

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE SASKATCHEWAN COURT OF APPEAL)

IN THE MATTER OF THE *GREENHOUSE GAS POLLUTION PRICING ACT*, Bill C-74,
Part V

AND IN THE MATTER OF A REFERENCE BY THE LIEUTENANT GOVERNOR IN
COUNCIL TO THE COURT OF APPEAL UNDER THE *CONSTITUTIONAL
QUESTIONS ACT, 2012*, SS 2012, c C-29.01

BETWEEN:

ATTORNEY GENERAL OF SASKATCHEWAN

APPELLANT

- and -

ATTORNEY GENERAL OF CANADA

RESPONDENT

- and -

(Continued on next page)

FACTUM OF THE INTERVENER, DAVID SUZUKI FOUNDATION

(Pursuant to Rules 37 and 42 of the Rules of the Supreme Court of Canada)

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AND BETWEEN:

SCC Court File No. 38781

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**IN THE MATTER OF THE *GREENHOUSE GAS POLLUTION PRICING ACT*, SC 2018,
C 12, S 186**

**AND IN THE MATTER OF A REFERENCE BY THE LIEUTENANT GOVERNOR IN
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PART I. OVERVIEW AND FACTS

1. Canada and the world are engaged in an existential struggle against climate change. The *Greenhouse Gas Pollution Pricing Act*, (the “GGPPA” or the “Act”)¹ is urgently necessary to address a national emergency: Canada is running out of time to mitigate climate change’s disastrous health, economic, environmental and social impacts. The GGPPA is within the “National Emergency” branch of the federal “peace, order, and good government” (“POGG”) power under s. 91 of the *Constitution Act, 1867*.²

2. Parliament may legislate to prevent or respond to a national emergency where, as here, there is a rational basis for doing so. Federal power to legislate in response to a national emergency is limited only insofar as the legislation must be of a temporary character. The GGPPA is inherently temporary, required in the short term to effect the transition to a low-carbon economy and society for Canada, and is proportionate to the temporal scale of the climate crisis.

3. In these emergency circumstances, the GGPPA is a constitutional measure that Parliament has reasonably taken in discharge of its responsibility to protect the country from disaster.

A. Parliament apprehends an emergency and proposes a response

4. Speaking in favor of Canada’s ratification of the *Paris Agreement*, Prime Minister Justin Trudeau described the need for national carbon pricing in emergency terms:

If one lives in Canada’s north or in our coastal communities, or really in any community that is subject to extreme weather conditions and the resulting floods, droughts, and wild fires, the effects of climate change itself cannot be denied. There is no hiding from climate change. It is real and it is everywhere.³

5. When Joël Lightbound – Parliamentary Secretary to the Minister of Finance and sponsor of the legislation – introduced the GGPPA, he noted that climate change has already caused “coastal erosion, thawing permafrost, and increases in heat waves, droughts and flooding”. He stated that pricing carbon pollution would help “put Canada on a course to meet our 2030 emission target” under the *Paris Agreement*.

¹ *Greenhouse Gas Pollution Pricing Act*, [SC 2018, c 12, s 186](#) [GGPPA]

² *Constitution Act, 1867*, 30 & 31 Vict, c 3, s 91 [“**Constitution Act**”].

³ *House of Commons Debates*, 42nd Parl, 1st Sess [Debates], [No 086 \(3 October 2016\)](#) at 1215 (Right Hon Justin Trudeau).

6. Explaining the need for the GGPPA, Catherine McKenna, Minister of the Environment and Climate Change, recounted vivid scenes of devastation from climate change on Canadians, commenting that: “[w]e are seeing devastation like this across Canada and around the world”.⁴

7. On October 15, 2018, Parliament held an emergency debate – which occurs when the matter proposed for discussion is of “genuine emergency, calling for immediate and urgent consideration”⁵ – in response to the Special Report of the Intergovernmental Panel on Climate Change (“IPCC”), which explains the urgent need to keep the human-caused rise in global temperatures to no more than 1.5 degrees Celsius.⁶ According to the IPCC, a rise above 1.5 degrees would have severe consequences for the high latitudes of the Northern Hemisphere which includes Canada, including stronger melting of ice sheets and glaciers and increased sea level rise.⁷ The IPCC further warns that “[t]o limit warming to 1.5°C, mitigation would have to be large-scale and rapid” (i.e., 45% below 2010 levels by 2030).⁸ Unless the global community, including Canada, takes action, the Earth’s climate will pass “tipping points”, or “thresholds beyond which certain impacts can no longer be avoided, even if temperatures are brought back down later on”.⁹

8. During the emergency debate, Minister McKenna emphasized the need for action to avoid more climate-related disasters.¹⁰ MP Nathaniel Erskine-Smith linked climate impacts to the failure to price emissions, quoting the 2018 Nobel Prize winner in Economics who said: “[t]he most perilous of all environmental problems, climate change, is taking place because virtually every country puts a price of zero on carbon dioxide emissions”.¹¹ MP Sean Fraser called the consequences “catastrophic”, threatening the “livability of the ecosystems human beings inhabit today”.¹²

⁴ *Debates*, [No 289 \(1 May 2018\)](#) at 1045 (Hon Catherine McKenna).

⁵ House of Commons, *Standing Orders of the House of Commons*, at [Standing Order 52\(6\)\(a\)](#).

⁶ Record of the Attorney General of Canada [CR], Part II, Vol II, Tab 6, Affidavit of John Moffet, October 25, 2019 [**Moffet Affidavit**], Exhibit E, Intergovernmental Panel on Climate Change, “Special Report on the impacts of global warming of 1.5°C: Frequently Asked Questions”, October 2018 [**IPCC Report FAQ**].

⁷ *Ibid* at p 46.

⁸ *Ibid* at p 48. See also Moffet Affidavit at para 15.

⁹ *Ibid* at p 47.

¹⁰ *Debates*, [No 334 \(15 October 2018\)](#) at 1850 (Hon Catherine McKenna).

¹¹ *Ibid* at 2150 (Nathaniel Erskine-Smith).

¹² *Ibid* at 2250 (Sean Fraser).

9. On June 17, 2019, Parliament voted to declare a climate emergency in Canada. The resolution states that the emergency “requires, as a response, that Canada commit to meeting its national emissions target under the Paris Agreement”.¹³

10. Even if all provincial targets were fully achieved, Canada would still need to reduce GHG emissions by an additional 45 Mt in 2020 and 55 Mt in 2030 to meet its international commitments to restrict emissions to 622 Mt by 2020 and 525 Mt by 2030.¹⁴ Since provincial actions alone will not suffice to meet the emergency, additional federal action is required to achieve the 2030 targets and to account for the possibility of a province missing its targets.

11. Ontario and Saskatchewan argue they are taking *some* actions to address GHG emissions – which is true. However, neither is taking sufficient actions to achieve its share of Canada’s Paris emissions target (-30% below 2005 levels by 2030). Indeed, Saskatchewan’s emissions have increased by 14% (9.8 Mt) since 2005¹⁵, and Ontario (which had achieved notable reductions up to 2017) has recently cancelled several significant GHG reduction laws and programs and is not on track to meet even its lowered targets¹⁶, which clearly shows why the GGPPA is needed.

PART II. POSITION ON THE QUESTION ON APPEAL

12. The GGPPA is constitutional in whole, supported by the “National Emergency” branch of the POGG power under s. 91 of the *Constitution Act, 1867*.

¹³ House of Commons, *Journals*, 42nd Parl, 1st Sess, [No 435 \(June 17, 2019\)](#) at p 5661.

¹⁴ CR, Part II, Vol IX, Tab 11, Affidavit of Lisa Tsessaze, November 23, 2018, Exhibit K, 2016 Lawrence National Centre for Policy and Management, “By the Numbers: Canadian GHG Emissions”, Paul Boothe and Felix A. Boudreault, at p 243.

¹⁵ Environment and Climate Change Canada, [National Inventory Report 1990–2017: Greenhouse Gas Sources and Sinks in Canada](#) (Ottawa: Canada, 2019), at ES.6. (update to the 2018 report included in the Record of the Attorney General of Ontario [OR], Part III, Tab 16.2, Affidavit of Dr. Dominique Blain, affirmed January 25, 2019).

¹⁶ Office of the Auditor General of Ontario, [Annual Report 2019 – Reports on the Environment](#), Vol 2, chapter 3, (Toronto: Queen’s Printer for Ontario, 2019) (report to the Ontario Legislature published after the Court of Appeal hearing). See also CR, Part II, Vol IV, Tab 6, Moffet Affidavit, Exhibit Y, Environment and Climate Change Canada: *Fall 2018 update: Estimated impacts of the federal pollution pricing system* (Ottawa: Canada), Government of Canada, at p 171; and OR, Part III, Tab 17.5, Affidavit of Dr. Nicholas Rivers, affirmed January 25, 2019, Exhibit D, Rivers, Nic, *Comments on “Preserving and protecting our environment for future generations: A made-in-Ontario environment plan”*, December 18, 2018 at p 1154.

PART III. ARGUMENT

13. The leading case on the National Emergency power, *Re: Anti-Inflation Act*¹⁷ (the “*Anti-Inflation Reference*”), supports the GGPPA as valid federal legislation. Parliament had a rational basis to implement the GGPPA as a temporary emergency measure.

A. The nature of the emergency branch power

14. This Court has held that Parliament has “power to deal with a grave emergency without regard to the ordinary division of legislative power under the Constitution”.¹⁸ The National Emergency power has most often been interpreted to justify economic measures (e.g. controls on prices and rents) to deal with crises in times of war and its aftermath, but also during times of peace.¹⁹ As a constitutional power, it does not require action under the *Emergencies Act*.²⁰

15. This Court owes “deference to Parliament’s judgment that there was an evil of nationwide proportions to which it was entitled to address general legislation to effect a cure”.²¹ In the *Anti-Inflation Reference*, Chief Justice Laskin determined that, for legislation to be validly enacted under the National Emergency branch of POGG, there need only be a “rational basis” to characterize it as a measure responding to “exceptional circumstances”.²² To determine whether a rational basis exists, this Court referred to the language of the statute, particularly the preamble, and relevant extrinsic evidence.²³ This Court need not find the crisis proven as a matter of fact, as one would in civil litigation on a balance of probabilities, since such matters concern “social and economic policy and hence governmental and legislative judgment”.²⁴ Rather, “it may be that the existence of exceptional circumstances is so notorious as to enable the Court, of its own motion, to take judicial notice of them without reliance on extrinsic material to inform it”.²⁵

¹⁷ [\[1976\] 2 SCR 373](#) [*Re Anti-Inflation Act*].

¹⁸ *R v Crown Zellerbach Canada Ltd*, [\[1988\] 1 SCR 401](#) at para 57.

¹⁹ See *Fort Frances Pulp and Paper Co v Manitoba Free Press Co*, [1923 CanLII 429 \(UK JCPC\)](#); [1923] UKPC 64 [*Fort Frances*]; *Reference re Wartime Leasehold Regulations*, [\[1950\] SCR 124](#) [*Wartime*].

²⁰ *Emergencies Act*, [R.S.C., 1985, c. 22 \(4th Supp.\)](#); Monohan, PJ, *Constitutional Law*, 3rd ed, *Essentials of Canadian Law* (Toronto: Irwin Law, 2006) at 257, Book of Authorities, Tab 2.

²¹ *Re Anti-Inflation Act*, *supra* note 17 at 397, per Laskin CJC.

²² *Re Anti-Inflation Act*, *supra* note 17 at 419-420 and 422-423, per Laskin CJC.

²³ *Ibid* at 391, 422-423, per Laskin CJC, and 438-439, per Ritchie J.

²⁴ *Ibid* at 423.

²⁵ *Ibid*.

16. Unlike the “national concern” branch of POGG, the emergency branch does not convey “subject matter” jurisdiction. Rather, it applies only and strictly to the legislation enacted under it, and no new constitutional “matter” is created. The emergency branch does not give Parliament any enduring jurisdiction over greenhouse gas emissions and sets no precedent diminishing provincial jurisdiction. The jurisdiction is time-bound and limited to the four corners of the Act.

B. The GGPPA is emergency legislation

17. Following Chief Justice Laskin in *Anti-Inflation Reference*, this Court can take judicial notice of the national and global peril that climate change is causing and will continue to cause and conclude that Parliament has a rational basis upon which to legislate a response. This Court can equally draw a reasoned inference and apprehend an emergency from the text of the legislation, the Parliamentary record (including the emergency debate), and the extrinsic material. Indeed, the Saskatchewan Court of Appeal in the judgment below found that climate change is “doubtless an emergency in the sense that it presents a genuine threat to Canada.”²⁶

18. Extrinsic material “need go only so far as to persuade the Court that there is a rational basis for the legislation which it is attributing to the head of power invoked in this case in support of its validity”.²⁷ The material in this case (canvassed in Part 1, above) shows far more than just a “rational basis”; rather it shows cause for genuine alarm, a view sincerely held by Parliament and backed by international scientific consensus. It vividly illustrates the dire nature of the national emergency, including its environmental, social, economic, and health aspects. The evidence also shows that the appellants are failing to address the emergency on their own and indeed are exacerbating it – a further rational basis for federal action.

19. Parliament’s emergency response to the climate crisis is also reflected in the urgent language of the GGPPA’s preamble. Despite not using the word “emergency”, this Court in *Anti-Inflation Reference* found that the preamble to the legislation in question was “sufficiently indicative that Parliament was introducing a far-reaching programme prompted by what in its view was a serious national condition” and that it provided a “base for assessing the gravity of the circumstances which called forth the legislation”.²⁸ A formal declaration of emergency was not

²⁶ *Reference re Greenhouse Gas Pollution Pricing Act*, [2019 SKCA 40](#) [**Saskatchewan Reference**], at para 202.

²⁷ *Re Anti-Inflation Act*, *supra* note 17 at 423, per Laskin CJC.

²⁸ *Ibid* at 422, per Laskin CJC.

required. It was enough that Parliament was “motivated by a sense of urgent necessity created by highly exceptional circumstances”.²⁹ This Court also held that legislation need not “use any particular form of words in order to disclose [Parliament’s] belief that an emergency existed”.³⁰

20. The Act’s preamble describes the damage done by anthropogenic GHG emissions to Earth’s climate and contemporary society. It is far more indicative of emergency circumstances than that the preamble of the *Anti-Inflation Act*, which read:

WHEREAS the Parliament of Canada recognizes that inflation in Canada at current levels is contrary to the interests of all Canadians and that the containment and reduction of inflation has become a matter of serious national concern;

AND WHEREAS to accomplish such containment and reduction of inflation it is necessary to restrain profit margins, prices, dividends and compensation.³¹

21. Moreover, Parliament voted to declare a climate emergency in Canada.³² As the centrepiece federal legislation to meet Canada’s emission reduction targets, the GGPPA is the response that Parliament determined is required to deal with the emergency.

22. In addition to its general burden of overcoming the presumption of constitutionality, Ontario and Saskatchewan must refute a rational basis for the GGPPA.³³ This is an extremely high bar: Chief Justice Laskin quoted Lord Wright approvingly in holding that “very clear” evidence is needed to refute the presumption.³⁴ In this case, Ontario and Saskatchewan furnished no evidence, and certainly not “clear” evidence, that an emergency has not arisen. The evidence before this Court is uncontradicted and establishes the contrary.

C. The GGPPA is temporary in character

23. The GGPPA is an emergency measure required for the coming decade to meet Canada’s *Paris Agreement* target of 2030 and set in motion the transition to a low-carbon future for Canada. This satisfies the requirement that the emergency, or the measures to address the emergency, be

²⁹ *Ibid* at 439, per Ritchie J.

³⁰ *Ibid* at 438, per Ritchie J.

³¹ *Ibid* at 381.

³² Emergency Declaration, *supra* note 13, at p 5661.

³³ *Rogers Communications Inc v Châteauguay (City)*, [2016 SCC 23](#), at paras 81-83.

³⁴ *Re Anti-Inflation Act*, *supra* note 17 at 439, per Ritchie J; citing Lord Wright in *Co-Operative Committee on Japanese Canadians v Canada (Attorney General)*, [1946 CanLII 361 \(UK JCPC\)](#); [1947] 1 DLR 577, at pp 585-586.

temporary. More specifically, the “emergency” is the risk that Canada will miss the deadline to fulfill its own and global goals for GHG reductions, undermining the global effort to stave off the most disastrous effects of climate change that would in turn harm Canadians.

24. While the legislation Parliament chooses to address the emergency must be of a “temporary character”, it need not be explicitly time limited. Chief Justice Laskin wrote:

...that a statutory provision valid in its application under circumstances envisaged at the time of its enactment can no longer have a constitutional application to different circumstances under which it would, equally, not have been sustained had they existed at the time of its enactment.³⁵

25. Thus, the evanescent nature of the legislation can make it time-bound apart from an explicit calendar reference to its termination. Accordingly, the National Emergency branch has been held to support legislation and orders-in-council that lacked explicit termination clauses.³⁶ Viscount Haldane, whom Chief Justice Laskin cites with approval, clarified that the nature of the emergency dictates the longevity of the legislation enacted to deal with it: once the emergency has abated, legislation enacted to deal with it will cease to be valid and will become ultra vires Parliament. In the context of legislation to deal with the effects of war, he said “it may be that it has become clear that the crisis which arose is wholly at an end and that there is no justification for the continued exercise of an exceptional interference which becomes ultra vires when it is no longer called for”.³⁷

26. National emergencies—for example, wars—rarely have easily predicible end dates. In the case of climate change, the emergency has developed over centuries and will take years to resolve. However, it also has acute dimensions, notably the need to take immediate action to put the country on a path to mitigating climate change’s worst effects. Since the emergency power has supported legislation to address war, which has no fixed timetable, it should certainly address the climate crisis, which does.

27. The Saskatchewan Court of Appeal erred in concluding that climate change is “unlike wars as typically understood. They are conflicts of uncertain length but nonetheless conflicts with an endpoint”.³⁸ To the contrary, Canada has signalled an “endpoint” through its “Nationally

³⁵ *Re Anti-Inflation Act*, *supra* note 17 at 427, per Laskin CJC.

³⁶ *Fort Frances*, *supra* note 19 at pp 631-632, 635-637.

³⁷ *Re Anti-Inflation Act*, *supra* note 17 at 408-409, per Laskin CJC; citing Viscount Haldane in *Fort Frances*, *supra* note 19 at p 635; *Wartime*, *supra* note 19, at p 128.

³⁸ *Saskatchewan Reference*, *supra* note 26, at para 202.

Determined Contribution” (“NDC”) under the *Paris Agreement*. The GGPPA’s preamble is clearly linked to Canada’s commitments under the *Paris Agreement*:

Whereas Canada has also ratified the Paris Agreement, done in Paris on December 12, 2015, which entered into force in 2016, and the aims of that Agreement include holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change;

Whereas the Government of Canada is committed to achieving Canada’s Nationally Determined Contribution – and increasing it over time – under the Paris Agreement...

28. Canada’s NDC created a 12-year timeline (10 years now remain) to achieve the purpose of the Act: reducing its GHG emissions by 30 per cent below 2005 levels by 2030.³⁹ The IPCC Special Report underlines the urgency of meeting the 10-year deadline, warning that Canada and the world have only that amount of time to make the changes necessary to hold emissions to 1.5°C above pre-industrial levels.⁴⁰ To fail is to suffer irreversible effects of climate change.

29. The GGPPA, and the agreement among provinces that spurred it, contain indications that Parliament intended close oversight of the legislative scheme and recognized the need to revisit the circumstances necessitating it. The Pan-Canadian Framework on Clean Growth and Climate Change – the agreement between the federal government and the provinces to meet the 2030 targets using measures including carbon pricing – mandates a thorough review by federal, provincial, and territorial governments of greenhouse gas pricing and its effectiveness in 2022 “to provide certainty on the path forward”.⁴¹ That review is complimented by legislated yearly reports to Parliament, which will allow Parliament to determine based on data whether the emergency persists and the Act’s backstop provisions should therefore be continued in force, or can be withdrawn.⁴²

30. The Saskatchewan Court of Appeal erred in concluding that “the factual record before the Court cannot sustain a view that the climate change challenge is in any way short run or that the *Act* is intended to have, or is expected to have, a life of limited duration”.⁴³ On the contrary, the

³⁹ CR, Part II, Vol I, Tab 6, Affidavit of John Moffet at para 54.

⁴⁰ CR, Part II, Vol II, Tab 6, Exhibit E, IPCC Report FAQ, *supra* note 6 at p 42.

⁴¹ Record of the Attorney General of Saskatchewan, Volume II, Part III, Tab 9, *Pan-Canadian Framework on Clean Growth and Climate Change* (December 9, 2016), at p 136.

⁴² [GGPPA](#), *supra* note 1, Part 4.

⁴³ *Saskatchewan Reference*, *supra* note 26, a para 202.

evidence before this Court shows that greenhouse gas emissions pricing is a tool to create short-term behavioural change, which inherently causes the GGPPA to have time-limited application. As the High Level Commission on Carbon Prices (chaired by the Nobel laureate in economics Joseph Stiglitz and the former chief economist at the World Bank Lord Nicolas Stern) found, relatively “high” carbon prices drive needed short-term changes, reducing the need for future charges.⁴⁴ Simply put, the GGPPA is destined to die by design, a victim of its own success.

31. Contrary to the suggestion of the Saskatchewan Court of Appeal, it is irrelevant that “Canada does not suggest the *Act* will operate in anything other than an indefinite or long-term timeframe.”⁴⁵ When the GGPPA, combined with other efforts of both federal and provincial governments, has fulfilled its stated purpose it will arguably no longer be necessary and can be repealed by Parliament or invalidated by courts. A decision of this Court that the Act is valid pursuant to emergency jurisdiction is not *res judicata* in future proceedings. This Court can clarify that the Act’s provisions are constitutional only so long as the short-term emergency of achieving required reductions by 2030 persists. After that time, provinces or other litigants subject to the Act may argue that the emergency has abated and federal emergency jurisdiction is spent.

32. Practically, if the GGPPA and other mitigation efforts do not achieve Canada’s emissions reduction target by the 2030 deadline, Parliament and the provinces may have to devise a different and likely stronger approach given the urgency of the crisis. The GGPPA should be upheld as constitutional and given an opportunity to address the climate crisis now. Without it, the likelihood increases that stronger, more stringent measures – which Ontario and Saskatchewan would find even more objectionable – will perforce become necessary.

D. Revisiting the emergency requirement

33. The temporariness requirement should effectively check Parliament’s exercise of its emergency jurisdiction, but it should also not frustrate Parliament’s response to challenging and serious national emergencies such as climate change, which defy “quick and easy” solutions.

34. Academic commentary has questioned the usefulness of the temporariness requirement as a limitation on the federal emergency power. Professor Hogg opines that the requirement for

⁴⁴ CR, Part II, Vol III, Tab 6, Moffet Affidavit, Exhibit J, High-Level Commission on Carbon Prices, 2017: *Report of the High-Level Commission on Carbon Prices*. Washington, DC: World Bank, at p 10.

⁴⁵ *Saskatchewan Reference*, *supra* note 26, a para 202.

temporariness is “usually regarded as a self-evident proposition, based on the fact that an emergency is a temporary phenomenon,” but adds:

One is entitled to question, however, the usefulness of this limitation. It is in any case primarily formal, because an ostensibly temporary measure can always be continued in force by Parliament, while an ostensibly permanent measure can be repealed at any time. More importantly, an emergency, although itself temporary, may be caused by structural defects in the social or economic order which need to be corrected not only to cure the emergency, but also to prevent the occurrence of future emergencies. Yet preventive legislation would surely have to be permanent.⁴⁶

35. The David Suzuki Foundation submits that the Court should consider the natural, geophysical timescale of climate variability in adjudging whether Parliament’s legislative response to it is suitably temporary. The anthropogenic warming of the climate has been a slow process requiring *centuries* of industrialization and atmospheric accumulation of GHGs. Seen in that proper geophysical timeframe, Parliament’s decision to tie the GGPPA to the 2030 targets is short-term, modest, and not at all disproportional. It would diminish the safety of Canada’s constitution to decide, arbitrarily, that the POGG emergency power must be so abbreviated as to have no application to slow-moving but extremely severe planetary emergencies.

36. Rather than simply reviewing legislation to divine an explicit or implicit end date, the Court could better respect Parliament’s intention and place more certain limits on its emergency jurisdiction by defining a designated end date for that jurisdiction (or date where it is open to affected parties to challenge it) if it is not clearly explicit in the legislation itself.

E. Conclusion

37. With the planet in a climatological state never before experienced in human history, Canada and its people – especially future generations – are in peril. The climate crisis is an emergency requiring an extraordinary response: use of the POGG National Emergency power.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 27th day of January, 2020.


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⁴⁶ Hogg, *Constitutional Law of Canada*, 5th ed (Scarborough: Carswell, 2007) (loose-leaf 2018 supplement), ch 17.4(e), Book of Authorities, Tab 1.

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