transportation function with those of the other jurisdictions in  
21 which the vehicles have to travel, you also have a relationship  
22 with officials in the United States; correct?

23 **MINISTER OMAR ALGHABRA:** That's correct.

24 **MR. GORDON CAMERON:** And with Mr. Buttigieg, in  
25 particular?

26 **MINISTER OMAR ALGHABRA:** That's correct.

27 **MR. GORDON CAMERON:** And did you engage with him  
28 when Ambassador Bridge was becoming problematic?



1                   **MINISTER OMAR ALGHABRA:** Yes. In fact, he had  
2 reached out to me and we scheduled a call. He wanted to express  
3 the concerns that the U.S. Government and what he is hearing  
4 from industry that is being caused by the blockades at the  
5 Ambassador Bridge.

6                   **MR. GORDON CAMERON:** So do you get -- do you have  
7 many interactions with Mr. Buttigieg that begin with him  
8 reaching to you?

9                   **MINISTER OMAR ALGHABRA:** No. Usually, I am the  
10 one who is trying to reach out to him to advocate for Canada's  
11 interests.

12                   **MR. GORDON CAMERON:** Right. And here, he's  
13 probably not indifferent to Canada's concerns because it's a  
14 symbiotic relationship, but he is calling you because he is --  
15 feeling his constituency is feeling the impact of the Ambassador  
16 Bridge and nearby ports of entry blockages. Is that right?

17                   **MINISTER OMAR ALGHABRA:** Indeed. The Ambassador  
18 Bridge is the most important port of entry that connects our two  
19 countries. It's a -- it's an average \$400 million a day of  
20 trade that crosses that bridge, and it -- when it's shut down,  
21 and also, given the Just-in-Time business model that many in the  
22 auto sector and other sectors use, that blockade caused a  
23 significant disruption to supply chains, to businesses on both  
24 sides of the border.

25                   **MR. GORDON CAMERON:** Right.

26                   Mr. Clerk, if you could call up WTS6075, and go  
27 to page 6.

28                   By the way, this meeting with Mr. Buttigieg was

1 on February 10th. Now, this is the summary of your interview,  
2 and you discuss this at page 6, where the clerk has put you  
3 there, Call With Secretary of State Pete Buttigieg.

4 Now, if we look after the introductory paragraph  
5 to the introduction to a quote from you, and I'll read the  
6 introduction and the quotation. It says:

7 "Minister Alghabra was asked about the  
8 following statement he had made in the  
9 course of his call with  
10 Sec. Buttigieg."

11 So for the context of the readers, that's me or  
12 one of my colleagues asking you to elaborate on this statement.  
13 In the course of our interview with you, we've asked you to  
14 elaborate, and this is a statement you made during your call  
15 with Secretary Buttigieg:

16 "But I can tell you - and I just spoke  
17 to the [Prime Minister] - that we are  
18 running out of patience. If things  
19 aren't addressed in the very near term,  
20 we as the federal government will step  
21 in."

22 And at that point, this is February 10th, as is  
23 noted at the top of the page there, was it your understanding  
24 that you and your colleagues in Cabinet were contemplating the  
25 options that would include federal intervention as to find  
26 solutions to the blockades and the convoys?

27 **MINISTER OMAR ALGHABRA:** I can't recall  
28 specifically the conversation in Cabinet about the second track

1 of the *Emergency Act* that happened before this call or after,  
2 but I could tell you that my intention, and this -- maybe I  
3 should explain the conversation first, because in the  
4 conversation I explain... The Secretary certainly was anxious  
5 and wanted to know when -- if I could give an estimate, when  
6 will this end, and how quickly can port of entry be reopened,  
7 and I was explaining to him the complexity of enforcement and  
8 whose responsibility and that our Federal Government is not able  
9 to direct police to how to operate their law enforcement.

10 So I gave him a context of how this -- the  
11 complexity of the situation, but at the same time, I wanted to  
12 give him -- to reassure him that this was an important matter,  
13 and that, yes, despite the complexity, that we're going to put -  
14 - we're going to do everything we can at the federal level to  
15 fix this issue. So it was -- for me, it was intended not, I  
16 could say, even if we had started the conversation, I wasn't  
17 sure where we're going to go at the federal level, but I wanted  
18 to give him a sense of confidence that this is a priority for us  
19 and that we will do what we can to deal with it as quickly as  
20 possible.

21 **MR. GORDON CAMERON:** Now, right about then, in  
22 the course of your discussions with Secretary Buttigieg, Ontario  
23 invoked it's emergency order. And would it be fair to say that  
24 that went some way to address the concerns and take the pressure  
25 off you, at least temporarily, and in particular,  
26 Secretary Buttigieg would be able to see that things were  
27 happening and enforcement might be not far in the future?

28 **MINISTER OMAR ALGHABRA:** As I said, while it

1 offered me relief to see the provincial government up its  
2 participation or its role in dealing with the illegal blockades  
3 and occupation, the outcome was still that the point of entry  
4 was closed. So that was the eventual concern for  
5 Secretary Buttigieg and for me, to be precise.

6 And yes, we could see that now new tools are  
7 provided to law enforcement, but we still couldn't see the end,  
8 you know, of the blockades. There was a lot of fluidity and  
9 volatility in what was happening in Windsor or across the  
10 country, to be honest, because at different blockades, even  
11 though in Windsor we would hear reduction in size, growth in  
12 size, a clearance on one side, but maybe still a tenuous  
13 situation where the... So while, yes, it offered some comfort,  
14 but we still had the roads closed.

15 **MR. GORDON CAMERON:** Okay. Let's move ahead a  
16 few days.

17 And Mr. Clerk, if you can call up  
18 SSM.NSC.CAN0000214. These would be the IRG meeting minutes for  
19 February 12th. And if we go through to page 7, and if you  
20 scroll down to about almost halfway. There we go.

21 "The Minister of Transport confirmed", et cetera.  
22 So that's you, Minister Alghabra, reporting, as I'm inferring  
23 here, you're reporting to the IRG about developments. And if we  
24 go down to just about the redaction where, again, the words the  
25 "Minister" is underlined, and I'll read that out:

26 "The Minister confirmed that he is  
27 working with provinces on securing tow  
28 trucks and that Alberta is looking to

1 purchase at least 2 large tow trucks.  
2 Other provinces have been offered  
3 support to facilitate purchase  
4 agreements for services relating to tow  
5 trucks but have shown interest to  
6 date."

7 **MINISTER OMAR ALGHABRA:** I think it means we have  
8 shown no ---

9 **MR. GORDON CAMERON:** I was going to say, that  
10 sentence only makes sense if the typist intended to say "but  
11 have shown no interest to date". But let me ask you to confirm  
12 that. Was that the fact, that Alberta was buying some, but the  
13 others, even though you'd offered them financial support to  
14 facilitate the purchase, they hadn't shown interest to date?

15 **MINISTER OMAR ALGHABRA:** That is correct. And if  
16 I may, can I talk about the first part of the paragraph?

17 **MR. GORDON CAMERON:** Please.

18 **MINISTER OMAR ALGHABRA:** So to explain what I was  
19 briefing to my colleagues, again, taking everyone back in time  
20 to that moment, there were a lot of threats emerging across the  
21 country to various ports of entries and institutions. We had  
22 heard of threats to the Port of Halifax, slow rolls in airport  
23 in Ottawa, Pearson Airport in Toronto, the Port of Vancouver.  
24 So what we did, proactively reach out to all or as many as we  
25 can to those ports of entry, to different institutions,  
26 including rail companies, to just encourage them to be alert, to  
27 perhaps increase their security, and to have plans in case any  
28 of these blockaders or slow rollers start appearing outside

1 their institution.

2 **MR. GORDON CAMERON:** And with respect to your  
3 effort to encourage the provinces to obtain heavy lift tow truck  
4 capacity, did Ontario express any interest in participating in a  
5 program like that?

6 **MINISTER OMAR ALGHABRA:** Not that I recall.

7 **MR. GORDON CAMERON:** Thanks. Now, at the end of  
8 that paragraph, we see a report on the situation at Manitoba,  
9 which I'll just summarize by saying Manitoba said, "We're doing  
10 okay on our own, thanks." So your sense was that Manitoba  
11 wasn't interested in -- it wasn't sensing that it had a problem  
12 serious enough to become involved in the assistance you were  
13 offering? Is that it?

14 **MINISTER OMAR ALGHABRA:** Yeah. I mean, I can't  
15 describe why, but they certainly -- the Minister and -- I think  
16 it was officials actually, at the time, they were not indicating  
17 any interest in any support from the Federal Government.

18 **MR. GORDON CAMERON:** Okay. Moving ahead  
19 chronologically, Mr. Clerk, if we could turn up the same prefix,  
20 but with the last four digits being 0401?

21 We're now moving ahead to the IRG minutes of the  
22 16<sup>th</sup>. So we're now post-invocation.

23 Before we jump over that, is there anything that  
24 you think is important to this chronology that involves your  
25 particular involvement in the decision of Cabinet to invoke the  
26 *Emergencies Act*?

27 **MINISTER OMAR ALGHABRA:** Sure. I mean, that is  
28 the -- I guess the question that I had to deal with, and so did

1 my colleagues. And I kind of alluded to it in my previous  
2 response, again, that moment in time, there was a lot of concern  
3 about ongoing escalation and inspiration that these blockades  
4 and occupations had been causing. And it felt, as I said, that  
5 there's -- it wasn't just Ottawa. It wasn't just Windsor. It  
6 was Sarnia. It was Cornwall. It was Emerson. It was Coutts.  
7 It was Surrey. It was the Port of Vancouver. It was the Port  
8 of Halifax. All that to say is that there had been reports of  
9 either threats or some form of floral, some form of protest, and  
10 it felt that there was a stalemate, and that stalemate was  
11 raising the temperature, occupiers and blockaders were becoming  
12 more entrenched. Those who opposed them were also becoming more  
13 entrenched in opposing them. so there was a sense of a  
14 stalemate and a risk to many people, including those who were  
15 participating in the blockades, that this could get out of hand,  
16 that we could be reaching a tipping point where it could  
17 escalate and we would look back and regret not doing something  
18 sooner.

19           And not to mention, by the way, the hundreds of  
20 thousands, if not millions of Canadians, who have been  
21 personally impacted, either through their livelihood or their  
22 quality of life, businesses that I heard from. So there's been  
23 -- this situation across the country was getting into really  
24 period of a lot of, I would say, concern, about where this is  
25 going to head if we don't end up doing something.

26           And I know I grappled with that decision. I  
27 didn't take that decision lightly. And I would say I was  
28 reluctant to that decision. But it was the right thing to do to

1 protect Canada's national interests, to protect Canada's  
2 security, to protect Canadians. And at a time like that, yes,  
3 the *Emergencies Act* is for emergencies, and it felt like an  
4 emergency.

5 **MR. GORDON CAMERON:** Now let me back up a little  
6 bit to, we mentioned your involvement and your Department's  
7 involvement in the enforcement strategy, the strategic  
8 enforcement strategy. Your Deputy described a companion  
9 strategy that your Department was working on, the tow truck  
10 strategy. And as you were meeting with the IRG, is it fair to  
11 say that you weren't the only one around the table who realized  
12 that the ability to tow these vehicles was problematic in the  
13 situations both at the border points and in Ottawa?

14 **MINISTER OMAR ALGHABRA:** I don't want to speak on  
15 behalf of my colleagues or breach Cabinet confidentiality.

16 **MR. GORDON CAMERON:** And I'm sorry, I didn't mean  
17 to imply that. Just it's your brief, so you tell us ---

18 **MINISTER OMAR ALGHABRA:** So I certainly, you  
19 know, felt that having access to tow trucks was an issue. We,  
20 for weeks, had been asking -- were being told that it was near  
21 impossible, if not impossible, to find tow truck operators who  
22 were willing to take the risk to participate in a law  
23 enforcement action. So that was common feedback that I heard  
24 from the Department, from others. So it was clear to me that  
25 availability of tow trucks -- and not just any tow trucks, by  
26 the way. We're talking about specialized tow trucks -- was --  
27 the availability was an issue.

28 **MR. GORDON CAMERON:** And so again, recognizing



1 that I have to be more careful about the questions that I ask  
2 you than I asked your Deputy, but what we know is that part of  
3 what came out of the Emergency Measures Order was an authority  
4 to compel tow truck service providers to provide towing  
5 services. And so is it safe to say that that was an element of  
6 the Emergency legislation that you considered an important part  
7 of the overall solution?

8 **MINISTER OMAR ALGHABRA:** Indeed. Look, I think  
9 it was really important that the *Emergencies Act* is precise,  
10 targeted, and is measured, and the tool to compel tow truck  
11 operators was very specific and narrow and necessary to help law  
12 enforcement deal with the blockades.

13 **MR. GORDON CAMERON:** Okay. And we have, thank  
14 you Clerk, the document for the February 16<sup>th</sup>, IRG meeting  
15 minutes. And if we can go down to page 7? About a quarter of  
16 the way from the top, immediately after the redaction. Right.

17 So here you are reporting, and because this is  
18 unredacted, you're allowed to talk about this, somebody has  
19 decided that it's fair game. And it says:

20 "The Minister of Transport confirmed that  
21 tow truck capacity challenges appear to be  
22 resolved, with Alberta and [Ontario]  
23 confirming that they have appropriate  
24 towing capacity."

25 And that speaks for itself, because I don't want  
26 to ask you to expand on that in case it would involve a  
27 confidence of Cabinet.

28 But we can get some insight from your -- on this

1 point from your Witness Statement.

2 And can you call that up, Mr. Clerk? I think I  
3 introduced it at the beginning as ---

4 **COMMISSIONER ROULEAU:** Seventy-five (75).

5 **MR. GORDON CAMERON:** Thank you. And if we go to  
6 page 8 of that, this is again, so the reader puts it in context  
7 -- this is the summary of your interview with Commission counsel  
8 a few months ago. And you note roughly the same here as you did  
9 to Cabinet.

10 "Minister Alghabra noted that a key  
11 proposal for emergency measures was the  
12 power to compel tow truck drivers to  
13 comply with an order to assist in  
14 removing vehicles, which was inspired  
15 by [Transport Canada's] Tow Truck  
16 Strategy."

17 Then it goes on to stipulate in fact that:

18 "... this measure [...] ensured adequate  
19 resources and equipment were available  
20 to clear the blockades."

21 Do you remember that part of your interview?

22 **MINISTER OMAR ALGHABRA:** Yes.

23 **MR. GORDON CAMERON:** Now, an issue that you might  
24 have heard talked about -- it depends how closely you've been  
25 following the proceedings. I think what is not contentious is  
26 that not long after the enactment of the -- or the invocation of  
27 the *Emergencies Act*, trucks did get towed and that some  
28 documentation indicates -- mostly documentation where the tow

1 truck drivers are seeking to get paid for their services -- that  
2 at least the mechanism for compensating tow truck drivers who  
3 were asked to provide services or compelled to provide services  
4 under the Act, that that part of the system worked.

5 But I wonder if you followed the evidence closely  
6 enough to have observed the observations made by some of the  
7 police, in particular Ottawa and OPP. Witnesses who have spoken  
8 about the fact that they already had tow trucks lined up and  
9 available, willing to provide service and that in fact those  
10 arrangements pre-existed the *Emergencies Act* and could have been  
11 used without the enactment of the *Emergencies Act*.

12 Have you followed that evidence and that point f  
13 issue?

14 **MINISTER OMAR ALGHABRA:** I haven't been able to  
15 follow all of the proceedings but I got reports on what is being  
16 said. And I'll share with you my perspective.

17 Throughout these weeks of outreach and  
18 discussions and debates, no one has said that the tow truck  
19 issue was resolved. In fact, in all of my conversations prior  
20 to the invocation of the *Emergencies Act* availability of tow  
21 trucks was always highlighted as an issue and that tow truck  
22 operators were worried about their safety or worried about their  
23 business. Those trucks, particularly the ones in Ottawa needed  
24 specialized tow truck and tow truck drivers. And that it was an  
25 issue, having access to tow trucks that could do this was an  
26 issue. And again, the tow trucks did not appear until after the  
27 invocation of the *Emergencies Act*.

28 So I can't speak to what the others have been

1 testifying but I can tell you that that's what I had heard.  
2 That' was my understanding. And again, the facts are that the  
3 tow trucks did not appear until after the *Emergencies Act* was  
4 invoked.

5 **MR. GORDON CAMERON:** Thank you for that. Now,  
6 those are all of the specific questions I had for you, but I'd  
7 like to finish up by asking you if you have anything you'd like  
8 to add, just general observations or things you think is  
9 important for the Commissioner to hear.

10 And in that category, if you have recommendations  
11 about things that could have been done differently, if different  
12 protocols or legislation or whatever had been in place when you  
13 were trying o develop your enforcement strategy and trying to  
14 develop your tow truck strategy, those types of points would be  
15 helpful to the Commission.

16 **MINISTER OMAR ALGHABRA:** I just want to go back  
17 to the picture that I tried to draw for you about the situation  
18 and how heightened the sense of anxiety and concern for public  
19 safety, for economic well-being of our country was, how at the  
20 time, cities and municipalities were asking us to do something.  
21 Provincial governments were saying this is a federal issue.  
22 Opposition parties were asking us questions, "Why aren't you  
23 doing something?"

24 Canadians were asking us. Businesses were  
25 asking. We didn't talk about several interactions that I had  
26 with associations that represented different industries  
27 including the trucking industry. They were all, you know -- and  
28 I looked them in the eye and I heard it in their voice, the

1 panic, the fear, the concern that they have, the shifts that  
2 were shut down, the businesses that were closed down, the people  
3 who couldn't go to hospitals. That was the moment that we were  
4 living. And it felt like we had to do something. We were --  
5 again, it was not something that we took lightly. It was not  
6 something that I took lightly. But it was the context that  
7 we're in, the fear of escalation, the fear of getting to a  
8 tipping point where it could get out of hand. That was -- I  
9 strongly believe that that was invoking the Emergencies Act  
10 again that was very precise and limited, was necessary.

11           As to your second question, I think it's clear  
12 that this incident has exposed some gaps, whether it is, you  
13 know, the issue of jurisdictions, whether it is -- do we need  
14 additional tools to protect critical infrastructure? I think  
15 those are important questions and in fact I've tasked my  
16 department to do some work on what can be done to strengthen  
17 federal legislation or tools to add additional maybe tools, set  
18 of tools to protect critical infrastructure.

19           **MR. GORDON CAMERON:** Along those lines, let me  
20 just follow up with a question that takes us right back to the  
21 very beginning of your evidence, Minister Alghabra.

22           You talked about the fact that you have at least  
23 an annual of a council of Ministers of Transportation at the  
24 federal and provincial and territorial level. Do you think that  
25 if, at the next one of your meetings, you put your heads  
26 together to see if you could come up with plans, procedures, and  
27 protocols so that you're not trying to invent this thing from  
28 the start the next time a problem like this arises, that the

1 officials themselves perhaps even without new legislation or  
2 perhaps with a view to fashioning appropriate legislation could  
3 advance the situation?

4 **MINISTER OMAR ALGHABRA:** I think absolutely. By  
5 the way, we did have a council of ministers after that incident.  
6 Typically we have them in February. And I think it's really  
7 important to collaborate with provincial governments on  
8 clarifying these -- what appear to be misconceptions or  
9 miscommunication or misunderstanding, but also identifying  
10 tools.

11 I'll just note, for example, the Alberta  
12 government has its own critical infrastructure legislation. So  
13 perhaps we can also learn from the Government of Alberta and  
14 other provincial governments on what else we could do at the  
15 federal level and how we can collaborate on closing these gaps.

16 **MR. GORDON CAMERON:** Thank you, Minister. And  
17 thank you, Commissioner. Those are my questions.

18 **COMMISSIONER ROULEAU:** Okay.

19 So if I could first call on the Democracy Fund/  
20 JCCF, please.

21 **--- CROSS-EXAMINATION BY MR. HATIM KHEIR:**

22 **MR. HATIM KHEIR:** Good evening, Minister.

23 **MINISTER OMAR ALGHABRA:** Good evening.

24 **MR. HATIM KHEIR:** I'm Hatim Kheir, counsel for  
25 the Justice Centre for Constitutional Freedoms.

26 So right from the start of the pandemic while  
27 people like you and I had the opportunity to work from home,  
28 truckers still had to go out and keep the goods moving, right?

1                   **MINISTER OMAR ALGHABRA:** Right.

2                   **MR. HATIM KHEIR:** And that's why they were  
3 originally designated as essential service providers and they  
4 were exempted from the vaccine mandate, right?

5                   **MINISTER OMAR ALGHABRA:** So first of all, let me  
6 just say that truckers over the last two years have done an  
7 amazing job. Like you said, when many of us had the option of  
8 working from home, they kept the movement of goods going. Most  
9 of us never thought for a moment about how these products got to  
10 the shelves but we certainly were reminded of the importance of  
11 the industry when everything else was shut down, yet the  
12 products kept on arriving, so I don't think we could say thank  
13 you enough to truckers for their professionalism and for their  
14 job. And to answer your question about how polices were  
15 developed throughout the pandemic, these were done based on the  
16 advice that we received from Public Health and, also, taking  
17 into account considerations of the realities on the ground.  
18 There had been several professions and several categories that  
19 were granted exceptions at the beginning of the pandemic.

20                   **MR. HATIM KHEIR:** And truckers were one of them?

21                   **MINISTER OMAR ALGHABRA:** Truckers were one of  
22 them.

23                   **MR. HATIM KHEIR:** Okay. And you note in your  
24 witness statement that the protests arose in response to the  
25 elimination of that designation; correct?

26                   **MINISTER OMAR ALGHABRA:** I -- my understanding is  
27 that the protest arose to oppose all mandates, not just a  
28 truckers' mandate.

1           **MR. HATIM KHEIR:** But you state in your interview  
2 summary, which you adopted -- it states that your understanding  
3 was that the protest arose in response to the elimination of  
4 that designation; right?

5           **MINISTER OMAR ALGHABRA:** I think it was a  
6 trigger, but the -- and again, I am not here to speak on behalf  
7 of the protesters, but my understanding is that in every  
8 communication they issued, they opposed all vaccine mandates.

9           **MR. HATIM KHEIR:** Okay, can we please pull up  
10 JCF00000191. And while that's being pulled up, just for the  
11 benefit of my friends, this is compilation of documents that are  
12 listed individually in the database. I'll mention their IDs as  
13 we go through. I'm just using this to save a bit of time as we  
14 pull up documents.

15           So, Minister, you can recognize that this a --  
16 this appears to be a news release from the Province of Alberta;  
17 correct?

18           **MINISTER OMAR ALGHABRA:** This is the first time  
19 I'm seeing this document and that's what the headline says.

20           **MR. HATIM KHEIR:** Okay. And again for the  
21 record, this is individually in the database as JCF00000192.  
22 Now, do you see the title where it says, "Alberta takes steps to  
23 safely return to normal"?

24           **MINISTER OMAR ALGHABRA:** Yes.

25           **MR. HATIM KHEIR:** With the date of February 8<sup>th</sup>  
26 just above that?

27           **MINISTER OMAR ALGHABRA:** Okay, yeah.

28           **MR. HATIM KHEIR:** Okay. And if we go down to



1 page 2, Mr. Clerk -- Minister, do you see at the second  
2 paragraph, it says Alberta will remove the Restrictions  
3 Exemption Program and capacity limits under 500; right?

4 **MINISTER OMAR ALGHABRA:** Yeah, that's what it  
5 says.

6 **MR. HATIM KHEIR:** And then, if we go to page 3,  
7 it sets out a schedule for other restrictions being lifted;  
8 right?

9 **MINISTER OMAR ALGHABRA:** I mean, again, I have  
10 not seen this document before and I'm only seeing what is being  
11 in front of me on the screen, so that's what it says, "Step one,  
12 Step two," so I'm assuming that what you're saying is correct.

13 **MR. HATIM KHEIR:** And you -- I take it you were  
14 aware that this was happening at the time in February, at least  
15 in the broad strokes?

16 **MINISTER OMAR ALGHABRA:** Yeah, I mean, again, as  
17 I said, all governments, not just in Canada -- provincial,  
18 municipal, around the world -- had different Public Health  
19 Measures, including mandates, and all governments had their own  
20 plan of how to adjust these measures.

21 **MR. HATIM KHEIR:** Okay. And then if we go to  
22 page 7 in this document which, for the record, in the database  
23 is JCF00000193, this is Manitoba news release dated February  
24 11<sup>th</sup>; right?

25 **MINISTER OMAR ALGHABRA:** It appears that way.

26 **MR. HATIM KHEIR:** And the title says that  
27 Manitoba's accelerating:

28 "Manitoba accelerating plan to reduce

1 Public Health restrictions based on  
2 improving Covid-19 situation."

3 **MINISTER OMAR ALGHABRA:** That's what the headline  
4 says.

5 **MR. HATIM KHEIR:** And again, were you aware of  
6 Manitoba's action at the time?

7 **MINISTER OMAR ALGHABRA:** Again, I was aware that  
8 different governments had their own plan of adjusting their  
9 Public Health measures, so did we.

10 **MR. HATIM KHEIR:** Well, you might start to notice  
11 a pattern I'm getting at, but perhaps we can go to page 9 in  
12 this document, Mr. Clerk, which, for the record, is JCF00000190.  
13 We see an Ontario announcement dated February 14<sup>th</sup>; right?

14 **MINISTER OMAR ALGHABRA:** Yes.

15 **MR. HATIM KHEIR:** And it announces that Ontario's  
16 moving to its next phase of reopening on the 17<sup>th</sup>?

17 **MINISTER OMAR ALGHABRA:** Okay.

18 **MR. HATIM KHEIR:** And just for the sake of  
19 completion, lastly, if we just go to page 14 which, for the  
20 record, is JCF00000194, this is a Saskatchewan news release  
21 titled:

22 "Living with Covid: Proof of  
23 vaccination no longer required;  
24 business verifier app discontinued."

25 Correct?

26 **MINISTER OMAR ALGHABRA:** That's what the headline  
27 says.

28 **MR. HATIM KHEIR:** Okay. So you said you were

1 aware the different jurisdictions were taking their own  
2 responses. What I'd suggest to you is that, given the timing of  
3 these measures all being taken by the different provinces, that  
4 they were being taken as a step by the provinces to respond to  
5 the concerns of protesters; would you agree with that?

6 **MINISTER OMAR ALGHABRA:** No. Is that what you  
7 think?

8 **MR. HATIM KHEIR:** I'm suggesting that to you.

9 **MINISTER OMAR ALGHABRA:** No, I -- well, I don't  
10 think so. But at the end of the day, it's up to the government,  
11 I -- the government -- none of these governments have shared  
12 with me their rationale. I'm assuming that, just like they  
13 imposed these measures based on their advice that they received,  
14 I'm assuming they're adjusting their measures based on the  
15 advice that they receive and their own considerations.

16 **MR. HATIM KHEIR:** Well, we heard yesterday that  
17 at the First Ministers' Meeting relating to the invocation of  
18 the *Emergencies Act*, that Premier Kenney asked the federal  
19 government to lift the vaccine mandate as it applied to truckers  
20 crossing the border, and he mentioned that he had raised that  
21 previously. I don't believe you were at that meeting but were  
22 you aware of his opinion?

23 **MINISTER OMAR ALGHABRA:** I was not at that  
24 meeting. I think he had made it public. I just can't remember  
25 when he made it public, his opposition to border -- truckers-  
26 crossing-the-borders mandates.

27 **MR. HATIM KHEIR:** Well, we also saw a text from  
28 Premier Kenney which was forwarded to you by Minister LeBlanc

1 where Premier Kenney called the trucker vaccine mandate "dumb  
2 political theatre"; do you remember receiving that?

3 **MINISTER OMAR ALGHABRA:** I do.

4 **MR. HATIM KHEIR:** So again, giving these comments  
5 from Premier Kenney and the time of the provinces, you still  
6 maintain that none of this was in response to the protests?

7 **MINISTER OMAR ALGHABRA:** Again, you'll have to  
8 ask the provinces that question. I'm not in a position to offer  
9 justification for a provincial government's decision.

10 **MR. HATIM KHEIR:** Well, given the motivation of  
11 the protesters, did the government consider resuming the  
12 exemption for truckers?

13 **MINISTER OMAR ALGHABRA:** And by the way, let me  
14 just be -- clarify -- and again, it's not up to me to talk about  
15 provincial government's decision, but they did not -- most  
16 governments, provincial governments, did not lift all mandates,  
17 so just for the record. Second, you know, we don't make public  
18 policy based on the number of protesters or emails that we get.  
19 We make public policy, particularly during the pandemic -- and  
20 let me be the first to acknowledge, governments around the  
21 world, including the federal government, did extraordinary  
22 measures in what we believed was the right thing to protect the  
23 health and safety of Canadians.

24 I never imagined provinces shutting down  
25 businesses. I never imagined provinces invoking curfews. I  
26 never imagined the federal government putting limitations on  
27 travel. But we all did that. Governments across Canada did  
28 these measures because we believed we are saving lives. And

1 yes, they were extraordinary, but I can tell you, no one, at  
2 least us -- I am not -- I'm not making any apology for doing  
3 what we believed the best thing for protecting lives. Now, of  
4 course, it caused inconvenience. Of course, it caused  
5 disruption. And our government did whatever we can to mitigate  
6 those disruptions, and Canadians understood that. Canadians  
7 understood that.

8                   So back to your question, our policies were based  
9 on the advices, and facts, and the science that we received, not  
10 based on polls, or number of protesters, or even the illegal  
11 activities that should never -- should never drive public  
12 policy.

13                   **MR. HATIM KHEIR:** So the government should never  
14 change its policies in response to outcry from protesters?

15                   **MINISTER OMAR ALGHABRA:** I'm saying governments,  
16 especially during the pandemic, made tough decisions based on  
17 what we believed was the best for the protection of the health  
18 and safety of Canadians. Now, if you're asking me, should  
19 government change its policy because people break the law in  
20 expressing their opposition? I'd say no. Should the government  
21 listen to public and consider the sentiment of public? Of  
22 course, but we are guided by the interest of -- of the interests  
23 of Canadians -- protecting the interests of Canadians. So being  
24 aware of the sentiment of Canadians is different than advancing  
25 the interests of Canadians. Sometimes they are connected,  
26 sometimes there is -- the sentiment might be different,  
27 depending on the groups and the information that they have or  
28 the priorities that they have.

1           **MR. HATIM KHEIR:** I'm going to suggest to you  
2 that the government couldn't reconsider the -- its removal of  
3 that exemption because it had already labelled the truckers and  
4 the protesters as White Supremacists and now had to maintain its  
5 opposition to anything associated with the protest.

6           **MINISTER OMAR ALGHABRA:** Yeah. No, I don't agree  
7 with you. First of all, truckers themselves, if you follow the  
8 press releases by the Canadian Trucking Association, by  
9 teamsters, the unions that represent many truck drivers, have  
10 distanced themselves from this illegal -- these illegal  
11 blockades and occupations. They said they are giving the  
12 industry a bad name. They do not represent the industry.

13           So -- and I have had several meetings with  
14 representatives of trucking associations, of trucking companies,  
15 and they all felt that they're giving the trucking industry a  
16 bad name.

17           Second, let me just highlight a second point, by  
18 the way. We actually eased our international travel measures,  
19 and I can't remember the exact day, but sometime in February  
20 where there was a requirement for on-arrival testing. Those  
21 tests were eliminated, and that wasn't because of the illegal  
22 occupation, it was because we entered a different phase of the  
23 pandemic and we felt, based on the advice that we got, we could  
24 adjust and ease our measures, so we did that.

25           **MR. HATIM KHEIR:** And one of the other things  
26 that the government did was invoke the *Emergencies Act* to deal  
27 with the protest, right?

28           **MINISTER OMAR ALGHABRA:** Say that again?

1           **MR. HATIM KHEIR:** One of the other things done in  
2 February was of course, the invocation of the *Emergencies Act*,  
3 while we're here?

4           **MINISTER OMAR ALGHABRA:** That is correct.

5           **MR. HATIM KHEIR:** And I understand that the  
6 invocation of the *Emergencies Act* was not intended to infringe  
7 upon anyone's Charter rights, correct?

8           **MINISTER OMAR ALGHABRA:** It was specifically  
9 stated in the provisions of the Act.

10          **MR. HATIM KHEIR:** And whose -- so first of all, I  
11 understand that the Cabinet then would have turned its  
12 collective mind to that when discussing the invocation?

13          **MINISTER OMAR ALGHABRA:** We considered all ---

14          **MS. DONNAREE NYGARD:** I'm sorry. As far as  
15 you're asking what Cabinet deliberated, that's protected by  
16 Cabinet confidence.

17          **MR. HATIM KHEIR:** Fair enough.

18                 Suffice it to say Cabinet's intention was to  
19 protect the Charter rights of Canadians?

20          **MINISTER OMAR ALGHABRA:** That is -- that's our  
21 constitution and we're all sworn to uphold our constitution.

22          **MR. HATIM KHEIR:** Did -- do you believe Cabinet  
23 protected the Charter rights of tow truck drivers?

24          **MINISTER OMAR ALGHABRA:** We protected -- we kept  
25 in mind the Charter rights of all Canadians, including truck  
26 drivers.

27          **MR. HATIM KHEIR:** You'd agree that tow truck  
28 drivers weren't protesters themselves, aside from perhaps,

1 individual cases?

2 **MINISTER OMAR ALGHABRA:** I don't understand the  
3 question.

4 **MR. HATIM KHEIR:** Well, so you said in your  
5 interview summary that some tow truck drivers refused to tow  
6 trucks out of sympathy with the protest, right?

7 **MINISTER OMAR ALGHABRA:** I said that yes, there  
8 was a reluctance for a variety of reasons. One of the reasons  
9 may be because they might be sympathetic, but the bigger reasons  
10 that we heard is that they afraid for their livelihood and their  
11 safety.

12 **MR. HATIM KHEIR:** Well, I want to focus on the  
13 group that was objecting out of sympathy with the protest.  
14 You'd agree that they may have done so out of political and  
15 moral reasons?

16 **MINISTER OMAR ALGHABRA:** I can't really speak on  
17 their behalf.

18 **MR. HATIM KHEIR:** You'd agree that the Emergency  
19 Measures regulation compelled tow truck drivers to serve a cause  
20 that was potentially contrary to their beliefs if they were  
21 refusing out of sympathy with the protest?

22 **MINISTER OMAR ALGHABRA:** You know, again, the  
23 *Emergencies Act* was necessary, given the circumstances. The  
24 tools within the *Emergencies Act* were necessary to end illegal  
25 activities including blockades and occupation. And in order for  
26 us to de-escalate the situation and to end these illegal  
27 activities, we needed access to tow trucks, making sure that tow  
28 truck drivers were compensated and made whole.



1           And I'm pretty sure that -- and I can't speak  
2 about the selection of tow truck drivers and tow truck  
3 companies, how the law enforcement agencies in choosing them, so  
4 I'm sure they found those who were willing as long as they felt  
5 they were compensated and protected.

6           **MR. HATIM KHEIR:** Minister, I'm out of time, but  
7 I'm just going to push back on that one answer you gave me,  
8 because I asked you if tow truck drivers who would have refused  
9 out of sympathy with the protest, as you highlighted in your  
10 interview statement, would have been compelled by the  
11 Emergencies Measure regulations to serve a cause that they did  
12 not agree with, and you responded by talking about the necessity  
13 of it.

14           But I'm asking you, were those people compelled  
15 to serve a cause that they felt went against their conscience  
16 and their choice of association?

17           **MINISTER OMAR ALGHABRA:** So I answered the  
18 question by saying I was not involved in how tow truck drivers  
19 or tow truck companies were selected. I would like to think  
20 that there were options to select tow truck drivers who were  
21 willing to participate.

22           **MR. HATIM KHEIR:** You'd like to think that, but  
23 certainly, the power created that opportunity, right?

24           **MINISTER OMAR ALGHABRA:** I was not involved in  
25 the selection of tow truck drivers.

26           **MR. HATIM KHEIR:** I have no further questions.  
27 Thank you.

28           **COMMISSIONER ROULEAU:** Thank you.

1 Next if I could call on the City of Windsor,  
2 please?

3 **--- CROSS-EXAMINATION BY MS. JENNIFER KING:**

4 **MS. JENNIFER KING:** Thank you, Minister Alghabra.  
5 My name is Jennifer King. I am legal counsel to the City of  
6 Windsor.

7 **MINISTER OMAR ALGHABRA:** Hi, counsellor.

8 **MS. JENNIFER KING:** I only have hopefully a few  
9 questions for you to clarify a few points.

10 So first, I have some questions about the  
11 Strategic Enforcement Strategy.

12 Both you and your deputy minister have testified  
13 about this strategy. I'll ask the clerk to bring it up just in  
14 case we need to look at it. It is PB.CAN.00000860.

15 And I understand that there was never a final  
16 version, and my understanding is that Deputy Minister Keenan  
17 agreed that this was the final version.

18 So this strategy, as it's coming up, I think  
19 you'll agree with me that the strategy recognizes that given the  
20 complexity of the occupations and blockades, safe resolution  
21 requires three levels of government to collaborate, right?

22 **MINISTER OMAR ALGHABRA:** Yes.

23 **MS. JENNIFER KING:** And do you agree with that?

24 **MINISTER OMAR ALGHABRA:** I do.

25 **MS. JENNIFER KING:** And the strategy calls on all  
26 levels of government to deliver key messages, including that the  
27 blockades were breaking municipal bylaws?

28 **MINISTER OMAR ALGHABRA:** I agree.

1                   **MS. JENNIFER KING:** And the strategy lists  
2 examples of municipal bylaws including Windsor bylaws, right?

3                   **MINISTER OMAR ALGHABRA:** Correct.

4                   **MS. JENNIFER KING:** Deputy Minister Keenan  
5 confirmed last week that Transport Canada did not consult with  
6 Windsor on this strategy, nor did Transport Canada consult with  
7 Windsor Police. He said that, "We left both of those to our  
8 provincial colleagues."

9                   Are you aware of that?

10                  **MINISTER OMAR ALGHABRA:** I was not aware of the  
11 level of consultation that took place. I was just aware that  
12 there's significant consultation that had taken place in putting  
13 this document together.

14                  **MS. JENNIFER KING:** Okay. But if Deputy Minister  
15 Keenan said that he didn't consult with the Municipality of  
16 Windsor, you would defer to him?

17                  **MINISTER OMAR ALGHABRA:** I would defer to him.

18                  **MS. JENNIFER KING:** And you didn't consult with  
19 the municipality on the strategy?

20                  **MINISTER OMAR ALGHABRA:** I had a meeting, by the  
21 way, with Mayor Dilkens, I think, February 11th, I think. So I  
22 certainly reached out. I know my colleague, Minister Mendicino,  
23 has also reached out.

24                         So I put an effort into making sure that I heard  
25 directly from the mayor. You saw that I also had spoken with my  
26 colleague, Irek Kusmierczyk, member of parliament from Windsor.

27                         So it was really important for me to hear  
28 directly from those who are representing Windsor about the

1 experience that they're going through and ideas that they may  
2 have.

3 **MS. JENNIFER KING:** Right. And we'll talk about  
4 that call that you had with Mayor Dilkens in a few moments.

5 But I take it that you didn't specifically ask  
6 for input on the tools that you were putting into this strategy?

7 **MINISTER OMAR ALGHABRA:** Again, the strategy was  
8 developed, put together by officials based on my request and I  
9 know -- and the idea was to consult our stakeholders, our key  
10 partners, so -- but I'm not able to answer your question about  
11 the level of engagement and who exactly was involved in this  
12 development.

13 **MS. JENNIFER KING:** Thank you. Okay.

14 So let me put this to you -- put it to you this  
15 way. When you're in a situation -- and you've already talked  
16 about the call with Minister Mulroney on February the 9th -- and  
17 in your witness statement, you state that in that call, Minister  
18 Mulroney advised you that Transport Canada's enforcement  
19 proposals were simply unworkable. That's what she told you?

20 **MINISTER OMAR ALGHABRA:** Yeah. I mean, I don't  
21 know if that was the exact word, but maybe it was, but saying  
22 that what we were proposing was not doable.

23 **MS. JENNIFER KING:** Okay. So if you're in this  
24 kind of situation where your provincial colleagues are maybe not  
25 on board at the moment and you're in a situation where safe  
26 resolution requires three levels of government to collaborate,  
27 wouldn't you agree that you should reach out directly to consult  
28 with the impacted municipalities on this kind of strategy?

1                   **MINISTER OMAR ALGHABRA:** Again, I reached out to  
2 Mayor Dilkens and I had a conversation with him to hear from him  
3 about what's going on, to get a briefing from him, and then too,  
4 I offered him what else can we do to help. So I had a direct  
5 conversation with the Mayor. As I said, my other colleagues as  
6 well.

7                   **MS. JENNIFER KING:** Right. And so it is  
8 important to reach out directly to a municipality then. You  
9 agree?

10                   **MINISTER OMAR ALGHABRA:** I think so.

11                   **MS. JENNIFER KING:** Yeah. So Deputy  
12 Minister Keenan also confirmed that Transport Canada would not  
13 have shared the strategy with Windsor after it was finalised,  
14 and again relied on Transport Canada's provincial partners to  
15 share it as they saw fit. And he didn't know if it had been  
16 shared.

17                   I take it you did not share the strategy with  
18 Windsor?

19                   **MINISTER OMAR ALGHABRA:** I didn't, but again, I  
20 mean, I -- the document was about provincial and federal tools,  
21 and mostly provincial tools, so it made I guess sense. And  
22 again, I shouldn't be talking about what exactly happened  
23 because I wasn't involved in it, but maybe I'm attempting at  
24 understanding what happened.

25                   **MS. JENNIFER KING:** Right. And so we did get  
26 some clarity on that from the Deputy Minister. I can tell you  
27 that I'm not aware of any evidence that Windsor received it. I  
28 just wanted to confirm with you that if the purpose of the

1 strategy was to coordinate with three levels of government,  
2 wouldn't it have been important then to ensure that all levels  
3 of government had a copy?

4 **MINISTER OMAR ALGHABRA:** Counsellor, at the risk  
5 of repeating myself, I -- myself, my colleague, Mr. Kusmierczyk,  
6 my colleague, Minister Mendicino, perhaps others have reached  
7 out to the Mayor to ensure that we are still in touch and in  
8 contact. We offered -- we solicited input, we offered help. So  
9 I'm -- I guess what I'm trying to demonstrate is that we've  
10 actually done that.

11 **MS. JENNIFER KING:** No, and I can see, and we'll  
12 talk...

13 Perhaps, Mr. Clerk, you can call up  
14 SSM.CAN00000981.

15 And I can see that there was a reach out to  
16 Mayor Dilkens, and this is referenced in the institutional  
17 report from Windsor, absolutely, and Mayor Dilkens said that  
18 there was excellent communication with the different levels of  
19 government. I was just trying to confirm with the strategy that  
20 was an important strategy that Transport Canada had worked on  
21 why it didn't get to the local authorities that were on the  
22 ground.

23 **MINISTER OMAR ALGHABRA:** Yeah, I can't answer  
24 that question because I wasn't involved in the day-to-day  
25 put-together of this strategy.

26 **MS. JENNIFER KING:** Thank you. And so I just  
27 wanted to perhaps refresh your memory. This is a memo. Who is  
28 Samar Khan?

1                   **MINISTER OMAR ALGHABRA:** Oh, she is a former  
2 employee of mine.

3                   **MS. JENNIFER KING:** Okay. And so these -- this  
4 is a memo that she prepared for you reflecting your meeting with  
5 Mayor Dilkens.

6                   **MINISTER OMAR ALGHABRA:** Yes, it's a briefing  
7 note before a call.

8                   **MS. JENNIFER KING:** Okay. So I just have a  
9 couple of clarification questions about this call because you  
10 hadn't referenced it in your witness summary. And I just -- I'm  
11 not sure if it matters, but you had said that the call was maybe  
12 on the February 11th, I think that was Mayor Dilkens'  
13 recollection. This document seems to be dated February 10th.

14                   **MINISTER OMAR ALGHABRA:** Oh, it's not uncommon  
15 that my staff prepares a briefing note the night before so I can  
16 read it overnight in preparation for my meeting, and the  
17 briefing note tends to cover a variety of issues in case any  
18 other topic is approached when I am speaking with whoever I am  
19 being prepared for.

20                   **MS. JENNIFER KING:** And then your staff would  
21 insert the notes from the call. Is that what we have here?

22                   **MINISTER OMAR ALGHABRA:** I don't know. I think  
23 this is the actual briefing note. I don't know if it has the  
24 readout of the call. I think this is the actual briefing note.

25                   **MS. JENNIFER KING:** Okay. So when it says  
26 Current Status, and it has notes about what Mayor Dilkens is  
27 saying this is not notes from the call?

28                   **MINISTER OMAR ALGHABRA:** No. No, this is

1 preparing me for what's the latest activities that have been  
2 happening there.

3 **MS. JENNIFER KING:** Okay.

4 So if you could just scroll down the second page.

5 So you're aware at this point, then, that the  
6 City, along with the APMA is seeking an injunction?

7 **MINISTER OMAR ALGHABRA:** (Inaudible response)

8 **MS. JENNIFER KING:** Yeah. And on the second page  
9 you'll see at the top, it states that the:

10 "OPP has been sent to Windsor to assist  
11 with the situation, and RCMP are  
12 sending a Public Order Unit based in  
13 Ontario to assist alongside the OPP in  
14 Windsor."

15 So you were aware of that as of around  
16 February 10th?

17 **MINISTER OMAR ALGHABRA:** Yeah. As I said, this  
18 was a note prepared by my team to prepare me for the call, and  
19 the idea is to make sure that I'm up-to-date on the ongoing  
20 activities.

21 **MS. JENNIFER KING:** Great. Thank you for  
22 clarifying that.

23 And my question is, Minister Alghabra, you told  
24 my friend, Commission Counsel, earlier that you tasked your  
25 department with what can be done to federal legislation and  
26 tools to protect critical infrastructure. Did you task your  
27 department to consult with border municipalities and other  
28 partners in considering these changes and tools?



1           **MINISTER OMAR ALGHABRA:** Oh, I mean, we're not at  
2 that stage yet, perhaps we will get there. But for now, the  
3 idea is to put together a simple proposal on what additional  
4 tools we need, and then what we'd do is we would then talk to  
5 our partners. For sure it would make sense municipalities that  
6 have such critical infrastructure to seek their input.

7           **MS. JENNIFER KING:** Okay. Thank you, those are  
8 all my questions.

9           **MINISTER OMAR ALGHABRA:** Thank you.

10          **COMMISSIONER ROULEAU:** Thank you.

11          Next is former Chief Sloly's counsel, please.

12          **MR. NIKOLAS De STEFANO:** Thank you,  
13 Mr. Commissioner. Nikolas De Stefano for Chief Sloly. We have  
14 ceded our time to the Government of Canada.

15          **COMMISSIONER ROULEAU:** Okay.

16          OPP?

17          **MR. CHRISTOPHER DIANA:** Chris Diana for the OPP.  
18 And we likewise have no questions, and have ceded our time to  
19 the Government of Canada.

20          **COMMISSIONER ROULEAU:** Oh, my god. Okay. I  
21 don't know, that's going to be a long...

22          Okay, Windsor Police Service.

23          **MS. HEATHER PATTERSON:** Hi, there. Heather  
24 Patterson for the Windsor Police Service. We have no questions.

25          **COMMISSIONER ROULEAU:** Okay.

26          And the Government of Alberta, please.

27          **MS. MANDY ENGLAND:** Good afternoon. It's Mandy  
28 England for the Government of Alberta. We do have some

1 questions, and I'm wondering if we might be able to take the  
2 time for the Windsor Police Service that they weren't able to  
3 use this afternoon.

4 **COMMISSIONER ROULEAU:** Well, that -- there wasn't  
5 an offer made, but -- and you owe me five minutes from the last  
6 time. But let's go and see where we go.

7 **MS. MANDY ENGLAND:** Fair enough. Thank you very  
8 much, Commissioner.

9 **--- CROSS-EXAMINATION BY MS. MANDY ENGLAND:**

10 **MS. MANDY ENGLAND:** Minister, you will agree with  
11 me that in your communications with Minister Sawhney before  
12 February the 13th that you did not raise or discuss the Federal  
13 *Emergencies Act*; is that right?

14 **MINISTER OMAR ALGHABRA:** That is correct.

15 **MS. MANDY ENGLAND:** Okay, thank you. I'd like to  
16 take you to some comments that were made in your witness  
17 statement, and I would ask if that could please be pulled up  
18 just so you can see it.

19 It's at WTS, I believe it's six zeros 75, at  
20 page 4.

21 And as it's being pulled up, the first comment  
22 that I'd like to draw your attention to is, "Nonetheless, his",  
23 being your:

24 "...assessment was that some provincial  
25 governments, for example, Ontario and  
26 Alberta viewed the issue as an issue  
27 falling under federal jurisdiction  
28 requiring federal intervention."

1           And so if could paraphrase colloquially the  
2 request that the Government of Alberta did make for assistance  
3 to the Federal Government, it was, you know, "It's our  
4 information that you own some heavy lift tow trucks that are  
5 sitting in our province, and we would like to borrow them."

6           So would you agree with that that request was not  
7 the same thing as saying, "Responding to this event doesn't fall  
8 under Alberta's jurisdiction, this falls under federal  
9 jurisdiction"?

10           **MINISTER OMAR ALGHABRA:** First of all, it was  
11 actually a comment that was mentioned to me by Minister Sawhney,  
12 that they also see it as, because it's a point of entry, they  
13 see that the Federal Government is implicated in this. So --  
14 and that the Federal Government needed to play a leadership role  
15 in it. And so this was based on a comment that I had received  
16 from the Minister.

17           Second, you know, I think -- I can't comment, you  
18 know, on the RFA. That's a -- that's not necessarily where my  
19 comment had come from.

20           **MS. MANDY ENGLAND:** Okay, thank you. And so in  
21 terms of, you know, the issue that there was a port of entry, I  
22 understand you were saying that there was a role, but not that  
23 it was a matter solely of federal jurisdiction. Alberta did not  
24 in any way imply that and viewed this as not being anything to  
25 do with it; right? You were aware that Alberta was actively  
26 responding to it as a matter within its jurisdiction.

27           **MINISTER OMAR ALGHABRA:** You know, when I asked  
28 Minister Sawhney, and I -- Minister Sawhney and I have a very

1 good professional relationship where we're in regular contact  
2 when she was the Minister of Transportation, when I asked if she  
3 would be willing to issue a joint statement, because we -- I  
4 felt having a joint statement by two levels of government  
5 calling on the blockaders to go home would send a strong message  
6 to those who are thinking of staying or those who are thinking  
7 of joining, she refused to do that because she said that this is  
8 a federal issue because what the blockaders are objecting to has  
9 nothing to do with us. So that's -- I'm sharing this with you  
10 to explain to you where I received that sense, that Alberta was  
11 saying that this is the Federal Government's problem.

12 **MS. MANDY ENGLAND:** Okay, well, if I could ask if  
13 the Clerk could please pull up SSM.CAN00002302, which is a  
14 readout of your colleague Minister Sawhney. I did not read her  
15 comments in the same way that you did and so I'll pull those up  
16 for context.

17 And so here is the readout of your meeting with  
18 Minister Sawhney. And if we could scroll down, please, right  
19 there -- sorry, the fourth point. We see "Minister asks if we  
20 could do joint statement". And Minister Sawhney's response was:

21 "Maybe, however, this would seem as if she's  
22 endorsing the vaccine mandate.

23 And that was her issue with your joint statement, not that she  
24 thought that the matter was federal jurisdiction to deal with.  
25 Is that a fair summary of what the comment was?

26 **MINISTER OMAR ALGHABRA:** This is a readout and my  
27 memory is that, and it's not really that off from the readout.  
28 My memory is that she said that the protestors and the

1 blockaders are opposed to the federal mandate and that's why she  
2 was reluctant to appear like she's supporting the federal  
3 mandate and she was reluctant to be appearing to be involved  
4 with us on this.

5 **MS. MANDY ENGLAND:** Okay. And then you mentioned  
6 that it was your impression in your witness statement; you  
7 mentioned it was your impression from this conversation that  
8 existing tools in Alberta were not being used or were not  
9 sufficient.

10 Were you aware that the RCMP were not able to  
11 carry out their enforcement action without having on hand the  
12 heavy towing equipment that Alberta -- we were just discussing  
13 that Alberta was looking for?

14 **MINISTER OMAR ALGHABRA:** I was aware that the  
15 blockade continued, so I ---

16 **MS. MANDY ENGLAND:** Were you aware that the  
17 enforcement action could not be taken out without the heavy  
18 towing equipment that Alberta was looking for?

19 **MINISTER OMAR ALGHABRA:** Yeah. I mean I was  
20 aware that there are different reasons, including towing  
21 capacity. So, yes.

22 And, again, overall the outcome for me is that  
23 these blockades continued.

24 **MS. MANDY ENGLAND:** And with the knowledge that  
25 the enforcement action could not be taken out without the towing  
26 equipment, wouldn't you agree with me that there was a  
27 connection between existing authorities not yet being enforced  
28 as of the time of your conversation with Minister Sawhney on

1 February 9<sup>th</sup> and the fact that the RCMP hadn't yet secured the  
2 equipment that they needed? Those two ideas were very  
3 inextricably linked?

4 **MINISTER OMAR ALGHABRA:** Again, the common  
5 response that I was getting as to when I kept asking why are the  
6 blockades at Coutts and other places continuing; there were  
7 different reasons. Some of them were safety, operational,  
8 including availability of tow trucks, and tow truck operators by  
9 the way; it wasn't just tow trucks, tow truck operators.

10 **MS. MANDY ENGLAND:** And the readout that we're  
11 looking at right now from Minister Sawhney's call with you on  
12 February the 9<sup>th</sup>, indicates that she reiterated to you more than  
13 once that the RCMP were working on it, but that Alberta could  
14 not and would not insert itself to tell them exactly what to do.  
15 Do you recall that and see that before you?

16 **MINISTER OMAR ALGHABRA:** Yes.

17 **MS. MANDY ENGLAND:** Okay, thank you.

18 There are also documents on the record that show  
19 that your Deputy Minister Michael Keenan knew by the afternoon  
20 of February the 12<sup>th</sup> that Alberta had purchased towing equipment.  
21 To be clear in respect of a prior answer that you gave this  
22 afternoon, is it your evidence that no one had made you aware  
23 that by February 13<sup>th</sup> Alberta had acted itself to purchase the  
24 equipment that the RCMP needed?

25 **MINISTER OMAR ALGHABRA:** I was aware that Alberta  
26 is seeking to purchase tow trucks; I can't recall when I found  
27 out that those tow trucks were purchased but I was aware that  
28 Alberta had made a decision to purchase tow trucks. And I was

1 also informed that there was an issue with operators for those  
2 tow trucks.

3 **MS. MANDY ENGLAND:** And you are aware by the 13<sup>th</sup>  
4 of February that they had made that purchase; correct?

5 **MINISTER OMAR ALGHABRA:** I don't recall if I knew  
6 on the 13<sup>th</sup> or not, I can't recall that.

7 **MS. MANDY ENGLAND:** Do you recall whether it was  
8 before the *Emergencies Act* was invoked?

9 **MINISTER OMAR ALGHABRA:** No, I can't recall that.

10 **MS. MANDY ENGLAND:** Okay. If you had known that,  
11 would your assessment of the necessity of the *Emergencies Act*  
12 have changed at all?

13 **MINISTER OMAR ALGHABRA:** Look, the *Emergencies*  
14 *Act* was needed because we had a national issue. We had problems  
15 across the entire country, including a threat of other emerging  
16 trouble zones. So I think -- and let me repeat. Coutts as well  
17 had during those three weeks or two and a half weeks, was on and  
18 off. So there was also still no confidence that the whole issue  
19 is going to be resolved this quickly.

20 So the short answer to your question; no, I don't  
21 think it would have changed my mind.

22 **MS. MANDY ENGLAND:** Okay, thank you; those are my  
23 questions this afternoon. And thank you for your indulgence,  
24 Commissioner.

25 **COMMISSIONER ROULEAU:** No problem. Okay, next is  
26 the City of Ottawa.

27 **MR. DANIEL CHOMSKI:** Dan Chomski for the City of  
28 Ottawa and we have no questions for the Minister.

1                   **COMMISSIONER ROULEAU:** Okay. So the big winner,  
2 the Government of Canada.

3 **--- CROSS-EXAMINATION BY MS. DONNAREE NYGARD:**

4                   **MS. DONNAREE NYGARD:** I only had ten minutes to  
5 start with so it's still not that long. Good afternoon -- or I  
6 guess good evening, Minister. My name is Donnaree Nygard. As  
7 you know, I am one of the lawyers for the Government of Canada.

8                   I want to take you back in time a little bit to  
9 before the blockade -- the protest arrived in Ottawa. What was  
10 the situation with truck drivers being able to cross the border  
11 in both directions at that point in time?

12                  **MINISTER OMAR ALGHABRA:** So first of all, I mean  
13 maybe to even set the broader context, are supply chains have  
14 been going through a lot of disruptions because of Covid --  
15 mostly Covid measures with lockdowns, with border restrictions,  
16 that had an impact on our economy and on our supply chains.

17                  So it was really critical for me personally and  
18 for our government, to keep monitoring our supply chain and the  
19 health of our supply chain and in fact one of the rationale that  
20 we believed the vaccine mandate would be good for our supply  
21 chain, is to protect the health and safety of the workers in the  
22 supply chains. With absenteeism being high because of Covid,  
23 with spread of Covid, with the risk of contracting Covid, the  
24 vaccine mandate, one of its rationale is that it ensured some  
25 additional resilience within our supply chain, including for our  
26 truck drivers.

27                  So when we -- and there was coordination; you're  
28 asking about truck drivers across the borders; there was



1 coordination between us and the U.S.; they also required similar  
2 measures for truck drivers to cross the border. Prior to  
3 invoking -- or implementing that measure, I had many  
4 consultations with trucking associations, with industry and it  
5 had come to me that about 90 per cent of truck drivers were  
6 fully vaccinated, that this measure would not have a measurable  
7 impact, however, we'll continue to encourage the remaining who  
8 have not been vaccinated to get vaccinated.

9                   So all that long preamble to say is that I kept  
10 an eye on the volume of our truck activities across the border  
11 on a regular basis and published those on my social media to  
12 reassure the public that while the vaccine mandate is working,  
13 it has not had a measurable impact on the flow of our goods and  
14 our truck drivers across the border.

15                   **MS. DONNAREE NYGARD:** And you mentioned that you  
16 were coordinating with the U.S. who had a similar mandate in  
17 place. So if Canada had lifted or put back in place the  
18 exemption for truck drivers, would an unvaccinated truck driver  
19 be able to cross the Canada/U.S. border?

20                   **MINISTER OMAR ALGHABRA:** Not a Canadian truck  
21 driver. A U.S. driver maybe, but not a Canadian truck driver.

22                   **MS. DONNAREE NYGARD:** And you mentioned supply  
23 chains as well. I understand that on January 31<sup>st</sup> you  
24 participated in a supply chain summit. Can you tell us a little  
25 bit about that, please?

26                   **MINISTER OMAR ALGHABRA:** Sure, I just explained  
27 to you how vulnerable and turbulent our economy was at that  
28 moment as we are coming out of the acute phase of COVID after

1 significant disruptions. Supply chains certainly were impacted.  
2 And what our government wanted to do and what I wanted to do is  
3 go to action on figuring out what can the federal government do  
4 to strengthen our supply chains to respond to the ongoing  
5 challenges that we were facing.

6 And we held a summit. I hosted a summit that  
7 invited key stakeholders, industry leaders from different  
8 sectors to come together and talk about they're hearing, what  
9 they're seeing, and what their recommendations are for the  
10 federal government to ensure that we have stronger, more  
11 resilient supply chains.

12 And by the way, it included representatives of  
13 the trucking industry.

14 **MS. DONNAREE NYGARD:** And you also spoke about  
15 the feedback that you were getting from the trucking industry  
16 and I just want to -- and industries in general. I just want to  
17 pull up a document. Mr. Clerk, if you could pull up  
18 SSM.CAN.00000958.

19 **MINISTER OMAR ALGHABRA:** I have to say, I'm  
20 impressed at how fast you pull the documents.

21 **MS. DONNAREE NYGARD:** And is this a document you  
22 recognize, Minister?

23 **MINISTER OMAR ALGHABRA:** Yes. This is a press  
24 release by the Canadian Vehicle Manufacturing Association --  
25 Manufacturers Association.

26 **MS. DONNAREE NYGARD:** And was this something you  
27 were aware of at the time?

28 **MINISTER OMAR ALGHABRA:** Yes. In fact, I think I

1 met with them on that day. So I met with different industry  
2 associations and representatives including the Vehicle  
3 Manufacturers Association. It included the Auto Part  
4 Association. It included the Retail Council. It included the  
5 manufacturers and exporters and they -- to talk t them about the  
6 impact that the blockades is having on their industry, to hear  
7 from them.

8           And I can,. You know, go through some of what I  
9 heard, whether it was from the Vehicle Manufacturers, GM, Ford,  
10 Honda, Toyota, all of them had shift disruption. And some of  
11 them were considering shipping on planes engines because some  
12 lines were being shut down and some production is being delayed.

13           I also heard from 3M, a medical company, the  
14 Retail Council and grocers. It was quite evident., again, not  
15 only just through data but I mentioned earlier, in their voice  
16 how anxious they were about the wellbeing of their business,  
17 about the impact that this is going to have on investment in  
18 their business, about decisions that their -- some of them had  
19 U.S. headquarters in the investment decisions that their  
20 headquarters was going to make.

21           So there was a great concern and they at the time  
22 issued the statement to again articulate that concern.

23           **MS. DONNAREE NYGARD:** And can we also pull up  
24 SSM.CAN.00000987, please.

25           Do you recognize this letter?

26           **MINISTER OMAR ALGHABRA:** Yes.

27           **MS. DONNAREE NYGARD:** And is this something that  
28 was -- it's not addressed to you. It's addressed to the prime

1 minister and to all of the premiers. But were you provided with  
2 a copy of it?

3 **MINISTER OMAR ALGHABRA:** Yes.

4 **MS. DONNAREE NYGARD:** And if we can scroll down  
5 to the body of it. This was from the Canadian ---

6 **MINISTER OMAR ALGHABRA:** Trucking Alliance.

7 **MS. DONNAREE NYGARD:** --- Trucking Alliance.  
8 That's right. And ---

9 **MINISTER OMAR ALGHABRA:** The Canadian  
10 Manufacturers Exporters.

11 **MS. DONNAREE NYGARD:** Yes, that's correct. And  
12 the sentiments expressed in this letter, are those reflective of  
13 the sorts of things that you were hearing from the various  
14 groups that you've just referred to?

15 **MINISTER OMAR ALGHABRA:** Yes.

16 **MS. DONNAREE NYGARD:** Okay. And then can we have  
17 SSM.CAN.988, please?

18 This is, as I understand it -- well, perhaps you  
19 can tell us who Ninu Forrest is? Do you know?

20 **MINISTER OMAR ALGHABRA:** Yes. Ninu is a staff in  
21 my office.

22 **MS. DONNAREE NYGARD:** Okay. So this appears to  
23 be a readout from a call you had on February 11<sup>th</sup> with the  
24 Teamsters; am I reading that correctly?

25 **MINISTER OMAR ALGHABRA:** Correct.

26 **MS. DONNAREE NYGARD:** Okay. We don't need to go  
27 through the document but can you tell us about that call?

28 You can look at the document to refresh your

1 memory if you need.

2 **MINISTER OMAR ALGHABRA:** Yes. This was with, I  
3 think, either the president or the executive director at the  
4 time of Teamsters. And expressing their concern about the  
5 blockades, and how much flak they were getting from those who  
6 are supporting the blockaders because they had publicly spoken  
7 out against the illegal activities. And you know, they were  
8 again asking us to do something to end these issues.

9 **MS. DONNAREE NYGARD:** And was this reflective of  
10 the kind of information that you were receiving from other  
11 stakeholders in the industry?

12 **MINISTER OMAR ALGHABRA:** Yes. The Canadian  
13 Trucking Alliance said the same thing because again they were --  
14 they issued -- again, a statement, I think, on January 31<sup>st</sup>,  
15 right at the beginning of the illegal occupation, that they  
16 distanced themselves from those activities and that they do not  
17 represent truckers and the profession of truckers. But they  
18 then told us that they did receive a lot of threats by those, I  
19 guess, who are sympathetic to the blockaders.

20 **MS. DONNAREE NYGARD:** And if we can pull up  
21 SSM.NSC.CAN00000780.

22 This appears to be a summary of the stakeholder  
23 engagement by you and your staff on February 10<sup>th</sup>. Have you see  
24 this before?

25 **MINISTER OMAR ALGHABRA:** Yes.

26 **MS. DONNAREE NYGARD:** So the first entry there is  
27 an engagement you had with Ms. ---

28 **MINISTER OMAR ALGHABRA:** Ms. Kusmierczyk.

1                   **MS. DONNAREE NYGARD:** Thank you -- that you've  
2 already spoken about. And then the next one is your call with  
3 Secretary Buttigieg which you've already spoken about, if we  
4 could scroll down.

5                   Then there's an entry in regard to an engagement  
6 you had with Global Automakers. And you referred to this in  
7 passing but could you tell us a little bit more about that call?

8                   And were these all on February 10<sup>th</sup> or this just a  
9 summary of the calls that had occurred until up to that date?

10                  **MINISTER OMAR ALGHABRA:** I can't recall, to be  
11 honest. If the sheet says it was done on the 10<sup>th</sup>, then it was  
12 done on the 10<sup>th</sup>. I know they were all done within a few days.  
13 So within that week. But this, as I alluded earlier, this was a  
14 conversation with representatives of Toyota and Honda. And they  
15 were explaining to about the severe impact that these blockaders  
16 are having on their business, the shortage of parts, the impact  
17 on assembly lines, the impact on workers, and the impact on  
18 confidence.

19                  And again, don't forget, we're at a time where  
20 there's a transformation in the auto sector, the building of new  
21 vehicles, electric vehicles. There's competition between  
22 different jurisdictions. Who's going to get which plant?  
23 Obviously Toyota Canada and Honda Canada and others were  
24 competing with their fellow other regions around the world for  
25 investments. They felt that this put a lot of the plans that  
26 they have in place at risk.

27                  **MS. DONNAREE NYGARD:** And I'm not going to go  
28 through each of the entries on here but if we can just scroll

1 down further you'll see there a number of consultations there  
2 listed that were conducted, apparently, by your staff. But is  
3 it fair to say that your staff would have briefed you on all of  
4 these consultations?

5 **MINISTER OMAR ALGHABRA:** Yes.

6 **MS. DONNAREE NYGARD:** And if we can pull up  
7 PB.CAN.00000734.

8 And just while that's being pulled up, you had  
9 been taken earlier to the February 12<sup>th</sup> IRG minutes, in which you  
10 discussed Manitoba, and I believe you said you'd had a  
11 consultation with your counterpart in Manitoba. Is that  
12 correct?

13 **MINISTER OMAR ALGHABRA:** That's correct.

14 **MS. DONNAREE NYGARD:** And this is a letter from  
15 the Premier of Manitoba dated February 11<sup>th</sup>. Were you aware of  
16 this letter?

17 **MINISTER OMAR ALGHABRA:** I don't think I saw it,  
18 no. I don't think I've ever seen it before.

19 **MS. DONNAREE NYGARD:** Okay. Well we'll leave it  
20 at that then. You also continued to conduct consultations with  
21 some of your provincial counterparts after the invocation of the  
22 *Emergencies Act*, as I understand it. Can you tell us about  
23 that, please?

24 **MINISTER OMAR ALGHABRA:** Correct. And these were  
25 part of the outreach that I had been doing for a while, and I  
26 had a call with my B.C. counterpart, Minister Fleming, and I had  
27 a call with my Nova Scotia counterpart to talk about -- B.C., by  
28 the way, at the time, even though when I'd spoken with him, and

1 I think it was the day the *Emergencies Act* was invoked, ---

2 **MS. DONNAREE NYGARD:** On February 14<sup>th</sup>?

3 **MINISTER OMAR ALGHABRA:** Correct. But at that  
4 time, if I recall correctly, the Surrey Port of Entry was still  
5 blocked. So we had a conversation about the fact that the  
6 *Emergencies Act* was invoked. He told me that his government  
7 supported it. And I asked him for the situation in Surrey. He  
8 said it's still blocked but that, you know, now hopefully we'll  
9 find a resolution to it. So that was the extent of the  
10 conversation.

11 With Nova Scotia, you know, there were also  
12 threats of blockades and protests around ports, around the  
13 legislator. They had, I think, invoked their own state of  
14 emergency. So I just reached out as well as part of my effort  
15 to reach out to many of the provinces who were impacted to speak  
16 with her, to get a sense from her about what she and her  
17 government felt about the invocation of the *Emergencies Act* and  
18 about the current situation in the province. And she also  
19 indicated, I think, that they were supportive of the *Emergencies*  
20 *Act*.

21 **MS. DONNAREE NYGARD:** Thank you. Those are all  
22 my questions.

23 **COMMISSIONER ROULEAU:** Okay. Well, you didn't  
24 take up all your delegated time.

25 Okay. Well that was -- thank you very much for  
26 coming and for testifying, and especially at this late hour. So  
27 you're free to go and enjoy the little bit of evening that's  
28 left.



1           **MINISTER OMAR ALGHABRA:** Thank you, Your Honour.

2           **COMMISSIONER ROULEAU:** Thank you.

3           So we're going to adjourn until tomorrow morning  
4 at 9:30.

5           **THE REGISTRAR:** The Commission is adjourned. La  
6 Commission est adjournée.

7 --- Upon adjourning at 7:24 a.m.

8

9

**C E R T I F I C A T I O N**

10

11 I, Mitchell Kersys, a certified court reporter, hereby certify  
12 the foregoing pages to be an accurate transcription of my  
13 notes/records to the best of my skill and ability, and I so  
14 swear.

15

16 Je, Mitchell Kersys, un sténographe officiel, certifie que les  
17 pages ci-hautes sont une transcription conforme de mes  
18 notes/enregistrements au meilleur de mes capacités, et je le  
19 jure.

20

21



---

22 Mitchell Kersys

23