File Number 38663

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

(Style of Cause continued on next page)

FACTUM OF THE INTERVENER
PROGRESS ALBERTA COMMUNICATIONS LIMITED
Rule 42 of the *Rules of the Supreme Court of Canada*

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INTERVENERS

(Style of Cause continued on next page)

File Number 38781

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO)

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 COUNCIL TO THE COURT OF APPEAL FOR ONTARIO UNDER THE *COURTS OF JUSTICE ACT*, RSO 1990, c. C.43, s. 8

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TABLE OF CONTENTS

PART I: OVERVIEW AND STATEMENT OF FACTS

1. The *Greenhouse Gas Pollution Pricing Act*[1] ("***GGPPA***") is federal legislation establishing minimum national pricing standards to reduce greenhouse gas ("**GHG**") emissions in Canada. Canada asserts that its authority to pass such legislation lies within the national concern branch of Parliament's peace, order, and good government ("**POGG**") power.

2. The application of the national concern doctrine to the *GGPPA* presents an opportunity for this Court to clarify certain aspects of that doctrine, especially with respect to the "scale of impact" principle set out in *R v Crown Zellerbach*.[2] The "scale of impact" inquiry has not received any concerted judicial scrutiny or academic commentary, even though it is essential to the analysis under the national concern doctrine.[3]

3. Progress Alberta Communications Limited ("**Progress Alberta**") takes no position on the contested facts in these appeals.

PART II: POSITION ON THE QUESTION IN ISSUE

4. Progress Alberta submits that in carrying out the scale of impact inquiry under the national concern doctrine of POGG, it is both useful and necessary to distinguish between three different kinds of potential impacts on provincial jurisdiction: (i) law-making impacts; (ii) inoperability and inapplicability impacts; and (iii) autonomy impacts (*i.e.* impacts on matters otherwise subject to provincial jurisdiction and preferences).

5. The first type of impact (the provinces' ability to "make laws" pursuant to section 92) is contingent first and foremost on the extent to which Parliament's POGG power "operates on its own rules of federalism."[4] If it does not, then law-making impacts are essentially negated, and the inquiry is only concerned with the second and third types of impacts

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[1] SC 2018, c 12, s 186.
[2] [1988] 1 SCR 401 ["***Crown Zellerbach***"].
[3] *Reference re Greenhouse Gas Pollution Pricing Act,* 2019 SKCA 40 at ¶418 ["***SKCA Reference***"], Book of Authorities of Progress Alberta Communications Limited ("**PA – Book of Authorities**"), Tab 1.
[4] Andrew Leach and Eric M. Adams, "Seeing Double: Peace, Order, and Good Government, and the Impacts of Federal Greenhouse Gas Emissions Legislation on Provincial Jurisdiction" (2020) *Constitutional Forum* [forthcoming] at 6., PA – Book of Authorities, Tab 14. See also Nathalie Chalifour, "Jurisdictional Wrangling over Climate Policy in the Canadian Federation: Key Issues in the Provincial Constitutional Challenges to Parliament's Greenhouse Gas Pollution Pricing Act" (2019) 50:2 OLR 197 at 228-236, PA – Book of Authorities, Tab 15.

6. Further, because this inquiry is implicitly comparative, it is ultimately necessary to situate the current balance of legislative power in its relevant context in order to establish a baseline against which to measure the impacts of recognizing a matter as one of national concern.

7. Applying this analysis to the *GGPPA* and adopting Canada's description of the matter as "establishing minimum national standards integral to reducing greenhouse gas (GHG) emissions," Progress Alberta submits that the scale of impact on provincial jurisdiction is entirely reconcilable with the fundamental distribution of legislative power under the Constitution, which in the context of climate change is characterized by the availability – to both levels of government – of numerous other heads of power.

8. Viewed this way, Canada's decision to invoke its POGG power does not convert it into "an instrument of first resort."[5] To the contrary, it best reflects this Court's guidance in *Friends of the Oldman River Society v Canada (Minister of Transport)*[6] that "the nature of the various heads of power under the *Constitution Act, 1867* differ" and that "the extent to which environmental concerns may be taken into account in the exercise of a power may vary from one power to another."[7] In light of its regulatory nature and extra-provincial orientation, recognizing Parliament's POGG power to establish minimum national standards integral to reducing GHG emissions is the most principled basis for upholding the *GGPPA*.[8]

PART III: STATEMENT OF ARGUMENT

9. In *Crown Zellerbach*, this Court held that a matter of national concern "must have a singleness, distinctiveness and indivisibility that clearly distinguishes it from matters of provincial concern and *a scale of impact* on provincial jurisdiction that is reconcilable with the fundamental distribution of legislative power under the Constitution."[9]

10. As noted by Justices Ottenbreit and Caldwell at the Saskatchewan Court of Appeal, however, "[v]irtually nothing has been written as to how, exactly, a court should determine the

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[5] Factum of the Province of Saskatchewan, at ¶115.
[6] [1992] 1 SCR 3 at 64 ["***Friends of the Oldman River***"], PA – Book of Authorities, Tab 2.
[7] *Ibid*, at 67, PA – Book of Authorities, Tab 2.
[8] David Beatty, "Constitutional Law in a Nutshell" Alta. L. Rev (1998) at 610, PA – Book of Authorities, Tab 16.
[9] *Crown Zellerbach*, at 431-433, PA – Book of Authorities, Tab 3.

scale of impact of federal legislation."[10] In their view, however, this analysis "must necessarily look at *how and to what extent* provincial law-making power will be affected by the federal enactment" and "directly incorporates the principles of federalism and constitutional balance."[11] The majority decision of the Ontario Court of Appeal similarly anchored this inquiry to the principle of federalism:[12]

> Although not expressed in precisely these terms, this aspect of the test for matters of national concern is a recognition of federalism as an applicable constitutional principle, which, as the Supreme Court said in *Securities Reference (2011)*, at para. 61, "demands respect for the constitutional division of powers and the maintenance of a constitutional balance between federal and provincial powers." As counsel for the Attorney General of British Columbia put it, "assigning *the matter* to the federal Parliament *must not disrupt* the fundamental distribution of power that characterizes Canadian federalism."

11. Progress Alberta largely agrees with these approaches but makes two further submissions. First, in assessing "how and to what extent provincial law-making powers will be affected," it is useful and necessary to distinguish between three types of impacts: (i) law-making impacts; (ii) inoperability and inapplicability impacts; and (iii) autonomy impacts (*i.e.* impacts on other matters otherwise subject to provincial jurisdiction and preferences). Second, in order to assess whether recognizing a matter of national concern is disruptive to Canada's constitutional balance, it is ultimately necessary to situate that balance in a meaningful way.

A. Distinguishing Between Different Types of Impacts

i. Law-making Impacts

12. Over the course of the national concern doctrine's development, courts have expressed concern — albeit not uniformly — about the provinces' ability to make laws following the recognition of a matter of national concern.[13] The appellate judgments in this reference follow suit. The majority of the Saskatchewan Court of Appeal, for example, observed that "limiting federal jurisdiction to the matter of the establishment of minimum national standards of price

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[10] *SKCA Reference*, at ¶419, PA – Book of Authorities, Tab 1
[11] *Ibid*, at ¶418 and ¶419, PA – Book of Authorities, Tab 1.
[12] *Reference re Greenhouse Gas Pollution Pricing Act*, 2019 ONCA 544 ["***ONCA Reference***"] at ¶127, PA – Book of Authorities, Tab 4.
[13] See *e.g. Re: Anti-Inflation Act,* [1976] 2 SCR 373 at 458, PA – Book of Authorities, Tab 5 and *Crown Zellerbach* at 455-456, PA – Book of Authorities, Tab 3. But see *contra John Deere Plow v Wharton* 1914 CanLII 603 (UK JCPC) at 362, PA – Book of Authorities, Tab 6 and *Multiple Access v McCutcheon* [1982] 2 SCR 161 at 184, PA – Book of Authorities, Tab 7.

stringency…does not put at risk the constitutional validity of provincial initiatives to price GHGs, either through carbon taxes or cap-and-trade systems."[14]

13. Progress Alberta submits that any law-making impacts are contingent first and foremost on whether the normal rules of federalism, including the "double aspects" doctrine, apply to matters of national concern. Like Canada and several other interveners, Progress Alberta submits that they do. As recently explained by Professors Andrew Leach and Eric Adams following an extensive review of the relevant case law: [15]

> The error in many of the cases has been to imagine that POGG, ominous and omnivorous in its capacity to eradicate provincial authority, exists in a realm beyond the existing mechanisms of constraint that work to protect and promote a balanced federalism. We share the concern for provincial jurisdiction if POGG operates on its own rules of federalism. We do not think it does.

14. The application of the normal rules of federalism essentially negates the potential for impacts on provincial law-making ability. That being said, the applicability of those same rules raises the spectre of a closely related kind of impact: that provincial laws may be rendered inoperative or inapplicable.

ii. Inoperability and Inapplicability Impacts

15. While a new federal law does not — under the normal rules of federalism — preclude the provinces from enacting their own laws based upon a provincial head of power, the new federal law does raise the possibility that such provincial laws could be rendered inoperative or inapplicable pursuant to the doctrines of paramountcy and interjurisdictional immunity, respectively.

16. While such potential impacts clearly deserve consideration as part of the scale of impact inquiry, Progress Alberta submits that they are unlikely to be significant in any case, bearing in mind especially this Court's restrained approach to paramountcy and interjurisdictional immunity.[16]

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[14] *SKCA Reference*, at ¶161, PA – Book of Authorities, Tab 1 and *ONCA Reference* at ¶136, PA – Book of Authorities, Tab 4.
[15] Leach and Adams, *supra* note 4 at 6, PA – Book of Authorities, Tab 14. See also Chalifour, *supra* note 4 at 229 – 231, PA – Book of Authorities, Tab 15.
[16] *Canadian Western Bank v Alberta*, 2007 SCC 22 ["***Canadian Western Bank***"] at ¶67 and ¶74, PA – Book of Authorities, Tab 8.

iii. Autonomy Impacts

17. Even where provincial laws are not rendered inoperative or inapplicable, the mere existence of a federal law can affect a province's policies and preferences. In *Crown Zellerbach*, Justice LaForest described these as impacts on provincial autonomy[17]:

> A wide variety of activities along the coast or in the adjoining sea involves the deposit of some substances in the sea. In fact, where large cities like Vancouver are situated by the sea, this has substantial relevance to recreational, industrial and municipal concerns of all kinds… As a matter of fact, the most polluted areas of the sea adjoin the coast… Among the major causes of this are various types of construction, such as hotels and harbours, the development of mineral resources and recreational activities… These are matters of immediate concern to the province. They necessarily affect activities over which the provinces have exercised some kind of jurisdiction over the years.

18. Concern for provincial autonomy is apparent in the appellate judgments below, especially the dissenting judgment of the Saskatchewan Court of Appeal: "In our assessment, the *Act* touches upon every industrial, commercial, institutional and private activity that occurs in a Province and that come within the Provincial heads of power.[18]

19. In summary, when considering impacts on provincial jurisdiction from recognizing a matter of national concern, it is useful to distinguish between three kinds of impacts: (i) law-making impacts; (ii) inoperability and inapplicability impacts; and (iii) autonomy impacts. If matters of national concern are subject to the normal rules of federalism, and Progress Alberta submits that they are, then the scale of impact inquiry is only concerned with the latter two types of impacts: (ii) inoperability and inapplicability impacts; and (iii) autonomy impacts.

B. Establishing a Relevant Baseline

20. In order to assess whether the impact on provincial jurisdiction from recognizing a matter of national concern is reconcilable with or disrupts Canada's constitutional balance, an implicitly comparative exercise, Progress Alberta submits that it is necessary to situate that balance in a way that assists in making this comparison.

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[17] *Crown Zellerbach*, at 455-458, PA – Book of Authorities, Tab 3.
[18] *SKCA Reference*, at ¶457, PA – Book of Authorities, Tab 1.

21. At a high level, this Court has recently described the principle of federalism and jurisdictional balance as follows:[19]

> The principle of federalism recognizes the "autonomy of provincial governments to develop their societies within their respective spheres of jurisdiction": *Reference re Secession of Quebec*, at para. 58… *The tension between the centre and the regions is regulated by the concept of jurisdictional balance*: *Reference re Secession of Quebec*, at paras. 56-59. The federalism principle *requires a court interpreting constitutional texts to consider how different interpretations impact the balance between federal and provincial interests*.

22. While a necessary starting point — as reflected in both of the appellate judgments below[20] — framing the constitutional balance in such a general way provides no useful baseline against which to assess the scale of impact on provincial jurisdiction. Establishing such a baseline is necessary for the balance to be assessed concretely in its relevant context.

23. Most obviously, establishing this baseline includes identifying the relevant provincial powers and how they would be impacted.[21] However, it should also include identifying relevant federal powers, where these exist. All other things being equal, recognizing a matter of national concern where Parliament is otherwise powerless to act would seem more disruptive of the constitutional balance than where several other federal heads of power are potentially also in play.[22] In the latter case, the potential for both (ii) inoperability and inapplicability impacts and (iii) autonomy impacts already exists, whereas in the former case it does not.

C. Establishing an Appropriate Baseline for Assessing the *GGPPA*

24. Broadly speaking, the *GGPPA* is legislation with respect to the environment,[23] "a constitutionally abstruse matter which does not comfortably fit within the existing division of powers

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[19] *R v Comeau*, 2018 SCC 15 at ¶78, PA – Book of Authorities, Tab 9.
[20] *SKCA Reference*, at ¶¶390-396 especially, but see also ¶63, ¶¶215-217, PA – Book of Authorities, Tab 1; *ONCA Reference* at ¶127 and ¶135, PA – Book of Authorities, Tab 4.
[21] *SKCA Reference*, at ¶339 and ¶386, PA – Book of Authorities, Tab 1, citing ss. 92(2), (5), (10), (13) and (16) and s. 92A and s. 93 of the *Constitution Act, 1867*.
[22] See *e.g. In re: The Board of Commerce Act, 1919 and the Combines and Fair Prices Act, 1999*, [1922] 1 AC (UK JCPC) at 197, PA – Book of Authorities, Tab 10.
[23] *SKCA Reference* at ¶54, PA – Book of Authorities, Tab 1 and *ONCA Reference* at ¶79, PA – Book of Authorities, Tab 4.

without considerable overlap and uncertainty."[24] Of particular relevance to this reference, this overlap exists both between *and within* the powers of the federal and provincial legislatures: [25]

> Rather, [the environment] is a diffuse subject that cuts across many different areas of constitutional responsibility, *some federal, some provincial*... Thus, Parliament or a provincial legislature can, in advancing the scheme or purpose of a statute, enact provisions minimizing or preventing the detrimental impact that statute may have on the environment, prohibit pollution, and the like. In assessing the constitutional validity of a provision relating to the environment, therefore, what must first be done is to look at the catalogue of legislative powers listed in the *Constitution Act, 1867* to see if the provision falls *within one or more of the powers assigned to the body* (whether Parliament or a provincial legislature) that enacted the legislation...

25. Indeed, even where the relevant field is framed more narrowly as addressing climate change or GHG emissions specifically, it still cuts across several provincial and federal powers. On the provincial side, this includes taxation, public lands, local works and undertakings, property and civil rights, electricity generation, and natural resources.[26] On the federal side of the ledger, and as conceded by the Attorney General for Saskatchewan, "Parliament could seek to reduce GHG emissions through the criminal law power… Alternatively, Parliament could raise general revenues from GHG-emitting activities by valid use of the power of taxation."[27] In addition to these, interveners before this Court and below have also invoked POGG's emergency branch, the trade and commerce power, seacoast and inland fisheries (due to the closely-related phenomenon of ocean acidification)[28] and the treaty power.

26. Viewed this way, the relevant field, *i.e.* measures to address climate change, is characterized by the availability of several heads of power at both levels of government.[29] More concretely, the potential for (ii) inoperability and inapplicability impacts and (iii) autonomy impacts already exists.

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[24] *Friends of the Oldman River*, at 64, PA – Book of Authorities, Tab 2.
[25] *R v Hydro-Québec*, [1997] 3 SCR 213 at ¶112 ["***Hydro-Québec***"], PA – Book of Authorities, Tab 11.
[26] *SKCA Reference*, at ¶339 and ¶386, PA – Book of Authorities, Tab 1.
[27] Factum of the Province of Saskatchewan at ¶114.
[28] Factum of the Intervener Oceans North at ¶1.
[29] Nathalie Chalifour, "Canadian Climate Federalism: Parliament's Ample Constitutional Authority to Legislate GHG Emissions through Regulations, a National Cap and Trade Program, or a National Carbon Tax" (2016) 36 N.J.C.L. 331, PA – Book of Authorities, Tab 17.

D. Assessing the *GGPPA*'s Impacts on Provincial Jurisdiction

27. Beginning with the second type of impact, inoperability and inapplicability, it is unlikely that the *GGPPA* increases the possibility that provincial laws in relation to climate change will be found to be inoperative. Indeed, as noted by the Ontario Court of Appeal: [30]

> …Ontario does not suggest that the *Act* is in conflict with any existing Ontario legislation or with any measures Ontario proposes to undertake to reduce GHG emissions and mitigate climate change. Nor do either of the attorneys general who support Ontario suggest that the *Act* conflicts with their present or contemplated future legislation. This is a good indication that the *Act* leaves generous room for provincial jurisdiction in relation to these matters and that the *Act* simply does what the provinces are constitutionally unable to do.

28. With respect to inapplicability, such an outcome is also unlikely. In *Canadian Western Bank*, Justice Binnie held that the doctrine of interjurisdictional immunity "is of limited application and should in general be reserved for situations already covered by precedent," with the result that it is "largely reserved for those heads of power that deal with federal things, persons or undertakings, or where in the past its application has been considered absolutely indispensable..."[31] None of these considerations apply to the *GGPPA*.

29. With respect to autonomy, Saskatchewan's basic argument is that upholding the *GGPPA* on the basis of the national concern branch "opens the door to federal regulation of an extraordinarily-broad array of provincial life and thereby upsets the constitutional balance."[32] Progress Alberta submits that the door to federal GHG regulation of various kinds, much of which would have similar or greater impacts on provincial autonomy, has been open since this Court's landmark rulings in *Friends of the Oldman River* and *Hydro-Quebec.*

30. With respect to the criminal law, a majority of this Court in *R. v. Hydro-Quebec* upheld the *Canadian Environmental Protection Act, 1999*[33] — and more specifically the toxic substances regime pursuant to Part V of that Act — as a valid exercise of that power, notwithstanding its relatively broad and complex regulatory nature.

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[30] *ONCA Reference*, at ¶137, PA – Book of Authorities, Tab 4. See also Leach and Adams, *supra* note 4 at 31, PA – Book of Authorities, Tab 14.
[31] *Canadian Western Bank*, at ¶77, PA – Book of Authorities, Tab 8.
[32] *SKCA Reference*, at ¶456, PA – Book of Authorities, Tab 1.
[33] SC 1999, c. 33.

31. More recently, both the Federal Court and Federal Court of Appeal upheld Canada's *Renewable Fuel Regulations* ("***RFR***"),[34] enacted under *CEPA, 1999* and setting a specified renewable fuel content (2%) for diesel fuel, as a valid exercise of the criminal law power in *Syncrude Canada Ltd v Attorney General of Canada*.[35] Both Courts confirmed that climate change is an evil that Parliament may address through the criminal law power: "the evil of global climate change and the apprehension of harm resulting from the enabling of climate change through the combustion of fossil fuels has been widely discussed and debated by leaders on the international stage…"[36]

32. Even if this Court agrees with the Saskatchewan Court of Appeal that the *GGPPA, CEPA, 1999* and the *RFR* are distinguishable,[37] the jurisprudence is clear that Parliament could rely on its criminal law power to enact direct prohibitions on GHG emissions, which would have similar — if not more invasive — autonomy impacts on the provinces.[38]

33. The same is true with respect to the taxation power. It is beyond dispute that Parliament enjoys a broad taxing authority.[39] As noted by Canada in its factum, Parliament could have adopted a national carbon tax that applied across Canada and all sectors "without regard to GHG emissions prices already in place in many provincial jurisdictions." As with the criminal law power, such a tax could have the same, if not worse, impacts on provincial autonomy.[40] As noted by the dissenting judges of the Saskatchewan Court of Appeal, "the power to tax involves the power to destroy."[41]

34. While there is no question that the *GGPPA* has some impact on provincial jurisdiction, the foregoing analysis suggests that the impacts are relatively limited — even when viewed in

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[34] SOR/2010/189.
[35] 2014 FC 776 ["***Syncrude FC***"], (affirmed in *Syncrude Canada Ltd v Canada (Attorney General)*, 2016 FCA 160 ["***Syncrude FCA***"]).
[36] *Syncrude FC* at ¶83, PA – Book of Authorities, Tab 12; see also *Syncrude FCA* at ¶62, PA – Book of Authorities, Tab 13.
[37] *SKCA Reference*, at ¶193 and ¶196, PA – Book of Authorities, Tab 1.
[38] Factum of the Attorney General for Canada at ¶126.
[39] *SKCA Reference*, at ¶8 and ¶313, PA – Book of Authorities, Tab 1.
[40] Factum of the Attorney General for Canada at ¶127, citing the *Output-Based Pricing System Regulations*, SOR/2019-266, Regulatory Impact Analysis Statement, (2019) C Gaz II, 5374 at 5375, 5407-32.
[41] *SKCA Reference*, at ¶352, PA – Book of Authorities, Tab 1.

isolation. When assessed within the context of other relevant federal heads of power, the impacts are undoubtedly reconcilable with the fundamental distribution of legislative powers.

ALL OF WHICH IS RESPECTFULLY SUBMITTED, THIS 24th DAY OF JANUARY 2020.

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PART IV: TABLE OF AUTHORITIES

Jurisprudence	Cited At:
1. *Reference re Greenhouse Gas Pollution Pricing Act,* 2019 SKCA 40	¶2, ¶9, ¶11, ¶17, ¶21, ¶23, ¶24, ¶28, ¶31, ¶32,
2. *Friends of the Oldman River Society v. Canada (Minister of Transport),* [1992] 1 SCR 3	¶7, ¶23
3. *R v Crown Zellerbach*, [1988] 1 SCR 401	¶8, ¶11, ¶16
4. *Reference re Greenhouse Gas Pollution Pricing Act*, 2019 ONCA 544	¶9, ¶11, ¶21, ¶23, ¶26
5. *Re: Anti-Inflation Act,* [1976] 2 SCR 373	¶11
6. *John Deere Plow v Wharton* 1914 CanLII 603 (UK JCPC)	¶11
7. *Multiple Access v McCutcheon* [1982] 2 SCR 161	¶11
8. *Canadian Western Bank v Alberta*, 2007 SCC 22	¶15, ¶27
9. *R v Comeau*, 2018 SCC 15	¶20
10. *In re: The Board of Commerce Act, 1919 and the Combines and Fair Prices Act, 1999*, [1922] 1 AC (UK JCPC)	¶22
11. *R v Hydro-Québec*, [1997] 3 SCR 213	¶23
12. *Syncrude Canada Ltd v Attorney General of Canada*, 2014 FC 776	¶30
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Secondary Sources	
14. Andrew Leach and Eric M. Adams, "Seeing Double: Peace, Order, and Good Government, and the Impacts of Federal Greenhouse Gas Emissions Legislation on Provincial Jurisdiction" (2020) *Constitutional Forum* [forthcoming]	¶4, ¶12, ¶26
15. Nathalie Chalifour, "Jurisdictional Wrangling over Climate Policy in the Canadian Federation: Key Issues in the Provincial Constitutional Challenges to Parliament's Greenhouse Gas Pollution Pricing Act" (2019) 50:2 OLR 197	¶4, ¶12, ¶25
16. David Beatty, "Constitutional Law in a Nutshell" Alta. L. Rev (1998)	¶7
17. Nathalie Chalifour, "Canadian Climate Federalism: Parliament's Ample Constitutional Authority to Legislate GHG Emissions through Regulations, a National Cap and Trade Program, or a National Carbon Tax" (2016) 36 N.J.C.L. 331	¶26