



NATIONAL CITIZENS INQUIRY

Saskatoon, SK

Day 3

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EVIDENCE

Witness 1: Leighton Grey

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Shawn Buckley

I'm going to stop there and call our first witness, who's patiently waiting online, Leighton Grey. Leighton, can you hear us?

Leighton Grey

Yes, sir, good morning.

Shawn Buckley

Can you turn your video on now that we're—

Leighton Grey

Certainly.

Shawn Buckley

There we go. Thank you so much for joining us. I'd like to start by asking you to state your full name, spelling your first and last name for the record?

Leighton Grey

My name is Leighton Bellamy Untereiner Grey. My first name is spelled L-E-I-G-H-T-O-N. Last name is G-R-E-Y, like the famous football cup.

Shawn Buckley

And Leighton, do you promise to tell the truth, the whole truth, and nothing but the truth, so help you God?

Leighton Grey

I do.

Shawn Buckley

Now, just to introduce you, you are a litigation lawyer and you've been intensely involved in COVID-19 related cases since 2020.

Leighton Grey

That's true.

Shawn Buckley

And you're also a podcaster and you've featured COVID issues and other issues. And if people want to track down your podcasts, it's called "Grey Matter."

Leighton Grey

That is correct.

Shawn Buckley

Okay. You started publishing articles in the spring of 2020. Do you want to share with us your experience in what happened and what you were doing?

Leighton Grey

Certainly.

First of all, I want to say that it's an honour to be part of this proceeding, especially in Saskatchewan, which is the heritage of my family. My great-grandfather was the chief of the Carry the Kettle Band, which is at Sintaluta, Saskatchewan. I was born in Regina and so it is an honour to be part of this historic proceeding and to have my testimony part of that record, especially in Saskatchewan.

So going back to the early part of the pandemic as many people experienced it, everyone has different things to say about that. I was alarmed early on about the pandemic and particularly about how the federal government was responding to it. Because I'm an Albertan and so I haven't had the experience of a Liberal government that's ever been good for our province or the people who inhabit it. And I had been watching very closely the Trudeau government's encroachment upon individual rights and freedoms which, if you trace it back, started from the very beginning—from the beginning of the promise of sunny ways and transparent government.

So when the pandemic was declared, I was suspicious already about, you know, "15 days to flatten the curve." And during that time period of course— I'm the senior managing partner of a law firm and I was concerned about our employees and how we were going to keep people working. The courts were shut down. So I began to do a lot of writing and I was publishing things online. And some of the things that I said were, as you were stating earlier, counter-narrative.

Around that time, I had been appointed to a board to select judges in the province of Alberta. And because of the things that I'd been publishing online, I was attacked by the CBC. They published a hit piece on me that granted to me many of the epithets that all unvaccinated Canadians were branded with by our prime minister. Later on, I was called a racist, misogynist, something called a latent anti-Semite, I'm still not quite sure what that means.

But I was publishing things online. For example, I said that I was concerned that George Soros, for example, would use his money to influence the outcome of the 2020 presidential elections, which happened. I expressed concern about Black Lives Matter in terms of the looting and so on and that they were beholden to the left. And frankly, that turned out to be true. The thing that really got me in trouble was, I'd published in the spring of 2020 my suspicion that the Trudeau government would use the pandemic as an excuse to invoke emergency powers. And of course, that did happen. So I went through a cancel culture experience where I was asked by the Alberta government to resign from the board to select judges. And that was under pressure from the Alberta NDP leftist party that operates here in Alberta. My name was kicked around like a football and my reputation was damaged because of the things that I'd been writing, speaking out against the counter-narrative.

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Of course, this was picked up by all of the mass media, including CBC, CTV, Global and others. And not only that, but I was at that time an adjudicator in Law Society disciplinary hearings here in Alberta and had been for some time. And the Law Society summarily dismissed me from that board. And they did so publicly—they published that on their website so that every lawyer and every member of the public in Alberta would see that. It was a public shaming. It was a public whipping. I lived through that. And of course, the media picked that up and that was put out there as well.

And then, I guess the most ignominious thing that I suffered was: I was a long-time director—for decades—of the Alberta Civil Trial Lawyers Association, which is a volunteer group of lawyers in Alberta who really try to help the disadvantaged, the people who are hurt in injury proceedings, in injury accidents and the like, medical negligence in Alberta. I had just received a Lifetime Humanitarian Award from them for my work with Indigenous peoples because I spent a lot of time working with people who had been involved in Indian Residential Schools claims. And I received their highest award in October of 2019, this Lifetime Humanitarian Award. And they actually asked me to resign from the board and told me that they wanted the award back. I refused that. But ultimately, I left the board and I'm no longer involved with the Alberta Civil Trial Lawyers Association.

That's the bad news. That's the terrible part of it. The good news is: going through that cancel culture experience, which I would not wish on anyone, did introduce me to another group of people, people like Ezra Levant and Sheila Gunn-Reid and John Carpay at the Justice Centre for Constitutional Freedoms. They reached out to me and they—especially John Carpay—gave me the opportunity to get involved and to use my skills that I had acquired over a lifetime of being a litigation lawyer to actually help fight some of these cases in the courts.

So that's sort of— In the Marvel world, that would be my origin story in terms of a COVID litigator.

Shawn Buckley

One of the cases that you did was the Ingram case. Do you want to share with us about that?

Leighton Grey

Right.

So the Ingram case is named after a lady named Rebecca Ingram. She was not my client. She's actually represented by an excellent lawyer, a good friend of mine named Jeffrey Rath. But Jeffrey Rath and myself were hired. I was hired through the Justice Center for Constitutional Freedoms to represent some churches who were complaining about the violation of religious freedoms that all of us experienced during COVID.

Rebecca Ingram was a lady who had been a gym owner. Of course, she lost her business because it had been shut down because of the lockdown restrictions. In December of 2020, there was an application brought in that case. In this case, it was based upon two main legal arguments. One alleged violations of the *Canadian Charter of Rights and Freedoms* but the other more interesting argument—one that I think may ultimately be successful—is that our Chief Medical Officer of Health Dr. Deena Hinshaw, who is no longer our Chief Medical Officer of Health, she's now the deputy in that capacity in British Columbia, exceeded her legal authority in making all of these lockdown orders.

But the thrust of the case was to challenge the government's lockdown restrictions. And this began in December of 2020 with an injunction application, which failed. And that began really a series of losses that we suffered throughout that process.

It began to dawn on me—and this comes back to some of the comments that you were making this morning, Shawn—that we really, as Canadians, as those who were fighting government oppression and restrictions: we really were the visiting team. We really were on foreign soil going into the courts. We were arguing against masking but we were all wearing masks and the judge was wearing a mask and the clerk was wearing a mask. We were speaking through Plexiglass or speaking over Zoom, as we are right now.

Any lawyer who has practiced in the courts knows that it's more than just a screen, it's a place.

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It's called court because going back far enough, you were in the presence of a duke or a count or even a king or a queen, arguing your case. So this began to become really obvious—that something really, really important had changed.

But we went through a series of pre-hearing applications that involved striking out of our pleadings, striking out affidavit evidence. All of these applications were summarily successful coming from the government. Honestly, it felt like we were the Washington Generals that used to play against the Harlem Globetrotters, if you remember that.

Perhaps the most troubling thing was this: When we filed all of our materials in December of 2020 in support of the injunction, we actually filed substantial medical evidence, including affidavits by people like Dave Redmond, who's the emergencies expert who's going to testify in this hearing next week in Red Deer' and one of the most brilliant scientific minds in the world in terms of epidemiology, Dr. J. Bhattacharya, who I understand testified in Winnipeg. We filed all this affidavit evidence showing very clearly

that things like masks didn't work, that the risk of asymptomatic spread was minuscule, that really the weight of evidence was that this virus, the risk of it was confined to a very small, extremely vulnerable segment of the population. And more than that, by locking down everyone and wasting resources on people who are at no risk of COVID, we were really hurting the people who were most vulnerable.

And of course all of that— We filed all that evidence yet we were faced with, on the other side, the government filing nothing. In fact, they received a six-month adjournment in order to present their scientific evidence. So this is really important to understand. The entire province of Alberta was locked down, under lockdown restrictions which were very similar to the ones that were experienced by everyone across the country. And yet the Government of Alberta had not yet produced a single iota, one item, of scientific evidence to support all of those restrictions. In fact, they were granted an adjournment of six months by the courts of Alberta, just so that they could produce that evidence.

And when we finally got that evidence, with all due respect to them, it was rubbish. It was all speculation. It was all modelling. In fact, Dr. Bhattacharya recognized that the models that they were relying upon, predicting the destruction and annihilation of our healthcare system in Alberta, was based upon climate modelling. He actually recognized that they used the same models to predict climate change to predict the annihilation of our healthcare system in Alberta.

So their science and their evidence was junk. But perhaps most troubling about this is the length of time that this process took. We filed for that injunction December of 2020 and, Shawn, we still don't have a decision. On April the 22nd now, 2023, that case is still with the courts. It's sitting there, waiting for a decision. And there are hundreds of cases in the Alberta courts that are waiting the outcome of that Ingram decision, and still no decision.

There's an old adage that we lawyers know that goes something like "Justice delayed is justice denied." This is very, very concerning because, of course, those of us who have been raised up in the law, particularly during the period when I went to law school, were taught that the Charter and the Constitution—the rule of law—were sacrosanct, that these were cherished things that protected not only Canadians but protected our entire political structure in all of our institutions.

What do those Charter rights mean when you go before a court and they're not even respected in the court where you're standing? What do those rights mean when the determination of whether or not they've even been violated has to wait years to be determined? What does that mean when, as you say, the Trucker Convoy— Truckers can go to Ottawa and do more to free Canadians from the bondage of these restrictions than our constitutional law?

The lack of respect for the rule of law continues to this day. I read only this morning

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that our government in Ottawa is actually trying to pass a bill that would permit it to whitewash and to essentially give itself its own report card on how it handled the COVID-19 pandemic.

So with all of that, the Ingram case is going on. We're hopeful that we're going to get a correct decision in it. I'm not very hopeful that the Court is going to find that the violation of Canadians' Charter rights outweighed the public interest in locking everyone down,

because of course there isn't a single court in Canada that has made that determination. That alone is horrifying, frankly. But essentially, that's the story of the Ingram case thus far.

The best thing we did—sorry, I just want to finish off this point—the best thing we did is we did get the chance to cross-examine the Chief Medical Officer of Health for several days. And that was quite revealing. I like to think that we were instrumental in her losing her job here in Alberta. Thank you.

Shawn Buckley

I understood that. And I wanted to pull out of you some of the things that you learned. I don't know if you saw Professor Bruce Pardy's presentation in Toronto.

Leighton Grey

I did.

Shawn Buckley

So for those watching that didn't see that, Professor Pardy was explaining how basically, the legislative branch has been delegating to the administrative branch and then the courts are showing deference, so that basically we've arrived in an administrative state. But your cross-examination of Ms. Hinshaw revealed that actually, in Alberta, it wasn't an abdication to the administrative state, it just appeared to be. There was something else going on. And can you share with us that? I think especially Albertans need to hear this.

Leighton Grey

Certainly. And when you hear from Mr. Redmond, he'll be able to explain this better than I can. But essentially, unlike in other provinces, in Alberta, there was never a state of public emergency declared. In law, that is something distinct from a public health emergency.

What happened was, in Alberta, the Jason Kenney government—when the pandemic was declared, they made some executive changes to the *Public Health Act* in this province. And they declared a *Public Health Act* emergency. And that essentially made our Chief Medical Officer of Health, Deena Hinshaw, the most powerful person in the history of our province. It essentially appointed her a health dictator.

She had control over every aspect of our lives. And the wording of the statute actually says that she could use any means necessary to fight the pandemic. And she did use any means necessary. During the course of our cross examination, though, something very surprising happened. When I asked her about her orders, she began to disclose that in fact, although these orders were in her name, they were not her orders—they instead expressed the will of the executive—and that she was going to the Premier and Cabinet to get the content to put in these health orders. This was never fully explained to Albertans.

She used to conduct daily press conferences. In fact, there are over 400 of them that I reviewed that honestly, in my respectful view, were essentially psyops in which she would repeatedly tell Albertans to get used to the new normal and to trust government and to protect your neighbours by not leaving your house and so on and so on. Essentially, what was revealed during the course of cross examination is that she was going to Cabinet and getting instructions about what to put in these health orders. Of course, under Alberta law, this is illegal, because under the *Public Health Act* the whole purpose of creating a *Public*

Health Act emergency for the entire province, which was unprecedented at that time— Normally, a *Public Health Act* emergency would be something that would be localized, but we had the entire province under a *Public Health Act* emergency. The whole purpose of doing that was to have a health expert, a doctor, basically protect Alberta from this great pandemic, this great threat.

And so it defeats the whole purpose of creating a *Public Health Act* emergency to go to lay people such as a premier and cabinet, who have no medical expertise or knowledge at all, and to get from them the contents of these “health orders,” which of course were not health orders; they were orders concerning every aspect of our lives, from when and how we could worship, whether or not we could shop, whether we could go out and exercise, whether our kids could attend school, and on and on and on.

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What was revealed is that the whole structure of what Albertans were told about what they were experiencing through their government, whose job it was to protect them—that was their stated task—was essentially a fraud. It was a lie. Dr. Hinshaw was not there in order to protect the public. In fact, that narrative shifted initially from “15 days to control the spread.” Then it was of course, “We have to protect and preserve the health care system, we have to save the health care system.” And then it turned into—it was all about vaccinations. “We have to all get vaccinated to end the pandemic.”

One of the scariest things that Dr. Hinshaw said though is— In terms of the metrics of her decision, what she did is she decided that— First of all, she acknowledged that her health orders, the health orders that were passed, all violated the civil liberties and the human rights of Albertans. She acknowledged that readily. But what she did was she said that the protection of the healthcare system—a faceless, soulless institution—was more important than the violation of the individual rights. In that balancing act, and this is the way she put it: “On balance, violating the individual human rights of four million people was justified in order to protect the healthcare system.” Really, the healthcare system is not what she was talking about. In my respectful view, what she was really talking about was protection of essentially autocratic executive government power. That’s really what was being said. And to me, that was the most horrifying thing that I heard her say throughout the whole time that we cross-examined her.

Shawn Buckley

Right. And that I think is shocking and will be shocking to Albertans. Because they just assumed that she was the one exercising authority, not the Premier and Cabinet.

Leighton Grey

That was certainly the impression that was given. However, it’s very clear from the evidence that came out that that was not the truth at all. Ultimately, what it was about was trying to shift the mindset of Albertans. Those people who are Albertans understand that. As in every region of the country, we have different aspects of our culture. But Albertans tend to be very self-reliant. We tend to be somewhat libertarian overall in our thinking.

I’m not painting everyone with the same brush, but it was very clear that there was a psy-op going on. In fact, in the course of the evidence that came out during that hearing—I cross-examined Dr. Hinshaw—the Alberta government actually commissioned a psychological report about what language and what methods to use in messaging to

Albertans in order to get them to comply with lockdown restrictions and also with, of course, the vaccination programs that rolled out in the latter stages of what we now call the pandemic.

Shawn Buckley

That's alarming. I think that's the softest term I can use. How did how did discovering all of this make you feel?

Leighton Grey

I was talking about this with Jeff Rath. He and I are both 30-plus year lawyers in Alberta and he and I sort of chuckled about this. Not in a funny way, but in a sense that we were both under the same— You called it a spell. We were under a spell such that we actually thought that our legal system was something special and that judges were fair and impartial, that there was something that veiled that in integrity and justice.

My experience of doing COVID litigation sadly has exploded that. It's actually very difficult for me in dealing with courts and judges now to get myself back to some semblance of the mindset that I had before. And so that is a struggle.

One other thing I'd like to share apart from the Ingram case that really impacted me in this way, I had the pleasure to represent two courageous pastors in Alberta.

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James Coates of the Grace Life Church spent 35 days in the [Edmonton] Remand Centre because he refused to sign a bail condition that essentially would violate his religious conscience. He was given a horrible dilemma between exercising his liberty, which is guaranteed under the Constitution, and violating his promise to God as a Christian pastor, because the condition would require him not to preach the truths in the Gospel to his congregation. He put his God above his liberty and he suffered 35 days.

Anybody who has ever visited a jail or a remand centre must understand that it's one of the worst places that they could possibly go. I know as a lawyer going there to visit clients that many times, I could not wait to get out of those places. And to imagine someone to choose to be there for 35 days, just imagine the courage and the integrity of this human being. Anyway, I had the pleasure of representing him because he faced a number of COVID tickets because he and his congregation refused to comply with the government diktats about capacity limits and so on, which we now know were a bunch of bollocks, so that there was really no risk to the public whatsoever. The idea of a super-spreader event now is ridiculous, we now know in hindsight, with what we know about masking and social distancing and all the other arbitrary non-pharmaceutical interventions.

I also had the opportunity to represent Pastor Timothy Stephens of Calgary.

Shawn Buckley

Before you move on to Pastor Stephens, it is my understanding in an earlier conversation with you that when you were defending Pastor Coates in court, the provincial court judge didn't even find that his Charter rights had been violated, let alone having to go to what I would call an abomination dealing with section 1 of the Charter.

Leighton Grey

That's correct. The court essentially said that Pastor Coates' Charter right—his right to liberty under section 7 of the Charter, the right to life, liberty and security of the person—was not violated simply because Pastor Coates chose to remain at the Remand Centre. That, in fact, he was granted liberty under his bail conditions, the conditional release, but that he chose not to exercise it. And the court put absolutely no weight whatsoever in this horrible dilemma that this man had been placed in through totally unnecessary, scientifically unjustified restrictions.

It's important to note that in that hearing, the Crown prosecutors were not put to the requirement of producing a single item of scientific evidence for the court. In fact, what they produced was an Alberta Health Services investigator who had a social sciences background. When I cross-examined her about her training as an investigator, the net sum effect of that was that she participated in a single one-hour Zoom call.

This person who had received absolutely no training as an investigator was given the power—was given the incredible power—to cite Pastor Coates in violation of these health dictates. He was charged with Criminal Code offences. This Alberta Health Services investigator was given the power to summon the police, to arrest Pastor Coates, to jail him. And this same investigator, with one hour of training on a Zoom call about how to conduct investigations, was given the power ultimately to recommend and to have signed into law an order that resulted in the triple barricading of the Grace Life Church for months. Which was an international embarrassment and probably was significantly responsible for Jason Kenney's ousting as our Premier.

Just imagine—and this is not unique. Many people who are watching this probably saw Artur Pawlowski, another Alberta pastor, in a video that went viral. He was kicking these people out of his church, calling them Nazis and Gestapo. The people who were given power by Verna Yiu,

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who has also been since fired, who ran Alberta Health Services—these investigators were given this extraordinary power of law without any knowledge or understanding of how to wield it. Almost like if you watch Disney's *Sorcerer's Apprentice*, that's exactly what we experienced here in Alberta.

It really is stunning that these people would be given such power with very little knowledge or understanding or training of really what this power that they were handed, what it meant, and the significance of it, because it just had incredible ramifications for our province and indeed, for our entire country.

Shawn Buckley

Right. Before you go on to speaking about Pastor Timothy Stephens, I'm wondering if I can back you up and have you speak about more generally— You acted for a lot of employees who lost their jobs: CN employees, CP, Purolator, Canada Post, WestJet. The list goes on and on. You kind of became the go-to guy to help with these things. Can you tell us about what you encountered with that?

Leighton Grey

Yes. You know, this was a great honour to represent these people, but also a great frustration. Most of these people—we're talking about several thousands of them working for companies like CN, CP, Purolator, Canada Post, WestJet and many others, even the Salvation Army—these were people who are primarily unionized workers. Unionized workers, some of the viewers might realize, are bound by something called a collective bargaining agreement.

Bruce Pardy can do a better job of explaining this than I can because he's an expert in this area. But essentially, under a collective bargaining agreement, individual workers contract out their employment rights to a bargaining unit with the idea that this will sort of equalize the bargaining power between a very large-scale employer like CN, which is mostly owned by Bill Gates by the way, and these individual workers.

The problem is that unfortunately these unions are primarily run in a socialist fashion. They've become very much leftist organizations. And when it came to COVID, they clearly—by and large, with some notable exceptions—were not advocating for workers.

And so the process that we ran into repeatedly went something like this: a worker who refused to take the vaccination was told that they had to apply for an exemption. There were only two types of exemptions available. One was a religious exemption and the other was a medical one. In each case, there were very stringent tests created and almost nobody actually qualified for an exemption.

So these workers were told that they would be put on something called an “involuntary unpaid leave of absence,” which, when you're sitting at your coffee table in the morning staring in your coffee, feels a lot like, “You're fired.” Because you're not getting paid, you're indefinitely off work, and your only passport to go back to work to support your family is if you agree to have this experimental drug injected into your body.

It's significant to note, a lot of these workers that I described— These companies were impacted by federal government orders, the Ministry of Transport orders. Because of course the Trudeau government required every single federal government-regulated employer to comply and all these companies had their own vaccine mandates.

The federal government, the Trudeau government, did not have the temerity to actually impose a national vaccine mandate. That would have been clearly illegal. In fact, there's an opinion paper on this from 1996 that was given to the Canadian government at that time about this. So that gives you an idea of how long they've been thinking about this. But in any event, they did the next best thing. Most people know, the federal government is the largest employer in this country. So all these workers were impacted in this way, all of them put out of work.

Just imagine this awful choice that you're faced with. You have to decide whether or not to work and support your family or to take this drug that you know and you understand is dangerous or it violates your religious conscience or whatever. So you turn to your union for help. Your union says this, your union says, “Comply.” Your union says, “We've got this independent legal opinion.

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And it says that your rights are not being violated and everything that the company and that the government are doing is fine. So just take the vax.”

So of course, these people, they're being put out the door by their employer. They have no recourse there. They can't sue them because they're a member of this collective bargaining agreement. And the union won't help them. And moreover, when they complain about the union not helping them and they would bring duty of fair representation complaints, what they heard from these administrative tribunals, these government tribunals, was the sing-song "the vaccines are safe and effective" and that there's no danger.

So these people turn to outside legal counsel, people like me. And we sort of tried to pierce through the veil—unsuccessfully. We attempted to bring human rights complaints against these employers in cases in Manitoba, B.C., and Alberta. And in each case, we were told by the courts, based upon Supreme Court of Canada legislation that the court would not take up any jurisdiction. So all these people were simply sent back to their unions.

There are now still, as we sit, many, many thousands of unionized workers throughout the country who have been put out of work and have absolutely no recourse against their employers because of the workings of these collective bargaining agreements and these unions. I can't prove it but based upon their actions, I have very, very strong suspicions that all of this was calculated beforehand: that there was some level of conspiracy between the unions and these employers and the Government of Canada. Certainly, at least, that's the way it seemed to play out in real time as the lawyer representing these aggrieved workers.

Shawn Buckley

Now Leighton, I just want to make sure that people listening to you understand. So if people were unionized, they were supposed to go to the union to have a grievance filed against their employer, but the union would not file a grievance.

Leighton Grey

Correct.

Shawn Buckley

And then, if you tried to take it to court because you've met a dead end with the union, basically you couldn't. You'd get kicked out of court and be told to, "Well, go back to the union because that's where you're supposed to find your remedy."

Leighton Grey

Correct.

Shawn Buckley

So these people basically had no opportunity at all to have an adjudication for being technically fired for not taking a vaccine.

Leighton Grey

That's correct. And I think a big part of this is that none of these companies—nor the Canadian government, nor these pharmaceutical companies—want to have a court actually adjudicate upon the safety and efficacy of vaccines. Of course, given what we know now about the Pfizer dump and the fact that in Alberta alone, death from unknown causes is the number one cause of death in our province. Death from unknown causes has increased

seven-fold since the unleashing of these vaccines upon our society. None of these people want that issue adjudicated.

And that is the next great challenge for people like me: to try and bring that issue to justice, to be adjudicated by our courts. Because it must be. We must get to the bottom of the truth about whether or not these vaccines were safe and effective, whether or not companies like Pfizer and Moderna and Johnson & Johnson knew that. And also, what this means long-term for Canadians and for society because we now have these vaccines unleashed. They're in people's bodies. The vast majority of people have taken them. What does that mean? We don't know.

I know you've had doctors who've testified in these proceedings and everyone who has spoken out has been sanctioned. The vast majority of doctors, and understandably so—they don't want to speak out. They won't say that the unknown cause is the vaccine, even though that's the quiet part being spoken out loud, as you said so eloquently this morning. That's the truth about these vaccines.

But as I said, that's the undiscovered country. That's where people like me need to go. And until we get to the bottom of that, until we get a court to adjudicate on that, we're going to be living under this spell, under this lie that none of this ever happened. If we permit our governments to do it, they're going to whitewash the fact of what they did to us.

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Shawn Buckley

Yeah. It's interesting just to have a dialogue with you, because you'll be familiar with the Ontario Court of Appeal case *CG vs. JH*.

Just for the listeners, I'll tell you what I just find funny about it. And then I want to ask you about an Alberta case that was somewhat different involving inmates. For those that aren't familiar with that case, it was a family law case. The father wanted the child vaccinated and the mother didn't. At the trial level, or motion level, the judge refused to side for the father and basically wasn't willing to just accept the government narrative. So it's appealed to the Ontario Court of Appeal, which basically instructed the lower courts, the way I read the case, to take judicial notice. Which means you can accept as a fact, without there being any evidence led before you that, if Health Canada approves a vaccine, that would be prima facie evidence that it is safe and effective.

This is in relation to COVID vaccines. And Leighton, what I find so interesting is— So the Ontario Court of Appeal obviously was not aware that those vaccines were approved under a test in an interim order where the words "safety and efficacy" weren't even mentioned, let alone there being any requirement for proof. The Ontario Court of Appeal is basically, in my opinion, instructing lower courts to take judicial notice of a phantom.

But I just wanted you to kind of juxtapose that with a case that happened in Alberta where basically, when the shoe was on the other foot, the court took the opposite position. Do you want to share with us about that?

Leighton Grey

Right. This concept of judicial notice used to be something somewhat extraordinary. In my experience it was often very difficult to try to get a court to take judicial notice of anything.

Courts want to hear evidence and that's rightly so. That's the tradition of our courts and that upholds a very high evidentiary standard that is necessary.

But what we experienced in *Coates* was something much different. Whenever the government asked the court to take judicial notice of something called a pandemic, or that there was a threat to the health care system, or that people needed to wear masks, or that social distancing was necessary, the courts always readily adopted that COVID narrative. In fact, our courts in Alberta were the most locked down place in the entire province. In fact, they were one of the last places to remove restrictions.

We even had a very eminent criminal lawyer in our province, he was found in contempt of court because he refused to don a mask. He was in a courtroom with a judge who, even during a time when there was no masking law in force in Alberta, was wearing a mask. The courts here in Alberta are permitted— The judges are permitted to maintain exclusive jurisdiction over the safety of their courts. She required this lawyer to wear a mask even though there was no general masking law. He refused and ultimately, he was made to purge his contempt. He was found in contempt of court.

But the case that you're referring to, this was early on in the pandemic. And this illustrates how this judicial notice concept doesn't work the other way. There was a judge here in Alberta who heard a case from some inmates at the Edmonton Remand Centre. The essence of the case was that early on in the pandemic, when it was thought that people could get COVID from doing just about anything, these inmates brought an application that they should all be released because of the risk of exposure of a mass spreader event at the Edmonton Remand Centre.

It was kind of a clever *habeas corpus* argument, but the court there would have none of it. The court said "I can't take judicial notice of the existence of something called a pandemic. I have to have scientific evidence." That is quite correct in law but that's the only case that I know of, and I've researched this carefully— in Alberta, it's the only case I know of where a court actually said that it could not take judicial notice of something called a pandemic and the risk of a mass spreader event and the like.

So that goes to show how the way that the government is treated, or was treated, in the courts of our province when it comes to this narrative is very different from when these things are argued on behalf of individual citizens; people, even when they're trying to use the government's narrative in their favour, really can get no relief from the courts.

[00:45:00]

Shawn Buckley

Now, Leighton, can I have you talk now about Pastor Timothy Stephens and what your involvement was and what happened with his case?

Leighton Grey

Yes. Another very courageous pastor, Pastor Timothy Stephens of Fairview Baptist Church: he's a close friend of James Coates and he suffered similar treatment because at his church, again, they refused to comply with these restrictions. His church was closed, was shut down just as James Coates' was, and so he was ticketed.

At one point, this pastor was actually charged with violating something called the Whistle Stop injunction, which was really an unprecedented thing in Alberta law. There was an injunction placed on any man, woman, or child in Alberta who dared to publicly protest the government's narrative about the pandemic and lockdown restrictions. There were literally hundreds of people who were charged and some of them jailed because of it. One of them is Chris Scott of the Whistle Stop Cafe, who I understand is going to testify next week in Red Deer, but this also included Pastor Timothy Stephens.

What Pastor Stephens did: he started getting his congregation together and they would meet at undisclosed locations. This became kind of a game of cat and mouse with the Alberta Health Services employees. Ultimately, it's my understanding that they were able to detect him having an outdoor church service with his congregation and as a result of that, they arrested him.

There is a video that Rebel News produced. They were on the spot when he was arrested at his home with his six young children and his wife, Rachel. It's a beautiful sunny day and of course, Timothy Stephens, with great dignity, suffers all of this. You can see he quietly goes along but the kids are just screaming. And this is a moment that I'm sure that they will never forget. I have to say I was brought to tears watching it myself, seeing this father wrenched away from his family simply because he was conducting an outdoor church service. And of course, based upon the government's—

Shawn Buckley

Leighton, just so you know, we have the video [Exhibit SA-7]. We've had our video guy take the Rebel News reporter part out but we'll play it right now just so that those that are participating actually understand what you're saying.

[Rebel News footage is played of the arrest of Pastor Stephens before his family].

Leighton Grey

That's his wife there in the foreground.

Shawn Buckley

Sorry, carry on.

Leighton Grey

Just so people understand the level of incompetency that was involved here: when he was first arrested and jailed, he was in jail. The Alberta Health Services people had actually gone out—and the police had actually served the wrong person. They actually served the injunction order on the wrong person.

It was stipulated under the terms of the injunction that it was necessary for anyone who violated the injunction to actually be served with the document,

[00:50:00]

so that they would know, and they would have notice of the terms. Because otherwise, how can you be in violation unless you know what the terms were?

Well, they went out and they served the wrong person. The injunction had never been served on Pastor Timothy Stephens. They went out and arrested him and he was in jail. I discovered this and I revealed it to the lawyers and to the court that he had never been served, that they had actually served the wrong person. And it still took several days. I had to actually obtain a statutory declaration, a sworn statement from the person who they had mistakenly served with the injunction, before they would finally release him.

So that was the first time he was arrested. The second time he was arrested was because he had simply conducted an outdoor church service. It's worth knowing that in the Manitoba proceeding, there was an expert that was called for the government. And they were asked under oath whether there was any scientific study supporting the idea of a super-spreader event that could occur outside. The fact is, and the answer is, no: there is no accepted study anywhere of the risk of a mass super-spreader event occurring as a result of outdoor gatherings because of the way that the virus is spread and what we knew at the time.

Notwithstanding that he was jailed. And the only reason why Timothy Stephens was freed, actually, was that on July the 1st of 2021 the Government of Alberta declared a COVID amnesty. Many of us suspect that was done in order to accommodate the Calgary Stampede because they brought the restrictions back in September. But for that he would still be at the Remand Centre because he never accepted the bail condition, nor did Pastor James Coates.

He was given the same bail condition that he would not preach to his congregation and he refused to comply with that and so he was jailed. A father of six, a leader of a congregation, just an extraordinarily courageous and brilliant man: a Christian pastor jailed. So Alberta actually became known as a jurisdiction which jails Christian pastors. So much so that recently, Tucker Carlson of Fox News—his show has created a documentary in which these two pastors are featured. The documentary is about the rise of totalitarianism in Canada. What an incredible shame and disgusting embarrassment this is for the province of Alberta, indeed for all of Canada before the world, to have these Christian pastors unnecessarily jailed for long periods of time when they had done absolutely nothing.

It's significant to note that all of the charges were ultimately, through the grace of God, dropped or defeated against Timothy Stephens. We actually had to run a trial in Calgary before a provincial court judge, who quite properly found that there was no basis for these violation tickets. But we actually had to run a contested trial before a judge in Calgary in order to have these COVID tickets thrown out against Pastor Timothy Stephens.

Shawn Buckley

Thank you, Leighton. I'll open you up to the commissioners to see if they have any questions.

Leighton Grey

Thank you.

Shawn Buckley

And there are questions.

Leighton Grey

I see my good friend Mr. Drysdale.

Commissioner Drysdale

Good morning. Mr. Grey. How are you?

Leighton Grey

I am wonderful. Wonderful to see you again.

Commissioner Drysdale

I have a number of questions. And since I'm not a lawyer, I do understand that there may be questions that you will not want to—or will not be able to—answer. Because I think you're, what's the expression, you are a representative of the court or something?

Leighton Grey

Officer of the Court.

Commissioner Drysdale

Officer of the Court. But I'm going to ask them anyway. First question: Could you please enter the transcript of Deena Hinshaw's testimony into our record. It's a public document.

Leighton Grey

Certainly. Certainly. Will do so [Exhibits SA 7-b, SA-7o to SA-7q].

Commissioner Drysdale

Thank you. That way folks will be able to access that on our website and be able to read exactly what was asked and what was said.

Leighton Grey

There's also a video recording that I think we have as well, that I could submit in addition to the written transcript if you would like that [no exhibit number available].

Commissioner Drysdale

I would very much appreciate that.

[00:55:00]

Is it not a fundamental tenet of our legal system that anyone appearing before a judge or before that system is treated equally under the law?

Leighton Grey

Yes, that's one of the principles of fundamental justice that is recognized under our Charter. It's also an age-old principle that's implied under what is commonly called the rule of law.

The rule of law of course stems all the way back to 1215 and the Magna Carta. It stands for the idea that no one is above the law—but also that everyone is equally protected under that law.

Commissioner Drysdale

Does that also include the government?

Leighton Grey

Yes, particularly the government. Because it's important to remember, again going back to Magna Carta, that that was a seceding of power from the king, a divinely anointed king, to the Parliament of England. So it's very significant in terms of the rule of law that even the king is not above the law, let alone a prime minister.

Commissioner Drysdale

In listening to the conversation between you and Shawn Buckley, there's something I don't understand, then. One of the cases that you were talking about, I think it was an Ontario case, where the one side brought evidence—scientific evidence as I understand it, about various issues with regard to the vaccines and the pandemic and whatnot—but as I understand it, the judge ruled that the government's opinion was not subject to dispute. I think the term you used was judicial notice: that the judge said that the government's opinion couldn't really be discussed or argued because it was just taken for granted.

Leighton Grey

Correct. And this is what I meant when I said those of us who went into court against the government always felt like the visiting team, because we were trying to question things that were considered to be unquestionable.

There's a great recent example of this. My good friend James Kitchen, who I understand testified in this proceeding, was recently on my podcast. He represented a chiropractor named Wall who went before a disciplinary proceeding and was actually suspended by that college for a period of time because he refused to wear a mask, even though none of his patients had a problem with him not wearing a mask.

And James Kitchen had quite properly produced some of the most eminent experts that we know of, including people like Dr. Byram Bridle, on epidemiology and so on. And the chiropractic college produced a GP, a general practitioner, with no specific knowledge in epidemiology or virology or any of these things. That chiropractic college simply preferred the evidence of the GP to this mountain of expert evidence, eminent expert evidence, that was produced by James Kitchen on behalf of Dr. Wall.

I have to say, that is precisely what happened in the Ingram case. We produced eminent—I mean, if there is a better expert than Dr. J. Bhattacharya— Just to take Dr. Bhattacharya for a moment, this man teaches medicine at an Ivy League college, at Stanford. He is one of the leading experts in epidemiology and he also has a PhD in economics. If you were going to design a human being who could talk about the science of COVID and also speak authoritatively about the economic and societal impacts of lockdowns, this would be the human being. He's almost like a human AI program. And yet all the Government of Alberta lawyers did throughout that proceeding was try to discredit him.

Commissioner Drysdale

I want to come back to this. Because what's in my mind right now is, I'm considering the testimony we've had in the last several days in Saskatoon. And I keep hearing "basic tenets" of something: basic tenets of law, basic tenets of medicine. And one of the things—perhaps you can't comment on this—but I heard in the last day or so, medical doctors talking about a basic tenet of informed consent.

Is informed consent, to your knowledge, something that is legally required or legally enforceable in Canada?

[01:00:00]

Leighton Grey

I think in terms of a legal concept, the answer is clearly yes. There are all kinds of examples of it in the law, everything from the type of a waiver that you would sign when you take your kids to go on a ride somewhere. There are all kinds of forms of informed consent.

The specific one that you're talking about really goes back to the Nuremberg Code of 1947, which came out of the aftermath of the experiments that were conducted on people in the Nazi death camps. That's clearly under international law and that concept has been imported, in my respectful view, into Canadian law as well.

When you think of people who are exposed to a surgery, they have elective surgery. They have to be informed fully of the risks of that operation and they can refuse that operation. Well, what we had with the COVID vaccines was something entirely different. The doctrine of informed consent was completely ignored. In fact, there's not a single person who was asked or ordered or mandated to take this vaccine, these experimental drugs, who could possibly have offered informed consent. Because we don't know even the short-term, let alone the long-term, impacts of these drugs for human biology and human society.

Commissioner Drysdale

We had testimony on this from various people—from doctors, Dr. Christian, and people themselves who were—I believe there was one lady who was pregnant and was under tremendous pressure from her doctor to take the shot when she was pregnant, when we know for a fact, based on the evidence that has been presented to us, that the vaccines were never tested on pregnant women.

So my question is: Are you aware of any legal actions being taken against doctors or pharmacies or whoever else injected people with these vaccines, considering that they were not provided with the opportunity to give informed consent?

Leighton Grey

I've researched this and there is one case I know of that is ongoing in Manitoba that's specific to the AstraZeneca vaccine.

I can tell you that my firm has in development right now a vaccine harms class action, which will be based in part upon this doctrine of informed consent but also simply based upon the fact that the Canadian government purchased and promoted and purveyed these vaccines to the Canadian populace—either knowing or having ought to have known that

they were dangerous, that there was no way actually to have individuals provide informed consent to the taking of them.

So this is an excellent question. I think early on, Mr. Buckley was talking about this spell. As we emerge out of that—let's say, this psy-op or public haze—I see that as the next frontier. I see that as the work that must be done by members of the legal profession and indeed, the principal members of medical colleges to carry on, to prosecute these cases, and to bring the responsible people to justice.

That's something that has not yet happened in our country. It's beginning to happen in the United States. There's a high-profile case that's been brought in the United States by a man named Pascal Najadi. I had him on my podcast actually. He's filed an action against Pfizer along these lines. I believe that these cases are coming, but they are sort of the new, that's the next wave. I predict that this is going to be a very, very significant area of litigation in the next decade or so.

Commissioner Drysdale

We're talking about different areas, medical and legal, and we're talking of the basic fundamental building blocks, those things that these institutions were built upon: that you're equal under the law, that you have a right to informed consent,

[01:05:00]

and that there is an obligation to inform the patient.

There's another part of this. And that is, at least in my mind— And I don't know what the legal part of this is, but in my mind the justice system is made up of a whole lot of parts. One of those parts are the police, at least in my mind. And I don't know if that's legally true. But we have heard a lot of things and we've seen a lot of things. We saw Mr. Buckley mention a video of a veteran being pulled off the War Memorial and beaten. We saw the video of, I believe it was Toronto horse-mounted police, trampling an elderly lady in Ottawa. We saw, or believe we saw, texts or WhatsApp messages from the RCMP wanting to "get some." I don't know if that was an exact quote.

In any case, my question is: Are the police above the law in Canada? Are they subject to the same laws that you and I and my neighbours and my children are subject to?

Leighton Grey

Well, I think they have to be. I think, how can they uphold the law and yet not also be bound by it?

But what you talk about raises a deeper question that I think is part of the COVID pandemic experience. And this troubles me deeply, because Canadian society—our country, I cherish. But what makes us who we are are our cherished institutions. Perhaps the longest lasting, most severe damage—apart from what it's done to individual Canadians, to their health and their well-being and their psyche and all of those things—is the damage to our public institutions. Confidence in public health; confidence in our professions, like law and medicine; confidence in our schools, in our universities; in our justice system, in our police: all of these have been compromised. There's just no other way to say it. I'm hopeful that this process that is happening right now, the National Citizens Inquiry, is going to do much to begin that healing process.

I'm a senior fellow of a think tank called the Frontier Centre for Public Policy. I was asked to write a review of Preston Manning's original paper on the COVID inquiry. I remember reading in there that one of the goals that Mr. Manning had was that this would begin a healing process whereby we could rehabilitate, which means to restore again to dignity. We could rehabilitate our confidence in our cherished institutions, including the police and all the other ones I mentioned. Because if we don't have that, we really don't have a functioning society.

Just think of the level of confidence that exists between a patient and a doctor, a student and a teacher, a lawyer and a client, on and on and on. And if we can't trust in the integrity of those institutions, how is it possible for them to work and to function? It almost invites chaos. I don't want to overstate it but I don't think it can be overstated in this context. We have a severe and a tragic corruption of confidence in our public institutions.

Dr. Bhattacharya put this very well actually, when he was testifying in the Ingram case. Talking about the failure of confidence in the public health system, he said, "What if we had something that was as contagious as Omicron but as lethal as Ebola? What would the response of the public be now, in the aftermath of COVID? How many people would die because more than half of the people in our society now don't trust the medical establishment? They don't trust the information they get from public health."

To me, that's maybe the ultimate example of the danger of the loss of confidence in our public institutions.

Commissioner Drysdale

That is certainly one component of it. The other component of it is: I've always considered, rightly or wrongly, that the "justice system" acts as a safety valve for our society. In other words, if you've been aggrieved or if the government has done something to you, you have the confidence that you can go to these institutions and get justice.

[01:10:00]

Which is different than legal, a legal decision is not necessarily justice. But if the Canadian population who are waking up, or who are beginning to realize what's happened—perhaps through this Inquiry—and they can't go, or they feel they can't go to the judicial system because of its performance over the last three years, do you think that's an incredible danger to our society or the civility of our society? Where else can they go?

Leighton Grey

I think it's extremely dangerous. And unfortunately, we have a government in Ottawa that's more interested in social justice than actual justice and law and order and maintenance of our public institutions.

As you described, I know one very dedicated and well-meaning individual, I believe in Winnipeg, who created a report about COVID and actually inspired many Canadians to actually go to police detachments and try to get certain people charged with criminal offences for COVID outrages. I think that sort of grassroots activism is what we need.

Unfortunately, it does not appear that we're going to get much relief or change by staring at the tops of the trees. I think that we've got to have a grassroots movement in our country. We're getting down to the roots, getting involved in our communities, and trying to solve

these problems of justice, of health, of education—all of these at the grassroots level, instead of looking to governments to solve these problems.

Because it seems as though what's happening right now in our country is that our governments are only interested in frightening us into believing that we are in a never-ending state of emergency—whether it's due to a virus or the climate or public debt or nuclear war or whatever. Of course, the government comes in and says you must cede more of your liberty to us so that we can solve this problem. It's sort of like what Ronald Reagan said back in the '80s, that the scariest words in the English language are "I'm from the government and I'm here to help."

I think we as Canadians are going to have to take responsibility, individually and as communities, over our communities and solve these problems at a local level. That might mean local policing as opposed to having the RCMP. Nothing against the RCMP but I think a very persuasive case could be made for saying that the RCMP at the highest levels has been politically corrupted. I think there's ample evidence for that in the public sphere.

Commissioner Drysdale

I just have a couple of short ones—otherwise I'm going to get into a lot of trouble with the other commissioners who are squirming to ask you questions, sir.

Did you take in, or were you aware of the evidence we heard from Ryan Orydzuk?

Leighton Grey

I'm very familiar with Ryan. I've had the pleasure of getting to know him as a safety expert who worked for CN [sic, Canada Post]. I interviewed him. There's an episode of my podcast where he talks for an hour about his safety expertise and how he presented ample evidence to his company for why everything they were doing in terms of the pandemic was wrong.

So yes, I'm quite familiar with Ryan and I think he's a very courageous and intelligent man. He could have prevented a lot of anguish for CN [sic] employees if the company had actually respected the advice that they hired him to provide to them.

Commissioner Drysdale

Could this possibly form a legal vector in which folks can have their employers who enforce mandates become legally liable, do you think?

Leighton Grey

Possibly. The impediment there is again, as I spoke earlier in answer to Mr. Buckley's question, that these unions are standing in the way to a large degree. I don't want to paint them all with the same brush but the vast majority of them really are aligned with the government narrative on COVID and did not want to have anything to do with taking up grievances or taking these companies or the Government of Canada to task over these safety concerns.

[01:15:00]

There certainly is a viable argument to be made. And actually, we have a case that is before the Federal Court trial division right now on behalf of hundreds of postal workers. They're

called Posties for Freedom. And Ryan's evidence is going to be a key aspect in that case if we can get to hearing. But of course, before we even get to a hearing on the merits and have his evidence heard, we're going to have to get past this procedural hurdle to have the court even take jurisdiction to hear the case.

Commissioner Drysdale

I guess that impediment doesn't exist for non-unionized workers.

Leighton Grey

That's true.

Commissioner Drysdale

I have many more questions but I'm going pass it off to the other commissioners. Thank you.

Leighton Grey

Although I haven't been invited yet, I would be pleased to appear on your podcast, which I follow quite regularly.

Commissioner Drysdale

We would be happy to have you—following all of the hearings.

Commissioner DiGregorio

Thank you, Mr. Grey, for coming and giving us your testimony today. I'm going to limit myself to two areas in my questions.

I think you mentioned early in your testimony that you were a member of a type of judicial selection board in the province of Alberta. Yesterday we heard from a witness, James Kitchen, about his views on needing to potentially reform the judicial appointment process. I'm hoping you can shed a little bit of light on what the process is for judicial appointments, what is the role these selection boards play in it, and whether you see any room for improvements.

Leighton Grey

It is a political process in Canada. And I don't want to suggest that there are not excellent people being appointed to the bench in Alberta and in Canada. Clearly that is true. There are excellent legal minds who are being raised up to the level of the bench.

Where I got into trouble, just speaking anecdotally, is that I actually made a public pledge that I was going to select the best candidates based upon merit and that I was going to have little or no regard to what we might call immutable characteristics. In other words, if we were selecting six judges and the six best most qualified people were black, then I would pick all black. If the most qualified people were women, then I would pick all women.

It's my particular view that in appointing someone to the judiciary, especially in Canada right now, we must have the best, most principled people appointed to that bench. We

cannot be selecting people based upon metrics like diversity, inclusion, equity. Because the problem is when we do that, it risks not getting the very best people.

And the kind of power that judges enjoy in our society right now is so great—and we've seen this over COVID—that we must have people occupying those positions who have courage and at certain times, will be able to and will exercise their authority, their discretion, even when it requires an unpopular decision.

I know James has been very outspoken about this. My concern about the process is that, particularly at the federal level, there is a screening process for appointment to the Superior Court which is done through the Government of Canada. There are people who are being appointed based upon their political allegiances. In fact, Mr. Lametti, our federal justice minister, has been really very cavalier about revealing this.

That's a very deep concern. Because of course in our system historically our judges have been a bulwark against government oppression. We need to have confidence in our judiciary that they will decide cases in a fair and impartial way. And sadly, there is ample evidence in our country that during COVID, this was not working out very well.

And it goes deeper than just the judiciary. It goes all the way down into people who are on administrative tribunals; people who are deciding human rights complaints;

[01:20:00]

or on labour boards; or at universities, who are deciding, for example, student union complaints. Or, for example, I mentioned Mr. Kitchen's client, Dr. Wall, who went before the chiropractic college. There's grave concern that these institutions are becoming politicized. And of course, that is dangerous to the integrity of our law and of our entire legal system and our system of justice.

And so there is reason to be concerned about the manner in which judges are being appointed in our country. I would like to see a thorough review of the process to determine to what extent it is in fact being politicized. And again, I have to clarify this: I'm not saying that the people who are being selected to the bench are all being appointed on the basis of their politics. I know that there are excellent people and I have friends who are judges and people I admire greatly who are on the judiciary. We have very, very talented people in our courts, brilliant people in our courts. But there is a concern about the manner in which judges are being selected in this country. And I think part of the reason why I was never given the opportunity to actually sit down and select a judge is because of my views.

Shawn Buckley

Leighton, can I just jump in for a second? I'm not trying to stop the— But if you can be a little more succinct in your answers to the commissioners, just because we've got some witnesses stacked up.

Leighton Grey

Sorry.

Commissioner DiGregorio

And so on that note, I am going to actually just note that I lied: I have three questions, not two. But this next one should be very short.

My fellow commissioner asked for the transcripts of Dr. Hinshaw's cross-examination. Were there also expert reports prepared by the Province? And if so, could we have copies of those for our record as well?

Leighton Grey

Yes. So they're a matter of public record, so we can provide you with a full documentary record of that proceeding [Exhibits SA-7a to SA-7z and SA-7aa to SA-7jj].

Commissioner DiGregorio

Thank you.

And finally, I've heard you speak today about what I think is a failure of many unions to represent employees when it came to the vaccine mandates. I'm just wondering if you have thoughts on how that process can be improved upon, assuming that the way it's been going so far is not going to reach a resolution that is satisfactory to these employees. Should they be able to have recourse against their unions when this happens? Should they be able to go around their unions directly at their employers? Do you have any thoughts on that?

Leighton Grey

I think it's something that needs to be examined. In particular, there's something called the duty of fair representation that the union owes to the workers under these collective bargaining agreements. I think one thing that's of concern is: Who are populating these tribunals who actually decide whether or not the union is discharging that duty properly? That's something, I think, that needs to be reviewed.

But I think COVID, looking at the silver lining, revealed a lot of cracks in many of our institutions. I think this whole concept of unionized labour is one example of that.

Commissioner DiGregorio

Thank you.

Commissioner Kaikkonen

Good morning. I'm not a lawyer, but I do thank you for your honest testimony.

I'm greatly disturbed—maybe that's not the right word—but aggrieved by the memories of what they did to churches and how that came about in Alberta. I'm from Ontario, so I got to watch firsthand throughout the experience of this whole COVID.

But I have a question. Going back to your earlier testimony when you started speaking about the Ingram case, it's my recollection that either in late 2019 or early 2020, a Quebec lower court asked for stronger euthanasia laws, and they gave the federal government six months to put in stronger euthanasia legislation under the MAID [medical assistance in dying] program.

As we know, the federal government first asked for an extension of six months for COVID. And then they brought forward a poorly worded—and those are my words—euthanasia legislation in response to satisfy this lower court decision.

I don't want to get into regionalization and that part of it,

[01:25:00]

but the feds have had almost three years to respond in the Ingram case and no decision has been made. Do you think that the stalling by the court—and that again is my words, that's how I'm perceiving this—will result in a passage of time argument or decision or, as we heard yesterday, a moot decision?

Leighton Grey

I don't think that that will occur in the Ingram case. But we certainly have seen that happen in other cases. Of course, many people know about the high-profile decision involving Brian Peckford and Maxime Bernier with their section 6 Charter challenge. As many people know, about seven million Canadians were unable to travel on a ship, a train, or an airplane for a very long time. And those two men, through the assistance of the Justice Centre for Constitutional Freedoms, were able to, I think, bring about a change in the law.

What happened in that case is precisely what you said. By the time that they got to the Court for a determination of whether or not those travel restrictions violated section 6 Charter mobility rights, the government had already suspended them and removed them. So the court said that the issue was moot and that there was nothing to be decided.

I don't think that that will happen in the Ingram case because the Ingram case engages also— We actually asked for damages. And we also asked for a determination of whether or not the Chief Medical Officer of Health exceeded her statutory authority in making those health orders. And that's a very important determination because if that is true, if the court makes that finding—and I happen to think that that finding is inescapable—that will open the door for many, many civil lawsuits against the Government of Alberta by people who lost their businesses and so on.

I do think that we're going to get a meaningful decision in the Ingram case. I don't think that the court can escape making decisions in that particular case through mootness, although there is a concern that that could occur in cases of this kind.

Commissioner Kaikkonen

And my second question is, and you kind of alluded to this in your testimony: Do you think there will be a trickle-down effect or response in terms of the lesser magistrates, the different ones that you've alluded to, that they ought to have known?

I'm thinking specifically of the Krever Inquiry and the tainted blood scandal, when the heads that rolled were the two top officials of the Red Cross. And yet everybody who worked there, the decision-makers that were under those two, were not held accountable or responsible.

Going forward in terms of court cases, and again you've alluded to some of this, will we see some of these decision-makers who are lesser magistrates in our society, who were equally responsible for dividing the social fabric and destroying what we knew as Canadian

society—our democracy, our rights and freedoms—will they also be brought to a place where they are held accountable and responsible?

Leighton Grey

Well, that's a question that honestly, I can't answer. I don't know. Honestly, what we are seeing right now—and this gives me some degree of hope—is we're actually seeing some very rational decisions in these lower courts.

There was a recent labour arbitration case involving Via Rail in which the arbitrator actually found that Via Rail's vaccine mandate was not a reasonable basis, a legally justifiable basis, in order to terminate Via Rail employees' employment. In fact, it might be conceivable that we're going to start to get these more rational decisions at the lower levels and that they'll make their way up into the higher courts. It's my view that we are less likely to get a change, as I say, at the tops of the trees. We're more likely to get it at the lower levels, at the root, and that will make its way up.

It's of concern, and many people realize this: the Chief Justice of our Supreme Court, Mr. Justice Wagner, made some very pointed public comments in the aftermath of the Trucker's Convoy about the people who participated in that. This is most concerning.

Also, our former Chief Justice, Beverly McLaughlin,

[01:30:00]

who's sitting on a tribunal over in China: she wrote an op-ed not long after the Trucker's Convoy, again in support of the Government of Canada's narrative.

So I don't think there's a great deal of hope that we're going to get a huge change, a policy shift, at the upper levels of our judiciary—certainly not unless and until there's a change in the government narrative that we've been talking about. I'm actually more hopeful that we're going to start to make inroads at these lower levels of court and that that will make its way up to the tops of the trees, as it were.

Commissioner Kaikkonen

And my final question is about— I'm going to start off with a quote by Albert Camus: "The only way to deal with an unfree world is to become so absolutely free that your very existence is an act of rebellion."

I'm just wondering if you have any recommendations that ordinary Canadians can do—again, taking personal responsibility—that might sway the judiciary and the government to think about what they have done over the last three years.

Leighton Grey

What I encourage people to do is to get involved at the grassroots level. One of the greatest and most common shared feelings of people in our country throughout the pandemic is powerlessness. And I happen to believe that that is by design. But that's a lie. That's not true. We all have individual personal power. We all have things that we can do.

Not everyone is an eminent doctor or a litigation lawyer or a high-powered journalist or whatever, but everyone has things within their power that they can do that can make a

difference in their families. Getting involved at the local school level, getting involved in local politics, speaking out. I think we need to do more.

There's a level of complacency. There's this spell that Mr. Buckley talked about that must be broken. And the only way to do that is to do something, to take action. I think, as a country, as a nation, we've been spectators allowing things to be done to us or to be done for us. And I think the more that we get active in our own lives and within our personal reach, that's how we're going to make the greatest difference. That's how we're going to restore confidence in our communities and in our local institutions.

Where could that lead? Where could that go? The one thing that we know right now is that— I think, there's a famous quotation from C.S. Lewis to the effect of, "Be careful about putting too much faith in one person." And with all due respect to our political leaders, I don't think that we can look to them, or we can look to a ballot box, to restore our country. I think that we have to take individual responsibility for what we can control in our daily lives. And if more and more of us start to do that, I think that is the antidote to this chaos. That is what is going to restore our country to dignity.

Commissioner Kaikkonen

Thank you for taking the time to testify this morning.

Leighton Grey

Thank you, it's been my honour.

Shawn Buckley

Leighton, on behalf of the National Citizens Inquiry, we sincerely thank you for your testimony today.

Leighton Grey

Thank you.

In closing, would you mind if I just read a brief biblical verse I'd like to share with people who watch this. It's from Ephesians, chapter 3 verses 14 to 21 and reads as follows:

For this cause I bow my knees unto the Father of our Lord Jesus Christ, Of whom the whole family in heaven and earth is named, that He would grant you, according to the riches of His glory, to be strengthened with might by His Spirit in the inner man; that Christ may dwell in your hearts by faith; that ye, being rooted and grounded in love, may be able to comprehend with all saints what is the breadth, and length, and depth, and height; and to know the love of Christ, which passeth all knowledge, that ye might be filled with all the fulness of God. Now unto Him that is able to do exceedingly, abundantly, above all that we ask or think, according to the power that worketh in us; unto Him be glory in the church by Jesus Christ, throughout all ages, world without end.

Amen. Thank you.

[01:35:25]

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