



NATIONAL CITIZENS INQUIRY

Red Deer, AB

Day 2

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EVIDENCE

Witness 9: Jeffrey Rath

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Shawn Buckley

Our next witness is going to be Jeffrey Rath. Jeffrey, can you come up to the stand, please?

Jeffrey, can you state your full name for the record, spelling your first and last name?

Jeffrey Rath

My name is Jeffrey Ralph Wallace Rath, J-E-F-F-R-E-Y. Rath, R-A-T-H.

Shawn Buckley

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

Jeffrey Rath

I do.

Shawn Buckley

Now you've been a constitutional lawyer for 32 years. Can you briefly introduce yourself and the experience that you've had as a constitutional lawyer?

Jeffrey Rath

Certainly. My educational background, I hold honours degrees from the University of Alberta in political science. I have an honours degree in law from the London School of Economics and Political Science, which is a college of the University of London in England. I have been practising almost exclusively in the area of constitutional and administrative law for 32 years, winning a number of cases, including cases at the Supreme Court of Canada on behalf of Indigenous people of Canada.

And since the outset of the assault on our personal liberties and the liberties of my fellow Canadians, I've been engaged in COVID litigation since the fall of 2020, in cases involving the Alberta government and citizens whose rights, lives, and businesses were destroyed by the medical dictatorship presided over by Deena Hinshaw in this province.

Shawn Buckley

Now, we've had several lawyers come and speak on different issues concerning how the Courts have dealt with COVID. But you're here to share with us something different concerning administrative law reviews. I'm wondering if you can introduce that topic to us and then share your thoughts.

Jeffrey Rath

Certainly. As a result of my experience in the courts through COVID, and I would say my experience in the courts doing administrative law prior to COVID and then after COVID, it really became clear to me that the real problem that we face in terms of having the courts protect the rights of citizens in the context of administrative law and judicial review is one single word. It's a word that has a very subjective interpretation as it's applied by the courts and by the judges. And that word—its variations of the word—the word “reasonable” and the word “reasonableness” in an administrative law context.

And, of course, going back through the history of administrative law, the standard of reasonableness in administrative law has always been a tricky one. The English test was out of a case that then came to be known as the Wednesbury Rule on Reasonableness, which was: the decision of a bureaucrat or a bureaucratic or administrative decision-maker was only unreasonable if it could not have been made by any other reasonable decision-makers. So you can see how circular that is. And how easy it is for any decision-maker, having a particular will to not decide in favour of an applicant, could easily just use that definition to step out from underneath ruling in favour of the citizen or ruling in favour of actual judicial review.

Now in the Canadian context, I would submit, and my concern is two cases have created substantially even more mischief than the old Wednesbury Rule that was brought up through what's called the Dunsmuir case in Canada. But the two cases that I'm concerned with—and I think need to be legislated out of existence because there's no remedy in the Courts, and they're common law cases, so they can be legislated out of existence—is the Doré case or Doré versus the Barreau du Québec case, which was used by the British Columbia Court of Appeal in Beaudoin et al versus the Attorney General of British Columbia to deny rights in that case. And then the other case from the Supreme Court of Canada, which I say needs to be legislated out of existence, is the Vavilov case [*Canada (Minister of Citizenship and Immigration) v. Vavilov*] at the Supreme Court of Canada, which basically takes the Wednesbury Rule and then injects it with steroids and creates a situation where no citizen challenging an administrative decision has a hope of ever winning in the face of a decision that's made by an alleged expert in the context of their expertise.

Of course, that's what we've run into in the context of COVID. We have people that the courts defer to.

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Deena Hinshaw—let's start with her—perfect example. She's afforded the deference of an expert, notwithstanding the fact that a number of statements that she's made publicly and

otherwise were negligent and delusional. I'll provide an example of what I would consider to be a negligent and delusional statement made by Deena Hinshaw.

That was the day that she stood up and encouraged everybody in this province to not worry about if they've been injected with AstraZeneca— To sign up for Dr. Hinshaw's magic vaccine buffet, and then go on and get injected with Moderna and get injected with Pfizer. It's all okay: that's what she did. She signed up for her own special vaccine buffet and encouraged other people in this province to sign up for this program of hers that had never been studied. We've looked for the studies. There aren't any.

There's no drug company in the world that expends millions of dollars to determine how their product, that they've already spent millions of dollars quasi-licensing—because we know these products aren't really licensed—to see how their products interact with other companies' quasi-licensed products from a safety perspective. So there's Deena Hinshaw, I think, delusionally and negligently, encouraging men and women in this province to sign up for her vaccine buffet.

We know from the news reports—that poor woman in Lethbridge and other reports—that the people that have signed up for her vaccine buffet have been horribly injured and have actually had recognized vaccine injuries through the vaccine injury program as a result of Dr. Hinshaw's negligence standing up publicly and encouraging people to sign up for her untested, scientifically unproven vaccine buffet. Which I would submit is completely unsafe, unregulated, and was completely inappropriate for her to recommend.

Notwithstanding this, however, according to the Vavilov decision at the Supreme Court of Canada, she is an expert. And the courts need to defer to her expertise in terms of all of her decisions because no judge should ever question a decision of an expert in their field of expertise. What I would suggest is that concept— And again, these are just common law concepts: This is judge-made law. This is not constitutional law; this is not law that's made by legislature. It's judge-made law. Within Canadian jurisprudence, the framework of our democracy and our legal system, it forms part of the common law; it's part of our constitutional order. But it's easily written and overwritten by a simple statute, which is what I'm focused on now.

We're never going to get our lives back; we're never going to recover what's happened to us. But we can all make sure this never happens again by insisting that the people that we elect and the legislators that we elect take concrete steps to amend our statutory framework to make sure that this never happens to us again.

One of the things that I would be recommending is statutory amendments to the *Alberta Interpretation Act* to start off with, to make it clear that the standard of reasonableness is to no longer apply in cases where the rights of a citizen are at issue. And the test, in all of those instances, should be correctness, with the onus of proof on a balance of probabilities lying with the bureaucratic decision-maker seeking to infringe the rights of the citizen through their decisions. If those people were held accountable, I don't think we would have suffered the things that we've suffered over the course of COVID. Because the bureaucrats, like all of the people on the Scientific Advisory Group as an example, all of whom I believe should be sued into oblivion for the things that they did: making decisions to limit vaccine exemptions to the narrowest of circumstances.

Testimony in the Ingram case proved that they had no psychiatrists or psychologists or anybody with psychiatric training on that panel. Obviously, we had psychiatric experts that we were consulting with throughout. We heard that heartbreaking testimony earlier today

with regard to the consequences of what these decisions were in the realm of the suicides that have occurred in this province because the Scientific Advisory Group was not considering the impacts of these mandates: be it a mask mandate where people are suffocated; or vaccine mandates where rape victims and other people, who have suffered horrible abuse, literally felt like

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they were being held down and re-violated against their will, again. To the degree that drove suicides, none of that was considered by the Scientific Advisory Group, the College of Physicians & Surgeons [of Alberta], Deena Hinshaw.

Psychiatric exemptions were not available to people that didn't want to get vaccinated or were unable to get vaccinated for those reasons. We had the suicide rate going through the ceiling. To this day, we can't get anybody in Alberta Health, including the Chief Medical Examiner from the Province, to answer correspondence forwarded to his office by Leighton Gray and I, demanding from him the degree to which suicides were driven by these mandates and driven by these policies.

We asked that question of Dr. Hinshaw under oath. She would not answer the question. She said, "Oh, the person you have to ask is the Chief Medical Examiner." Of course, we asked the Chief Medical Examiner, and we don't even have the courtesy of a response to our correspondence. We all know that the impacts of all of these things have been real. The health and mental health of our children has been impaired as a result of these delusional decisions that the courts pay deference to. In that regard, I'd like to mark these documents as exhibits. I'm going to provide electronic links to them.

Shawn Buckley

Yeah, so Jeffrey, we've spoken about that. You're going to provide me electronic copies, and then we will enter them as exhibits. I don't have the exhibit numbers. I have to get that from the person that files them. Then they will be available online so that anyone watching your testimony will be able to access exactly what you're referring to today [exhibit number unavailable].

Jeffrey Rath

I'm just going to hold these documents up. Because these documents, I'm tendering as evidence of the delusional nature of the decision-making at the Public Health Agency of Canada by Theresa Tam, who was the one that was telling everybody, "Oh, it's safe and effective; everything's safe and effective," and to whom Deena Hinshaw swore under oath, she was deferring. She didn't need to personally inquire into the safety and effectiveness of the vaccines because the great expert, Dr. Theresa Tam, has said they're safe and effective.

Well, this same Dr. Theresa Tam, on October 25th of 2022, drafted a paper. I'm going to hold it up, and it's called *Mobilizing Public Health Action on Climate Change in Canada*. I think she's unhappy that her COVID powers have been stripped. So she's now declared that climate change is the largest single public health emergency facing Canadians and that we all need to know that climate change is caused by racism, colonialism, ableism, and heteronormativity: are the four causes of climate change.

And, of course, because it's the largest public health threat to Canadians—keep in mind what they did to us during COVID—they could theoretically lock us up in our homes again

so that we're not as heteronormative, able-bodied people wanting to go to work, who may or may not be racist or colonialist, or whatever other "ist" or "ism" they want to accuse us of, lock us in our homes, and then when we go to court to judicially review these decisions, either under the Charter or just straight administrative law principles, we run smack into Vavilov or Doré, which say that:

Oh well, this is a reasonable decision that is made within a range of reasonable decisions that can be made by a reasonable bureaucratic decision-maker. And we really can't get behind her decision because she's an expert, and we have to take judicial notice of her expertise.

Regardless of the fact that we're scratching our heads over the fact that heteronormativity may or may not have anything to do with climate change, or ableism may or may not have anything to do with climate change, she's an expert: we can't question these decisions to lock you back up in your homes. This is the law of Canada as it stands from the Supreme Court of Canada. Have a nice day.

So again, what I'm strongly advocating is that legislatures have to act. And I'm specifically requesting Daniel Smith consider immediately bringing bills to the legislature. I don't care that an election is a month away. The legislature is still in session, I think. I want to see amendments to the *Alberta Interpretation Act* to ensure that, in the future, all judicial reviews are on the basis of correctness, with the onus being on the bureaucrat to prove, on a balance of probabilities, that their decision is correct and demonstrably necessary to override the individual rights of the citizen.

I want to see amendments to the *Alberta Bill of Rights* to ensure

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that property rights in this province are not governed by the Supreme Court of Canada's decision in *Authorson* [*Authorson v. Canada (Attorney General)*], which says that legislatures can override property rights decisions simply by running a bill that eliminates property rights through the legislative process.

I want the *Interpretation Act* to state specifically that businesses cannot be shut down by legislative fiat and that property cannot be taken away from Albertans, be it their firearms, their cars, their tractors, their combines, their fertilizer, whatever it is that the Trudeau dictatorship wants to take away from us next.

Shawn Buckley

Jeffrey, can I step in and just slow you down a little bit? The first thing is you've got some very specific ideas to bring about change to help ensure that our rights are protected and that the decisions of administrative people can be reviewed.

I'm wondering if—being that you're going to be sending us these two documents anyway—you could write those out for us because I think the commissioners in drafting the report and considering how things could be done differently could really benefit.

Jeffrey Rath

I'd be happy to do that. I'd actually meant to prepare a paper in advance of the hearing, but I was called into a two-day hearing on the Court of King's Bench on short notice. So I will prepare a paper with the appropriate citations and exhibits.

Shawn Buckley

Okay. Just to slow us down again because I want to make sure that people hearing your evidence understand. So we've already heard about how basically we've moved into an administrative state, and we have these public health officials making these decisions. And what you're saying is, "Well, if one of these decisions affects us as a citizen, maybe even if our life depends on it and we appeal, as citizens, we're going to expect the court to ask, 'Is this decision right or is it not right? Is it correct, or should it be overturned?'" But the court doesn't even have the right to see if it's correct because these appeal decisions say, "No, no, Judge, looking at this appeal, the issue is, could somebody have reasonably made this decision?" Which is such a big, grey, messy pool that we really don't have an effective review.

Jeffrey Rath

Well, I'd like to comment on that because I think we're all painfully aware of the horrible decision involving that poor woman in this province that needed a lung transplant. At the end of the day, the court simply deferred to the doctors on the transplant committee and found that the requirement that she be vaccinated in advance of the transplant was a reasonable one; you either go along with your reasonable doctors or prepare to die, right? Effectively, this woman was sentenced to death by administrative law from my perspective.

Keep in mind, in the context of that case, had the review been on the balance of correctness, that lawyer would have been able to call esteemed experts like Dr. Dennis Modry, who is the former head of the entire transplant program at the University of Alberta—who's actually a personal friend of mine; and who I spoke to about this case in particular. It was certainly Dr. Modry's opinion that the transplant was not contraindicated by not getting the COVID vaccine.

Dr. Modry was concerned that there were numerous studies floating around that indicated that the mRNA [Messenger Ribonucleic Acid] vaccine may, in fact, be a contraindication for transplants because of risks associated with organ rejection, and so on, with the vaccine. So had that decision been reviewed on a standard of correctness rather than reasonableness, that poor woman may, in fact, have been able to look forward to living and, instead, she ends up being sentenced to death by judicial review and administrative law, which I think is horrible.

Shawn Buckley

So that's the case that makes your point. So here it's a life and death decision for that lady. She appeals it. But she doesn't even have the right, even though it's life and death, for the court to say, "Yes, this is a correct decision, or this isn't a correct decision."

Jeffrey Rath

That's it exactly. And I think that that law— and again that's why I say quite strongly that the Vavilov decision and the Doré decision need to be legislated out of existence by the Alberta legislature. Certainly, the legislature has the authority to do that, and it needs to do

it sooner rather than later. But of course, the problem is— And if I could just speak to this quickly. I'm not sure where I'm at on my time.

Shawn Buckley

I was hoping you'd go 30 minutes, which gives us about seven. But I know the commissioners are going to have a bunch of questions for you.

Jeffrey Rath

Okay, well I just want to wrap up on this one point, and then I'll defer to the commissioners for questions.

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Following along with that thought, in terms of needing to legislate an end to that type of deference to decision-makers, there needs to be real accountability for these people.

One of the things that's happened, at least from my perspective because I also represent a number of doctors who've been under attack by the College of Physicians and Surgeons, I was representing doctors that were on the verge of being fired by AHS [Alberta Health Services] because for health reasons or other personal reasons, they couldn't be vaccinated. The legislature needs to take an active role in making sure that this doesn't happen again. Because these are people's lives that are being destroyed by these decisions. People's lives are being put at risk by these decisions, and people are actually losing their lives because of these decisions. As far as I'm concerned, I don't think there's any better definition of the word "unreasonable" than for that circumstance to continue to prevail as a matter of jurisprudence in this province.

Shawn Buckley

Thank you, and on that note, I will ask the commissioners if they have any questions for you.

Commissioner DiGregorio

Thank you so much for sharing your testimony with us today. Can you help me understand a little bit about what your specific recommendation is in terms of legislating? I understand that under the common law, as it exists now, there are two standards of review that can be used to review a tribunal's decision or an administrative board's decision. So one is the one you're speaking about, the reasonableness, and the other is the correctness.

Jeffrey Rath

Correct.

Commissioner DiGregorio

And so when one of these decisions gets reviewed by a court, the court first determines, "Am I reviewing it on a standard of reasonableness, which is just, could this board have reasonably reached this decision? Or am I determining whether this decision was correct?"

Jeffrey Rath

No, the standard of review with regard to expert boards and tribunals, and now under Vavilov, is always reasonableness and not correctness and with the court giving a huge amount of deference—and I think it’s undue deference—to so-called expert boards and tribunals.

You know, a discussion I was having with a colleague of mine is that judges make difficult decisions and complex commercial litigation all the time on the basis of expert testimony. So why is it in the context of administrative law when a citizen’s rights are at issue— And we’re talking serious rights: Your right to life. Your right to continue to operate your business, to earn a living. When you think of all the lives that were destroyed through COVID. I know business owners that committed suicide because they were bankrupted through COVID by having their restaurants shut down. So those types of decisions are being made on an ongoing basis, and the courts defer to the decision-maker. They defer to Deena Hinshaw. Notwithstanding the fact that we have actual evidence from her own mouth that she’s not only unreasonable but she’s negligent in the practice of medicine—but the courts still defer to her as an expert.

So that’s what I want to legislate an end to, whether we do it through the *Interpretation Act* or we draft a new *Alberta Administrative Law and Procedures Act*, or whatever it is. On the property issue, we can make a simple amendment to the *Alberta Bill of Rights*, under section 1, to make it clear that property rights are not the rights spoken of under Authorson but our substantive rights, not procedural rights, to own property in this province. Those are the types of changes that I think need to be changed immediately to ensure that the type of abuse that we’ve all suffered never happens again. If that answers your question.

Commissioner DiGregorio

Well, it brings another question. So you’re suggesting that we use these two concepts of standard of review that already exist. But simply legislate that— Because Vavilov has said, “It’s reasonableness when you’re dealing with an administrative board,” we legislate that you have to use the alternative standard of correctness.

Jeffrey Rath

That’s it, exactly. I’m saying that we outlaw the standard of reasonableness because, as far as I’m concerned, bureaucrats should not be given the benefit of the doubt over the rights of a citizen. So that’s where I see the tension because keep in mind: The bureaucrats control Alberta Justice. They control the constitutional law branch of the Department of Justice in Ottawa. They literally control hundreds of millions of dollars worth of legal resources in this country, where they can litigate these cases against us on an ongoing and continual basis to maintain these abusive standards against us. The citizen really doesn’t have a chance anymore. So what I’m saying is that the concept of reasonableness in judicial review needs to be outlawed and replaced with the standard of correctness to level the playing field between the bureaucrats and the citizen.

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Because these people need to be reminded that they are public “servants.” They are not our masters.

Commissioner DiGregorio

I know you have some thoughts, how you've expressed that this could maybe be done through the *Interpretation Act*, maybe the *Alberta [Law of] Property Act* or the Bill of Rights. But what about all of the statutes that contain specific privative clauses that ask the courts to pay deference? Do all of those need to be revisited?

Jeffrey Rath

As I said, I think that they should be outlawed across the board. One of the statutes that, I think, requires an immediate amendment is the *Public Health Act*, specifically section 66.1, that exempts people like Deena Hinshaw—who are making clearly negligent public statements with regard to public health—from being sued. Section 66.1 of the *Public Health Act* says that if they're acting in good faith, they're virtually immune from lawsuit. That's why the CM decision of Justice Dunlop's gave me such hope because Justice Dunlop flat-out said that Deena Hinshaw's decisions with regard to her so-called orders were not lawful decisions under section 29 of the *Public Health Act* because she didn't make the decisions as required under the *Public Health Act*. She, in effect, acted like a cocktail waitress: Took a list of drinks into the Sky Palace cabinet and said, "What beverage would you like today, boys?" They'd pick one from the list and then tell her what to do. And then, of course, what we saw, Cabinet would say, "Well don't blame us. Dr. Hinshaw made the decisions." And she'd throw them under the bus and say, "No, no, no, they made the decisions. I just gave them a list, and they picked what they were going to do to the citizens. I just told them what their options were."

But keep in mind, one of the options was no restrictions or limited restrictions. But they wouldn't pick that one. They picked the one in the middle because they didn't want to irritate the hard-core, let's-lock-everybody-down and mask-everybody-14-times people on one end of the spectrum. And they didn't want to make it appear that they were giving in to the people that thought all of this was hogwash at the other end of the spectrum. So they literally picked the "rights abuses" in the middle of the spectrum to equally offend both sides, which they seem to have well-achieved in doing.

I'm hopeful that Justice Dunlop's decision will prevail and that all of Deena Hinshaw's orders will be found to have been illegal because they were not issued under section 29 of the *Public Health Act*. As my friend Colonel Redmond has testified: They could have been issued under the *Emergencies Act*. But the Kenny Cabinet didn't have the courage to do that themselves. They wanted a scapegoat under Deena Hinshaw, which is what made her orders illegal. But as far as I'm concerned, I want section 66.1 of the *Public Health Act* gone so that Deena Hinshaw can be sued by all of the people that followed her advice and signed up for her vaccine buffet and took one of each. And have been horribly vaccine injured as a result.

Commissioner DiGregorio

We've heard from a number of other lawyer witnesses who testified about the concept of judicial notice, which is the idea that a judge can accept a fact without actually seeing evidence of it and that the courts may have been taking judicial notice of facts to support decisions in favour of the government. Do you have any thoughts on the concept of judicial notice?

Jeffrey Rath

Outlaw that, too, quite frankly. I mean, it's sort of a subset of the issues that we've been discussing. The problem that we have now is that this concept of judges being able to take judicial notice of decisions of the delusional—like Theresa Tam saying that capitalism causes climate change and heteronormativity causes climate change, et cetera—that needs to be stopped. Full-stop. But only the legislatures can do it now because that concept has been elevated to such a high appellate level in Canada that lower courts, within the Canadian system of *stare decisis*, would find themselves bound by it.

So we're not fixing the problem in court. The problem needs to be fixed in the legislatures. All of us here, collectively in this room, need to be encouraging all of our friends and neighbours not to vote for anybody or support any legislator that would not support this type of legislation.

Commissioner DiGregorio

Thank you.

Commissioner Massie

I have a question. You're proposing to pass a law at the level of the Province to outlaw these measures. What's going to happen at the higher court and the federal level? Can that be superseded?

Jeffrey Rath

Well, I guess we'll find out in six to eight years when it gets to the Supreme Court. But, at least, we'd enjoy our freedom

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in the meantime, would be my answer. But that having been said, in all seriousness, I'll try not to be so tongue-in-cheek with my response. The Superior Courts, including the Supreme Court of Canada, routinely uphold provincial limitations legislation. And trust me, as somebody who's litigated against the Department of Justice for 32 years, they love raising provincial limitations legislation as bars to constitutional claims. So what's good for the goose is good for the gander. If the federal government can rely on limitations legislation to defeat the constitutional claims of citizens, I see no reason that valid provincial legislation that gives effect to section 92 of the *Canadian Constitution Act, 1867*, specifically the property and civil rights provision of that constitutional document, as superseding the federal criminal law.

A good example is gun legislation, where the Province could literally pass a law that said that any federal criminal legislation that sought to seize property in the province of Alberta offends property and civil rights in the province to the extent that the firearms restriction wasn't issued as a bail condition, or alternatively, following the conviction of somebody for an act of violence involving a firearm. I think it was Carol Conrad in our Court of Appeals who said it was massive overreach for the federal government under the criminal law to attempt to seize chattel property in a province. So these limitations are available. I would think that we'd have a reasonable shot at upholding that legislation on a going-forward basis.

As I said, in the interim, at the very least, the legislature passing legislation like that would put the judiciary on notice that the citizens of Canada and the citizens of Alberta are tired of judge-made law and people being sentenced to death by administrative law in this country. It's got to stop. I think the only way to stop it is through legislation.

Commissioner Massie

Can I ask a question that may be a little bit outside of your field of expertise because I know that this is common law.

Jeffrey Rath

I'm a lawyer. We'd never admit to that. I'm kidding. Sorry.

Commissioner Massie

In Quebec, it's not exactly common law, it's a—

Jeffrey Rath

No, no, je comprend.

Commissioner Massie

What I've seen in Quebec is that it seems that we've been through the same sort of issues in court. So do you think, what you're proposing to change at the provincial level across Canada, could that also be enacted in Quebec?

Jeffrey Rath

Oh, absolutely. I have to say the Government of Quebec has been very, very good at ousting federal jurisdiction through le code civil in Quebec. The civil code in Quebec, as you're well aware, is really just a form of legislation. It's a codification of the law in Quebec, and the Quebec legislature is very used to passing laws that limit or restrict the applications of federal law in Canada. What I'm suggesting is that the Government of Alberta needs to wake up and start aggressively adopting the same approach. Of course, they'll be labelled as extremists in the press, but so be it.

Commissioner Massie

Thank you.

Commissioner Drysdale

I just want to back up on this a little bit because, constantly, one of the themes I keep hearing from all kinds of people, doctors, lawyers, is that the fundamental tenets of our society have been challenged or destroyed or dismissed. And what you were talking about: you were talking about this reasonableness and judicial notice and these kinds of things. How is that consistent with the basic fundamental tenet of law that the two parties arrive in court on the same footing, that they are considered equal under the law, and the evidence will be weighed and a decision made on the basis of that evidence?

Jeffrey Rath

Well, from my perspective, it's not. When you look at the history of administrative law and administrative law cases, the scope of the bureaucracy to affect our lives was always a lot more limited. But because of this massive growth of the administrative state, bureaucrats now feel that they have the right to interpose themselves into virtually every single aspect of our lives. We saw that through COVID.

What I said very early on in COVID that, from a legal perspective,

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it's like after the crash of 2008, 2009: all the financial institutions were forced to go through what were called stress tests. From my perspective, our democracy and our fundamental system of justice in Canada underwent a massive stress test through people ordering things by fiat, through the medical dictatorships that were running across this country, et cetera. And we failed. We completely failed the stress test.

And I think that we need to take the lessons from that stress test in the same way that the banks and the financial institutions did. Governments need to do the same thing that they did post the crash of 2008 and 2009. They need to step in and legislate safeguards for the citizenry of this country as against the bureaucracy in the administrative state that now operates as a virtual dictatorship in this country. Don't think for a second that when Theresa Tam and her minions at the Public Health Agency of Canada are now saying that climate change is the largest public health threat to Canada that they're not going to start flexing their muscles and issuing dictates.

They want to end capitalism in Canada. And that's without considering for a minute Economics 101. If you're a government employee whose entire salary is paid by the taxpayers, how is it that you're going to be able to continue to be employed and have your salary paid when capitalism is magically abolished in Canada through the waving of a magic fairy wand? I mean, it's completely ludicrous. And these delusional people are the ones that the courts defer to under the doctrine of reasonableness. And it has to stop.

Commissioner Drysdale

Well, I listened to you and I listened to your passion. But it almost sounds like the old story about the little Dutch boy with his finger in the dam. I refer you to a bunch of different things. Lieutenant Colonel Redmond, this morning, talked about the deferral—and these are my words—the deferral from the legislature to the administrative state. In other words, the mayors and the premiers, et cetera, were supposed to make these decisions, but they deferred to the public health officers. When I look at something like Bill C-11, and I see the legislature deferring their decisions to the CRTC [Canadian Radio-Television and Telecommunications Commission], and when I see the health legislation being considered, which is deferring Canadian decisions on health to the WHO— that's a trend. What you're talking about here is the same trend. So it seems like there's a lot of holes in the dam.

Jeffrey Rath

No, I understand that. I think as long as we have the government we have in Ottawa, there's no fixing Ottawa. But I really believe in Alberta, we're at a tipping point. I personally and passionately believe that we have an opportunity here to fix things, at least in our little

corner of the world, by insisting that the Alberta legislature address these problems through legislation and fix these problems. I think the political will is there. We just have to insist that our leaders take a step back from the bureaucrats and the administrative state, and act on their own and advise the bureaucrats and the administrative state that the elected representatives are in charge, not the bureaucrats.

A recent example, and I'll just say this quickly. I have a friend that was speaking to a city councillor here in Red Deer. He said, "How the hell is Red Deer on the list of World Economic Forum 15-minute cities?" The councillor said, "I didn't know that. We didn't make that decision." The decision was made by bureaucrats within the City government. "Oh, well, there's federal money available to put up cameras to monitor people, and there's money available to restrict traffic flows and make people's lives more miserable. So we just thought we'd take the money. What's the problem?" But these decisions to restrict our rights and to drastically impact our rights are being made at the wrong level by people that shouldn't have that decision-making authority and, certainly, not without the supervision of the people that we elect to make sure that those types of decisions are not made without consulting the people.

Commissioner Drysdale

You're right. I believe you're right. What you're talking about is influencing the legislature, which means you need to influence the people who elect these people. But then, on top of it all, the fourth branch of government, which is the media, is completely on the other side. You still have to this day, in April of 2023— We've heard a lot of different testimony where these mandates and restrictions and all kinds of other things are still in place. You still have mask mandates.

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That is a consequence of the disconnect between the people and their media, which is now standing in the way between the people and the legislature. Which is kind of similar to what's happened in the courts. The courts are supposed to stand between the legislature and the population.

Jeffrey Rath

But again, that's why initiatives such as this one, I believe, are so important. I mean, the citizens have a voice and are being able to communicate through this wonderful forum that's been provided here to tell our legislators what we think. That's all we can do.

My background is actually in Treaty and Aboriginal rights or Indigenous law. And I've spent 30 years moving the needle by litigating cases in virtually every single jurisdiction in the country. But we can't give up. I mean, you just have to keep hammering on them and hammering on them and hammering on them. You have to be relentless because if you are not, the views of the bureaucrats will prevail. Let's face it, these same people that are talking about colonialism and white supremacy and racism, these are the same people that I've been litigating against for the last 32 years because they're colonialist, white supremacists, racists who despise the rights of Indigenous people. You'd think every time I get a new Indian added to the Indian list that I've committed some crime.

So don't think for a second when Theresa Tam and her people are decrying colonialism, racism and white supremacy, that that's an end to climate change, that they're not part of the problem. And they're not the problem. Because how many First Nations territories do

we have in Canada that still don't have clean drinking water yet damn near a trillion dollars was wasted over COVID. It's a national embarrassment.

Commissioner Drysdale

Yeah, I just want to point out that you sound to be in a similar situation that Mr. Buckley was talking about first thing this morning when he did his introduction. He was appealing to the people, not to the courts, not to the media, but he's appealing to the people of Canada to take responsibility. It sounds to me that that's really what you're asking for, and if you don't get that, your chance of success is much, much reduced.

Jeffrey Rath

I agree with that. But I mean, that's why I'm here, and that's why I do the things that I do from a public education perspective. All of us need to take a role, every single person here. If you're angry about what I've said, go home and write a letter to your MLA [Member of Legislative Assembly], send an email to your MLA, send an email to Danielle Smith. She'll listen. Don't bother sending one to Rachel Notley. She ain't going to pay attention. Keep in mind that Rachel was fine with the unions not grieving the claims of their members who were fired or laid off without pay for not being vaccinated.

So focus on the people that will listen and make them listen. They're your elected representatives. Everybody here has a duty. Every time you get mad, send an email. They do pay attention. There's a lot of people in this legislature that, even though they haven't been as brave as we'd like them to be, they care and they'll listen.

Commissioner Drysdale

Thank you, sir.

Shawn Buckley

Jeffrey, I'm just wanting to clarify for the audience because sometimes experts just assume that people know what is being said. I just wanted to clarify a couple of things. You were talking about Alberta passing amendments in the *Interpretation Act*, basically protecting civil rights. I think it's important for people to understand that under section 92 of the *British North America Act, 1867*, which is the first part of our Constitution, provinces have jurisdiction over property and civil rights. And that's why they would have the authority, and that's also why Quebec could do the same thing because all provinces have that right.

Jeffrey Rath

Absolutely. But again, the problem that we've had in Alberta is that the bureaucracy has convinced governments that the power of the administrative state should govern rather than our elected representatives. We need to force our legislators through the democratic process to re-tip the scales to at least an even playing field.

Shawn Buckley

And then the other thing that I was hoping people understood. You were talking about: we have to bring changes to the *Interpretation Act* to bring this test of correctness. So I'll just bring people back. So let's say the example you gave where the lady could not get a lung transplant because she's not vaccinated. This is a life-and-death decision for her. And

your one point you've explained: It shouldn't be reasonableness. It's just, "Is this a correct decision or not?" But you also want to change where the test is a balance of probabilities—where the bureaucrat has to justify. I want people to understand that this lady, when she did her appeal, she had the onus to show that the decision was unreasonable, let alone not correct. What you're suggesting is,

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no, when rights are at play—especially where somebody's life is at stake—no, the experts should have the onus, the burden of proof. I just wanted to make sure that people listening to your testimony understood you because that's a very important thing that you're suggesting. And I just wanted people to understand.

Jeffrey Rath

Yeah, that's exactly what my testimony is, and that's exactly what my recommendation is going forward. Thank you.

Shawn Buckley

Thank you. So Jeffrey, on behalf of the National Citizens Inquiry—

Jeffrey Rath

Oh, I think there's one more question.

Shawn Buckley

Oh I'm sorry. I didn't see that. I thought they were done.

Commissioner Kaikkonen

Good afternoon. I'm not a lawyer and I'm from Ontario. So I can tell you that most of us in Ontario that have lost our voice in many occasions are very thankful for you people in Alberta who do stand up. So that should be a help.

But as a non-lawyer, I'm just going to kind of go through a number of thoughts that I have because I can't really formulate a question right now. I need some thought and processing time, but I'm going to run through a number of thoughts that I have.

So in the raw milk decision that came down in the Supreme Court, I believe a year ago now, it was a week-long decision and the farmer had taken it all the way to the Supreme Court. He was regularly raided at his farm for providing raw milk to people who had health injuries or health sickness and were able to survive better or manage their health issues better through raw milk. Now, I watched the interveners in that Supreme Court case. And the interveners were the same ones that were the civil servants who raided the farm regularly, who made the decisions, who rejected the appeals, and were basically the ones who shut it down. And so the Supreme Court ended up saying, "The raw milk farmers, you've lost your case." That's my first point there because the judge, jury, and executioner at that time was the civil servants. It was the administrative state. That farmer took everything he had in terms of finances and resources and arguments to the Supreme Court level because he believed in fighting for the citizens.

My second point is how do we reconcile that CRA [Canada Revenue Agency] employees currently write the speeches for MPs [Members of Parliament], our federal MPs? How do we change that so that the bureaucrats or the civil servants are not running the show? My third point is the MPPs [Members of Provincial Parliament] in Ontario. When a private member's bill comes in, and it's 28 pages long, you know they're not going to read it. And it's going to go through the legislature for a second and third reading simply because they're not going to read it, and they're not going to have the arguments to argue against it. Even though people are writing to these MPPs and saying, "Oh wait a second. There's some serious issues with this potential legislation." And yet, they don't do it.

I also look at things like Elections Ontario, who is a silo unto itself, who is responsible and accountable to no one. You cannot get access to information; you cannot get anything from them whatsoever. They are a silo unto themselves. Whatever the CEO [Chief Electoral Officer] of Elections Ontario says, that's it, doesn't matter. He has undue influence, significant undue influence, over the Premier's office.

So although it's not a question, there are a number of thoughts I have: just how do we as ordinary people turn this around to a place where the citizens matter in this country, not only in the political level but the judicial level and from the head of state level? And how do we restore the fundamental rights and freedoms that we have in our democracy because I feel that we've been left as the people who pay the wages and no matter how many voices we have, we're not significant to any of those players? I thank you in advance for whatever you can answer.

Jeffrey Rath

Well, thank you for that. That's a lot to chew on. But again, I think, it just comes down to what I've been talking about today: all of us, as citizens, need to take responsibility for what's happening in our respective provinces and take responsibility for our respective governments and our respective legislatures. I think it's an old truism of democracy that we always get the government that we deserve. I think people need to start looking inward and then focusing their anger and energy outward to make sure that politicians understand how it is that we feel about rights restrictions and how it is that we feel about the growth of the administrative state.

I was horrified to hear today that AHS is back up to over 105,000 employees after having been trimmed back to 60 or 70,000. These bureaucracies just continue to grow and grow and grow. Maybe that's what Theresa Tam's so-called experts at PHAC [Public Health Agency of Canada] are talking about when they say, "let's bring an end to capitalism."

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They want everybody employed by the government as a government bureaucrat, and we can all join the administrative state. But God knows how we are going to pay for it if we don't actually produce anything or grow anything or have real jobs as working men and women in this country.

My hope is that all of us watching this process and taking part in this process will understand that, again, it's a bit of a cliché: But it starts with us. The responsibility lies with us to make sure that, on a regular basis, our legislators know what we're thinking and how we feel and how inappropriate so much of what's being done in their name, as our representatives, is in the context of just poor bureaucratic decision-making and needs to be questioned at every turn.

I think we need statutes that also hold bureaucrats accountable, to make it easier for individual citizens to sue individual bureaucrats, so that they're personally liable for the decisions that they make and they don't get to hide behind the government. Those are all things that should be considered, especially in light of what we've suffered in the last several years.

I personally believe that Deena Hinshaw should be held personally liable for recommending people sign up for her vaccine buffet. Anybody that's injured under that regime should be suing Deena Hinshaw personally. That advice can't be anything other than negligent: there isn't a single scientific study in the world that supports that prescription.

Those are the types of things that I worry about and that I think about. I don't know if that answers any of your questions. But even your raw milk decision, I think, would be cured by the changes to administrative law that I'm proposing.

Commissioner Kaikkonen

Just as a follow-up, the raw milk farmer is still being raided even after that decision, and he doesn't sell raw milk anymore. But thank you for your commentary.

Jeffrey Rath

Thank you all for listening. It's been a real honour and a pleasure to be here.

Shawn Buckley

So before everyone claps, let me thank him. So Jeffrey, on behalf of the National Citizens Inquiry, we sincerely thank you for coming and sharing your thoughts. You've given us a different angle to think about on how we solve this, and we really appreciate you coming and sharing with us.

Jeffrey Rath

It's been a real privilege. Thank you.

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