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The Honourable GEORGE J. FUREY,
Speaker

CONTENTS

(Daily index of proceedings appears at back of this issue).

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THE SENATE

Wednesday, February 23, 2022

The Senate met at 9 a.m., the Speaker in the chair.

Prayers.

ORDERS OF THE DAY

EMERGENCIES ACT

MOTION TO CONFIRM THE DECLARATION OF A PUBLIC ORDER EMERGENCY—DEBATE

On the Order:

Resuming debate on the motion of the Honourable Senator Gold, P.C., seconded by the Honourable Senator LaBoucane-Benson:

That, pursuant to section 58 of the *Emergencies Act*, the Senate confirm the declaration of a public order emergency proclaimed on February 14, 2022.

Hon. David Arnot: Honourable senators, I speak from Treaty 6 territory in Saskatoon, Saskatchewan, and homeland of the Métis.

As a reminder, I'm speaking in favour of the motion and I'll speak to the rule of law, Canada's democratic institutions and my hope for the role of education in maintaining our democracy. As you will have noticed, I started my remarks last night; therefore, I was able to give sober second thought to what I'm going to say this morning, but you can be the ultimate judges of that.

Canadians have the right to protest, but there is a reasonable limit to that right in a free and democratic society. There is no protected right to lay siege to and unlawfully occupy portions of the Parliamentary Precinct and the downtown core of the city of Ottawa. Criminal activity, harassment, assault and intimidation of people in the occupied areas are not consistent with peaceful political protest. If there is remaining doubt as to whether this protest was peaceful, the balance was tipped when organizers implemented their plan to stay for the long term with seditious intent.

The occupation was premeditated and funded by donations in the millions of dollars — a portion from foreign sources. This was an extraordinary action and not a protected ordinary political protest. The organizers' stated goal was to force an end to the COVID-19 vaccine mandates, and in their occupation they threatened to have the Government of Canada comply with those demands. The more unhinged demand required that the Governor General and this body depose the recently elected Government of Canada and create a non-elected government made up of people selected by the occupiers.

During the occupation, protesters became entrenched, encamped and embedded. They ignored the rights of the citizens of Ottawa to have peaceful enjoyment of their homes and

businesses. Equally concerning were the blockades of the Canada-U.S. border at critical entry points throughout the country, in concert and in sympathy with the occupiers. The unlawful occupation and border blockades are without precedent in Canada. This extraordinary situation required an extraordinary response.

I have heard colleague senators in the debate question why the passage of this act is still necessary since the convoy has been dispersed from Ottawa. I hear your concerns about overreach and the relevance of the measures at this time. I can say, as a former senior Crown prosecutor and a judge, an operation of this magnitude involving so many different units and levels of government does not just stop on a dime. Much of the work continues in order to identify perpetrators of criminal activity, foreign and domestic.

As we have seen, the Mayor of Winnipeg and their police force there are dealing with a blockade of trucks at The Legislative Assembly of Manitoba.

It is not clear to me that potentially seditious acts and subversive activities from fringe elements have simply stopped because the blockade in Ottawa was dismantled. The police officers closest to this operation are advising that there is an operational need to continue their work, but note that they are not celebrating any victory. They are not declaring that the risk is abated. The threat assessment is continuous.

The police service has a heavy responsibility. One protest leader leaving the Coventry Road staging area declared, "This isn't over. We are switching to guerrilla tactics," or words to that effect.

I have confidence in the professionalism of police services. The members of cabinet, the civil service and the other place were persuaded of the need to pass this legislation, and they deserve the benefit of the doubt, even allowing for the exercise of unprecedented powers. This will be assessed in the inquiry as outlined in the act created by the Mulroney government, which was a wise idea.

I would urge erring on the side of caution and common sense. Based on the information available to the Senate, I believe the threshold for the implementation of the Emergencies Act has been met. The Government of Canada must restore public confidence to demonstrate that the state has the ability to ensure safety and security of Canadian citizens. The state must uphold the rule of law. The rule of law cannot exist if laws are not enforced or if there are no consequences for those who choose not to obey the laws.

This shocking and unlawful siege has exposed weaknesses and vulnerabilities that need to be prioritized for remedy by parliamentarians. Canada's reputation as one of the world's strongest democracies has been weakened internationally. Canada's economy has been damaged.

Canadians expect their government to maintain the security, protection and function of their democratic institutions. Change is happening at an unprecedented pace. It is happening technologically, culturally, socially and politically. Complexity is leading to uncertainty. Uncertainty has led to fear, anxiety and anger. Some Canadian citizens feel disenfranchised. Some Western democracies are dealing with this uncertainty because it has given rise to populism, racism and hate.

Canada is not immune. Some citizens feel disconnected. We have seen a promotion of anti-intellectualism, alienation and polarization. Some citizens are losing faith in democratic institutions. Some citizens view these institutions with suspicion. Some do not have sufficient understanding of the roles of these institutions. I'm thinking here of the roles of journalists, the judiciary and the Senate. Those roles are to provide checks and balances to hold government to account. Some citizens do not fully understand the responsibilities that accompany Canadian citizenship.

• (0910)

Some citizens are disengaged. Sinister people promote and encourage a view of these institutions that is intended to prey upon the misfortunes experienced by marginalized and very vulnerable people. Their purpose is to instill or incite others to a malevolent view and ultimately to weaken our democracy. Some citizens accept half truths and simple answers to complex questions. This has been generated and manipulated on social media by nefarious forces, both inside and outside of Canada. Democracy is fragile.

Some Canadians take our democracy, human rights and freedoms for granted. That is perilous. The price of freedom is eternal vigilance. One cannot be vigilant unless one has knowledge. Education generates knowledge. Education is the engine of democracy. Democracy is strengthened by education, knowledge and understanding, and in turn a commitment to Canadian democratic institutions and peace, order and good government.

I have heard several protesters assert that what they were doing was in the name of freedom — how ironic. Protesters asserted their “first amendment right” and insisted on their *Miranda* rights when arrested near Parliament Hill, clearly not understanding that those are references to the American constitution. The protesters bandied about words and concepts they do not understand. They spoke of freedom, seemingly without understanding that they have remedies before the courts or at the next election.

What this protest lays bare is that we have fundamentally failed to educate our citizens about what it means to be a Canadian citizen — the three Rs: rights, responsibility and respect. I believe that is a critical lesson from this debacle. We need to proactively and purposefully educate students about the rights of Canadian citizenship and, importantly, the responsibilities that accompany those rights. That is where we need to place our hope for the future.

In stark contrast to the United States — which does not have a section 1 clause and why our Charter is so respected internationally — the rights of citizens are balanced in Canada.

The rights of citizens are never absolute. The rights of citizens are subject to reasonable limits and, most critically, the rights of citizens are directly linked to the responsibilities required in a free and democratic society.

Every Canadian citizen has a responsibility to know and understand the rights of Canadian citizenship so they do not knowingly transgress the rights of others. Every Canadian citizen has a responsibility to respect their fellow citizens. They may disagree with the political views of some; however, they must respect the right of all to hold their own views.

Canadian citizens are free to challenge any law, edict or regulation. They must do so within the system that has evolved in the Western world since the Magna Carta. That is to say, if you feel your rights are infringed upon or denied, the remedy lies with the courts in our democratic system.

I believe, considering the circumstances presented over the course of the last few weeks, the required response to the threat we are seeing in our democracy is to implement the use of the Emergencies Act. In my opinion, it is necessary at this time. It is fully justified, and it is constitutional. There are built-in safeguards. The declaration has a short duration. It will expire in 30 days, although it could be extended. It has joint parliamentary oversight. The Emergencies Act does not overwrite the Canadian Charter of Rights and Freedoms. I believe the federal government's response through the Emergencies Act is proportional to the threat on our Canadian democracy.

Notably, the act provides for an inquiry. The inquiry will provide the information needed to better inform any future use of the Emergencies Act and preventative measures to cure the grievances that precipitated these actions. We must recognize the angst, anger and fear many Canadian citizens have expressed. In the aftermath, we must learn, adapt and act. We need to speak to all Canadians without finger pointing — no shaming, no blaming. Words have the power to maim, and Canada needs to heal. The Canadian government is ultimately responsible for the invocation of the Emergencies Act and is accountable for its use. I support the motion to confirm the declaration of a public order emergency.

[*Editor's Note: Senator Arnot spoke in Cree.*]

Thank you, everyone.

Some Hon. Senators: Hear, hear.

Hon. Elizabeth Marshall: Thank you, honourable senators, for your comments and speeches. We all know the history that led the government to this point, but it's not clear how we move from a peaceful protest to the Emergencies Act.

The convoy started its journey around January 23. Media reported its progress daily, and we all knew it was headed for Parliament Hill. Each day, anyone could check to find out the location of the convoys. Media also reported on the smaller convoys headed to meet up with the larger one. We knew there were hundreds, if not thousands, of vehicles and protesters headed for Parliament Hill. Even the police were reporting on the convoy. Through the media, we were told the police were

monitoring the incoming convoys and that they were communicating with the organizers. Media and police emphasized that the convoy and the protesters were peaceful.

Therefore, the arrival of the convoy in Ottawa and the setting up on Parliament Hill was no surprise. What was surprising was the unimpeded access allowed to Ottawa and Parliament Hill. Governments knew the convoy was headed for Parliament Hill, yet the protesters in their large vehicles were not diverted. Despite knowing for weeks that a large convoy of vehicles and protesters was travelling to Parliament Hill as their destination, there was no plan. It was unbelievable.

There was no attempt by government to resolve the situation. Protesters were allowed to set up on Parliament Hill. It became a carnival-like atmosphere, with hot tubs, bouncy castles and food concessions. Government allowed the protesters, along with their vehicles, to take possession of Parliament Hill, downtown Ottawa and, really, almost all of Ottawa.

Even the federal transport minister in media interviews restricted his comments to simply asking the protesters to go home. It took the initiative of one Ottawa resident to obtain an injunction to deal with the noise created. The federal government, over a three-week period, went from doing nothing to invoking the Emergencies Act. It hasn't been clearly explained what happened and why the act was invoked.

If the government was aware that the convoy posed a credible threat before it came to Ottawa — and we were told that yesterday — why did the government wait three weeks before addressing the security threat? Why were the protesters allowed to set up on Parliament Hill? The lack of political leadership displayed over the past few weeks is absolutely unbelievable.

One of the questions being asked is whether the government needed to invoke the Emergencies Act. Why didn't the police and the federal government do their jobs three or four weeks ago when they knew the situation was developing? Several senators are asking this question, and I know Senator Arnot asked the question when he began his speech this morning.

Now that the blockades have been disassembled, why can't the police, CSIS and other authorities take over, continue with the threat assessment, and the Emergencies Act be revoked? Today, we even received notice that controlled explosives are scheduled to resume today or tomorrow in the renovation of the Centre Block, so it sounds like the threat has been diminished.

Several senators have raised concerns over the freezing of bank accounts. It is still unclear, and many senators talked about this in the Senate yesterday. It was also raised at the briefing with ministers the day before. It is still unclear as to who is affected, what process is followed to determine the blacklist and what criteria have to be met in order to be excluded from the blacklist. It is also unclear as to how those individuals, organizations and companies whose accounts have been frozen can have their bank accounts unfrozen, especially since they no longer have access to monies for lawyers and other advice.

• (0920)

Despite this matter being raised by a number of senators, we have yet to receive sufficient explanatory information. The process of the freezing of bank accounts is an invisible, punitive process. Last evening, I saw in the media there was a report that some bank accounts are being unfrozen. Well, it was an ill-thought-out idea to begin with, but we are now seeking answers on this new development.

Some senators have raised questions and concerns about the parliamentary review committee. There is a concern that serious oversight cannot be carried out by the committee if it cannot receive all relevant information, including intelligence information.

Honourable senators, my expectations of this review committee, if it is ever established, is very low. It is not even established and we are already learning about the restrictions to be placed on the committee.

In closing, I would like to reference Senator Tannas's Motion No. 30. We have been discussing the Emergencies Act, a complex piece of legislation with far-reaching implications. While a briefing was arranged for senators and Senator Gold did respond to many questions yesterday, senators are still being requested to approve or not without adequate study of the implications of a very complex Emergencies Act.

Honourable senators, I would like to conclude by saying that in light of all the concerns that have been raised, I'm not convinced that the government had a plan. Now that they have implemented the Emergencies Act, I'm still not convinced that they have a plan. I will be voting against the motion.

Hon. Dennis Glen Patterson: Honourable senators, I rise today to join in this historic debate. When I last spoke in this chamber, I lamented the role we are being relegated to. I called us the "chamber of the rubber stamp." Today, however, we hold a very serious responsibility. A "nay" vote in this chamber would immediately revoke the emergency orders initiated under the Emergencies Act. We hold a unique veto power in this instance. The question before us right now is: Should we use it?

Like many, if not all of you, my office has been inundated with phone calls and my inbox has been flooded with emails urging me to vote against the continued use of these extraordinary powers. On the other hand, law enforcement, ministers of the Crown and various experts and pundits across the country urge the continued use of the emergency provisions, telling us that the emergency situation is ongoing and that we may lose control of the situation if the powers are revoked.

I understand that Canadians are angry. There are those who are angry at vaccine mandates that they feel have infringed on their basic freedoms and negatively impacted their livelihoods. There are, conversely, those who are angry at what they viewed as inaction on the part of their elected representatives at the local, provincial and federal level to quell this unrest in Ottawa and across the country until February 14 when the Emergencies Act was invoked.

When all this is over, we must find out how we got to such a sad situation for our country. I have lots of questions about how we got there. Why didn't the City of Ottawa police prepare for a convoy we knew was driving across the country? We all knew that. Why didn't the City of Ottawa invoke a court order? Why was the Prime Minister absent? Why didn't we hear a word — not a peep — from the head of the RCMP? The convoy and COVID have divided Canadians, neighbour from neighbour, family member from family member. Even I had a very public falling out with my political family in the parliamentary caucuses over this.

It is no surprise to me that the debate thus far has been spirited and at times emotional. Many have lamented that we have found ourselves at this point. Canadians have always prided ourselves on our public order and good governance. We have peace, order and good government in our Constitution, and yet here we are invoking for the first time an act that gives broad and far-reaching emergency powers to the government after a protest turned into what has been classified as an illegal occupation.

While I'm looking forward to the inquiry that will shine a light on the many failures at all levels of government to contain this issue earlier, I'm also cognizant of the fact that we cannot move forward in this debate without some serious examination with the fullest information that can be made available to parliamentarians of how these failures contributed to the current state of things.

Bylaw officers and local police did nothing to enforce the laws and bylaws that exist. No one is supposed to park on Wellington Street, at the heart of our democracy in Canada, the Senate of Canada, the Prime Minister's Office, the House of Commons, the Supreme Court. You cannot erect structures in public places. You cannot idle your vehicle or create a noise disturbance. And yet, the convoy did all of these illegal acts for three long agonizing weeks. The premier was visibly absent during this period of unrest and all the while, the Prime Minister made antagonistic and further polarizing remarks about a group that was clearly already beyond frustrated and on edge, causing them to strengthen their resolve and further entrench themselves in Ottawa.

This is not leadership. This does not befit a Prime Minister whose mandate should be to bring Canadians together. Citizens launched a court action to stop the honking and took it upon themselves to block convoy members looking to further incapacitate the city by slowly circling schools and airports.

I received calls from concerned parents of Nunavut students attending university in Ottawa who were afraid for the safety of their children. Colleagues, Ottawa is the home of the second-largest population of Inuit in Canada, next to my own community of Iqaluit. I speak as a representative of people living, working, going to school, obtaining health services in this city who are from Nunavut and who have been greatly stressed, inconvenienced, scared by what has gone on. I heard from Inuit living in the city and helping organizations like Tungasuvvingat Inuit that they were no longer able to access services. I heard from homeless Inuit who were no longer able to reach safe spaces that enable them to survive in the harsh coldness of January and February.

I don't agree with those that suggest that there was a diplomatic way forward in all of this. The main organizers were demanding all mandates be removed, even those within the purview of provincial governments, otherwise they would continue to occupy the downtown core.

Key leaders pointed to their — and I use this term lightly — memorandum of understanding that called on the Governor General and the Senate to overthrow the democratically elected government, then use their new-found power to end all mandates. The Governor General's office was flooded with calls. In Ottawa, 911 was flooded with calls.

• (0930)

Clearly, these are unreasonable actions and demands, and when a group threatens to continue illegal actions until such unreasonable demands are met, that group is no longer exercising their right to expression, association and peaceful assembly that we cherish in this country.

The courts tell us that peaceful protest does not extend to any gatherings that seriously disrupt the peace as in *R.v. Lecompte*, nor does it extend to anything actions that physically block or impede lawful activities as defined in *Guelph (City) v. Soltys*.

Strictly speaking, the question before us today is whether the government was justified in its invocation of the Emergencies Act. Looking at the evidence, at least from what we know — and, honourable senators, as I expressed in questions I asked the government leader in the Senate yesterday, I think there is a lot that we don't know and that the review committee should be trusted to look into regarding the aspect of intelligence information. But looking at the evidence that is available, I think it was justified. I think that there was such failure on the parts of the municipal, provincial and federal governments as well as with local law enforcement in their handling of this situation that it ballooned into such an untenable situation that the only way to coordinate a peaceable way out was through this act.

I believe, above all else, in the rule of law and its equal and consistent application. No Canadian should be above our laws, and everyone should be subject to natural consequences of breaking those laws. However, I cannot divorce from this question another question, and it's a very important one to me. Are we still in an emergency? Do we still require the broad powers afforded by the emergency orders in order to contain what elements of the convoy and its major proponents remains?

We do have a national police force. We do have anti-terrorist capacity. We do have CSIS, which should be doing the job of staying on top of this and have the tools to do so under existing laws. Do we still require the broad powers afforded by the emergency orders? The answer to that is I don't know. I know what I hear in the media, but I don't know what the government and law enforcement know.

Senator Gold has vociferously told this chamber that this is not a matter of the government saying “trust me,” but at the same time he also called on us to have some faith that the government is acting in the best interest of Canadians. As a parliamentarian and a policy-maker asked to justify and support the continued use of these expanded powers, I don’t feel comfortable with that. I would feel more comfortable if I knew that voting “yes” at the end of this debate would result in a powerful oversight committee that had access to protected information — and this is an issue I’m very concerned about — that was informing decisions in real time. I would feel better knowing that there was a pan-partisan group of parliamentarians that were able to keep the government in check. These are the types of checks and balances we demand in a democracy.

I would like to pay tribute to former prime minister Brian Mulroney, with former solicitor general Perrin Beatty and his cabinet, who put together this very thoughtful Emergencies Act with a strong role for parliamentarians, representatives of the people, for adjudicating on the rightness of this order and its need to continue, as well as setting up rigorous — I hope — review and inquiry processes so we can learn from this very sad experience and make sure it never happens again.

Going forward, I cannot absolve the federal government of the blame they share in creating this situation — not just the convoy but the polarized society that we now find ourselves living in. Years of policy changes that threaten the livelihoods of provinces dependent on resource extraction have led to Western alienation, sparking the creation of such political movements as Wexit, and the Maverick Party, of which Tamara Lich, a figurehead in the convoy, was a founding member. And let us note that the identified leaders of this ragtag group are from Western Canada, a region of our country where the primary resource industry has been demonized by our government.

The politicizing of the pandemic, which happened shamefully in the last election at the hands of the Prime Minister and the demonizing of the vaccine-hesitant has further split Canadians. I am triple-vaccinated and grateful to be so, and have found that the public health measures in Nunavut have kept Nunavummiut safe. I thank the federal government for the support that has been given to the territories to help us deal with the threat of the pandemic, exacerbated as it was by our severe housing crisis and overcrowded housing. I have even refused the exemption afforded to parliamentarians and quarantined with my wife for two weeks before re-entering the territory in an effort to do my part to keep COVID out. It was only in the relaxing of some of these measures that we saw COVID spread widely through the territory.

So while I support public measures, I don’t think we should alienate those who don’t feel the same way. We should all be deeply disturbed that we can no longer have nuanced conversations in this country. Nowadays, you are either a sheep or member of the FluTruxKlan. You either support oppression or value freedom. These are not real options. You can believe in science but be hesitant about a vaccine that was developed quickly. You can support public measures but support the right of others to protest those same measures.

• (0940)

Quite frankly, the more I listened to this debate and the more I speak with colleagues I’m torn with how to cast my vote. As I said, I agree there was an emergency. I’m not totally convinced there still remains an emergency that requires these special powers, and I’m very concerned that we’ll not have in place the proper checks and balances to ensure there’s no misuse of these powers or to ensure that they are revoked the instant, as one minister put it during the briefing, “they become convenient, rather than necessary.”

So I will continue to listen with great interest to what respected colleagues in this chamber have to say as we continue with this important and historic debate. Frankly, right now, I’m not sure we continue to need this drastic measure at this moment. Thank you. *Taima.*

[*Translation*]

Hon. Julie Miville-Dechêne: Honourable senators, the government’s decision to invoke the Emergencies Act is a very rare and symbolic act that we can already assume will go down in history.

As a Quebecer, the invocation of this law and its predecessor, the War Measures Act, obviously reminded me of the events of the October crisis in 1970.

I was only 11 years old at the time, so I didn’t fully comprehend everything that was happening. I was shocked to see military vehicles in the streets and to hear that some of our artist friends had been arrested, including Gérald Godin and singer Pauline Julien.

These events were even one of the main reasons why I chose to study political science and do a number of papers, perhaps too many, on the October crisis and the arbitrary arrests under the War Measures Act.

Fifty years later, I am a senator, and I have to vote on the government’s motion to confirm the invocation of the Emergencies Act to end the protests in Ottawa. I want to say from the outset that these two pieces of special legislation are very different from one another.

When the debates on this subject began last week, it was clear to me that this was not going to be an easy decision. Whatever might be said on either side, I don’t see this as a clear-cut situation with an obvious answer.

There were certainly factors justifying a strong response from the government: the Ottawa police’s obvious inability to get the situation under control; the very organized nature of the protest, which turned into an illegal occupation of a section of Ottawa; foreign funding and support for the protesters; critical infrastructure blockades and collateral economic harm; threats, racist symbols and vandalism; the seditious nature of some of the messaging; the exploitation of children; mounting social and economic costs, including for many Ottawa residents, who had nothing to do with the protest and lived through a nightmare; and, lastly, the possibility that failure to punish illegal acts could gradually undermine the rule of law in Canada.

I would also note that the Emergencies Act, in addition to being subordinate to the Canadian Charter of Rights and Freedoms, contains several provisions aimed at preventing abuse of authority, such as the parliamentary committee and the mandatory inquiry. Will they have the tools they need to get all the facts though? Of that I'm not certain.

Should the Senate adopt the motion, the government will not have unlimited discretionary power, because the declaration expires in 30 days. That is one way the Emergencies Act is more proportionate than the old War Measures Act.

That said, as early as last week, other aspects led me to wonder whether the government had demonstrated unequivocally that the disruption in Ottawa did in fact constitute a "national crisis," in other words:

... an urgent, temporary and critical situation that seriously endangers the health and safety of Canadians or that seriously threatens the ability of the Government of Canada to preserve the sovereignty, security and territorial integrity of Canada.

I noted in particular that the barricades at the Ambassador Bridge and the blockades in Alberta and Manitoba were removed through the usual legal tools, without the need to invoke the Emergencies Act, and that the disruptions did not lead to any serious injuries or significant damage to property. I also noted that seven provinces, specifically Quebec, Alberta, Saskatchewan, Manitoba, New Brunswick, Prince Edward Island and Nova Scotia, opposed the invocation of the Emergencies Act, and that several experts and specialists had expressed doubts about the need to invoke the legislation and the alleged inadequacy of the tools already available to law enforcement.

Comparing the events in Ottawa with certain other crises also brings into perspective the urgent, serious and critical nature of what we're experiencing today. Consider, for example, the student strike in Quebec in 2012. It led to several months of protests, often at night, which involved violent clashes between protesters and police and caused a great deal of property damage. There was also the Oka crisis in 1990, which resulted in a 77-day blockade and two deaths. In both cases, the Emergencies Act was not invoked.

I also thought about some of the more recent protests abroad, including the major disruptions caused by the Black Lives Matter movement in the United States, or the Yellow Vests in France, which lasted several months and caused injuries and a lot of material damage. In each of these cases, the governments did not invoke the equivalent of the Emergencies Act.

I also note that while the government's decision to invoke the Emergencies Act was justifiable, the measures announced seem to cast a very wide net and could set a dangerous precedent. In particular, I will mention that all citizens are prohibited from simply participating in, or travelling to, a public assembly that may be expected to lead to a breach of the peace. The very broad

designation of protected places includes such places as Parliament Hill or the government buildings, where citizens have to be able to protest peacefully. Then we have the unprecedented bans on financial contributions that ordinary citizens can make to protesters.

[English]

In recent weeks, the government has also repeatedly mentioned the international dimension of the crisis. For the government, the disruptions in Ottawa and elsewhere have damaged Canada's image as a stable and economically secure country. These are legitimate fears, but these are not the only ones that have been expressed abroad. *The Economist* magazine wrote last week that invoking the Emergencies Act was a terrible idea that could make Canada a more rancorous or bitterly divided country.

For all these reasons, I was hesitant last week. There are arguments on both sides. I did not believe the government had made an unequivocal demonstration that Canada is going through a national crisis, that the tools ordinarily available to law enforcement were insufficient and that we had reached the law of last resort. But I was also aware that my perception of the Emergencies Act is coloured by my personal experience in Quebec's history, and that in this case this law was primarily aimed at a crisis in Ottawa.

• (0950)

I thought that while the government didn't deserve a blank cheque, it could still get the benefit of the doubt at least temporarily. But the reality is that the situation has changed considerably since last week. As *The Globe and Mail* wrote the day before yesterday:

... the question before Parliament is not: "Was Canada facing an unprecedented national emergency, a week ago?" It is rather: "Is Canada facing an unprecedented national emergency, today?"

Last week, there were arguments both for and against the Emergencies Act, but the changed circumstances and the basic facts on the ground have greatly strengthened the arguments against to the point where they are overwhelming.

[Translation]

The government keeps saying that it is assessing the situation from day to day and hour to hour. Our assessment of this motion also has to keep pace with the circumstances. Today, there are still some tractors and trucks parked in downtown Winnipeg, but there are no more blockades in the country. The City of Ottawa has been cleared. The most radical occupants have retreated. The extremist threat, which has existed for many years, seems more diffuse. Although some doubts remain with respect to the need for the Emergencies Act to resolve the crisis last week, there is no doubt that the urgent, critical, national crisis has passed.

In response to questions, the government claims it is necessary to maintain this legislation for preventive reasons in order to minimize the risk of new protests. I do not believe, however, that a government can invoke the Emergencies Act preventively or as a risk management tool. In every society, even in Canada, the risks will continue to exist. In my opinion, the government cannot justify using this legislation by pointing to an undefined risk, a hypothetical threat or a potential disruption.

In light of what is generally happening across the country, the government's assertion that it has secret information about potential dangers is insufficient to justify keeping emergency measures in place. That standard opens the door to obvious abuses. This law is undoubtedly very appreciated by the police, and I commend their efficiency, professionalism and restraint. It goes without saying that this law can be useful and effective, but the issue before us today is whether it is still absolutely necessary.

The government has also stated that the decision to invoke the Emergencies Act was well received by Canadians. I have no doubt that is true. However, that is not the issue. The Senate has the privilege and the responsibility of reflecting and voting free from electoral considerations.

I also note that if the Senate were to vote against the government motion this week, it would not retroactively invalidate the decisions made and actions taken since the proclamation was made. I find this to be compatible with the legitimate idea of giving the government the benefit of the doubt with respect to the situation that prevailed last week. However, I have received no satisfactory answer on the key issue today. What threshold and what criteria will serve to determine when the government suspends the use of this act?

The real challenge the federal government is now facing is how to maintain social cohesion in an increasingly polarized society. My colleagues, Senators Kim Pate and Paula Simons, eloquently covered this issue yesterday.

I helped organize a UNESCO conference in Quebec City. Its theme was "Internet and the radicalization of youth: Preventing, Acting and Living together," and it examined how radicalization can lead to violence. Quebec and Canada are not immune to this phenomenon. Social media amplifies all this anger, and the health measures have become a rallying cry. It is very worrying. However, it is reassuring in the short term to see that the situation on the ground has changed.

Today, I cannot see any real ambiguity that would persuade me to vote in favour of confirming the Emergencies Act. I will, however, listen closely to my colleagues' arguments as we await the vote on Motion No. 17. Thank you.

[English]

Hon. Leo Housakos: Honourable senators, in my 13 years in the Senate of Canada, I don't think I have risen on a more important debate and issue than this one.

I want to remind all senators in this chamber that our fundamental role when we were summoned to this place is to be the voice of our regions and to be the voice of minorities in this

country. These are voices that need to be heard, voices that need to be represented when they feel they're not being adequately represented, particularly on the other side, but also when they feel that they're being trampled on by the executive branch of government.

There's no role more important in this place than the role of oversight of the government. In this particular instance, one minute these protesters, convoys, were coming to Ottawa and they were marginalized by the Prime Minister. He called them a fringe minority. And the next minute, this fringe minority, this small group of Canadians that are anti-vaccines and anti-mandates all of a sudden became such a threat that we had to impose something that has been done only three times before in the history of this country. Clearly, from that admission, the Prime Minister was wrong when he called this a fringe group, a minority.

Colleagues, it doesn't take a genius to figure out that it wasn't a fringe group. It isn't a fringe group. This country is deeply divided like I've never seen in my 50-plus years. As a proud Canadian, I've seen governments come and go. We have seen many crises and public discourse in the country, but never in my lifetime have I seen these deep divisions.

It's in moments like these that the executive branch of government has an obligation and every prime minister has an obligation to put the nation's interests above the interests of himself, his party and partisan politics. I saw that many times under the leadership of Stephen Harper. I saw it first-hand in his caucus. I saw it under the leadership of former prime minister Jean Chrétien, who I always appreciated. He put the nation first regardless of political differences at various times. God knows he had some very tough crossroads to walk in this country. I saw it under the leadership of Brian Mulroney as well.

There is always temptation on the part of the politicians to wedge and divide for political benefit, and I've seen first-hand that it works, but in those moments of existential crisis, all prime ministers are obligated to bring the parties together, not to throw fuel on the fire, not to call protesters names, not to call them extreme right, extremists, racists or a few other words I won't even mention. We've had this debate, and there is no point in revisiting it.

That kind of political posturing is completely unnecessary. We saw this government do it in the last general election when they tried to create the atmosphere of "them versus us." They did some polls. They realized that 80% of Canadians are double vaccinated. They said, "We'll make an example of the 20% of Canadians who don't want to be vaccinated because they are vaccine-hesitant, have medical conditions, have a phobia or whatever the reasons may be."

I believe in freedom, yes. I believe in freedom of a man and woman to choose if they undergo a medical procedure. It's their choice in this country. Before you go for a surgery, they ask you to sign a form, a waiver. I don't think it's much to ask in this country as a Canadian citizen to have your government lay off when it comes to taking vaccines, medications or medical procedures, or being forced to have or not have an abortion. It's the same type of debate for me as a libertarian. These are rights that should be fundamental in the country.

Therefore, when protesters come to Ottawa, there should be consistent rules for all Canadians. I'm double-vaccinated. I try to persuade my friends, neighbours and everybody — I believe it's genuinely the way to go in order to mitigate this disease and fight it to the best of our ability, but I also recognize the right of somebody else not to be vaccinated. I recognize the right of somebody to expect their government to be fair with all citizens, to be just with all citizens. When protesters come to Ottawa or they go to Coutts, Quebec City or Toronto, they have the right of protest, which is fundamental in our democracy. No one can take that away.

When protesters went to the G20 a few years back, they had a legitimate right to protest. When Indigenous communities had legitimate issues with the government, they went to the extreme with armed protests, shutting down infrastructure and railway crossings in this country for a number of weeks. When Black Lives Matter protested for issues that are important, they are fundamentally on the right side of where they should be. Every politician has the right to respect these protests.

We have an obligation, particularly as parliamentarians, as a prime minister, whoever it is, to dialogue with these people. Somebody said earlier in their speech that the three Rs are the most important thing in our democracy: rights, responsibilities and respect. I think it was Senator Arnot. I agree with him. It's a right to protest in this country. It's a responsibility though of Parliament, our Prime Minister and our governments to dialogue with these citizens. These are not enemies of the state. These are frustrated Canadians.

• (1000)

If it's Black Lives Matter, if it's the Indigenous communities, if it's people at a G20 for economic reasons — we saw what happened in Oka in my province many years ago. I'm old enough to remember. In all of these instances, prime ministers threw water on the fire. They dialogued, they sent ministers in for discussions. They sent bureaucrats in to have chats to try to figure out what the problem was.

They didn't say, "you're undesirable," "you're racist," "you march with swastikas," or "you're tearing down monuments," when they did not. We have had other protests that desecrated monuments across the country or burned down religious centres of worship. The prime minister didn't run out and invoke the Emergencies Act: He engaged in dialogue.

So why, in this instance, did he choose to do otherwise? Is it because he thought maybe the poll numbers were on his side? Maybe he thought he would get away once again with creating an "us" majority versus "them" the minority.

All of a sudden he started realizing that even double vaccinated people are frustrated in this country. We are frustrated with mandates that are not fair. For example, when a government institutes a travel mandate, they should institute a travel mandate. But, no, there is a double standard with the policies of this government. If you are a wealthy Canadian and you need to see a family member in New Jersey or California, no problem. Hop on a plane, you do your PCR test, you come back and you quarantine. Life is a dream.

If you have a sick mother in Vermont and you are in Montreal, you can't get over the border to visit because of COVID mandates. We have to do this, we have to save the country.

But, of course, if you sit back and think about it, the sacrifices will be made by those who cannot afford to get on a plane and drive over a border. For those who can fly, you're good — more double standards.

We have a case in point where we had protests in Coutts and at the Ambassador Bridge. Police authorities there were able to bring down the temperature and resolve that issue. Nobody called the Prime Minister and said, "Give us the Emergencies Act or else we can't get it done."

Police authorities in Quebec City planned for the protests effectively. They calmed things down and dealt with it appropriately. There was no need for emergency measures. This is the kind of irresponsible behaviour on the part of the government that just can't be excused. It just cannot be.

This Prime Minister has tripled down for political expediency and nothing else when he saw he was losing. To this day, he hasn't once taken any responsibility for this issue.

The other element, colleagues, is this could have been resolved quickly if this government had done or was willing to do what governments across this country have been doing now for over a week: announcing that they are removing mandates. It's the easiest thing. Alberta did it. Saskatchewan did it. Ontario did it. The Quebec government did it. The only one who has tripled down and is refusing to eliminate those mandates is Prime Minister Trudeau. At this point, we see there is no good reason for it except he doesn't want to acknowledge political defeat.

This isn't a game. This is about bringing a deeply divided country together. This is about reconciliation after coming out of a terrible crisis called COVID. And by the way, colleagues, make no mistake, this is just the beginning of the disruption. The next crisis around the corner is fundamentally worse, and this Prime Minister has buried his head in the sand regarding that one as well. I'll get to that later.

He has invoked an emergency measure — which was unnecessary — giving the police authorities in this country — overkill — overarching authority essentially to do what they want without any accountability to anybody. The government leader pretty much said to us yesterday, "trust me, trust the government, there is enough evidence to justify this." I haven't seen it. He acknowledged that he hasn't seen it. I think Senator Tannas asked him about it. We haven't seen it.

But the Parliament of Canada, "trust me." We can freeze accounts. We can give the police all this authority to take care of what they should be able to take care of with our present laws, it seems to me. If the present laws on the books are not sufficient to manage a few protesters on Parliament Hill, we are lawmakers — let's change the laws. Let's not tell the government to take over and become a dictatorship. Come to Parliament and say that this is what we need and we need it quickly.

As you have seen over the last two years, Senator Gold, we are agile in this place. Everything you have asked of your colleagues in the Senate, we have done relatively quickly. You needed billions of dollars; we approved them. We need changes in order to deal with COVID; we dealt with them, even when we had reservations. We haven't pushed back. There hasn't been any hesitation.

But telling police officers to go ahead and decide who enters the Parliamentary Precinct, to make a list of who is appropriate to enter and who is not, I find unbelievable.

Yes, local residents were inconvenienced in a big way. Unfortunately, the frustration of Canadians has reached such a boiling point where they are causing chaos in the streets. That should be a red alert that we need to sit down and find out how we can address them. That's our job.

Foreign investment in this country, in the last few days since the Emergencies Act, has come to a standstill. You have seen the statistics. It is even worse than it was before the Emergencies Act, which was pretty pitiful. Foreign investment in this country is at its lowest level in seven or eight years.

When we become the laughing stock of other western democracies, when we are all over the front page news in the U.K., the United States, France and Germany and I'm getting calls from parliamentarians asking, "What is happening to your great democracy?" I have no answer. I can't explain it.

I can't explain that a few hundred thousand people in Ottawa overcame the laws of this country, our police forces and our public security system, and that we had to invoke a measure that has been invoked only three other times in the history of this country: World War I, World War II and, of course, the October Crisis.

Colleagues, in each and every one of those cases when that act was invoked, history has proven that there were indiscretions and that mistakes were made. We wronged people in a serious way. Afterwards, governments had to stand up in this place and the other to apologize for those indiscretions.

It is not good enough to say to trust the government. It's not the role of the Senate or the House of Commons to trust the government. That's for the people who decide during elections if they want to trust them or not. This place, our job, is to question, to see the facts before we are forced to vote on certain things.

Now, we also have a Prime Minister who, in addition to calling people names, has another talent. He likes to reinvent things. All of a sudden, the Government Leader in the Senate has become the representative. Partisanship has become an evil thing in public debate.

An "independent" parliamentarian is a parliamentarian who rubber-stamps their political programs and the government agenda. "Extremists," "racists," "extreme right-wing," these are all code words for anybody who opposes us, and we are going to tag you. We are going to put a label on you. That is politically very astute. It has worked very well so far. I think it's slowly catching up to him.

Colleagues, Prime Minister Trudeau said at the beginning of this crisis that we are all in this together. That's what he said. He said we are going to be in this together. We have your back, unless you are a trucker. If you are a trucker, you are on your own. Unless you are not willing to accept a medical procedure. If you are unwilling to take a vaccine, you are on your own in a big way. If you can't afford to fly in an airplane, you are going to be locked in your house and quarantined by this government because there are different rules for those travelling by plane than those going on four wheels because they can't afford to do otherwise.

I'm seeing this dangerous thing developing in our country. It's called the bureaucratic oligarchy. People like us have the privilege of a guaranteed paycheque every couple of weeks, as do all those who work for government agencies across this country. During this COVID-19 crisis, we saw that the government had the back of all those people.

Our employees were working from home. We found ways to accommodate them. We made sure our employees' paycheques were on time. There wasn't as big a hit on them as other citizens who are not part of the bureaucratic oligarchy like I am. I have that privilege. Citizens who have to work in the private sector have been hit with a 30% pay cut or have unfortunately lost their jobs and are starting to feel the pain.

• (1010)

Colleagues, in conclusion, all I have to say is the following: We have an obligation to make sure this divided country has some reconciliation and comes together. We have to recognize that we have to represent the interests of all Canadians in dealing with this crisis, because now we are getting through this crisis of COVID and the next one — you can see it; it's \$200 to buy a roast to feed a family of three or four. Again, we bureaucratic oligarchs, we privileged ones, can afford it.

Hon. Colin Deacon: Honourable senators, thank you for this incredibly important and robust debate.

I'm speaking to you today from Mi'kma'ki, the unceded territory of the Mi'kmaq.

Colleagues, I deeply value free speech. I deeply value peaceful protest. But these have not been peaceful protests about free speech. For example, those who came to occupy Ottawa were demanding that the federal government remove all mandates related to COVID-19, regardless of whether those mandates were issued by the American government, the Canadian government or one of our 13 provincial or territorial governments. Then we learned that the protest organizers had the stated objective of overthrowing a recently elected government and Parliament. Yet these protesters were still given the chance to voice their views peacefully on the weekend of January 29.

The voices of those protesters were definitely heard — not peacefully, but loudly. When their unreasonable and unconstitutional demands were not met, they entrenched. Day and night, the occupiers made their presence known where people lived, where they worked and on the streets. Businesses were shuttered, costing an estimated \$15 million in lost wages and sales every day. Lawlessness and disorder prevailed.

The citizens and businesses of Ottawa were far from alone. Countless Canadians have been harmed by the blockades of critical infrastructure across our country. Those blockades disrupted billions of dollars of international and local trade. They caused struggling private businesses to close and send workers home, they damaged our most critical trading relationship at a crucial time and they stained our global reputation.

This level of instability in one of the world's most treasured democracies should be deeply concerning to us all.

Colleagues, the occupation of a G7 capital by individuals who made it clear that they were not going to respect the law or leave voluntarily was untenable. Regardless of all the ineffective actions and jurisdictional failings that led up to this crisis, the Ottawa Police Service and the Ontario Provincial Police were clearly incapable of restoring the rule of law. As a consequence, I firmly believe that the invocation of the Emergencies Act on February 14 was both necessary and justified.

Personally, I draw comfort from the checks and balances within the act and the fact that the Charter of Rights and Freedoms remains pre-eminent. But we will need to listen carefully to the concerns of certain groups, especially vulnerable and minority groups, who justifiably worry about precedents being set here. Canadians with a history of being marginalized, racialized and dominated by the majority are rightfully afraid that this use of the act could set a worrisome standard for future protests. Their fears are likely fuelled by their first-hand knowledge of past police actions — taken without use of the Emergencies Act — in situations that looked nothing like recent events.

Now I would like to focus on the use of the checks and balances within the Emergencies Act. An inquiry will be triggered when the act is revoked, be it through the will of Parliament with the House or Senate exercising their rights under section 59 or by a decision of this government. Canadians should rightly expect that inquiry to be thorough, balanced and non-partisan in its examination of “. . . the circumstances that led to the declaration being issued and the measures taken for dealing with the emergency.”

Over the next year, the inquiry will call upon the Prime Minister and his cabinet to defend their use of the act and the people of Canada should ultimately have the opportunity to decide whether they agree with the actions taken.

The inquiry will need to clear up some troubling questions leading up to the invocation of the act, how special powers were used and why those special powers were needed in the first place. In leading up to its invocation, my questions include: In what ways did partisan language, tactics and actions escalate tensions and anger among protesters and broaden involvement?

During the first week of the crisis, Conservative MP Michael Chong and Liberal MP Joël Lightbound both spoke powerfully about the worrisome national divisions caused and widened by partisanship as it is now practised in Canada. For far too many, simply being anti-Conservative or anti-Liberal justifies saying and doing things that can only divide Canadians, not unite them.

Was the required security and intelligence advice available to each level of government and police force leading up to and during each protest? If not, why not? What barriers did jurisdictional issues present, and how did they prevent decisive action? Why were the police limited in their ability to secure essential services?

Those are all very important questions leading up to the invocation of the act.

In terms of the powers used under the act, I think we need to carefully examine issues that include the following: What burden of proof existed prior to freezing the roughly 200 personal and corporate accounts and 250 crypto addresses? How many accounts were frozen in error, and how quickly and completely were those situations resolved? What process was used to release the affected individual and corporate accounts so that those individuals do not remain “unbanked” and uninsured?

The actions taken could cause significant financial harm potentially to people who have not broken the law, but also to those people whom we do not want to become less connected to broader society. I trust that the inquiry will examine how quickly and completely each one of those situations was resolved.

Finally, I want us to examine why we got to the point where the Emergencies Act was required to access crucial financial measures. Specifically, I hope the inquiry will examine issues such as the following: Why is our financial oversight system not capable of monitoring the financial activities used during these occupations without invoking the Emergencies Act? The organizers showed sophistication in rapidly raising and distributing a large number of donations, including those made using crypto assets. However, those activities used are not very new and their use was far from unimaginable. Yet those activities remain unregulated. Our regulations and corresponding due process need to start to keep up with market realities.

This crisis has caused new payment technologies and platforms to be added to our list of regulated financial entities, but the fact that it took a crisis for this to happen is troubling.

Second, why have we failed to revamp our approach to anti-money laundering and anti-terrorist financing despite FINTRAC's existing protocols capturing less than 1% of estimated criminal money flows in Canada? How has this not been a priority? The status quo means that bad actors are 99% successful in moving their money in Canada. Our current system is a burden for good actors and fails to track bad actors unless we use the Emergencies Act. This is an unacceptable reality.

Third, how are we incapable of identifying and regulating foreign funds coming into Canada for political, ideological or illegal purposes? Why have new regulations and appropriate processes not been prioritized in the digital era? Simply, our financial regulators have not kept up with technological and market realities. Canada has stagnated as disruption has accelerated.

Highly disruptive point-of-sale technologies using crypto payments now exist, yet we still are not thoughtfully building a financial system that will keep up with market realities. We need to start to prioritize data rights, financial inclusiveness and global competitiveness, while protecting freedom in financial decision-making and dramatically limiting the role of bad actors.

That is no small task. With each of those issues, I worry about how much legislative work is needed but in an environment where Canadians' trust in their public and political institutions has been weakened and their faith in what they see on social media is growing.

This is deeply worrisome. Rebuilding lost trust must be a top priority. It might be helped by prioritizing the use of consultative ways to engage Canadians in building shared solutions to shared problems and eliminate the paternalistic "Ottawa knows best" approach where Canadians are given a predetermined solution to a pre-selected problem.

Colleagues, throughout our country, Canadians have continued to do their jobs. They are stressed, tired and worn out, but they continued to work. I'm grateful for the million-plus Canadians who have been struggling, tired and without reprieve kept our health care system from collapsing during this crisis. I'm grateful for the 130,000 truckers who have continued to provide deliveries across our country, day in and day out. I'm grateful for the countless essential workers who remain heroes despite no longer receiving their hero pay. I'm grateful to the journalists who protect our democracy by constantly searching for the light of truth and I'm grateful for the police, first responders, business owners and ordinary citizens who keep our communities functioning. I'm grateful that all of these Canadians have continued to do their jobs.

• (1020)

Colleagues, I believe now is the time for Canadian politicians to lower the temperature, drop the partisan rhetoric, and focus on building a more sustainable, inclusive and prosperous path forward for all Canadians. That's our job. I worry if we don't do it. Thank you colleagues.

[*Translation*]

Hon. Diane Bellemare: I would like to first thank senators for their heartfelt and thoughtful speeches during this debate, and I also want to congratulate Senator Gold, who did an amazing job answering all of our questions.

I must admit that I have some concerns about the motion we are debating. I am torn between the arguments for and against the motion, and I have the same misgivings expressed by many, including Senator Patterson, Senator Miville-Dechéne and all others today.

To the Quebecers who are watching this debate and who lived through the War Measures Act in 1970, I want to be clear that the Emergencies Act has nothing in common with the original act. This one is much more moderate.

The Canadian Charter of Rights and Freedoms did not exist at the time, and civil liberties were violated in Quebec during the October crisis, as we all know.

Such attacks on democracy would not be possible today under the Emergencies Act, especially because the act provides for parliamentary and legal safeguards.

I also want to point out that, although I have concerns, I absolutely believe that the police needed to intervene to put an end to the occupation in downtown Ottawa, just like they had to do to reopen the Ambassador Bridge. The protesters were preventing Canadians from exercising their rights, and the protests had a significant impact on the economy.

However, the success of the interventions in Windsor raise the following question: If the act was not necessary in that case, why was it necessary for the situation in downtown Ottawa? We never got an answer to that question.

The Emergencies Act was invoked on February 14, and the occupiers were removed from downtown Ottawa last weekend. I understand that the occupation was extremely hard on the people of Ottawa, particularly the individuals and families who live downtown, and I feel for them.

Most Canadians support the use of the Emergencies Act. Many of them were shocked by some of the unbelievable, movie-worthy scenes from the downtown Ottawa occupation, such as the inflatable hot tub and the refuelling stations, which made it clear that many of the protesters intended to stay for a long time and that action was long overdue.

Today, in theory, the occupation is over. We no longer need this act, which contains a set of rather strict measures, including such financial measures as the power to freeze bank accounts. Even though the act states in its preamble that the measures are subject to the Canadian Charter of Rights and Freedoms, some of those measures raise concerns, such as the economic measures in the proclamation that allow financial institutions to freeze the bank accounts of those who are considered to have broken the law.

Can we be sure that those provisions will withstand court challenges? Time will tell.

Why, then, am I so deeply ambivalent about the motion before us? We are responding to events that have arisen out of the frustrations created by the loss of various freedoms over the past two years, and we are responding with legislation that effectively suspends yet more freedoms. Although several organizers of the occupation appear to have ties to far-right groups, they have nonetheless received support from Canadians who are frustrated by the lockdown measures and the division they create within families and communities.

I cannot ignore the context in which the Emergencies Act was invoked, specifically the loss of freedoms we have experienced during the pandemic. Over the past two years, some of the lockdown measures imposed because of the pandemic have had a real impact on the global state of democracy. On that point, I would like to share a few paragraphs from *Democracy Index 2020*, a report published by the British magazine *The Economist*, and I quote:

[*English*]

The withdrawal of civil liberties, attacks on freedom of expression and the failures of democratic accountability that occurred as a result of the pandemic in 2020 are grave matters. This is why the scores for many questions in the civil liberties category and the functioning of government category of the Democracy Index were downgraded across multiple countries in 2020. Regardless of whether there was public support for the government measures, countries that withdrew civil liberties or failed to allow proper scrutiny of new emergency powers were penalised.

[*Translation*]

All countries adopted similar measures to fight the pandemic, measures modeled on those implemented by China, the first country affected. This document by *The Economist* states that the same methods were used in both authoritarian and democratic countries because China was the first country affected and there was no vaccine. All but a few countries, such as Sweden, adopted similar measures.

Before we had vaccines, democratic countries had no other options.

Quebec implemented an extreme measure, curfew, a few times, the latest in January 2022. It was poorly received by many and was definitely the straw that broke the camel's back for many communities and households. It led to resentment among adults and, in particular, young people, and I could go on at length about that.

Let's get back to Canada's democracy index. I'd like to quote once again from the document published by *The Economist*:

[*English*]

Canada continues to score highly in the 2020 Democracy Index, thanks to the country's history of stable, democratic government. Canada's *political participation* score rose to its highest level ever in 2020 . . . propelling Canada into the top five countries in the global ranking for the first time.

[*Translation*]

That's an achievement. Despite being one of the most democratic countries in the world, however, Canada did lose points in one area.

[*English*]

The report continues, "Coronavirus restrictions led to a deterioration in the *functioning of government* score in Canada . . ."

[Senator Bellemare]

[*Translation*]

The restrictions have in fact prevented us from playing our role as we did in normal times. In short, the pandemic has had a real impact on democracy around the world and also in Canada. We must be aware of this and, above all, take steps to protect it.

I will say in passing that Scandinavian countries received the highest scores.

That said, here are my questions. Are we going to extend emergency measures that destroy freedoms in a context where individual freedoms have already been significantly reduced in Canada during the pandemic — because even though we wish to return to normal, health measures are still in place — without knowing if the act is necessary?

As Senator Dalphond stated, this may create a dangerous precedent, because the bar will not be set very high for the next time this exceptional legislation is invoked. Are we undermining our democratic reflexes?

The Senate is a place of sober second thought, and we are not here to govern in place of the government, but it is difficult to endorse a decision in a vacuum. The act is nevertheless temporary, and will be in force for only 30 days. However, as Senator Cotter explained, the majority of Canadians support it. It will not be enforced in my province, unless the Premier of Quebec decides otherwise. It was adopted by a majority of members in House of Commons. If the Senate does not confirm this measure, which is supported by most Canadians, there will certainly be a great deal of political tension in the air.

• (1030)

Lastly, as Senator Cotter said, I am not convinced that we can legitimately not give the government the benefit of the doubt at the moment, given that the act will stop being in effect very soon, as I said earlier. We can follow up on it and ensure that an extensive inquiry is conducted in the 60 days following the end of the emergency measures and that a parliamentary committee is established. These provisions did not exist in the previous legislation.

In closing, I truly hope that Canada can look to the Scandinavian countries, whose democracy indices are even higher than ours, for inspiration. I have studied a good deal of their public policy, and part of their success stems from social co-operation and dialogue. Our Confederation needs institutions that facilitate co-operation between governments and foster social dialogue with civil society. These emergency measures might not have been needed if there had been more co-operation between the various levels of government.

The fact that the Emergencies Act was invoked speaks volumes about the dearth of institutions that promote social co-operation and dialogue in Canada. As the country becomes more ideologically polarized, we need these kinds of institutions in order to mitigate the polarization that results from misinformation. As you know, working together and fostering dialogue enable people to share the same information and

reinforce common values. For these reasons, esteemed colleagues, I believe I will give the government the benefit of the doubt for now. Thank you.

[English]

Hon. Scott Tannas: Honourable senators, I would like to start by thanking all senators for your interventions. It's in moments and situations like these that rarely occur in our chamber — but with some regularity over my nine years — that I'm reminded of the incredible talent and wisdom that we have in this chamber.

I often say to people that Canadians should read the biographies and tune in once in a while to the Senate.

Truly, this has been a tremendous debate. I have to say that I'm envious of the certainty with which people have put forward their positions, with disciplined arguments advanced by both sides. In fact, there was an excellent juxtaposition of that with Senator Arnot and Senator Marshall, who had opposite plans, and both made what I found to be powerful presentations for their position.

I find myself out of my element. It doesn't happen very often to me. I find myself almost detached and in a surreal situation, like an observer. I've always been able to draw on my personal and professional experience, but it has always been anchored and confirmed by the values of my family and my community. This isn't available to me today. My community, my country, is severely divided. We can't have a discussion about anything anymore because we can't even agree on the facts.

This is a very distressing time in Canada. I'm not seeing leadership. I'm not seeing leadership to bring us together. I'm not seeing leadership from any quarter, whether it is the Prime Minister's Office or the Leader of the Opposition's office, the premiers. It is no wonder that we continue down this path.

I'd like to thank the truckers of Canada. According to the Canadian Truckers Association, there are 320,000 Canadians working in the trucking industry. It's about 2% of the entire workforce in Canada. Day in and day out, they deliver food and goods of all sorts to and from Canada, to and from neighbourhoods, to and from homes. During COVID, we actually relied more on their work. We asked them to do more than they usually do. We all bought items and had them delivered to our homes when we would normally have gone somewhere and purchased them. For much of the time, they did it with no vaccines. No one had vaccines available to them. They did it anyway.

Their work is difficult and, in many cases, it is solitary. They're by themselves. The road and traffic conditions are often dangerous.

I want to say to the truckers of Canada, you are appreciated, you're valued and you're respected. Your collective reputation has been appropriated by many people and many organizations for their own purposes in this unsettled time, but reasonable people recognize that.

I want to thank peace officers who showed remarkable skill, restraint and determination over the past few weeks as they necessarily restored the public order in Courtts, at the Ambassador Bridge and other places, but especially here in Ottawa.

Two weeks ago, I had the opportunity to walk through the Ottawa convoy protest site on Wellington Street on a couple of occasions. Anyone who visited that site could not help but notice that this particular protest was populated by people from across the country, from coast to coast to coast as people like to say. They were represented by many cultures, creeds and political perspectives, some of them wacky, but the vast majority of them represented by millions of Canadians.

I have to say that I followed some of the media coverage as the convoy started out West and rolled towards Ottawa. I didn't follow it closely. The media presented it as a ragtag group of westerners that were coming to Ottawa. We've heard discussions similar to the yellow vests and the energy support group that came from the West and they were on their way to Ottawa.

I was very surprised when I arrived up on the Hill to find that the vast majority of trucks that were parked there were from Quebec and Ontario. I actually couldn't find an Alberta truck on Wellington Street. I have not heard one word from anyone in the media about the fact that this protest was national in nature.

• (1040)

I have never heard anyone ask how these crazy Albertans who have been arrested managed to communicate with all these people in Quebec — if this is a conspiracy — to come to Ottawa on this day. It strains credibility to believe that those folks — because I don't believe any of them speak French or have a network in Quebec — were able to convince that many truckers from that province — and I am using it as an example — to come to Ottawa.

The fact is there was a groundswell of support from across this country. It's that simple. Millions of Canadians identified with the protest. Millions of Canadians still feel the way that they did when they identified with that protest. Thousands upon thousands of Canadians gave \$10 and \$5 and \$20 to that crowdfunding site because it made them feel good that they had a hand in supporting what was going to be a protest in Ottawa against continued government intrusion in their lives after the last two years. I don't believe that it is any more complicated than that, but we'll see.

You know, the sad irony of what happened on February 14, when the Emergencies Act was invoked, is that while people were here to protest intrusion by the government in their lives, the answer to the problem was more intrusion in their lives through the Emergencies Act. It's brought the temperature up.

I agree with Senator Saint-Germain and Senator Marshall and others; it should never, ever have come to what it did come to. A three-week illegal occupation should never have been allowed to occur. There is lots of blame to go around, and the inquiry that will follow, I hope, will be unflinching in assigning that blame

where it belongs, in finding out the facts and assigning responsibility. And I hope that the people and the organizations that are found wanting take responsibility for it.

Nonetheless, colleagues, I believe that the government made a decision to invoke the act based on facts in their possession in a very volatile situation, and in that moment, they did their job. They made the decision, and I believe they made it responsibly.

That decision was made nine days ago. Since then, the Coutts protest, the Ambassador Bridge protest and the Ottawa blockades and occupations have been stopped. The streets have been cleared. Traffic is going on Wellington Street and on the other streets as it did before. There has been a clean-up, and preventive measures need to be instituted, and I have every faith that the police and the relevant authorities will take those preventive measures.

Senator Gold made a defence of why we need to continue the Emergencies Act today, but I don't believe that we are anywhere near any kind of definition of a national security emergency here today on February 23.

Canadians are divided about the use of the Emergencies Act. There is no question about that. A few days ago, in fact, after the invocation, there was a poll conducted by Mainstreet Research which highlights this fact. Of those Canadians polled, 39% strongly oppose the Emergencies Act and its use now; it's repugnant to many of those people. Conversely, 38% strongly agree with the invocation of the Emergencies Act, and the rest of the folks either somewhat oppose or somewhat support or don't have an opinion. So 39% versus 38% means that we're divided. The majority is divided.

So I think that we need at this moment in time to consider this motion not for its utility in approving a decision that happened nine days ago. I think we need to consider whether or not this divisive action is still needed today.

With all of that, on these insufficient words, I will leave it there. I will vote no to the continuation of the Emergencies Act on the basis that I believe it is no longer needed, and it is doing nothing but dividing Canadians and will do so in increasing numbers every day, every hour, that it is in force. Thank you.

Hon. Mary Coyle: Will Senator Tannas take a question?

Senator Tannas: Yes.

Senator Coyle: Thank you, Senator Tannas, so much for your thoughtful remarks. I always, I think like everyone here, pay attention when you get up because we know you have considered the matter at hand with great seriousness. I thank you for your speech today.

As you have said, all of us are grappling with the very serious matter that is before us. This is a serious matter. The divisions that you have mentioned and others have mentioned as central to what caused the situation we're now in are matters of great concern.

I have a concern related to — I'm coming to the question — the poll that you just cited, showing almost even numbers of Canadians who are supportive of the Emergencies Act and those who are against it. What I worry about, probably on both sides, is whether they know what it is. I'm particularly worried about those who are against it because I do believe — and I know for a fact because of what has been coming at me in the many, many emails we've been receiving — that many people in Canada have been fed, unfortunately, a message that this is in fact the draconian War Measures Act that was invoked twice in Canada's history, not three times. This is a new act, a very different act, and I know there is a nuance there that is very hard for Canadians to understand and, therefore, leaves people susceptible to deception. Could you speak to that?

Senator Tannas: Yes, I can. It's never been used, this particular act, since its creation in 1988. That speaks for itself. We've gone all these years, more than 30 years, without needing to use it. We've been through some difficult times in our country; 9/11 is one that jumps to mind and has been mentioned here. It's never been used.

I think Canadians know that it is not a piece of legislation that is meant to be used lightly and that it does impinge on freedoms. I think they know it on both sides.

• (1050)

I agree with you. I think the nomenclature could be torqued depending on what argument you want to make. So I think it highlights the issue and probably highlights the division.

There are people who believe that rare exceptions like this should never be used and should never be normalized, and there are others who believe that what happened in Ottawa made it necessary. To me, it is an example of the alternate facts, the torquing.

I will give you another example that bothers me. It bothers me when I looked up and down Wellington Street at the protest that was there — and I've said it needed to be broken up — but that was not a group of White supremacists and racists. It had some in it. There will always be some wackos that attach to every protest. We don't need to get into that. That was the narrative of our government, our leader. I was enormously uncomfortable with that, disappointed with that, just as I was disappointed with others who went and stood with people — people, not with ideas — who were doing something illegal on the streets of Ottawa.

I don't know if I answered your question, but that was my best shot.

Hon. Brent Cotter: Will Senator Tannas take one more question?

Senator Tannas: Sure.

Senator Cotter: This is a difficult question for me to ask, Senator Tannas, and I generally don't do this. I did appreciate the heartfelt nature of your remarks and I'm in many respects entirely sympathetic to them. My question, I guess, is that if we were all to agree with you, we would all vote no to this motion.

The problem with voting no, it seems to me, is it is impossible to distinguish whether we are sending a message that the emergency should have never been declared or it was legitimate to declare but should be cancelled out now.

I'm sympathetic to that tension, so I want to ask you this question: The legislation contemplates a power in us, with twenty senators to sign it, to initiate a process to bring this to an end. So I guess I'm inviting the question of whether — to meet the description and goal that you have in mind — we ought to endorse the Emergencies Act and then move for its revocation. By that, we would state the legitimacy of the resolution but the need for it to now be cancelled. I guess I'm interested in knowing whether that's a better course than our consideration of the very points that you make. Thank you.

Senator Tannas: Thank you. I actually wrestled with that myself, but here is the conclusion I came to: No one is asking our permission to invoke. It's already been invoked. It's in play for nine days. If we don't make a decision on this, it will continue to be in play for the next 20-odd days until it expires.

I don't feel somehow obligated to make the two-step process, given the fact that we weren't asked for permission. The act is fairly clear that if we reject, it's cancelled, but all the other things carry on, the inquiry, et cetera. So it probably adds some intention. I don't know, I haven't read Hansard, but probably there was an intention to have this process such that it could be stopped after having been invoked and used and that parliamentarians, in their wisdom, would recognize that it was no longer needed.

I would not suggest to anyone here that you need to be troubled about granting your permission for what no one asked for permission on nine days ago, as the reason of not, if you feel strongly about having it stopped today, because the 10 senator program will take many days. Frankly, I predict that if we start the process — and I will be, like Senator McPhedran and others, I am a ready signatory to that process — it will take us into next week. We'll have a debate. I doubt it will come to that. Speaking personally, my bet is that the NDP members of Parliament will be back at home right now visiting with their family and friends and communities and will come back on Monday and initiate the process themselves. And the police will suddenly find that they have found the way to do it without the Emergencies Act and it will be revoked. We'll put that on the record as a bet. But if not, I will willingly participate in the next step. Thank you.

Hon. Paula Simons: Senator Tannas, would you take another question?

Senator Tannas: Yes.

Senator Simons: Thank you very much, Senator Tannas. Like you, I find myself envious of the certainty of some of our colleagues. Like you, I am deeply troubled about the precedent set by the invocation of the Emergencies Act. Like you, I am still making up my mind. But I do have a question I wanted to ask about your assertion that you saw no White supremacists involved in the occupation in Ottawa and your comment yesterday that no one had been hurt as a result of this.

The Coutts border arrests which happened south of where you live but in your larger backyard certainly gave me pause. The police seizure of that many firearms, that much ammunition, the markings of the Diagonal White supremacist group with those weapons. I'm wondering whether we aren't being a bit naive when we say, "Well, no one got hurt. There were just a few wackos who attached themselves to this." It seems to me that the base of this protest was a very dark, very ugly and very worrisome trend in this country that we need to be paying much more attention to.

Senator Tannas: First of all, I think I said no one wound up in the hospital. I think we all saw a lady that got hit by a horse and got back up and was interviewed. By the way, my comment was not necessarily about the virtue of those that were at the barricades. It was more around the discipline of the police and the tactics that they deployed in order to safely bring the Ottawa protest to an end.

You could be right. I don't know the people from Alberta that have been pointed at as the ring leaders in all of this. I don't know what their motives were in starting it, but I can tell you that the millions of people that expressed sympathy and support in one form or another saw something in that which gave voice to their frustration or part of their frustration. So I don't know in truth whether the protest was co-opted by ordinary Canadians with very real frustrations or whether the convoy of real Canadians with real frustrations was somewhat co-opted by a very small group of people. I looked when I walked up and down there. I could not see flags — I sure saw a lot of flags. In first place was the Canadian flag by a mile. In second place was a flag that had a comment about the Prime Minister and a maple leaf on it. Really, anything else could not have been said to be prominent. The placards up and down that were attached to the fence were overwhelmingly about personal freedoms and vaccination. I can't comment. It's not in my area of expertise as to whether or not White supremacists are on the rise, on the wane or the same as they have always been. In a free society, we are always going to have those kinds of people. They are always going to be around, and we need to stand up to them in whatever form is necessary.

• (1100)

[*Translation*]

Hon. Pierre J. Dalfond: Would Senator Tannas agree to answer another question?

I would like to thank you for your comments and ensure that I understood correctly.

You explained earlier that we must look at the situation as it stands today. If I understand the legislation correctly and if, between nine days ago and now, we had found out that a million bank accounts had been seized and the associated financial transactions had been halted under the economic measures order, it would be a bit surprising for the Senate to confirm the declaration only to engage in a process the following week to revoke the use of the act or declare that the application of the legislation should end.

If I understand correctly, we must look at the situation as it stands today, including the impact the declaration has had, which has been positive in some ways and negative in other ways, before voting.

Have I understood that correctly, Senator Tannas?

[*English*]

Senator Tannas: I understand your point. However, there may be senators who are persuaded. I'm sure the government leader will be working furiously to make sure people are persuaded that this must be confirmed, that there is then a process by which we can remove it and that we shouldn't conflate the two. I believe there will be people who will be persuaded by that. So if you believe that and acknowledge that — and I think that is real and it is every senator's right to make their decision on whatever basis they are going to make it — there may be a different decision made whenever we vote three, four, five or six days from now — if we are still in this emergency measure; if it persists. They could then turn their minds to it, free of the fact that they've confirmed the original. I have done it in my speech. I have confirmed the original, and I'm saying it's time to end it now. I'm glad you said the law is on my side with this. I didn't know that, but I'm glad it is. Thank you.

Hon. Kim Pate: Like Senator Simons, I am still struggling as you can probably tell from my comments yesterday. Many of us are extremely concerned that once this is done in this kind of circumstance — and I didn't mention it last night, but I share your incredible appreciation for the restraint that the police showed in this instance, at least in everything we could see and what was televised. Certainly, I have heard from other folks that things were happening that were not televised, but everything we saw was incredibly restrained, unlike what we have seen in many protests involving Canadians of African descent, Indigenous folk throughout this country, land and water protectors as well as other protests. Like you, I'm extremely concerned about that once this is done, how often this can be redone, particularly given whoever might be in power who might choose to abuse such state power.

I'm interested in whether you think the inquiry, which you have talked about, is sufficient to ensure that we have the kind of accountability you spoke about and that we need to have in the country when we talk about using such incredible measures as the Emergencies Act, or whether you think we need to actually — and I take from what you have said that you would be able to participate in a group that would do this — call for the immediate revocation of the act if it should pass this chamber. What do you see as the way forward? I agree with you about the lack of leadership. In your opinion, which I value, how do we bring this country together at this point?

Senator Tannas: One of the things that has to happen is what Senator Housakos said. This is a moment when political points — and calculations about how to score them — need to go out the window when we actually do the review of what happened. Those committee members need to be focused on what really happened and on making sure that everybody who had a role to play and didn't play it, or who played a role they

shouldn't have, is enumerated, and it is brought to the light of day. That will go with not just the committee but the selection of who goes into the committee.

Leaders will have a responsibility. They will have the job of appointing people to that committee. Caucuses will have some role in the House of Commons — I speak specifically about the House of Commons. If you are sending your political spin master into that committee to make sure that it all comes out to your advantage, we are sunk right from the beginning. There is a moment before that committee starts where I think leadership has to begin. I would hope that the Prime Minister, the Leader of the Opposition, the caucuses, the NDP, the Bloc Québécois and all of us here would take that first step of leadership and put somebody in who has the expertise, the guts and the willingness to work with others to make sure that a proper accounting of this takes place.

Senator Pate: That's in the short term, absolutely. A number of us have spoken about the longer-term issues and the fact that the situation we are in today was decades in the making. Would you agree that there is a need to really look at — and one of the next pieces of legislation we'll be looking at will be trying to fix — some of those who were left behind, like the elderly, during this period? Do you believe we also need to be looking at the fundamental fabric — the social, economic and health frameworks — that exists to support people in the country?

Senator Tannas: I think this is a very dangerous time. Over the last six years, we have spent an enormous amount of time listening to, considering and advancing the rights of lots of minorities who have been waiting for their time to get recognized. If I was a leader of a minority — if I was in that position — I would be very worried. The reason I would be worried is that the majority is at war with each other. They have split. In order for minority rights to be properly recognized and protected, the majority has to do it. If the majority is dysfunctional, then God help the minority.

We have work to do to heal the divide — this large divide, the 40-40 divide, whatever you want to call it — that exists in this country before we can go anywhere. We are as gridlocked as Wellington Street was during the protest. That must be fixed.

• (1110)

It's going to take some time and it's going to take goodwill. There will be many places along the way where I believe minorities will need to help the majority find common ground. They will need to call out bad behaviour on all sides, not just the side that maybe they perceive is most helpful to them in the moment. We have to bring people together.

Senator Housakos once said something to me, and I hope he doesn't mind me saying this. He said, "Hey, I'm Greek. We argue," and I took that to mean, "this is politics." Parliament is a political institution. We came here to disagree and to talk, but to find common ground and to always respect each other. We have to start modelling that behaviour if we are going to advance our country and every single citizen in it.

Hon. Marc Gold (Government Representative in the Senate): Would you take a question, Senator Tannas?

Senator Tannas: Yes.

Senator Gold: Thank you. At least you only have 45 minutes. Senator Tannas, thank you very much for your speech, delivered as always soberly, sensibly and with thought.

As representative of the government, I appreciate very much the statement in the course of your speech when you confirmed that government made the right decision to invoke the Emergencies Act — not done easily.

You seem to assume in your remarks, however, that, were the Senate to confirm that decision, the act would persist for 20 days. But, in fact, as the government has been saying and as I have said in this chamber as recently as yesterday, the government is reconsidering this hour by hour. It was cautious, indeed, reluctant, to invoke it.

If the government made the right, prudent and cautious decision to invoke it and is committed to reviewing it on a regular basis, why would you doubt that the cabinet would not make the right decision when taking the advice of the law enforcement professionals, who have informed this process all the way through, when they put their minds — as they do regularly — to whether it should end? Why do you think the government would be any less cautious, prudent and responsible in the decision they have undertaken to review on an hourly basis?

Senator Tannas: First of all, all evidence is to the contrary. The streets are clear. The emergency is over here in Ottawa. I accept that there was no way that conventional policing, with the laws on the books, could have done what was needed to encircle 100 square blocks, deny people entry and exit and to do what they needed to in all of the other elements that have been well enumerated to break the back of that protest that had metastasized over three weeks. I accept that.

There is lots of blame — and we'll get to the blame — as to whose fault it was. It doesn't matter. How could they have done it? I believe that that drastic decision had to be made.

But today, to say that we need to continue an act that has been told to Canadians is the absolute last resort, that it must continue today and in the next hour, the hour after that and the hour after that, when the clear purpose it was invoked for, here in Ottawa, has been dealt with. That is the issue.

We have a fully functioning intelligence department. We have the RCMP. In this province, you have the Ontario Provincial Police and you have the municipal police. They didn't all go home. They have been working hard. They have laws and resources available to them. There is nothing that I have heard that tells me that they still need those.

We heard yesterday that there were all these banking and financial products that had been frozen. Now we hear they are starting to be unfrozen — not that there are new ones, just the ones that were frozen. That leads me to believe that the extra measures that are so repugnant to Canadians — because they were told that this law was to be used once in a generation

maybe — and the powers in that law need to continue just doesn't square. I have not heard anything that convinces me otherwise.

We heard from you and others about the financial side of things. We heard about a bunch of truckers who are circling Ottawa or parked in a field somewhere waiting to come back as soon as the Emergencies Act is revoked. Presumably, this time the police have a plan if that happens, or, I guess if they don't, then we'll have to invoke it again. But it doesn't need to continue today. It should be put back in the closet where it belongs. Thank you.

Senator Housakos: Or, of course, the government can just lift the remaining mandates, like everyone else is doing, and they will never come back, at least for this issue.

You are absolutely right, Senator Tannas. You and I have engaged in debate here for many years. Sometimes we agree, sometimes we disagree, but we respect each other's opinions. You are right. I am Greek, and, of course, in the word "democracy," "*demos*" is "people," and "*cratia*" means "rule." Rule of the people — that is what democracy is all about, and we should never forget that.

I appreciate your interventions and comments, and I agree with you and Senator Pate that this was a huge protest, but very tempered and very peaceful. We have to give kudos to the police and public security forces — and the protesters, because they found a way to protest, yet when the police had to do what they had to do, they backed up. They retrenched, they backed up and accepted the finale while getting their point across. While we have had, as Senator Pate said, other protests in this city — Black Lives Matter, Indigenous protests, very legitimate protests — and in my own city there was commercial violence and statues were desecrated.

My concern is that this precedent-setting event needs to have an end to it or parameters to send a message to this government and future governments that this should not be a precedent. Then every time the people rise up in frustration, and there is some measured violence or some of stretching of law and order as we know it in this country because they want to express their democratic frustration, other governments won't use this as a precedent to do something as equally draconian to environmental groups, Indigenous groups and others who have legitimate reason to protest.

Finally, we are a great federation. As you brought up, public security is the responsibility of municipalities, provinces and governments in collaboration. Did we get any indication that provinces and municipal authorities were calling on the government to do this? It seems like at least seven out of ten provincial governments have been outraged by this measure.

Can you comment on both the precedent this sets in terms of future protests and why the government would do something when there hasn't been a call from other levels of government to ask for this across the country?

The Hon. the Speaker: Excuse me, Senator Tannas. I'm sure you want to answer this question, but your time has expired and there are other senators who want to ask questions. Are you asking for five more minutes?

Senator Tannas: No.

Hon. Salma Ataullahjan: Honourable senators, I rise today to speak on the Emergencies Act. Its invocation is a testament to our government's failure to control protests happening on its doorstep. Canadians asking for leadership to guide them through the third year of a pandemic and countrywide protests were abandoned for three weeks, only to learn that our government has invoked an act against its own citizens.

• (1120)

My office, like most senators' offices, has been receiving numerous emails and phone calls about the convoy. There have been growing concerns about the so-called freedom protesters who are fighting for and consequently taking away freedom from their fellow Canadians. News of protesters taking over the nation's capital has gone viral worldwide, damaging Canada's reputation. Family and friends from around the world have reached out trying to understand what is happening in our country.

As an advocate for human rights, I will always support the right to protest peacefully. At some point, this peaceful demonstration took a turn for the worse and we started witnessing swastikas, Confederate flags and even the Islamophobic Three Percenters flag, a terrorist group as designated by the Government of Canada. I have heard stories of racialized parliamentary staff requiring escorts to enter their workplace. I have also heard of women who stopped wearing a mask when leaving their home out of fear. While protesters have insisted their rights are under threat, I cannot help but wonder who is protecting the rights of the ordinary citizens of Ottawa.

What particularly worries me is the precedent this invocation sets. The Emergencies Act allows the federal government to bypass ordinary democratic processes, and according to the Canadian Civil Liberties Association, the government has not met the threshold necessary to invoke this act. The executive director fears that normalizing emergency legislation threatens our democracy and our civil liberties. On Thursday, February 17, the Canadian Civil Liberties Association announced they would legally challenge the use of the Emergencies Act.

I would like to specify that these emergency measures affect every single Canadian. Unlike the Prime Minister's assurances, these measures are not focused on certain areas; they apply to the entire country. Already the act will be used to broaden the scope of financing laws, and allow government agencies and banks to share relevant information with the police. And this is only the beginning. I also worry about a lack of respect and adherence to our Charter of Rights and Freedoms. Of course, a special parliamentary review committee will be established to review the government's actions under the act. But the committee's insights might come too late, as it appears to be a retroactive evaluation. Every measure under the act must be scrutinized, weighed and discussed to ensure the respect of the Charter of Rights and Freedoms.

More importantly, I fear the sweeping powers of the Emergencies Act may turn against racialized Canadians, such as the Canadian Muslim community, of which I am a part. Since 2001, my community has been excessively targeted by Canadian authorities and fellow citizens alike. Recent Islamophobic attacks have only shown that we are not safe. And the National Council of Canadian Muslims, in reaction to this act, said that we must preserve our right to protest while working with civil society to better understand what these emergency powers mean for the future of protest and to reinforce our Charter rights. Mustafa Farooq, the CEO of the National Council of Canadian Muslims shared a press release in response to the Emergencies Act. He said:

Canadian Muslims are all too familiar with having community organizations, funds, and initiatives be perceived with suspicion by the security establishment. . . . Many of us have questions that must be answered through a process that is transparent and not driven by partisan interests.

Of course, handling a protest in the nation's capital is no small feat, but the current chosen route is not one of unity. Multiple provinces have voiced their concerns and have clearly stated they are against these drastic measures. The Emergencies Act gives the federal cabinet unprecedented power to assume jurisdiction from the provinces and municipalities, which goes against the basic principles of responsible government under the Westminster tradition. Canadian provinces have worked hard since Confederation to enhance the status and particularities of their provincial governments. They now face an oligarchy and the disappearance of hard-earned powers.

The Prime Minister had the choice to extinguish the flames of dissent and defuse the situation weeks ago. The government's lack of response to the protests and reliance on the Emergencies Act have put us at risk of severe, lasting repercussions on Canadian society for years to come. Only time will tell if our democracy will be better because of it. In the meantime, the protests are over and the roads are clear. So tell me, why do we still need the Emergencies Act?

Like Senator Tannas, I was also very disturbed by the lack of leadership. Canadians were left on their own, wondering where their government was. Canadians were looking to the Prime Minister for reassurance that everything would be well, but the Prime Minister was missing. He wasn't there when Canadians needed him most, but what he did was invoke the Emergencies Act.

Honourable senators, for these reasons I will not be supporting the Emergencies Act and I will be voting "no." Thank you.

Senator Pate: Would the senator take a question?

Senator Ataullahjan: Yes.

Senator Pate: When Senator Housakos spoke, he slightly misrepresented what I said. I talked about the concerns with protests like the Indigenous protests and Black Lives Matter, and concerns about the use of state force against them. You also mentioned the concern you have, whether it is people of Muslim faith or those of African descent or Indigenous peoples who speak out. I want to confirm that is one of the concerns, not that it is one of those protesters who would cause harm, but it is state harm that often comes to them when we invoke these kinds of emergency acts.

Senator Ataullahjan: Senator, I'm reacting to what I have been hearing from the community, who are really concerned that this Emergencies Act will do nothing to protect some of the minorities. I don't think Senator Housakos misrepresented; I thought he was talking about the protection of everyone. But I agree with you. We have to be really vigilant.

The other issue is — and here I talk about my community — that a lot of them have come from countries where they didn't necessarily have the freedom to speak. They didn't know their rights, and I know of cases where things have happened and there has been excessive force used and the community didn't know what recourse they had. I am here representing Canadians, but a certain community looks to me for answers and they have been calling me. They have expressed their concern. What does this act do for our protection? Like the National Council of Canadian Muslims. We also need to have the right to protest peacefully.

I want to acknowledge that this was a peaceful demonstration. Somewhere along the way, it turned. I also want to acknowledge police did show great restraint. We were all glued to our TV sets wondering what was happening in Ottawa.

Senator Pate: So you would share the concern of many of us, regardless of which party formed the government, that there would be a concern about not using this against individuals in a way that would actually reinforce stereotypes and discriminatory attitudes?

Senator Ataullahjan: Yes, I would.

Senator Pate: Thank you.

Senator Housakos: Would the senator take a question?

Senator Ataullahjan: Yes.

Senator Housakos: Thank you. I don't think I misrepresented at all. I think Senator Pate and I are on the same page. I want to clarify what you are saying, Senator Ataullahjan, and what believe I hear from you is that any group of protesters in this country — environmentalists, Indigenous groups, Black Lives Matter, people who are anti-mandates — will have the fundamental right to do it without the threat of this draconian hammer being dropped in the future. What I'm trying to get across is this dangerous precedent, something that for future governments who have a problem with the agenda of certain minority groups or groups who don't fit their political agenda, this would set a precedent, which is very dangerous vis-à-vis all groups.

Senator Ataullahjan: Senator, I would agree with you. It does set a dangerous precedent. I am all for demonstrations, as I said, but we need to have peaceful protest. We need to give Canadians the ability to let us know how they feel. Like Senator Batters mentioned yesterday, the Ukrainian community is very concerned. I know that in Toronto, they were out expressing their concern. They were out there protesting, but they can't come to the federal capital, the seat of the government, so I hear you.

• (1130)

As a human rights person, I support peaceful protests where no one feels threatened and no one feels they don't have the ability to perform their duties or go to work. However, this time, there were instances where some young girls in scarves had to be accompanied. It was one of our own MPs who brought this issue up, so we were seeing people feeling threatened. I think it's better to look at the reality of what was happening. We wish it didn't happen. We wish it had been handled better, but we have a Prime Minister who was missing. We didn't hear anything from the government. I fielded calls from irate Liberal supporters who said, "Where's our Prime Minister?"

Peaceful protest? I'm all for it.

[Translation]

Hon. Michèle Audette: Honourable senators, I want to start by thanking the Wendat, Innu, Abenaki, Wolastoqey and Atikamekw nations for welcoming me on their land in the Quebec region.

Although I am rising today for the first time, this is not my inaugural speech. I will soon be giving that speech in response to the Speech from the Throne.

However, this issue is so important and resonates with me so much as an individual, and as a senator from Quebec, that I felt I needed to share my thoughts and, of course, some observations that raise a lot of questions.

As you know, I supported the statement issued by the Parliamentary Black Caucus regarding the protests in Ottawa on Anishinaabe territory. I also supported the statements made by Indigenous senators on these protests. I remind senators that the Federation of Sovereign Indigenous Nations in Saskatchewan, the Algonquins of Pikwakanagan, the Algonquin Anishinabeg Nation Tribal Council and the Kitigan Zibi Anishinabeg Nation expressed their concerns about the violation of First Nations protocol and the appropriation and misuse of objects and ceremonies that are precious and sacred to us.

I continue to support and stand behind these statements.

I firmly believe in the right to peaceful protest, and here is why. I am a peaceful protester. I have participated in peaceful protests, and I have watched and observed others. Here are just a few: the Summit of the Americas, Idle No More, Theresa Spence's hunger strike, the Amun March from Wendake to Ottawa, and countless protests on Parliament Hill, in front of the Quebec National Assembly, and even before the Supreme Court

of Canada. These protests were against the injustices faced by Indigenous women and sought to make our voices heard and to propose changes to eliminate those injustices.

On several occasions, I have heard senators in this chamber talk about how there were guns at Indigenous protests. I can assure you that the only tool or, as some might describe it, the only weapon that I had at any of the protests were my voice and my convictions regarding the democratic process.

That being said, I cannot support intolerance, hate, the use of hate symbols or violence of any kind.

As some have said after seeing and hearing what has been going on, my Canada is suffering. I have felt that more keenly these past few weeks. We are seeing a Canada that is letting racism and discrimination permeate various institutions.

The question I am asking myself is one that has been raised over and over again these past few weeks: Do you really think this charade would have been allowed to continue had the protesters been Indigenous, Black or from a cultural community?

My answer is simple: No, it would not have lasted. There is evidence that tolerance for peaceful protests by Indigenous people and members of the Black community is lower. Police intervention and other measures such as injunctions happen in the blink of an eye when it's racialized, Indigenous and vulnerable people involved.

I would like to quote from an article by Audra Diptée, an associate professor of history at Carleton University:

. . . in 2016, on the very first day of a peaceful demonstration in Toronto, participants of the Black Lives Movement were beaten and gassed by the police. Four years later, in Ottawa, a protest at a key intersection advocating for Black and Indigenous lives resulted in 12 people being charged and the protests being removed within three days.

As Emilie Nicolas wrote in *Le Devoir*, and I quote:

. . . while racialized parents are reported to child protection services for basically no reason, dozens of kids have been in unsafe conditions in the Ottawa convoy for weeks.

Who is going to do anything about it, I ask? That same reporter, Emilie Nicolas, went on to say, and I quote:

. . . we are reminded of the homeless encampments that the police aggressively razed, citing fire hazards. While countless Indigenous leaders have been subjected to close police surveillance, authorities are so unconcerned about the dangers posed by the far right that they were "surprised" by several of the convoy organizers' plans for occupation and sedition (which had been clearly stated online).

I could also use the platform I have here today to inflame the political debate. All I will say, however, is that certain parliamentarians unfortunately have a double standard when it comes to blockades set up by Indigenous people and the protesters who took over Parliament Hill.

Isabelle Picard, a Huron-Wendat ethnologist for whom I have a great deal of respect, also wrote about this recently, and I quote:

This time two years ago, all eyes were on the Wet'suwet'en community and what the media was calling, at best, the railway crisis and, at worst, the Indigenous crisis. Because this crisis was far from being entirely Indigenous. The people blocking the tracks were from all walks of life. The people who were arrested, however, were definitely Indigenous. Nearly all of them. At least on Wet'suwet'en traditional territory. Twenty-eight people were arrested by the RCMP after Coastal GasLink obtained an injunction for a major gas pipeline through Wet'suwet'en territory.

Ever since these pre-pandemic events, negotiations have become mired in the status quo. There have been 50 or so additional arrests. Almost all were Indigenous people. Women and elders were in the bunch. Ten days ago, a complaint was filed with the UN by pipeline opponents, for the violation of several articles of the United Nations Declaration on the Rights of Indigenous Peoples.

Ms. Picard added that there are many differences between the protests in Ottawa and those in British Columbia:

On the one hand, you have people who have burned thousands of litres of gasoline to get their message heard, and on the other, you have people who want to prevent oil from flowing through their land. The former speak of freedom, maybe because they have too much of it, and the latter can only wish for freedom, because they have none. However, both groups (and that's not including regional imitators) are ready to stand their ground for as long as it takes to uphold their convictions.

As you know, I heard testimony during the National Inquiry into Missing and Murdered Indigenous Women and Girls. The witnesses clearly demonstrated how the Canadian government committed or tolerated violations of human rights and First Nations, Métis and Inuit rights. These violations perpetuate a system where violence is regularly trivialized and where crimes are committed with impunity. Our trust in our institutions is shot, but we are hoping — I am hoping — that this trust can be rebuilt. However, in light of recent events and the leniency of these same institutions, it should cause no surprise or offence that we are puzzled and bewildered.

I stand puzzled before you now. Why is there no mention of racism or the use of hate symbols in the proclamation of the public order emergency? Why aren't the tools and measures applied in the same way for everyone?

• (1140)

It is unquestionably important to ensure that everyone can live in a safe and peaceful environment. The people of Ottawa have gotten their city back, but we cannot disregard or dismiss the threats that still linger in Ottawa or elsewhere in Canada. How can we ensure that daily life for the silent majority will never again be obstructed in this way? More importantly, why would we allow splinter groups to undermine and weaken democracy?

However, I do have one concern. Could the invocation of the Emergencies Act be used in the future to justify restricting the right to protest? I hope not.

Therefore, I urge you, esteemed colleagues, to ensure that a senator who is a member of a Métis, Inuit, or First Nations community or a member of the Parliamentary Black Caucus takes part in the parliamentary reviews and any other measure to study the sequence of steps taken by the government under this act. It is important to me that this be examined through different eyes and diverse lenses.

The same principle must apply to those chosen to undertake an inquiry and table a report in each House of Parliament within 360 days of the expiry or revocation of the state of emergency. Here again, it will be important to have a Métis, Inuit and First Nations lens.

As ethnologist Isabelle Picard said so well:

Let's get back to love and peace. That doesn't seem to be our biggest problem. To be able to talk about love, you have to be able to talk about hate and war. To talk about freedom, you have to be able to talk about servitude and slavery.

For as long as I can remember, I have carried, I have "portaged," the values of social justice, equality and equity in my heart. I too dream of a just and open society, in which everyone feels welcome and all languages, cultures and stories are respected.

I think this is an important debate, and I will be listening closely while I wait to make a decision, which will happen very soon.

Thank you.

[*English*]

Hon. Pamela Wallin: Honourable senators, the question we are being asked to consider is this: Did the events here in Ottawa over the last three weeks meet the threshold for this extraordinary imposition of the Emergencies Act?

Today, the following question remains: Why is it still in place? The emergency has been met. The blockade is gone. Surely, the authorities will not be caught so flat-footed ever again. Therefore, the threat that the protesters may come back in force seems unlikely. Intelligence operatives and police have surveillance and investigations under way to deal with crimes in the making, plots or new actions.

They had those powers before the invocation of the Emergencies Act.

In a letter sent to parliamentarians from Advocates for the Rule of Law, a non-partisan think-tank, argued the following:

The failure of the government and police to enforce existing laws and court orders is not a sound basis to expand state power with a declaration of a public order emergency, when no such emergency has been proven to exist. One rule of law failure should not beget another.

The letter goes on to state:

... it risks a gradual erosion of Parliament's role in favour of executive power; and it amounts to a damning admission of a failure of state capacity. If Canada is to remain a functional and free democracy, then it must be able to solve problems using existing laws and established institutions, and without resorting to the most extreme measures except where absolutely necessary.

So I think we can all agree on both the importance of the rule of law in Canada and the objectivity of the courts, which together form the foundation of a just society. The Emergencies Act asks Canadians to forfeit this most basic tenet of our democracy.

In fact, what we actually witnessed was a colossal failure of leadership at all levels. I think it's fair to say that the convoy protest became an encampment due to the failure of planning and the inability to react.

There was not a single barricade. Protesters were actually directed to Wellington Street, the main access to Parliament. There were existing laws to move trucks and do something about horns, diesel fumes or clogged streets. But those laws were not employed. So it's difficult to accept now that bad decisions and inaction justifies using an act reserved for the most dire national security crises.

This act is meant to be used — well, never. Here is why: Its application is a judgment call, and judgments are political by definition when the government of the day substitutes itself for Parliament or the objectivity of the courts. The act comes first, then permission is sought. Invoking the Emergencies Act in this context has made the law a subject of partisan contention, and when the Prime Minister made this, for all intents and purposes, a vote of confidence in his government, it only further illustrates the problem.

This is at the core of why emergency legislation is so risky and so dangerous. The ability in a free and democratic society to protest requires the blind application of the law. The Prime Minister deemed some protests in Canada to be acts of democracy and even participates in some. No action was taken against church burnings or topplers of statues. That was called understandable. But the Prime Minister declared the trucker protesters here in Ottawa to be racist, White supremacists, misogynists, people he didn't like and would never talk to.

But does being frustrated, angry or critical of government actually make you an enemy?

Therefore, the issue is this: Who should decide what is lawful advocacy and what is an illegal protest or occupation? Who is to decide to whom laws apply or whose actions can trigger the invocation of the Emergencies Act?

That is why we have the rule of law and the obligation to make your case for extra powers to a court and not leave it to the judgment call of the government of the day.

So why the Emergencies Act now? We did not see it invoked at the G10, at Oka or when Parliament was attacked in 2014. We did not even see it during 9/11. I lived in New York then and witnessed the fear and genuine crisis that unfolded, and even during those extraordinary times, there were fierce debates over what was called a ticking time bomb situation. How far can and should you go to fight terrorism? One argument was, for example: Can you waterboard someone to get information to defuse the ticking bomb?

History teaches us that too often actions taken in the heat of the moment, even in the face of actual terrorism, prove to be ill-considered and were rejected once they became known, but that was months, even years, after the fact.

One issue today that I find particularly troubling here is foreign involvement and financing being used as a justification. Foreign money has been flowing into this country for years to support or oppose a variety of political causes and issues: stop a pipeline, save a whale or support a truck convoy. So why is it okay for some causes to be funded by foreign supporters but not others?

The Finance Minister stated that new FINTRAC rules, expanded under the new act, will allow for greater financial reporting obligations of crowdfunding sites and crypto-currency platforms and will be made permanent with legislation. I agree FINTRAC, as it stands, lacks the necessary teeth needed to track the finances of criminals or extremist groups, but to use this as an opportunity to test out new laws is deeply unparliamentary and takes advantage of this situation to advance policy and perhaps even political goals. If you want FINTRAC 3.0, then present it, defend it and vote on it. Again, we see the extraordinary powers before a parliamentary vote.

If you disagree with the government, can you be excluded from economic activity in this country? Can your finances be frozen or essentially sealed? The remedies for those who have been unfairly targeted require resources because banks and financial institutions have been given immunity from liability under this new act. So appealing to your bank, the police or the courts is probably not going to resolve the matter. It is costly, and if your resources are frozen, then it's not even an option. Many are caught in this catch-22.

Of course, no one wants our way of life, our democratic rights and freedoms or our system of government put at risk. So what other options are there other than the imposition of a draconian law?

• (1150)

We saw in Coutts, Emerson and at Windsor's Ambassador Bridge how talking, and more importantly listening, brought blockades and protests to an end. Criminals were charged and arrested. The weapons cache was seized under existing laws.

But that did not happen here in Ottawa. Why? Well, as Emergency Preparedness Minister Bill Blair said, "We cannot leave anyone with the impression that our democracy is negotiable or subject to efforts of appeasement."

The discussions in Coutts and Emerson and Windsor did not erode trust in public institutions or put our democracy at risk. Talking helped. Listening helped. And it could have been an opportunity to turn the temperature way down, calm the fears and bridge the differences here in Ottawa too.

Colleagues, I come from a part of the country where it's normal to wear camouflage, drive a semi for a living, bring your kids to events because you don't have a nanny or be skeptical of almost any government intervention in your daily life, mandates included.

Many truckers have been working all through the pandemic, delivering things we needed or simply wanted. They had no place to eat and were left to use the side of the road. These were folks at the heart of the convoy, not the opportunistic agitators that rose to prominence, commandeered the headlines and in the process became the justification for this bill.

Ultimately, this debate is a litmus test. The result will reflect your own experience, your own beliefs, your own world view. Sitting with colleagues in a restaurant the other night when the House vote was announced, wild cheers broke out. It felt more like a victory whoop at a sporting event than the realization that our country had just made a profound and very risky decision.

Democracy is messy. Free speech is about tolerating speech you disagree with so that you, in turn, are free to say what you believe. Every day we tolerate risks and inconvenience and discomfort to participate in and protect our democracy. It's part of the price of upholding our rights and liberties.

Emergency powers cannot and must not be normalized, especially at a time when more and more Canadians are losing faith in our institutions.

The defenders of this bill say, "Trust the government. They will not go too far. Just trust them." Well, "just watch me" gave me no comfort and "just trust me" gives me less still.

The political fallout from the War Measures Act haunts us still. It has shaped and distorted politics for half a century. It had consequences no one could have predicted.

I fear the same may happen, that today those who are rounded up may go silent but not away. That those who have been targeted, disparaged or have their livelihoods threatened will disengage from our civic life. I fear that others will decide that separatism is the only answer. We have seen the precedents.

When people lose faith and trust in our national institution, the ties that bind fray. Canada itself is an act of faith. Our east-west configuration is challenged daily by the north-south pull of common geography, shared interests and trade. If we ignore the reality of political difference, if we pretend smugly that somehow partisan division is an American phenomenon and foreign players are to blame, that is to deny the very basis of our democracy. Opposing the government of the day is democracy. It's how it works. It's why we have elections. It's why we have debates and votes here and in the other place. It's the very basis of our parliamentary democracy.

To silence criticism or dissent through extraordinary laws is the very action we would decry and denounce everywhere else in the world, and that is why I will vote against this act. Thank you, colleagues.

Hon. Bev Busson: Honourable senators, I rise today to speak in favour of the Emergencies Act. Our capital, and the entire country by association, had been taken hostage and continues to be at risk.

Early last week, it had unfortunately become clear that the usual procedures of the municipal police force had been overwhelmed, as their chief had put it. The blame game is for another day, but we must now step up to the plate.

Last Friday, the full force of the state enabled by the Emergencies Act began the process to end this occupation of our capital, and we are now debating essentially whether we should sanction it. We as the chamber of sober second thought are called upon to act, not for our own political beliefs or philosophies, but for the greater good.

Like the pandemic itself, this is one of those times when we must act decisively, not in a partisan way, in order to support our democracy and those who put themselves in harms way to defend it for us.

This is not over, as some of us have suggested. I implore you to consider the message we would send if at this moment in history we take advantage of the freedom won back for us this weekend, and yet vote no for this matter disagreeing with the act coming into force in the first place. Again, this is not over.

Those who coached the occupation of our nation's capital and the intended roadblocks across Canada will be emboldened if we, dear colleagues, do not support our national institutions, its police officers and the rule of law. I will repeat, this is not over.

I'm so proud of the police officers from across the country. In the past days, they employed textbook professional policing techniques using their powers in a measured way — no tear gas, no rioting, no looting and no loss of life. The Emergencies Act continues to enable the police to react with strength and to ensure our democracy is re-established. If we vote no, the wrong message will be sent. Contrary to suggestions made today — that we can just invoke it again if we get this wrong — are untenable. We never want to invoke this again.

Truckers and their supporters gathered in Ottawa on or about January 29 to rally against mask mandates, lockdowns, restrictions on gatherings and other COVID-19 preventive measures. These peaceful protesters, comprised of Canadian citizens exercising the right to demonstrate, soon found their cause co-opted by a much darker element in our society. Call them what you will, but know that they stand for the overthrow of our government and the dissolution of our democracy.

Canada prides itself on embracing and supporting human rights enshrined in the Charter of Rights and Freedoms. Our Charter describes our rights and what we can expect and demand in our civil society. But it also suggests that with this, a corresponding contract exists to respect the rights of others as well. Freedom is a two-way street balanced to ensure that the rights of one do not infringe on the rights of another. We depend on this balance to live our life together with respect.

One of these rights is the right to speak against the government and to oppose any law we disagree with. However, and disturbingly, there has been a wave of ultra-right groups who have taken the trucker-inspired protest against mask mandates and morphed it into a movement that is not only disruptive to the rights of the citizens of Ottawa, but also has brazenly ignored the rule of law and created an environment of hatred for those who live and work in our nation's capital.

Spinoff protests have occurred and are still occurring around the country as well as at border crossings and airports. Hardcore members of these groups thwarted requests and negotiations to have them leave and they locked down, thumbing their noses not just at the police, but at the rights of each and every one of us to feel safe and secure.

Those in Ottawa were the hardest hit, but the entire country has felt the sting of this lawlessness and disrespect as we watched the nation's capital be turned into an amusement park for anarchists. Make no mistake, their mission remains the dismantling of our government and replacing it with one of their own. Sorry senators, we're not going to be running the country with the Governor General any time soon. These people, by

definition, are anarchists. They are professionally led, well funded and skillfully planning the downfall of our democracy. They use children as human shields to obstruct enforcement.

The Hon. the Speaker pro tempore: Senator Busson, I'm sorry. It is noon. I have to interrupt you. We will resume debate at 1 p.m.

Senator Busson: Thank you. I will look forward to continuing.

(The sitting of the Senate was suspended.)

(The sitting of the Senate was resumed.)

• (1300)

MOTION TO CONFIRM THE DECLARATION OF
A PUBLIC ORDER EMERGENCY—DEBATE

On the Order:

Resuming debate on the motion of the Honourable Senator Gold, P.C., seconded by the Honourable Senator LaBoucane-Benson:

That, pursuant to section 58 of the *Emergencies Act*, the Senate confirm the declaration of a public order emergency proclaimed on February 14, 2022.

Hon. Bev Busson: These occupiers are by definition anarchists. They are professionally led, well-funded and skillfully planning the downfall of our democracy. They use children as human shields to obstruct enforcement. We need the full power of the state to make sure these people do not again overwhelm those who are trying to protect us. Although this protest was political and a failure on many fronts, it becomes a police matter to clean up the streets and deter those who would want to move the game somewhere else. This is not over, and I believe those who think it is are engaging in wishful thinking.

There will be armchair quarterbacks who would have complained of heavy-handedness if the protests were proactively dismantled on day two of the occupation and there will be those who will now complain that they went too far. I learned in my prior life that policing a protest is a no-win situation. The police are not there to take sides. They are there to keep the peace. In my opinion, it's a miracle that, given the chemistry of the occupiers and the numbers of counter-protesters feeling forced to vigilantism, no one was killed or that violence and looting had not been triggered.

This brings us to today. What are we prepared to do to protect our democracy? That is essentially the question we have to ask ourselves. Some have argued that invoking the Emergencies Act is an overreach. I submit that this is exactly the situation that this act was designed and created to address. It was passed by the Mulroney government and has never been used before. The situation cries out for an effective and decisive response. People were entrenched in our capital, swearing at people wearing masks, making racist and homophobic remarks, attempting to commit arson at buildings where people were asleep and generally taking over the streets. They were imposing their will

on those who have the right to live their lives, go to work, stroll down the streets and have nights of peace in their own residences without the wail of hoodlums and the cacophony of semi-truck horns. If these circumstances do not cry out for this act, I don't understand what would.

We can debate what went wrong, who is at fault and how we can avoid these situations in the future — and in fact the legislation demands that we do so — but for now we need to support those who have taken back the streets. The local police without these powers were outnumbered, under-equipped and unsupported by the system. I would argue that the policing system in the capital is not nimble, not integrated and is inherently reactive rather than proactive. And I'm hopeful that the official review will remedy this failure.

In the meantime, this act gives the police the proactive authority to deal effectively with this issue. Having won the city back, they now have to deal with the instigators so that it is made abundantly clear that taking Canada hostage again is not an option. We need to support the police with the powers to do what they need to do to give us our freedom back. We are asking — no, demanding that the police place themselves in harm's way for us, our capital and our country. We owe them the opportunity to do this safely and with all the tools available.

Protests are incredibly difficult and complex situations to manage at the best of times and are both dangerous and volatile for police who have to step up and deal with systemic mistakes of the past. Political failures have created this situation. If we want our police to enforce our rights and keep our democracy safe in these exceptional times, we need to do what we can to make sure they succeed. Failure is not an option in these difficult circumstances. It is, in reality, our country, our way of life that is at stake.

They knew going in that they must succeed and they did it the Canadian way, with only as much force as necessary, with no loss of life, with a clear message that the copycat occupations of this nature will not be tolerated. This could not have happened without the Emergencies Act.

Canada is a diverse country — the best country in the world — and should be coming together rather than allowing this to become a partisan issue dividing us. We should stand together for a strong Canada rather than use this as a political football to gain favour and votes. We should stand for law and order. The vast majority of Canadians want this crisis to end and, of course, we all want it to end peacefully. This is not a local problem; it is a national crisis. And I am at a loss to understand how we can play politics with our democracy and with the lives of not just the police but with the people of Canada, including the protesters themselves.

Again, this is not over. It's difficult for us to accept that there are organized groups in this great country who subscribe to a White supremacist, anti-government philosophy with the goal of taking down the government, but sadly, this is the reality we must come to grips with. These people used our love of freedom and diversity against us and weaponized the valid concerns of ordinary people — in this case, truckers — who were simply trying to voice their displeasure with the government policies

around COVID-19 and vaccine mandates. These groups are strategic, they are smart and they are masters of manipulation and disinformation.

I hope this chamber can find a way to differentiate between valid protests, which are a hallmark of the Canadian way, and the international movement to destabilize our country and others with deception and hatred. We must support the police and other authorities to use this act to do what we have asked them to do, stop this affront to law and order and our way of life before it spreads to other parts of our country. It is on all of us to have the courage to speak out against anarchy by endorsing the Emergencies Act. This must never happen again. Thank you, *meegwetch*.

Hon. Vernon White: Honourable senators, I wasn't going to speak this week and then I was, then I wasn't, and now I guess I am.

I guess I am, like most Canadians right now, frustrated, tired and sick of what has been two painful COVID-laden years, and yet I recognize that my two painful years have been nothing compared to the painful years that most have had to endure. I've been blessed with good health, a healthy family and employment relatively unaffected by COVID. I say that only as I lead into what I believe is the matter before us and I will speak for a fraction of the time that others have, primarily because many of you have outlined the things I saw, I heard and on a few occasions I smelled as I walked through downtown Ottawa.

I will not discuss the legality of the invocation of the Emergencies Act, as we have enough former judges and lawyers here who can do that. I'd rather try to stay in my own lane.

I'll focus on two things today, though. First, should the act have been invoked; and second, whether it is still needed. On the first count, I watched as the Ottawa occupation grew and as blockades were popping up at border crossings across Canada, in some cases severely hampering trade, crippling part of parts of our economy like the auto sector. Some will argue, as I did in the first few days of the event, that the need for resources was evident. And I suggest that it was clearly expressed by both the police and political leadership in Ottawa and needed to be acted upon at that time.

It has been stated and it is understood that the police — more than 60,000 across Canada — have responded to the need for resources previously, including G7, A20 events, summits, presidential and papal visits. But this was not a G event, a presidential or papal visit. You see, I would argue this became each of those at the same time— a G7 visit in Ottawa where we could send 5,000 officers; a blockade at a railway where we could disperse 1,000 officers. Instead, it became both and more and growing, an octopus with multiple tentacles that was adding limbs faster than the authorities could remove them. I believe that growth of incidents, the lack of capacity/capability to manage the incidents and concerns around potential and expected extreme violence — for example, the arrest and seizure of firearms, conspiracy to commit murder against police officers — was a clear message. This was getting worse and had the potential to become violent and even deadly.

As well, there was a clear and systematic movement to disrupt, like overloading 911 in the city of Ottawa, a dangerous aspect I had never seen before. Then there was the whack-a-mole method used by protesters in the city meant to further reduce police capacity and their movement of vehicles to residential areas, school zones, the airport whenever the police began to tighten controls in the main occupation area.

• (1310)

In essence, I believe there was a tipping point where the federal government had to take a greater role, and that role in this case was the invocation of the Emergencies Act.

People will ask: Was there something else that could have been done? There are always other things that could be done, but they were not being done for reasons I am certain will become clearer in time.

Sometimes the best way to judge whether something was needed is to look at results, and here they are clear. They have ended the occupation. We have not had a large blockade of a border crossing since. So what Canadians were asking for has now occurred.

The second question relating to whether or not it's still needed is actually easier for me. You see, I would argue we don't know what we don't know. The police and our government leadership tell us it is still needed and that there is still a substantial threat. I would suggest that we will judge whether they are correct in the future, when we and the courts review their actions, not now.

In essence, I supported the invoking of the Emergencies Act and, for now, I support its continuance because the authorities are telling me that they continue to need it and to use the tools that the invocation of the Emergencies Act brought into play.

Thank you.

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, I also rise today to speak on the government's motion for confirmation of a declaration of emergency.

Let me begin, colleagues, by saying this: The Conservative Party of Canada stands for law and order. We always have and we always will.

I am very happy, as I am sure you all are, that the blockades were lifted rather peacefully and without extensive damage to property. I salute the great work of our police forces and the restraint shown by the large majority of protesters. We can all be relieved that it is over.

That being said, we are now being asked to vote on a government motion. I agree with most of the legal and constitutional experts, most of the provinces, most of the observers in Canada and in the rest of the world. This government, the Trudeau government, failed to make its case for the use of the Emergencies Act. Furthermore, the measures it adopted are not reasonable, not proportionate and not necessary.

Finally, even if the declaration of emergency was warranted and the measures satisfied — the criteria I just mentioned — the emergency no longer exists. This is why, together with other reasons, I will explain why I will be voting against Senator Gold's motion.

Before I delve into why I do not believe we should be supporting this motion, I would like to take a step back and review what brought us to this place.

COVID-19, honourable senators, has been very difficult on everyone. The virus has exacted a terrible toll on our health and well-being. The pain and grief experienced by so many cannot be overstated.

In response to the virus, those in positions of authority across the country enacted public health measures to try and prevent avoidable loss of life. And while I believe these measures were taken in good faith, there still is much debate over whether these were proportionate, advisable and effective.

There is no debate, however, over the fact that they, too, exacted a huge toll on Canadians. Not only did our loved ones die, they often died alone. Families were separated for months and, in some situations, for more than a year; grandparents from their grandchildren; adult children from their parents; siblings from one another, and on and on and on.

We all have our personal stories and I have mine. I stood for almost a year and waved to my mother on the second floor of her nursing home. Now I am able to see her. I'm looking forward to seeing her again this weekend.

Colleagues, we couldn't see our friends. We couldn't go out to eat. We couldn't go to our favourite sporting events. High school graduations were lost. I know that many of them were still conducted virtually, but those students never had the graduation they had dreamed of for 12 years.

Marriages were postponed and, when they did take place, only a handful of people could be present to celebrate. Funerals, those final goodbyes, were restricted to the immediate family only and, even then, the numbers were often limited.

Businesses were closed. Provinces were locked down. Income was lost. For those in the lower half of the wage spectrum, debt piled up. Now inflation is eating away at the spending power of what we have left.

When vaccines became available, Canadians lined up and rolled up their sleeves by the millions. To date, over 80 million jabs have been administered across the country resulting in more than 30 million people being double vaccinated. This is fantastic, colleagues. With more than 90% of its adult population at least double vaccinated, Canada has one of the highest rates in the world.

But even at 90%, that means that 10% are still not vaccinated. Choosing not to be vaccinated is rarely a choice for those who remain unvaccinated. That's because, for them, this decision is often driven by deeply held beliefs. I'll be the first to admit that some of those beliefs fall squarely in the camp of conspiracy theorists, but not nearly always.

Sometimes it is religious beliefs. Sometimes it is a lack of trust in those in positions of authority. Sometimes it is medical reasons. Sometimes it comes from knowing others have experienced a serious adverse event after vaccination. The list goes on and on. But regardless of what you think of the reasons, they are always based on deeply held convictions. Trampling over those convictions and beliefs is not wise.

Colleagues, I am fully vaccinated with three doses and I encourage everyone else to do the same. But mandating people to be vaccinated and penalizing them for not doing so is something that I find extremely offensive. It concerns me that, as a nation, we have embraced this level of coercion so easily.

The idea that we can cajole, coerce and even intimidate people to get vaccinated is not only wrong, it is dangerous; it promotes the fantasy that Canada is a homogeneous society. This is absurd. It never has been.

We need to come to grips with the fact that in the 21st century, with the internet and the prevalence of social media, we are never going to have a unified, homogeneous approach to many things in Canada. This means that we must strive to protect people's rights to freedom of conscience, freedom of religion, freedom of association, freedom of belief and, I would add, freedom of vaccination status.

If we do not do that, then our only option is to resort to greater and greater degrees of totalitarianism where we increasingly force people to comply with things that we do not agree with. This, colleagues, would not only be a tragic mistake, it would tear our country apart.

Yet, this is precisely what the Prime Minister thinks we should do. He believes everyone should be vaccinated and those who are not should be scorned, shamed and punished for it. Justin Trudeau has been frustrated since the 2019 election. The fact that he only got a minority and finished behind what he considers are unworthy Conservative opponents in the popular vote made him first depressed and then angry. And then COVID happened. He spent hundreds of billions of dollars. He told Canadians he had their backs at least a thousand times. Thinking that he deserved to be rewarded for spending other people's money — our money — he cynically called a useless election during the pandemic.

• (1320)

After the first two weeks of the campaign, alarm bells started to ring in the Liberal war room. Canadians were being ungrateful to their leader, and they risked losing to those hated Conservatives. So they went to the old Liberal playbook: Wedge the CPC. Find a scapegoat somewhere and run against that group. They tried abortion for the nth time, but that did not work. Then they found a group to run against — the unvaccinated. The policies adopted by this government went from science-based with a view to reducing transmission of the virus to veiled, or not-so-veiled, attempts to punish the people who were not vaccinated. They decided to divide Canadians simply to score political points. They crossed the line at some point from looking for limited, effective and reasonable measures to targeting a small group of people in order to shift the polls.

Canadians were fed up with the pandemic and the restrictions, and people who were not vaccinated became the focus of the anger. The Trudeau government was happy to oblige. If you look to history, it is always the case; people will try to find a scapegoat — foreigners, religious minorities, then with COVID-19 it became the unvaccinated.

Liberal MP Joël Lightbound pointed this out a few weeks ago when he openly criticized the Prime Minister's approach when he said:

. . . both the tone and the policies of my government changed drastically on the eve and during the last election campaign. . . a decision was made to wedge, to divide and to stigmatize. I fear that this politicization of the pandemic risks undermining the public's trust in our public health institutions.

He is absolutely correct, colleagues. Shame on the Trudeau government for using the approximately 2 million Canadian adults who chose not to be vaccinated as a political football. Instead of trying to convince them to get the vaccine, Justin Trudeau decided to insult them as if that would help to get the vaccination rate up. Some of us may not agree with them or their demands, but that is no reason to vilify fellow citizens.

It needs to be pointed out, however, that in spite of all these public health measures and vaccination requirements, the pot did not boil over until the federal government decided to mandate vaccination for truckers who haul loads across the United States border and then threatened to do the same for truckers who crossed provincial borders. Although the government was unable to provide any scientific basis for this decision, they refused to move from it.

It is ironic that these truckers were now the government's target. They were the same people whom the Prime Minister praised in the early days of the pandemic when he tweeted:

While many of us are working from home, there are others who aren't able to do that — like the truck drivers who are working day and night to make sure our shelves are stocked. So when you can, please #ThankATrucker for everything they're doing and help them however you can.

That, colleagues, was March 31, 2020 — less than two years ago. Colleagues, the crass political manipulation of this should alarm us all.

Truckers are hard-working men and women who only drew the line after two years when the government decided that all the measures already taken were not enough. And now they were going to mandate measures for which there is no clear scientific basis.

Truckers, who spend their days alone in the cabs of their vehicles, suddenly became a threat to public health if they were unvaccinated. Yet when challenged to provide scientific evidence for this decision which would destroy more livelihoods, the government had none.

Honourable senators, these are the men and women who left their homes to drive to Ottawa, not for an insurrection but for a demonstration, for a protest against government overreach that is becoming endemic.

At first, it was just a few truckers who hit the road and hoped to raise a few thousand dollars to cover some of their expenses. But it wasn't long until the convoy's length was measured in miles and donations were in the millions. At every community, more people joined the convoy, and at every town they drove through, people cheered them on. Every bridge they drove under was filled with people waving Canadian flags and thanking them. At intersections in cities and even long after they had left the cities behind, people were parked on the side of the road to cheer them on and thank them.

After two years of pain, hope was beginning to stir again. The truckers were uniting our country. The thing you need to understand is that the Ottawa "Freedom Convoy" 2022 was truly organic in its development. It has been noted over and over by the media that there was no one leader and there was no singular agenda. As happens with grassroots movements, people attached themselves to the movement for a variety of reasons. And, yes, it is obvious that some very bad elements joined this process.

That was enough for the Prime Minister and his caucus members to decree that the truckers and the millions of Canadians cheering them on were terrible people. The Prime Minister's characterization of them as racists, misogynists, insurrectionists and a fringe minority was shameful. He portrayed them as dangerous, potentially violent and possibly terrorists. They all had intolerable views. How can we tolerate these people, he asked. This is incredible. The Prime Minister of Canada goes on television and asks the question about millions of his fellow citizens: How can we tolerate these people?

Yes, there were idiots with racist views in this group. No one in this chamber should tolerate the display of racist signs. But if you paint everyone with the same brush, all those who attended this protest, all those who supported the convoy on its way to Ottawa, all those who admired their courage to demand an end to the mandates, then you miss the point. Can someone, can anyone in this chamber, really think that Jagmeet Singh's brother — his own brother — would contribute \$17,000 to a far-right, racist movement? I don't think so.

Yes, there were bizarre theories offered by some participants in the protest, but if you think that all the people in Ottawa or across Canada who are fed up with the Trudeau government's heavy-handed approach are wearing tinfoil hats, then you yourself have become a believer in conspiracy theories.

Yes, there were incidents between the protesters and the residents of Ottawa. But if you describe that as a violent protest, then you have forgotten dozens of events in the last 25 years or so, including a few riots after such politically charged events as the Stanley Cup playoffs. Yes, there was talk about evicting the Prime Minister, but there was no credible plot of an insurrection. People who want to take over the government do not come here in their own trucks with the names of their companies on their doors and announce their arrival on every social media platform and then spend three weeks in front of Parliament in a hot tub or

roasting a pig. They would not turn the street corner below the Prime Minister's Office window into what journalists called "Ottawa's hottest nightclub" and dance the night away.

For millions of Canadians, the trucker convoy was their hope for a way out. They were tired of being pushed aside, and they wanted their message heard.

• (1330)

Colleagues, you and I go back to our communities every week, and we hear people who are fed up with the government saying, "What can we do?" They feel powerless. And when you begin to strip their fundamental rights away from them, their feeling of powerlessness turns to desperation. Eventually, people get tired of being controlled and will look for a way out.

This is how their Prime Minister responded to them on January 31:

The concerns expressed by a few people gathered in Ottawa right now are not new, not surprising, are heard, but are a continuation of what we've unfortunately seen in disinformation and misinformation, online conspiracy theorists, about microchips, about God knows what else that go with tin foil hats.

They had come to voice their concerns. But the Prime Minister just insulted them, sounding more like a bully than a true statesman.

That is part of the problem we are facing. We have not done a good job of listening to the voices of those who have a different view than us on vaccinations and on heavy-handed public health measures.

The primary debate is not about whether these measures are right or wrong. It is about whether someone can have a different view, for whatever reason, and not be censored. It is about whether someone can have different values or different beliefs and be allowed to live in accordance with those. People have viewpoints and opinions and beliefs that sometimes don't line up with the accepted CBC version of reality. But if they voice them, they are shunned and criticized.

Colleagues, we need to do better. We need to do better at listening. We need to do better at allowing people to live according to their beliefs. This is the price of a civilized society in today's 21st century world. Trying to force conformity is only tearing our social fabric in ways that could take generations to repair.

This is partly why it is so devastating that the Prime Minister would not even talk to people from the convoy. His impertinence just solidified in their minds that he doesn't care about them; he only cares about their obedience to his edicts.

It was this impertinence that resulted in the convoy to Ottawa spawning local convoy protests in cities across the country and eventually blockades in Coutts, Alberta; Emerson, Manitoba; Surrey, B.C.; and the Ambassador Bridge in Ontario. Had the Prime Minister de-escalated the situation by opening up a dialogue, we would be in a very different situation today.

Some people say that the Prime Minister could not meet the leaders of the convoy, that these people were dangerous and had crazy ideas. Fair enough. But Justin Trudeau could have asked a third party mediator to listen to the protesters' concerns. Just like Robert Bourassa did in 1990 by appointing Justice Alan B. Gold, the father of our government leader, to mediate the Oka Crisis. He could have done what premiers like François Legault, Doug Ford, Scott Moe or Jason Kenney have done: Tell Canadians that he heard them. Tell us that he had a plan to end the mandates and other restrictions. Tell us that there is hope.

Instead, the Prime Minister's approach has been to try to smear the protesters and paint them all with the same brush.

On January 31, with respect to the Ottawa protest, the Prime Minister said:

... We're not intimidated by those who hurl abuse at small business workers and steal food from the homeless. We won't give in to those who fly racist flags. And we won't cave to those who engage in vandalism, or dishonour the memory of our veterans.

As I have already noted, this is not a fair characterization of the people who have been protesting outside this chamber. Yet, he never backed down from that characterization. The Prime Minister chose gamesmanship over statesmanship.

Last week, in response to a question from Conservative Member of Parliament Melissa Lantsman, the Prime Minister said:

... Conservative Party members can stand with people who wave swastikas. They can stand with people who wave the Confederate flag. We will choose to stand with Canadians who deserve to be able to get to their jobs, to be able to get their lives back. These illegal protests need to stop, and they will.

The pathetic irony of what the Prime Minister said to a Jewish member of the House of Commons is self-evident. Asked several times to apologize, Justin Trudeau refused to do so. He will apologize for events that happened 100 years ago, but never for his own words. For three weeks, the Prime Minister did little more than hurl insults. He actually left town and let the crisis fester and worsen.

He is supposed to be the Prime Minister for all Canadians, even those who he may disagree with. But he clearly does not see things that way, and the result is that his policies are seriously dividing Canadians. Then, after three weeks of inaction, Justin Trudeau came out and used the ultimate tool in his tool box, the nuclear option, the Emergencies Act.

It is hard to refute the accusation that this is a Prime Minister who is at war with many of his fellow citizens. Instead of trying to understand their concerns and the impact of his government's measures on them, he is now using all the power he can muster to crush them. He has taken the sweeping powers of the Emergencies Act and turned it on the very people who were just asking to be heard.

This is a Prime Minister who does not like opposition. He admires the basic dictatorship of China. He does not listen; he preaches. He does not debate; he insults. He does not convince; he imposes.

So here we are. We now have to deal with a motion to confirm whether the government can continue to use the measures it invoked last week for another three weeks or so.

Colleagues, I want to concur with what Senator Dalphond said in his speech: We are not voting on whether the Emergencies Act was useful since February 14. And we are not voting on whether the act could be useful if some unknown event happens in the not-so-distant future. What the government is asking us is this: Do you think, considering the facts as they are today, that the government needs those extraordinary powers until March 16?

This declaration of emergency is unprecedented. It is the first time that the Emergencies Act is being used in Canada, and the first time in more than 50 years that any of this kind of legislation is being used in Canada, and it is only the third time in Canadian history. This fact is crucial in our decision on the motion before us.

By invoking the Emergencies Act, the government is effectively arguing that what we faced on Wellington Street and a few other adjacent streets in Ottawa was the worst public order emergency that our country faced in the last 34 years.

The government is also saying that this public order emergency requires the use of this extraordinary piece of legislation. It is saying that the ordinary authorities and powers of the Canadian state are insufficient to deal with a few thousand protesters with a few hundred pickup trucks and semi-trucks. These are extraordinary claims, colleagues.

• (1340)

We need to recall the many emergencies Canada has faced since 1988 where the Emergencies Act was not invoked. There was the Oka Crisis in 1990 that I mentioned before. That armed standoff lasted for 78 days. A police officer had been killed. A piece of critical infrastructure, the Honoré Mercier Bridge, was closed, forcing people to drive up to four hours each day to get to work. The army was deployed because the scope of what was being faced was beyond what the police were able to deal with. Yet, the Emergencies Act was not invoked.

There were the attacks against North America on 9/11. As a result of those attacks, all air travel in North America was shut down. There were significant fears that a new terrorist attack would be launched not just in the air but by any means and at any time. However, the Emergencies Act was not invoked.

On October 22, 2014, Centre Block was attacked. For several hours, no one was sure if there was only one gunman. Police forces treated this attack as an ongoing operation for 12 hours. The Emergencies Act was not invoked.

In 2001, 50,000 people invaded Quebec City during the Summit of the Americas, and there were four days of non-stop violence. In 2010, at the G7 summit, more than 1,000 people were arrested after more than 10,000 protesters rioted in downtown Toronto. In 2012, during the Maple Spring in Quebec, police forces had to deal with 1,370 protests, some of them ending in violent clashes and mass arrests. None of these events warranted the use of the Emergencies Act.

For the past 16 years, colleagues, there has been a land standoff in Caledonia, Ontario, where people have been forced from their homes, roads and transportation corridors have been blocked, and the matter remains unresolved. Haldimand County mayor, Ken Hewitt, noted earlier this month:

We have had violence, intimidation, the disruption of roads. . . . you'd think we'd get some response from the federal government. And we've heard nothing.

The Emergencies Act has never been invoked to address this, not even temporarily and not even during the worst moments of this standoff.

Since 1988, there have been numerous — often prolonged — road, rail and pipeline blockades, sometimes occurring in multiple locations simultaneously, by all kinds of groups for all kinds of reasons. Yet, the Emergencies Act has never been used.

The Emergencies Act also incorporates public welfare emergencies, such as fires, floods and other natural disasters. Since the Act came into force, how many fires, floods or storms has Canada experienced? How many of these emergencies could be said to have been ones where there was a danger to life or property, social disruption or a breakdown in the flow of essential goods, services and resources as defined in the Act? How many times has the Emergencies Act been invoked? The answer, colleagues, is never.

Even during the current global COVID-19 pandemic, the Emergencies Act has not been used. We need to think about that. The current health crisis has now gone on for two years. There were certainly times when the government's ability to respond effectively seemed to have been in question. Yet, no Emergencies Act was necessary. This goes to the heart of why the act has never been invoked in Canada before. It has not been invoked because the normal powers and authorities of law enforcement agencies in Canada are sufficient to address challenges such as the one we see, and the legal bar for using the Emergencies Act is actually quite high.

Since 1988, all politicians felt the federal government, provinces and municipalities have had sufficient powers and resources to address any problem or crisis they faced. This fact alone speaks to the significant authorities and resources that our governments command. These powers and resources are not easily overwhelmed. Now, we are to believe that what we are witnessing outside this chamber constitutes such a serious threat that our own security forces are overwhelmed. The government is

arguing that this is an emergency of such scope and scale that the normal tools available to government and police are simply inadequate to address the threat. What threat do we face today that justifies an extension of the emergency until at least the middle of next month?

Coming into the office this week, I saw zero protesters. None. Yet, the government claims that there is still an extraordinary public order emergency. It claims, in essence, that what we are experiencing right now is unprecedented. They are probably right. A protest so dangerous that it constitutes a threat to our national security with a grand total of zero protesters is certainly unprecedented and extraordinary.

Colleagues, there is a good reason why governments since 1988 refused to use the Emergencies Act. Once this genie is out of the bottle, it will be impossible to put it back in. I am deeply convinced that should the Senate adopt the government motion, so-called progressives will come to regret the day the Liberal and NDP MPs and their allies in the Senate gave future governments the precedent to justify using draconian measures allowed by the Emergencies Act against movements they support.

I think Senator Pate somewhat alluded to this in her speech or her questioning of Senator Tannas. Think what you will about the convoy and its supporters. By allowing the government to use the Emergencies Act, this group has now set a very low bar for the future use of this legislation.

Let me go to the next issue: the terms of the Act. The question we have to ask ourselves is this: Did the government meet the threshold set by the Emergencies Act? I do not believe the evidence supports the government's argument that the invocation of the Emergencies Act is warranted. It is useful to look at the question of how a public order emergency is actually defined in the legislation.

With respect to a public order emergency, the act states:

public order emergency means an emergency that arises from threats to the security of Canada and that is so serious as to be a national emergency;

The first part of a public order emergency concerns "threats to the security of Canada." The meaning of that phrase is elaborated on in section 2 of the Canadian Security Intelligence Service Act, which describes threats to the security of Canada as follows:

(a) espionage or sabotage that is against Canada or is detrimental to the interests of Canada or activities directed toward or in support of such espionage or sabotage,

(b) foreign influenced activities within or relating to Canada that are detrimental to the interests of Canada and are clandestine or deceptive or involve a threat to any person,

(c) activities within or relating to Canada directed toward or in support of the threat or use of acts of serious violence against persons or property for the purpose of achieving a political, religious or ideological objective within Canada or a foreign state, and

(d) activities directed toward undermining by covert unlawful acts, or directed toward or intended ultimately to lead to the destruction or overthrow by violence of, the constitutionally established system of government in Canada . . .

The act further states that none of this includes lawful advocacy, protest or dissent, unless carried on in conjunction with any of the activities I have just referenced.

At first glance, if we consider what has been going on outside this building and around the country, I do not see how we can credibly argue that these activities are ongoing threats to the security of Canada as defined in the legislation.

• (1350)

All Canadians are living their normal lives. There is no known threat or actual activity that can seriously be said to meet this definition.

A second question concerns the definition of a national emergency as found in section 3 of the Emergencies Act.

The act itself describes a national emergency as:

. . . an urgent and critical situation of a temporary nature that

(a) seriously endangers the lives, health or safety of Canadians and is of such proportions or nature as to exceed the capacity or authority of a province to deal with it, or

(b) seriously threatens the ability of the Government of Canada to preserve the sovereignty, security and territorial integrity of Canada

The act says that the emergency in question ". . . cannot be effectively dealt with under any other law of Canada."

Here again, I sincerely don't see how you can argue that what we are witnessing today seriously endangers the lives, health or safety of Canadians and is of such proportions that it is beyond the capacity of a province to deal with it.

If there is a threat to the ability of the Government of Canada to preserve the sovereignty, security and territorial integrity of Canada, I fail to see it.

It is clear that by simply referencing the terms of the Emergencies Act, the government has not met the threshold for the use of the act.

The Prime Minister and members of his cabinet have offered, since February 14, a list of arguments for the declaration of emergency, including in the declaration itself. Let's evaluate those arguments and answer each one.

First, the Prime Minister said that the measures only applied in specific areas. This is, of course, false and was corrected by one of his own ministers.

According to the government, the emergency situation is national. In reality, when the declaration was issued, the only blockade left was in downtown Ottawa. Now I know that this is the capital, but a problem localized in Ottawa is not a national issue. The government could have limited the application of the measures to Ontario or the National Capital Region. They chose not to do that, and we don't know why.

The government claims they need the Emergencies Act to coordinate action with the provinces. Well, we know that seven provinces said no to the use of the act. Section 19(3) of the act says that concerted action with the provinces must be achieved to the greatest extent possible. Obviously, the government failed to do that.

The declaration states that continuing blockades are occurring in various parts of the country. We all know that right now, at this moment, there are no blockades anywhere in Canada. This argument is no longer valid.

The blockades, the government has argued:

. . . are being carried on in conjunction with activities that are directed toward or in support of the threat or use of acts of serious violence against persons or property, including critical infrastructure, for the purpose of achieving a political or ideological objective within Canada.

The government never provided any evidence of this. Remember that the seizure at Coutts was made before that statement was made by the government. Coutts was one isolated incident. Also, contrary to what the government had us believe, there was no violent group in the blockade in Ottawa. There was pushing and shoving on the front lines this weekend but no sign of organized violent groups.

The government said that the blockades are having "adverse effects on the Canadian economy" and significant ". . . impacts . . . on . . . its trading partners, including the United States . . ."

I don't know about you, but I don't think that was true once the only blockade left was in downtown Ottawa, and it is even less true now that there are no blockades left.

Also, the government claimed that the breakdown in the supply chain and in the availability of essential goods, services and resources would continue as the blockades continued to increase in number. We know this is now a moot point.

The emergency is said to carry:

. . . the potential for an increase in the level of unrest and violence that would further threaten the safety and security of Canadians.

Again, we have not seen any proof of that. The Emergencies Act cannot be based on conspiracy theories about a supposedly shadow army of ultra-right supporters that we often hear about but never see in action.

We have to be serious here. The government cannot suspend the rights of its citizens based on rumours and fantasies spread by its supporters.

When a truck full of guns was stolen in Peterborough last week, the Liberal Twitter universe claimed that this was proof an armed coup was about to happen. When the truck was recovered, along with almost all of the guns, you could hear crickets.

In any event, what was really the problem in Ottawa? The Prime Minister himself was in the House on several occasions, other than last Friday; both houses of Parliament functioned normally, and there has been no violence.

The CPC even managed to change its leader while the blockade was up. Again, other than last Friday, the RCMP and the Parliamentary Protective Service never told MPs and senators there was any danger.

I walked from the Senate of Canada Building up to West Block through the protesters on more than one occasion the other week to attend meetings. Do you really seriously believe our security services would allow this if they had any proof that there were such violent people around?

When he invoked the Emergencies Act, the Prime Minister asserted that, "It is now clear that there are serious challenges to law enforcement's ability to effectively enforce the law."

We now know that this is false. According to Minister Mendicino, the police needed the powers given to them by the Trudeau government so they could define a safe zone, a "red zone," the minister calls it. Directing traffic and limiting movements of people is done on a regular basis by all police forces in Canada. And in the specific case of protests by truckers, the police were successful in limiting their ability to move, subject to restrictions, in Quebec City, Toronto, Winnipeg, Regina, Saskatoon, Edmonton, Calgary, Vancouver and other cities. That was all accomplished prior to the use of the Emergencies Act.

The government says the emergency powers are needed to commandeer tow trucks, according to Minister Lametti. That is the first thing the Prime Minister mentioned when he was asked which necessary powers were given to the police under the emergency declaration.

The problem is that the Criminal Code could have been used to do that. Frankly, I cannot imagine that the Ontario and Canadian governments need to use the extraordinary measures of the Emergencies Act to get five or six tow trucks. If so, we need to question ourselves on the fragility of our governments.

The government says the police need the emergency measures to be able to coordinate across jurisdictions. I am sure you will agree that in the past 34 years there have been several police operations that crossed jurisdictions. None required the Emergencies Act.

The government insists it needs to freeze the financial assets of protesters and anyone who financed the blockades and that only the measures adopted last week allow them to do so. This is the same government that claims it has all the tools necessary to combat international and domestic terrorist groups, organized crime and other money-laundering operations — and we are to believe that they now require special measures for the convoy of truckers. Let me say I don't believe that.

The government has failed to make its case on two counts. It failed to explain why it is absolutely necessary to freeze, without a court order, the assets of some of its citizens to stop a blockade in Ottawa. And it failed to explain why the tools used against much bigger and more dangerous organizations are insufficient now when dealing with people who were clearly not experts in these matters.

• (1400)

The government is pushing the idea that the movement is financed by some dark foreign forces. Let me quote Minister Blair:

We will not let any foreign entities that seek to do harm to Canada or Canadians erode trust in our democratic institutions, or question the legitimacy of our democracy.

He goes further and says:

We have seen strong evidence that it was the intention of those who blockaded our ports-of-entry in a largely foreign-funded, targeted and coordinated attack, which was clearly and criminally intended to harm Canada, to harm Canadians, to interrupt vital supply lines, to idle our workers and close our factories.

Yet the government gave zero evidence of this. The blockades have now been cleared, and there was no sign that this is anything more than a conspiracy theory from a cabinet minister.

Let me point out the irony of this Liberal government being worried about foreign financing and the threat of an attack by a foreign power on our democracy.

Millions of dollars have been funnelled from American environmental groups to movements in Canada — all of whom are rabidly anti-Conservative — and China's involvement in our last federal election and their actions against the Conservative Party cost it between four and seven ridings in favour of the Liberals, but now that the foreign money may be on the other side, it suddenly becomes a problem.

Another charge made by the government has been that the blockades were organized by extremists:

We are talking about a group that is organized, agile, knowledgeable and driven by an extremist ideology where might makes right.

This is what Minister Mendicino said.

The principal concrete incident that the government has pointed to in order to support this claim is the conspiracy to murder charges laid in Alberta against four individuals. The government argues that these are indicative of the fact that some potentially violent individuals are participating in the protests.

These are certainly serious charges. Nobody would dispute that. I think we are all grateful that police were able to act decisively in order to address a situation that could have been very dangerous. However, we have yet to see evidence, or even credible assertions, that these individuals had anything to do with the vast numbers of peaceful protesters who had come out over the past several weeks or who were at the border crossing in question in Alberta.

In fact, a *Canadian Press* story describes the interaction between the police and protesters on the same day that the arrests were made as follows:

There was celebrating when the protest started winding down late Monday. A video posted to social media showed RCMP members shaking hands with and hugging protesters. People holding hats or hands to their chests or with arms draped across each other's shoulders sang O Canada.

Once the protest organizers at Coutts learned that their peaceful protest had been infiltrated by a violent faction, they willingly and quickly disbanded.

This does not seem to suggest that the vast majority of the people involved in the Coutts blockade were involved in plots to overthrow the constitutionally established system of government by violence.

The government also says the police did not have the tools they needed to address the situation. This argument would be laughable if the consequences of the Emergencies Act were not so serious.

I noted earlier in my speech a long list of events that happened in the last 34 years in Canada, all of them much more serious and threatening than a blockade of truckers in Ottawa. Our brave men and women in the police forces dealt with each one of these events without having to use the Emergencies Act. Chris Lewis, former commissioner of the OPP, said that the police had all the powers and tools they needed to proceed without the use of the Emergencies Act.

Throughout it all, the Liberals tell us the Charter of Rights and Freedoms still applies, so what is the problem? Well, I know this is what the act says, but how can the government seriously pretend that all rights of Canadian citizens are not affected by the

measures it enacted last week? The seizure of property without a court order is a direct violation of section 8. The restriction to the right of assembly is a violation of section 2.

I will not make the legal argument here; there are already court challenges on this. But, please, let us not accept the government's argument that just because it says so, all Charter rights are protected.

Senators will notice that the Minister of Justice refused to give a Charter assessment from his department. He refuses to release the legal opinions prepared by the Justice Department. I hope some honourable senator asked Minister Lametti about this at your briefing the other night.

The Ottawa Police Service tweeted last week, "We won't be allowing people to come down for the unlawful activity of engaging in demonstrations."

Clearly, the government talking points that rights of citizens had not been suspended were not communicated to the police. Demonstrations in the capital of Canada are now unlawful. If there is one reason and one reason only that you should vote to end the measures right now, this is it.

Finally, we were told that Canadians should trust the government. The use of the Emergencies Act is just regular business: There is nothing to see here and we should all move along. Seriously, I cannot believe that the government is trying to minimize the importance of using the Emergencies Act for the first time in 34 years to deal with a blockade in downtown Ottawa.

You will note that the Prime Minister did not make his announcement in the House of Commons or during a formal address to the nation. No, a simple press conference will suffice to announce that the rights of his fellow citizens are now suspended.

Colleagues, it is clear that the government has not made the case that the highest threshold necessary to use the Emergencies Act has been met.

Let me also say that I believe that the government is making a terrible mistake in downplaying the use of the Emergencies Act. Senators, if we accept the government's position, we will normalize and trivialize the use of those extraordinary powers.

The Prime Minister used the Emergencies Act in a desperate attempt to save his job, and it is now blowing back in his face. It is clear that none of these measures were necessary to clear the trucks from the streets of Ottawa.

Colleagues, when the time to vote on this motion comes, remember this: You will create a precedent. You will set the bar low for future governments to use the Emergencies Act. Your vote will matter long after you, I and Justin Trudeau have left the stage.

I will not go into too much detail about the specific measures the government enacted but will focus on some of the particularly egregious ones.

First, the government took measures to financially choke the protesters and their supporters. Consider what this means, colleagues. The powers granted by the regulations include the freezing, without a warrant, of personal financial accounts of any person believed to be engaged in — not proven to be engaged in but believed to be engaged in — or supporting these protests.

This step has reportedly already led some Canadians to begin withdrawing funds from their financial institutions. We have seen an uptick in withdrawals, and some experts think that may have some short-term and long-term effects on the confidence of Canadians in their financial system.

There is considerable uncertainty about whether someone who may have given \$20 to GoFundMe might now suddenly find their account frozen. The government has refused time and time again to reassure the thousands of Canadians who contributed to what was, at the time, a perfectly legal and legitimate cause. How can the government retroactively declare that a cause is now no longer worthy and that anyone who participated or contributed to it can now have their financial assets seized?

• (1410)

I find it mind-boggling that anyone in their right mind would find this acceptable in a country like Canada. The government is telling us, "Trust us. We will not use these measures to punish ordinary folks." But at the same time, the Liberals are pushing the notion that any act has consequences.

What does that mean? If the government was serious about putting safeguards around these extraordinary measures, it would have included them in the regulations. By being voluntarily vague, it is doing exactly what it wants: scaring dissenters and shutting down opposing views — even those of a person who contributed \$20 to a cause that the Prime Minister deems intolerable.

If, by mistake, your bank account is frozen because you have the same name as a protester, well tough luck, folks. The act provides cover for the banks. You will have to get in line, file a form that will someday be available and wait for the compensation procedure that is not even set up yet.

I find it appalling to see Liberals and NDP members cheering on legislation that gives big banks — the NDP supporting the big banks — the power to seize funds without a court order while being granted immunity against any subsequent legal action.

Also, how would a bank know if a person was involved in a blockade? At the briefing for parliamentarians, the officials did not have an answer. Can police go around and take plate numbers and send this to the banks and ask them to close the accounts? No notice, no court order, just a police officer taking down a number and — poof — a bank account is frozen. This is not how the banking system of a country where the rule of law and order prevails should work. I am also curious to know how this sharing of information is acceptable under the Privacy Act.

Frankly, the lawyers for the residents of Ottawa and the Government of Ontario have already achieved the objectives that the Trudeau government pretends it made possible with these measures. I wonder if regular legal remedies such as the *Mareva* injunctions and restraint orders are successfully being deployed to freeze funds. Why are the extraordinary account-freezing powers afforded under the Emergencies Act necessary?

The federal government must ask a court of law for authorization before seizing financial assets of a drug dealer, members of an organized crime or terrorist organization, but it gives itself the powers to seize, without any judicial review, the bank accounts of people who are simply accused of mischief. No credible explanation has been provided as to why the government needed these “unprecedented and potentially dangerous tools” to quote our colleague Senator Gignac.

The fact that the government deliberately left the rules surrounding the seizure of financial assets vague — probably to give themselves room to manoeuvre — is very dangerous. We all know our financial system is based on the confidence of Canadians. Banks would not survive if a large portion of their customers decided to cash in their deposits. However, by staying vague on whose account can be seized and why, the government has allowed all kinds of stories and rumours to stay alive out there.

On Monday, Minister Freeland said:

. . . for anyone who is concerned that their accounts may have been frozen because of their participation in these illegal blockades and occupation, the way to get your account unfrozen is to stop being part of the blockade and occupation.

The thing is, there were no blockades left on Monday. What exactly is the Deputy Prime Minister saying?

Here is another point on the financial regulations. The Financial Transactions and Reports Analysis Centre of Canada, or FINTRAC, was created to combat terrorism and money laundering. Now the government is using it to combat groups whose views the Prime Minister finds unacceptable. How could the Senate allow this? Colleagues, we need to realize the door we’ll be opening if we vote in favour of this measure. A future government will have this decision as a precedent, which suggests that you can weaponize the security infrastructure to fight ideas you don’t agree with.

Last week, when asked by Evan Solomon about how far the government would go in using these measures, the Minister of Justice of all people, the one who is supposed to defend the rights of Canadians, said this:

If you are a member of a pro-Trump movement who is donating hundreds of thousands of dollars, and millions of dollars to this kind of thing, then you ought to be worried.

Once again, colleagues, what does that mean? Is the minister telling us that he is going after the assets of anyone who does not share his dislike for the former president of the United States? I find it very disturbing that, in Canada, the Minister of Justice can

go around threatening his fellow citizens like this. It is gravely concerning. And since he made those threats to those who do not share his views, he never felt the need to retract them.

This is exactly the kind of wedge politics that MP Joël Lightbound warned us about, and these are the words of our so-called Minister of Justice. How far this office has degenerated since Jody Wilson-Raybould was the minister.

The regulations also provide the ability for police or other law enforcement entities to compel a person’s insurance to be cancelled if the person is believed to be engaged in or supporting illegal protests. There are significant unanswered questions in relation to this measure. How is an insurance company or financial institution supposed to know when an individual may be involved in a particular protest? Will they rely on the word of the police who will go around recording licence plate numbers in or near protected areas? When a person’s insurance is cancelled, how will they then be able to move their vehicle? Have people who moved their vehicles in advance of this week’s enforcement action also had their insurance cancelled?

This is uncharted legal territory, and many questions simply have no answers at this point. But what we do know is that these powers will be exercised without a warrant and with a completely unclear avenue of appeal.

The regulations also give authorities the power to prohibit any public assembly that the police think may lead to a breach of the peace. Again, this affords the police incredible discretion. As I said, the Ottawa Police Service consider any demonstration to now be illegal.

Clearly, the regulations are neither reasonable nor proportionate nor necessary.

The threshold for the use of the Emergencies Act was intentionally made high because of a perception when the act was drafted that the previous act, the War Measures Act, had been misused and that the errors and overreach in using that previous piece of legislation had to be corrected.

The War Measures Act was only used on three occasions — three occasions, not two as Senator Coyle indicated earlier today. Two of those occasions were during the First and Second World Wars. In both those world wars, distasteful measures were enacted, including the measures to intern Japanese Canadians during the Second World War.

The act was only used once in peacetime by the current Prime Minister’s father during the October Crisis of 1970. That latter use of the War Measures Act has remained forever controversial. For many, it represented an unprecedented and unacceptable overreach in response to what we now know was a very small group of certainly violent but not very sophisticated radicals in Quebec.

In hindsight, we know that this group did not have nearly the widespread support that was feared by many at the time.

Yet, when the War Measures Act was invoked, nearly 500 people were arrested, most of whom had absolutely nothing to do with the FLQ.

• (1420)

At that time, in October 1970, Tommy Douglas stated his opposition to the use of the War Measures Act in peacetime. Speaking in Parliament at the time, he said:

We are prepared to support the government in taking whatever measures are necessary to safeguard life and to maintain law and order in this country. But . . . we are not prepared to use the preservation of law and order as a smokescreen to destroy the liberties and the freedom of the people of Canada.

He said that the use of the War Measures Act was like using a sledgehammer to crack a peanut. I believe that history has judged that Mr. Douglas's statements at that time were wise and prudent. I think history will judge Jagmeet Singh's actions as well, and they will not have the same results.

I know that the Conservative Party of Canada of the day supported the use of the War Measures Act. Leader Robert Stanfield gave the Trudeau government the benefit of the doubt. It was a decision he later regretted, noting that supporting the War Measures Act in 1970 was an overreach. Two years after those dark days, Stanfield said, "I think things could have been quieted down with less drastic measures." He admitted the War Measures Act should never have been used. He said that voting with the government on this issue was his only regret in his political life as Nova Scotia's premier and Leader of the Official Opposition.

More than 50 years later, we have learned a great deal about the October Crisis. It is now clear that the reasons invoked by the Trudeau government for the use of the War Measures Act were not based on evidence. Some of them came directly from the imagination of members of the government. They exaggerated the threat, invented conspiracies to overthrow the government and explained that thousands of imaginary terrorists were hiding somewhere. One could be excused for seeing a resemblance to what we are witnessing now.

The use of the War Measures Act created resentment in many segments of the population in Quebec, and arguably strengthened nationalism and support for sovereignty in Quebec. Only six years later, honourable senators, a separatist government was elected in the province of Quebec. Rather than helping, it served to undermine national unity and made some Quebecers feel "less Canadian." The civil liberties of hundreds, even thousands, of people would not have been violated, and the resulting resentment, which had serious political implications, could have been avoided.

I know the Emergencies Act is not the War Measures Act. But a Prime Minister elected in Quebec and bearing the name "Trudeau" should have known the historical symbolism of the use of the successor of the act that was used in 1970 and created such trauma for the residents of Quebec. To play with such a stick of dynamite simply to save your political skin is reckless. It shows again how Justin Trudeau is ready to divide Canadians by

using dangerous symbols for political expediency. Just like history severely judged his father for the attack on civil liberties and overreach through the use of the War Measures Act, it will not be kind to Justin Trudeau for the use of the Emergencies Act.

I am far from alone in arguing that this constitutes a serious overstep, particularly when there is no evidence that the conditions necessary to invoke the Emergencies Act have even been met. Noa Mendelsohn Aviv, Executive Director of the Canadian Civil Liberties Association, has said:

[The Emergencies Act] creates a high and clear standard for good reason: the Act allows government to bypass ordinary democratic processes. This standard has not been met.

Echoing what Tommy Douglas said more than 50 years ago, the Canadian Civil Liberties Association further declared:

Emergency legislation should not be normalized. It threatens our democracy and our civil liberties.

Aaron Wudrick, a lawyer for the Macdonald-Laurier Institute, has stated:

The use of the Act is intended for crises where there are no other options on the table.

. . . until it decided to invoke the Act, the federal government — along with their provincial and municipal counterparts — failed to do very much at all to attempt to disperse the Ottawa protest, making it hard for them to claim they have exhausted all alternatives.

Leah West, assistant professor of international affairs at Carleton University and the national security law scholar has stated:

The threshold for invoking this is extremely high. And, I question whether or not the legal thresholds have been met here . . .

It's a matter of actually going about enforcing the orders and regulations and the laws that we have, and that's been the real issue . . .

Professor Ryan Alford further stated that the act:

. . . can only be activated as a source of jurisdiction if no other law or set of laws is adequate to protect the safety and territorial integrity of Canada. The disagreement of five premiers about its necessity calls into serious question whether there is a rational basis for promulgating emergency measures, never mind whether this meets the very high legal threshold set by the Act.

Professor Patrick Taillon of Université Laval said that the government failed to prove that the extraordinary measures were essential only on the third week of the crisis. He reminds us that the government must make the case that those emergency measures are not just useful, but that they are absolutely necessary and essential to solve the crisis.

Our former colleague, the Honourable André Pratte wrote last week:

Despite the Liberal government's efforts to paint the current events with the most dramatic colours, it has become patently clear that we are not faced with a "national emergency," as defined by the Emergencies Act.

There are certainly legal scholars who may disagree with these arguments. But clearly, the large majority argues that there is a serious question as to whether what the government is doing is either legal or constitutional.

From China to Iran, the dictatorships around the world are trolling Canada for its use of the extraordinary emergency measures. India has stressed the hypocrisy of Prime Minister Trudeau. He declared last year that he was supporting protests by farmers in India and chastised the Indian government for its use of force to quell the protests.

Newspapers around the world, because they don't live in the Ottawa bubble and do not accept the government talking points as truth, saw the ham-fisted move of Prime Minister Trudeau for what it is: an unnecessary and dangerous overreach. *The New York Times*, *The Wall Street Journal*, the *Financial Times* and *The Economist*, are amongst the long list of media outlets that cannot understand why the Canadian government would have to resort to such extraordinary measures to simply deal with a blockade on three or four streets in Ottawa. Remember that Americans could not understand what took so long to free the Ambassador Bridge and offered to send U.S. law enforcement personnel to help. Once again, because of Justin Trudeau's incompetence, Canada's image as a country that respects human rights across the globe is being destroyed.

We need to remember that in invoking the act, the government must consult with each province in which the effects of the emergency occur. As I said earlier, the government has decided that the emergency measures would be national, not confined to a specific area. Seven of the premiers disagreed on the necessity of this action, yet the government still went ahead and invoked the act in all parts of the country when there was clearly no consensus to do so.

The National Assembly of Québec voted unanimously to decry the use of the Emergencies Act. Premier Jason Kenney announced last week that Alberta would launch a court challenge against the use of the act.

• (1430)

When Tommy Douglas eloquently spoke on the War Measures Act in 1970, he said that no one questioned the obligation of the government to maintain law and order and to utilize all the normal powers that lie at its disposal.

No one questioned that in 1970, and no one questions the government's right to do that today.

But what I believe we must object to today, just as some members of Parliament did in 1970, is the proposition that the government now requires extraordinary powers to address this situation.

What I fear is that the current Prime Minister is committing an even greater mistake than that of his father.

Professor Ryan Alford at Lakehead University's Bora Laskin Faculty of Law, has stated:

It beggars belief that the Prime Minister of Canada is going to deal with protests complaining of infringements of civil liberties by suppressing them by means that are likely unconstitutional, and identified as such in advance by civil liberties organizations and scholars.

What bothers me in particular is that few people on the government side even seem to be asking such questions or thinking about the longer-term ramifications of this serious overstep in governmental authority.

So the question is: How we, as senators, should respond? We must defeat the government's motion.

Section 58(7) of the Act states:

If a motion for confirmation of a declaration of emergency is negated by either House of Parliament, the declaration, to the extent that it has not previously expired or been revoked, is revoked effective on the day of the negative vote and no further action under this section need be taken in the other House with respect to the motion.

By defeating the motion, the Senate will play its true role. We will end the emergency measures. Of course, that will not be retroactive. As Senator Dalphond correctly said, all the charges laid so far will remain, but the government overreach will stop.

There are several reasons why we have to defeat the motion. First, I would say that every senator in this chamber should remember that by using this act in this way, government has created a precedent. We now have the responsibility to decide if it correctly set the bar for the use of the Emergencies Act.

We cannot put the genie back in the bottle, but we can tell future governments what they need to prove before they use the act again.

The next group of protesters may well have different demands. They may be Indigenous protesters. They may be environmentalists. They may be Black Lives Matter protesters. In his answers to questions, Senator Gold admitted this. All groups, including those I just mentioned, could now be the target of the federal government.

Colleagues, years ago, when women were fighting for the right to vote, they used civil disobedience and protests. We have a statue, colleagues, just outside our building here celebrating the Famous 5 at the entrance of the Senate. It is painful to think that under the government's emergency measures these women could not come to Ottawa today to make their point as they did some 100 years ago.

If we agree to this government motion, we will have the precedent of 2022 for the use of the Emergencies Act. We will live with that.

The Senate has the opportunity to step back and tell future governments that the use of the Emergencies Act requires more than the nuisance of a blockade in one location in Canada.

Also, we have to remember that we are voting on the motion based on the evidence and the situation as of the moment of the vote. We are not asked if the government was correct in invoking the Emergencies Act. That will be decided by the joint committee of parliamentarians, the inquiry that the government must launch and by the courts.

Senator Cotter raised a concern in a question to Senator Tannas this morning when he said:

The problem with voting no . . . is it is impossible to distinguish whether we are sending a message that the emergency should have never been declared or it was legitimate to declare but should be cancelled out now.

Colleagues, with respect, the Emergencies Act is clear on what we will be voting on. This is not an exercise in communications. It is an exercise in parliamentary oversight. We have been tasked not with sending a message but with considering the motion laid before us and answering that question. Are the reasons invoked in the declaration still valid? Are the measures adopted by the government still reasonable, proportionate and necessary, considering the situation at the moment of the vote, colleagues?

The last blockade in Ottawa was cleared on the weekend. Yesterday, we were informed that people who had their bank accounts blocked are now seeing them unblocked. Clearly, the emergency is over, and the emergency measures are no longer required, if they ever were.

On Friday, before the police moved in to dismantle the Ottawa blockade, *The Globe and Mail* wrote:

Reasonable people can disagree as to whether activating the Emergencies Act, and the suite of legal tools the government crafted from it, made sense seven days ago. But whatever the strength of the arguments then, improved circumstances leave them considerably weaker today.

Imagine how weak the government's argument is now that everything is back to normal.

The Senate has to vote no on the motion because the government has not made its case that the use of the act is legally justified, that it has met the threshold set out for the use of the Emergencies Act.

The Senate has to vote no on the motion because even if such a threshold had been met, the measures adopted by the government are not reasonable, proportionate and necessary.

The Senate has to vote no on the motion because the use of the act itself undermines national unity and risks deepening already existing divisions in the country.

The Senate has to vote no on the motion because, otherwise, we will set the bar on the use of the Emergencies Act so low that it will become just another tool for the government to use on a regular basis.

The Senate has to vote no on the motion because we must play our role in protecting the rights of minorities, even if we do not share their beliefs. The use of the Emergencies Act is a frontal attack on the rights of Canadians.

If we truly believe, colleagues, that at all times a Canadian is a Canadian is a Canadian, well, let's make sure that we stop the government, right now, from unreasonably stripping some Canadians of their rights. "I disapprove of what you say, but I will defend to the death your right to say it," said Evelyn Beatrice Hall to summarize the philosophy of Voltaire, a philosophy that all true believers in the right to free speech should share.

And finally, the Senate has to vote no on the motion because as senators we have a duty to defend in the Parliament the rights of provinces, and they clearly do not support the use of the Emergencies Act.

Colleagues, our country is very divided today. We should be trying to find ways to restore our national unity. We should have a Prime Minister who is willing to listen to Canadians. Colleagues, if ever there is an issue where we have to put partisanship and political biases aside, this is the issue. As Senator Housakos said at the start of his speech, probably the most important speech he's delivered in his 13 years here, this is a vote that will go down in history.

Certainly, in this chamber we should not be voting for motions that are likely to deepen divisions. I fear that is what we would be doing by supporting this motion.

I urge all of us to step back from that precipice. I hope all senators will join in voting against this motion. Thank you.

Some Hon. Senators: Hear, hear.

[*Translation*]

Hon. Leo Housakos: Would Senator Plett take a question?

Thank you, Senator Plett, for your excellent speech. There are three levels of government in Canada, and, as we all know, they share responsibility for public safety. There were a number of protests across Canada during this crisis, in Quebec City, Montreal, Calgary and Toronto. The protests in all of these cities were rowdy and spirited.

• (1440)

At no point, to my knowledge, did a municipal or provincial government ask the Prime Minister to intervene in such a drastic way.

How do you explain the government suddenly deciding to take such drastic, draconian action without consulting any other level of government?

[*English*]

Senator Plett: Thank you, Senator Housakos.

Of course, I do not know of the phone calls that the Prime Minister may or may not have made, but I do know that the act is clear that he is supposed to consult. I'm not sure whether consulting is sending the premiers a note telling them what he will do.

However, as I said in my speech, seven provinces have clearly come out against it, there was a unanimous vote in the legislature in your province of Quebec and the Premier of Alberta went to court over this. If ever there were evidence — and many of the worst protests were in the province of Alberta. All police departments were able to make the moves to get things in order; it seemed like all police departments were able to do that except here on Wellington.

I find that very strange, because the protests on the Ambassador Bridge, at Emerson and at Coutts were much more serious and dangerous than the one here on Wellington, where, as the media reported, it was a big block party — noisy and inconvenient but not dangerous.

So when seven of our provinces say “no,” I fail to understand how the Prime Minister, on his own, can simply do this without any consultation there or any consultation with the protesters.

I hope that answers your question, senator.

Hon. Salma Ataullahjan: Senator Plett, will you take a question?

Senator Plett: Certainly.

Senator Ataullahjan: Senator Plett, we heard on the floor of this chamber that if someone feels that their account was wrongfully frozen, they could always go to court. I don't know if you can answer this question, but how easy would it be to go to court for a layman who doesn't have an understanding of his rights, who doesn't know what options are available for him and who might not have the means? What do I say to someone who calls me and asks, as a racialized person or someone who has a racialized name and might not have that great a command of the English language? Do I tell them to go to court?

I don't know if you have the answer, because I didn't have an answer.

Senator Plett: Thank you, Senator Ataullahjan. Let me just suggest — and I don't know all the facts about the court challenges that some of the protesters face — but one of the lead organizers, the lady who was one of the organizers, had her bail denied. When they were arguing bail, the courts were told that their bank account was frozen, so they don't even have the means of hiring a lawyer. Most lawyers in the country that I know are not in their line of work because they are missionaries; they are in their line of work because they plan on making money and expect you to pay the bill. So if your bank account is frozen, senator, you would have a hard time getting a good lawyer to defend you, I would think.

Therefore, no, I don't have the answer; I'm sorry. But certainly the first call would be to hire the best lawyer possible, and the best lawyer possible with no money wouldn't be great.

Hon. Marc Gold (Government Representative in the Senate): Would Senator Plett take a question?

Senator Plett: It would be difficult for me to say “no” to you, Senator Gold, after yesterday.

Senator Gold: Thank you for your speech, delivered with the passion and conviction with which we are familiar and that we appreciate very much.

Thank you for praising the law enforcement efforts in Ottawa and the restraint they showed — I think we all would agree — and thank you for reminding us that your party does, as we all do, support peace, good governance and law and order.

I have a three-part question. Because you've been on your feet for a while, a simple “yes” or “no” would certainly suffice. I've learned from the best. I think I know the answer to the first two — I'm confident that I do — but I'm puzzled and will be intrigued by your answer to the third one.

First, do you have confidence in our law enforcement services and institutions?

Second, do you believe that government should be consulting with and taking advice from law enforcement agencies when they're dealing with a situation of crisis or law and order?

Third, if the answer is “yes” to both questions one and two, then could you please explain for us why it was wrong for the government to take the advice from law enforcement — ongoing advice — that the tools were needed for them to do the job? And why was it wrong for the government, which has advised Canadians that they are monitoring the situation regularly and taking advice from law enforcement, to disregard the opinion of the Canadian Association of Police Chiefs and the Canadian Police Association that, at least when they made this statement recently, they still needed more time to do the work?

Senator Plett: The answer to your first question is certainly “yes.”

I'm not entirely sure how you phrased the second question.

Senator Gold: Shall I repeat it?

Senator Plett: Certainly.

Senator Gold: Would you agree that government should take advice from law enforcement?

Senator Plett: Thank you. Would I agree that the government should consult with law enforcement? Yes, by all means I would.

But in answer to that question, I wasn't here a whole lot during the protests; I was here only for parts of it. However, other colleagues were here and they talked to police officers who were on Wellington. We talked to the RCMP in Manitoba who dealt with the Emerson situation, and they handled the Emerson situation well. The Coutts situation was handled well.

In Ottawa, the police chief had to resign over this, for whatever reason, whether it was because it was too difficult for him — I don't want to put anything into why the police chief resigned, but

it was certainly over this issue. But the police were not doing a whole lot other than making sure nobody was getting hurt and so on. They were policing the situation. Many of the police we talked to were certainly not opposed to the reasons the convoy was here. I'm not going to say that — I was one of them who, after two weeks, said, "Hey, it's time to go home, folks."

I think many of the police thought the same thing, but they really never made an effort, Senator Gold.

Now, do I believe in consultation with the police? Yes, but the act says consultation with the premiers as well, which is what Senator Housakos talked about.

So I guess my answer to you is that you don't just completely ignore one but consult with the other and accept their advice but ignore the other's advice. To me, that doesn't make sense. Should they consult with police? Should they consider the advice? Should they consider the advice of the premiers? In both cases, I think the answer is "yes."

Senator Gold: Thank you. I've learned from you, and you've learned from me because you didn't answer my third question, so I'll give you another chance.

I will repeat my third question with a preface. As colleagues know and as I stated in the chamber — and as the government deposited and tabled — the Government of Canada did, in fact, consult with all the provinces, as set out in the document they were required to table and which was tabled here.

• (1450)

My third question was simply, given the appreciation for the support of our law enforcement, the professionalism, given that it's appropriate for a government to take their advice, my question is this: The police chiefs of Canada supported the invocation of the Emergencies Act because they said without the tools they couldn't do the job. That was awhile ago.

They more recently said that they support the continuing existence of the Emergencies Act at least for a little longer so that they can finish the job. That's the advice that they're giving to the Government of Canada. That's the advice that the Government of Canada is taking because it's acting responsibly. It doesn't want this to go on any longer, but it's relying upon law enforcement.

So I don't understand, Senator Plett, with the admiration that we all feel for our law enforcement and the appropriateness of a government taking advice, why would you disregard or why do you not find it compelling that law enforcement has been telling our government you did the right thing by invoking it and we still need it in place?

Senator Plett: Again, as I said earlier, the argument can be made whether or not it was needed. The vote is whether it's necessary today.

Quite frankly, Senator Gold, regardless of what a police chief says, regardless of what my good friend Vernon White said earlier today there is no reason for it today, whether a police chief would like to have it or not. To me, you listen to that advice. You consult.

But we have the majority of our provinces, the premiers, the ministers of Justice, the solicitors general in the majority of our provinces saying it's not needed. I shouldn't be asking you questions, you're asking me questions, I understand, but do you not believe that these solicitors generals are not speaking to police chiefs as well?

What does consultation mean? That the Prime Minister gives them a call and says this is what I'm doing? Because if he asked Jason Kenney, is it okay? Jason Kenney said, "No." Premier Legault said, "No." Premier Stefanson of Manitoba and Scott Moe said, "No."

So what is consultation? Did he talk to the police chief in Saskatoon and in Regina? Did he talk to the police chief in Winnipeg? Or did he talk just to the premier?

He talked to the police chief in Ottawa, I'm sure. But that's one city. This is a national Emergencies Act. This is not an Emergencies Act for the city of Ottawa. If that's what he had declared, that would be one thing. Then speaking to the Ottawa chief of police should certainly suffice.

But I do not think, Senator Gold — and I won't go out on a limb. Well, I guess I am out on a limb saying that I don't think. I don't think the Prime Minister or anybody in the federal government called every police chief in every city in the provinces where they said no and asked the police chief, "Your premier says no, would you want us to still continue?" I don't think they did.

Hon. Wanda Elaine Thomas Bernard: Would Senator Plett take a question, please?

Senator Plett: Certainly, senator.

Senator Bernard: Senator Plett, thank you for your speech. There has been documentation of many forms of violence for the duration of this occupation. The primary organizers have histories of far-right extremism, including evidence of racist and Islamophobic sentiment. We have heard anecdotes from Ottawa citizens being victims of violence during the past three weeks in Centretown. We have seen hate symbols on display. And we have heard reports of violence and harassment toward media and journalists.

Canadians have a right to peaceful assembly and protest, we agree. However, there has been enough evidence that this occupation has not been a safe or a peaceful environment.

My question to you, Senator Plett, is why are the rights and freedoms of participants of the "Freedom Convoy" being prioritized over the rights and freedoms of residents in Centretown who have been unable to live their lives safely in the vicinity, and also journalists who have been prevented from reporting on the convoy?

Senator Plett: Thank you, Senator Bernard. Your question really does not pertain to the Emergencies Act. You're asking me a question, do I believe that one person's rights trump another's person's rights? No, I don't. If somebody did something illegal, if somebody destroyed property, then those people should be charged.

If somebody is pulling down statues across our country, if somebody is putting a rope around Sir John A. Macdonald's neck somewhere in our country and it's pulled down, that person should be charged. If somebody is burning a church somewhere in our country, that's arson. That person should be charged. If somebody is promoting hate in Ottawa, that person should be charged.

But you're giving me a whole lot of hypotheticals saying you have heard this, you have heard that. One person with a flag carrying a swastika who should have been run out of town or whatever we would have wanted to do with that individual, but that does not constitute the rally being promoted by racist people. That's not fair.

So unless the people have done something illegal — I'm sorry, Senator Bernard. You and I may have differences of opinion on issues, but as I said in my speech, I will defend to the death your right to your opinion. It may be different than mine. The same thing here.

The ironic thing is — much as I do support the police, and I've made that clear and I try to do that every chance I get — the injunction to get the truckers to stop blowing their horn was a private citizen here in Ottawa, not the police.

If somebody is doing something illegal, they need to be charged. If they're promoting racism, they need to be charged. But they weren't. I'm not going to condemn somebody if they haven't been charged with a crime.

Senator Bernard: I want to raise the issue of race privilege. The sentiment in several of the speeches that we've heard on this debate have alluded to and spoken to the deep divide in this country as though it's something new. It is not new. Deep divide has been felt by many in this country for generations.

I'm wondering about the role of privilege, the invisibility of privilege and how we make this more visible.

You and several people have also raised the lack of action. It's given me pause to think about how privilege has led to this escalation, led us to where we are now, to this debate we're having at this moment in time.

But I don't think there's been an analysis of privilege. My concern is that privilege will be used to ignore the privilege that is actually at play and has been at play during this blockade.

I think that privilege has allowed the convoy participants to act without consequences, that entitlement of participants allowed the occupation to escalate past the point of a demonstration, to the point that democracy was indeed threatened and residents' rights were infringed upon.

[Senator Plett]

Senator Plett, I would like to ask your thoughts on the role that privilege played and how privilege led to the use of the Emergencies Act to deal with this blockade. Thank you.

Senator Plett: Again, Senator Bernard, I'm trying to equate your question to the Emergencies Act here. It's not that I have any issue with answering your question, but in my opinion, my answer will be irrelevant to the Emergencies Act.

Let me try, in any event. Again, I saw the vast majority of what was happening in Ottawa from a television set, as I think most of the people in this chamber did. I don't think we were here in Ottawa for much of it. We were watching it on television. And we were getting the unbiased, unvarnished reports from our CBC, which we all appreciated so much.

• (1500)

But when I looked at it, I saw men. I saw women. I saw Black. I saw Indigenous. I saw a number of different ethnicities all being part of it. No, I'm sorry, I would disagree with you, Senator Bernard, that this had anything at all — the Prime Minister called them a fringe group and misogynists. There were as many women there as there were men — maybe not quite — but, nevertheless, there were men, women, children. There was a mixture.

There was a mixture of frustrated people who were tired of lockdowns. They were tired of COVID. COVID is not the Prime Minister's fault, but they were tired of that and they were here expressing themselves.

No. I'm sorry, Senator Bernard. I would disagree with your assessment of that.

[Translation]

Hon. Claude Carignan: Would the Leader of the Opposition take another question?

[English]

Senator Plett: Certainly.

[Translation]

Senator Carignan: Senator Plett, I asked Senator Gold a question this week about the 2021 Democracy Index. I pointed out that Canada had dropped seven spots in a single year and that we are now in twelfth place on the index on global democracy. The indicators used to compile the democracy index include the functioning of government, political participation, political culture and civil liberties.

The invocation of the Emergencies Act gives the government exceptional power to limit people's rights and freedoms and freeze their bank accounts without a court order. Are you worried that the use of the act will make Canada drop at least another five spots in 2022 and that we will end up among the lowest-ranking countries on the democracy index?

[English]

Senator Plett: Certainly, Senator Carignan, I would share many of your same feelings with that. I think our rights and freedoms are being infringed upon, certainly with something like this, drastically infringed upon.

I find when somebody like Minister Freeland talks about our liberal democracy, and Prime Minister Trudeau does the same thing, I think they are the drivers in pushing that back.

Senator Bernard said in her question to me that the dissension has been in our country for years and I agree with her statement. But I think it has been drastically escalated in the last half-dozen years.

I think the Prime Minister that we have today is driving that and will continue to drive that down because I do not see in him the spirit to give people the rights that they deserve. When he says something like he admires the general dictatorship of China, those are things that will drive that index, I believe, Senator Carignan. Yes, I believe it will continue to go down.

[Translation]

Senator Carignan: Professor Andrew Potter from McGill University commented on Canada's drop in the democracy index in an article on the Radio-Canada website, which reads, and I quote:

. . . Mr. Trudeau is therefore "directly responsible for the consequences." . . . "His attitude toward Parliament has been contemptuous and dismissive," the researcher said. "What is happening in the streets of Ottawa is, to a large extent, a direct consequence of that. When people feel as though their opinions are being ignored or treated with disdain, it's likely to cause anger."

I imagine you agree with the professor?

[English]

Senator Plett: I would certainly agree with that, Senator Carignan. I believe he has disdain for anybody that he believes is a little bit of a lower rank than he is. I find it difficult because if ever there is a person who portrays the sense of privilege, it is the Prime Minister.

Yet we have people who are supporting him when they, in the same breath, say they disagree with the sense of entitlement that people have. Here we have a Prime Minister who portrays that every day. He did before COVID. He initiated the fact that he did not want to be in Parliament.

I will refer back. I don't do this to make political points, and I'm serious even if people will not believe it. The Prime Minister, prior to Justin Trudeau, Senator Carignan — you know that he had a disdain for travelling to any foreign meeting when the House was sitting because he had so much respect for the House that he believed he should be there when the House is sitting.

We now have a Prime Minister who does anything not to be there because he has a complete disdain for Parliament, a complete disdain, in my opinion, for democracy and, quite frankly, a complete disdain for over half of our country.

Hon. Patti LaBoucane-Benson: Honourable senators, I heard Senator Housakos say earlier that the government should have ended public health measures, as the convoy advocated, to clear the streets of Ottawa.

My question to you, senator, is: Should this government or any government reward people engaging in illegal activity by giving them their desired policy outcomes, notwithstanding the advice of health experts?

Senator Plett: I didn't hear Senator Housakos say that quite like that.

Senator, what I do believe is that there should have been negotiations. No. Did I believe that it was the right thing for this convoy to come in and have a memorandum of understanding, a small portion of it?

We need to remember, senators, that this convoy took on a life of its own. There were different factions of this convoy by the time it got to Ottawa. There was a group that started it in Western Canada and, as it came across, it was like an octopus; it got tentacles, it got more legs and different convoys started.

And it was not the convoy that started in Western Canada that had that memorandum of understanding. It was a different part of that convoy that threw that in there. Did I agree with that? No.

I had a call today from an individual in Manitoba who asked me, "How is it possible? Don, what can we do, as citizens, to invoke a motion of non-confidence in the government so that we can defeat the government?"

I said to him, "What you can do, my friend, is you can vote for the Conservative Party of Canada in the next election so that you have the right government so that we can get rid of this one." I said, "That is when we overthrow governments, come election time." And that is what I believe.

I didn't agree with that memorandum of understanding. I thought it was stupid. And nobody believed it would happen. It was ridiculous. It was silly. And it gave a sense of illegitimacy to something that started off as a very legitimate concept.

• (1510)

So I believe in the general concept of elections, and I'll stand here and say that this organization and that organization hurt our election chances. And then I'm going to spend the next couple of years trying to become stronger and trying to defeat the Liberals come the next election. I'm going to continue to do that. But I believe in a democracy, senator.

I've started talking now, and I may not have even touched on your question. And I'm going to do what Senator Gold does and ask you to repeat the question, and maybe I'll get right at it. I put a little more on the record, anyway.

Senator LaBoucane-Benson: I'm from Alberta. Whether people are vaccinated, unvaccinated — I have both in my family — is not what this is about. At the very beginning, the convoy was about vaccine mandates. Someone in your caucus said we should have gotten rid of the vaccine mandates and everybody would have gone home. My question is this: As a government, do you do that? Do you give in to illegal activity? Do you give them the outcome they want to end this instead of using the Emergencies Act? Is that what should have happened?

Senator Plett: Let me say this: I think they should have gotten rid of the vaccine mandates before the trucks ever left Alberta, and then none of this would have happened. If your question is if I believe the government should operate under a threat, my answer is no. But should the Prime Minister have made an effort to contact the organizers, either himself or through an intermediary, as I suggested they had done at the Oka crisis? Surely he could have done that. He should not have called them a fringe group. He should not have incited hundreds of thousands and even millions of people who agreed with the protest the way he did. He should have tried to make peace.

Provinces were getting rid of mandates already. But instead of getting rid of mandates that the provinces were getting rid of, our Prime Minister just dug in his heels. Do I believe he should have done that? No. But that, in my opinion, senator, is what the Prime Minister did. He dug in his heels, and he said, "There is no way I'm going to give you guys anything, and I'll just make it worse for you." That also is not correct.

Hon. Brent Cotter: Would the honourable senator take a question?

Senator Plett: Certainly.

Senator Cotter: I really enjoyed the remarks, Senator Plett. I thought they were thoughtful, deep and meaningful and heartfelt. My question is a technical one, and I think it's an important one. It's the dialogue that Senator Tannas and I had earlier about what is the time at which we are making this decision.

I'm a lawyer. Sometimes it's an advantage; sometimes it's a curse. I don't want to pose this as some kind of a legal trap, but I want to describe what I think the meaning and intention of the legislation are and invite you to comment. I won't ask a follow-up.

The government issues the declaration. They are required then to table the declaration. They are required to table their justification for it — the report, the information about their consultations, and all of that — in relation to the declaration they issued. That comes to us. One would have thought, in the normal course, that that's what we're deciding on — whether the case that they made and presented to us was good enough.

The reason that seems to make sense to me — I think maybe Senator Tannas and I disagree — is when you turn the page then, there's another option, which is, for a group of us, if we think it's the right course, to initiate a process to revoke an already existing declaration.

That seems to me then to invite us to focus our attention on a thumbs-up or a thumbs-down to the government issuing the declaration and the case it presented to us for justification, so not so much today but presumably last Tuesday or Wednesday or whenever the day is that we should focus on. I won't ask a follow-up. I'd really appreciate your view about whether that was what the legislation really intended for us to do.

Senator Plett: Certainly, Senator Cotter. Thank you for that. I thought I had addressed, in part at least, your question in my speech, but let me elaborate.

I would counter with this: Of course, I don't agree that there was ever reason for the Emergencies Act. But aside from that, let's assume that there was, and let's assume I even agree that there was. When that emergency was over, the government, on its own volition, should have withdrawn it. And they could have done that, and we wouldn't be discussing this right now. That would have been the proper thing. If the government agrees there's no longer an emergency, they shouldn't just dig their heels in and say, "We want this passed." That, to me, again, is absolutely silliness. So they should not have done that.

I guess in a simplistic plumber's view of this situation, if I could, say somebody goes in and robs a bank, and the authorities even believe there may be some terrorists in there, the call is made to the army, and the army is starting to mobilize. Then if the robbers all come out and give themselves up, and they're being transported over to jail, we would probably call the army off. We wouldn't say, "Well, come on in any way, and continue. Go into the bank and run around there and do whatever you do." No, we would call them off.

Well, that same thing would apply here. If there's no longer a reason, then I don't think we should have to go to the letter that you're suggesting, which, by the way, Senator Cotter — twice now, I've heard you talk about it — I hope you would be a signatory on that letter. Maybe there are others formulating a letter, but we have well over 10 people who have suggested it from different groups and caucuses here. I hope we can count on your support for that letter on the very vague chance that the motion here passes. I'm still very hopeful — I like to be positive — and think that we will defeat the motion. But if we don't, certainly that letter is in the making right now. Yes, should we do that if we lose this?

But I think the government should do the principled, grown-up thing and say, "We no longer need this, so we're dropping it."

Hon. Patrick Brazeau: Would the senator take another question, please?

Senator Plett: Sure.

Senator Brazeau: As you know, Senator Plett, I used to be a member of your party. I've heard some things that you said here today that incite me to take the floor and ask you two very simple questions.

You mentioned that there was Indigenous support with respect to this illegal occupation. That has been denounced by many Indigenous leaders across the country and by many Indigenous organizations. Let's face it: We saw individuals pretending to be

Indigenous peoples and singing the “Yabba-Dabba-Doo!” song. If that is your view of Indigenous support with respect to this protest, I would ask you to be very careful with respect to describing who was actually there.

Having said that, could you tell me, in recent memory, when the last time was that your party has given even one ounce of support to any Indigenous protest vis-à-vis what we have seen in the last four weeks?

Also, I’ve been hearing from many members of your party, including a candidate who will run as leader, saying that they supported “truckers.” The narrative that you’re trying to portray is that this started off with good intentions, good people, and then here comes the octopus, and it grew into something more.

My question to you is this: Do you have any evidence that you could perhaps share and table in this house with respect to exactly why you’re saying that this was initially supposed to just be a simple, peaceful protest? The reason I’m supporting this motion is because I have not yet seen anything, and we can get to the bottom of these issues. Is that not what you’re seeking?

Senator Plett: Senator Gold told me I could answer with a yes or no. I’ll say yes to part of your question and no to the other part.

[Translation]

Hon. Michèle Audette: Would Senator Plett agree to answer a question?

[English]

Senator Plett: Absolutely.

[Translation]

Senator Audette: I noticed that I’m free to ask my question in French because of the interpreters. I thank them for their incredible work.

You know this because I told you in private, and I may have said so before in previous conversations, but I am new here. It will take me years to get comfortable in these very important moccasins. As a mother, grandmother, citizen and senator, I have some concerns.

• (1520)

What can you say to reassure me, Senator Plett, about the small but very powerful groups I’m seeing in Quebec and in other regions? We may not necessarily see them ourselves, but we understand that they exist, we see or we read things. There is an incredibly powerful economic force behind the recent movements.

Ian Lafrenière, the Minister Responsible for Indigenous Affairs, for whom I have a great deal of respect, told the media that in Quebec, even members of the Hells Angels managed to infiltrate the convoy. Naturally, that makes me feel nervous and scared, because that is certainly not the type of protest we should be encouraging, in my opinion.

I would like you to reassure me. If this motion concerning the Emergencies Act is not adopted, how are we going to fight against this type of protest?

What’s more, you and I both know that other governments will come into power in Canada. Let’s say that a government led by someone other than the Liberals suddenly comes into power. If that government takes a very hard line against the emergency measures, I hope that we will collectively remember not to enact this legislation again.

Do you agree with me that what we are discussing today should also apply to future political generations?

[English]

Senator Plett: The ultimate question was: Should it apply for future generations? Without question, it will, which is exactly what I said in my speech a few times. We cannot put the genie back in the bottle. So whatever vote we give, we will be setting the stage for future generations. We will be setting the bar very low for future generations to bring in the Emergencies Act. If we vote yes to this, the bar will be set very low because we need to work in the present, senator. Senator Cotter asked very much that question, about dealing in the present or with what happened a few weeks ago. I don’t believe it was an emergency a few weeks ago.

However, let me say that I have confidence in our police force. I also have confidence in organizations like CSIS, for example. I have confidence in our RCMP, in our municipal police, in our provincial police, in the anti-terrorist organizations that we have, anti-corruption organizations that we have. Without question, there were some idiots that joined this convoy, and there was possibly even some dangerous people who joined this convoy. There was one smoke bomb that got set off here last weekend, and that was about the extent of it.

Now, I believe in our anti-terrorism and our police departments and that they knew where this convoy was. It wasn’t that people were sneaking into Ottawa. Were there Hells Angels in there? I don’t think officially, but maybe there were. But certainly unofficially, were there people of ill repute in a group of thousands of people like that? I’m sure. There is in every protest, senator. In every protest in Ottawa, there will be a few people that we all wish wouldn’t be there, but they have that right.

I asked Senator Gold this question yesterday. When did this become an illegal protest? His answer was very vague on when it became an illegal protest. Until it became an illegal protest, everybody had the right to be there. We should never infringe on your rights or my rights of being at a demonstration. That is our Canadian right.

So I have confidence that if somebody wants to infiltrate Ottawa, they will do what this gunman did. They will sneak up to somebody and shoot that person and then go running into Centre Block, as he did. They won’t come driving from Alberta to Ottawa in a convoy of big semi-trucks with their name all over the side of the truck and advertising that they’re coming here. If the police had thought there was a dangerous element in there, if the police had thought there were arms somewhere on Wellington

Street, they may have allowed me to walk down there and hoped, but they wouldn't have allowed the Prime Minister to drive through that, for sure.

[Translation]

The Hon. the Speaker: Would you like to ask another question, Senator Audette?

Senator Audette: Yes, but I'd like to give it some more thought, and I hope to get some good answers in the course of the debate.

Hon. Jean-Guy Dagenais: Would Senator Plett take a question?

[English]

Senator Plett: Absolutely.

[Translation]

Senator Dagenais: Senator Plett, ever since we started this debate, we've heard colleagues here talk about how the use of this act is exceptional and this is a historic moment.

However, don't you agree that the government failed to show this chamber the proper respect and transparency by not participating in a Committee of the Whole where we could have taken a closer look at why the use of this act was justified? I'm saying this mainly because the Prime Minister himself didn't show up in the other place to vote on this act that he wants us to vote for blindly.

[English]

Senator Plett: Absolutely, Senator Dagenais. I think the Prime Minister has shown a lack of respect for both houses for the last number of years, and certainly for this house. Maybe we're getting off track here, but we have constantly been upset about the lateness with which we get legislation, and I don't fault our government leader here in the Senate for that. He's doing his job. But he gets this legislation and then we have ministers in the other house saying, well, we hope the senators will put their shoulder to the wheel and get this done in 24 hours, even though it has taken us half a year to get it over to you.

So the lack of respect again is being amplified here, Senator Dagenais. Since you're asking the question right now, I want to reiterate your comments yesterday when you talked about that the government had all the tools in their tool box under the Criminal Code to deal with this situation without this act. I appreciated those comments, and certainly would echo those. Thank you for that, Senator Dagenais.

[Translation]

Hon. Éric Forest: Would Senator Plett take another question?

[English]

Senator Plett: Certainly.

[Senator Plett]

[Translation]

Senator Forest: Senator, based on your experience and knowledge, you said some idiots and some dangerous people infiltrated the convoy.

Here's what I'd like to know. Given your knowledge, what distinction do you see between an idiot in this convoy and a dangerous person in this convoy?

• (1530)

[English]

Senator Plett: Senator Forest, I'm not sure if that was a set-up, but I would say an idiot is always a dangerous person. I don't know that I have to separate those two. As I said earlier, when one person has been seen carrying a flag with a swastika and we make that out as if the group has been infiltrated by Nazis, I find that difficult.

When the Prime Minister and the House of Commons do that, do I support this — this is a person I would call an idiot. Should he have been removed from there immediately? Yes, he should have been. He wasn't. Why? I don't know, but I don't know that there's a bigger distinction that I can make than that.

[Translation]

Senator Forest: Basically, I'm trying to determine what measures should have been taken. In my view, if there are several idiots, perhaps we should have taken a different approach with the people who are actually dangerous. Do you think we should have taken a different approach with the two types of people who may have infiltrated the convoy, Senator Plett?

[English]

Senator Plett: Yes, I think idiots need help and dangerous people need to be locked up. But it's not my business to do that. It's the police's business. If there were dangerous people, the police should have dealt with it. They shouldn't have waited two or three weeks. They should have dealt with it. They have the tools in their tool box. As Senator Dagenais said yesterday, they have the tools in their tool box. I think Senator Dalphond alluded to that. I know Senator Carignan did.

That's something for the police to do, not for you and me to do. We pass laws here. We don't decide who should be locked up, and we certainly don't declare a state of emergency when there is nothing out there that is of any urgency or certainly any emergency.

[Translation]

Senator Carignan: Leader, I'm hearing comments in this debate that make my hair stand on end.

Have we completely forgotten that we live in a society governed by the rule of law? Have we completely forgotten that there are principles enshrined in our Constitution that include investigative powers and law enforcement services that conduct investigations? Have we forgotten that, for time immemorial, criminal groups, like the Hells Angels and others that launder

money and traffic drugs, have been trying to infiltrate other groups? These are groups that regularly operate under the cover of other activities with the objective of laundering money or controlling the black market, for example. This is quite common. This is how it's always been, and it's unlikely to change. You don't use the Emergencies Act because a small group has been infiltrated by the Hells Angels. We have the Constitution, and we have the investigative powers. We don't need emergency measures to do this. Is this a symptom of COVID-19?

[English]

Senator Plett: I'm not sure whether there was a question in there, Senator Carignan, but I do agree with you. Certainly, as I said to Senator Forest, we have had undesirables in our country forever.

I have the highest regard and praise for — and confidence in — our Armed Forces and our police services. I have the highest confidence that if there were Hells Angels or Mafia infiltrating the type of convoy that was in Ottawa, they would deal with it. I have the highest confidence that the police would not allow you and me to walk down the centre of Wellington Street and go and look out of our windows right up here in the Senate building and across the street if there was a danger of bombs being there. They certainly wouldn't allow the Prime Minister to do that.

If we have confidence in our police and our law enforcement, then we don't have to declare a state of emergency simply because we do not like the type of protests that are going on. There are many protests that could have gone on there that would have been far worse but that would have been closer to the Prime Minister's agenda, and we would not be discussing this issue here today.

Senator Housakos: I want to drill down a little bit more on the point that Senator LaBoucane-Benson made in regard to mandates.

Over the last few weeks right across this country, we've seen provinces that, of course, were at the front line in dealing with COVID. With the advice of science and their health officers, the provinces have come to the realization they should lift mandates. We're lifting the requirement for vaccine passports, for example, on March 14 in Quebec and on March 1 in Ontario. They've already been lifted in Western Canada.

At a time when the science is telling us mandates aren't necessary and provincial governments across the country are lifting all kinds of mandates, why does Prime Minister Trudeau think it wise to double down and maintain these mandates targeting a specific industry when all he had to do — and I've been saying this now for the last few days — is eliminate those mandates, and we wouldn't have these protests and disruptions in Ottawa? Why is he going against the alignment of science and his provincial counterparts?

My second question for you, Senator Plett, is about how at the beginning of the COVID crisis, truckers in this country were hailed by this government and by all of us as heroes. They were our essential workers that kept us fed, that transported food across the country. The ability to get things from Amazon,

Costco and Walmart is because of these people. At which point during the crisis, Senator Plett, did these heroes — along with our health care providers — become these deplorable, undesirable extremists? At what point? Was it at the point when they started disagreeing with public policy and with the Trudeau government? Was that the point?

Senator Plett: Let me take this opportunity to read this one more time. I know it is in Hansard and on the record, but this is the Prime Minister who tweeted in the early days of the pandemic. He said:

While many of us are working from home, there are others who aren't able to do that — like the truck drivers who are working day and night to make sure our shelves are stocked. So when you can, please #ThankATrucker for everything they're doing and help them however you can.

Senator Housakos, in the beginning of the pandemic we had leaders, including the Prime Minister, telling us, "We have your back."

In my own province, they said that. It wasn't this Prime Minister, but I'll use this example anyway. In my province, they said, "We have your back." Three months later, they had a snitch line developed where you could report your neighbour. That is what this has done. That is the type of leadership we have here. One day they say, "We have your back." The next day, "Report your neighbour."

Senator Housakos, do I believe these mandates should have been lifted? Yes. However, officially, I cannot say that is what the Prime Minister should have told truckers that were coming here to protest. I think before they got here would have been the time to do it because, as you say, the provinces were doing that. The problem is the inconsistency of this and how they communicated that "on that date, we will lift this mandate." I'm not sure how science says that on a specific date things will be better, but somehow they do.

• (1540)

Hon. Hassan Yussuff: Thank you, honourable senators. I do have to say, in getting up here to participate in this debate, I want to thank all of my colleagues who have spoken already for the remarks they have made. I think it has informed me, of course, with regard to the remarks I'm about to make, but I'm equally troubled by a couple of things. I believe that the challenge we and our nation face are not unique. Every country, I think, faces some challenges at different times. Given our role, how do we bring ourselves together to show our country remains strong and committed to the principle of democracy and citizens' rights?

I also want to acknowledge that today is Pink Shirt Day. If you notice, I'm wearing a pink tie. I did have a pink shirt but it's at the cleaners, so I couldn't get it in time to be here this morning. I want to say to all those young people in their schools across this country who are taking the time to observe anti-bullying day that I salute them for their courage and the work they're doing. Their work will make our country a better place for them after they grow up and are adults.

I also want to start out by saying to colleagues that I believe the government has met the test for the invocation of the Emergencies Act. I don't say that lightly, because I recognize that in our country the right to protest is a fundamental one. As a matter of fact, I would argue that I may be a student of protests. My entire life has been on barricades before parliaments, provincial legislatures and municipal city halls protesting one thing or another on behalf of working people.

I've come here to Ottawa in the dead of winter, mad and crazy for doing it. We were protesting high interest rates, because we believed it was having a detrimental impact on the lives of working people. When our protest was over, we went home and continued our efforts to try to get our government to take a different approach in what they were doing with the high interest-rate policy that was ruining our economy. It didn't stop. But we respect the rights afforded in our democracy. Those were the people we elected to do what they were doing.

My friend Peter — Senator Boehm — spoke yesterday about his role as a deputy minister and sherpa in organizing the Organization of American States, or OAS, in Windsor. I was on the opposite side, protesting what my friend Peter was doing. There were a lot of people, but we recognized that Latin Americans were in our country to talk about the role of the OAS and its responsibilities. Some of us felt we had something to say, and we were going to say it.

When Peter was organizing, of course, the Summit of the Americas in Quebec City, I was there prominently with thousands of workers and other activists protesting, of course, the Summit of the Americas, because we felt it was our right.

When the protest was over, like others, I went home. My friend Peter was organizing the G7 in Canada very recently. I wasn't on the other side of a protest. Actually, I met Peter across the canal here in the arts centre, sitting down with him. The Prime Minister was there at some point. The Minister of Labour was there, along with other ministers who had responsibility for the G7, to talk about the issues that were of concern to working people in G7 countries around the world.

I've known Peter for two decades. I consider him my friend. But my right to protest in my country is a fundamental right. When the protest is over, you go home.

I recognize that some of our citizens who came to Ottawa to protest have a right to do so, and I salute them for doing that. But I also know it was not a protest anymore. It was an occupation. There is a difference. The citizens of this great city of ours welcomed them. But that welcome was worn out long before they left. And they abused their welcome.

I learned a long time ago that when you are invited into a person's home, you don't pee on the couch and crap on the floor. It's a crude analysis, but it's one that needs to be said. Because I think our fellow citizens who were in Ottawa crossed the boundary and the rule of law. We have to respect it.

Many times I have complained about government actions against workers who are on strike, and they legislate them back to work. We didn't like the decision of the government. We accepted it and went back to work. We went to the courts.

Today, in my land, in this great country of ours, the right to strike is a fundamental right protected by the Constitution. Yet, governments still violate that law. We will keep going to the courts and some day we'll get a decision — a huge penalty for governments for doing this. But, in the meantime, we still have to respect the law.

I know this is not about the right of fellow citizens to come and protest. What we saw happen the last number of weeks across our country should trouble all of us.

How did we get here? At the beginning of this pandemic, we weren't sure where we were going to end up. I was doing a different job, leading an organization of 3.5 million people. One night, we were told the country was going to be shut down indefinitely. Did we resist it? Did we take to the streets because our jobs were gone? We didn't know where our income was going to come from, how businesses were going to continue, whether or not we would be able to provide for our families. We accepted that it was for greater interests and the health of our citizens.

I worked with our government, the Chamber of Commerce and many others to talk with our government about the programs we needed. We didn't have vaccines but we had to wear a mask. We had to learn how to wash our hands properly and stay away from one another so we weren't spreading the virus. We did all of that in the interests of protecting one another and our families and our friends. And at the same time we recognized that we had to ensure other Canadians understood the seriousness of this virus. Many throughout our country, of course, participated in the effort to ensure the safety of our country.

We're much further down the road after two years. Are we tired? I'm tired. Why am I tired? Because you're not able to see your friends the way you used to. Just this Christmas, I couldn't have anybody home for the holidays. Is that frustrating? Absolutely. But that is what our officials asked us to do.

We were not able to go on a vacation in over three years. Am I frustrated? Absolutely. But does that give me the right to behave in a way that questions my commitment to the greater good of our nation? I don't think so.

We recognize that we're doing this for the greater good of our country. I respect those who don't want to receive vaccines or don't want to wear a mask, but you don't have the right to jeopardize my health, because I'm doing everything to make sure I protect it.

But I respect your right if you chose not to do so. Yes, I recognize that those who came here said they wanted all vaccine mandates gone. Who elected you to make that decision? But I respect your right to say it.

I don't think anybody can show up in Ottawa as a group of people and say we want our elected government to disappear and a group of us are going to have the Governor General and Senate decide. They don't have the right to say that, nor do they have a right to tell me that was their objective.

Then when the citizens, the mayor and others, asked them to leave the city, they basically told them to go to hell; they were going to stay here anyway.

Well, I don't know. If you're invited into somebody's home and they ask you to leave, you do what is expected of you: you leave. Because that is the decent thing to do.

That is not questioning your right to protest. Question your right to remain in a place where nobody wants you to be, because they invited you and welcomed you.

It is truly frustrating to listen to the debate, because I don't think all of this is to do with our Prime Minister. Many of our premiers across this great land of ours brought in many mandates and requirements of our citizens in their jurisdictions. Some of them are slowly, of course, rolling back those restrictions. And I respect their right to do so, but subject to the evidence and the advice they are getting from, of course, the scientists and doctors in their communities.

• (1550)

I know that in time much will change in our country around vaccine mandates but, in the meantime, we still have to work within the structures that we have in our country and respect the rule of law.

Much has been said about the invocation of the Emergencies Act. The Emergencies Act is not the War Measures Act. It is a different piece of legislation. It was crafted with a great deal of thought, because it was a reflection of what happened during the crisis in Quebec, the Second World War and the First World War.

I want to tell you a story. My mother is Japanese Canadian. She was born Canadian. She and her family were picked up, put on a train and sent to a camp. They remained there throughout the war. Subsequently, she was shipped to Ontario.

Five decades later, she went back to British Columbia, where she was born, to see the family farm. It was long gone. Is she an angry woman? No. Does she need to accept what happened to her and her family? No.

Former prime minister Brian Mulroney apologized for what we did as a country. They offered compensation, but not a single thing that we do can restore her dignity and the rights violated by our government at that time.

The Emergencies Act took care to ensure that if our government is going to use a piece of legislation, it must have checks and balances. And it does; it provides for oversight. A group of parliamentarians can get together and say that our government needs to remove this legislation. In the other house, they can do the same thing.

The Charter of Rights and Freedoms didn't exist during the Second World War or the Quebec crisis. It exists today. They took the care to say that our government can override the Charter of Rights and Freedoms.

The courts have a role. Should the government overstep their responsibility, our judges and lawyers in this country will ensure that the government will be held to account for any violation of the fundamental rights of Canadians.

Am I satisfied that we had to use the Emergencies Act? No. There have been many failures in the crisis that is before us. We can all point fingers, but in due time it will be examined properly. I hope we learn from this.

I watched thousands of workers in this city who couldn't go to work. They lost their income. Businesses suffered. Is that the right of protesters? No. I don't believe it was their right to harm the citizens of this city. I have many colleagues, and there are thousands who work in the auto industry. The plants shut down. They had to go home. They couldn't operate because some decided to block the bridge to bring attention to the government action on mandates. Is that right? None of us will agree that it is right. Those workers suffered a loss of income. It raises a question of confidence about our ability to keep our borders open and to continue trade.

The reality is, there's a difference between a protest and an occupation — an illegal action to block a bridge and to do what folks have done here in this city.

As much as I want to be angry about the racism, the Confederate flag and the swastika, I spent my life as a person of colour, a man with the name Hassan Yussuff of Muslim background, dealing with a lot of crap in our country. I don't give up on our citizens and their behaviour. I hope in time they change and become better people.

I have some confidence that most of our citizens who were in Ottawa occupying the city are kind, decent people. I would like to believe that. If they're not, I hope they will become better citizens. I won't give up on them, because I know it's the wrong thing. But I have to say that I can criticize them and judge their behaviour. I don't agree with what they did; it is wrong. It is wrong for the reasons that we all know. There's a sense of decency in how we conduct ourselves.

In conclusion, colleagues, I recognize the decision before us is an important one. This is the first time the act has been invoked. We should have as much scrutiny as we can. At the end of the day, I hope our government, before the expiry of the 30 days, with the advice that they are given, will make the right decision. For the future of this great country of ours and our unity, we must do the right thing.

I will be voting in support of the motion. Thank you.

Some Hon. Senators: Hear, hear.

The Hon. the Speaker: Senator Yussuff, your time has expired, but there is at least one senator who wishes to ask a question. Are you asking for five more minutes to answer a question?

Senator Yussuff: Gladly.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Hon. Denise Batters: First of all, Senator Yussuff, that was a very thoughtful speech. Thank you very much for all of the important points that you raised.

I just saw that *Canadian Press* is tweeting out a CP news alert:

Prime Minister Justin Trudeau is set to revoke use of the Emergencies Act, according to two senior government sources, now that the protest in downtown Ottawa is over.

Apparently he is speaking at 4 p.m. ET.

So given this debate that we've been engaged in for so many hours in the Senate, with many thoughtful comments from both sides, what do you think about that, Senator Yussuff?

Senator Yussuff: Thank you for your question, Senator Batters.

We had an opportunity to hear from ministers earlier this week before the debate started. The ministers assured us that they were taking advice on the hour, every day, by talking to law enforcement officers with regard to the invocation of the act. Based on that advice, I think at the appropriate time, if they had information that would allow them to do what this newswire is supposedly saying, I don't disagree.

I don't take the government at face value. I take information in the context that they are consulting with law enforcement with regard to the invocation of the act and the continuation of the use of the act. Should the Prime Minister hold a news conference to say he's going to revoke the act, that it's no longer needed, that is his decision, but it's based on the advice he has been provided by law enforcement officers that they trust to give them the right advice.

Senator Batters: Thank you for that response. Would you agree with me that, given this particular analysis of the situation now, it seems like the proper vote for this chamber to undertake would be to vote no?

Senator Yussuff: Until we know for certain, we've been asked to consider if we support the government in regard to the invocation of the act. We don't have another question before us right now. Until the House leader tells us something different, I guess we're still voting on the motion.

Hon. Terry M. Mercer: Senator Batters, I'm shocked that the Prime Minister has gone to these lengths to upstage me and my speech here this afternoon. I thought when he kicked me out of the Liberal caucus a number of years ago that that was the last time he would do that.

Honourable senators, we are all tired. We are all sick and tired of COVID-19, stay-at-home orders and health protocols, but the end is near. We should continue our measured approach and cautiously lift restrictions so we emerge from this pandemic in a way one can only hope will prevent such widespread measures in the future.

We must continue to use the tools that have worked. Do we have to like them? No. But it is clear that they have gone far in preventing a massive breakdown in our health care system. Many people have been sick, some are still living with long COVID, and many have died, but how many more would have fallen ill or died had restrictions not been in place?

Honourable senators, this is at the heart of why we're here today. People are tired. We are all tired. Does that give the right to shut down our capital city and our border crossings to the detriment of hundreds of millions of dollars in trade? I don't think so.

• (1600)

The Emergencies Act, the implementation of which we are debating here today, came into being under former prime minister Brian Mulroney in 1988 to replace the War Measures Act. The new Emergencies Act, in my opinion — and some of my Conservative colleagues may be shocked to hear this — was a good bill. Brian Mulroney actually had one good bill in his quiver. It was a respectable compromise to ensure the protection of rights but also the protection of citizens in times of emergency.

Honourable senators, I believe the convoy started as a statement of protest — that people are indeed tired of restrictions and want them lifted. But that statement was silenced early in the siege of the capital. It gave way to a louder voice — a voice of lawlessness, rage, racism and anti-Semitism. It attracted much attention, goaded on by fake news and false social media information. The fringe had arrived in Ottawa, and they were not leaving come hell or high water. It got worse as time went on. What emerged was a mob of loud, horn-honking partiers with their hot tubs, bouncy castles and pig roasts. It turned into a glorified street party for radicals and conspiracy theorists. Some peaceful voices were indeed lost in the fray.

The citizens of the city of Ottawa were under siege, and they had had enough. I heard and saw many comments generally like, "What's the big deal? It's downtown, and we're not bothering folks." There are tens of thousands of citizens who live within 5 or 10 minutes of Parliament Hill. It's a unique thing in a capital city in most parts of the world. They were being harassed by constant noise and were verbally and, in some cases, physically enduring abuse. Some of their homes were almost burned out.

That leads us to the question asked many times during this debate: Why wasn't action taken earlier? Quite frankly, this was a failure by every level of government. From the very beginning of the pandemic, COVID-19 has been politicized and has created a deep mistrust of science — and politicians for that matter —

a mistrust we may have misjudged. Combine the endless closures with the stay-at-home orders we all faced, and it led to tempers flaring wildly and straight to the occupation of the city of Ottawa and the takeover of our border crossings.

Honourable senators, I believe in protests and protesting. I've participated in many in my life, all peaceful and hopefully all effective. That is not what this was. That was not what happened in Ottawa, and it hardly lives up to Canadian values. In my eyes, there were some outside forces at work here. I look forward to looking into this as well. The Emergencies Act also gives us the power to do that.

FINTRAC is following the money, and it is about time that we did that with such fundraising platforms as GoFundMe. Where is the money coming from? Up until now, there was no way to monitor outside money, and I am pleased that we are able to now. For those who have stated here that the little guys are getting harassed and having their bank accounts seized, I do not fully agree with that. There are safeguards in place to remedy a serious situation if it occurs. If it does occur incorrectly, we can look at that and fix it.

In fact, the RCMP says they are not targeting the little guy, just mainly the organizers and those who continued to support them in Ottawa.

So, honourable senators, why keep the measures in place if it's over? Well, are we certain it's over? Perhaps, according to Senator Batters' statement made before my speech, it actually is over.

Are we certain it's over? I do not believe so. I'm sure many of you saw in the papers in the last day or so about the number of encampments of the former occupiers of Ottawa that are surrounding the greater Ottawa area. The people haven't really all gone home.

Why not keep these measures in place to ensure we are safe? It is balanced. It is not overreaching. It is subject to review, which we're doing right now. Democracy and the rule of law are being respected by what we are doing here. The Emergencies Act has safeguards in place: parliamentary oversight, accountability and respecting rights under the Charter.

If some premiers do not want the help the Emergencies Act provides, that is okay too. One in particular did, and it worked. It should continue to work until the misguided — in some cases criminal — element is completely gone.

Most importantly of all, this will be reviewed by representatives of all groups in the Senate and the other place. That is a good thing, with proper checks and balances to prevent overreach.

I might also add, with all due respect to my lawyer colleagues, that I certainly hope there will be representatives of other professions besides lawyers on the committee.

Honourable senators, we in this country have choices, but choices have consequences. If you're going to choose to occupy a city and disrupt our borders and be warned countless times to leave and then not do it, our laws to protect law and order must come into play.

Finally, I would like to commend the outstanding work and dedication of all police forces who were involved and who were there from all corners of the country to help in this illegal blockade in Ottawa and at our borders. I would also like to commend their families who must watch them go to work every day, putting themselves in harm's way to help protect us.

This is about the COVID vaccine issue for many people. It's interesting that this morning I picked up my local paper in Nova Scotia, and on page 2 of the paper there's always a history section. Today's history lesson for us is interesting. It says that in 1954, the first mass inoculation against polio with the Jonas Salk vaccine took place in Pittsburgh, Pennsylvania. Many of our younger people in this chamber have never seen polio, and the reason is the vaccine. Polio has almost been eradicated in the world because of the vaccine. I'm frustrated that people are not concentrating on that. We're all frustrated, but Canadians will get through the pandemic stronger, wiser and safer than ever. Thank you, honourable senators.

Hon. Dennis Glen Patterson: I'd like to ask if Senator Mercer would please take a question.

Senator Mercer: Yes, sure.

Senator Patterson: Thank you for your speech, Senator Mercer. I just want to say that I agree with what you said about the importance of vaccine mandates in protecting the health of Canadians. I've said that particularly with reference to my home territory of Nunavut.

• (1610)

I'd like to ask your opinion on the imposition of the vaccine mandate for truckers crossing the U.S. border, which seems to have been the trigger for the "Freedom Convoy," though, as many senators have observed, this convoy morphed into grievances about many other issues. Some have seen it as a provocation to have imposed a vaccine mandate on truckers, who had mostly done their challenging jobs alone and had been allowed to cross the border for almost two years without any mandates having been required and with reportedly 90% of them being vaccinated.

I'd like to ask you if you have any thoughts about whether imposing that vaccine mandate on truckers, when 90% of them were reportedly vaccinated, and after letting them cross the border freely for the better part of two years when we really needed their services and the produce they delivered. Would you agree that was an unnecessary and understandable provocation, that imposition of the mandate on them? Thank you.

Senator Mercer: I think any time you poke someone with a sharp stick, you can anticipate that there's going to be a bit of pushback. I don't think that we here in this chamber have all of the information that the government used the sharp stick and

poked the truckers on that occasion. I don't think we have all the information that caused them to do that. In retrospect, was it a wise thing to do? Probably not.

Hon. David M. Wells (Acting Deputy Leader of the Opposition): Honourable senators, I speak today during this unprecedented time in our country's history on the motion for confirmation of the declaration of emergency that is before us. It is of great concern to me that the government is further extending, as it seems, its power without clear and defensible justification.

In Canada we hold our freedoms, entrenched in the Charter of Rights and Freedoms, in the highest regard. The Charter ensures that Canadians are free to express their ideas as indicated in section 2(b), which states that everyone has the freedom of thought, belief, opinion and expression; in section (c), which refers to the freedom of peaceful assembly; and section (d), the freedom of association.

Canadians therefore enjoy the freedom to express their ideas, to gather and discuss them and to communicate them widely to other people. These are crucial to the proper and basic functioning of a free and democratic society. It is equally fundamental that all Canadians are free to discuss matters of public policy, to demonstrate and to criticize governments. There is no doubt that what happened on the one-kilometre stretch of Wellington Street in that three-week period was a protest albeit not in accordance with the law of the land.

I have received an unprecedented number of phone calls and emails from Canadians of all walks of life and all provinces and territories to express their sincere and legitimate fear that the fundamental liberties they cherish are being eroded and in some cases removed. Honourable senators, I know that you have received these messages as well. I know some of these people because they have my private email and cell number, and they have reached out to me directly because they know me. Despite what some have said, these people are not racists, misogynists or any of the convenient labels that are used to justify actions, including voting on this motion.

Canadians are truly worried that invoking the Emergencies Act is not and was not necessary to end the protest in downtown Ottawa. It certainly wasn't necessary at the Coutts, Alberta border, which was ended not by invocation of the Emergencies Act but by the legitimate local organizers who shut it down when guns and ammunition smuggled in were discovered by the police. Canadians are alarmed at the overuse of power that the Prime Minister has used in invoking the Emergencies Act, instead of implementing or at the very least exploring other options available, or doing it because of the obvious failures of local police, who had the powers under existing laws already in place, and dysfunctional governments at the municipal, provincial and federal levels. What is worse, there is not even an explanation as to why these other options had not been considered. They all had reasonable paths, and they all abdicated their responsibility.

Honourable senators, in order to truly understand what our country and this chamber are facing at this moment in time, we must look at the impetus of the Emergencies Act.

The Emergencies Act was introduced by former Minister of National Defence Perrin Beatty in the Second Session of Canada's Thirty-third Parliament as Bill C-77. The bill received Royal Assent on July 21, 1988, in essence replacing the War Measures Act. Parliament intended it to provide more civil rights protections while ensuring there is less room for abuse of power than its predecessor, the War Measures Act. Several amendments were made to Bill C-77, a notable one being the definition of "national emergency." The situations under which the act could be invoked were defined more restrictively to limit broad use.

According to Peter Rosenthal, a Canadian-American professor and lawyer who wrote *The New Emergencies Act: Four Times the War Measures Act*, published in the *Manitoba Law Journal*, gave two possible conditions, one of which is:

. . . seriously endangers the lives, health or safety of Canadians and is of such proportions or nature as to exceed the capacity or authority of a province to deal with it . . .

Another is "a condition which threatens the sovereignty of Canada." The province had the capacity and authority, they just didn't use it; the City of Ottawa as well.

According to Noa Mendelsohn Aviv, general counsel for the Canadian Civil Liberties Association, as you've heard Senator Plett and others reference, said:

The Emergencies Act is clear. It has to be a very serious danger to the life, health and safety of Canadians that is completely overwhelming to the provinces or it has to be a serious threat to the territorial integrity, security or sovereignty of Canada that Canada does not already have laws to address.

She further explains:

. . . that is what we mean by rule of law . . . we want democratic laws to address difficult situations not emergency powers that should not be normalized.

Honourable senators, we have such laws already in place.

Let's go to the act. It states:

For the purposes of this Act, a ***national emergency*** is an urgent and critical situation of a temporary nature that

(a) seriously endangers the lives, health or safety of Canadians and is of such proportions or nature as to exceed the capacity or authority of a province to deal with it, or

(b) seriously threatens the ability of the Government of Canada to preserve the sovereignty, security and territorial integrity of Canada

and that cannot be effectively dealt with under any other law of Canada.

These protests that we have seen in Ottawa and pockets across the country do not meet this threshold. Are the lives, health or safety of Canadians in danger to such proportions that exceed the capacity of current authorities and laws? No. Is the sovereignty, security and territorial integrity of Canada threatened by these protests, to the extent they cannot be dealt with under existing law? No.

Protests are a fundamental tool in shaping many democracies around the world, and Canada is no exception. In fact, protests mark the birth of many of the world's democracies. Protests are typically organized and executed by a minority of people, but this does not lessen their importance. The Canadian Charter of Rights and Freedoms is not a protection for the majority or the minority; it is a protection for the individual, and it is a protection against the authoritarianism of the government.

Canadians are concerned by the implementation of the Emergencies Act, which has restricted lawful and constitutionally protected protests in this country. The overreach is unacceptable. Given the outreach my office alone has received, it is safe to say that millions of Canadians do not approve. These citizens have been labelled as people with "unacceptable views." In fact, it was here in this chamber that I first learned the term "othering" and the damage that it is intended to inflict, and this is exactly what has been done by the Prime Minister and his government. Fringe minority, misogynists, racists, Nazi sympathizers; this is no way to lead a country, and this is not responsible governing.

Honourable senators, as I try to dissect and understand how the proportionality of this government's actions compares to limiting guaranteed protected freedoms of Canadians, I would like to read a section of the preamble of Emergencies Act:

WHEREAS the safety and security of the individual, the protection of the values of the body politic and the preservation of the sovereignty, security and territorial integrity of the state are fundamental obligations of government;

AND WHEREAS the fulfilment of those obligations in Canada may be seriously threatened by a national emergency and, in order to ensure safety and security during such an emergency, the Governor in Council should be authorized, subject to the supervision of Parliament, to take special temporary measures that may not be appropriate in normal times . . .

• (1620)

The "Freedom Convoy" was not preventing the government from executing the business of governing. I would argue that the convoy's protest, as locally disruptive and illegal as it was, does not meet the threshold for a national emergency, as defined in the act.

Further, anyone who thinks that the MOU declaration of overtaking the governing of the country using the powers of the Governor General, the Senate and a cabal of protesters, and is using this as their definition of sedition, is reaching pretty far down a rabbit hole of make-believe.

Given what has transpired in the last couple of weeks, I do not believe that invoking the Emergencies Act was warranted. The Ottawa demonstration was disruptive to many. Demonstration and protest in their very nature are disruptive. I have seen hundreds during my time here in the Senate. Some involve one person quietly holding a sign and some have involved thousands and are loud. All legal protests are protected and are an important function of our system of government.

All levels of government have laws and tools available to them. None were used effectively, and the Emergencies Act was specifically not designed for the inaction of governments or police forces abdicating their respective responsibility, yet that is exactly why the act was invoked, and none have explained why they chose not to undertake the avenues available to them.

Multiplies police forces, a number of federal and provincial agencies and all levels of government knew this was on its way weeks before it started its journey in British Columbia. We all watched its progress and growth as it made its way east and west towards Ottawa. The police assisted in setting up traffic control and gave parliamentarians and those working on the Hill notice of an impending demonstration. We receive these regularly and this was no different.

Colleagues, I have been shown a list of all Ontarians who have donated to the convoy. There are thousands and thousands from small towns to large cities. I know their names and their addresses and the amounts they gave. If I have seen that, you can be sure that the government has seen it as well — thousands of ordinary citizens who gave \$10 and who gave \$500. The government can and perhaps has frozen their bank accounts. They certainly have given themselves the legal right to do that. I don't use cash too much anymore, so when I buy gas for my car or groceries for my family, the funds are simply transferred from my account, but now many Canadians are at risk of having their accounts frozen so they cannot access funds to pay for gas, food or now their legal bills.

Senators, there are bad actors in every crowd, but not everyone in a crowd is a bad actor. Most are citizens who are concerned about the restrictions that government has instituted. I think the government has gone too far and has unfairly targeted law-abiding citizens. When you don't know who the few bad actors are, you freeze every account and unfreeze them one by one when they can prove their innocence. Colleagues, that is backwards law in the most dangerous way and that is what we have now in Canada; by most measures the greatest country in the world.

The Emergencies Act was not conceived nor designed to be a safety net for clear failures of multiple jurisdictions, existing laws or the enforcement of these laws. It is for this reason and the importance of not setting a low bar of precedent for future failures that I cannot support this motion. Thank you.

The Hon. the Speaker: I saw Senator Gold rise first, Senator Plett, so I'm going to let Senator Gold speak and then I'll call on you.

Senator Gold: Colleagues, first I want to thank all honourable senators for the thoughtful contributions that have been made during this important debate. I'm rising on behalf of the

Government of Canada to announce in this chamber that the government has revoked the Emergencies Act in accordance with section 22 of the act.

Some Hon. Senators: Hear, hear!

Senator Gold: The appropriate order-in-council will be filed in due course.

MOTION TO CONFIRM THE DECLARATION OF
A PUBLIC ORDER EMERGENCY WITHDRAWN

Hon. Marc Gold (Government Representative in the Senate): Therefore, honourable senators, I ask for leave of the Senate to end the debate on the motion to confirm the public

order emergency proclaimed on February 14, 2022, and revoked earlier today, and to withdraw the order for the consideration of the motion, with the Senate resuming sittings following the rules, orders and practices that would otherwise be in effect.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

(Motion withdrawn.)

(At 4:24 p.m., pursuant to the orders adopted by the Senate on November 25, 2021 and February 21, 2022, the Senate adjourned until 2 p.m., tomorrow.)

CONTENTS

Wednesday, February 23, 2022

	PAGE		PAGE
ORDERS OF THE DAY		Hon. Vernon White	659
Emergencies Act		Hon. Donald Neil Plett	659
Motion to Confirm the Declaration of a Public Order		Hon. Leo Housakos	671
Emergency—Debate		Hon. Salma Ataullahjan	672
Hon. Elizabeth Marshall	636	Hon. Marc Gold	672
Hon. Dennis Glen Patterson	637	Hon. Claude Carignan	674
Hon. Julie Miville-Dechêne	639	Hon. Patti LaBoucane-Benson	675
Hon. Leo Housakos	641	Hon. Brent Cotter	676
Hon. Colin Deacon	643	Hon. Patrick Brazeau	676
Hon. Diane Bellemare	645	Hon. Michèle Audette	677
Hon. Scott Tannas	647	Hon. Jean-Guy Dagenais	678
Hon. Mary Coyle	648	Hon. Éric Forest	678
Hon. Brent Cotter	648	Hon. Hassan Yussuff	679
Hon. Paula Simons	649	Hon. Denise Batters	682
Hon. Pierre J. Dalphond	649	Hon. Terry M. Mercer	682
Hon. Kim Pate	650	Hon. Dennis Glen Patterson	683
Hon. Marc Gold	650	Hon. David M. Wells	684
Hon. Salma Ataullahjan	652	Motion to Confirm the Declaration of a Public Order	
Hon. Michèle Audette	653	Emergency Withdrawn	
Hon. Pamela Wallin	655	Hon. Marc Gold	686
Hon. Bev Busson	657		
Motion to Confirm the Declaration of a Public Order			
Emergency—Debate			
Hon. Bev Busson	658		