Court File No.: T-60-25

FEDERAL COURT

BETWEEN:

DAVID JOSEPH MacKINNON and ARIS LAVRANOS

Applicants

and

CANADA (ATTORNEY GENERAL)

Respondent

and

DEMOCRACY WATCH, THE CANADIAN CONSTITUTIONAL LAW INITIATIVE OF THE UNIVERSITY OF OTTAWA PUBLIC LAW CENTRE and THE BRITISH COLUMBIA CIVIL LIBERTIES ASSOCIATION

Interveners

MEMORANDUM OF FACT AND LAW OF THE INTERVENER BRITISH COLUMBIA CIVIL LIBERTIES ASSOCIATION

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PART I: STATEMENT OF FACTS

1. The Notice of Application filed January 7, 2025, seeks judicial review of the decision of the Prime Minister of Canada to advise the Governor General of Canada to prorogue the 44th Parliament of Canada until March 24, 2025 (the "Decision").

2. The British Columbia Civil Liberties Association ("BCCLA") sought and was granted leave to intervene and to file a memorandum of fact and law not to exceed 15 pages.

PART II: POINTS IN ISSUE

3. The BCCLA takes the position that:

   i. The test to be applied on this judicial review is the "undue interference" test, which arises from the constitutional principle of separation of powers developed by the Supreme Court of Canada as part of the fundamental architecture of the constitution since the enactment of the *Constitution Act, 1982*;[1]

   ii. Whether the Decision involved "undue interference" by the executive with the legislature must be determined on a reasonableness standard, bearing in mind the *Vavilov* decision, and the balancing integral to the test. Justifications raised in favour of the decision to request prorogation that must be balanced against interference with functions of the legislature, which include deliberating and enacting laws, and holding the executive to account by means of legislative question period, interrogatories and committees;

   iii. In deciding whether it was unreasonable for the Prime Minister to decide that prorogation would not "unduly interfere" with the

[1] *The Constitution Act, 1982*, Schedule B to the *Canada Act 1982* (UK), 1982, c 11.

functions of the legislature, the Court should take a deferential approach. A deferential approach is consistent with the principle of separation of powers, which requires the judiciary to avoid micro-managing the relationship between the executive and the legislature;

iv. Consent or concurrence of the legislature to prorogation will always satisfy the "undue interference" test. If a majority of the members of the legislature have not consented or concurred, the Court can proceed to assess whether it was reasonable for the Prime Minister or Privy Council to conclude that prorogation would not "unduly interfere" with the function of the legislature; and

v. The *Miller II* decision is not binding, but its principles are persuasive: the advice to prorogue is justiciable; the power to prorogue is part of the law of the land; the executive should offer a justification for the advice to prorogue; and the courts should maintain a high level of deference out of respect for the permanent functional overlap and tension between legislature and executive.

PART III: SUBMISSIONS

The Constitutional Principle of the Separation of Powers and the Test or Standard of Undue Interference with the Function of the Legislature

4. The BCCLA submits that binding post-*Charter* Supreme Court of Canada jurisprudence dealing with the separation of powers principle establishes a justiciable standard that prohibits the judicial, executive and legislative branches of government from unduly interfering with one another. The standard of "undue interference" should be applied on this judicial review to

assess the decision of the Prime Minister of advise or request[2] prorogation to the Governor General of Canada.

5. The constitutional principle of the separation of powers did not have an effective presence in Canadian law before the enactment of the *Constitution Act, 1982.* The lack of an effective principle was put crisply by Dickson J. (as he then was) in *Re Residential Tenancies Act* (1981), relying on Professor Hogg's *Constitutional Law of Canada* 1977:

> […] there is no general "separation of powers" in the *British North America Act, 1867.* Our Constitution does not separate the legislative, executive, and judicial functions and insist that each branch of government exercise only its own function.[3]

6. Less than five years later, following the enactment of *Constitution Act, 1982*, Dickson C.J. arrived at a significantly different conclusion in *Fraser v. PSSRB*:

> […] [t]here is in Canada a separation of powers among the three branches of government -- the legislature, the executive and the judiciary. In broad terms, the role of the judiciary is, of course, to interpret and apply the law; the role of the legislature is to decide upon and enunciate policy; the role of the executive is to administer and implement that policy.[4]

7. *Cooper v. Canada* is an administrative law case dealing with the jurisdictional limits of an administrative tribunal, but it expressly addresses the separation of legislative and executive powers and the "hierarchical relationship" between branches. Lamer C.J., writing reasons that concur

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[2] Because the Governor General may have a residual power to reject or partially reject the Prime Minister's request to prorogue Parliament, it is not entirely accurate to describe the Prime Minister's advice as a "direction" to the Governor General. However, it is equally inaccurate to describe the request as a purely advisory form of advice; the term "advice" is a term of art within the sedimented rhetorical protocols for addressing royalty. BCCLA uses "advise or request" in an attempt at an accurate description of the administrative action taken by the Governor General.

[3] *Re Residential Tenancies Act*, 1981 CanLII 24 (SCC), [1981] 1 SCR 714, 728, dealing with the power of the Ontario legislature to confer judicial powers on a tribunal.

[4] *Fraser v. P.S.S.R.B.*, 1985 CanLII 14 (SCC), [1985] 2 SCR 455, para 39, dealing with a judicial review of a decision of an adjudicator to discharge a public servant.

with the majority, reinforces Dickson C.J.'s rejection of the notion that Canada lacks a "strict" separation of powers:

> [10] One of the defining features of the Canadian Constitution, in my opinion, is the separation of powers. […]
>
> I am well aware that this Court has held that the separation of powers under the Canadian Constitution is not strict […]
>
> [11]However, the absence of a strict separation of powers does not mean that Canadian constitutional law does not recognize and sustain some notion of the separation of powers.[5]

8. Lamer C.J. sets out the hierarchical relationship between the legislature and executive as follows:

> [22] […] my position is that the *Constitution Act, 1867*, incorporated those aspects of Parliamentary democracy that have taken legal form.
>
> [23] One of those aspects is the legal relationship between the executive and the legislature. A central principle of that relationship is that the executive must execute and implement the policies which have been enacted by the legislature in statutory form. The role of the executive, in other words, is to effectuate legislative intent. […] But the ultimate truth remains that fundamental matters of political choice are left to the legislature, and the executive is bound to adhere to those choices.
>
> [24] The justification for this hierarchical relationship, in present-day Canada, is a respect for democracy, because legislatures are representative institutions accountable to the electorate. […] The hierarchical relationship between the executive and the legislature is also another aspect of the separation of powers, since the separation of powers inheres in Parliamentary democracy.[6]

9. In *Doucet-Boudreau v. Nova Scotia*, the majority again reiterates the constitutional significance of the separation of powers with unqualified expression:

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[5] *Cooper v. Canada (Human Rights Commission)*, 1996 CanLII 152 (SCC), [1996] 3 SCR 854, paras 10-11.
[6] *Cooper*, paras 22-24 [citations removed].

> [107] Given the nature of the Canadian parliamentary system, the existence of a true doctrine of separation of powers in Canada was sometimes put in doubt […]. It is true that Canadians have never adopted a watertight system of separation of judicial, legislative and executive functions. In the discharge of their functions, courts have had to strike down laws, regulations or administrative decisions. They have imposed liability on the Crown or public bodies and have awarded damages against them. Forms of administrative justice or adjudication have grown out of the development of executive functions […] Such developments may be said to have blurred theoretical distinctions between government functions. Nevertheless, in a broad sense, a separation of powers is now entrenched as a cornerstone of our constitutional regime.[7]

10. *Ontario v. Criminal Lawyers' Association* articulates a strong conception of the separation of powers, describing the evolution and relationship between the branches of government. In *Ontario v. Criminal Lawyers' Association*, Justice Karakatsanis articulates the functional test of "undue interference" arising from the principle of separation of powers:

> [27] This Court has long recognized that our constitutional framework prescribes different roles for the executive, legislative and judicial branches (see *Fraser v. Public Service Staff Relations Board*, 1985 CanLII 14 (SCC), [1985] 2 S.C.R. 455, at pp. 469-70). The content of these various constitutional roles has been shaped by the history and evolution of our constitutional order […]
>
> [29] All three branches have distinct institutional capacities and play critical and complementary roles in our constitutional democracy. However, each branch will be unable to fulfill its role if it is unduly interfered with by the others. In *New Brunswick Broadcasting Co. v. Nova Scotia (Speaker of the House of Assembly)*, 1993 CanLII 153 (SCC), [1993] 1 S.C.R. 319, McLachlin J. affirmed the importance of respecting the separate roles and institutional capacities of Canada's branches of government for our constitutional order, holding that "[i]t is fundamental to the working of government as a whole that all these parts play their proper role. It is equally fundamental that no one of them overstep its bounds, that each show proper deference for the legitimate sphere of activity of the other" (p. 389).[3] […]

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[7] *Doucet-Boudreau v. Nova Scotia (Minister of Education)*, 2003 SCC 62 (CanLII), [2003] 3 SCR 3, para 107. [Citations removed]

> [31] […] The development of separate executive, legislative and judicial functions has allowed for the evolution of certain core competencies in the various institutions vested with these functions. The legislative branch makes policy choices, adopts laws and holds the purse strings of government, as only it can authorize the spending of public funds. The executive implements and administers those policy choices and laws with the assistance of a professional public service. The judiciary maintains the rule of law, by interpreting and applying these laws through the independent and impartial adjudication of references and disputes, and protects the fundamental liberties and freedoms guaranteed under the *Charter*.[8]

11. In *Mikisew Cree v. Canada*, the majority held that courts will not review legislative action as the separation of powers prevents the courts from intervening in the law-making process.

> [35] Longstanding constitutional principles underlie this reluctance to supervise the law-making process. The separation of powers is "an essential feature of our constitution" (*Wells v. Newfoundland*, 1999 CanLII 657 (SCC), [1999] 3 S.C.R. 199, at para. 52; see also *Ontario v. Criminal Lawyers' Association of Ontario*, 2013 SCC 43, [2013] 3 S.C.R. 3, at para. 27). It recognizes that each branch of government "will be unable to fulfill its role if it is unduly interfered with by the others" (*Criminal Lawyers' Association*, at para. 29). It dictates that "the courts and Parliament strive to respect each other's role in the conduct of public affairs"; as such, there is no doubt that Parliament's legislative activities should "proceed unimpeded by any external body or institution, including the courts" (*Canada (House of Commons) v. Vaid*, 2005 SCC 30, [2005] 1 S.C.R. 667, at para. 20).[10]

12. The majority in *Canada v. Power*, in holding that the Crown could be held liable for damages resulting from legislation that infringes *Charter* rights, discusses the legal significance of the separation of powers:

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[8] *Ontario v. Criminal Lawyers' Association of Ontario*, 2013 SCC 43 (CanLII), [2013] 3 SCR 3, paras 29-31. See also the remarks regarding Parliamentary supremacy in *Reference re Pan-Canadian Securities Regulation*, 2018 SCC 48 (CanLII), [2018] 3 SCR 189, paras 59-62.

[10] *Mikisew Cree First Nation v. Canada (Governor General in Council)*, 2018 SCC 40 (CanLII), [2018] 2 SCR 765, para 35.

> [50] The separation of powers is part of the foundational architecture of our constitutional order. It is a constitutional principle which recognizes that the three branches of government have different functions, institutional capacities and expertise; and that each must refrain from *undue* interference with the others […] The separation of powers allows each branch to fulfill its distinct but complementary institutional role without undue interference and to create a system of checks and balances within our constitutional democracy (*Ontario v. Criminal Lawyers' Association of Ontario*, 2013 SCC 43, [2013] 3 S.C.R. 3, at para. 29). […]
>
> [82] Second, limited immunity is consistent with the separation of powers. The separation of powers does not mean that each branch is completely "separate" or works in isolation. The separation of powers in Canada is not strict (*Reference re Secession of Quebec*, at para. 15; *Cooper v. Canada (Human Rights Commission)*, 1996 CanLII 152 (SCC), [1996] 3 S.C.R. 854, at para. 10). We have "never adopted a watertight system of separation of judicial, legislative and executive functions" (*Doucet-Boudreau*, at para. 107). Rather, our Court has always emphasized that each branch cannot exercise "undue" interference, which depends entirely on the circumstances and the constitutional principles engaged. […] [11]

13. The review of jurisprudence above leads inexorably to the following conclusions:

    i. Canadian law recognizes a constitutional principle of separation of powers between the judicial, executive and legislative branches;

    ii. Canadian law recognizes a legal test or legal standard that each branch is not to "unduly interfere" with the functions of any of the other branches, having regard to the circumstances and the constitutional principles engaged; and

    iii. The test or standard of "undue interference" is justiciable.

14. To maintain consistency with the principle of separation of powers, the Court must ensure that its adjudication of the "undue interference" test does not

[11] *Canada (Attorney General) v. Power*, 2024 SCC 26 (CanLII), para 50.

itself unduly interfere with the function of the executive. However, the *Constitution Act*, *1982* and, in particular, s. 1 of the *Charter*, "obviates the need for a 'political questions' doctrine and permits the Court to deal with what might be termed 'prudential' considerations in a principled way without renouncing its constitutional and mandated responsibility for judicial review."[12]

15. The judiciary must retain its proper role within the constitutional framework of our democratic form of government[13] and are required to act as "vigilant guardians of constitutional rights and the rule of law."[14] This necessitates including reviewing government action where there is a "sufficient legal component to warrant the intervention of the judicial branch."[15] There is a discretion to answer only the legal aspects of a question while declining to address the extra-legal aspects of a question[16] and to grant a large margin of appreciation in lieu of deeming an issue non-justiciable.[17]

16. The question of justiciability, in the end, asks whether the court can adjudicate the issues against an objective legal standard.[18] The presence of an objective legal standard – here, the test of "undue interference" – displaces the analysis that prorogation is always an action sourced in unreviewable political convention rather than an administrative action bounded by law.

The Test of Undue Interference Should Be Reviewed on a Reasonableness Standard

17. The BCCLA submits that a judicial review based on the test that the government executive should not unduly interfere with the function of the

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[12] *Operation Dismantle v. The Queen*, 1985 CanLII 74 (SCC), para 104.
[13] *Reference Re Canada Assistance Plan (B.C.)*, [1991] 2 SCR 525, part 5.
[14] *Doucet-Boudreau v. Nova Scotia (Minister of Education)*, 2003 SCC 62, para 110.
[15] *Reference Re Canada Assistance Plan (B.C.)*, [1991] 2 SCR 525, part 5.
[16] *Reference re Secession of Quebec*, 1998 CanLII 793 (SCC), para 28.
[17] *Hupacasath First Nation v. Canada (Foreign Affairs and International Trade Canada)*, 2015 FCA 4, paras 66 and 67. See also *La Rose v. Canada*, 2023 FCA 241, para 36.
[18] *La Rose v. Canada*, 2023 FCA 241, para 36.

legislature should be adjudicated on the standard of reasonableness. Although *Vavilov* provides that constitutional matters involving the relationship between the legislature and the other branches of the state should normally be adjudicated on a correctness standard[19], in matters involving the principle of separation of powers the Supreme Court of Canada has decided that there is some overlap in function between the executive and the legislature. Moreover, the test of "undue interference" implicitly incorporates a balancing exercise in the determination of whether the threshold "undue" has been met. Accordingly, and in keeping with the requirement that the judicial role cannot itself unduly interfere with the role of the executive, the standard of review should be "reasonableness".

18. *Vavilov* refers to two types of fundamental flaws that render a decision unreasonable: a failure of rationality internal to the reasoning process and where the result of a decision is untenable in light of the relevant factual and legal constraints which bear on it.[20] A reasonable decision must be internally coherent in that it is "both rational and logical"[21] and must be justified "in relation to the constellation of law and facts that are relevant to the decision."[22]

19. Alternatively, if this Court accepts that a correctness standard applies, the BCCLA submits that the analysis becomes functionally equivalent or functionally similar to a reasonableness analysis because balancing and deference are inherent in the test of "undue interference". On a correctness standard, the question for the Court is: was the Prime Minister correct in determining that the advice to prorogue Parliament would not unduly interfere with the legislative branch? As discussed below, any analysis of

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[19] *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 (CanLII), para 55.
[20] *Vavilov*, para 101.
[21] *Vavilov*, para 102.
[22] *Vavilov*, para 105.

undue interference – even on a correctness standard – will implicitly require a deferential approach.

Degree of Deference

20. In determining whether it was reasonable for the Prime Minister to decide that prorogation would not "unduly interfere" with the functions of the legislature, the Court should consider taking a deferential approach to the analysis.

21. Deference in this context could involve a measure of judicial reluctance to finely weigh the value of the specific legislative tasks or functions with which a specific prorogation interferes. The assessment of the public or political importance of the legislative function with which prorogation interferes will of necessity be general and rough, but the Court is competent to identify whether the issues are picayune or profound, constitutional or procedural, local or national, etc. The Court should consider the function of the legislature in supervising the executive and holding the executive to account. The legislature's work is not limited to enacting legislation. Members of a sitting legislature engage in question period, serve written interrogatories to the executive and sit on legislative committees (which summon witnesses and documents). These legislative functions are indispensable to securing executive accountability to the Canadian people.[23]

22. The Court is capable of generally or broadly assessing the importance of legislative functions. If legislation is needed to respond to an objective crisis, or annual budgetary debate would be delayed, or widespread or profound executive corruption or misfeasance cannot be held to account, the Court is capable of conducting an assessment of whether or not these are clear and

[23] The Respondent's submissions pass silently by the legislative function of holding the executive accountable to the electorate. In the submission of the BCCLA, the legislature's role of holding the executive to account is fundamental to Parliamentary democracy.

present legislative functions. Significant deference does not entail ignoring the obvious.

23. Deference would also involve judicial restraint in assessing whether the justification given by the executive for prorogation is meritorious. In some cases, the justification offered in favour of prorogation may be unreasonable because it is clearly unrelated to any executive or legislative government function. There may be obvious cases where the executive attempts to justify prorogation solely by reference to a partisan or personal interest rather than an interest of Parliament which is likely to be found to be incompatible with the principle that the executive is to implement and exercise the policies of the legislature.

24. In other cases, the duration of prorogation may be unreasonably long in view of the justification offered in favour of prorogation. For instance, if the purpose of the prorogation was said to be a reset or refresh of the legislative agenda and the Court considered that purpose to be reasonable, then the Court could consider what duration of prorogation would reasonably be required to achieve that purpose.

25. Deference in this context is consistent with the principle of separation of powers, which requires the judiciary to avoid micro-managing the relationship between the executive and the legislature. Although the post-*Charter* era gives the Court a significant role in constitutional adjudication, it remains important to the administration of justice for the courts to avoid the appearance of partisan politicization.

26. Canada's system of government tolerates some level of interference with the legislative function. The Courts are empowered to intervene when the evidence shows that it is unreasonable (or alternatively incorrect) for the Prime Minister to decide that prorogation would not unduly interfere with the legislative function.

Consent or Concurrence of the Legislature

27. The BCCLA submits that consent or concurrence of the legislature to prorogation will always satisfy the "undue interference" test. Where there is a majority government, the Prime Minister's request that the Governor General prorogue Parliament will always have the tacit or express consent or concurrence of the legislature, and the interference will not be undue. Where there is a minority government, consent or concurrence of the majority of the legislature could take any form. There is no principled reason to restrict whether the expression of consent or concurrence must be oral or written or on letterhead or sealed with a ribbon. What matters is the expression of the will of the democratic majority.[24]

28. If a majority of the members of the legislature have not consented to or concurred with prorogation, the Court should proceed to assess whether it was reasonable for the Prime Minister or Privy Council to conclude that prorogation would not "unduly interfere" with the function of the legislature.

Canadian Law in Respect of Miller II

29. The BCCLA agrees with the Respondent that the United Kingdom Supreme Court *Miller II* decision is not binding. However, aspects of its reasoning are persuasive. Most generally, *Miller II* sends a message that the Prime Minister of the United Kingdom cannot shut down the legislature whenever he or she wants, for bad reason or for none. *Miller II* stands persuasively for the proposition that at some point, the judiciary must take up the mantle to protect the separation of powers and uphold democracy.

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[24] The BCCLA would distinguish between the expression that the legislature lacks confidence in the government, which is would trigger the dissolution of government, on one hand, and the lack of legislative consent or concurrence to prorogation, on the other hand. A legislature could seek to hold the executive to account without seeking the dissolution of government.

30. *Miller II* also exposes the juridical fragility of the decision to refrain from adjudicating the legality of a decision or action of government simply by labelling it a "convention". Labelling something a "convention" is not a principled way of settling the scope of judicial authority. In *Miller II*, the UKSC more persuasively found the role of the Prime Minister to be a function of the common law and concluded that the actions taken within that role are subject to judicial review. Arguably, the Supreme Court of Canada has already taken the same step in the *Secession Reference* by bringing all government action under the rule of law[25] and by signaling that objective legal issues should be adjudicated.[26]

31. In *Miller II*, the UKSC relies on the formula that significant interference with the principles of Parliamentary sovereignty and/or Parliamentary accountability must be justified. The elements of this formula are present in Canadian law but the formula is expressed differently. In Canada, the legislature plainly has the function of holding the executive to account, but our jurisprudence does not refer by name to a principle of "Parliamentary accountability". In Canada, there continues to be a principle of Parliamentary sovereignty, but it is attenuated by the principle of constitutional supremacy (ie. the judicial power to invalidate legislation under s.52 of the *Constitution Act, 1982*). These are jurisprudential differences but they are not of sufficient moment to detract from the persuasive force of *Miller II*.

Concluding Remarks

32. The jurisprudence supports the application of an "undue interference" test. Post-*Charter* cases consistently restate and apply the legal standard that each branch of government must refrain from unduly interfering with the other branches. "Undue interference" is the expression of a justiciable legal

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[25] *Reference Re Secession of Quebec*, 1998 CanLII 793 (SCC) at paras 70-72.
[26] *La Rose v. Canada*, 2023 FCA 241, para 36.

test or standard against which the Prime Minister's advice or request for prorogation can be held. The "undue interference" test expresses or arises from the principle of separation of powers. In the context of prorogation, the "undue interference" test provides a baseline of protection for the democratic function of the legislature to debate and enact legislation and to hold the executive to account.

33. The BCCLA submits that, properly regarded, the "undue interference" test is not a new substantive test. The BCCLA proposes a fresh application of the existing test to the government executive to limit its interference with the function of the legislature. Even if there is an aspect of novelty in this proposal, the elevation of "undue interference" to the status of a legal test is a modest, measured and incremental development consistent with the underlying constitutional principle of separation of powers."[27] The common law "is in a continual state of responsible, incremental evolution"[28] that takes "a sensible pathway for development of the law, based on reason and doctrine."[29]

34. The constitutional principle of separation of powers is a structural principle arising from the relationship between institutions created by the express provisions, purpose and structure of the written constitution of Canada. In contrast, there is no support in the written constitution for an unreviewable and unlimited power to effectively direct the Governor General to prorogue Parliament.[30] Referring to "convention" provides little or no normative impetus for such a rule where the courts have articulated an applicable legal standard or legal rule.

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[27] *Schmidt v. Canada (Attorney General),* 2018 FCA 55, para 96.

[28] *Paradis Honey Ltd. v. Canada (Attorney General)*, 2015 FCA 89, para 116 citing *R. v. Salituro*, [1991] 3 S.C.R. 654, 665–670.

[29] *La Rose v. Canada*, 2023 FCA 241, para 121.

[30] No cases extend the unreviewable aspect of the Governor General's power to the Prime Minister power to request prorogation. At most, the cases say that the extension is "arguable". See, for example, *Conacher v. Prime Minister*, 2010 FCA 131 at para 5.

35. The BCCLA submits the judiciary has a role and responsibility within our democratic society to protect the democratically representative legislature from undue interference with its functions. BCCLA takes no position on the question of whether the prorogation request made on January 5, 2025, or the duration of the request, represents an undue interference by the Prime Minister with the function of the legislature.

PART IV: ORDER SOUGHT

36. The BCCLA does not seek any orders.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Dated this 10th day of February, 2025

Signature of Lawyer for the BCCLA

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PART V: LIST OF AUTHORITIES

	Case Law
1	*Canada (Attorney General) v. Power*, 2024 SCC 26
2	*Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65
3	*Cooper v. Canada (Human Rights Commission)*, [1996] 3 SCR 854
4	*Doucet-Boudreau v. Nova Scotia (Minister of Education)*, 2003 SCC 62
5	*Fraser v. P.S.S.R.B.*, 1985 CanLII 14 (SCC), [1985] 2 SCR 455
6	*Hupacasath First Nation v. Canada (Foreign Affairs and International Trade Canada)*, 2015 FCA 4
7	*La Rose v. Canada*, 2023 FCA 241
8	*Mikisew Cree First Nation v. Canada (Governor General in Council)*, 2018 SCC 40
9	*Ontario v. Criminal Lawyers' Association of Ontario*, 2013 SCC 43
10	*Operation Dismantle v. The Queen*, [1985] 1 SCR 441
11	*Paradis Honey Ltd. v. Canada (Attorney General)*, 2015 FCA 89
12	*R (on the application of Miller) (Appellant) v. The Prime Minister (Respondent) Cherry and others (Respondents) v Advocate General for Scotland (Appellant) (Scotland)*, [2019] UKSC 41
13	*Re Residential Tenancies Act,* 1981 CanLII 24 (SCC), [1981] 1 SCR 714
14	*Reference Re Canada Assistance Plan (B.C.)*, [1991] 2 SCR 525
15	*Reference re Pan-Canadian Securities Regulation*, 2018 SCC 48
16	*Reference re Secession of Quebec*, [1998] 2 SCR 217
17	*Schmidt v. Canada (Attorney General)*, 2018 FCA 55
	Legislation
18	*The Constitution Act, 1982*, Schedule B to the *Canada Act 1982* (UK), 1982, c 11