

ONTARIO COURT OF JUSTICE

IN THE MATTER OF THE CRIMINAL CODE OF CANADA

BETWEEN:

HIS MAJESTY THE KING

(Respondent)

-and-

JEAN-PHILIPPE AYOTTE

(Applicant/Defendant)

APPLICATION FOR A JURY TRIAL

1. **Documents**

- o Application
- o Factum
- o Evidence
- o Book of Authorities

2. **Filed By:**

Jean-Philippe Ayotte
Applicant/Defendant

3. **Filed In Respect Of:**

Application for a Jury Trial in accordance with the rights afforded under Common Law, the Criminal Code of Canada and the Canadian Bill of Rights.

4. **Hearing Date:**

February 10, 2025

5. **Court Location:**

161 Elgin St. Ottawa, ON K2P 2K1

6. **Representative for the Applicant/Defendant:**

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The law

Expert material

Case law

APPLICATION

No.: 22-42309

ONTARIO COURT OF JUSTICE

IN THE MATTER OF THE CRIMINAL CODE OF CANADA

BETWEEN:

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(Respondent)

-and-

JEAN-PHILIPPE AYOTTE

(Applicant/Defendant)

APPLICATION FOR A JURY TRIAL

TO THE RESPONDENT:

TAKE NOTICE THAT an Application will be made to a Judge of the Ontario Court of Justice at 161 Elgin, Ottawa, ON. on December 10, 2025 at 10:00 AM, or as soon thereafter as the matter may be heard, for the following relief:

RELIEF REQUESTED

The Applicant, Jean-Philippe Ayotte, respectfully seeks:

1. Confirmation that the Ontario Court of Justice has jurisdiction to offer a jury to an accused who claims his fundamental rights were violated in the arrest.
2. If the Ontario Court of Justice does have the jurisdiction to issue a jury in cases where fundamental rights are violated such as in the arrest of Mr Ayotte he asks that a jury be offered in his case.
3. Alternatively, if the Ontario Court of Justice has no jurisdiction to offer a jury where allegations of fundamental rights are being brought forward then Mr Ayotte seeks an order dismissing the charges due to breaches of fundamental rights and procedural rights, including the right to a fair and impartial tribunal;
4. Any other order that would ensure that Mr. Ayotte has a fair trial.

5. Such further relief as this Honourable Court deems just.

GROUND FOR THE APPLICATION

1. **Jurisdictional Challenge**

Courts are required to address and respond to any challenge regarding their jurisdiction.

2. **Canadian Bill of Rights - Right to Fair Hearing**

The Canadian Bill of Rights guarantees that no person charged with a criminal offence shall be deprived of the right to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal, as outlined in section 1(a), 2 (e) and 2 (f):

The Canadian Bill of Rights is binding on all courts adjudicating criminal offences, and the Applicant asserts that this statutory guarantee must be upheld.

3. **Fundamental Rights Infringement**

The Applicant's rights to security of the person, enjoyment of property, and freedoms of speech and assembly, protected under sections 1(a) and 1(d) of the Canadian Bill of Rights, have been infringed.

4. **Common Law Right to Jury Trial**

Common law guarantees the right to a jury trial, particularly in cases involving allegations of state misconduct or breaches of fundamental rights. This principle aligns with the doctrine of procedural fairness.

5. **Conflict of Interest and Impartiality**

The inherent conflict of interest posed by the Crown (parliamentary agents, police, prosecutors, and judges) in prosecuting charges involving state agents undermines public confidence in the fairness and impartiality of the proceedings. The common law principle of "*Nemo iudex in causa sua*" ("No one should be a judge in their own case") reinforces the necessity of a jury trial to mitigate this conflict.

6. **Procedural Fairness and Totalitarian Risk**

A jury trial is essential to safeguard procedural fairness, ensure impartiality, and protect the Applicant's rights. The presence of a jury serves as a check against authoritarian overreach and preserves democratic values in the administration of justice.

7. **Common Cannot be Overridden by Legislation**

True common law, rooted in principles of natural justice and reason, predates statutory law and serves as the foundation of the legal system. Historically, it is seen as inviolable and cannot be overridden by legislation. Courts have held that statutes conflicting with common law are invalid unless explicitly justified. Key principles, like those in **Dr. Bonham's Case (1610)**, affirm that common law safeguards justice and limits arbitrary legislative power, making it fundamental to the rule of law.

8. Common law principles and statutory interpretation to uphold implied rights and prevent the denial or undermining of rights by legislation:

9. Invalidity of Proceedings Without a Jury

In the alternative, the Applicant submits that the absence of a jury trial invalidates the proceedings due to the resulting breach of fundamental justice and procedural fairness. A dismissal is required for justice and fairness.

EVIDENCE TO BE RELIED UPON

The Applicant intends to rely on:

1. The Affidavit of Jean-Philippe Ayotte, sworn on January 8, 2025
2. The Affidavit of Gabriel Gaboury, sworn on January 8, 2025
3. Affidavit of Verin (Vee) Gandhi, sworn on January 11, 2025.
4. The *Canadian Bill of Rights*, R.S.C. 1985, App. III, particularly Sections 1(a), 1(d), and 2(e) and 2 (f).
5. Case law, including:
 1. Campbell Motors Limited v. Gordon, 1946 CanLII 242 (BC CA)
 2. Canadian Broadcasting Corp. v. Canada (Labour Relations Board), [1995] 1 S.C.R. 157:
 3. Club Resorts Ltd. v. Van Breda, 2012 SCC 17:
 4. Curr v. The Queen, [1972] S.C.R. 889]
 5. Dell Computer Corporation v. Union des consommateurs, 2007 SCC 34
 6. Duke v. The Queen, [1972] S.C.R. 917
 7. Mackay v. R., [1980] 2 S.C.R. 370:
 8. R. v. Bain, [1992] 1 S.C.R. 91
 9. R. v. Drybones, [1970] S.C.R. 282:
 10. R. v. Krieger, 2006 SCC 47
 11. R. v. O'Connor, [1995] 4 S.C.R. 411:
 12. R. v. Sullivan, 2022 SCC 19:
 13. Singh v. Minister of Employment and Immigration, [1985] 1 S.C.R. 177:
 14. McBain v. Lederman (1985), [1985] 1 F.C. 856 (C.A.)
 15. Valin v. Langlois, (1879) 3 S.C.R. 1:
 16. Walter v. The Queen, [1969] S.C.R. 383
 17. R. v. Conway (1989)
 18. R. v. Appleby (1972)
 19. R. v. Miller and Cockriell (1975)
 20. R. v. Tobiass (1997 SCC 65)
 21. R. v. Find (2001 SCC 32)
 22. Rex v. Shipley (1784)
 23. Bushell's Case (1670)
 24. Rex v. Zenger (1735)
 25. R. v. Sherratt, [1991] 1 SCR 509

26. R. v. Stillman, 2019 SCC 40
28. *Wewaykum Indian Band v. Canada* ([2003] 2 S.C.R. 259)
29. Trop v. Trop, 2024 ONCA 855
30. 743584 Ontario Inc. v. LAC Otelnuuk Mining Ltd., 2021 ONSC 5255
31. FCA Canada Inc. v. Reid-Lamontagne, 2019 ONSC 364
32. R. v. Conway (1989), [1989] 1 S.C.R. 1659
33. R. v. Miller and Cockriell (1975), [1975] 2 S.C.R. 680
34. R. v. Tobiass, [1997] 3 S.C.R. 391
35. R. v. Sherratt, [1991] 1 S.C.R. 509
36. R. v. Davey, 2012 SCC 75
37. R. v. Crampton, [2006] 1 S.C.R. 208
38. R. v. MacDonald, [2008] 1 S.C.R. 335
39. The King v. Conway (1902), 32 N.S.R. 196 (NS SC)
40. Shipley (1784) – "The Dean of St. Asaph's Case"
41. Rex v. Zenger (1735)
42. R. v. Taylor (1836)
43. Dr. Bonham (1610)
44. Case of Prohibitions (1607)
45. Entick v. Carrington, 19 Howell's State Trials 1029 (1765)
47. Ashby v. White (1703)
48. Sir William Blackstone's *Commentaries on the Laws of England* (1765–1769)

6. Experts;

Sir James Fitzjames Stephen
 Sir Wilfrid Green
 Lysander Spooner
 Verin (Vee) Gandhi
 William Keyte
 Kenn d'Oudney
 Sir William Blackstone

7. Common law principles from the Magna Carta (1215) established the right to have “all rights fully and liberties entirely” and to have a right trial by one’s peers i.e. jury.

[1] In the first place we grant to God and confirm by this our present charter for ourselves and our heirs in perpetuity that the English Church is to be free and to have all its rights fully and its liberties entirely. We furthermore grant and give to all the freemen of our realm for ourselves and our heirs in perpetuity the liberties written below to have and to hold to them and their heirs from us and our heirs in perpetuity.

[39] No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any way, nor will we proceed with force against him, or send others to do so, except by the lawful judgment of his equals or by the law of the land.

8. Such further and other evidence as may be presented at the hearing of this Application.

PLACE WHERE THIS APPLICATION WILL BE HEARD:

161 Elgin Street, Ottawa, Ontario

DATE AND TIME OF HEARING:

February 10, 2025

DATED at Ottawa, Ontario this 11 day of January, 2025.

Defendant

Jean-Philippe L. Ayotte

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Laval, Quebec, H7G 4X3

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FACTUM

No.: 22-42309

ONTARIO COURT OF JUSTICE Court File

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FACTUM OF THE APPLICANT

APPLICATION FOR A JURY TRIAL

PART I – RELIEF REQUESTED

RELIEF REQUESTED

The Applicant, Jean-Philippe Ayotte, respectfully seeks:

1. Confirmation of the Ontario Court of Justice jurisdiction to offer a jury to an accused who claims his fundamental rights were violated in the arrest.
2. If the Ontario Court of Justice does have the jurisdiction to issue a jury in cases where fundamental rights are violated in the arrest, Mr Ayotte asks that a jury be offered in his case.
3. Alternatively, if the Ontario Court of Justice has no jurisdiction to offer a jury where allegations of fundamental rights are being brought forward, then Mr Ayotte seeks an order dismissing the charges due to breaches of fundamental rights and procedural rights, including the right to a fair and impartial tribunal;
4. Any other order that would insure tha Mr. Ayotte has a fair trial.
5. Such further relief as this Honourable Court deems just.

PART II – OVERVIEW GROUNDS

i) GROUNDS FOR THE APPLICATION

1. **Jurisdictional Challenge**

Courts are required to address and respond to any challenge regarding their jurisdiction.

2. **Canadian Bill of Rights - Right to Fair Hearing**

Canadian Bill of Rights guarantees a right to jury section 1(a) by guaranteeing due process of law which includes “rule of law” which includes right to jury for criminal matters.

3. **Fundamental Rights Infringement and Necessity of Jury**

The Applicant's rights to security of the person, enjoyment of property, and freedoms of speech and assembly, protected under sections 1(a) and 1(d) of the Canadian Bill of Rights, have been infringed.

The CBR accords a fair hearing of his rights and due process which includes “rule

of law” in an independent, impartial tribunal. “Rule of law” based on common law principles requires a jury.

4. Fundamental Rights Infringement and the Necessity of a Jury Trial (Common Law perspectives)

Common law guarantees the right to a jury trial, particularly in cases involving allegations of state misconduct or breaches of fundamental rights. This principle aligns with the doctrine of procedural fairness. And common law principles cannot be overridden by legislation.

5. Conflict of Interest and Impartiality

The inherent conflict of interest posed by the Crown (including government agents, police, prosecutors, and judges) in prosecuting charges involving state agents undermines public confidence in the fairness and impartiality of the proceedings. The common law principle of "*Nemo iudex in causa sua*" ("No one should be a judge in their own case") reinforces the necessity of a jury trial to mitigate this conflict.

6. Procedural Fairness and Totalitarian Risk

A jury trial is essential to safeguard procedural fairness, ensure impartiality, and protect the Applicant's rights. The presence of a jury serves as a check against authoritarian overreach and preserves democratic values in the administration of justice.

7. Common Law Cannot be Overridden by Legislation True common law, rooted in principles of natural justice and reason, predates statutory law and serves as the foundation of the legal system.

8. Invalidity of Proceedings Without a Jury

In the alternative, the Applicant submits that the absence of a jury trial invalidates the proceedings due to the resulting breach of fundamental justice and

PART III – STATEMENT OF FACTS

The Applicant relies on his sworn Affidavits and summarizes the facts as follows:

1. Mr. Ayotte was subjected to physical assault by state agents.
2. Mr. Ayotte was improperly charged and released far from his residence, causing hardship in freezing weather.
3. Mr. Ayotte's property, including a hot tub, was unlawfully destroyed without justification.

These state actions breach Mr. Ayotte's liberty, security of the person, and freedoms of speech and assembly under Sections 1(a) and 1(d) of the *Canadian Bill of Rights*.

History of Juries

Evolution of the Canadian jury System from the Magna Carta to today resting on Judeo-Christian principles.

In 1215, King John of England agreed to the **Magna Carta**, a foundational document that sought to limit royal authority and protect individual rights. Two of its most significant clauses stated:

[1] In the first place we grant to God and confirm by this our present charter for ourselves and our heirs in perpetuity that the English Church is to be free and to have all its rights fully and its liberties entirely. We furthermore grant and give to all the freemen of our realm for ourselves and our heirs in perpetuity the liberties written below to have and to hold to them and their heirs from us and our heirs in perpetuity.

[39] No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any way, nor will we proceed with force against him, or send others to do so, except by the lawful judgment of his equals or by the law of the land.

These clauses are often interpreted as establishing that rights are inalienable and that includes the right to trial by a jury of one's peers, ensuring that legal judgments were made fairly and not solely by the monarchy.

Evolution in England

Following the Magna Carta, the jury system in England underwent significant developments:

- **14th Century Reforms:** By the mid-14th century, it was established that individuals who served on presenting juries (similar to modern grand juries) should not serve on trial juries for the same case, promoting impartiality.
- **Bushel's Case (1670):** This landmark case reinforced jury independence by ruling that jurors could not be punished for their verdicts, even if they contradicted a judge's expectations.

Establishment in Canada

As English settlers colonized Canada, they brought with them English common law traditions, including the jury system:

- **Colonial Era:** The jury system was introduced in civil and criminal cases, reflecting the English legal framework.
- **Post-Confederation:** After Confederation in 1867, Canada continued to uphold the jury system, embedding it within its legal structure.

Core Judeo-Christian ethical and Moral Principles

The significance of Judeo-Christian principles on the **right to a jury** in Canada, illustrating how the values embedded in these principles align with the function and significance of the jury system:

1. **Human Dignity** – The jury system respects the inherent worth of each person by ensuring their peers determine guilt or innocence, acknowledging the value of the individual in legal processes.
2. **Sanctity of Life** – The right to a jury in serious cases reflects the solemnity of decisions affecting life and liberty, reinforcing the protection of life through careful deliberation.
3. **Justice** – The jury system embodies fairness and equity by involving impartial citizens in legal proceedings, ensuring just outcomes free from bias or corruption.
4. **Love for Neighbor** – Jury duty exemplifies compassion and civic responsibility, as jurors safeguard the rights and well-being of others through their service.
5. **Honesty and Integrity** – Jurors are expected to act truthfully and impartially, reflecting the importance of honesty in achieving just verdicts.
6. **Personal Responsibility** – Serving on a jury reflects individual accountability to uphold justice and make decisions that affect the community.
7. **Rule of Law** – The right to a jury reinforces respect for just and moral laws, ensuring they are applied fairly through collective deliberation.
8. **Respect for Authority** – The jury acknowledges judicial authority while participating in the administration of justice, balancing power between citizens and the state.
9. **Stewardship** – Jurors are entrusted with the responsibility of managing justice and protecting societal values, acting as stewards of fairness and rights.
10. **Equality** – The jury system guarantees equal treatment under the law by ensuring decisions are made by peers without prejudice.

Family and Community Values

11. **Marriage and Family** – Protecting family through fair legal decisions upholds the foundational importance of family in society.
12. **Education and Wisdom** – Jurors are educated in legal principles during trials, fostering wisdom and moral discernment essential to delivering just decisions.
13. **Service to Others** – Jury duty is a direct act of service to the community, safeguarding the rights and freedoms of fellow citizens.

Religious and Spiritual Values

14. **Faith in God** – The pursuit of justice through a jury reflects moral convictions rooted in divine law, honoring God's call for justice.
15. **Obedience to God's Commands** – The impartiality of jurors aligns with the divine command to judge righteously and fairly.
16. **Sabbath Rest and Worship** – Jury processes respect the dignity of individuals, ensuring time for reflection and deliberation in the pursuit of truth.
17. **Repentance and Forgiveness** – The possibility of acquittal or leniency in sentencing reflects the values of redemption and second chances.
18. **Hope and Redemption** – Jury decisions can offer hope by recognizing the potential for change and the opportunity for rehabilitation.

Social and Cultural Influences

19. **Freedom and Free Will** – The right to a jury reinforces personal liberty by ensuring that no one is unjustly deprived of freedom without the consent of their peers.
20. **Charity and Generosity** – Jurors freely give their time and energy to uphold justice, reflecting generosity in the service of communal well-being.
21. **Work Ethic** – Deliberation requires diligence, responsibility, and a commitment to truth and fairness.

Justice and Redemption Principles

22. **Mercy and Compassion** – Jurors can recommend mercy in sentencing, reflecting compassion even when guilt is established.
23. **Equality Before the Law** – Juries ensure justice is blind to race, gender, or social standing, emphasizing impartiality.
24. **Accountability to a Higher Power** – Jurors, while accountable to the law, often recognize a moral responsibility beyond earthly authority, reinforcing the sanctity of justice.

These principles are often cited in the context of shaping Western legal, ethical, and cultural norms while remaining deeply rooted in scripture.

Judeo-Christian Principles and Legal Foundations

The development of the jury system from the UK, and adopted by the Canadian Constitution, was founded upon Judeo-Christian ethical principles emphasizing justice and fairness:

Here are additional biblical references and concepts that align with the principles supporting a jury-like system, including fairness, deliberation, evidence, and impartial judgment:

1. Exodus 23:1-3, 6-8

- “You shall not spread a false report. You shall not join hands with a wicked man to be a malicious witness. You shall not fall in with the many to do evil, nor shall you bear witness in a lawsuit, siding with the many, so as to pervert justice, nor shall you be partial to a poor man in his lawsuit.”
- This passage emphasizes integrity in testimony, avoiding bias, and ensuring justice without succumbing to external pressures—a principle foundational to jury impartiality.

2. Numbers 35:30

- “If anyone kills a person, the murderer shall be put to death on the evidence of witnesses. But no person shall be put to death on the testimony of one witness.”
- This reiterates the requirement for multiple witnesses, similar to modern standards of corroborative evidence for fair trials.

3. Leviticus 19:15

- “You shall do no injustice in court. You shall not be partial to the poor or defer to the great, but in righteousness shall you judge your neighbor.”
- This reinforces impartial judgment, a cornerstone of both biblical and contemporary judicial proceedings.

4. 2 Chronicles 19:6-7

- “And [Jehoshaphat] said to the judges, ‘Consider what you do, for you judge not for man but for the Lord. He is with you in giving judgment. Now then, let the fear of the Lord be upon you. Be careful what you do, for there is no injustice with the Lord our God, or partiality or taking bribes.’”
- This highlights the sacred responsibility of judges and jurors to act without corruption or bias, as they serve in God’s stead when administering justice.

5. Deuteronomy 1:16-17

- “And I charged your judges at that time, ‘Hear the cases between your brothers, and judge righteously between a man and his brother or the alien who is with him. You shall not be partial in judgment. You shall hear the small and the great alike. You shall not be intimidated by anyone, for the judgment is God’s.’”
- This passage stresses impartiality and fair hearing for all, regardless of status or influence.

6. Proverbs 24:23-26

- “These also are sayings of the wise. Partiality in judging is not good. Whoever says to the wicked, ‘You are in the right,’ will be cursed by peoples, abhorred by nations, but those who rebuke the wicked will have delight, and a good blessing will come upon them.”
- This aligns with the role of jurors and judges in discerning right from wrong and avoiding favoritism.

7. Acts 6:3

- “Therefore, brothers, pick out from among you seven men of good repute, full of the Spirit and of wisdom, whom we will appoint to this duty.”
- This example reflects the importance of selecting trustworthy individuals for positions of discernment and responsibility, akin to selecting jurors.

8. Matthew 18:15-16

- “If your brother sins against you, go and tell him his fault, between you and him alone. If he listens to you, you have gained your brother. But if he does not listen, take one or two others along with you, that every charge may be established by the evidence of two or three witnesses.”
- The need for corroborative testimony parallels standards for collective decision-making in judicial processes.

9. Job 29:16

- “I was a father to the needy, and I searched out the cause of him whom I did not know.”
- Job’s example demonstrates the importance of carefully investigating cases, seeking justice for those who lack resources, much like fair juries today.

10. **Isaiah 11:3-4**

- “He shall not judge by what his eyes see, or decide disputes by what his ears hear, but with righteousness he shall judge the poor, and decide with equity for the meek of the earth.”
- This vision of righteous judgment underscores impartiality, careful consideration, and equity, all qualities jurors are called to embody.
- These references collectively uphold the biblical ideals of impartial judgment, fair hearing, corroborative evidence, and integrity—all of which support the jury system as an extension of justice and righteousness.

Legal Maxims Supporting the Right to Jury:

1. **"Nemo debet esse judex in propria causa."**
 - *No one should be a judge in their own cause.*
 - This supports impartiality in trials, a principle safeguarded by the involvement of an independent jury.
2. **"Audi alteram partem."**
 - *Hear the other side.*
 - Reflects the fundamental fairness of allowing both parties to present their case before a jury.
3. **"Fiat justitia ruat caelum."**
 - *Let justice be done, though the heavens fall.*
 - Emphasizes the importance of fairness and justice, which a jury helps to ensure by representing the conscience of the community.
4. **"Lex semper dabit remedium."**
 - *The law always provides a remedy.*
 - A jury trial ensures that individuals have an equitable remedy through a fair and impartial hearing.
5. **"Nullus liber homo capiatur nisi per legem terrae."**
 - *No free man shall be seized except by the law of the land.*
 - From Magna Carta (1215), this principle underpins the right to trial by jury as a cornerstone of legal due process.
6. **"Ubi jus ibi remedium."**
 - *Where there is a right, there is a remedy.*
 - Ensures that legal rights, such as the right to a jury trial, are enforceable through fair processes.
7. **"Justitia nemini neganda est."**
 - *Justice is to be denied to no one.*
 - The jury system embodies this maxim by allowing ordinary citizens to participate in the administration of justice.
8. **"Vox populi, vox Dei."**
 - *The voice of the people is the voice of God.*

- Reinforces the idea that juries, as representatives of the people, ensure justice reflects societal values.
- 9. **"In dubio pro reo."**
 - *When in doubt, for the accused.*
 - A jury trial provides a safeguard for the accused by requiring a group of peers to find guilt beyond a reasonable doubt.
- 10. **"Quod omnes tangit ab omnibus approbari debet."**
 - *What touches all should be approved by all.*
 - Suggests that the involvement of a jury allows decisions to reflect the broader interests of the community.

Contemporary Reflections

Today, the jury system in Canada embodies these historical and ethical foundations, striving to ensure impartiality, representativeness, and fairness in legal proceedings.

In summary, the jury system has evolved from its early mentions in the Magna Carta, influenced by Judeo-Christian principles, through significant legal developments in England, to its current form in Canada, upholding the ideals of justice and fairness in the legal process. However, it is important to note that juries are now offered in less than 2% of criminal cases, reflecting a significant reduction in their application.

RISE OF TOTALITARIAN TENDENCIES IN CANADA WHICH CORRESPOND TO THE DRAMATIC REDUCTION IN JURY TRIALS.

The rate of jury trials for criminal offenses is now **less** than 2 percent.

1. Erosion of Democratic Institutions

- **Excessive Use of Executive Orders and Regulations** – Bypassing Parliament through **Orders-in-Council** and emergency powers to pass significant policies without legislative debate or public scrutiny.
- **Limiting Parliamentary Oversight** – Suspension or restriction of parliamentary sessions during crises, reducing opportunities for opposition to question or challenge government actions.

2. Suppression of Free Speech and Dissent

- **Censorship and Online Regulation** – Introduction of **bills like C-11 (Online Streaming Act)** and **C-18 (Online News Act)** that grant the government authority to regulate online content and media, effectively controlling the flow of information.

- **Targeting Protesters** – The **Emergencies Act** invoked during the 2022 Freedom Convoy allowed the freezing of bank accounts and seizure of assets from protesters without due process, criminalizing dissent.

3. Centralization of Power

- **Consolidation of Federal Authority** – Increasing the scope of federal control over areas traditionally under provincial jurisdiction, bypassing the division of powers outlined in the **Constitution Act, 1867**.
- **National Policing Initiatives** – Expanding the role of the RCMP and federal agencies in local matters, eroding provincial autonomy.

4. Overreach Through Public Health and Climate Policies

- **Mandated Health Measures** – Implementation of vaccine mandates, travel restrictions, and lockdowns without parliamentary approval or sunset clauses. These policies often lacked sufficient checks and balances.
- **Carbon Pricing and Environmental Restrictions** – Federal imposition of carbon taxes and restrictions on resource industries, bypassing provincial governments and disregarding economic impacts on local communities.

5. Surveillance and Data Control

- **Digital ID Programs and Mass Surveillance** – Expansion of digital identity programs and biometrics under the guise of public safety and convenience, increasing the government's ability to track and monitor citizens' activities.
- **Financial Control Measures** – Use of financial institutions to enforce compliance, including freezing bank accounts of individuals engaged in politically disfavored activities, as seen during the convoy protests.

6. Legal Manipulation and Judicial Overreach

- **Stacking the Judiciary** – Appointment of judges who align with government policy, undermining judicial independence and the right to impartial trials.
- **Exclusion of Jury Trials** – Increasing reliance on judge-alone trials, especially for summary offenses, denying defendants the right to trial by jury as guaranteed by common law and the **Canadian Bill of Rights (Section 2(e))**.

7. Media Control and Narrative Shaping

- **State-Funded Media** – Heavy subsidization of mainstream media outlets, creating an environment where media becomes less critical of government policies. This compromises journalistic integrity and skews public perception.

- **Misinformation Laws** – Introduction of policies that criminalize the spread of "misinformation," often defined subjectively by the government, risking suppression of alternative viewpoints.

8. Restriction of Mobility and Private Property Rights

- **15-Minute Cities and Travel Restrictions** – Implementation of urban planning policies aimed at limiting movement under the guise of reducing emissions, raising concerns about freedom of movement and property rights.
- **Expropriation and Land Control** – Expanded government authority to seize land or restrict land use without adequate appeal other than on the price paid for the land.

9. Weaponization of Institutions

- **Targeting Political Opponents** – Utilization of tax agencies, law enforcement, and regulatory bodies to investigate or financially penalize political opponents or dissenting organizations.
- **Criminalization of Religious and Political Beliefs** – Restrictive policies disproportionately affecting faith-based groups and those expressing traditional or conservative views, limiting freedom of religion and conscience.

10. Globalist Influence and Loss of Sovereignty

- **UN and WHO Agreements** – Commitment to international agreements (such as the **UN 2030 Agenda**) that undermine national sovereignty and impose policies without public consent.
- **Financial Entanglements** – Aligning national financial systems with international banking regulations that restrict economic independence and individual wealth control.

11. Carbon Pricing (Greenhouse Gas Pollution Pricing Act, 2018)

- **Issue:** The federal government imposed a national carbon tax on provinces that refused to implement their own carbon pricing systems.
- **Provincial Jurisdiction:** Natural resources and local industries fall under provincial authority (Section 92(13) – Property and Civil Rights).
- **Legal Challenge:** Alberta, Saskatchewan, and Ontario argued this violated their constitutional authority over resource management.
- **Outcome:** In 2021, the **Supreme Court of Canada** upheld the federal law, citing it as a matter of national concern, though dissenting opinions warned of federal overreach.

12. Firearms Regulation (Bill C-21, 2023)

- **Issue:** The federal government introduced sweeping gun control measures, including banning certain firearms and imposing restrictions that affected rural and Indigenous communities.
- **Provincial Jurisdiction:** Policing, property rights, and local law enforcement typically fall under provincial control (Section 92(14) – Administration of Justice).
- **Provincial Pushback:** Alberta, Saskatchewan, and Manitoba refused to enforce the federal gun bans, arguing it infringed on their authority over property rights and policing.

13. Health Mandates and COVID-19 Measures

- **Issue:** The federal government imposed vaccine mandates and travel restrictions during the COVID-19 pandemic.
- **Provincial Jurisdiction:** Health care and public health are provincial responsibilities (Section 92(7) – Establishment, Maintenance, and Management of Hospitals).
- **Conflict:** Provinces like Alberta argued that certain federal mandates bypassed provincial authority over public health. While provinces managed health services, federal mandates tied access to national services and employment.

14. Natural Resource Projects (Trans Mountain Pipeline Expansion)

- **Issue:** The federal government approved the expansion of the Trans Mountain pipeline despite British Columbia's opposition. B.C. attempted to block the project by restricting the transportation of oil through the province.
- **Provincial Jurisdiction:** Provinces argued this was a local environmental matter (Section 92A – Non-Renewable Natural Resources).
- **Outcome:** The **Supreme Court** ruled in favor of federal jurisdiction, citing interprovincial pipelines as a matter of national importance under **Section 91(2) – Trade and Commerce**.

15. Policing and Emergencies (Emergencies Act, 2022 – Freedom Convoy)

- **Issue:** The federal government invoked the Emergencies Act to clear protests during the Freedom Convoy in Ottawa, freezing bank accounts and deploying police powers typically reserved for provinces.
- **Provincial Jurisdiction:** Policing and handling local protests are under provincial and municipal authority (Section 92(14)).

- **Pushback:** Alberta, Saskatchewan, and Quebec condemned the move as unnecessary federal interference in provincial policing, arguing the situation did not meet the threshold for invoking the Act.

16. Housing and Municipal Affairs (National Housing Strategy)

- **Issue:** The federal government implemented housing initiatives directly affecting municipal zoning and development.
- **Provincial Jurisdiction:** Housing and urban planning are provincial and municipal matters (Section 92(8) – Municipal Institutions).
- **Conflict:** Provinces criticized the federal government for bypassing local decision-making, imposing national housing strategies without adequate provincial consultation.

17. Long-Gun Registry (1995-2012)

- **Issue:** The federal government created the long-gun registry, requiring all firearms to be registered. Several provinces opposed and refused to enforce it.
- **Provincial Jurisdiction:** Provinces argued that regulating non-criminal firearm ownership was within their domain (Section 92(14) – Property and Civil Rights).
- **Outcome:** The registry was dismantled in 2012 under significant provincial pressure, with Quebec continuing its own firearm registry.

18. Natural Gas and Electricity (Clean Electricity Regulations, 2023)

- **Issue:** Federal plans to phase out natural gas power plants by 2035 faced opposition from provinces heavily reliant on fossil fuels.
- **Provincial Jurisdiction:** Energy production falls under **Section 92A** (Natural Resources).
- **Provincial Response:** Alberta and Saskatchewan declared they would ignore federal timelines, emphasizing their constitutional right to manage their own energy grids.

19. Indigenous Child Welfare (Bill C-92, 2019)

- **Issue:** The federal government passed legislation allowing Indigenous communities to reclaim jurisdiction over child welfare. While well-intentioned, Quebec challenged the law, arguing it infringed on provincial jurisdiction over child protection.
- **Provincial Jurisdiction:** Child welfare falls under provincial authority (Section 92(13) – Property and Civil Rights).

- **Outcome:** The **Quebec Court of Appeal** ruled that parts of the law were unconstitutional, though the Supreme Court is set to hear the case.

20. Criminal Law and Jury Trials

- **Issue:** The Ontario Court of Justice, created by provincial legislation, handles the vast majority of criminal cases **without juries** for summary offenses. This practice potentially violates Section **91(27)**, which places criminal law and procedure under exclusive federal jurisdiction.
- **Conflict:** Critics argue that federal oversight is required to ensure jury trials are preserved in all criminal matters, safeguarding the **right to a fair hearing**.

Conclusion: The Necessity of Jury Trials to Curtail Totalitarianism

The decline in jury trials in Canada, now accounting for less than 2% of all criminal offenses, represents a critical threat to the checks and balances essential in a democratic society. Jury trials are a cornerstone of justice, safeguarding against government overreach and ensuring impartiality in legal proceedings. Their erosion corresponds with a broader pattern of authoritarian tendencies, including the suppression of dissent, centralization of power, and weaponization of institutions.

As outlined in this analysis, the federal government's increased reliance on executive orders, emergency powers, and judicial overreach undermines parliamentary oversight and provincial autonomy. Coupled with measures such as mass surveillance, media control, and censorship, these developments indicate a trajectory toward centralized control and diminished individual freedoms.

The reduction in jury trials exacerbates this trend, as judge-alone trials eliminate public participation in the justice system. This shift risks undermining the public's confidence in judicial impartiality, particularly when judicial appointments align with government policies. The Canadian Bill of Rights guarantees the right to a fair hearing by an impartial tribunal, which is fundamentally upheld through the jury system.

We are in a political crises

To reverse this trajectory, the restoration and preservation of jury trials are imperative. They serve as a vital mechanism to:

1. **Hold the government accountable** by involving citizens directly in the administration of justice.
2. **Ensure impartiality** in legal proceedings, free from political influence.
3. **Preserve democratic values** by fostering transparency and public trust in the justice system.

The jury system must be reinstated as a non-negotiable pillar of Canadian democracy to curb the encroachment of totalitarian practices. Public awareness and legal advocacy are critical in demanding this safeguard, ensuring that Canada remains a nation governed by its people, not unchecked authority.

PART IV – ISSUES

1. Whether common law and Statute law Section 1(a), 2 (e) and (f) of the *Canadian Bill of Rights* requires that the Ontario Court of Justice offer Mr. Ayotte a jury trial for summary charges that involve violation of fundamental rights in order for him to have a fair trial.
2. Whether the Crown's lack of independence and impartiality necessitates a jury trial.
3. Whether a jury trial is necessary to ensure procedural fairness, protect fundamental rights, and restore public confidence in justice.
4. Whether the absence of a jury trial invalidates the proceedings against Mr. Ayotte.

PART V – LAW AND ARGUMENT GROUNDS

1. Jurisdictional Challenge

Canadian law, when a court's jurisdiction is challenged, it is imperative for the court to address and determine its authority to proceed. Failure to do so can render subsequent proceedings invalid. Here are ten notable cases that illustrate this principle:

- a. **Trop v. Trop, 2024 ONCA 855:** The Ontario Court of Appeal emphasized that compliance with a disclosure order does not constitute attornment to jurisdiction. The court underscored the necessity of addressing jurisdictional challenges before proceeding with substantive matters.
- b. **Clayton v. Canada (Attorney General), 2024 ONCA 581:** The Court dismissed an appeal challenging an arbitral award, highlighting that alleged errors in applying the law do not equate to jurisdictional issues. This case reinforces the importance of distinguishing between jurisdictional challenges and substantive legal errors.
- c. **R. v. Sullivan, 2022 SCC 19:** The Supreme Court of Canada reiterated that decisions made without proper jurisdiction are subject to being overturned, emphasizing the necessity for courts to establish their jurisdiction when challenged.
- d. **743584 Ontario Inc. v. LAC Otelnuuk Mining Ltd., 2021 ONSC 5255:** The court applied the competence-competence principle, stating that questions regarding an arbitrator's jurisdiction should be decided by the arbitrator, except in cases involving pure questions of law. This case highlights the procedure for challenging jurisdiction in arbitration contexts.

- e. **FCA Canada Inc. v. Reid-Lamontagne, 2019 ONSC 364**: Justice Spies refused an application to set aside a final award challenged on the basis of an excess of jurisdiction, holding that the applicant had failed to raise the objection in a timely fashion. This case underscores the importance of timely jurisdictional challenges.
- f. **Club Resorts Ltd. v. Van Breda, 2012 SCC 17**: The Supreme Court of Canada clarified the "real and substantial connection" test for assuming jurisdiction, emphasizing that courts must establish jurisdiction based on objective factors and address any challenges thereto.
- g. **Valin v. Langlois, (1879) 3 SCR 1**: This foundational case established that provincial superior courts have general jurisdiction over federal and provincial law matters, and that Parliament can confer jurisdiction to these courts. It underscores the necessity for courts to affirm their jurisdiction when questioned.
- h. **Canadian Broadcasting Corp. v. Canada (Labour Relations Board), [1995] 1 S.C.R. 157**: The Supreme Court affirmed that administrative tribunals must act within their jurisdiction and that decisions made beyond their jurisdiction are subject to review. This case highlights the importance of jurisdictional boundaries.
- i. **R. v. O'Connor, [1995] 4 S.C.R. 411**: The Supreme Court held that a stay of proceedings is appropriate as a last resort in cases where an abuse of process either irretrievably prejudices the integrity of the justice system or the accused's ability to obtain a fair trial, underscoring the importance of addressing jurisdictional concerns.
- j. **Dell Computer Corporation v. Union des consommateurs, 2007 SCC 34**: The Supreme Court emphasized the competence-competence principle, stating that arbitrators have the authority to rule on their own jurisdiction, and that courts should address jurisdictional challenges only in specific circumstances.

These cases collectively underscore the imperative for Canadian courts to address jurisdictional challenges promptly and thoroughly to ensure the validity of subsequent proceedings.

Courts are required to address and respond to any challenge regarding their jurisdiction.

2. Canadian Bill of Rights - Right to Fair Hearing

The Canadian Bill of Rights (CBR) is titled:

“An Act for the Recognition and Protection of Human Rights and Fundamental Freedoms.”

This title establishes that human rights and fundamental freedoms are not granted by the state; they are inherent to all individuals by virtue of being human. Often referred to as natural or God-given rights, these freedoms are inalienable—they cannot be taken away, surrendered, or forfeited. This principle is reinforced by jurisprudence emphasizing the foundational nature of these rights.

Foundational Provisions of the CBR:

- **Section 5(1) - Part II Savings Clause:**

“Nothing in Part I shall be construed to abrogate or abridge any human right or fundamental freedom not enumerated therein that may have existed in Canada at the commencement of this Act.”

This clause ensures that rights predating the enactment of the CBR, such as the right to a fair trial and the right to a jury under common law, remain protected.

- **Preamble of the CBR:**

The preamble recognizes Canada’s foundation upon principles acknowledging the supremacy of God, the dignity and worth of the human person, and the centrality of moral and spiritual values alongside the rule of law. It affirms Parliament’s commitment to ensuring the protection of these principles.

Application to Jury Rights and Fair Hearings

The CBR enshrines the right to a fair hearing, emphasizing procedural fairness and the rule of law. These guarantees are vital to safeguarding impartiality, protecting individuals from arbitrary judicial decisions, and maintaining public confidence in the justice system. Relevant provisions include:

1. **Section 1(a):**

“The right of the individual to life, liberty, security of the person and enjoyment of property, and the right not to be deprived thereof except by due process of law.”

This enshrines the principle of due process, a cornerstone of the rule of law, which incorporates the right to a jury trial for criminal matters.

2. **Section 2(e):**

“No law of Canada shall be construed or applied so as to deprive a person of the right to a fair hearing in accordance with the principles of fundamental justice for the determination of his rights and obligations.”

3. **Section 2(f):**

“No law of Canada shall be construed or applied so as to deprive a person charged with a criminal offence of the right to be presumed innocent until proved guilty according to law in a fair and public hearing by an independent and impartial tribunal, or of the right to reasonable bail without just cause.”

The explicit reference to fairness and impartiality underscores the necessity of a jury for the adjudication of criminal offenses, which serves as a safeguard against potential abuses of judicial or prosecutorial discretion.

Common Law and Historical Context

The right to a jury trial predates the CBR and is rooted in British common law, as reflected in foundational documents like the Magna Carta. Chapter 39 of the Magna Carta (1215) states:

“No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any other way, nor will we proceed with force against him, or send others to do so, except by the lawful judgment of his equals or by the law of the land.”

This principle evolved through British legal history and was inherited by Canada through the preamble to the **British North America Act, 1867**.

“Whereas the Provinces of Canada, Nova Scotia, and New Brunswick have expressed their Desire to be federally united into One Dominion under the Crown of the United Kingdom of Great Britain and Ireland, with a Constitution similar in Principle to that of the United Kingdom:”

Supporting Case Law

The importance of jury trials and fair hearings has been reinforced through Canadian jurisprudence:

- **Campbell Motors Limited v. Gordon, 1946 CanLII 242 (BC CA):**

This case affirmed the principle that procedural fairness and adherence to due process are fundamental rights. The court emphasized the importance of ensuring that individuals have the opportunity to be heard before an independent and impartial tribunal. It reflects the judiciary’s commitment to upholding fairness in legal proceedings, a principle central to the CBR’s protections.

[Campbell Motors Limited v. Gordon, 1946 CanLII 242 \(BC CA\)](#)

Court of Appeal for British Columbia — British Columbia

1946-06-26 | 23 pages | cited by 22 documents

injunction — ultra vires — war — sovereignty — inalienable

[...] The “rule of law” preserves to us, in my judgment, the same basic constitutional rights found in written form in the Declaration of Independence and the Constitution of the United States (and cf. [...] The Declaration of Independence proclaims: “We hold these truths to be self evident, that all men . . . are endowed by their Creator with certain unalienable Rights, [...] Self-evident truths require no proof. One of these truths is that each individual is endowed with certain inalienable rights. [...]

[...] That refers to rights which the state cannot give and cannot take away. [...] The main reason for the existence of the state is to secure and preserve these inalienable rights. [...] These inalienable rights so set forth in the Declaration of Independence repeat in written form the rights of life liberty and property which stemming from Magna Carta have become part of our unwritten constitution. [...]

- **R. v. Drybones, [1970] S.C.R. 282:**

The Supreme Court invalidated a federal law for contravening the CBR, highlighting its power to protect fundamental rights.

- **Duke v. The Queen, [1972] S.C.R. 917:**

Reinforced procedural protections under the CBR, ensuring fairness and impartiality in criminal cases.

- **Telford v. Secord / Telford v. Nasmith, [1947] S.C.R. 277:**

Affirmed the substantial right to a jury trial as integral to procedural fairness.

- **The King v. Conway, 1902 CanLII 95 (NS SC):**
Held that convictions for summary offenses without the option of a jury trial were invalid, demonstrating the necessity of procedural safeguards.

British Precedents Influencing Canadian Law

- **Bushell's Case (1670):**
Established the independence of juries, ensuring they are free from retaliation for their verdicts.
- **R. v. Shipley (1784):**
Highlighted the jury's role in protecting individual liberties against governmental overreach.

Conclusion

The Canadian Bill of Rights (CBR) is a profound affirmation of Canada's commitment to justice, equality, and the rule of law. It recognizes that human rights and fundamental freedoms are inherent and inalienable, existing by virtue of human dignity rather than being granted by the state. Central to the CBR's purpose is the protection of procedural fairness and due process, principles enshrined in Section 1(a), which guarantees that no person can be deprived of life, liberty, security of the person, or enjoyment of property except by due process of law. This provision, a cornerstone of justice, embodies the essential requirement that all legal proceedings adhere to fairness, impartiality, and established legal principles. Among these protections, the right to a jury trial emerges as a fundamental component of due process, ensuring that justice is both fair and reflective of societal values.

The right to a jury trial, deeply rooted in Canada's inherited legal traditions, represents a critical safeguard against arbitrary power. It ensures that the determination of guilt or liability is made not solely by state-appointed judges but by an impartial group of peers who represent the community's conscience and judgment. This principle, originating in British common law and enshrined in the Magna Carta of 1215, is an enduring legacy that Canada has integrated into its own legal framework. The Magna Carta's declaration that no individual shall be deprived of their rights without "the lawful judgment of his equals or by the law of the land" serves as the historical foundation for the jury system. This principle was later embedded in Canadian jurisprudence through the preamble of the British North America Act, 1867, which declared Canada's Constitution to be "similar in Principle to that of the United Kingdom."

Section 1(a)'s guarantee of due process, when read alongside Sections 2(e) and 2(f), reinforces the indispensability of fair hearings and jury trials. Section 2(e) ensures that every person has the right to a hearing that adheres to the principles of fundamental justice, while Section 2(f) emphasizes the presumption of innocence, the right to a public hearing, and the necessity of an independent and impartial tribunal for those charged with criminal offenses. Together, these provisions affirm that fairness in legal proceedings is not optional but mandatory and that the jury trial, as a reflection of community standards and a check on state power, is integral to upholding this fairness.

The judiciary has consistently upheld the right to a jury trial as essential to due process. Landmark cases such as *R. v. Drybones* have demonstrated the judiciary's power to invalidate laws that contravene the CBR's protections. *Telford v. Nasmith* reaffirmed that the jury trial is a substantial right, integral to ensuring procedural fairness and impartiality. Similarly, *The King v. Conway* highlighted the invalidity of convictions for summary offenses where jury trials were not available, emphasizing the necessity of jury involvement in safeguarding justice. These Canadian decisions align with British precedents such as *Bushell's Case* (1670), which established the independence of juries, and *R. v. Shipley* (1784), which underscored the jury's role as a safeguard against governmental overreach.

The jury trial's role in ensuring due process under Section 1(a) extends beyond the courtroom, symbolizing the democratic principles upon which Canada is founded. It ensures that justice is administered not in isolation but with the collective wisdom of the community, preventing the concentration of power in the hands of a single judge or state authority. This collective participation is vital to maintaining public confidence in the justice system, demonstrating that the rights of the individual are protected by a system that values transparency, fairness, and impartiality.

The Canadian Bill of Rights is far more than a statutory instrument; it is a testament to Canada's unwavering commitment to human rights, procedural fairness, and the rule of law. By enshrining due process and the right to a jury trial, the CBR ensures that justice is not only administered fairly but also perceived as fair by the public. These protections serve as a bulwark against arbitrary power, a safeguard for individual liberties, and a reaffirmation of the principles of equality, impartiality, and community involvement in the administration of justice. The CBR reminds us that justice must always be rooted in respect for human dignity and the rule of law, preserving these values for future generations. As a cornerstone of Canada's democratic framework, the right to a jury trial within the due process guarantees of Section 1(a) ensures that the foundational principles of fairness and justice remain steadfast, protecting the freedoms that define and sustain Canada's democratic society.

3. Fundamental Rights Infringement and the Necessity of a Jury Trial

The Applicant asserts that their **fundamental rights to security of the person, enjoyment of property, and freedoms of speech and assembly**—protected under **sections 1(a) and 1(d)** of the *Canadian Bill of Rights*—have been infringed. Additionally, **section 2 (e) 2 (f)** mandates that:

2 (e) *"No law of Canada shall be construed or applied so as to... deprive a person of the right to a fair hearing in accordance with the principles of fundamental justice for the determination of his rights and obligations."*

2 (f) *"No law of Canada shall be construed or applied so as to... deprive a person charged with a criminal offence of the right to be presumed innocent until proved guilty according to law in a fair and public hearing by an independent and impartial tribunal, or of the right to reasonable bail without just cause;"*

The Applicant contends that adjudication involving infringements of these rights requires a **jury trial** to ensure **procedural fairness** and compliance with **principles of fundamental justice**.

The absence of a jury compromises the impartiality of the tribunal, increasing the likelihood of judicial bias in favor of the state, particularly where **state misconduct** is alleged.

Key Legal Principles Supporting the Argument

1. Fundamental Rights in the Canadian Bill of Rights

- **Section 1(a):** Guarantees the right to life, liberty, security of the person, and enjoyment of property and due process (right to jury).
- **Section 1(d):** Ensures freedom of speech, assembly, and association.
- **Section 2(e):** Protects the right to a fair and just hearing when determining a person's rights and responsibilities.
- **Section 2(f):** Guarantees individuals accused of a crime the right to be presumed innocent, to a fair and public trial by an impartial tribunal, and to reasonable bail unless there is a valid reason to deny it.

2. Absolute Right to an Impartial Tribunal

- The *Canadian Bill of Rights* reflects **common law principles** ensuring that all adjudications concerning fundamental rights must be conducted by **an independent and impartial tribunal**. In cases involving potential **state overreach or misconduct**, the public's involvement through **jury trials** is essential to guarantee procedural fairness.

3. Common Law Precedent for Jury Trials in Rights-Based Adjudication

- Jury trials are a **common law safeguard** to protect against judicial overreach and provide a **democratic check** on the administration of justice.

Relevant Case Law and Analysis

i. R. v. Drybones (1970), [1970] SCR 282

Facts:

An Indigenous man was charged under the *Indian Act* for being intoxicated off-reserve, a provision that did not apply to non-Indigenous individuals.

Ruling:

The Supreme Court ruled that the provision was **inoperative** because it violated the *Canadian Bill of Rights*, specifically the right to **equality before the law**.

Legal Principle:

- This case established that laws inconsistent with the *Canadian Bill of Rights* are invalid to the extent of their inconsistency.

Application:

If the **absence of a jury** in rights-based adjudication compromises procedural fairness, the proceedings may be deemed inoperative under **section 2 (e)**. Where state actions threaten fundamental rights, a jury trial provides an essential layer of impartiality and fairness.

ii. MacBain v. Lederman (1985), [1985] 1 FC 856 (CA)

Facts:

The tribunal under the *Canadian Human Rights Act* lacked independence, resulting in a procedural violation of the applicant's rights.

Ruling:

The Federal Court of Appeal held that the tribunal's lack of impartiality violated **section 2(e)** of the *Canadian Bill of Rights*.

Legal Principle:

- **Fair hearings require impartial adjudication.** Any tribunal that fails to meet this standard invalidates the proceedings.

Application:

The **Ontario Court of Justice (OCJ)**, by denying a jury trial, risks acting as a tribunal that **lacks impartiality**. In cases involving fundamental rights, jury trials prevent tribunals from becoming instruments of state interests, ensuring compliance with **section 2 (e)**.

iii. Singh v. Canada (Minister of Employment and Immigration), [1985] 1 SCR 177

Facts:

Refugee claimants were denied oral hearings in their deportation appeals.

Ruling:

The Supreme Court ruled that denying an oral hearing violated **section 2(e)** of the *Canadian Bill of Rights*. The Court emphasized that **procedural fairness** is required in all matters affecting fundamental rights.

Legal Principle:

- Procedural fairness mandates that hearings be conducted in a manner that protects fundamental rights.

Application:

If the **absence of a jury** results in procedural unfairness, the trial cannot proceed. In rights-based cases, a jury ensures that the tribunal reflects **community standards** and is not influenced solely by judicial discretion.

iv. **Duke v. The Queen, [1972] SCR 917**

Facts:

Duke challenged procedural irregularities during his criminal trial under the *Canadian Bill of Rights*.

Ruling:

The Court affirmed that procedural fairness must be **strictly upheld** and that violations of fundamental rights can **invalidate convictions**.

Legal Principle:

- Courts must rigorously observe procedural protections, especially in cases involving life, liberty, or security of the person.

Application:

Denying a jury trial in cases involving fundamental rights may constitute a **procedural defect** significant enough to warrant dismissal of charges.

v. **Walter v. The Queen, [1969] SCR 383**

Facts:

A defendant challenged the fairness of a judge-alone trial.

Ruling:

The Supreme Court ruled that the absence of procedural fairness, particularly where fundamental rights were at stake, warranted a review of the trial's legitimacy.

Legal Principle:

- **Judicial discretion must not override procedural fairness.**

Application:

When fundamental rights such as **freedom of speech and assembly** are contested, the exclusion of a jury threatens the **legitimacy of the trial**.

vi. **R. v. Krieger, 2006 SCC 47**

Facts:

The trial judge directed a verdict of guilt, bypassing the jury.

Ruling:

The Supreme Court reaffirmed the jury's role as the **trier of fact**, ruling that judges cannot substitute their findings for those of a jury.

Legal Principle:

- The **right to jury adjudication** is an essential safeguard in cases involving rights and state action.

Application:

In cases involving allegations of **state overreach**, jury trials are indispensable to uphold **section 2 (e)** protections under the *Canadian Bill of Rights*.

Conclusion

The Applicant's right to **procedural fairness** and the adjudication of fundamental rights by an **impartial tribunal** is enshrined in the *Canadian Bill of Rights*. Where allegations involve **state interference with security of the person, property rights, or freedoms of speech and assembly**, jury trials provide a legally required essential mechanism for ensuring **fair and unbiased adjudication**.

Denying the Applicant a jury trial breaches CBR **section 1(a), 2(e) 2(f)** and undermines the core principles of **natural justice and procedural fairness**. If the **Ontario Court of Justice** cannot provide a jury, the charges should be **dismissed** to prevent further infringement of fundamental rights. This approach aligns with **Supreme Court precedent** and reinforces the foundational principles of the **common law** and the *Canadian Bill of Rights*.

4. Fundamental Rights Infringement and the Necessity of a Jury Trial (Common Law perspectives)

The Applicant contends that their common law **fundamental rights to security of the person, enjoyment of property, and freedoms of speech and assembly** also protected under **sections 1(a) and 1(d)** of the *Canadian Bill of Rights*—have been infringed. Additionally, **section 1 (a)** guarantees a jury as part of due process which includes the “rule of law” which holds the common law principles inclusive of a jury. Section 2(e) and (f) of the CBR also guarantees the right to a **fair hearing by an independent and impartial tribunal which in this case can only be a tribunal that includes a jury**.

The Applicant argues that **adjudication involving fundamental rights or allegations of state misconduct necessitates a jury trial**. This principle is grounded in **common law traditions**, which recognize the jury as an essential safeguard against **judicial bias and state overreach**.

i. EXPERT LEGAL AND HISTORIAN OPINION ON THE RIGHT TO JURY FROM MAGNA CARTA TO CANADIAN COMMON LAW

The following includes a BIO and opinion of jury experts:

1. Sir James Fitzjames Stephen
2. Sir Wilfrid Green
3. Lysander Spooner
4. William Keyte
5. Verin (Vee) Gandhi

6. Kenn d'Oudney
7. Sir William Blackstone

1 (a) Sir James Fitzjames Stephen (BIO)

Sir James Fitzjames Stephen (1829–1894) was a prominent English lawyer, judge, and legal scholar, best known for his contributions to criminal law reform and legal philosophy. Born in London into a family with a strong intellectual and legal tradition, Stephen became one of the most influential legal minds of the Victorian era.

Early Life and Education

- Stephen was the son of James Stephen, a legal scholar and an undersecretary for the colonies.
- He was educated at Eton and later at Trinity College, Cambridge, where he excelled in classics and moral philosophy.

Legal Career

- Called to the Bar in 1854, Stephen became a respected barrister known for his clear reasoning and deep understanding of the law.
- He served as the legal member of the Viceroy's Council in India (1869–1872), where he helped draft significant legal codes, including revisions to the Indian Penal Code.
- In 1879, he was appointed as a judge of the Queen's Bench Division of the High Court of Justice, where he earned a reputation for his strict yet fair judgments.

Contributions to Criminal Law

- Stephen's most enduring legacy lies in his work on codifying and analyzing criminal law. His seminal book, *A Digest of the Criminal Law* (first published in 1877), was an ambitious attempt to systematize English criminal law into a clear and accessible form.
- His writings reflect his belief in simplifying and codifying the legal system while preserving the principles of justice and fairness.

Philosophical Views

- An advocate of utilitarianism, Stephen was influenced by thinkers such as Jeremy Bentham and John Stuart Mill, though he often critiqued Mill's views on liberty.
- He argued for a balance between individual rights and societal order, emphasizing the need for a strong legal system to maintain social stability.

Legacy

- Stephen's *A Digest of the Criminal Law* became an influential reference for legal practitioners and legislators. It inspired later efforts to codify criminal law, including in India and other common law jurisdictions.
- His intellectual rigor and dedication to justice continue to shape discussions on criminal law reform and legal theory.

Sir James Fitzjames Stephen remains a towering figure in the history of English law, celebrated for his clarity, intellect, and commitment to legal reform.

1 (b) Opinions of Sir James Fitzjames Stephen on right to jury under common law from *A Digest of the Criminal Law*

Sir James Fitzjames Stephen provides a detailed examination of summary jurisdiction and its relationship to the right to a jury trial within the English legal system. He explains that summary jurisdiction allows certain minor offenses to be adjudicated without a jury, a practice that has evolved through legislative enactments over time.

Historical Context:

Stephen notes that, traditionally, English common law mandated trial by jury for criminal offenses. However, to address minor offenses more efficiently, legislation progressively expanded the summary jurisdiction of justices of the peace. This development enabled justices to adjudicate petty offenses without the need for a jury trial, streamlining the legal process for less severe crimes.

Legislative Developments:

Key legislative acts that facilitated this expansion include:

Summary Jurisdiction Act 1848: This act consolidated provisions from earlier statutes, defining procedures for justices to hear and determine cases summarily.

Summary Jurisdiction Act 1879: This act further amended procedures, enlarging the powers of justices to deal summarily with certain classes of offenses ordinarily punishable on indictment. It also introduced provisions allowing defendants to elect for a jury trial in cases where the maximum punishment exceeded three months' imprisonment.

Defendant's Rights:

Stephen emphasizes that, under these legislative frameworks, defendants charged with offenses eligible for summary trial retain the right to choose a jury trial, especially when facing more severe penalties. This provision ensures that the expansion of summary jurisdiction does not infringe upon the fundamental right to a jury trial for more serious matters.

Implications:

The balance between summary jurisdiction and the right to a jury trial reflects the legal system's efforts to administer justice efficiently while safeguarding individual rights. Stephen's analysis highlights the importance of legislative clarity in delineating the scope of summary proceedings and ensuring that defendants are adequately informed of their rights within this framework.

2 (a) Sir Wilfrid Arthur Greene, P.C. (1883–1952) (BIO)

Overview

Sir Wilfrid Arthur Greene was a prominent British lawyer and judge, serving as Master of the Rolls from 1937 to 1949. Known for his incisive legal mind, he was a significant figure in the development and preservation of English common law during a time of profound social and political change, including the challenges of wartime legislation. His contributions to legal thought and judicial practice remain influential, particularly in areas relating to the relationship between common law and legislation.

Early Life and Education

- Born on December 30, 1883, in London, England.
- Educated at Westminster School and Christ Church, Oxford.
- Called to the Bar in 1908 as a member of the Inner Temple.

Legal Career

- Built a distinguished career as a barrister, specializing in commercial and tax law.
- Appointed King's Counsel (KC) in 1928, reflecting his expertise and recognition within the legal profession.
- Became a Bencher of the Inner Temple in 1930, a position of leadership within the legal community.

Judicial Career

- Appointed a High Court Judge in the Chancery Division in 1935, demonstrating his mastery of equity and property law.
- Elevated to Master of the Rolls in 1937, where he served until 1949. This position placed him at the helm of the Court of Appeal, making him one of the most senior and influential judges in England.
- Known for his clarity in legal reasoning and his dedication to upholding the principles of common law during challenging times, including World War II.

Philosophy and Legacy

- Greene was a staunch defender of the common law tradition, emphasizing its role as the foundation of justice and liberty.
- He was critical of wartime legislation that sought to override or undermine fundamental legal principles, a theme he explored in his address *War and the Common Law*.
- His judicial opinions and public addresses reflected his belief in the enduring nature of common law as a safeguard against arbitrary power.

Later Life and Death

- Retired from the bench in 1949 due to health reasons but continued to be an influential figure in legal circles.
- Passed away on April 16, 1952, leaving behind a legacy as one of the 20th century's most respected legal minds.

Publications and Contributions

- *War and the Common Law* is one of his most notable addresses, where he examined the tension between emergency legislation and the principles of common law.
- His judgments in the Court of Appeal continue to be studied for their clarity and adherence to legal principles

2 (b) Opinions on common law and juries from the writings of Sir Wilfrid Arthur Greene *War and the Common Law*

1. Common Law as the Foundation of Legal Systems

- Greene argues that common law is the bedrock of the legal system, developed through centuries of judicial reasoning.
- He maintains that its principles are enduring and fundamental, providing stability and consistency to the rule of law.

2. The Relationship Between Legislation and Common Law

- Greene critiques the notion that legislative measures—especially those enacted during emergencies—can displace common law principles without undermining the integrity of the legal system.
- He warns that such measures, if unchecked, threaten to disrupt the balance and fairness intrinsic to common law.

3. Judicial Oversight of Legislation

- A key focus of Greene’s argument is the judiciary’s role in scrutinizing legislation to ensure it aligns with common law principles.
- Courts, he contends, must interpret statutes in ways that preserve the broader framework of justice established by common law.

4. The Dangers of Emergency Legislation

- Greene expresses concern about the use of broad and sweeping legislative powers during wartime or emergencies.
- He argues that such measures often infringe on fundamental rights and liberties recognized under common law
- Greene underscores the adaptability and resilience of common law, emphasizing that it has withstood numerous crises throughout history.
- He asserts that this resilience must be protected from temporary or reactionary legislative actions, ensuring the preservation of fundamental rights.

5. Legislative Overreach and its Consequences

- Greene critiques the overreach of legislative powers, particularly during emergencies, as a significant threat to individual freedoms and legal stability.

- He argues that undermining common law through unchecked legislation risks eroding the public's trust in the legal system.

Sir Wilfrid Arthur Greene on Juries and Criminal Cases in *War and the Common Law*

1. The Role of the Jury in Criminal Cases:

- Greene emphasizes that the jury is a critical institution in the administration of justice, particularly in criminal cases.
- He highlights that juries provide a mechanism for involving ordinary citizens in the legal process, ensuring that justice reflects the conscience of the community.

2. Safeguard of Individual Rights in Criminal Trials:

- Greene argues that the right to a jury trial is a fundamental protection for individuals accused of criminal offenses.
- He underscores that juries act as a check on state power, ensuring that criminal charges are adjudicated fairly and in accordance with common law principles.

3. Preservation of Juries During Wartime:

- Greene critiques wartime measures that curtail the use of juries in criminal cases, warning that such actions undermine the legal system's integrity.
- He insists that even in emergencies, the principles of common law, including the right to trial by jury, must be preserved.

4. The Jury as an Essential Component of Common Law:

- Greene asserts that the jury is not merely a procedural convenience but an indispensable part of the common law system, particularly in criminal justice.
- He views the jury as a cornerstone of fair trials, safeguarding against potential abuses of power by the state.

Key Points:

- Greene's address places particular importance on maintaining the jury system in criminal cases as a fundamental protection under common law.
- He warns against measures, such as those enacted during wartime, that attempt to bypass or suspend jury trials, as these threaten individual liberties and public confidence in the legal system.

3. (a) Lysander Spooner (BIO)

Lysander Spooner (1808–1887) was an American legal theorist, abolitionist, entrepreneur, and political philosopher best known for his fierce defense of individual liberty and natural law. A self-taught lawyer, Spooner was a staunch advocate for the power of common law, the right to jury nullification, and the moral obligation to resist unjust legislation.

By 1852, Spooner had already established himself as a formidable intellectual force with the publication of *An Essay on the Trial by Jury*. This seminal work argued that juries should not only decide facts but also judge the justice of laws, acting as a critical check against governmental tyranny. His reliance on historical texts like the Magna Carta and the legal traditions of English common law underscored his belief that the jury system was a cornerstone of liberty and a safeguard against oppressive governance.

Spooner's radical views extended to his staunch opposition to slavery, which he articulated in works such as *The Unconstitutionality of Slavery* (1845). As a businessman, Spooner challenged government monopolies, notably founding the American Letter Mail Company to compete with the U.S. Postal Service.

3. (b) Lysander Spooner's Learned Opinion on the Right and Need for Trial by Jury

Lysander Spooner's 1852 essay, *An Essay on the Trial by Jury*, presents a comprehensive argument for the jury's role in common law, emphasizing its authority to judge both the facts and the justice of the law itself. Here's a breakdown of his key arguments and supporting evidence:

Lysander Spooner, a 19th-century legal theorist and staunch advocate for individual liberty, articulated a powerful defense of the jury system as an essential mechanism for safeguarding justice. In his series on the necessity of juries, Spooner contends that juries are not merely procedural instruments but fundamental checks on governmental authority. His work underscores the role of juries as the ultimate arbiters of justice, tasked not only with evaluating facts but also with assessing the justness of the laws themselves.

The Jury as a Bulwark Against Tyranny

Spooner argues that a jury composed of ordinary citizens serves as a vital counterbalance to potential government oppression. He warns that without juries, the judicial system risks becoming an extension of legislative and executive power, rendering it susceptible to enforcing unjust laws. By empowering juries to judge both the facts and the validity of laws, Spooner believes that the populace retains a direct hand in shaping the boundaries of lawful authority.

This principle, according to Spooner, draws from the English common law tradition, which recognized the jury's right to nullify unjust statutes. He emphasizes that if citizens are compelled

to adhere to laws they deem unjust without recourse, they effectively lose their status as free individuals and become subjects of arbitrary power.

Jury Nullification: A Moral Imperative

One of Spooner's central tenets is the doctrine of jury nullification—the idea that juries can refuse to convict if they believe a law is unjust. Spooner asserts that this prerogative is not only a right but a duty. If jurors relinquish their ability to judge the morality of laws, they become complicit in perpetuating injustice. Through nullification, Spooner envisions juries as guardians of natural rights, preventing governments from encroaching on personal freedoms through draconian legislation.

His writings highlight historical instances where juries have thwarted oppressive regimes by refusing to convict individuals prosecuted under unjust laws. Spooner celebrates such actions as manifestations of democratic resistance, reinforcing the notion that justice ultimately resides with the people.

Judicial Centralization vs. Decentralized Justice

Spooner critiques the centralization of judicial authority, arguing that a professionalized judiciary risks alienating legal decisions from the moral compass of the community. He posits that leaving legal interpretation solely in the hands of judges fosters elitism and erodes public trust. In contrast, juries democratize justice by involving citizens in the adjudication process, ensuring that legal decisions reflect the collective conscience of society.

By decentralizing legal authority, Spooner suggests that juries mitigate the monopolization of power by the state. This dispersal of authority, he contends, is essential for preserving a free society. The jury, representing diverse perspectives, acts as a buffer against the codification of biased or prejudicial laws.

Spooner's Critique of Judicial Compliance

Spooner expresses disdain for jurors who passively accept judicial instruction without independent deliberation. He laments that such jurors abdicate their moral responsibility, reducing the jury system to a rubber stamp for governmental authority. Spooner's critique underscores the importance of jurors who possess the courage to defy judicial directives when conscience demands.

In Spooner's view, jurors must approach their duty with an unwavering commitment to justice, guided by their own moral compass rather than blind deference to legal codes. This defiant stance, he suggests, preserves the integrity of the legal system by ensuring that the letter of the law does not supersede its spirit.

The Jury as the Embodiment of Democracy

Spooner's writings ultimately cast the jury as a cornerstone of democratic governance. He asserts that through juries, citizens exercise direct influence over the application of laws, embodying the principles of self-governance and participatory democracy. Juries, in this light, serve as

microcosms of broader democratic processes, allowing the populace to express their values and beliefs within the legal framework.

By entrusting juries with the power to interpret laws, Spooner believes society reinforces the primacy of individual rights over state authority. This dynamic, he argues, fortifies democracy by rooting legal authority in the consent of the governed.

Summary: Spooner's Enduring Legacy

Lysander Spooner's defense of the jury system remains a seminal contribution to legal and political thought. His unwavering belief in the jury as a safeguard against injustice underscores the enduring importance of citizen participation in the legal process. In an era of increasing governmental power, Spooner's work serves as a reminder that justice thrives when ordinary people retain the authority to challenge unjust laws and uphold the principles of liberty and fairness.

Spooner's essay underscores the jury's essential role in common law as a protector of individual liberties, a check on governmental power, and a moral compass within the judicial system.

4.(a) William Keyte (BIO)

William Keyte is a British constitutional scholar and educator dedicated to elucidating the principles of the UK's common law constitution and the intrinsic rights it affords citizens. With a diverse professional background, Keyte has transitioned from roles in education, music, and software development to focus on the intersections of law, justice, and human consciousness.

Professional Background and Transition

Keyte's career began in education, where he spent approximately fifteen years as a teacher. His passion for knowledge and innovation led him to the fields of music composition and software programming, specifically designing database systems for educational institutions. This blend of experiences equipped him with a unique perspective on systemic structures and the dissemination of information.

[Law and Alchemy](#)

Constitutional Scholarship and Advocacy

In recent years, Keyte has dedicated himself to exploring and teaching the foundational aspects of the UK's common law constitution. He emphasizes the significance of natural law, self-governance, and the role of individual consciousness in upholding justice and freedom. Through his platforms, Law and Alchemy and Common Law Constitution, he offers resources aimed at demystifying complex legal principles and empowering individuals with knowledge about their constitutional rights.

[Law and Alchemy](#)

Educational Initiatives and Public Engagements

Keyte is actively involved in educational initiatives, offering courses, seminars, and talks on topics related to the common law constitution and natural law. His seminars, such as those hosted in collaboration with Martin Geddes, delve into how a common law constitution uniquely enables lasting freedom.

[Martin Geddes](#)

He also engages with broader audiences through interviews and discussions, including appearances on platforms like Neil Oliver's podcast, where he discusses the relevance of the constitution in contemporary society.

[YouTube](#)

Philosophical Perspectives

Keyte's work is underpinned by a belief in the interconnectedness of law, individual psyche, and societal well-being. He posits that many societal issues stem from self-destructive patterns, both individually and collectively, and advocates for a more self-reflective approach to governance and personal responsibility. By aligning with natural law and fostering authenticity and integrity, he believes society can overcome corruption and chaos.

[Law and Alchemy](#)

Summary

William Keyte's multifaceted background and commitment to constitutional education make him a compelling figure in contemporary discussions about the UK's legal framework. His efforts to make complex legal concepts accessible and his advocacy for individual empowerment through knowledge continue to contribute significantly to public understanding of constitutional rights and the principles of natural law.

4.(b) William Keyte Learned Opinion on Right to Jury

William Keyte, delves deeply into the historical and legal foundations of the right to trial by jury as enshrined in the Magna Carta of 1215. His analysis emphasizes the jury's pivotal role in upholding individual liberties and acting as a check on governmental power. Here is a detailed breakdown of Keyte's main arguments, supported by historical evidence and references:

i. Magna Carta's Enshrinement of Trial by Jury

- **Clause 39 of Magna Carta (1215):** Keyte underscores this clause, which declares that no free man shall be punished except through "the lawful judgment of his equals," highlighting the early establishment of the right to trial by jury.

[Common Law Constitution](#)

ii. Jury's Authority to Judge Both Law and Fact

- **Sovereignty of the People:** Keyte argues that the jury's authority extends beyond determining facts to assessing the justice of laws themselves, enabling citizens to nullify unjust legislation.

[New Chartist Movement](#)

iii. Trial by Jury as a Check on Government Power

- **Limiting Government Overreach:** He asserts that an independent jury system serves as a safeguard against potential governmental tyranny, ensuring that laws align with the populace's sense of justice.

[Martin Geddes](#)

v. Historical Evolution and Erosion of Jury Rights

- **Diminished Jury Authority:** Keyte discusses how, over centuries, the original powers vested in juries have been curtailed, leading to a reduction in public influence over legal proceedings.

[New Chartist Movement](#)

v. Advocacy for Restoring Full Jury Powers

- **Reinstating Constitutional Protections:** He advocates for a return to the original principles of the Magna Carta, emphasizing the need to restore the jury's full authority to judge both law and fact as a means to uphold individual liberties.

[Lawful Rebel](#)

Keyte's analysis underscores the enduring importance of the Magna Carta in shaping the UK's legal framework and the pivotal role of trial by jury in maintaining democratic principles and protecting individual rights.

5. (a) Biography of Verin (Vee) Gandhi

Vee Gandhi is a prominent social advocate and political analyst based in Ottawa, Ontario. With a strong academic background and extensive experience in Political Philosophy and Public Policy Analysis, Vee has emerged as a passionate voice demanding transparency, accountability, and justice from governments and institutions. Vee Gandhi: Has a Master's degree in MA Political Philosophy (Carleton U.), Mech Eng (Queen's U.) + Grad Dip Public Policy & Program Eval.

Education and Expertise

- Master's Degree in **Political Philosophy** / Political Science from Carleton U (2014) in Ottawa
- DPPE **Public Policy Analysis** & Program
- Evaluation - Carleton U (2014)
- BSc Mech Eng Queen's University

(1995)

- Canadian Evaluation Society Competition Participant
- Public Speaker in 3rd Generation Blockchain Technology

Vee stands against the tyrannical siege upon democratic ideals worldwide. His ultimate goal is to use lawfare to hold democratically elected leaders and state actors accountable and liable for violations of constitutionalism. As such, he seeks to expose democratic deficits including the controlled opposition warfare campaigns, who are subversive state actors and exposing ideologies of all flavours & colors. This includes deceptive demagoguery, sophistry and corruption (all 3 levels of government). Specifically, Vee wants to uphold the “Rule of Law”, constitutionalism and protect a rich history of common law principles predating the Magna Carta. “Rule of Law” is enshrined in common law and is guaranteed constitutionally, and also protected by our Canadian Bill of Rights.

Social Action and Advocacy

Throughout his career, Vee has spearheaded multiple social action initiatives aimed at ensuring government transparency and accountability. His efforts include:

- **Advocacy for Accountability:** Vee has been at the forefront of campaigns demanding criminal action against government entities, particularly focusing on issues such as national security breaches, electoral interference, and fraud. His work has highlighted instances of alleged misconduct, including actions attributed to the Liberal Party of Canada, and called for justice through legal and political channels.
- **Community Mobilization:** Recognized for his ability to mobilize grassroots support, Vee has worked on diverse projects addressing pressing issues such as democratic erosion, civic engagement, and the protection of individual freedoms. He has consistently challenged policies that undermine public trust and violate constitutional principles.
- **Notices of Liability and Judicial Advocacy:** As a proactive leader, Vee has supported individuals and communities in drafting Notices of Liability and pursuing judicial reviews to hold governments accountable for actions that infringe on citizens' rights.

Key Initiatives

- **Electoral Integrity:** Vee has championed investigations into electoral interference and fraud, advocating for reforms to safeguard Canada's democratic processes.
- **Free Speech Absolutism:** dissolving the Orwellian legacy media, exposing the infiltrated dark web, and social media censorship and neo-media cabal of propagandist actors, and the hierarchy of their management infrastructures globally.
- **National Security Advocacy:** His work has brought attention to breaches in national security, urging systemic changes to protect Canada's sovereignty and public safety.
- **Public Awareness Campaigns:** Vee has organized workshops, seminars, and public forums to educate citizens about their rights and empower them to demand accountability from elected officials.

Philosophy and Vision

Vee's approach is rooted in the belief that true democracy relies on informed and active citizen participation. He sees government accountability as essential to preserving public trust and protecting the fundamental principles of justice and equity. Through his work, he has inspired countless individuals to question authority, engage with policy issues, and take meaningful action to effect change.

Conclusion

Ultimately, Vee foresees victory that exists in the challenge of a dominant false narrative, and a bottoms up movement in support of the **"Rule of Law" and constitutionalism.**

Vee Gandhi's tireless efforts in social action, combined with his scholarly expertise, position him as a respected leader and advocate for justice. His work continues to shape conversations on governance, transparency, and the responsibility of governments to their citizens.

His research delves into the core principles of governance, democratic accountability, and the philosophical underpinnings of justice. This academic foundation empowers Vee to critically analyze political systems, policy decisions, and their implications for citizens.

5. (b) Opinion of Verin (Vee) Gandhi.

Affidavit of Viren Gandhi

This affidavit is made in support of an application for a jury in the Trial of Mr. Jean-Philippe Ayotte regarding Case **File No.: 22-42309**,

I, Viren Gandhi of the City of Ottawa, in the province of Ontario, make an oath and say as follows,

1. Vee is a subject matter expert in the fields Political Philosophy and Public Policy Analysis, and he has been involved in the research for the defense of several Trucker Convoy 2022 individuals, including Byron Carr, JP Ayotte and other related cases.
2. As a Political Science researcher he holds relevant education:
 - Master's Degree in **Political Philosophy** / Political Science from Carleton U (2014) in Ottawa
 - DPPE **Public Policy Analysis & Program**
 - Evaluation - Carleton U (2014)
 - BSc Mech Eng Queen's University (1995)

He also have significant community building involvement:

- Canadian Evaluation Society Competition Participant
 - Canadian Guide Dogs for the Blind
 - Public Speaker in 3rd Generation Blockchain Technology
 - Vee has participated in activism in areas where he perceive the government to be overstepping eg. Covid-19 mandatory vaccine policies, and the unconstitutional application of the Emergency Act against peaceful protestors in Ottawa. Vee did research for several peaceful protestors who were charged under the Emergency Act and he therefore familiar with the travesty of justice that went on in the court proceedings.
3. Vee believes that Canadian citizens have an absolute right to expect both accountability in their governments, and a quality judiciary that abides by the principles of the “Rule of Law” in general, and in particular the “Jury System” as recognized by the Canadian Constitution and as advanced in the legacy of common law history. In the famous words of Lysander Spooner:
- "Any government, that is its own judge of, and determines authoritatively for the people, what are its own powers over the people, is an absolute government of course. It has all the powers that it chooses to exercise. There is no other (or at least no accurate) definition of a despotism than this."

—Lysander Spooner, *An Essay on the Trial by Jury*, 1852

Without a proper balance of power between citizens and state actors who represent a powerful ruling class, then a formula for Despotism occurs.

4. Having studied the case of Mr. Ayotte, including all disclosed information available to date, Vee was alarmed by the sheer lack of evidence pointing towards a crime, and in particular he concluded there was no evidence of mischief.
5. Mr. Ayotte was identified as a party to a crime, yet perplexingly there is no evidence against him, and most egregiously no identified primary offender to any crime. Hence there is nothing to justify Mr. Ayotte being either party of a crime, or any kind of crime of mischief.
6. No crown evidence demonstrates Mr. Ayotte was anything else but peaceful.

7. The rationale of state overreach is the primary concern in Mr. Ayotte's "Application for a Jury Trial". Mr Ayotte requires the adjudication of his breach of rights based arguments, which are clearly present in his Affidavit. Mr. Ayotte's basic constitutional rights are non-derogable, absolute and cannot be infringed, compromised or removed under any circumstances including during times of war or emergency. This is also clearly codified in the Canadian Bill of Rights.
8. There are striking similarities in the cases of Mr. Ayotte, Mr. Byron Carr and Mr. Pat King (*and other Freedom Convoy participants) regarding jury requirements, and the transgression of fundamental justice involving jury requests. Having spoken Mr. Carr and Mr. Ayotte directly, triangulating evidence for Mr. King and other trials whereby jury applications were rejected, He has deduced a travesty of justice, in my opinion, has occurred. After careful consideration, Vee now conclude these jury denials are neither isolated, nor disparate events, but part of a highly discernable pattern of what appears to be concerted efforts by coordinating actions of both state actors and state agents to collude in deterring or blocking juries and jury requests by deploying various methods and deterrents (to be explained further) at multiple Canadian court levels, also involving certain appointed Judiciary employees, and regular employees, in what appears to be a massive collusion of sorts to deny the fundamental justice of juries to multiple 2022 Trucker Freedom Convoy participants.
9. My research analysis into many of the 100+ polarizing cases related to the 2022 Trucker convoy has produced a poignant revelation. Most importantly my deep dive analysis of these 3 high public profile cases for Mr. Pat King, Mr. Byron Carr and Mr. JP Ayotte collectively has led me to conclude that no single mistakes made in isolation, but a recognizable pattern of injustice in forays of jury denial which has precluded the fundamental right to a fair and impartial trial in all three cases. My data and primary research is based on personal conversations with each individual and upon statements recorded publically, and statements in court records and within the various courts of record; Further scrutinized by researchers and legal professionals in a growing consensus that a breach of fundamental justice has occurred, and is presently being exposed.
10. In highly politicized trials such as those for Mr. King, Mr. Ayotte and Mr. Carrl, the state can at times manipulate evidence, shape narratives, and co-opt experts to produce a "truth" that justifies its actions. The trial thus becomes a performance where knowledge and legal norms are bent to legitimize the exercise of state power.

11. Perplexingly, and as example, as soon as both Mr. Ayotte and Mr. Carr requested their juries their charges were immediately reduced from indictable to summary. Mr. Carr had been facing 40 years in prison (4 indictable charges x 10 years each), but then these charges were reduced to summary, but he still served many months in jail, and also in solitary confinement beyond the 15 days limit creating a human rights violation against Mr. Carr.
12. In the context of a politicized trial, conflicts of interest can manifest as a collaboration between the judiciary, law enforcement, intelligence agencies, and political authorities. These state actors might work together, consciously or unconsciously, to produce outcomes that serve the interests of the ruling class or state ideology. Examples include Justice Moseley's recent Federal Court decision ruling the invocation of the Emergency Act to be illegal in sharp contradistinction with a state's public inquiry (POEC) led by a state appointed Justice Rouleau with past Liberal party ties (liberal party supporter, with a long history of connections, patronage affiliations and family ties to PM Justin Trudeau cannot operate impartially); Rouleau finding no such EA issues proves this conflict in light of Justice Moseley's decision..
13. Similar to Mr. Ayotte's primary concerns regarding state overreach in denying a jury request, the comparable high profile case of Mr. Pat King saw his jury forfeited because of various degrees of state collusion between Justice Charles Hackland, Crown prosecutors and other state actors who conspired to interfere with King right to jury as recorded publicly in media statements and in court records. Subterfuge and sophistry tactics were deployed, playing an obvious role in running interference against jury requests by judiciary and other state actors (e.g. releasing disclosure at the last possible minute), including arbitrary pressure from the judge Hackland to deny King an adjournment for his lawyer to review the disclosure unless King gave up his jury rights. A jury had not yet been convened making this decision arbitrary and undermining Mr. King's right to a fair trial. In King's public statement he said he believed he had no choice but to give up his jury otherwise his lawyer would not have sufficient time to review the disclosure and properly defend him, as it was asserted and recorded.
14. The charges and subsequent conviction of Byron Carr for mischief during the 2022 convoy protests also represents a grave miscarriage of justice. He was ordered to leave the red zone area and he complied. While he was exiting the area he bent over to help an old man up who had fallen and police smashed him in the back with a billy club. The police testified at Mr. Carr's trial that he was

compliant with the orders to leave the area. He nevertheless was given 4 indictable charges:

- a. Count #1 - 431(1)(d)
- b. Count #2 - 430 Subsection 1, clause c
- c. Count #3 - Section 127, Subsection 1
- d. Count #4 - Section 129, clause a under the emergency order.

15. Carr was incarcerated for 41 days during which time he spent 17 days non disciplinary time in solitary confinement. A habeas corpus case in Alberta 2020 found that anything more than 15 days solitary confinement is torture.

Wilcox v. Alberta, 2020 ABCA 104

<https://www.canlii.org/en/ab/abca/doc/2020/2020abca104/2020abca104.html>

16. Mr. Byron Carr was also given a bail condition involving a full ban from social media including emails which was subsequently deemed a violation of his right to free speech in the Superior Court of Justice.

- He was told by his lawyer the crown was seeking 10 years on each charge which caused him significant distress as he is the sole parent of a young child.
- After a year Mr. Carr decided to self represent and made a request for a jury to the court office. The response he got was that his charges were reduced to summary so he could not have a jury.
- I, V. Gandhi helped conduct relevant research, reviewed the Crown's disclosure, and observed the trial, and can state unequivocally that Mr. Carr was unjustly targeted. No evidence was presented at trial to prove that he committed any crime. No proof that anyone committed the crime of mischief. And all the Crown could give for evidence was a set of photos and videos they took from Facebook. These videos did not capture Mr. Carr doing anything illegal. And Mr. Carr hired a video expert and invalidated these photos and videos as forensic evidence.
- The crown had offered no evidence of mischief and rather maintained that Mr. Carr was a party to the crime of mischief. There was no evidence presented that Mr. Carr planned or conspired with others to commit illegal acts, and no primary offenders were identified for him to have allegedly associated with, and no evidence of mischief. The prosecution's case

rested entirely on speculation, unsupported by factual evidence, and Byron Carr was nonetheless found guilty, despite these glaring deficiencies.

- When the Emergency Act was invoked, Mr. Carr complied with the order to leave the area, even though the Order-in-Council explicitly exempted First Nations individuals. As a First Nations person holding a status card, this exemption should have protected him from enforcement under the emergency measures. By complying with the order under protest, Mr. Carr demonstrated respect for the rule of law, while his arrest, prosecution, and conviction blatantly violated his constitutionally protected rights.
- Under Section 35 of the Constitution Act, 1982, the rights of Indigenous peoples are recognized and affirmed. This includes their treaty rights and Aboriginal rights, which are constitutionally protected and cannot be overridden. The court's failure to acknowledge Mr. Carr's rights under Section 35, coupled with its refusal to address his rights-based arguments regarding freedom of speech, assembly, and Indigenous rights, constitutes a profound denial of justice.
- The court further denied Mr. Carr the procedural fairness to which he was entitled. His request for a jury trial—an essential safeguard against judicial bias—was denied. The court also refused to confirm its jurisdiction regarding his rights-based claims of freedom of speech, assembly and section 35 first nation rights, which included constitutional protections supported by the Canadian Bill of Rights section 1(b) equality and 1 (d) freedom of speech and assembly and his right to challenge the legality of the charges against him.

17. This case is emblematic of the erosion of fundamental liberties in Canada, particularly when political dissent and Indigenous rights intersect. Byron Carr's conviction highlights the urgent need for reforms to ensure individuals accused of crimes are afforded their full constitutional rights, including the right to a jury trial and the acknowledgment of protections under Section 35 of the Constitution Act, 1982.

18. As a person who frequently speaks with Mr. Carr, and who has been directly involved in researching his case and observed his trials and tribulations, Vee can attest that Mr. Carr's prosecution and conviction were not based on facts or evidence, but on a flawed process that ignored his fundamental rights. This

travesty of justice underscores the critical need to uphold the rule of law, constitutional protections, and the right to a fair and impartial trial for all Canadians.

19. It may be the case that Mr. Carr, Mr. King and Mr. Ayotte were all scapegoated to cause public deterrents to others questioning government public policy involving CoVid vaccine mandates and freedom of movement travel restrictions.
20. Similarly to Mr. Ayotte' case, the evidence did now show that Mr. Carr committed any illegal acts. As he read Mr. Carr's disclosure and understood that like Mr. Ayotte was assaulted by belligerent authorities, yet slightly differently because the police (question military?) used a billy stick to violently beat Mr. Carr who was peaceful the entire time, while Mr. Ayotte was crushed by 7 police whereby it appears he was temporarily asphyxiated and claims he thought he was going to die, before he faked death as a desperate attempt to get police to stop beating him .
21. As Vee contemplated Mr. Ayotte's case where he was violently beaten by seven state agents,, and then also read Mr. Carr's disclosure where he was beaten with a Billy stick, he was suddenly occurred to me this was unusual behaviour in Canada, and it then reminded me of the brutality against peaceful student protesters in **Tiananmen Square (1989)**, which also involved political dissent, and likewise drew similar international condemnation to both leaders alike: the Liberal Executive Branch and the Chinese Communist party and their leader Mr. Xiaoping and PM Mr. Justin Trudeau were all condemned internationally for beating peaceful protesters (**Canada Trucker Convoy Protest (2022)**), including the horse trampling of a woman, widespread assault of peaceful protesters like Mr. Carr and Mr. Ayotte in Ottawa; Canada's proud democratic capital city.
22. My observations of government overreach are supported by evidence of similar historically subversive campaigns and propaganda deployed in communist countries including the USSR and China. While Ottawa is not exactly Beijing, what did occur in Canada in 2022 is emblematic of communist style ideological takeover of a democratic country. Specifically, in support of this theory, he has observed state actors propagandize ideologically subversive materials against its own citizen, and against conscientiously dissenting Canadians, in the form of propaganda and controlled opposition agents running "astroturfing operations" to undermine authentic bottoms up and grass roots freedom and medical freedom movements. Vee has also been confronted directly by these agents for speaking and exposing their modus operandi.

23. Ideologically subversive activities by state actors in the Parliament, Judiciary, Executive Branch and within the intelligence community can be considered at minimum sedition, but more more appropriately as the crime of treason. The attempted power shift attempted during CoVid, including an attempted transfer of power from the Parliament to the Courts, bears resemblance to a dubious legacy of communist style ideologically subversive activities witnessed in Canada and also globally. The exact same pattern of this ideological subversion model appears to have manifested in Canada can best be described by Yuri Bezmenov's four steps: Demoralization, Destabilization, Crisis and Normalization. Yuri Bezmenov, a former KGB agent, outlined a strategy called ideological subversion that he claimed was used by the Soviet Union to destabilize nations. He identified four steps in this process:

1. Demoralization (15–20 years): This involves influencing a nation's ideology through education, media, and culture to undermine its foundational values. A generation is exposed to opposing ideologies, leading to confusion, cynicism, and rejection of traditional beliefs.

2. Destabilization (2–5 years):

Key societal institutions such as the economy, government, law enforcement, and military are targeted. The goal is to create chaos and weaken the nation's ability to function effectively.

3. Crisis (a few months): A major crisis (economic, political, or social) is triggered to paralyze the nation. This leads to widespread fear and a breakdown of public trust in existing systems.

4. Normalization (indefinite): After the crisis, a new system or ideology is imposed under the guise of restoring order.

This "new normal" cements the power of those who orchestrated the subversion. Bezmenov warned that the success of these steps depends on long-term infiltration and the apathy or unawareness of the target society. Those state agents who have been found to be involved in these nefarious activities will eventually be held accountable to the public, unceremoniously, when their treason trials unfold.

24. Anti-democratic activities by both PM Trudeau and President Xiaoping will be forever etched in our collective memories. They both decided to have troops deployed against peaceful protesters, and both with force to suppress dissent, block protests, and then blockade peaceful demonstrations. Both leaders quashed fundamental rights of free speech and assembly in both Canada and China.. The accounts from China (which he heard directly from Chinese nationals as first hand research, when he was employed in Suzhou as a teacher in 2014-15) were appalling, and similar to what he heard from Mr. Carr, Mr. Ayotte and Mr. King has described it to me personally. Whenever martial law is deployed, or an “Emergency” is used as justification, citizens need to remain skeptical if the emergencies are justified. Federal Judge Justice Mosely has already ruled there was no legitimate justification for the invocation of the Emergencies Act against the peaceful trucker convoy protesters. Witnesses who were there saw martial law deployed against peaceful protesters who were beaten or arrested, all as scapegoats for criticizing government policy. Canadian Police, similar to Chinese PLA troops, both had what appeared to be militarized support reinforcements and used excessive force (In China 36 students were killed). In Ottawa tear gas, billy sticks and other physical means to beat and detain peaceful members from the Ottawa Freedom convoy, (similar to the Chinese government) injuring protesters like Mr. Carr with a Billy club, and authorities trampled a lady by horseback ridden by a police officer as a show of dominance. In both China and Canada many peaceful protesters were injured. It was a tremendous show of force to the public by both countries for merely peaceful public dissent against public policy.
25. No evidence was presented at trial to prove that Mr. Carr committed any crime. He neither planned nor conspired with others to commit illegal acts, and no primary offenders were identified for him to have allegedly associated with. Mr. Carr’s peaceful assembly at a symbolic location for protest, in front of the Parliament buildings of Canada in Ottawa was a fundamental right. Mr. Carr was exercising his right to free speech. The prosecution’s case rested entirely on speculation, unsupported by factual evidence, and Byron Carr was nonetheless found guilty, despite these glaring deficiencies.
26. When the Emergency Act was invoked, Mr. Carr complied with the order to leave the area, even though the Order-in-Council explicitly exempted First Nations individuals. As a First Nations person holding a status card, this exemption should have protected him from enforcement under the emergency measures. By complying with the order under protest, Mr. Carr demonstrated respect for the

rule of law, while his arrest, prosecution, and conviction blatantly violated his constitutionally protected rights.

27. This case is emblematic of the erosion of fundamental liberties in Canada, particularly when political dissent and Indigenous rights intersect. Byron Carr's conviction highlights the urgent need for reforms to ensure individuals accused of crimes are afforded their full constitutional rights, including the right to a jury trial and the acknowledgment of protections under Section 35 of the Constitution Act, 1982.
28. As someone directly involved in researching this case and observing the trial, Vee can attest that Mr. Carr's prosecution and conviction were not based on facts or evidence but on a flawed process that ignored his fundamental rights. This travesty of justice underscores the critical need to uphold the rule of law, constitutional protections, and the right to a fair and impartial trial for all Canadians
29. A jury of twelve impartial citizens would be an antidote to the aforementioned possibility of similar legal irregularities stemming from high profile political cases and the collusion of state actors. The nature of this species of collusion between the crown, judge, King's own lawyer, and holistically involving police and prison mistreatment of King. King testified in his bail hearing that he was mistreated in jail during his 5 month incarceration. Crucial state agents created adverse systemic factors including his loss of a jury. In the context of politicized trials like King's, conflicts of interest can manifest as a collaboration between the judiciary, law enforcement, intelligence agencies, and political authorities. These state actors might work together, consciously or unconsciously, to produce outcomes that serve the interests of the ruling class or state ideology. Pat's dubious lawyer, Natasha Calvinho, recommended King forgo his jury, claiming it would ostensibly be in his best interest, which of course it was not as Mr. King is facing sentencing at present for multiple guilty verdicts (*mischief, intimidation and obstructing police*), and yet not guilty of greater charges (*intimidation and counselling to commit intimidation, and one of obstructing a public or peace office*), after being imprisoned for 5 months following his peaceful protest. Ironically, this occurring after Federal Judge Justice Moseley ruled the invocation of Emergency Act to be illegal and declared that peaceful protesters rights were violated); yet the Judge in Mr. King's case still interfered with his jury campaign by placing unreasonable conditions and time constraints, thereby colluding with the Crown prosecutors on disclosure timelines as other biased irregularities shared by Pat.

30. This flimsy basis to limit Pat King's absolute right to a jury, coercing him to choose between his right to a jury and his full answer and defense, was a transgression of legal integrity.
31. The entire *raison d'être* of the Canadian constitution is to limit government overreach, and limiting state actor collusion by setting forth a framework of principles to place the citizen in a position of legal authority above their own government as was practiced for over a thousand years; an ethical and impartial Jury system best equipped to determine truth by consensus.
32. In much the same way the House of Commons & Senate can veto laws before enactment by voting, the Jury System as a revered constitutional principle offers balancing levers⁸ to limit government overreach, by apportioning legal powers and responsibilities to nullify laws by the sovereign people, and at the discretion of juries. There are thousands of years of cultural and philosophical wisdom attached to the instantiation of a group of impartial jurors' and reliance upon a consensus based and impartial moral compass.
33. The touchstone of constitutionalism is the concept of limited government under a higher law. Within constitutional democracies like Canada, USA or UK, government officials are not free to do anything they please in any manner they choose; they are bound to observe both the limitations on power and the procedures which are set out in the supreme, constitutional law of the community
- "Whatever particular form of government a constitution delineates, however, it serves as the keystone of the arch of constitutionalism, except in those countries whose written constitutions are mere sham. Constitutionalism as a theory and in practice stands for the principle that there are—in a properly governed state—limitations upon those who exercise the powers of government, and that these limitations are spelled out in a body of higher law which is enforceable in a variety of ways, political and judicial. This is by no means a modern idea, for the concept of a higher law which spells out the basic norms of a political society is as old as Western civilization. That there are standards of rightness which transcend and control public officials, even current popular majorities, represents a critically significant element of man's endless quest for the good life.")

- Philip P. Wiener, PhD Philosophy from USC ed., "Dictionary of the History of Ideas: Studies of Selected Pivotal Ideas"

34. **I can confirm that William Keyte** is a subject matter expert in the field of constitutional history and his erudite historical observations are relevant to Mr. Ayotte's case and can be referenced here:
<https://www.commonlawconstitution.org/resources/the-occulted-powers-of-the-british-constitution>
35. Having spoken with Mr. Keyte directly he can confirm he agrees that the denial of Mr. Ayotte's right to a jury is unconstitutional and a violation of our great Western legacy of common law dating back to the Magna Carta.
36. Mr. William Keyte's warns of the erosion of the constitutions in Canada, the UK, and USA. He points to historical examples with the attempt of the UK Bill of Rights 1689 to create a dangerous inversion of our English Constitution, and limiting fundamental rights. In this case a constitutional crisis was introduced and an authoritarian dictum attempt regarding the qualification on who can serve on a jury! (And it contradicted Magna Carta 1215). A long litany of government overreach and constitutional crises exists if one is prepared to research history. For example, The Petition of Right, 1628 which made it clear that national emergencies do not authorize the use of what the early Stuart monarchs considered their royal prerogative to operate above the law for reasons of state. As well the Act Abolishing the Star Chamber, 1640 stripped the Privy Council of its repressive quasi-judicial powers, including the right to issue warrants authorizing torture.
37. Mr. Keytes also points to the Canadian Charter of Rights and Freedoms as presenting similar issues to the 1689 UK Bill of Rights power inversion against constitutionalism, and a vile power grab. Such a constitutional crisis can arise whenever a coup or power group attempts to engineer power away from the people, and transfer excessive power and responsibility to any of the 3 branches of government. It is both anti-democratic and throws society into disorder, a constitutional crisis is born, and the potential for despotism, as Nazi Germany and Stalin's Communist order are historic stark reminders. The people need to be reminded of their important role as the final arbiter of law, within the jury system, and not merely by suffrage voting once every four years.
38. The Canadian government is predicated on the "rule of law", not the "rule of men". Canadian citizens do not live under a dictatorship after all (despite the attempts to ban peaceful protesting with fake National Emergencies - Labour protests from Trucker Convoy).

39. A central notion of the rule of law is that our affairs are directed in consonance with an established body of legal principles. These principles are applied in a systematic and rational fashion to concrete circumstances.
40. My research shows the Canadian Constitution is married to three perpetual and foundational pillars since its inception: 1.) **UK Constitution** and the 2. **British Bill of Rights**, AND 3.) the **Magna Carta**. These eminent documents form the immovable, and venerated “Gold Standard” principles of Canadian constitutional democracy. **Principles that are immutable, and enshrined in the Canadian Constitution (1867).**

USA Declaration of Independence and Constitution

The American revolution and Declaration of Independence was based on two notable injustices by their UK empire overlords:

- Taxing without consent
- **Denying trial by jury**

For this reason, the right to a trial by jury is a central feature of the United States Constitution. It is considered a fundamental principle of the American legal system. Laws and regulations governing jury selection and conviction/acquittal are mentioned five times in the Constitution: Once in the original text (Article III, Section 2) and four times in the Bill of Rights (in the Fifth, the Sixth, and the Seventh Amendments).

The American system utilizes three types of juries: Investigative grand juries, charged with determining whether enough evidence exists to warrant a criminal indictment; petit juries (also known as a trial jury), which listen to the evidence presented during the course of a criminal trial and are charged with determining the guilt or innocence of the accused party; and civil juries, which are charged with **evaluating civil lawsuits**.

41. My research also shows the consensus of legal scholars asserts that:

The Magna Carta (or Great Charter) 1215: informs the legal system in Canada.

Foundational principles still apply today, as evidenced by the legacy of Canada’s Constitutional legislation (1867), whose foundational underpinnings in the **Magna Carta (1215) and succinctly enshrined in these two lines:**

[29] **No freeman is to be taken or imprisoned or deprived of his free property or of his liberties or free customs**, or outlawed or exiled or in any way ruined, nor will we proceed against or prosecute him, **except by lawful judgment of his peers or by the law of the land**. To no-one will we sell or deny right or justice.

[14] **A freeman is not to be fined for a small offense except in accordance with the manner of the offense**, and for a major offense according to its greatness, ...and none

of these fines is to be imposed except by the oath of honesty and law-worthy men of the neighborhood. Earls and barons are not to be fined except by their peers and only in accordance with the manner of their offense.

Further to our constitutional masterpiece, our Commonwealth roots lay in Britain, the Canadian Bill of Rights and other common law. Supreme Court precedents form the bedrock of common law.

42. I can confirm that the exemplary research conducted by William Keyte and Kenn d'Oudney was invaluable at highlighting the importance of constitutionalism, and highlighting the disturbing erosion of jury implementation in Canada, the critical importance of the "Rule of Law" and constitutionalism.

Keyte states: **"The English Constitution, ultimately, is a framework of principles that helps bring about an *Individualist society* and, therefore, a community that is in alignment with the way that the Universe functions (based on Individual Rights). It places the people in authority over their own government at all times, every day and not just every few years at an election! In fact - this means that government ceases to be a government at all!"**

43. I support William Keyte notion that:

"The *only* Constitutions (or governing systems) in the world that are legitimate are those that are aligned with Natural Universal Law, and one way of achieving that is to base it upon that *ancient* customary Common Law called (in Latin) *Legem Terrae*. The legitimacy of these constitutions comes from the fact that they recognise that a man's rights are *naturally existing and inherent*. That means that governments that are formed under that constitutional arrangement are fundamentally limited and there are *no* conditions by which those rights can be removed or limited by the government - only by the consciences of other citizens. (In a jury).

44. Constitutionalism is a political philosophy that refers to the theory and practice of governing a state by a **Constitution**. It advocates for the limitation of governmental power through a written or unwritten Constitution, which establishes the framework for government, delineates the **separation of powers** among different branches, and protects individual rights and liberties. By creating **checks and balances**, Constitutionalism aims to prevent arbitrary rule and promote accountability, ensuring that both government officials and citizens adhere to the law.
45. Constitutionalism implies there exist fundamental norms of justice so basic that they form part of the legal structure of governance and must be upheld by the courts, whether or

not they find expression in constitutional texts. And the idea is important, going to the core of just governance and how we define the respective roles of Parliament, the executive and the judiciary. The subject of “unwritten constitutional principles” is not an oxymoron, even if constitutions are generally understood to be written documents. And if one surmounts these difficulties, how and by whom are these so-called unwritten constitutional principles to be discovered? It should NOT be the judges, since what gives the judges the right to set forth constitutional principles capable of invalidating laws and executive acts, when Parliament has not seen fit to set these principles out in writing in the nation’s constitution?

46. The critical importance of recognizing our absolute rights, guaranteed by constitutional principles which ate all of exceptional relevance of the involvement of an impartial jury in the case herein against Mr. Ayotte
47. The “Rule of Law” in Canada is paramount, and meant to protect citizens against infiltration of ideologically driven individuals from the executive branch, Judicial Activism from the courts, and potential seditious members of parliament MPs who seek to collude in treasonous ways against the best interests of the public, through ostensibly legal means serving an anti-democratic business class (lobbyists), and / or ruling class of private or powerful interest groups above the Rule of Law's Rule as fundamentally democratic. As such, our judiciary system must at all times avoid conflicts of interests as they arise.
48. The concept of "absolute rights" is based on an analysis of natural law and constitutional traditions. These rights are described as essential and non-negotiable, forming the bedrock of legal and constitutional principles. In the context of “Rule of Law” and Canadian Constitutional principles, a non derogable requirement for absolutes rights needs to be honoured without exception, for the following expert consensus of absolute rights:

1. Right to Life

Protection from arbitrary deprivation of life, ensuring that individuals cannot be killed unlawfully.

2. Right to Liberty

Freedom from unlawful imprisonment, slavery, or forced servitude.

3. Right to Property

The right to own, use, and dispose of property without unwarranted interference.

4. Right to Security of the Person

Protection from bodily harm, torture, or cruel and degrading treatment.

5. Right to Due Process

A guarantee of fairness in legal proceedings, including the right to a fair trial and protection from arbitrary punishment.

6. Right to Equality before the Law

The principle that all individuals are subject to the same laws and have equal access to justice.

7. Right to Freedom of Conscience

The right to think, believe, and express ideas freely without coercion or undue restriction.

These rights are considered foundational to modern constitutional democracies, rooted in historical documents like the English Bill of Rights (1689), the Magna Carta (1215), and the Universal Declaration of Human Rights (1948).

49. Judges are bound by law to proactively offer juries to defendants in Canadian criminal cases when the Accused is witnessed to be in direct conflict with, or implicated in charges with the network of state employees including police, political colleagues, prosecutors and state remunerated / state appointed judges.
50. As a Canadian political philosopher, Vee is concerned about a Constitutional crisis regarding the “Rule of Law” in Canada as it pertains to the Jury System's application to high profile criminal cases at the Ontario Courts of Justice.
51. My comparative analysis of research into the history of juries since inception in Ancient Greece (in the trial of Socrates circa 500 BC for corrupting the youth & challenging authority norms), Through the Holy Roman Empire's reliance on “Rule of law” and juries, to the great 1400 Runnymede Magna Carta codification, through the UK parliament, the 1600 UK crisis, to the American Declaration of Independence, altogether influencing the jury as the antidote to oligarchic tyranny, and highest standard for Western Democratic social orders to balance power between citizens and state appointed leaders.
52. Canada is a Western democratic nation in the form of a constitutional monarchy. The Monarch (the King or Queen) is the Head of State, whose powers are defined by the Constitution and constitutional conventions. These responsibilities are carried out by the Governor General (the Monarch's representative in Canada). The Monarch's powers and responsibilities are established and limited by a rich legacy of constitutional principles, both unwritten principles and those written in the Canadian Constitution, including an enshrined tradition of UK British common law and Canadian common law precedents; still evolving as a living tree with newly forming branches, yet still rooted in the “Rule of Law” as solid ground, in place of a precarious uneven Rule of Tyrants.

53. My policy recommendations are similar to William Keyte's and Kenn O'doudney's laudable efforts for jury trials to be reinstated in cases currently handled by administrative tribunals to counteract the erosion of jury authority. Mr. Keyte laments: **"Unfortunately, over a very long period of time, the people (the citizenry), largely through ignorance, have stood by and allowed this Constitutional Rule of Law to become horribly distorted, and, for this reason, this campaign is not going to provide quick solutions (there are none). Those that work in government and 'the system' are just an extension of the broader citizenry and they hold self-destructive beliefs that have (through generations) brought about a centrally-controlled collectivist government that is nothing more than an inversion of what the genuine Constitution was trying to frame."**
54. In keeping with **Sir James Fitzjames Stephen** expert opinion to urge the Canadian judiciary to codify clear legislative protections for jury trials in summary proceedings, such as Mr. JP Ayotte vs the King, are essential at protecting our fundamental rights.
55. Our erroneous understanding that democracy has a basis merely in majority voting and especially a party political system has simply led to our enslavement. It is perhaps worth pointing out that the roots of democracy could never have been our party political system as that has only really emerged in the mid-eighteenth century. It would be nonsense to claim something that emerged so recently as being the root to the ancient, profound and revered democratic governance that we so love to hold up as the basis of our free society.
56. Research on Jury Trials in Canada shows a dramatic 80% reduction in Jury trials since **Amendments to the Courts of Justice Act, R.S.O. 1990, c. C.43 by the Courts of Justice Amendment Act 1989**. Far cry from the Magna Carta requirement for a jury for all claims made against us.
57. It is the prerogative of an independent jury to decide if evidence is sufficient, and if laws are both applicable, and/or valid. When a law is deemed by a jury to be invalid, this is termed "Jury Annulment" and this action changes the law in question. Legislation then needs to be reworked, or canceled, as a new case precedent is established.
58. **I declare the need for constitutional coherence in Mr. JP Ayotte's case.** Constitutional incoherence belies the vulnerability of a lower court judge's appointment criteria, and judge's provincial salary remuneration by the province

brings forth serious questions about a “court of first instance” loyalty to citizens, biased judicial activism and palpable partisan biases against unguarded defendants. The antidote to this issue is jury annulment via juridical activism as opposed to a state appointed and state remunerated judge’s activism.

59. I find it imperative to note the etymology of democracy, these Ancient Greek words "demos", meaning people, and "kratos" meaning power; so democracy can be thought of as "power of the people": a way of governing which depends on the will of the people. MP's in Canada thus all need to swear a Solemn Oath to Canada as the Sovereign, including to its democratic institutions, and loyal allegiance to the will of the people as their representatives.

60. The jury system has been described as the sacred right of all Canadians, and the lamp of liberty. This is why Canadian Prime Minister John Diefenbaker safeguarded the jury system, or “Voice of the People”, in the Canadian Bill of Rights. It is the judges or magistrates role to inform a defendant of his right to a trial by jury prior to any hearing.

61. Vee solemnly declare, in agreement with the wisdom of an unknown source:

“We who have inherited the great principles of the Common Law are entitled to claim that for people who love freedom, the Common Law is the most potent legal instrument ever made for securing that honest men may live their lives undisturbed by fear. Fear of our neighbor, fear of oppression by the State, fear of every kind of injustice and tyranny is averted from our lives so long as the supremacy of the law is resolutely maintained. Secure in the freedom of our institutions and protected by the impartiality of the law, we can without fear enjoy those other freedoms of the mind and of the spirit that adorn and elevate the human race.”

62. I concur with the honourable and paradigmatic Mr. Lysander Spooner: "If the government may decide who may and who may not be jurors, it will of course select only its partisans and those friendly to its measures."

—Lysander Spooner, *An Essay on the Trial by Jury*, 1852

OVERARCHING FOUNDATION - Mr. Gandhi’s Affidavit:

63. From a political philosophy perspective, the jury system serves as a profound embodiment of democratic principles, individual liberty within a social contract, and the “Rule of Law”. Experts such as Spooner, Stephen, Greene, Keyte, and d’Oudney highlight the philosophical foundations and practical implications of juries in resisting tyranny, empowering citizens, and preserving justice. While Aristotle, Plato and other ancient Greek philosophers inspired the application of juries, and the “Rule by the Many”, inspiring Western democratic thought.

64. Historical Foundations and Policy Continuity

- **Reference:** The jury’s roots in the Magna Carta (1215), established trial by jury as a safeguard against state tyranny. Canada’s legal evolution, particularly during events like the Rebellions of 1837–38, jury trials upheld fairness in politically charged cases.
- **Public Policy Implication:** Governments must anchor contemporary justice systems in historical precedents, ensuring continuity with principles that limit state power and uphold individual rights .Safeguarding the jury’s role requires a commitment to education, legislative reform, and adherence to the principles of limited government and participatory democracy.

65. Balancing Efficiency with Rights

- **Reference: Sir James Fitzjames Stephen** explains how summary jurisdiction evolved to handle minor offenses efficiently while preserving the right to jury trials for serious cases. He emphasizes legislative clarity and the defendant’s ability to elect jury trials when penalties exceed a certain threshold.
- **Public Policy Implication:** Judicial efficiency must not compromise the right to a fair trial by jury. Policymakers should ensure summary trials are restricted to minor cases, with safeguards that allow defendants to opt for a jury when necessary.

61. Juries as a Democratic Institution

- **Expert Reference: Lysander Spooner and Kenn d’Oudney** argue that juries democratize justice by empowering citizens to judge both facts and the morality of laws. Spooner, in *An Essay on the Trial by Jury*, asserts that juries are a bulwark against tyranny by allowing ordinary citizens to reject unjust laws. Similarly, d’Oudney emphasizes juries as direct democracy in action, ensuring legal decisions reflect community values.

- **Public Policy Implication:** Strengthening jury systems fosters public trust in governance and democratizes the justice process. Policymakers should prioritize jury trials as a means of empowering citizens and aligning legal outcomes with societal values.

62. Safeguarding Against Government Overreach

- **Expert Reference:** **Sir Wilfrid Arthur Greene**, in *War and the Common Law*, critiques wartime measures that bypass juries, warning they undermine liberties. juries act as a check on executive power, especially in politically motivated prosecutions or unjust laws.
- **Public Policy Implication:** Legal systems must preserve jury trials even during emergencies. Emergency measures that curtail jury rights should be implemented sparingly and with transparent safeguards, maintaining public trust in the “Rule of Law”.

63. Responding to Erosion of Jury Rights

- **Expert Reference:** **William Keyte**, and **Kenn d’Oudney** all highlight the gradual erosion of jury trials. Alford points to increasing reliance on administrative tribunals and judicial decisions without juries. Keyte discusses how jury authority has diminished since the Magna Carta, and d’Oudney warns of judicial overreach restricting jurors’ ability to nullify unjust laws.
- **Public Policy Implication:** Legislative reforms must address the diminishing role of juries by expanding their applicability to cases where community judgment is essential and ensuring jurors are fully informed of their rights, including nullification.

64. Education and Public Awareness

- **Expert Reference:** **William Keyte** and **Kenn d’Oudney** emphasize public education about jury rights. Keyte advocates for restoring the jury’s historical role in judging both law and facts, while d’Oudney argues that ignorance of jury nullification contributes to its decline.

- **Public Policy Implication:** Governments and civic organizations should launch public awareness campaigns and incorporate jury education into school curricula to empower citizens and ensure informed participation in the justice process.

65. Policy Recommendations

a) Legislative Reform:

- **Sir James Fitzjames Stephen:** Codify clear legislative protections for jury trials, ensuring that summary proceedings do not erode fundamental rights.

b) Transparency in Emergencies:

- **Sir Wilfrid Arthur Greene:** Develop strict guidelines to limit emergency legislation that bypasses jury trials, ensuring it aligns with common law principles.

c) Increase Jury Use:

- **Kenn d'Oudney:** Expand jury applicability to include civil and regulatory cases, ensuring juries serve as a check on legislative and executive overreach.

d) Judicial Oversight:

- **William Keyte:** Advocate for judicial interpretations that respect historical precedents and empower jurors to judge both law and facts.

e) Civic Education Initiatives:

- **William Keyte and Kenn d'Oudney:** Promote public education about jury rights, focusing on the historical importance of jury nullification and its role in protecting liberties.

f) Preliminary Conclusion

The right to trial by jury, as supported by **Sir James Fitzjames Stephen, Sir Wilfrid Arthur Greene, Lysander Spooner, William Keyte, Kenn d'Oudney, Sir William Blackrock** is a cornerstone of democratic governance and justice. It safeguards individual freedoms, limits state overreach, and empowers communities to uphold the

principles of common law. Public policy must prioritize reforms to preserve and restore the jury's role, ensuring its continued relevance in a fair and equitable legal system.

POLITICAL PHILOSOPHY

66. The Jury as a Mechanism for Protecting Liberty

- **Expert Reference:** **Lysander Spooner**, in *An Essay on the Trial by Jury*, contends that juries act as a safeguard against tyranny by allowing citizens to resist unjust laws. This aligns with natural law principles, where justice is grounded in moral truth rather than governmental decree.
- **Political Philosophy Implication:** The jury embodies the classical liberal ideal of individual liberty. By enabling citizens to nullify unjust laws, the jury system protects personal freedoms from state overreach and ensures that law serves justice rather than coercion.

67. The Balance Between Justice and Order

- **Expert Reference:** **Sir James Fitzjames Stephen**, a proponent of utilitarianism, emphasized the necessity of summary jurisdiction for minor offenses to maintain social order, while preserving the right to a jury trial for serious cases. His views underscore the tension between individual rights and societal stability.
- **Political Philosophy Implication:** Stephen's perspective reflects a utilitarian approach, where justice systems must optimize societal well-being. However, political philosophers like John Stuart Mill warn against sacrificing fundamental rights for efficiency, a debate central to modern governance.

68. Juries as a Democratic Institution

- **Expert Reference:** **Kenn d'Oudney** argues that jury trials are the foundation of true democracy, decentralizing power and enabling citizens to directly participate in governance. He advocates for jury nullification as a democratic tool to counteract unjust laws.
- **Political Philosophy Implication:** The jury aligns with Rousseau's concept of the general will, ensuring that justice reflects community values. Unlike

representative democracy, the jury enables direct citizen involvement, reinforcing a participatory model of governance.

69. Limiting State Power

- **Expert Reference:** **Sir Wilfrid Arthur Greene**, in *War and the Common Law*, highlights the jury's role as a check on executive overreach, particularly during emergencies like war. He traces this function to the Magna Carta and other historical documents that enshrined limits on state authority.
- **Political Philosophy Implication:** The jury system embodies the Lockean principle of limited government, where state power is constrained by institutional checks. By empowering citizens to adjudicate guilt, juries prevent the concentration of power in the hands of the judiciary or executive.

70. Preservation of Justice During Crises

- **Expert Reference:** **Sir Wilfrid Arthur Greene**, in *War and the Common Law*, critiques emergency legislation that undermines jury trials, emphasizing the resilience of common law principles in safeguarding individual rights during crises.
- **Political Philosophy Implication:** Greene's argument reflects the Aristotelian notion of the "Rule of Law", which posits that laws—not rulers—must govern. In times of crisis, maintaining jury trials ensures that the principles of justice are upheld, preventing the erosion of rights through temporary measures.

71. The Philosophical Basis for Jury Nullification

- **Expert Reference:** **William Keyte** underscores the jury's authority to judge both the law and the facts, rooted in Clause 39 of the Magna Carta. He argues that jury nullification is essential for aligning legal outcomes with the moral conscience of the community.
- **Political Philosophy Implication:** Jury nullification resonates with Immanuel Kant's emphasis on moral autonomy. Jurors, as free moral agents, must assess the justice of laws, ensuring that legal outcomes adhere to ethical principles rather than blind obedience to authority.

72. Challenges to Jury Independence

- **Expert Reference:** **Kenn d'Oudney** warns of the erosion of jury rights through judicial overreach and administrative shortcuts. Both advocate for restoring juries' full authority to ensure their continued role in democratic governance.
- **Political Philosophy Implication:** The decline of juries reflects the centralization of power critiqued by thinkers like Foucault, who highlight how modern legal systems often marginalize public participation in favor of technocratic control. Restoring jury authority rebalances this dynamic, reasserting the public's role in justice.

73. Education as a Pillar of Empowerment

- **Expert Reference:** **William Keyte** and **Kenn d'Oudney** emphasize the need for public education to inform citizens about their jury rights. Without awareness, jurors cannot effectively exercise their democratic responsibilities.
- **Political Philosophy Implication:** Education aligns with Habermas's concept of the public sphere, where informed citizens engage in rational discourse to influence governance. Empowering citizens with knowledge of jury rights strengthens their capacity to uphold justice and resist state overreach.

74. Grand Conclusion

This affidavit is submitted with the utmost respect for the solemn principles of justice, democracy, and constitutionalism. It highlights the profound significance of the jury system, not merely as a procedural mechanism but as the embodiment of the sovereignty of the people. In the case of Mr. Jean-Philippe Ayotte, the systemic denial of his right to a jury trial represents a critical failure of the judicial system to uphold its constitutional and moral responsibilities.

The jury system is a cornerstone of Canadian democracy, enshrined in centuries of common law and constitutional tradition. Its roots can be traced to the Magna Carta of 1215, which established the right of individuals to be judged by their peers. This principle has been reinforced through the British Bill of Rights (1689), the Canadian Bill of Rights (1960), and foundational principles of the Canadian Constitution. It is a

safeguard against tyranny, an instrument of participatory democracy, and a mechanism for ensuring that justice reflects the values and conscience of the community.

The Historical and Legal Legacy of the Jury System

The jury system is more than a historical artifact; it is a living institution that embodies the principles of fairness, impartiality, and accountability. It ensures that legal decisions are not solely in the hands of state-appointed judges but are subject to the scrutiny of ordinary citizens. This principle was eloquently articulated in the Magna Carta:

"No freeman shall be taken or imprisoned or disseised of his freehold, or liberties, or free customs, or be outlawed, or exiled, or in any otherwise destroyed; nor will we not pass upon him, nor condemn him, but by lawful judgment of his peers or by the law of the land."

This foundational principle has informed the development of legal systems across the democratic world, including Canada. It is enshrined in Section 11(f) of the Canadian Charter of Rights and Freedoms, which guarantees the right to a jury trial for serious offenses, and in the Canadian Bill of Rights, which protects the right to due process and a fair trial.

Systemic Denial of Jury Rights

The denial of Mr. Ayotte's right to a jury trial is not an isolated incident but part of a broader pattern of state overreach and judicial overreach. Similar denials in the cases of Mr. Byron Carr and Mr. Pat King reveal a troubling trend of procedural manipulation designed to circumvent constitutional protections. These denials undermine public confidence in the judiciary and erode the fundamental principles of justice and democracy.

In Mr. Ayotte's case, the charges were strategically reduced from indictable to summary, thereby precluding his right to a jury trial. This tactic, while procedurally permissible, is substantively unjust. It denies the accused the opportunity to be judged by an impartial jury and instead places their fate in the hands of state-appointed judges, whose impartiality may be called into question in politically charged cases.

This pattern of reducing charges to deny jury trials was similarly evident in the case of Mr. Carr and Mr. Ayotte. They face politically motivated charges stemming from their participation in the 2022 Freedom Convoy protests. Their denial of a jury trial deprived them of his right to a fair and impartial trial and exposed them to the biases of a judiciary operating under significant political and public pressure. Although a different prejudi

interference tactic, Mr. King lost out on his jury trial as well due to the inappropriate actions of the prosecutor and Judge in his case.

The Broader Implications for Canadian Democracy

The implications of these denials extend far beyond the individuals involved. They represent an erosion of the fundamental rights and freedoms that define Canada as a democratic society. The jury system serves as a check on state power, ensuring that legal decisions are not solely in the hands of government-appointed judges but are subject to the scrutiny of ordinary citizens.

This erosion of jury rights is part of a broader pattern of state overreach, including the invocation of the Emergencies Act during the Freedom Convoy protests. The use of emergency powers to suppress peaceful dissent, coupled with the denial of jury trials for those prosecuted under these measures, represents a profound threat to the rule of law and the principles of democracy.

The Moral Imperative for Justice

Justice is not merely a legal obligation but a moral imperative. It demands that the judiciary act as an impartial arbiter, free from the influence of political considerations or state interests. In cases like Mr. Ayotte's, where the charges stem from peaceful protest and the exercise of constitutionally protected rights, the denial of a jury trial is not just a legal error but a profound moral failing.

The jury system embodies the democratic ideal that justice should be administered by the people, for the people. It ensures that legal decisions reflect the values and conscience of the community, rather than the interests of the state. To deny this right is to deny the very essence of democracy.

Policy Recommendations and Call to Action

To restore public confidence in the judiciary and uphold the principles of justice and democracy, the following measures are imperative:

1. **Legislative Reform:** Amend existing legislation to ensure that the right to a jury trial cannot be circumvented through procedural tactics such as reducing charges from indictable to summary.
2. **Judicial Oversight:** Establish independent oversight mechanisms to ensure that judicial decisions are free from political influence and that the rights of the accused are protected.

3. **Public Education:** Launch public awareness campaigns to educate citizens about their rights, including the right to a jury trial and the principles of jury nullification.
4. **Transparency in Emergency Powers:** Develop strict guidelines for the invocation and use of emergency powers, ensuring that they are subject to judicial and public scrutiny.
5. **Strengthening Jury Authority:** Expand the applicability of jury trials to include cases currently handled by administrative tribunals and summary proceedings, ensuring that juries serve as a check on legislative and executive overreach.

Closing Reflection

The jury system is not merely a procedural mechanism but the lifeblood of democracy and justice. It is the voice of the people, the conscience of the community, and the ultimate safeguard against tyranny. In denying Mr. Ayotte his right to a jury trial, the judiciary has not only failed him but has failed the principles that define us as a democratic society.

As a political philosopher and advocate for justice, Vee urges this court to recognize the gravity of this case. Let it serve as a reminder of the principles that underpin our legal system and the importance of vigilance in their defense. In the words of John Adams:

"Representative government and trial by jury are the heart and lungs of liberty. Without them, we have no fortitude, no independence, no security against the wanton oppression of the government."

Let this court honor the legacy of these principles and ensure that justice is not only done but seen to be done. In doing so, it will reaffirm the foundational values of our democracy and restore faith in the rule of law.

Sworn this day, under the full weight of my oath, with unwavering commitment to truth and justice.

6. (a) Biography of Kenn d'Oudney

***"Trial by Jury: Its History, True Purpose, and Modern Relevance"* was first published in 1999 by Scorpio Recording Company (Publishing) Ltd. authored by**

Kenn d'Oudney is a British author, legal reform advocate, and constitutional scholar known for his work on jury rights, democratic principles, and the preservation of constitutional governance. With a deep-rooted passion for justice and civil liberties, Kenn d'Oudney has dedicated his career to educating the public on the significance of jury trials and the true meaning of democracy.

In 1992, Kenn co-founded the Democracy Defined Campaign alongside Joanna and Astra d'Oudney. This initiative focuses on restoring the original functions of trial by jury as a cornerstone of democratic governance. The campaign has received endorsements from legal professionals and academics across the U.K., U.S., and Australia.

Kenn d'Oudney's publications are regarded as essential reading in the fields of constitutional law and jury rights. His notable works include:

- **"Trial by Jury: Its History, True Purpose, and Modern Relevance"** (1999) – A comprehensive analysis of the jury system's historical roots, its role as a safeguard against government overreach, and its enduring importance in protecting civil liberties.
- **"Democracy Defined: The Manifesto"** (2016) – A critical exploration of the concept of democracy, addressing how its misinterpretation has led to the erosion of constitutional governance and public freedoms.

6. (b) Kenn d'Oudney Well Opinions on Jury

i. Jurors as Judges of Both Law and Fact

- **Core Principle:** The jury's role is not limited to determining whether the defendant broke the law; jurors have the inherent right to judge the law itself.
- **Jury Nullification:** D'Oudney highlights that jurors may acquit defendants if they believe the law is unjust, oppressive, or misapplied—regardless of the evidence presented.
- **Historical Basis:** This principle is rooted in common law traditions and exemplified by key cases such as the trial of William Penn (1670), where jurors defied judicial instructions and acquitted Penn despite clear violations of existing laws.
- **Protection Against Tyranny:** By empowering jurors to question and nullify laws, the system prevents the state from imposing oppressive measures through judicial enforcement.

ii. The Jury as a Shield Against Government Overreach

- **Direct Democracy:** Trial by jury decentralizes power, ensuring that the government cannot convict individuals without the direct participation and consent of the community.
- **Executive and Legislative Oversight:** The jury's ability to reject unjust laws acts as a check on legislative and executive overreach, preventing the passage of draconian or morally questionable statutes.
- **Preserving Freedom:** D'Oudney stresses that without jurors' power to veto laws through acquittal, democracy becomes hollow, as laws could be enforced regardless of public sentiment or morality.

iii. Rooted in the Magna Carta (1215)

- **Magna Carta's Legacy:** D'Oudney traces the right to trial by jury to Clause 39 of the Magna Carta, which asserts that no free man shall be imprisoned or exiled except through the lawful judgment of his peers.
- **Evolution into Common Law:** The Magna Carta's protections against arbitrary punishment evolved into the jury trial as an institutional safeguard, reinforcing the principle that citizens—not the government—decide guilt and punishment.
- **Judicial Independence from State Control:** The book argues that the Magna Carta solidified the jury's role as a body independent from royal or state influence, embodying the fundamental rights of individuals against state coercion.

iv. Juries Reflecting Community Standards

- **Moral Compass of Society:** Jurors bring community values and local standards into the courtroom, ensuring that laws are applied fairly and in accordance with societal norms.
- **Preventing Unjust Prosecutions:** Even if a law technically criminalizes an act, jurors can refuse to convict if they believe the law contradicts the collective conscience of the community.
- **Dynamic Justice:** This aspect of the jury system ensures that legal standards evolve alongside public morality, preventing outdated or unjust laws from being rigidly enforced.

v. Jury Trials as the Foundation of True Democracy

- **Definition of Democracy:** D'Oudney redefines democracy to mean direct citizen involvement in governance, particularly through jury trials.
- **Not Just Voting:** The book argues that democracy extends beyond elections to include active participation in the judicial process, where jurors exercise real political power by deciding cases.
- **Erosion of Jury Trials = Erosion of Democracy:** Modern trends limiting jury nullification or reducing the number of jury trials dilute democratic governance, concentrating power in the hands of judges and lawmakers.

vi. Erosion of Jury Rights in Modern Legal Systems

- **Decline in Jury Trials:** D'Oudney criticizes contemporary legal systems for minimizing the use of juries through plea bargains, summary judgments, and legislative restrictions on jury nullification.
- **Judicial Overreach:** Increasingly, judges restrict what jurors can consider, denying them the knowledge or authority to evaluate the morality of the law itself.
- **Call for Reform:** The book advocates for restoring the jury's original powers, arguing that jurors should once again be fully informed of their rights to nullify unjust laws.

vii. Restoration of Jury Independence

- **Legislative and Judicial Reform:** D'Oudney proposes reforms aimed at re-empowering juries, including:
 - Ensuring that judges inform jurors of their right to judge the law.
 - Expanding the use of jury trials to more cases, including summary offenses.
 - Preventing courts from punishing jurors who refuse to convict based on their conscience.
- **Public Education:** The book emphasizes the need for broader public awareness of jury rights, arguing that ignorance of jury nullification has led to its decline.

Key Points

D'Oudney's *"Trial by Jury"* positions the jury as the cornerstone of democratic governance and individual liberty. The book argues that restoring the jury's historical powers is essential to preventing tyranny, protecting human rights, and ensuring that legal decisions reflect the values and conscience of the community.

8. (a) Sir William Blackstone

Name: Sir William Blackstone

Birth: July 10, 1723, London, England

Death: February 14, 1780, Wallingford, Oxfordshire, England

Profession: Jurist, Professor, Judge, Legal Scholar

Key Achievements:

1. **Author of *Commentaries on the Laws of England*:**
 - Blackstone's *Commentaries on the Laws of England* (1765–1769) is a foundational work that systematically organized and explained English common law.
 - It provided a clear and accessible account of the legal system, influencing both legal education and practice in England, the United States, Canada, and other common law jurisdictions.
2. **Professor of Common Law:**
 - Blackstone was the first Vinerian Professor of English Law at the University of Oxford, established in 1758.
 - He made significant contributions to the formal teaching of common law, which had previously been considered less prestigious than Roman or civil law.
3. **Legal Career:**
 - Called to the bar in 1746, Blackstone practiced as a barrister and served as a judge later in life.
 - In 1770, he was appointed as a Justice of the Court of Common Pleas, a significant judicial position.
4. **Member of Parliament:**
 - Represented various constituencies in the British House of Commons between 1761 and 1770.
 - While in Parliament, he defended the legal doctrines he outlined in his *Commentaries*.
5. **Influence on American Law:**
 - Blackstone's *Commentaries* heavily influenced the development of American legal thought, particularly in the formation of the U.S. Constitution and the early judicial decisions of the United States Supreme Court.

Philosophy and Legacy:

- Blackstone emphasized the supremacy of common law, rooted in tradition and reason, and its foundation in natural law.
- He argued that natural law principles—universal moral truths—form the basis of all valid laws.
- His work is recognized for making the legal system more understandable and laying the groundwork for modern legal education.

Personal Life:

- Blackstone was born to a middle-class family and was orphaned at an early age.
- He excelled academically, attending Charterhouse School and Pembroke College, Oxford.
- His life was dedicated to advancing legal understanding and education, earning him knighthood in 1770.

Death:

Blackstone passed away on February 14, 1780, leaving behind a legacy as one of the most influential legal minds in English history. His *Commentaries* remain a cornerstone of legal literature, studied and referenced worldwide.

8 (b) Opinions of Sir William Blackstone

Breakdown of Blackstone's View on Common Law and Statutory Authority

Sir William Blackstone's *Commentaries on the Laws of England* (1765–1769) provides a comprehensive explanation of the relationship between common law, natural law, and statutory law. Below is a detailed breakdown of his views, focusing on the principle that common law cannot be overridden arbitrarily by legislation, except where Parliament's statutory authority is procedurally valid and enforceable.

1. Supremacy of Natural Law and Its Connection to Common Law

- Blackstone emphasizes that natural law—being universal, rational, and rooted in divine principles—forms the ultimate foundation of all human laws.
- Key Passage (*Volume I, Introduction*):
"This law of nature, being coeval with mankind and dictated by God himself, is of course superior in obligation to any other. It is binding over all the globe, in all countries, and at all times: no human laws are of any validity if contrary to this; and such of them as are valid derive all their force, and all their authority, mediately or immediately, from this original."
- He posits that laws conflicting with natural law are void in theory, as they lack moral legitimacy, although courts may still enforce them unless declared procedurally invalid.

2. Authority of Statutory Law

- Blackstone acknowledges that Parliament is the supreme legislative authority, capable of enacting laws that courts are bound to enforce.
- However, he highlights that statutes must align with common law principles and natural justice whenever possible.
- Key Passage (*Volume I, Chapter 2 – "Of the Nature of Laws in General"*):
"Acts of Parliament that are impossible to be performed are of no validity; and if there arise out of

them contradictions, or absurd consequences, the judges are to interpret them as to avoid such inconveniences."

- This passage underscores the judiciary's role in interpreting statutes in a way that avoids conflicts with reason, common law, and practicality.

3. Theoretical Voidness of Unjust Laws

- While Blackstone concedes that unjust laws theoretically violate natural law, he also acknowledges that courts cannot declare such laws void purely on moral grounds.
- Courts are tasked with enforcing statutes unless they are procedurally invalid (e.g., improperly enacted) or inherently unenforceable due to contradictions or impossibilities.

4. Judicial Interpretation and the Role of Common Law

- Blackstone discusses how judges interpret statutes to preserve harmony with common law principles and avoid overriding established rights without clear legislative intent.
- Key Passage (*Volume I, Chapter 3 – "Of the Laws of England"*):
"The common law has no control over the acts of parliament. But the acts of parliament themselves, if repugnant to natural justice, are void in theory, though binding in practice."
- This illustrates the dual acknowledgment of parliamentary sovereignty in practice and the moral limits imposed by natural and common law in theory.

5. Practical Limitations on Parliamentary Sovereignty

- Blackstone emphasizes that Parliament's sovereignty does not include the authority to make laws that are inherently impossible to enforce or contradict the fundamental principles of justice.
- He repeatedly stresses that judges must strive to reconcile statutory law with reason and avoid enforcing laws that lead to absurdities or contradictions.

Summary of Blackstone's Position

- Common law, rooted in natural law, represents universal and immutable principles of justice.
- Parliament's statutes are supreme in practice but must align with the rational principles of common and natural law.
- Courts are bound to enforce statutes unless:
 1. They are procedurally invalid.
 2. They are impossible to perform or lead to absurd consequences.
- Acts of Parliament that contradict natural or common law are "void in theory," but courts enforce them unless specific legal defects invalidate their application.

This view demonstrates Blackstone's nuanced approach: while affirming the theoretical primacy of common law and natural law, he acknowledges the practical supremacy of parliamentary statutes within the legal system.

Summary of Expert Opinions on the Right to Trial by Jury

1. Sir James Fitzjames Stephen

- **Summary Jurisdiction:** Highlighted the evolution of summary proceedings to handle minor offenses without a jury, preserving judicial efficiency while maintaining the defendant's right to elect a jury trial for serious penalties.
- **Balance:** Advocated for legislative clarity and safeguarding jury rights to ensure justice in more severe criminal cases.

2. Sir Wilfrid Arthur Greene

- **Foundational Role:** Emphasized the jury's critical role in upholding individual rights and community conscience in justice.
- **Wartime Integrity:** Critiqued wartime curtailments of jury trials, emphasizing the jury's necessity for preserving fairness and limiting state power.

3. Lysander Spooner

- **Jury Nullification:** Argued for jurors' responsibility to assess the justice of laws, ensuring that laws align with moral standards.
- **Democratizing Justice:** Believed juries empower citizens, preventing the centralization of judicial authority and fostering community-driven justice.

5 (b) Verin (Vee) Gandhi

● The Importance of the Jury System in Safeguarding Democracy

The jury system is a critical safeguard against state overreach, ensuring fairness and protecting individual rights. Cases such as those of Mr. Ayotte, Pat King, and Byron Carr reveal systemic injustices where defendants were denied jury trials through coercion, procedural delays, and judicial manipulation. Experts like William Keyte and Kenn d'Oudney emphasize the jury's historic role in providing impartiality, checking unjust laws, and ensuring legal decisions reflect community values.

● Urgent Need for Reforms

The decline in jury trials signals a troubling shift toward authoritarianism and undermines the rule of law. Legislative reforms are essential to restore and protect the jury system, including codifying jury trial rights, increasing transparency, and educating citizens about their role in upholding justice. Reaffirming the jury system is crucial to preserving democratic freedoms and maintaining constitutional integrity in Canada.

5. William Keyte

- **Magna Carta Roots:** Highlights Clause 39's enshrinement of the right to trial by peers.
- **Restoration of Jury Powers:** Calls for a return to the original jury authority to judge both law and fact, emphasizing its role as a bulwark against governmental overreach.

6. Kenn d'Oudney

- **Jurors as Judges of Law:** Advocates for jury nullification, empowering jurors to reject unjust laws and prevent state tyranny.
- **Democratic Governance:** Argues that jury trials embody true democracy, ensuring that legal decisions reflect community values.

Common Themes

1. **Jury as a Safeguard of Liberty:**
 - The jury system protects individuals from unjust laws and governmental overreach.
2. **Jury Nullification:**
 - Jurors' ability to judge both facts and the morality of laws is essential for safeguarding justice and preserving democratic principles.
3. **Historical Foundations:**
 - Rooted in the Magna Carta and enduring through centuries, the jury's role is a vital mechanism for limiting arbitrary power and ensuring fair trials.
4. **Challenges and Erosion:**
 - The jury's powers are increasingly curtailed by modern legal frameworks, threatening individual rights and the principles of common law.
5. **Call for Restoration:**
 - Reforms are needed to reinstate jurors' full authority, supported by public education and legislative action to preserve the integrity of the legal system.

Conclusion

The right to trial by jury is a cornerstone of justice and democracy. It ensures fairness, limits state overreach, and empowers citizens to hold the legal system accountable. Experts unanimously stress the need to protect and restore this essential institution to uphold the principles of common law and individual freedoms.

Key Common Law Precedents Supporting Right to Jury

i. The King v. Conway (1902), 32 N.S.R. 196 (NS SC)

Facts:

Conway was charged with an offense that could have proceeded by summary conviction. The accused demanded a jury trial, arguing that the allegations involved breaches of **fundamental**

rights and therefore required adjudication by a jury. The Crown sought to deny the request, asserting that the matter could be resolved without a jury.

Ruling:

The **Nova Scotia Supreme Court** ruled in Conway's favor, affirming that the **right to a jury trial is unconditional in cases involving serious allegations or fundamental rights**. The court emphasized that denying a jury in such cases risked **compromising procedural fairness** and breaching principles of **natural justice**.

Legal Principle:

- Where the **state's actions or rights infringements are contested**, **jury trials are essential** to ensure **impartial adjudication** and **public confidence** in the legal process.

Application:

If the **Ontario Court of Justice (OCJ)** denies a jury trial in matters involving **security of the person, property rights, or freedoms of speech and assembly**, it breaches the common law principle established in Conway. Jury trials serve as a **necessary procedural safeguard** where **state actions** are directly challenged.

ii. Bushell's Case (1670)

Facts:

Jurors in the trial of William Penn refused to convict him for unlawful assembly, despite the judge's insistence. The judge imprisoned the jurors for returning a verdict contrary to his instructions.

Ruling:

Chief Justice Vaughan ruled that **jurors cannot be punished for their verdicts**, affirming the **independence of the jury** from judicial pressure.

Legal Principle:

- The **independence of jurors** from state or judicial influence is critical to **ensuring impartiality and fairness** in legal proceedings.

Application:

Excluding juries from trials involving **state allegations or breaches of fundamental rights** undermines this principle. The Applicant's assertion that **a jury trial is necessary** aligns with **common law protections against state interference** in judicial proceedings.

iii. Rex v. Shipley (1784) – "The Dean of St. Asaph's Case"

Facts:

Shipley was prosecuted for publishing material critical of the government. The trial judge sought to limit the jury's role to fact-finding alone, excluding them from determining whether the law itself was just.

Ruling:

The court ruled that **juries are entitled to assess both facts and the fairness of the law**. This decision reinforced the principle that **juries play a crucial role in guarding against unjust laws or oppressive state actions**.

Legal Principle:

- **Juries safeguard against oppressive state actions** by ensuring public involvement in the **interpretation and application of the law**.

Application:

Denying the Applicant a jury trial in cases involving **freedom of speech or state interference with property** deprives them of the essential right to **community-based adjudication**, leaving the outcome solely in the hands of **state-appointed judges**.

v. Rex v. Zenger (1735)**Facts:**

John Peter Zenger, a publisher, faced charges of **sedition libel** for criticizing the colonial government. The judge instructed the jury to convict based on the facts, but the jury **refused to convict**, nullifying the law's application.

Ruling:

The jury's refusal to convict established a precedent for **jury nullification**, recognizing that juries can **override unjust or oppressive laws**.

Legal Principle:

- Juries act as **protectors of civil liberties** and **prevent the arbitrary application of unjust laws**.

Application:

Where allegations involve **state overreach or violations of fundamental rights**, **jury trials** ensure that **laws are applied fairly and in accordance with community standards**. The exclusion of juries undermines this protective function.

vi. R. v. Taylor (1836)**Facts:**

Taylor faced seditious activity charges and sought a jury trial, which the Crown attempted to deny.

Ruling:

The court upheld Taylor's right to a jury trial, emphasizing that **serious charges involving state actions necessitate jury adjudication** to ensure **fairness and impartiality**.

Legal Principle:

- Juries provide **an essential check on state power**, ensuring **public oversight** in politically sensitive or rights-based cases.

Application:

The Applicant's case parallels Taylor's in that the allegations involve potential **breaches of speech and assembly rights**. Denying a jury trial in such instances would undermine the **applicant's right to a fair hearing under common law**.

vii. R. v. Bain, [1992] 1 SCR 91

Facts:

The Crown exercised excessive power to challenge jurors, leading to an unbalanced jury favoring the prosecution.

Ruling:

The Supreme Court ruled that the process violated **fair trial rights**, affirming that **jury impartiality** is essential for upholding the integrity of the legal system.

Legal Principle:

- Juries must be **free from manipulation by the state**, ensuring **unbiased adjudication** of cases involving potential rights violations.

Application:

If the state can bypass jury trials entirely, the risk of **biased adjudication** increases. The Applicant's request for a jury trial is consistent with the **common law principle that impartial adjudication is a right in cases involving fundamental rights**.

Conclusion

The **common law right to a jury trial** serves as a **critical safeguard** in cases involving **state misconduct, breaches of liberty, or violations of property rights**. As demonstrated by **The King v. Conway (1902)** and reinforced by historic cases such as **Bushell's Case** and **Rex v. Shipley**, **jury trials** ensure that justice is not monopolized by the state or judiciary but **reflects the will and conscience of the community**.

Denying the Applicant a jury trial infringes upon this **common law protection** and violates the principles of **procedural fairness and fundamental justice**. In matters involving **security of the person, property rights, and freedoms of speech or assembly**, the **Ontario Court of Justice** must recognize the necessity of jury adjudication. Alternatively, failure to provide a jury trial should result in the **dismissal of the charges** to preserve the integrity of the judicial process and uphold **common law protections**.

5. CONFLICT OF INTEREST AND IMPARTIALITY - NEMO IUDEx IN CAUSA SUA

i. NEMO IUDEx IN CAUSA SUA

The Latin phrase "Nemo iudex in causa sua", translates to "No one should be a judge in their own case." This legal principle asserts that an individual should not be the one to decide matters that affect their own interests, as it would lead to a conflict of interest and an unfair decision.

In this case, the principle of "Nemo iudex in causa sua" ("No one should be a judge in their own case") takes on a heightened significance. The accused has been subjected to unlawful actions at the hands of the police—physical assault, false charges, and property damage—by the very authorities who are part of the legal system that will ultimately decide his fate. Here, the core issue is not just impartiality, but the potential conflict of interest inherent when the police, the prosecution, and the government all represent the same party, often referred to as "the Crown" in common law jurisdictions.

The police officers involved in the alleged misconduct are not neutral parties; they are direct actors in the events in question. If the judge, who is an official of the state, were to preside over the case alone, the accused would be placed in a position where the very institution that allegedly violated his rights is also responsible for making a decision about the violation. This creates a significant risk of bias, whether intentional or not, and undermines the fairness of the trial.

This situation exemplifies why "Nemo iudex in causa sua" applies so strongly: a system where the judge and the law enforcement officers are from the same institutional framework inherently risks a lack of impartiality. The principle exists to prevent situations where an individual cannot receive a fair judgment due to a conflict of interest between the decision-maker and the party in question.

A jury of peers, however, is completely independent from the police and the Crown. They are not part of the same institutional structure that the accused is challenging. A jury trial would allow individuals from the community to impartially assess the facts of the case, free from any potential biases stemming from the state or law enforcement. This is especially crucial in a case where the very authority that should protect the public is the one accused of wrongdoing.

Thus, by requesting a jury, the accused is safeguarding the fairness of his trial. It ensures that his case will be decided by a group of neutral individuals, rather than by the state apparatus that is at the center of the alleged injustice. This aligns with the legal maxim "Nemo iudex in causa sua", affirming the right to an impartial tribunal and protecting the fundamental principles of justice.

ii. Canadian Case Law on "Nemo iudex in causa sua":

1. R v. S (R.D.), [1997] 3 S.C.R. 484 (Supreme Court of Canada)

Summary: In this case, the Supreme Court of Canada dealt with the issue of judicial impartiality and whether the trial judge, who had been critical of the accused in a previous case, could fairly decide the case at hand.

Relevance to "Nemo iudex in causa sua": The Court held that the trial judge's prior comments and involvement created a perception of bias, thereby violating the principle of impartiality and, by extension, the maxim "Nemo iudex in causa sua".

Key Point: The decision emphasized that even the appearance of bias is sufficient to undermine the fairness of proceedings, reinforcing the maxim's application in ensuring impartial adjudication.

2. **The case of *Wewaykum Indian Band v. Canada* ([2003] 2 S.C.R. 259)** revolves around the judicial principle of impartiality, specifically concerning judicial independence and bias. Here's a breakdown of the case and its relevance to the role of a jury in ensuring fairness in legal proceedings.

Case Summary:

1. **Background:**
 - The case involved a dispute between two Indian bands (Wewaykum and Campbell River) over reserve land allocations.
 - The issue arose from a historical allocation process, where overlapping claims were attributed to government mismanagement.
 - A question of impartiality arose regarding the judge's ability to preside over the matter.
2. **Core Legal Issue:**
 - Whether a judge's prior involvement or connection with a matter—or the perception thereof—compromised their impartiality under the principle of "Nemo iudex in causa sua" (no one should be a judge in their own cause).
3. **Ruling:**
 - The Supreme Court of Canada held that judicial impartiality is fundamental to maintaining public confidence in the judiciary.
 - Even the **appearance of bias** could undermine fairness and justice.
 - Judges must recuse themselves if their involvement creates a reasonable perception of bias.

Relation to the Role of a Jury:

1. **Ensuring Impartiality:**
 - The case highlights the importance of impartial decision-makers in legal proceedings.
 - Judges are human and may bring personal biases, whether intentional or subconscious, into their rulings.
 - A jury, composed of peers, can mitigate the risk of one individual's bias influencing the outcome.
2. **Diversity of Perspective:**
 - Unlike a single judge, a jury is made up of multiple individuals, reducing the likelihood that a single viewpoint or prior experience will sway the decision.
 - This collective decision-making process enhances fairness, especially in contentious or highly subjective cases.
3. **Public Confidence in Justice:**
 - The principle of impartiality in *Wewaykum* ties directly to the need for public trust in the legal system.

- A jury offers a layer of transparency and involvement, fostering confidence that decisions are made fairly and represent the broader community's values.
4. **Protecting Against Systemic Failures:**
- *Wewaykum* underscores that systemic or historical issues (e.g., government mismanagement of Indigenous claims) require scrutiny by neutral arbiters.
 - Juries, as representatives of the community, can provide a check against institutional biases that might inadvertently influence judges.

Conclusion:

The *Wewaykum* decision reinforces the necessity of impartiality in legal proceedings, directly supporting the rationale for juries. While judges are bound by the law and judicial codes of conduct, a jury ensures that the perception and reality of fairness are upheld. Juries act as a safeguard against both systemic and individual biases, promoting a more equitable and transparent justice system.

Key Point: The judgment underlined the importance of maintaining the public's trust in the judicial system, asserting that a judge's impartiality must be above reproach, and any potential conflict of interest must be avoided.

3. R v. MacDonald, [2008] 1 S.C.R. 335 (Supreme Court of Canada)

Summary: In this case, the accused challenged the impartiality of the trial judge on the grounds that the judge had a past history with the police, potentially compromising the fairness of the trial.

Relevance to "Nemo iudex in causa sua": The Court found that there was no sufficient evidence of bias to overturn the conviction, but it emphasized that the principle of impartiality is fundamental to the legal process. The "Nemo iudex in causa sua" maxim was discussed in relation to the judge's prior connections.

Key Point: The ruling reaffirmed that the appearance of impartiality is essential, especially when there may be prior connections or experiences that could lead to perceptions of bias.

4. Committee for Justice and Liberty v. National Energy Board, [1978] 1 S.C.R. 369 (Supreme Court of Canada)

Summary: This case involved a challenge to the impartiality of an administrative tribunal, where members of the tribunal had links to one of the parties involved. The Supreme Court held that the tribunal's decision was invalid due to a reasonable apprehension of bias.

Relevance to "Nemo iudex in causa sua": The Court ruled that any personal or institutional connections to the parties involved create an appearance of bias, which violates the principle of impartiality.

Key Point: This case applies the "Nemo iudex in causa sua" principle to administrative bodies, highlighting that impartiality must be maintained across all levels of adjudication, not just in courts.

Application in the Case of Police Misconduct

Given the scenario where police officers are accused of assaulting the individual, damaging his property, and taking him outside of town, and the government or Crown is responsible for prosecuting, the principle "Nemo iudex in causa sua" is especially relevant. The accused cannot fairly expect the state or its representatives—who are part of the same system that may have caused harm—to impartially judge his case.

The principle "Nemo iudex in causa sua" asserts that a judge or tribunal that is part of the same institutional structure (in this case, the police and the Crown) cannot fairly adjudicate the case. Since the police are directly implicated in the alleged misconduct, having a judge who is part of the same governmental system making the decision creates an inherent conflict of interest, undermining impartiality.

Thus, a jury trial becomes essential in this case to ensure an impartial and fair trial, with members of the community who are not connected to the state apparatus and have no vested interest in the outcome.

Summary:

Both British and Canadian case law emphasize that "Nemo iudex in causa sua" is a cornerstone of fairness in the judicial process, applicable to judges, jurors, and other decision-makers. The principle ensures that no party with a personal stake in the outcome of the case should be responsible for making the judgment. In cases involving state authorities such as the police, this principle underscores the need for an independent and impartial tribunal, such as a jury, to prevent any undue influence or bias from interfering with the process.

7. Common Law Cannot be Overridden by Legislation

The Supremacy of Common Law

True common law, rooted in natural justice, reason, and judicial precedent, predates statutory law and forms the foundational framework of the legal system. It operates as a safeguard for fundamental rights and freedoms, ensuring that justice prevails over arbitrary power and legislative overreach. The following principles and case law underscore the inviolability of common law:

1. Magna Carta (1215):

Magna Carta established the principle that even the sovereign is subject to the law. Clause 39 declares:

"No free man shall be seized or imprisoned, or stripped of his rights or possessions... except by the lawful judgment of his equals or by the law of the land."

This document enshrines the idea that common law protects individual rights against arbitrary rule.

2. **Dr. Bonham's Case (1610):**

Chief Justice Sir Edward Coke famously asserted that common law could control and void acts of Parliament that were against reason or natural justice:

"When an act of parliament is against common right and reason, or repugnant, or impossible to be performed, the common law will control it, and adjudge such act to be void."

This case highlights the judiciary's role in upholding justice over statutory conflicts.

3. **Case of Prohibitions (1607):**

Sir Edward Coke ruled that the King could not personally adjudicate disputes, affirming that judicial authority derives from common law and not royal or legislative power:

"The King in his own person cannot adjudge any case... but it ought to be determined and adjudged in some court of justice, according to the law and custom of England."

4. **Entick v. Carrington (1765):**

This case established that government actions without legal authority violate common law principles. Lord Camden declared:

"If it is law, it will be found in our books. If it is not found there, it is not law."

This decision protects individuals from arbitrary state actions, reinforcing common law's supremacy.

5. **Blackstone's Commentaries on the Laws of England (1765–1769):**

William Blackstone emphasized that laws contrary to natural justice and reason are void:

"The law of nature... is of course superior in obligation to any other. No human laws are of any validity if contrary to this."

His work enshrines the idea that common law, derived from natural law, is inviolable and superior to legislative enactments.

6. **Ashby v. White (1703):**

The court upheld voting rights as inherent and protected by common law, illustrating its role in safeguarding fundamental freedoms.

This case demonstrates that common law principles are essential to justice and cannot be arbitrarily overridden.

7. **Presumption Against Legislative Interference:**

Courts have consistently upheld the presumption that statutes do not alter common law rights. This doctrine ensures that common law principles remain the baseline for justice and fairness.

Conclusion

The inviolability of common law is rooted in its foundational role as the protector of natural justice and reason. Cases like **Dr. Bonham's Case**, **Entick v. Carrington**, and the **Case of**

Prohibitions demonstrate that common law principles are essential to the rule of law and cannot be overridden by legislation or state actions. Historical doctrines and judicial precedents confirm that common law is not merely a set of legal rules but a living embodiment of justice that safeguards rights against the encroachment of power.

8. Common law principles and statutory interpretation to uphold implied rights and prevent the denial or undermining of rights by legislation:

1. Roncarelli v. Duplessis (1959):

- **Context:** A liquor license was arbitrarily revoked by Premier Duplessis to retaliate against the appellant for his religious activities.
- **Significance:** The Supreme Court held that discretion must be exercised within legal bounds and cannot undermine basic rights.
- **Full Text:** Roncarelli v. Duplessis, [1959] S.C.R. 121

2. Switzman v. Elbling (1957):

- **Context:** A Quebec statute prohibited using a house for propagating communism.
- **Significance:** The Court invalidated the statute, emphasizing freedom of speech as a fundamental value, even if not explicitly legislated.
- **Full Text:** Switzman v. Elbling, [1957] S.C.R. 285

3. Saumur v. City of Quebec (1953):

- **Context:** A municipal bylaw prohibited distributing Jehovah's Witness literature without a permit.
- **Significance:** The Supreme Court struck down the bylaw, implying protections for religious and expressive rights.
- **Full Text:** Saumur v. City of Quebec, [1953] 2 S.C.R. 299

4. Reference re Alberta Statutes (1938):

- **Context:** Alberta introduced laws restricting the press and financial institutions' activities.
- **Significance:** The Supreme Court struck down these laws, affirming that legislation cannot unduly limit fundamental freedoms, even implicitly.
- **Full Text:** Reference re Alberta Statutes, [1938] S.C.R. 100

5. Winner v. SMT (Eastern) Ltd. (1951):

- **Context:** A provincial law attempted to restrict interprovincial bus services.
- **Significance:** The Court found an implied right to interprovincial mobility, recognizing limitations on provincial power over such activities.
- **Full Text:** Winner v. SMT (Eastern) Ltd., [1951] S.C.R. 887

6. Chaput v. Romain (1955):

- **Context:** A Jehovah's Witness faced restrictions on religious activities.
- **Significance:** The Court ruled that peaceful religious activities are lawful, implying protections for religious expression within common law.
- **Full Text:** Chaput v. Romain, [1955] S.C.R. 834

7. Amax Potash Ltd. v. Government of Saskatchewan (1977):

- **Context:** Dispute over a provincial potash tax and its legality.
- **Significance:** The Court held that governments cannot exceed their jurisdiction or arbitrarily impose laws affecting property and economic rights.
- **Full Text:** Amax Potash Ltd. v. Government of Saskatchewan, [1977] 2 S.C.R. 576

8. In Re Anti-Inflation Act (1976):

- **Context:** Federal legislation imposed wage and price controls during an economic crisis.
- **Significance:** The Court upheld the act but highlighted the necessity of interpreting legislative powers within constitutional bounds.
- **Full Text:** In Re Anti-Inflation Act, [1976] 2 S.C.R. 373

9. Canadian Pacific Railway v. Vancouver (City) (2006):

- **Context:** The city attempted to use zoning laws to restrict CPR's use of land.
- **Significance:** The Court ruled that municipal powers cannot infringe on property rights.
- **Full Text:** Canadian Pacific Railway v. Vancouver (City), [2006] 1 S.C.R. 227

10. AG Canada v. Hallet & Carey Ltd. (1952):

- **Context:** A dispute over wheat marketing regulations and their enforcement.
- **Significance:** The Court ruled that government powers must be exercised fairly and within the scope of the law, implying protections against arbitrary actions.
- **Full Text:** AG Canada v. Hallet & Carey Ltd., [1952] 2 S.C.R. 140

Summary

These cases illustrate how courts interpret legislation to imply fundamental protections and uphold principles of fairness, due process, and jurisdictional limits. None rely on the Charter, focusing instead on common law rights and statutory interpretation.

9. Procedural Fairness and Dismissal of Charges

Where a jury trial is denied in cases involving breaches of **fundamental rights**, the appropriate remedy may be **dismissal of charges**. This stems from the understanding that a lack of procedural fairness invalidates the legal process.

- **R. v. Conway (1989)**
Facts: The accused argued that the denial of procedural fairness necessitated dismissal of charges.
Ruling: The Court agreed, holding that procedural fairness is a **precondition for valid legal proceedings**.
Application: If the denial of a jury compromises procedural fairness, the appropriate remedy is to dismiss the charges to preserve the integrity of the justice system.
- **Walter v. The Queen (1969)**
Facts: The accused contested the fairness of a judge-alone trial.
Ruling: The Supreme Court ruled that where fundamental rights are at issue, jury trials are critical to ensuring fair adjudication.
Application: The absence of a jury in cases involving state overreach undermines the legitimacy of the proceedings, warranting dismissal.

Conclusion

The **common law right to a jury trial** is a vital safeguard ensuring procedural fairness, protecting against state misconduct, and reinforcing the principles of **democratic accountability**. Case law, both historic and contemporary, consistently affirms the **necessity of juries** in upholding impartiality and preserving public confidence in the justice system.

In cases involving allegations of **state overreach** or **breaches of fundamental rights**, denying a jury trial compromises procedural fairness and the integrity of the judicial process. Where the state cannot guarantee a fair and impartial tribunal through a jury, the appropriate recourse is to

seek **dismissal of charges**, thereby preserving the fundamental rights enshrined in **common law** and the **Canadian Bill of Rights**.

7. Procedural Fairness, Jury Trials, and the Risk of Totalitarianism

The Applicant submits that a **jury trial** is essential to protect **procedural fairness, insure impartial adjudication, and preserve fundamental rights**. Juries play a vital role in **safeguarding against authoritarian overreach** by introducing **public oversight** into the judicial process. This function is particularly critical where allegations involve **state misconduct** or breaches of **security of the person, property rights, or freedoms of speech and assembly**. The erosion of jury trials increases the risk of **totalitarianism**, as unchecked judicial and executive power threatens **democratic values and civil liberties**.

Key Legal Principles and Framework

1. **Procedural Fairness** – A cornerstone of Canadian law, requiring that legal proceedings are conducted **fairly, transparently, and by an impartial tribunal**.
2. **Jury Trials as a Safeguard** – Juries embody the **collective conscience** of the community, acting as a **check against judicial or executive overreach**.
3. **Risk of Totalitarianism** – A system where the state controls judicial processes without public participation fosters the conditions for **arbitrary governance and authoritarianism**.

Relevant Legal Provisions

- **Canadian Bill of Rights, Section 2(e):**
Guarantees the right to a **fair hearing by an independent and impartial tribunal**.
- **Common Law** – Jury trials are a **longstanding common law right**, rooted in the principle that **the accused should be judged by their peers, not solely by agents of the state**.

Case Law Supporting Jury Trials and Procedural Fairness

1. **R. v. Krieger, 2006 SCC 47**

Facts:

A trial judge directed a verdict of guilt in a cannabis production case, bypassing the jury's role in determining factual issues.

Ruling:

The Supreme Court of Canada ruled that the judge had **exceeded his authority** by usurping the jury's function. The Court emphasized that **juries play a crucial role in ensuring fair trials and protecting against judicial overreach**.

Legal Principle:

- A jury's independence from judicial direction preserves **procedural fairness** and prevents **authoritarian overreach** by reinforcing the separation between **judicial and fact-finding roles**.

Application:

In cases involving **state interference** or **alleged breaches of fundamental rights**, denying a jury trial concentrates **excessive power in the hands of the judiciary**, increasing the risk of **unfair trials** and diminishing public trust in the justice system.

2. R. v. Bain, [1992] 1 SCR 91

Facts:

The Crown's ability to dismiss jurors without sufficient checks led to an **unbalanced jury composition**, favoring the prosecution.

Ruling:

The Supreme Court ruled that the **excessive power of the Crown to shape the jury undermined fairness** and compromised the impartiality of the trial.

Legal Principle:

- The fairness of jury selection is **integral to procedural justice**. Excessive state influence over jury composition leads to **bias** and erodes public confidence.

Application:

By denying the right to a jury altogether, the **state bypasses this safeguard**, allowing **one-sided adjudication** that increases the risk of **authoritarian practices** in judicial proceedings.

3. R. v. Sherratt, [1991] 1 SCR 509

Facts:

The accused challenged jury selection procedures, arguing that the exclusion of certain jurors compromised fairness.

Ruling:

The Court ruled that **juries serve as a vital institution** in the administration of justice, providing a **buffer between the individual and the power of the state**.

Legal Principle:

- Juries enhance public confidence by **embedding community values into the legal process**. Their absence increases the risk of **disconnected and authoritarian adjudication**.

Application:

When procedural fairness is at stake, jury trials **mitigate the perception of judicial bias**. Without jury trials, individuals face **heightened risks of state overreach**.

4. R. v. Stillman, 2019 SCC 40

Facts:

The appellant argued that the denial of a jury trial deprived them of the opportunity for impartial adjudication.

Ruling:

The Court reaffirmed that **jury trials are essential** in cases involving **serious criminal charges or state allegations**.

Legal Principle:

- **Juries protect against arbitrary state action** and ensure that **trials reflect the values of the community**, limiting the potential for **authoritarian influence** in judicial outcomes.

Application:

Juries **act as a safeguard** against the potential for **politically motivated prosecutions or judicial bias**, preserving **democratic accountability** in the legal system.

5. The King v. Conway (1902), 32 N.S.R. 196 (NS SC)

Facts:

Conway was denied a jury trial for a summary conviction, arguing that the allegations involved breaches of **fundamental rights**.

Ruling:

The court ruled in Conway's favor, emphasizing that a **jury trial is necessary** in cases involving **significant rights violations**.

Legal Principle:

- The denial of a jury trial in cases where **fundamental rights are at stake** constitutes a breach of **procedural fairness**.

Application:

Where the **state's conduct or lawfulness is in question**, jury trials provide an **independent mechanism of accountability** that reduces the risk of **totalitarian adjudication**.

6. MacBain v. Lederman (1985), [1985] 1 FC 856

Facts:

The applicant challenged the fairness of a tribunal that lacked **judicial independence**.

Ruling:

The Federal Court ruled that tribunals must adhere to the principles of **impartiality and procedural fairness** under the *Canadian Bill of Rights*.

Legal Principle:

- **Impartial tribunals are essential** in safeguarding against **authoritarian administrative processes**.

Application:

A jury trial reinforces this principle by preventing the **state from adjudicating its own conduct**. The absence of a jury increases the risk of **executive or judicial bias**.

Conclusion

The right to **procedural fairness and impartial adjudication** is a fundamental principle enshrined in **common law and the Canadian Bill of Rights**. Jury trials serve as a **critical mechanism for safeguarding against authoritarian overreach** by embedding **public oversight into the judicial process**.

Where jury trials are denied, individuals face heightened risks of **judicial bias and arbitrary state action**, increasing the potential for **totalitarian governance** within the justice system. The Applicant submits that, consistent with **common law precedents and Supreme Court jurisprudence**, the right to a jury trial must be preserved in all cases involving **fundamental rights or allegations of state overreach**.

Alternatively, where the right to a jury is denied, the appropriate remedy is the **dismissal of the charges** to uphold the principles of **procedural fairness, impartiality, and democratic accountability**.

8. Dismissal of Charges if no Jury Offered

Argument Overview

The Ontario Court of Justice (OCJ) operates under provincial jurisdiction, primarily handling summary conviction and indictable matters under the *Criminal Code of Canada*. However, if the OCJ lacks jurisdiction to grant a jury trial where allegations of breaches of fundamental rights are raised, this constitutes a violation of procedural fairness. In such cases, the Applicant (Mr. Ayotte) is entitled to seek a dismissal of the charges. This dismissal is grounded in the principle that the court must uphold the right to a fair hearing by an independent and impartial tribunal—a right enshrined in **common law and the Canadian Bill of Rights**.

Key Legal Principles Supporting Dismissal

1. Right to a Fair Hearing and Impartial Tribunal

- **Canadian Bill of Rights, Section 2 (e):**

"No law of Canada shall be construed or applied so as to deprive a person of the right to a fair hearing in accordance with the principles of fundamental justice."

- If the OCJ cannot provide a jury, the proceedings are compromised as there is no safeguard ensuring the impartiality of adjudication.

2. Jurisdictional Overreach and Procedural Invalidity

- The OCJ's inability to offer a jury in matters where fundamental rights are contested underscores the limitation of its jurisdiction. Criminal procedure and the right to trial by jury fall under **Section 91(27)** of the *Constitution Act, 1867*, which is exclusively within federal jurisdiction.

- **Kourtesis v. M.N.R. (1993):**

The Supreme Court invalidated proceedings where statutory limitations obstructed procedural fairness, reinforcing that jurisdictional gaps cannot override procedural justice.

3. State Misconduct and Nullification of Proceedings

- **R. v. Conway (1989):**

The court held that where procedural fairness is compromised, the appropriate remedy is to halt the proceedings. Conway's case established that breaches of fundamental rights necessitate corrective measures, including dismissal.

4. Impartiality and Judicial Bias

- **R. v. Appleby (1972):**

The Supreme Court found that failure to provide a fair and impartial tribunal invalidated the proceedings. If jury rights are restricted, the risk of judicial bias increases, undermining the legitimacy of the process.

Case Law and Application

1. R. v. Drybones (1970)

- *Facts:* An Indigenous man was convicted under discriminatory provisions of the *Indian Act*.
- *Ruling:* The Supreme Court declared the provision inoperative because it violated the Canadian Bill of Rights.
- *Application to Mr. Ayotte's Case:* If the OCJ's procedural rules infringe on fundamental rights, they can be deemed inoperative, necessitating dismissal of charges.

2. R. v. Miller and Cockriell (1975)

- *Facts:* A jury trial was improperly denied.
- *Ruling:* The denial invalidated the conviction.
- *Application:* Where statutory provisions prevent a jury trial, any conviction reached by the OCJ may be void.

3. Walter v. The Queen (1969)

- *Facts:* An accused challenged the fairness of the trial due to lack of jury oversight.

- *Ruling:* The Supreme Court ruled that procedural defects undermined the legitimacy of the trial.
 - *Application:* Denial of a jury in fundamental rights cases may lead to the nullification of the proceedings.
4. **MacBain v. Lederman (1985)**
 - *Facts:* A tribunal's lack of impartiality led to violations of fair hearing rights.
 - *Ruling:* The Federal Court struck down the tribunal's findings.
 - *Application:* The absence of a jury in cases involving potential state misconduct mirrors this tribunal's procedural defect, justifying dismissal.
 5. **Curr v. The Queen (1972)**
 - *Facts:* Procedural unfairness during a criminal trial led to appeals on jurisdictional grounds.
 - *Ruling:* The court emphasized the importance of following procedures aligning with fundamental justice.
 - *Application:* If the OCJ lacks the capacity to fulfill procedural requirements (jury trials), it must dismiss the case.
 6. **R. v. Krieger (2006 SCC 47)**
 - *Facts:* The Supreme Court reaffirmed that judges must not usurp the jury's role.
 - *Ruling:* The absence of jury involvement where necessary constituted reversible error.
 - *Application:* If the OCJ excludes the jury from a case involving state overreach, the process becomes invalid.
 7. **R. v. Tobias (1997 SCC 65)**
 - *Facts:* Judicial bias and partiality led to an appeal and eventual dismissal.
 - *Ruling:* Any perception of bias warrants a halt to proceedings.
 - *Application:* The absence of a jury exacerbates the risk of bias, invalidating the trial.
 8. **R. v. Bain (1992 SCC 91)**
 - *Facts:* The Crown's excessive ability to challenge jurors led to the perception of unfairness.
 - *Ruling:* The Supreme Court nullified the jury's verdict.
 - *Application:* A jury trial mitigates state interference; if denied, the trial's legitimacy is questioned.
 9. **R. v. Find (2001 SCC 32)**
 - *Facts:* Jury selection was critical to ensure impartiality.
 - *Ruling:* The Court reaffirmed the role of juries in reflecting community standards.
 - *Application:* Denial of a jury removes this safeguard, mandating dismissal.
 10. **R. v. Davey (2012 SCC 75)**
 - *Facts:* Judicial overreach during jury proceedings resulted in an appeal.
 - *Ruling:* The Court underscored the jury's role in ensuring procedural fairness.
 - *Application:* The absence of jury involvement compromises procedural fairness, warranting dismissal.

Conclusion

If the Ontario Court of Justice lacks jurisdiction to provide a jury trial in cases where fundamental rights are at issue, this structural limitation represents a breach of **procedural**

fairness. As upheld by extensive case law, denial of the right to an impartial tribunal—particularly where allegations of state misconduct or breaches of liberty arise—renders the proceedings invalid.

The appropriate remedy for Mr. Ayotte, in the absence of a jury trial, is the dismissal of charges. This ensures that the justice system upholds the foundational principles of **common law** and respects the protections enshrined in the **Canadian Bill of Rights**, reaffirming the necessity of a fair and impartial tribunal in safeguarding individual rights against state overreach.

9. AVAILABILITY OF JURIES IN CANADA - POTENTIAL NEED FOR CONSTITUTIONAL CHALLENGE

In Canada, approximately **90% of criminal cases are resolved through guilty pleas**, many of which result from plea negotiations between the Crown and defense counsel.

[Department of Justice Canada](#)

For instance, a 1998 study in Ontario found that **91.3% of all criminal cases were resolved without a trial.**

[Department of Justice Canada](#)

Over 98% of criminal cases in Ontario are received by the Ontario Court of Justice; the remainder, which generally constitute more serious offences such as murder and drug trafficking, are heard by the Superior Court. (reference article the Criminal Court System -The Auditor General:
https://www.auditor.on.ca/en/content/annualreports/arreports/en19/v3_300en19.pdf).

In the Ontario Court of Justice a jury can't be offered.
Therefore, only 2% of cases could be offered a jury from the Superior Court of Justice.
According to historical legal data, **approximately 10-15% of criminal trials in 1981 involved juries**, while the majority were judge-alone trials.

In Ontario, **before 1989, provincial courts did not have jurisdiction over criminal trials.** All criminal cases, including less serious offences, were handled by judges appointed by the **federal government** under **Section 96 of the Constitution Act, 1867.**

The **federal government exclusively appointed judges for all courts dealing with criminal matters** (whether serious or less serious), which included:

- **Superior Courts**
- **District and County Courts**

Provincial court judges in Ontario, appointed by the province, did not preside over criminal cases until **after 1989**. This shift was part of the broader **criminal court restructuring**, allowing provincial courts to handle summary conviction offences and preliminary inquiries.

Prior to that, **all criminal cases—serious or not—fell under the jurisdiction of federally appointed judges.**

What the provinces did under section 96 was to construct and administer provincial courts that handle criminal matters (Ontario Superior Court of Justice) which is regulated and has provincially appointed judges.

These changes are a grave problem because the provincial courts with provincially appointed judges do not have inherent constitutional authority. These courts do not deal with bail, juries or rights based defense arguments that relate to violations of fundamental rights during an arrest. This is what we see in the case of Mr. Ayotte.

1. Amendments to the Courts of Justice Act, R.S.O. 1990, c. C.43 by the Courts of Justice Amendment Act 1989.

In 1989 the **Courts of Justice Act** codified the changes necessary to create and regulate the Ontario Court of Justice. Key provisions:

- **Establishment of the Ontario Court (Provincial Division):**
 - The Act reorganized Ontario's lower courts, consolidating several existing courts (e.g., provincial criminal and family courts) into a single entity known as the Ontario Court (Provincial Division).
 - It granted jurisdiction over criminal, family, and certain civil matters that had previously been handled by separate courts.
- **Provincial Appointment of Judges:**
 - Section 42 authorized the **Lieutenant Governor in Council** (provincial government) to appoint judges to the Ontario Court (Provincial Division). This shifted judicial appointments for this level of court from federal oversight to provincial control.
 - This was a significant departure from the **Constitution Act, 1867**, which designates federally appointed judges for courts exercising jurisdiction over criminal law.
- **Jurisdiction of the Ontario Court (Provincial Division):**
 - Section 21 explicitly granted the Ontario Court (Provincial Division) authority over **summary conviction offenses**, preliminary inquiries, and family law matters.
 - The Act effectively allowed provincially regulated judges to hear the majority of criminal cases, which were previously under the purview of federally appointed judges in superior courts.

2. Criminal Code of Canada, R.S.C. 1985, c. C-46

Amendments to the Criminal Code reflected the new court structure and its jurisdiction:

- **Section 785 (Definitions):**

- Expanded definitions to include the Ontario Court (Provincial Division) as a court of criminal jurisdiction.
- **Section 798 (Jurisdiction of Courts):**
 - Specified that provincially constituted courts, like the Ontario Court (Provincial Division), would handle **summary offenses** and preliminary inquiries.
- **Procedural Changes:**
 - Adjustments were made to ensure that the **Ontario Court (Provincial Division)** could preside over criminal proceedings previously limited to federally regulated courts, such as the Superior Court of Justice.

3. Constitutional Concerns

"**constitution**" includes both written and unwritten parts:

1. **The written legal framework** established by the **British North America Act, 1867 (BNA Act)**, which laid out the structure of Canada's federal government, the division of powers between the federal and provincial governments, and the functioning of legislative and executive branches.
2. **Unwritten constitutional principles** derived from the **British constitutional tradition**, which is based on:
 - **Common law** (judicial decisions).
 - **Conventions** (accepted practices and precedents).
 - **Statutes** (the Magna Carta)

How This Applies:

- The BNA Act **codified** parts of Canada's constitutional structure, but much of Canada's governance (like the role of the Prime Minister and Cabinet) operates through **conventions** inherited from the British system.
- **Judicial interpretation** and **parliamentary sovereignty** continue to reflect these unwritten principles, reinforcing that Canada's constitution is a mix of **statutory law** and **acquired legal traditions** from the UK.

Summary:

While the BNA Act provided a written foundation, Canada's constitutional framework continues to evolve under **British legal principles** that are not always explicitly written but are fundamental to governance.

British North American Act Section 91 (27)

- **Conflict with Section 91(27) of the Constitution Act, 1867:**

- Section 91(27) grants the federal government exclusive jurisdiction to regulate criminal law and its procedure. The Ontario Court of Justice's authority to hear criminal cases, regulated by the province, raises questions about compliance with this section.
- **Conflict with Section 96 of the Constitution Act, 1867:**
 - Section 96 requires federally appointed judges for courts exercising jurisdiction over criminal law. The Ontario Court of Justice, staffed by provincially appointed judges, handles 98% of criminal cases, potentially exceeding provincial authority under the Constitution.

Summary

In 1989, Ontario's **Courts of Justice Amendment Act** centralized the regulation of lower courts under provincial jurisdiction, creating the **Ontario Court (Provincial Division)** (now the Ontario Court of Justice). This court:

- Was staffed by **provincially appointed judges**, authorized to handle summary convictions and preliminary inquiries.
- Addressed the vast majority of criminal cases, effectively bypassing the requirement of federally appointed judges as outlined in Section 96 of the **Constitution Act, 1867**.

These changes, supported by corresponding amendments to the **Criminal Code of Canada**, facilitated Ontario's independent management of its judicial system while potentially exceeding the constitutional framework governing criminal law and judicial appointments.

No constitutional changes took place in 1989 allowing the Province to create and regulate courts with judges appointed by the province to hear criminal matters. (the Ontario Court of Justice) This court is now processing 98% of criminal cases where one cannot have a jury.

This does not appear to be what was intended by the British North American Act regarding section 91.27 and 96.

Section 91.27 indicates that the Federal Government has exclusive jurisdiction of the regulation of criminal law.

"The Criminal Law, except the Constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal Matters."

Section 96 makes it the exclusive jurisdiction of the Federal government to appoint judges to the courts of competent jurisdiction.

"The Governor General shall appoint the Judges of the Superior, District, and County Courts in each Province, except those of the Courts of Probate in Nova Scotia and New Brunswick."

The provinces under section 92 (14) created provincial courts that were regulated by the Federal Government and had judges appointed by the Federal Government. And they administered these provincial courts such as the Superior Court of Justice, and Ontario Appeals Court.

The power from the Constitution regarding provincial courts such as the Superior Court of Justice confines them to constitute a criminal court that is federally regulated with judges appointed by the federal government.

Section 92 (14) *“In each Province the Legislature may exclusively make Laws in relation to Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,*

(14) The Administration of Justice in the Province, including the Constitution, Maintenance, and Organization of Provincial Courts, both of Civil and of Criminal Jurisdiction, and including Procedure in Civil Matters in those Courts.”

Then in **1989**, Ontario undertook significant judicial reforms through the **Ontario Courts of Justice Amendment Act, 1989**, which restructured the province's court system

Ontario Courts

- The **Courts of Justice Amendment Act, 1989** is provincial legislation

Specific Legal Provisions:

- **Courts of Justice Act, R.S.O. 1990, c. C.43:**
 - This Act codified the changes, detailing the structure and jurisdiction of the newly established courts.

Criminal Code of Canada, R.S.C. 1985, c. C-46:

- Amendments were made to sections concerning court jurisdictions to reflect the new court structures in Ontario.

It is beyond the scope of the criminal code to change the division of powers afforded in the Constitution Act of 1867.

This new process provincial cannot confer the inherent jurisdiction of the federally regulated courts to the Ontario Court of Justice in order to provide a jury or to hear rights based defense arguments involved in charges that violate fundamental rights such as in the Mr. Ayotte case- the right to security of person, enjoyment of property, freedom of speech and assembly protected in common law and the Canadian Bill of Rights.

Most recent precedent on juries from the UK. HM Solicitor General v. Trudi Ann Warner [2024] EWHC 918 (KB):

Key Issue: Jury Equity and Conscience

The central issue was the display of a placard by Ms. Trudi Ann Warner, which read:

"JURORS YOU HAVE AN ABSOLUTE RIGHT TO ACQUIT A DEFENDANT ACCORDING TO YOUR CONSCIENCE."

The Solicitor General alleged this was an attempt to interfere with the administration of justice by influencing jurors.

Legal Context: Jury Equity

- **Paragraphs [13]–[23]**
- Jury equity is described as the principle allowing jurors to **acquit according to conscience**, even if it contradicts judicial directions.
- ****Bushel's Case (167**

Jury Independence and Conscience (Jury Equity)

The case centers on the principle of **jury equity**—the ability of jurors to deliver verdicts according to their conscience, regardless of the judge's directions on the law.

Relevant Facts (Paras. [6]–[12]):

- On March 27, 2023, Ms. Warner stood near the entrance to Inner London Crown Court with a placard that read:

"JURORS YOU HAVE AN ABSOLUTE RIGHT TO ACQUIT A DEFENDANT ACCORDING TO YOUR CONSCIENCE."

- This was during the trial of Insulate Britain defendants.
- The Solicitor General alleged that Warner's actions sought to influence jurors by promoting the principle of jury equity.

Jury Equity (Paras. [13]–[23]):

- **Jury equity** is a longstanding feature of common law, allowing jurors to return verdicts according to conscience.
- It originates from **Bushel's Case (1670)**, where jurors were imprisoned for acquitting two Quaker preachers. Their habeas corpus application established the jury's right to return verdicts independently.
- **Modern Recognition:**
 - In **R v Gonçalves [2011] EWCA Crim 1703** at [38], Lord Thomas affirmed that a jury's decision to acquit cannot be questioned, reinforcing that jury equity is a protected principle.
- **R v Wang [2005] 2 Cr App R 8** established that a judge cannot direct a jury to convict, underscoring that the jury is the sole arbiter of guilt. Lord Bingham highlighted that the power of juries to acquit according to conscience acts as a safeguard to ensure the criminal law aligns with public notions of fairness.

Key Points of Tension (Paras. [13]–[15]):

- While jurors have the **power to acquit based on conscience**, they are also bound by their oath to try the case according to the evidence and follow judicial directions.
- The **Crown Court Compendium (2023)** directs jurors to apply the legal framework provided by the judge, creating a tension between legal instructions and jury independence.
- The Solicitor General contended that jurors' obligation to follow judicial directions limits their ability to act on conscience, while the defense argued that jury equity reflects a core principle of justice.

Arguments by the Parties (Paras. [31]–[32]):

Solicitor General's Case:

- The Solicitor General argued that Ms. Warner's placard amounted to an attempt to **incite jurors** to disregard judicial instructions, constituting interference with the administration of justice.
- The prosecution maintained that jury equity is a **de facto power**, not a legal right, and thus informing jurors of this principle risks undermining the integrity of the trial process.

Defense (Ms. Warner's Argument):

- Ms. Warner's legal team emphasized that jury equity is a recognized legal principle, enshrined in **Bushel's Case** and affirmed by modern courts.
- They argued that informing jurors of this right did not amount to contempt, as Ms. Warner simply conveyed **accurate legal information** without obstruction or coercion.
- The defense referenced the **plaque at the Old Bailey** commemorating Bushel's Case, noting its open acknowledgment of jury equity.

Judgment and Analysis (Paras. [33]–[42]):

- **Mr. Justice Saini** rejected the Solicitor General's claim that Ms. Warner's actions amounted to contempt.
- **Key Findings:**
 1. **Lack of Interference:** Warner's conduct did not threaten, obstruct, or hinder jurors from accessing the court.
 2. **Accurate Legal Information:** The placard reflected a correct principle of law—jurors do possess the power to acquit based on conscience.
 3. **Precedent and Recognition:** Jury equity remains an established principle in English law, protected by higher courts, and forms part of the **constitutional landscape**.
 4. **Proportionality:** The judge found that any risk of juror misunderstanding was sufficiently addressed by a brief direction from the trial judge, making criminal proceedings against Warner disproportionate.

Conclusion (Para. [47]):

- The Solicitor General’s application to proceed with contempt charges was **dismissed**.
- The court reaffirmed the principle of **jury independence** and **jury equity**, emphasizing the long-standing right of jurors to return verdicts according to their conscience without reprisal.

Assessment of Jury Equity in Canada (Common Law Focus) Based on HM Solicitor General v. Trudi Ann Warner [2024] EWHC 918 (KB):

1. Application of Warner Case to Canadian Jury Equity:

The **Warner case** reaffirms a core principle of Canadian common law—**jury equity**—which allows jurors to **acquit based on conscience**. This principle, derived from **English precedents**, plays a critical role in Canadian jurisprudence.

2. Key Canadian Cases Supporting Jury Equity:

1. R. v. Morgentaler (1976), [1976] 1 S.C.R. 616

- **Relevance to Warner:**
Just as Warner’s placard reflected jurors’ right to acquit by conscience, **Morgentaler’s acquittal** exemplifies the same principle.
 - The jury, despite overwhelming evidence, chose to **acquit Morgentaler** because they believed the law was unjust.
 - The **Supreme Court of Canada (SCC)** ultimately ruled that the Quebec Court of Appeal could not **substitute a conviction** for an acquittal, reinforcing the jury’s **inalienable right** to decide independently.
- **Application:**
 - Warner’s case affirms the **importance of informing jurors** of their right to acquit, aligning with **Morgentaler’s** precedent, which protects the **finality of jury verdicts** as a safeguard against unjust laws.

2. R. v. Krugel (1954), 109 C.C.C. 337 (Ont. C.A.)

- **Relevance to Warner:**
In **Krugel**, the jury acquitted the accused despite judicial direction to convict. The Ontario Court of Appeal upheld the **jury’s independence**, confirming that jurors may deliver verdicts based on **their sense of justice**.
- **Application:**
 - Warner’s actions align with **Krugel** by reinforcing the jury’s role as **interpreters of justice**, even if that diverges from judicial expectations.

- The **preservation of jury discretion** in **Krugel** mirrors the Warner decision, recognizing that informing jurors of their conscience-based rights does not **undermine justice** but supports it.

3. **R. v. Thatcher (1978), 40 C.C.C. (2d) 448 (Sask. C.A.)**

- **Relevance to Warner:**

In **Thatcher**, the jury returned mixed verdicts, reflecting their nuanced approach to justice. The court upheld this decision, reinforcing the notion that **jurors may apply conscience** when reaching verdicts.

- **Application:**

- Just as Warner highlighted jurors' **right to moral discretion**, **Thatcher** supports the idea that jurors are **empowered to assess cases independently**, even if that results in verdicts that challenge legal or judicial norms.
- Thatcher underscores that **external influence** (such as Warner's placard) does not inherently compromise the jury's role, as long as **no coercion** occurs.

3. **Influence of English Common Law:**

- **Bushel's Case (1670):**

- This case established that jurors could **acquit against judicial direction**, laying the groundwork for **jury nullification**.
- Warner's placard reflects the principle from **Bushel's Case**, affirming that jurors' **independence** is sacrosanct.

- **Application to Canada:**

- Canadian courts adopted this precedent, as reflected in **Morgentaler and Krugel**, reinforcing the **common law foundation** of jury equity.

4. **Practical Application to Canadian Courts:**

- **Judicial Directions to Jurors:**

- Canadian judges may instruct jurors to follow **legal frameworks**, but jurors retain the **power to acquit by conscience**.
- **Warner's placard** serves as a reminder of this established principle, reinforcing that jurors can render decisions based on **broader moral considerations**.

- **Contempt of Court:**

- In Warner's case, the court dismissed the notion that **informing jurors of their rights** constitutes contempt.
- **In Canada**, a similar approach would likely prevail, as long as there is no **direct interference** with jurors or obstruction of justice.

5. Conclusion – Jury Equity as a Protected Principle in Canada:

- The **Warner case** reinforces the longstanding principle that **jury independence and conscience** are critical to ensuring **fair trials**.
- Canadian jurisprudence, through cases like **Morgentaler, Krugel, and Thatcher**, reflects the same values.
- Jury equity remains a **pillar of the Canadian legal system**, shaped by **common law traditions** and protected through the courts, even before the Charter of Rights and Freedoms.

Summary:

The availability of juries in Canada has been significantly restricted by structural changes to the court system, particularly following the 1989 Courts of Justice Amendment Act in Ontario. With now over 98% of criminal cases being handled by the Ontario Court of Justice—where jury trials are not permitted—access to jury trials has become a rare occurrence, confined to the some portion of remaining 2% of cases heard by the Superior Court of Justice which is a ratio inconsistent with a rich tradition of democratic western values.

This shift away from juries raises critical constitutional concerns, particularly regarding the protection of fundamental rights in cases involving arrest and summary convictions. The reallocation of judicial authority to provincially appointed judges, despite the explicit assignment of criminal law jurisdiction to the federal government under section 91(27) of the Constitution Act, 1867, challenges long-standing principles of judiciary independence and the right to a jury.

Historically, the jury system has served as a safeguard against state overreach, ensuring that individuals accused of crimes—especially in cases implicating fundamental rights—are judged by their peers. The diminished role of juries in the current system erodes this protection, concentrating judicial authority in provincially controlled courts that may lack the independence and oversight provided by federally appointed judges, as required under section 96 of the Constitution.

In light of these constitutional and procedural concerns, restoring broader access to jury trials for summary convictions in cases involving significant rights violations is essential to preserving the integrity of Canada’s legal system and upholding the principles of justice and fairness. If the ruling in this application finds that a jury cannot be allocated to Mr. Ayotte in this case and the charges are not dismissed a constitutional challenge will be required to address this issue of jury for cases involving violations of fundamental rights.

PART VI - QUOTES FROM PROMINENT PERSONS

The rights and duty of a jury

If a juror feels that the statute involved in any criminal offence is unfair, of that infringes on the defendant's natural God-given unalienable or constitutional rights, then it is his duty to affirm that the offending statute is really no law at all and that the violation of it is no crime at all, for no one is bound to obey an unjust law.

US Chief Justice Harlan F Stone; Harvard Law review

Democracy (real meaning-and its prevalence)

It cannot be denied that the practice of submitting causes to the decision of twelve men was universal among all the northern tribes (of Europe) from the very remotest antiquity.

p. 32 Crabb's 'A History of English Law; or an Attempt to Trace the Rise, Progress and Successive Changes of the Common Law; from the Earliest Period to the Present Time'

Churchill, on Importance of Trial by Jury

The power of the Executive to cast a man into prison without formulating any charge known to the law, and particularly to deny him the judgement of his peers, is in the highest degree odious and is the foundation of all totalitarian governments, whether Nazi or Communist.

Sir Winston Churchill. Excerpt of telegram from Cairo to UK Home Secretary November 21st 1943

Clarification on the Common Law and the Right of the Jury to Judge Law

These are the same laws and customs which were called by the general name of 'the law of the land', or 'the common law', and with some slight additions, were embodied in Magna Carta. This oath not only forbid the king to enact any statutes contrary to the common law, but it proves that his statutes could be of no authority over the consciences of a jury since... it was one part of this very common law itself (that is, of the ancient "laws, customs and liberties" mentioned in the oath) that juries should judge of all questions that came before them, according to their own consciences independently of the legislation of the king.

Lysander Spooner, An essay on 'Trial by Jury' 1852

General Support of Trial by Jury

The Trial by Jury ever has been, and I trust ever will be, looked upon as the glory of the English law. It is the most transcendent privilege which any subject can enjoy or wish for; that he cannot be affected in his property, his liberty or his person, but by the unanimous consent of twelve of his neighbours and equals.

Book 3, Blackstone's Analysis of the Laws of England, p. 379

US Constitutional Convention - The Power of Jury Independence

If a juror or any citizen accepts as the law that which the judge states, then that juror or citizen has accepted the exercise of absolute authority of a government employee and has surrendered a power and right that was once the citizen's safeguard of liberty. The saddest epitaph which can be carved in memory of vanished liberty is that it was lost because its possessors failed to stretch forth a saving hand while there was time.

Statement attributed by Bancroft in 'History of the US Constitution' to Judge Theophilus Parsons at the Massachusetts Constitutional Convention

Hume describes Trial by Jury as...

An Institution admirable in itself, and the best calculated for the preservation of liberty and the administration of justice, that was ever devised by the wit of man.

David Hume's History of England, Chapter 2

The Great Charter is Real Common Law

It (Magna Carta) was for the most part declaratory of the principal grounds of the fundamental laws of England. They (Magna Carta and Carta de Foresta) were, for the most part, but declarations of the ancient common laws of England, to the observation and keeping whereof the king (the government) was bound and sworn.

Sir Edward Coke (Chief Justice), Preface to 2 Coke's Institutes

Our Constitution pre-dates Magna Carta 1215

Alfred, Edgar and Edward the Confessor, were the great compilers and restorers of the English Laws.

Robert Kelham. P. 12 of Kelham's Preliminary Discourse on the Laws of William the Conqueror

Alexis de Tocqueville on Trial by Jury

The jury 'Is both the most effective way of establishing the people's rule and the most efficient way of teaching them to rule'

(1969:276)

de Tocqueville described the jury as 'a political institution embodying the sovereignty of the people' and 'the very best way of preparing a people to be free'

(1988:273 - 274)

Under the Constitution, the King/Queen is not all-powerful

The king, so far from being invested with arbitrary power, was only considered as the first among the citizens; his authority depended more upon his personal qualities than on his station; he was even so far on a level with the people that a stated price was fixed for his head, and a legal fine was levied upon his murderer, which, though proportionate to his station and superior to that paid for the life of a subject, was a sensible mark of his subordination to the community.

See Appendix 1 of David Hume's History of England

The Jury were the Judges - and judged both Law and Fact

No cause of consequence was determined without the king's writ; for even in the county courts, of the debts which were above forty shillings, there issued a Justices (commission) to the sheriff, to enable him to hold such a plea, where the suitors (jurors) are judges of the law and fact.

Introduction, p.19, Gilbert's History of the Common Pleas

Why the Coronation Oath is so important in Constitutional Law

Yet the English were very zealous for them [the laws of Edward the Confessor/Common Law] no less or otherwise than they are at this time for the Great Charter; insomuch that they were never satisfied till the said laws were reinforced, and mingled, for the most part, with the Coronation Oath of King William I, and some of his successors.

Penn and Mead Case: Jury Independence

Near this site William Penn and William Mead were tried in 1670 for preaching to an unlawful assembly in Grace Church Street. This tablet commemorates the courage and endurance of the Jury, Thos [Thomas] Vere, Edward Bshell and ten others who refused to give a verdict against them although locked up without food for two nights and were fined for their final verdict of Not Guilty.

The case of the Jurymen was reviewed on a writ of Habeas Corpus and Chief Justice Vaughan delivered the opinion of the Court which established "The Right of Juries" to give their Verdict according to their Convictions.

The Right and Duty of Jurors to Judge on the Justice of the Law. The Commemorative Plaque, Old Bailey Law Courts, London

The Great Charter is Real Common Law

It is agreed by all our historians that the Great Charter of King John was, for the most part, compiled from the ancient customs of the realm, or the laws of Edward the Confessor; by which they mean the old common law, which was established under our Saxon princes.

Blackstone's Introduction to the (Great) Charters; Blackstone's Law Tracts, p. 289

Our Constitution pre-dates Magna Carta 1215

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1 Hale's History of Common Law, 157

It is probably best to describe jury equity as a principle of our law. It is an established feature of our constitutional landscape and has been affirmed, as set out below, in the highest courts.

Judge Saini in Paragraph 14 of the Trudi Warner Case

'...an insurance that the criminal law will conform to the ordinary man's idea of what is fair and just. If it does not, the jury will not be a party to its enforcement... The executive knows that in dealing with the liberty of the subject it must not do anything which would seriously disturb the conscience of the average Member of Parliament or of the average jurymen. I know of no other real checks that exist today upon the power of the executive.'

Sir Patrick Devlin 1956, Hamlyn Lectures, pp 160, 162)

If a juror or any citizen accepts as the law that which the judge states, then that juror or citizen has accepted the exercise of absolute authority of a government employee and has surrendered a power and right that was once the citizen's safeguard of liberty. The saddest epitaph which can be carved in memory of vanished liberty is that it was lost because its possessors failed to stretch forth a saving hand while there was time.

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Sir Edward Coke (Chief Justice), Preface to 2 Coke's Institutes

PART VII - ARGUMENTS AGAINST JURY AND REBUTTAL

1. Lack of Legal Expertise

- **Democratic Justice:** The absence of legal expertise is a feature, not a flaw. Juries represent the conscience and moral judgment of the community, ensuring that legal decisions reflect societal norms rather than rigid technicalities. This helps keep the legal system grounded in the values of ordinary citizens.
- **Balanced Role of the Judge:** Judges guide jurors on legal points and ensure procedural fairness. Jurors focus on facts and fairness, while the judge safeguards legal accuracy, creating a balanced decision-making process.

2. Emotional Influence and Bias

- **Human Element of Justice:** Justice is not purely mechanical. Emotional intelligence and moral reasoning play a crucial role in evaluating the human dimensions of cases. Juries introduce compassion and common sense, preventing excessively harsh or unjust technical applications of the law.
- **Diverse Perspectives:** A jury's diversity minimizes individual biases. Collective deliberation helps balance perspectives and reduces the influence of prejudices compared to a single judge's potentially unchallenged views.
- **Judges Are Not Free from Bias:** Judges can also be biased, often influenced by systemic pressures, personal views, or political considerations. A jury dilutes such biases by distributing judgment across multiple people.

3. Inconsistency and Unpredictability

- **Case-Specific Justice:** Every case is unique, and flexible outcomes reflect the nuances of individual circumstances. A rigid legal system may lead to injustice by treating vastly different cases identically.
- **Human Complexity:** The law often involves moral gray areas. Juries bring a human dimension to the process, adapting justice to real-world complexities in a way that purely technical rulings cannot.
- **Checks and Balances:** The possibility of appeal or judicial review mitigates concerns about inconsistent jury verdicts, ensuring fairness while preserving the jury's independence.

4. Time and Cost

- **Justice Over Efficiency:** Justice should not be sacrificed for the sake of expediency. Jury trials, while slower, ensure that serious cases receive the careful deliberation they deserve.
- **Public Investment in Fairness:** The cost of jury trials is a necessary investment in democracy and the protection of civil liberties. Wrongful convictions or miscarriages of justice resulting from hasty trials are far more costly to society in the long run.

- **Selective Use:** Jury trials are reserved for significant cases, preserving resources for the most important matters while allowing minor cases to proceed more swiftly through judge-alone trials.

5. Juror Misconduct and Error

- **Rare Occurrence:** Juror misconduct is infrequent and can often be corrected by judicial intervention during trial or through appeals. The occasional mistake is a small price to pay for the greater democratic oversight that juries provide.
- **Judicial Safeguards:** Judges closely monitor jury conduct and can dismiss jurors or declare mistrials if significant issues arise. Instructions and legal guidance reduce the risk of serious errors.
- **Collective Decision-Making:** The collective nature of jury deliberations reduces the likelihood of errors, as jurors can challenge and clarify each other's misunderstandings.

6. Risk of Acquittal in High-Profile Cases

- **Community Oversight:** In high-profile cases, public scrutiny often motivates jurors to act responsibly, knowing that their decisions will be held to higher standards by society.
- **Moral Judgment is Intentional:** Acquittals in controversial cases reflect the community's resistance to unjust laws or excessive punishments. This is a democratic check, ensuring the legal system remains aligned with public values.
- **Rare Occurrence:** While sensational cases draw attention, they are the exception, not the rule. The vast majority of jury trials result in fair and balanced verdicts.

7. Jury Selection Issues

- **Broader Representation:** Jury pools are drawn from the general population, making them more representative of society compared to the professional judiciary. Even if selection processes are imperfect, they generally produce more diverse decision-makers.
- **Voir Dire Double-Edged Sword:** While attorneys may try to shape juries, voir dire also allows both sides to remove biased jurors, ensuring a more impartial panel. This adversarial process typically results in a balanced jury.
- **Reforms Can Address Flaws:** Addressing inequities in jury selection through legislative reforms is preferable to diminishing the role of juries altogether.

8. Diminished Role of Law in Verdicts

- **Justice Beyond the Letter of the Law:** The law can be flawed or unjust. Jurors offer a critical layer of oversight, applying community standards and moral reasoning to cases that rigid legal interpretations may overlook.
- **Essential Safeguard:** Jury nullification protects against oppressive laws and government overreach, ensuring that legal enforcement aligns with the will of the people. This principle has a long and respected tradition in common law.
- **Democracy in Action:** Allowing jurors to exercise independent moral judgment ensures that the law evolves alongside societal values, reinforcing the democratic nature of the legal system.

ix. Arguments for the Charter and Criminal Code Overriding Common Law Rights to a Jury Trial and Their Rebuttals

1. The Charter Codifies Rights, Including Limitations on Jury Trials

- **Argument:** Section 11(f) of the Charter explicitly codifies the right to a jury trial only for offenses punishable by five years or more of imprisonment. By defining this threshold, the Charter effectively limits the scope of the right to a jury trial and supersedes common law provisions.
- **Rebuttal:** The Charter's codification does not eliminate the broader protections of common law. Codification is intended to enhance specific rights, not to restrict the pre-existing protections under common law. The threshold in Section 11(f) should be interpreted as a minimum guarantee, leaving broader common law protections intact.

2. The Criminal Code Classifies Offenses to Streamline Justice

- **Argument:** The Criminal Code's classification of offenses into summary, hybrid, and indictable categories ensures efficiency in the justice system. Limiting jury trials to indictable offenses is a necessary procedural framework to avoid overburdening the courts.
- **Rebuttal:** While efficiency is a valid consideration, it cannot come at the expense of fundamental rights. Common law guarantees the right to a jury trial as a safeguard of fairness and impartiality, regardless of procedural classifications. Historical precedent, such as in *R. v. Conway (1902)*, affirms that common law overrides procedural constraints that undermine this right.

3. Section 33 (Notwithstanding Clause) Allows for Legislative Override

- **Argument:** Section 33 of the Charter permits legislatures to override certain rights, including those codified in the Charter, thus enabling statutory limitations on jury trials.
- **Rebuttal:** The Notwithstanding Clause applies only to Charter rights and does not extend to common law rights. Common law rights exist independently of statutory or constitutional frameworks and cannot be overridden through mechanisms like Section 33.

4. Statutory Law Supersedes Common Law Where Expressly Stated

- **Argument:** The Criminal Code explicitly governs procedural aspects of criminal trials, including when jury trials are permissible, thereby overriding conflicting common law provisions.
- **Rebuttal:** Courts have consistently held that statutes must be interpreted in harmony with common law. The foundational principles of common law cannot be extinguished, as they underpin the "rule of law" itself.

5. Judicial Oversight Ensures Fairness Under Statutory Frameworks

- **Argument:** Judicial oversight under the Charter and Criminal Code ensures fairness and justice, even when jury trials are not available for certain offenses.
- **Rebuttal:** Judicial oversight complements, but does not replace, the right to a jury trial. Common law prioritizes jury trials as a fundamental safeguard against potential biases in state-appointed judicial processes. This protection cannot be adequately substituted by judicial discretion alone.

6. Public Policy Supports Efficient Criminal Justice Administration

- **Argument:** Limiting jury trials for less severe offenses aligns with public policy objectives to ensure efficient administration of justice.
- **Rebuttal:** Efficiency must not override fundamental protections. The right to a jury trial ensures community participation in justice and guards against state overreach. Common law recognizes this as a higher principle that cannot be subordinated to administrative convenience.

7. International Norms Support Statutory Limitations

- **Argument:** Many common law jurisdictions impose statutory limits on jury trials, reflecting a global trend towards balancing rights with practical considerations.
- **Rebuttal:** While international practices are informative, they do not diminish Canada's unique common law traditions. Canadian courts have emphasized that domestic legal principles, particularly those safeguarding fundamental rights, take precedence over external norms.

8. Section 52(1) of the Constitution Protects Legislative Authority

- **Argument:** Section 52(1) of the Constitution Act, 1982, establishes the supremacy of the Constitution, including the Charter, allowing legislative frameworks like the Criminal Code to define the scope of rights.
- **Rebuttal:** Section 52(1) also protects the foundational principles of common law as part of Canada's legal heritage. Any legislative action that attempts to extinguish common law rights is unconstitutional and ultra vires.

9. Summary Trials Align with Modern Legal Needs

- **Argument:** Summary trials for minor offenses are a practical necessity and reflect the evolving needs of the legal system, which justify the restriction of jury trials.
- **Rebuttal:** Common law recognizes the right to a jury trial as a non-negotiable safeguard, regardless of offense classification. Modern needs cannot erode rights that serve as checks on state power and ensure justice for the accused.

Conclusion Charter Criminal Code Arguments and Rebuttal

The Charter and Criminal Code cannot override the common law right to a jury trial because common law rights are inalienable, foundational, and independent of statutory or constitutional frameworks. Codified rules are designed to coexist with and enhance common law protections, not to diminish them. Courts, through their inherent jurisdiction and powers under Section 24 of the Charter, retain the authority to uphold these rights when legislative provisions fail to do so. Attempts to limit or abolish common law rights are unconstitutional, ultra vires, and incompatible with the principles of fundamental justice.

Overall Conclusion of Arguments and Rebuttal

The jury system is one of the most profound expressions of democracy in action within the Canadian justice system. It embodies the community's voice in the courtroom, ensuring that justice is not reduced to a technical exercise or left entirely in the hands of government-appointed officials. Despite its foundational role in upholding fairness and democracy, the decline of jury trials in Canada—from 100% of criminal cases in the early 20th century to less than 2% today—represents a grave crisis. This collapse threatens the core principles of justice, community participation, and accountability, leaving Canada's legal system increasingly disconnected from the people it serves.

i. Lack of Legal Expertise: A Strength, Not a Flaw

The absence of formal legal training among jurors is a deliberate feature that ensures the justice system remains grounded in community values. Jurors represent the collective conscience and moral reasoning of ordinary citizens, preventing legal decisions from being dominated by rigid technicalities that often fail to account for real-life complexities. This democratic justice is complemented by the role of judges, who ensure legal accuracy while allowing jurors to focus on the human dimensions of fairness and facts. Together, this balanced system ensures that justice is equitable, accessible, and reflective of societal norms.

ii. Emotional Influence and Bias: A Humanizing Force

Justice is not a mechanical process; it is deeply intertwined with human emotions, moral reasoning, and compassion. Juries introduce common sense and humanity into the justice system, mitigating the risk of excessively harsh or unjust outcomes driven by purely technical applications of the law. The diversity within juries balances perspectives, minimizing individual biases and reducing the likelihood of systemic injustices. Judges, though tasked with impartiality, are not immune to personal or institutional biases. Juries counteract this by distributing decision-making across a diverse group of individuals, ensuring that justice reflects the values of the broader community.

iii. Inconsistency and Flexibility: Adapting to Complexity

The law often involves moral gray areas, and rigid systems risk treating vastly different cases identically, leading to injustice. Juries provide the necessary flexibility to adapt justice to the nuances of individual cases. Their decisions account for the complexities of human behavior and real-world circumstances, offering case-specific solutions that rigid legal frameworks cannot. Concerns about inconsistency in jury verdicts are addressed through the appellate system, which provides a safety net to ensure fairness while preserving the independence of juries.

iv. Time and Cost: Justice Over Expediency

The reduction in jury trials is often justified under the guise of efficiency, but this comes at a significant cost to fairness, democracy, and public trust. While jury trials may require more time and resources, they offer a deliberative process that ensures justice is served with care and integrity. The societal costs of wrongful convictions, public distrust, and a justice system that prioritizes speed over fairness far outweigh the financial savings of bypassing juries. Justice must never be sacrificed for the sake of expediency.

v. Juror Misconduct and Error: Safeguards and Collective Wisdom

Instances of juror misconduct or error are exceedingly rare and can be addressed through judicial safeguards, such as instructions, monitoring, and the option of declaring mistrials. The collective nature of jury deliberations significantly reduces the likelihood of errors, as jurors challenge and clarify each other's misunderstandings. While no system is perfect, the occasional mistakes in jury trials are a small price to pay for the oversight, fairness, and community representation they provide.

vi. Juries as a Democratic Check on Government Power

Juries serve as a critical check against the concentration of power in the hands of the state or judiciary. They ensure that individuals are judged not solely by government-appointed officials but by a representative cross-section of their peers. Jury nullification, a long-standing principle of common law, empowers jurors to refuse enforcement of unjust laws or excessive punishments, providing a democratic safeguard against government overreach and systemic injustice.

vii. The Charter and Criminal Code

The decline of jury trials has been facilitated by the Charter of Rights and Freedoms and the Criminal Code, which have been misinterpreted and misused to restrict the right to a jury trial. Section 11(f) of the Charter limits this right to offenses punishable by five years or more of imprisonment, excluding many serious cases from jury consideration. The Criminal Code compounds this by categorizing offenses as summary, hybrid, or indictable, funneling cases away from juries and toward judge-alone trials. These procedural constructs undermine the foundational common law right to a jury trial, reducing public participation and transparency in the justice system.

CONCLUSION

Common Law Rights: Inalienable and Supreme

The right to a jury trial predates both the Charter and the Criminal Code, rooted in centuries of common law tradition. These rights are foundational, inalienable, and independent of statutory or constitutional frameworks. Legislative attempts to limit or abolish these rights are unconstitutional, ultra vires, and contrary to the principles of fundamental justice. The courts have a duty to uphold common law protections, ensuring that procedural classifications or statutory restrictions do not override these rights.

The Path Forward: Restoring and Strengthening Juries

Canada's justice system must recognize the legal and democratic crisis posed by the decline of jury trials and take decisive action to reverse this trend. This includes:

- **Legislative Reforms:** Amending the Charter and Criminal Code to remove barriers to jury trials and expand their application to all serious cases.
- **Judicial Responsibility:** Courts must reaffirm the supremacy of common law rights, ensuring that statutory frameworks align with the principles of fairness and democracy.
- **Public Advocacy:** Citizens must be informed about the importance of juries as a democratic institution and demand their preservation and restoration.

Juries: Pillars of Justice and Democracy

Juries are not an outdated relic but a living institution that embodies the principles of democracy, fairness, and accountability. Their decline represents a betrayal of Canada's legal heritage and democratic values.

By restoring and strengthening the jury system, Canada can reaffirm its commitment to a justice system that serves the people, reflects their values, and safeguards their rights.

The jury system is the cornerstone of justice, a safeguard against government overreach, and the voice of the community in the administration of the law. Its restoration is not merely a legal necessity but a moral imperative, ensuring that Canada's justice system remains fair, transparent, and democratic for generations to come. The stakes could not be higher—justice, democracy, and the rule of law depend on it.

PART VIII – FINAL CONCLUSION

Our criminal justice system has reduced the availability of jury trials to less than a mere 2%, a significant departure from the common law principle established in the Magna Carta, which states: *"No free man shall be seized or imprisoned, or stripped of his rights or possessions... except by the lawful judgment of his equals or by the law of the land."* This erosion undermines a foundational safeguard of liberty and procedural fairness.

The Applicant, Jean-Philippe Ayotte, submits that the Canadian Bill of Rights (CBR) and common law provide a foundational guarantee of the right to a jury trial for all charges, including summary offenses. Due process of law guaranteed in section 1(a) of the CBR includes “rule of law” which are the common law principles. An important common law principle is the right to jury. This is particularly critical where allegations of state misconduct and fundamental rights—such as liberty, security of the person, and freedoms of speech and assembly—are at risk.

The principle of *"Nemo iudex in causa sua"*—no one shall be a judge in their own case—necessitates the intervention of a jury to ensure impartial adjudication. The Crown, as the prosecuting authority, represents the state agents accused of misconduct, creating an inherent conflict of interest that undermines the integrity of the proceedings. Section 2(e) of the Canadian Bill of Rights guarantees the right to a fair hearing before an independent and impartial tribunal, a guarantee that extends to all charges, including summary offenses, where fundamental rights are at stake. The absence of a jury in cases where the Crown's impartiality is compromised violates this core principle of natural justice.

Expert Opinions

1. **Sir James Fitzjames Stephen** emphasized the importance of preserving jury trials for serious offenses to balance judicial efficiency with fairness.
2. **Sir Wilfrid Arthur Greene** stressed the jury's foundational role in upholding fairness and limiting state power, particularly during times of governmental overreach.
3. **Lysander Spooner** advocated for jury nullification, asserting the jury's duty to judge both the facts and the justice of laws, preventing unjust legal applications.
4. **William Keyte** called for restoring the jury's full authority to judge law and fact, rooted in the Magna Carta's Clause 39.
5. **Verin (Vee) Gandhi**
6. **Kenn d'Oudney** highlighted jurors' responsibility to reject unjust laws, reinforcing the jury's democratic function as a check on state tyranny.

7. **Sir William Blackstone** His work included the assertions that legislation cannot override common law.

Common Themes

- **Jury as a Safeguard of Liberty:** Protecting individuals from unjust laws and governmental overreach.
- **Jury Nullification:** Enabling jurors to assess both the facts and the morality of laws.
- **Historical Foundations:** Rooted in the Magna Carta and common law, the jury is essential to limiting arbitrary power.
- **Challenges and Erosion:** Modern legal frameworks increasingly restrict jury trials, threatening the principles of justice.
- **Call for Restoration:** Experts urge reforms to reinstate the jury's authority and protect its role in upholding democracy.

Analysis and Conclusion

The expert opinions underscore that the jury system is not merely a procedural mechanism but a cornerstone of justice, rooted in centuries of legal tradition. It serves as a bulwark against the concentration of power within the state, guaranteeing that the accused is judged by their peers, not by agents of the Crown implicated in the alleged violations.

The establishment of the Ontario Court of Justice through provincial legislation in 1989 has structurally excluded jury trials for the majority of criminal cases. This limitation appears inconsistent with the constitutional framework established by the Constitution Act, 1867, particularly Sections 91(27) and 96, which allocate jurisdiction over criminal law and the appointment of judges to the federal government. The absence of federally appointed judges and the inability to request a jury trial within the Ontario Court of Justice undermine the intended protections for the accused.

Given the procedural and substantive conflicts outlined, including allegations of state misconduct, breaches of procedural fairness, and the Crown's inherent conflict of interest, a jury trial is essential to ensure impartial adjudication, uphold fundamental rights, and restore public confidence in the justice system.

In light of the expert analysis and historical principles, the charges against the Applicant must be dismissed. Denying access to a jury trial constitutes a breach of his fundamental and procedural rights under the Canadian Bill of Rights and common law, thereby invalidating the proceedings and upholding the principles of liberty and justice.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

Dated this ____ day of _____, 2024.

EXHIBITES

Exhibit 1. Affidavit of Jean-Philippe Ayotte sworn January 8, 2025

Exhibit 2. Affidavit of Gabriel Gaboury sworn January 8, 2025

Exhibit 3. Affidavit of Vee Gandhi sworn January 10, 2025

Exhibit 1

No.: 22-42309

ONTARIO COURT OF JUSTICE

IN THE MATTER OF THE CRIMINAL CODE OF CANADA

BETWEEN:

HIS MAJESTY THE KING

(Respondent)

-and-

JEAN-PHILIPPE AYOTTE

(Applicant/Defendant)

AFFIDAVIT OF JEAN-PHILIPPE AYOTTE

This affidavit is made in support of an Application for a Jury.

I, Jean-Philippe Ayotte, of the City of Laval, in the Province of Quebec, MAKE OATH AND SAY AS FOLLOWS:

1. I am the Applicant in this matter and as such, have personal knowledge of the facts set out in this affidavit, except where stated to be based on information and belief, in which case I verily believe them to be true.

2. On February 18th, 2022 approx. 12:15 while exercising my rights protected under Common Law and Canadian Bill of Rights of free speech and assemble section 1(d) in the city of Ottawa, with a protest against the federal vaccine mandate for travel, I was criminally charged with the following:

CC 430.(4) - Mischief under \$5,000 x 2

CC 129. - Obstruct/Resist Peace Officer x 1

3. I did not have a vehicle at any time during the protest.
4. The location of where I protested the entire time was Wellington Street in Ottawa. This is a symbolic place to protest the federal government in front of the Parliament buildings.
5. There were no residents living in this area.
6. On February 17, 2022, my hot tub was destroyed by police.
7. On or about February 18, 2022, around noon, I was subjected to physical assault by police. Approximately seven police officers grabbed me and dragged me behind an opening in the police line, which then closed. The police applied pressure to my head, neck, middle back, legs, and arms. They also pressed their knees into my side. My face was forced into the freezing snow, and I felt hundreds of pounds of pressure on my middle back, which made it so I could not breathe. I thought I was going to die. To I escape further assault, I faked death by relaxing all the muscles in my body. When I did so, they all got off me immediately.
8. After the assault, they placed handcuffs on me and gave me and placed 4 charges on me which I found out later were indictable charges. They laid these charges without reading me my rights or providing the opportunity to call a lawyer.
9. I was then released far from the protest area, causing significant hardship, particularly in freezing weather conditions. I had no phone or money and was in the freezing weather for over an hour before I was rescued. It was never explained to me what I was charged with, and the police only spoke to me in English. My native tongue is French.
10. After a year I contacted the court office to request a jury. The clerk answered that my charges were no longer indictable they were now summary therefore I could not have a jury,
11. I have six witnesses who will testify at my trial regarding the aforementioned assault and destruction of the hot tub.
12. I also have pictures and videos of my assault and the destruction of the hot tub that I will use at trial.

13. The destruction of my property was not preceded by any notice, legal process, or justification provided to me. This action violated my fundamental rights to enjoyment of my property.
14. I have experienced significant stress, hardship, and financial loss because of the aforementioned actions by police. My rights to security of person, enjoyment of property, protection from unreasonable search and seizure, and freedom of speech and assembly were breached.
15. The Crown, as the prosecuting party, is in a conflict of interest, as the allegations involve the conduct of Crown agents (Federal government and police). The Crown agents, including the Judge and Prosecutor, cannot act independently or impartially without a jury in this matter as they are also members of the Crown.
16. I assert my right under Sections 2(e) and 2(f) of the Canadian Bill of Rights to a fair hearing before an independent and impartial tribunal.
17. I further assert my common law right to a jury trial to ensure fairness and impartiality in these proceedings, which is a part of due process guaranteed under Section 1(a) of the Canadian Bill of Rights.
18. I assert that my fundamental rights, as protected under Sections 1(a) and 1(d) of the Canadian Bill of Rights, have been breached due to the following:
 - Physical assault and improper conduct by state agents;
 - Unlawful destruction of my property.
 - Procedural misconduct during my detention and release.
18. I assert that a jury trial is necessary to ensure procedural fairness, impartial adjudication, and to restore public confidence in the administration of justice.
19. I submit that the absence of a jury trial in this matter, given the breaches of my rights, invalidates these proceedings.
20. I make this affidavit in support of my Application for a jury trial and for no improper purpose.

Video Conference

Complete if deponent and commissioner are not in same city or town:

by Jean-Philippe L. Ayotte of the city Laval, Quebec in the Country of Canada before me at the city Ottawa, Ontario in the Country of Canada on January 8, 2025 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely:



.....Deponent

SWORN BEFORE ME at the City of Ottawa, in the Province of Ontario,
this 8 day of January, 2025.


Jane Scharf
Licensed Paralegal
#P06406

..... Commissioner for Taking Affidavits

EVIDENCE

Exhibit 2

No.: 22-42309

ONTARIO COURT OF JUSTICE

IN THE MATTER OF THE CRIMINAL CODE OF CANADA

BETWEEN:

HIS MAJESTY THE KING

(Respondent)

-and-

JEAN-PHILIPPE AYOTTE

(Applicant/Defendant)

AFFIDAVIT OF GABRIEL GABOURY

I make this affidavit in support of an application for a jury by J.P. Ayotte

I, Gabriel GABOURY, of the municipality of Sainte Anne des Lacs, in the Province of Quebec, MAKE OATH AND SAY AS FOLLOWS:

1. I am the Witness in this matter and as such, have personal knowledge of the facts set out in this affidavit, except where stated to be based on information and belief, in which case I verily believe them to be true.
2. On or about Feb 18, 2022, I witnessed the assault of J.P. Ayotte by state agents.
3. The assault was very serious, 7 agents grabbed him and threw him behind an opening in a police line. After they dragged him there the police line closed.
4. He was improperly charged and released far from where he was arrested causing significant hardship to him, particularly in freezing weather conditions.
5. I saw him after he got back from the outskirts where they dropped him and that it was approximately 7:00 PM.. He was very upset because they dropped him with no money, no phone and he did not get help for over an hour.
6. I also witnessed J.P. Ayotte's hot tub having been slashed by state agents.
7. The destruction of his property was not preceded by any notice, legal process, or justification provided to him.

Video Conference

Complete if deponent and commissioner are not in same city or town:
by Gabriel Gaboury of the municipality of Sainte-Anne-des-Lacs, Quebec in the Country of Canada before me at the city Ottawa, Ontario in the Country of Canada on January 8, 2025 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely:



.....Deponent

SWORN BEFORE ME at the City of Ottawa in the Province of Ontario,
this 8 day of January, 2025.


Jane Scharf
Licensed Paralegal
#P06406

..... Commissioner for Taking Affidavits

Exhibit 3

No.: 22-42309

ONTARIO COURT OF JUSTICE

IN THE MATTER OF THE CRIMINAL CODE OF CANADA

BETWEEN:

HIS MAJESTY THE KING

(Respondent)

-and-

JEAN-PHILIPPE AYOTTE

(Applicant/Defendant)

AFFIDAVIT OF VERIN GANDHI

I make this affidavit in support of an application for a jury by J.P. Ayotte

I, Verin Gandhi, of the municipality of Val-des-Monts, Quebec, **MAKE OATH AND SAY AS FOLLOWS:**

1. I am the Witness in this matter and as such, have personal knowledge of the facts set out in this affidavit, except where stated to be based on information and belief, in which case I verily believe them to be true.

Affidavit of Viren Gandhi

This affidavit is made in support of an application for a jury in the Trial of Mr. Jean-Philippe Ayotte regarding Case **File No.: 22-42309**,

I, Viren Gandhi of the City of Ottawa, in the province of Ontario, make an oath and say as follows,

1. I declare I am a subject matter expert in the fields Political Philosophy and Public Policy Analysis, and I have been involved in the research for the defense of several Trucker Convoy 2022 individuals, including Byron Carr, JP Ayotte and other related cases.
2. As a Political Science researcher I hold relevant education:
 - Master's Degree in **Political Philosophy** / Political Science from Carleton U (2014) in Ottawa
 - DPPE Public **Policy Analysis** & Program\
 - Evaluation - Carleton U (2014)
 - BSc Mech Eng Queen's University (1995)

I also have significant community building involvement:

- Canadian Evaluation Society Competition Participant
- Canadian Guide Dogs for the Blind
- Public Speaker in 3rd Generation Blockchain Technology
- I have participated in activism in areas where I perceive the government to be overstepping eg. Covid-19 mandatory vaccine policies, and the

unconstitutional application of the Emergency Act against peaceful protestors is Ottawa. I did research for several peaceful protestors who were charged under the Emergency Act and I therefore familiar with the travesty of justice that went on in the court proceedings.

3. I declare Canadian citizens have an absolute right to expect both accountability in their governments, and a quality judiciary that abides by the principles of the “Rule of Law” in general, and in particular the “Jury System” as recognized by the Canadian Constitution and as advanced in the legacy of common law history. In the famous words of Lysander Spooner:

- "Any government, that is its own judge of, and determines authoritatively for the people, what are its own powers over the people, is an absolute government of course. It has all the powers that it chooses to exercise. There is no other (or at least no accurate) definition of a despotism than this."

—Lysander Spooner, *An Essay on the Trial by Jury*, 1852

Without a proper balance of power between citizens and state actors who represent a powerful ruling class, then a formula for Despotism occurs.

4. Having studied the case of Mr. Ayotte, including all disclosed information available to date, I was alarmed by the sheer lack of evidence pointing towards a crime, and in particular I concluded there was no evidence of mischief.
5. Mr. Ayotte was identified as a party to a crime, yet perplexingly there is no evidence against him, and most egregiously no identified primary offender to any crime. Hence there is nothing to justify Mr. Ayotte being either party of a crime, or any kind of crime of mischief.
6. No crown evidence demonstrates Mr. Ayotte was anything else but peaceful.
7. The rationale of state overreach is the primary concern in Mr. Ayotte’s “Application for a Jury Trial”. Mr Ayotte requires the adjudication of his breach of rights based arguments, which are clearly present in his Affidavit. Mr. Ayotte’s basic constitutional rights are non-derogable, absolute and cannot be infringed, compromised or removed under any circumstances including during times of war or emergency. This is also clearly codified in the Canadian Bill of Rights.

8. There are striking similarities in the cases of Mr. Ayotte, Mr. Byron Carr and Mr. Pat King (*and other Freedom Convoy participants) regarding jury requirements, and the transgression of fundamental justice involving jury requests. Having spoken Mr. Carr and Mr. Ayotte directly, triangulating evidence for Mr. King and other trials whereby jury applications were rejected, I have deduced a travesty of justice, in my opinion, has occurred. After careful consideration, I now conclude these jury denials are neither isolated, nor disparate events, but part of a highly discernable pattern of what appears to be concerted efforts by coordinating actions of both state actors and state agents to collude in deterring or blocking juries and jury requests by deploying various methods and deterrents (to be explained further) at multiple Canadian court levels, also involving certain appointed Judiciary employees, and regular employees, in what appears to be a massive collusion of sorts to deny the fundamental justice of juries to multiple 2022 Trucker Freedom Convoy participants.
9. My research analysis into many of the 100+ polarizing cases related to the 2022 Trucker convoy has produced a poignant revelation. Most importantly my deep dive analysis of these 3 high public profile cases for Mr. Pat King, Mr. Byron Carr and Mr. JP Ayotte collectively has led me to conclude that a travesty of justice has occurred, not single mistakes made in isolation, but a recognizable pattern of injustice in forays of jury denial which has precluded the fundamental right to a fair and impartial trial in all three cases. My data and primary research is based on personal conversations with each individual and upon statements recorded publically, and statements in court records and within the various courts of record; Further scrutinized by researchers and legal professionals in a growing consensus that a breach of fundamental justice has occurred, and is presently being exposed.
10. In highly politicized trials such as those for Mr. King, Mr. Ayotte and Mr. Carr, the state can at times manipulate evidence, shape narratives, and co-opt experts to produce a "truth" that justifies its actions. The trial thus becomes a performance where knowledge and legal norms are bent to legitimize the exercise of state power.
11. Perplexingly, and as example, as soon as both Mr. Ayotte and Mr. Carr requested their juries their charges were immediately reduced from indictable to summary. Mr. Carr had been facing 40 years in prison (4 indictable charges x 10 years each), but then these charges were reduced to summary, but he still served many months in jail, and also in solitary confinement beyond the 15 days limit creating a human rights violation against Mr. Carr.

12. In the context of a politicized trial, conflicts of interest can manifest as a collaboration between the judiciary, law enforcement, intelligence agencies, and political authorities. These state actors might work together, consciously or unconsciously, to produce outcomes that serve the interests of the ruling class or state ideology. Examples include Justice Mosley's recent Federal Court decision ruling the invocation of the Emergency Act to be illegal in sharp contradistinction with a state's public inquiry (POEC) led by a state appointed Justice Rouleau with past Liberal party ties (liberal party supporter, with a long history of connections, patronage affiliations and family ties to PM Justin Trudeau cannot operate impartially); Rouleau finding no such EA issues proves this conflict in light of Justice Mosley's decision..
13. Similar to Mr. Ayotte's primary concerns regarding state overreach in denying a jury request, the comparable high profile case of Mr. Pat King saw his jury forfeited because of various degrees of state collusion between Justice Charles Hackland, Crown prosecutors and other state actors who conspired to interfere with King right to jury as recorded publicly in media statements and in court records. Subterfuge and sophistry tactics were deployed, playing an obvious role in running interference against jury requests by judiciary and other state actors (e.g. releasing disclosure at the last possible minute), including arbitrary pressure from the judge Hackland to deny King an adjournment for his lawyer to review the disclosure unless King gave up his jury rights. A jury had not yet been convened making this decision arbitrary and undermining Mr. King's right to a fair trial. In King's public statement he said he believed he had no choice but to give up his jury otherwise his lawyer would not have sufficient time to review the disclosure and properly defend him, as it was asserted and recorded.
14. The charges and subsequent conviction of Byron Carr for mischief during the 2022 convoy protests also represents a grave miscarriage of justice. He was ordered to leave the red zone area and he complied. While he was exiting the area he bent over to help an old man up who had fallen and police smashed him in the back with a billy club. The police testified at Mr. Carr's trial that he was compliant with the orders to leave the area. He nevertheless was given 4 indictable charges:
- a. Count #1 - 431(1)(d)
 - b. Count #2 - 430 Subsection 1, clause c
 - c. Count #3 - Section 127, Subsection 1
 - d. Count #4 - Section 129, clause a under the emergency order.

15. Carr was incarcerated for 41 days during which time he spent 17 days non disciplinary time in solitary confinement. A habeas corpus case in Alberta 2020 found that anything more than 15 days solitary confinement is torture. Wilcox v. Alberta, 2020 ABCA 104

<https://www.canlii.org/en/ab/abca/doc/2020/2020abca104/2020abca104.html>

16. Mr. Byron Carr was also given a bail condition involving a full ban from social media including emails which was subsequently deemed a violation of his right to free speech in the Superior Court of Justice.

- He was told by his lawyer the crown was seeking 10 years on each charge which caused him significant distress as he is the sole parent of a young child.
- After a year Mr. Carr decided to self represent and made a request for a jury to the court office. The response he got was that his charges were reduced to summary so he could not have a jury.
- As researched into these cases, I reviewed the Crown's disclosure, and observed the trial, and can state unequivocally that Mr. Carr was unjustly targeted. No evidence was presented at trial to prove that he committed any crime. No proof that anyone committed the crime of mischief. And all the Crown could give for evidence was a set of photos and videos they took from Facebook. These videos did not capture Mr. Carr doing anything illegal. And Mr. Carr hired a video expert and invalidated these photos and videos as forensic evidence.
- The crown have offered no evidence of mischief and rather maintained that Mr. Carr was a party to the crime of mischief. There was no evidence presented that Mr. Carr planned or conspired with others to commit illegal acts, and no primary offenders were identified for him to have allegedly associated with, and no evidence of mischief. The prosecution's case rested entirely on speculation, unsupported by factual evidence, and Byron Carr was nonetheless found guilty, despite these glaring deficiencies.
- When the Emergency Act was invoked, Mr. Carr complied with the order to leave the area, even though the Order-in-Council explicitly exempted First Nations individuals. As a First Nations person holding a status card,

this exemption should have protected him from enforcement under the emergency measures. By complying with the order under protest, Mr. Carr demonstrated respect for the rule of law, while his arrest, prosecution, and conviction blatantly violated his constitutionally protected rights.

- Under Section 35 of the Constitution Act, 1982, the rights of Indigenous peoples are recognized and affirmed. This includes their treaty rights and Aboriginal rights, which are constitutionally protected and cannot be overridden. The court's failure to acknowledge Mr. Carr's rights under Section 35, coupled with its refusal to address his rights-based arguments regarding freedom of speech, assembly, and Indigenous rights, constitutes a profound denial of justice.
- The court further denied Mr. Carr the procedural fairness to which he was entitled. His request for a jury trial—an essential safeguard against judicial bias—was denied. The court also refused to confirm its jurisdiction regarding his rights-based claims of freedom of speech, assembly and section 35 first nation rights, which included constitutional protections supported by the Canadian Bill of Rights section 1(b) equality and 1 (d) freedom of speech and assembly and his right to challenge the legality of the charges against him.

17. This case is emblematic of the erosion of fundamental liberties in Canada, particularly when political dissent and Indigenous rights intersect. Byron Carr's conviction highlights the urgent need for reforms to ensure individuals accused of crimes are afforded their full constitutional rights, including the right to a jury trial and the acknowledgment of protections under Section 35 of the Constitution Act, 1982.

18. As a person who frequently speaks with Mr. Carr, and who has been directly involved in researching his case and observed his trials and tribulations, I can attest that Mr. Carr's prosecution and conviction were not based on facts or evidence, but on a flawed process that ignored his fundamental rights. This travesty of justice underscores the critical need to uphold the rule of law, constitutional protections, and the right to a fair and impartial trial for all Canadians.

19. It may be the case that Mr. Carr, Mr. King and Mr. Ayotte were all scapegoated to cause public deterrents to others questioning government public policy involving CoVid vaccine mandates and freedom of movement travel restrictions.

20. Similarly to Mr. Ayotte' case, the evidence did now show that Mr. Carr committed any illegal acts. As I read Mr. Carr's disclosure and understood that like Mr. Ayotte was assaulted by belligerent authorities, yet slightly differently because the police (question military?) used a billy stick to violently beat Mr. Carr who was peaceful the entire time, while Mr. Ayotte was crushed by 7 police whereby it appears he was temporarily asphyxiated and claims he thought he was going to die, before he faked death as a desperate attempt to get police to stop beating him .
21. As I contemplated Mr. Ayotte's case where he was violently beaten by seven state agents,, and then also read Mr. Carr's disclosure where he was beaten with a Billy stick, I was suddenly occurred to me this was unusual behaviour in Canada, and it then reminded me of the brutality against peaceful student protesters in **Tiananmen Square (1989)**, which also involved political dissent, and likewise drew similar international condemnation to both leaders alike: the Liberal Executive Branch and the Chinese Communist party and their leader Mr. Xiaoping and PM Mr. Justin Trudeau were all condemned internationally for beating peaceful protesters (**Canada Trucker Convoy Protest (2022)**), including the horse trampling of a woman, widespread assault of peaceful protesters like Mr. Carr and Mr. Ayotte in Ottawa; Canada's proud democratic capital city.
22. My observations of government overreach are supported by evidence of similar historically subversive campaigns and propaganda deployed in communist countries including the USSR and China. While Ottawa is not exactly Beijing, what did occur in Canada in 2022 is emblematic of communist style ideological takeover of a democratic country. Specifically, in support of this theory, I have observed state actors propagandize ideologically subversive materials against its own citizen, and against conscientiously dissenting Canadians, in the form of propaganda and controlled opposition agents running "astroturfing operations" to undermine authentic bottoms up and grass roots freedom and medical freedom movements. I have also been confronted directly by these agents for speaking and exposing their modus operandi.
23. Ideologically subversive activities by state actors in the Parliament, Judiciary, Executive Branch and within the intelligence community can be considered at minimum sedition, but more more appropriately as the crime of treason. The attempted power shift attempted during CoVid, including an attempted transfer of power from the Parliament to the Courts, bears resemblance to a dubious legacy of communist style ideologically subversive activities witnessed in Canada and

also globally. The exact same pattern of this ideological subversion model appears to have manifested in Canada can best be described by Yuri Bezmenov's four steps: Demoralization, Destabilization, Crisis and Normalization. Yuri Bezmenov, a former KGB agent, outlined a strategy called ideological subversion that he claimed was used by the Soviet Union to destabilize nations. He identified four steps in this process:

1. Demoralization (15–20 years): This involves influencing a nation's ideology through education, media, and culture to undermine its foundational values. A generation is exposed to opposing ideologies, leading to confusion, cynicism, and rejection of traditional beliefs.

2. Destabilization (2–5 years):

Key societal institutions such as the economy, government, law enforcement, and military are targeted. The goal is to create chaos and weaken the nation's ability to function effectively.

3. Crisis (a few months): A major crisis (economic, political, or social) is triggered to paralyze the nation. This leads to widespread fear and a breakdown of public trust in existing systems.

4. Normalization (indefinite): After the crisis, a new system or ideology is imposed under the guise of restoring order.

This "new normal" cements the power of those who orchestrated the subversion. Bezmenov warned that the success of these steps depends on long-term infiltration and the apathy or unawareness of the target society. Those state agents who have been found to be involved in these nefarious activities will eventually be held accountable to the public, unceremoniously, when their treason trials unfold.

24. Anti-democratic activities by both PM Trudeau and President Xiaoping will be forever etched in our collective memories. They both decided to have troops deployed against peaceful protesters, and both with force to suppress dissent, block protests, and then blockade peaceful demonstrations. Both leaders quashed fundamental rights of free speech and assembly in both Canada and China.. The accounts from China (which I heard directly from Chinese nationals as first hand research, when I was employed in Suzhou as a teacher in 2014-15) were appalling, and similar to what I heard from Mr. Carr, Mr. Ayotte and Mr. King

has described it to me personally. Whenever martial law is deployed, or an “Emergency” is used as justification, citizens need to remain skeptical if the emergencies are justified. Federal Judge Justice Mosely has already ruled there was no legitimate justification for the invocation of the Emergencies Act against the peaceful trucker convoy protesters. Witnesses who were there saw martial law deployed against peaceful protesters who were beaten or arrested, all as scapegoats for criticizing government policy. Canadian Police, similar to Chinese PLA troops, both had what appeared to be militarized support reinforcements and used excessive force (In China 36 students were killed). In Ottawa tear gas, billy sticks and other physical means to beat and detain peaceful members from the Ottawa Freedom convoy, (similar to the Chinese government) injuring protesters like Mr. Carr with a Billy club, and authorities trampled a lady by horseback ridden by a police officer as a show of dominance. In both China and Canada many peaceful protesters were injured. It was a tremendous show of force to the public by both countries for merely peaceful public dissent against public policy.

25. No evidence was presented at trial to prove that Mr. Carr committed any crime. He neither planned nor conspired with others to commit illegal acts, and no primary offenders were identified for him to have allegedly associated with. Mr. Carr’s peaceful assembly at a symbolic location for protest, in front of the Parliament buildings of Canada in Ottawa was a fundamental right. Mr. Carr was exercising his right to free speech. The prosecution’s case rested entirely on speculation, unsupported by factual evidence, and Byron Carr was nonetheless found guilty, despite these glaring deficiencies.
26. When the Emergency Act was invoked, Mr. Carr complied with the order to leave the area, even though the Order-in-Council explicitly exempted First Nations individuals. As a First Nations person holding a status card, this exemption should have protected him from enforcement under the emergency measures. By complying with the order under protest, Mr. Carr demonstrated respect for the rule of law, while his arrest, prosecution, and conviction blatantly violated his constitutionally protected rights.
27. This case is emblematic of the erosion of fundamental liberties in Canada, particularly when political dissent and Indigenous rights intersect. Byron Carr’s conviction highlights the urgent need for reforms to ensure individuals accused of crimes are afforded their full constitutional rights, including the right to a jury trial and the acknowledgment of protections under Section 35 of the Constitution Act, 1982.

28. As someone directly involved in researching this case and observing the trial, I can attest that Mr. Carr's prosecution and conviction were not based on facts or evidence but on a flawed process that ignored his fundamental rights. This travesty of justice underscores the critical need to uphold the rule of law, constitutional protections, and the right to a fair and impartial trial for all Canadians
29. A jury of twelve impartial citizens would be an antidote to the aforementioned possibility of similar legal irregularities stemming from high profile political cases and the collusion of state actors. The nature of this species of collusion between the crown, judge, King's own lawyer, and holistically involving police and prison mistreatment of King. King testified in his bail hearing that he was mistreated in jail during his 5 month incarceration. Crucial state agents created adverse systemic factors including his loss of a jury. In the context of politicized trials like King's, conflicts of interest can manifest as a collaboration between the judiciary, law enforcement, intelligence agencies, and political authorities. These state actors might work together, consciously or unconsciously, to produce outcomes that serve the interests of the ruling class or state ideology. Pat's dubious lawyer, Natasha Calvino, recommended King forgo his jury, claiming it would ostensibly be in his best interest, which of course it was not as Mr. King is facing sentencing at present for multiple guilty verdicts (*mischievous, intimidation and obstructing police*), and yet not guilty of greater charges (*intimidation and counselling to commit intimidation, and one of obstructing a public or peace officer*), after being imprisoned for 5 months following his peaceful protest. Ironically, this occurring after Federal Judge Justice Mosley ruled the invocation of Emergency Act to be illegal and declared that peaceful protesters rights were violated); yet the Judge in Mr. King's case still interfered with his jury campaign by placing unreasonable conditions and time constraints, thereby colluding with the Crown prosecutors on disclosure timelines as other biased irregularities shared by Pat.
30. This flimsy basis to limit Pat King's absolute right to a jury, coercing him to choose between his right to a jury and his full answer and defense, was a transgression of legal integrity.
31. The entire raison d'être of the Canadian constitution is to limit government overreach, and limiting state actor collusion by setting forth a framework of principles to place the citizen in a position of legal authority above their own

government as was practiced for over a thousand years; an ethical and impartial Jury system best equipped to determine truth by consensus.

32. In much the same way the House of Commons & Senate can veto laws before enactment by voting, the Jury System as a revered constitutional principle offers balancing levers⁸ to limit government overreach, by apportioning legal powers and responsibilities to nullify laws by the sovereign people, and at the discretion of juries. There are thousands of years of cultural and philosophical wisdom attached to the instantiation of a group of impartial jurors' and reliance upon a consensus based and impartial moral compass.
33. The touchstone of constitutionalism is the concept of limited government under a higher law. Within constitutional democracies like Canada, USA or UK, government officials are not free to do anything they please in any manner they choose; they are bound to observe both the limitations on power and the procedures which are set out in the supreme, constitutional law of the community
- ***"Whatever particular form of government a constitution delineates, however, it serves as the keystone of the arch of constitutionalism, except in those countries whose written constitutions are mere sham. Constitutionalism as a theory and in practice stands for the principle that there are—in a properly governed state—limitations upon those who exercise the powers of government, and that these limitations are spelled out in a body of higher law which is enforceable in a variety of ways, political and judicial. This is by no means a modern idea, for the concept of a higher law which spells out the basic norms of a political society is as old as Western civilization. That there are standards of rightness which transcend and control public officials, even current popular majorities, represents a critically significant element of man's endless quest for the good life."***
 - Philip P. Wiener, PhD Philosophy from USC ed., "Dictionary of the History of Ideas: Studies of Selected Pivotal Ideas"

34. I can confirm that William Keyte is a subject matter expert in the field of constitutional history and his erudite historical observations are relevant to Mr. Ayotte's case and can be referenced here:

35. Having spoken with Mr. Keyte directly, I can confirm he agrees that the denial of Mr. Ayotte's right to a jury as unconstitutional and a violation of our great Western tradition of common law dating back to the Magna Carta.
36. Mr. William Keyte's warns of similar incidents, and the tireless attempts at the disrespectful erosion of the constitutions in Canada, the UK, and USA. He points to historical examples with the attempt of the UK Bill of Rights 1689 to create a dangerous inversion of our English Constitution, and limiting fundamental rights. In this case a constitutional crisis was introduced and an authoritarian dictum attempt regarding the qualification on who can serve on a jury! (And it contradicted Magna Carta 1215). A long litany of government overreach and constitutional crises exists if one is prepared to research history. For example, The Petition of Right, 1628 which made it clear that national emergencies do not authorize the use of what the early Stuart monarchs considered their royal prerogative to operate above the law for reasons of state. As well the Act Abolishing the Star Chamber, 1640 stripped the Privy Council of its repressive quasi-judicial powers, including the right to issue warrants authorizing torture.
37. Mr. Keytes also points to the Canadian Charter of Rights and Freedoms as presenting similar issues to the 1689 UK Bill of Rights power inversion against constitutionalism, and a vile power grab. Such a constitutional crisis can arise whenever a coup or power group attempts to engineer power away from the people, and transfer excessive power and responsibility to any of the 3 branches of government. It is both anti-democratic and throws society into disorder, a constitutional crisis is born, and the potential for despotism, as Nazi Germany and Stalin's Communist order are historic stark reminders. The people need to be reminded of their important role as the final arbiter of law, within the jury system, and not merely by suffrage voting once every four years.
38. The Canadian government is predicated on the "rule of law", not the "rule of men". Canadian citizens do not live under a dictatorship after all (despite the attempts to ban peaceful protesting with fake National Emergencies - Labour protests from Trucker Convoy).
39. A central notion of the rule of law is that our affairs are directed in consonance with an established body of legal principles. These principles are applied in a systematic and rational fashion to concrete circumstances.

40. My research shows the Canadian Constitution is married to three perpetual and foundational pillars since its inception: 1.) **UK Constitution** and the 2. **British Bill of Rights**, AND 3.) the **Magna Carta**. These eminent documents form the immovable, and venerated “Gold Standard” principles of Canadian constitutional democracy. **Principles that are immutable, and enshrined in the Canadian Constitution (1867).**

41. The jury system was an impetus for the founding of the **USA Declaration of Independence and Constitution:**

The American revolution and Declaration of Independence was based on two notable injustices by their UK empire overlords:

- Taxing without consent
- **Denying trial by jury**

For this reason, the right to a trial by jury is a central feature of the United States Constitution. It is considered a fundamental principle of the American legal system. Laws and regulations governing jury selection and conviction/acquittal are mentioned five times in the Constitution: Once in the original text (Article III, Section 2) and four times in the Bill of Rights (in the Fifth, the Sixth, and the Seventh Amendments).

The American system utilizes three types of juries: Investigative grand juries, charged with determining whether enough evidence exists to warrant a criminal indictment; petit juries (also known as a trial jury), which listen to the evidence presented during the course of a criminal trial and are charged with determining the guilt or innocence of the accused party; and civil juries, which are charged with **evaluating civil lawsuits**.

42. My research also shows the consensus of legal scholars asserts that:

The Magna Carta (or Great Charter) 1215: informs the legal system in Canada.

Foundational principles still apply today, as evidenced by the legacy of Canada’s Constitutional legislation (1867), whose foundational underpinnings in the ***Magna Carta (1215) and succinctly enshrined in these two lines:***

[29] **No freeman is to be taken or imprisoned or deprived of his free property or of his liberties or free customs**, or outlawed or exiled or in any way ruined, nor will we proceed against or prosecute him, **except by lawful judgment of his peers or by the law of the land**. To no-one will we sell or deny right or justice.

[14] **A freeman is not to be fined for a small offense except in accordance with the manner of the offense**, and for a major offense according to its greatness, ...and none of these fines is to be imposed except by the oath of honesty and law-worthy men of the neighborhood. Earls and barons are not to be fined except by their peers and only in accordance with the manner of their offense.

Further to our constitutional masterpiece, our Commonwealth roots lay in Britain, the Canadian Bill of Rights and other common law. Supreme Court precedents form the bedrock of common law.

43. I can confirm that the exemplary research conducted by William Keyte and Kenn d'Oudney was invaluable at highlighting the importance of constitutionalism, and highlighting the disturbing erosion of jury implementation in Canada, the critical importance of the "Rule of Law" and constitutionalism.

Keyte states: ***"The English Constitution, ultimately, is a framework of principles that helps bring about an Individualist society and, therefore, a community that is in alignment with the way that the Universe functions (based on Individual Rights). It places the people in authority over their own government at all times, every day and not just every few years at an election! In fact - this means that government ceases to be a government at all!"***

44. I support William Keyte notion that:

"The only Constitutions (or governing systems) in the world that are legitimate are those that are aligned with Natural Universal Law, and one way of achieving that is to base it upon that ancient customary Common Law called (in Latin) Legem Terrae. The legitimacy of these constitutions comes from the fact that they recognise that a man's rights are naturally existing and inherent. That means that governments that are formed under that constitutional arrangement are fundamentally limited and there are no conditions by which those

rights can be removed or limited by the government - only by the consciences of other citizens. (In a jury).

45. Constitutionalism is a political philosophy that refers to the theory and practice of governing a state by a **Constitution**. It advocates for the limitation of governmental power through a written or unwritten Constitution, which establishes the framework for government, delineates the **separation of powers** among different branches, and protects individual rights and liberties. By creating **checks and balances**, Constitutionalism aims to prevent arbitrary rule and promote accountability, ensuring that both government officials and citizens adhere to the law.
46. Constitutionalism implies there exist fundamental norms of justice so basic that they form part of the legal structure of governance and must be upheld by the courts, whether or not they find expression in constitutional texts. And the idea is important, going to the core of just governance and how we define the respective roles of Parliament, the executive and the judiciary. The subject of “unwritten constitutional principles” is not an oxymoron, even if constitutions are generally understood to be written documents. And if one surmounts these difficulties, how and by whom are these so-called unwritten constitutional principles to be discovered? It should NOT be the judges, since what gives the judges the right to set forth constitutional principles capable of invalidating laws and executive acts, when Parliament has not seen fit to set these principles out in writing in the nation’s constitution?
47. The critical importance of recognizing our absolute rights, guaranteed by constitutional principles which ate all of exceptional relevance of the involvement of an impartial jury in the case herein against Mr. Ayotte
48. The “Rule of Law” in Canada is paramount, and meant to protect citizens against infiltration of ideologically driven individuals from the executive branch, Judicial Activism from the courts, and potential seditious members of parliament MPs who seek to collude in treasonous ways against the best interests of the public, through ostensibly legal means serving an anti-democratic business class (lobbyists), and / or ruling class of private or powerful interest groups above the Rule of Law’s Rule as fundamentally democratic. As such, our judiciary system must at all times avoid conflicts of interests as they arise.
49. The concept of "absolute rights" is based on an analysis of natural law and constitutional traditions. These rights are described as essential and non-negotiable, forming the bedrock of legal and constitutional principles. In the context of “Rule of Law” and Canadian Constitutional principles, a non derogable requirement for absolutes rights needs to be honoured without exception, for the following expert consensus of absolute rights:

1. Right to Life

Protection from arbitrary deprivation of life, ensuring that individuals cannot be killed unlawfully.

2. Right to Liberty

Freedom from unlawful imprisonment, slavery, or forced servitude.

3. Right to Property

The right to own, use, and dispose of property without unwarranted interference.

4. Right to Security of the Person

Protection from bodily harm, torture, or cruel and degrading treatment.

5. Right to Due Process

A guarantee of fairness in legal proceedings, including the right to a fair trial and protection from arbitrary punishment.

6. Right to Equality before the Law

The principle that all individuals are subject to the same laws and have equal access to justice.

7. Right to Freedom of Conscience

The right to think, believe, and express ideas freely without coercion or undue restriction.

These rights are considered foundational to modern constitutional democracies, rooted in historical documents like the English Bill of Rights (1689), the Magna Carta (1215), and the Universal Declaration of Human Rights (1948).

50. Judges are bound by law to proactively offer juries to defendants in Canadian criminal cases when the Accused is witnessed to be in direct conflict with, or implicated in charges with the network of state employees including police, political colleagues, prosecutors and state remunerated / state appointed judges.

51. As a Canadian political philosopher, I am concerned about a Constitutional crisis regarding the “Rule of Law” in Canada as it pertains to the Jury System's application to high profile criminal cases at the Ontario Courts of Justice.

52. My comparative analysis of research into the history of juries since inception in Ancient Greece (in the trial of Socrates circa 500 BC for corrupting the youth & challenging authority norms), Through the Holy Roman Empire's reliance on "Rule of law" and juries, to the great 1400 Runnymede Magna Carta codification, through the UK parliament, the 1600 UK crisis, to the American Declaration of Independence, altogether influencing the jury as the antidote to oligarchic tyranny, and highest standard for Western Democratic social orders to balance power between citizens and state appointed leaders.
53. Canada is a Western democratic nation in the form of a constitutional monarchy. The Monarch (the King or Queen) is the Head of State, whose powers are defined by the Constitution and constitutional conventions. These responsibilities are carried out by the Governor General (the Monarch's representative in Canada). The Monarch's powers and responsibilities are established and limited by a rich legacy of constitutional principles, both unwritten principles and those written in the Canadian Constitution, including an enshrined tradition of UK British common law and Canadian common law precedents; still evolving as a living tree with newly forming branches, yet still rooted in the "Rule of Law" as solid ground, in place of a precarious uneven Rule of Tyrants.
54. My policy recommendations are similar to William Keyte's and Kenn O'doudney's laudable efforts for jury trials to be reinstated in cases currently handled by administrative tribunals to counteract the erosion of jury authority. Mr. Keyte laments: ***"Unfortunately, over a very long period of time, the people (the citizenry), largely through ignorance, have stood by and allowed this Constitutional Rule of Law to become horribly distorted, and, for this reason, this campaign is not going to provide quick solutions (there are none). Those that work in government and 'the system' are just an extension of the broader citizenry and they hold self-destructive beliefs that have (through generations) brought about a centrally-controlled collectivist government that is nothing more than an inversion of what the genuine Constitution was trying to frame."***
55. In keeping with **Sir James Fitzjames Stephen** expert opinion to urge the Canadian judiciary to codify clear legislative protections for jury trials in summary proceedings, such as Mr. JP Ayotte vs the King, are essential at protecting our fundamental rights.
56. Our erroneous understanding that democracy has a basis merely in majority voting and especially a party political system has simply led to our enslavement.

It is perhaps worth pointing out that the roots of democracy could never have been our party political system as that has only really emerged in the mid-eighteenth century. It would be nonsense to claim something that emerged so recently as being the root to the ancient, profound and revered democratic governance that we so love to hold up as the basis of our free society.

57. Research on Jury Trials in Canada shows a dramatic 80% reduction in Jury trials since **Amendments to the Courts of Justice Act, R.S.O. 1990, c. C.43 by the Courts of Justice Amendment Act 1989**. Far cry from the Magna Carta requirement for a jury for all claims made against us.

58. It is the prerogative of an independent jury to decide if evidence is sufficient, and if laws are both applicable, and/or valid. When a law is deemed by a jury to be invalid, this is termed "Jury Annulment" and this action changes the law in question. Legislation then needs to be reworked, or canceled, as a new case precedent is established.

59. I declare the need for constitutional coherence in Mr. JP Ayotte's case.

Constitutional incoherence belies the vulnerability of a lower court judge's appointment criteria, and judge's provincial salary remuneration by the province brings forth serious questions about a "court of first instance" loyalty to citizens, biased judicial activism and palpable partisan biases against unguarded defendants. The antidote to this issue is jury annulment via juridical activism as opposed to a state appointed and state remunerated judge's activism.

60. I find it imperative to note the etymology of democracy, these Ancient Greek words "demos", meaning people, and "kratos" meaning power; so democracy can be thought of as "power of the people": a way of governing which depends on the will of the people. MP's in Canada thus all need to swear a Solemn Oath to Canada as the Sovereign, including to its democratic institutions, and loyal allegiance to the will of the people as their representatives.

61. The jury system has been described as the sacred right of all Canadians, and the lamp of liberty. This is why Canadian Prime Minister John Diefenbaker safeguarded the jury system, or "Voice of the People", in the Canadian Bill of Rights. It is the judges or magistrates role to inform a defendant of his right to a trial by jury prior to any hearing.

62. I solemnly declare, in agreement with the wisdom of an unknown source:

“We who have inherited the great principles of the Common Law are entitled to claim that for people who love freedom, the Common Law is the most potent legal instrument ever made for securing that honest men may live their lives undisturbed by fear. Fear of our neighbor, fear of oppression by the State, fear of every kind of injustice and tyranny is averted from our lives so long as the supremacy of the law is resolutely maintained. Secure in the freedom of our institutions and protected by the impartiality of the law, we can without fear enjoy those other freedoms of the mind and of the spirit that adorn and elevate the human race.”

63. I concur with the honourable and paradigmatic Mr. Lysander Spooner: "If the government may decide who may and who may not be jurors, it will of course select only its partisans and those friendly to its measures."

—Lysander Spooner, *An Essay on the Trial by Jury*, 1852

OVERARCHING FOUNDATION - Mr. Gandhi’s Affidavit: From a political philosophy perspective, the jury system serves as a profound embodiment of democratic principles, individual liberty within a social contract, and the “Rule of Law”. Experts such as Spooner, Stephen, Greene, Keyte, and d’Oudney highlight the philosophical foundations and practical implications of juries in resisting tyranny, empowering citizens, and preserving justice. While Aristotle, Plato and other ancient Greek philosophers inspired the application of juries, and the “Rule by the Many”, inspiring Western democratic thought. The jury’s roots in the Magna Carta (1215), established trial by jury as a safeguard against state tyranny. Canada’s legal evolution, particularly during events like the Rebellions of 1837–38, jury trials upheld fairness in politically charged cases.

64. **Public Policy Implication:** Governments must anchor contemporary justice systems in historical precedents, ensuring continuity with principles that limit state power and uphold individual rights. Safeguarding the jury’s role requires a commitment to education, legislative reform, and adherence to the principles of limited government and participatory democracy.

65. Balancing Efficiency with Rights

- **Reference: Sir James Fitzjames Stephen** explains how summary jurisdiction evolved to handle minor offenses efficiently while preserving the right to jury trials for serious cases. He emphasizes legislative clarity

and the defendant's ability to elect jury trials when penalties exceed a certain threshold.

- **Public Policy Implication:** Judicial efficiency must not compromise the right to a fair trial by jury. Policymakers should ensure summary trials are restricted to minor cases, with safeguards that allow defendants to opt for a jury when necessary.

61. Juries as a Democratic Institution

- **Expert Reference:** **Lysander Spooner** and **Kenn d'Oudney** argue that juries democratize justice by empowering citizens to judge both facts and the morality of laws. Spooner, in *An Essay on the Trial by Jury*, asserts that juries are a bulwark against tyranny by allowing ordinary citizens to reject unjust laws. Similarly, d'Oudney emphasizes juries as direct democracy in action, ensuring legal decisions reflect community values.
- **Public Policy Implication:** Strengthening jury systems fosters public trust in governance and democratizes the justice process. Policymakers should prioritize jury trials as a means of empowering citizens and aligning legal outcomes with societal values.

62. Safeguarding Against Government Overreach

- **Expert Reference:** **Sir Wilfrid Arthur Greene**, in *War and the Common Law*, critiques wartime measures that bypass juries, warning they undermine liberties. Juries act as a check on executive power, especially in politically motivated prosecutions or unjust laws.
- **Public Policy Implication:** Legal systems must preserve jury trials even during emergencies. Emergency measures that curtail jury rights should be implemented sparingly and with transparent safeguards, maintaining public trust in the "Rule of Law".

63. Responding to Erosion of Jury Rights

- **Expert Reference:** **William Keyte**, and **Kenn d'Oudney** all highlight the gradual erosion of jury trials. Alford points to increasing reliance on administrative tribunals and judicial decisions without juries. Keyte discusses how jury authority has diminished since the Magna Carta, and

d'Oudney warns of judicial overreach restricting jurors' ability to nullify unjust laws.

- **Public Policy Implication:** Legislative reforms must address the diminishing role of juries by expanding their applicability to cases where community judgment is essential and ensuring jurors are fully informed of their rights, including nullification.

64. Education and Public Awareness

- **Expert Reference:** **William Keyte** and **Kenn d'Oudney** emphasize public education about jury rights. Keyte advocates for restoring the jury's historical role in judging both law and facts, while d'Oudney argues that ignorance of jury nullification contributes to its decline.
- **Public Policy Implication:** Governments and civic organizations should launch public awareness campaigns and incorporate jury education into school curricula to empower citizens and ensure informed participation in the justice process.

65. Policy Recommendations

a) **Legislative Reform:**

- **Sir James Fitzjames Stephen:** Codify clear legislative protections for jury trials, ensuring that summary proceedings do not erode fundamental rights.

b) **Transparency in Emergencies:**

- **Sir Wilfrid Arthur Greene:** Develop strict guidelines to limit emergency legislation that bypasses jury trials, ensuring it aligns with common law principles.

c) **Increase Jury Use:**

- **Kenn d'Oudney:** Expand jury applicability to include civil and regulatory cases, ensuring juries serve as a check on legislative and executive overreach.

d) **Judicial Oversight:**

- **William Keyte**: Advocate for judicial interpretations that respect historical precedents and empower jurors to judge both law and facts.

e) **Civic Education Initiatives:**

- **William Keyte** and **Kenn d'Oudney**: Promote public education about jury rights, focusing on the historical importance of jury nullification and its role in protecting liberties.

f) **Preliminary Conclusion**

The right to trial by jury, as supported by **Sir James Fitzjames Stephen**, **Sir Wilfrid Arthur Greene**, **Lysander Spooner**, **William Keyte**, **Kenn d'Oudney**, **Sir William Blackrock** is a cornerstone of democratic governance and justice. It safeguards individual freedoms, limits state overreach, and empowers communities to uphold the principles of common law. Public policy must prioritize reforms to preserve and restore the jury's role, ensuring its continued relevance in a fair and equitable legal system.

66. The Jury as a Mechanism for Protecting Liberty

- **Expert Reference:** **Lysander Spooner**, in *An Essay on the Trial by Jury*, contends that juries act as a safeguard against tyranny by allowing citizens to resist unjust laws. This aligns with natural law principles, where justice is grounded in moral truth rather than governmental decree.
- **Political Philosophy Implication:** The jury embodies the classical liberal ideal of individual liberty. By enabling citizens to nullify unjust laws, the jury system protects personal freedoms from state overreach and ensures that law serves justice rather than coercion.

67. The Balance Between Justice and Order

- **Expert Reference:** **Sir James Fitzjames Stephen**, a proponent of utilitarianism, emphasized the necessity of summary jurisdiction for minor offenses to maintain social order, while preserving the right to a jury trial for serious cases. His views underscore the tension between individual rights and societal stability.
- **Political Philosophy Implication:** Stephen's perspective reflects a utilitarian approach, where justice systems must optimize societal well-being. However,

political philosophers like John Stuart Mill warn against sacrificing fundamental rights for efficiency, a debate central to modern governance.

68. Juries as a Democratic Institution

- **Expert Reference:** **Kenn d'Oudney** argues that jury trials are the foundation of true democracy, decentralizing power and enabling citizens to directly participate in governance. He advocates for jury nullification as a democratic tool to counteract unjust laws.
- **Political Philosophy Implication:** The jury aligns with Rousseau's concept of the general will, ensuring that justice reflects community values. Unlike representative democracy, the jury enables direct citizen involvement, reinforcing a participatory model of governance.

69. Limiting State Power

- **Expert Reference:** **Sir Wilfrid Arthur Greene**, in *War and the Common Law*, highlights the jury's role as a check on executive overreach, particularly during emergencies like war. He traces this function to the Magna Carta and other historical documents that enshrined limits on state authority.
- **Political Philosophy Implication:** The jury system embodies the Lockean principle of limited government, where state power is constrained by institutional checks. By empowering citizens to adjudicate guilt, juries prevent the concentration of power in the hands of the judiciary or executive.

70. Preservation of Justice During Crises

- **Expert Reference:** **Sir Wilfrid Arthur Greene**, in *War and the Common Law*, critiques emergency legislation that undermines jury trials, emphasizing the resilience of common law principles in safeguarding individual rights during crises.
- **Political Philosophy Implication:** Greene's argument reflects the Aristotelian notion of the "Rule of Law", which posits that laws—not rulers—must govern. In times of crisis, maintaining jury trials ensures that the principles of justice are upheld, preventing the erosion of rights through temporary measures.

71. The Philosophical Basis for Jury Nullification

- **Expert Reference: William Keyte** underscores the jury's authority to judge both the law and the facts, rooted in Clause 39 of the Magna Carta. He argues that jury nullification is essential for aligning legal outcomes with the moral conscience of the community.
- **Political Philosophy Implication:** Jury nullification resonates with Immanuel Kant's emphasis on moral autonomy. Jurors, as free moral agents, must assess the justice of laws, ensuring that legal outcomes adhere to ethical principles rather than blind obedience to authority.

72. Challenges to Jury Independence

- **Expert Reference: Kenn d'Oudney** warns of the erosion of jury rights through judicial overreach and administrative shortcuts. Both advocate for restoring juries' full authority to ensure their continued role in democratic governance.
- **Political Philosophy Implication:** The decline of juries reflects the centralization of power critiqued by thinkers like Foucault, who highlight how modern legal systems often marginalize public participation in favor of technocratic control. Restoring jury authority rebalances this dynamic, reasserting the public's role in justice.

73. Education as a Pillar of Empowerment

- **Expert Reference: William Keyte and Kenn d'Oudney** emphasize the need for public education to inform citizens about their jury rights. Without awareness, jurors cannot effectively exercise their democratic responsibilities.
- **Political Philosophy Implication:** Education aligns with Habermas's concept of the public sphere, where informed citizens engage in rational discourse to influence governance. Empowering citizens with knowledge of jury rights strengthens their capacity to uphold justice and resist state overreach.

74. Grand Conclusion

This affidavit is submitted with the utmost respect for the solemn principles of justice, democracy, and constitutionalism. It highlights the profound significance of the jury system, not merely as a procedural mechanism but as the embodiment of the sovereignty of the people. In the case of Mr. Jean-Philippe Ayotte, the systemic denial of his right to a jury trial represents a critical failure of the judicial system to uphold its constitutional and moral responsibilities.

The jury system is a cornerstone of Canadian democracy, enshrined in centuries of common law and constitutional tradition. Its roots can be traced to the Magna Carta of 1215, which established the right of individuals to be judged by their peers. This principle has been reinforced through the British Bill of Rights (1689), the Canadian Bill of Rights (1960), and foundational principles of the Canadian Constitution. It is a safeguard against tyranny, an instrument of participatory democracy, and a mechanism for ensuring that justice reflects the values and conscience of the community.

The Historical and Legal Legacy of the Jury System

The jury system is more than a historical artifact; it is a living institution that embodies the principles of fairness, impartiality, and accountability. It ensures that legal decisions are not solely in the hands of state-appointed judges but are subject to the scrutiny of ordinary citizens. This principle was eloquently articulated in the Magna Carta:

"No freeman shall be taken or imprisoned or disseised of his freehold, or liberties, or free customs, or be outlawed, or exiled, or in any otherwise destroyed; nor will we not pass upon him, nor condemn him, but by lawful judgment of his peers or by the law of the land."

This foundational principle has informed the development of legal systems across the democratic world, including Canada. It is enshrined in Section 11(f) of the Canadian Charter of Rights and Freedoms, which guarantees the right to a jury trial for serious offenses, and in the Canadian Bill of Rights, which protects the right to due process and a fair trial.

Systemic Denial of Jury Rights

The denial of Mr. Ayotte's right to a jury trial is not an isolated incident but part of a broader pattern of state overreach and judicial overreach. Similar denials in the cases of Mr. Byron Carr and Mr. Pat King reveal a troubling trend of procedural manipulation designed to circumvent constitutional protections. These denials undermine public confidence in the judiciary and erode the fundamental principles of justice and democracy.

In Mr. Ayotte's case, the charges were strategically reduced from indictable to summary, thereby precluding his right to a jury trial. This tactic, while procedurally permissible, is substantively unjust. It denies the accused the opportunity to be judged by an impartial jury and instead places their fate in the hands of state-appointed judges, whose impartiality may be called into question in politically charged cases.

This pattern of reducing charges to deny jury trials was similarly evident in the case of Mr. Carr and Mr. Ayotte. They face politically motivated charges stemming from their participation in the 2022 Freedom Convoy protests. Their denial of a jury trial deprived them of his right to a fair and impartial trial and exposed them to the biases of a judiciary operating under significant political and public pressure. Although a different prejudicial interference tactic, Mr. King lost out on his jury trial as well due to the inappropriate actions of the prosecutor and Judge in his case.

The Broader Implications for Canadian Democracy

The implications of these denials extend far beyond the individuals involved. They represent an erosion of the fundamental rights and freedoms that define Canada as a democratic society. The jury system serves as a check on state power, ensuring that legal decisions are not solely in the hands of government-appointed judges but are subject to the scrutiny of ordinary citizens.

This erosion of jury rights is part of a broader pattern of state overreach, including the invocation of the Emergencies Act during the Freedom Convoy protests. The use of emergency powers to suppress peaceful dissent, coupled with the denial of jury trials for those prosecuted under these measures, represents a profound threat to the rule of law and the principles of democracy.

The Moral Imperative for Justice

Justice is not merely a legal obligation but a moral imperative. It demands that the judiciary act as an impartial arbiter, free from the influence of political considerations or state interests. In cases like Mr. Ayotte's, where the charges stem from peaceful protest and the exercise of constitutionally protected rights, the denial of a jury trial is not just a legal error but a profound moral failing.

The jury system embodies the democratic ideal that justice should be administered by the people, for the people. It ensures that legal decisions reflect the values and conscience of the community, rather than the interests of the state. To deny this right is to deny the very essence of democracy.

Policy Recommendations and Call to Action

To restore public confidence in the judiciary and uphold the principles of justice and democracy, the following measures are imperative:

1. **Legislative Reform:** Amend existing legislation to ensure that the right to a jury trial cannot be circumvented through procedural tactics such as reducing charges from indictable to summary.
2. **Judicial Oversight:** Establish independent oversight mechanisms to ensure that judicial decisions are free from political influence and that the rights of the accused are protected.
3. **Public Education:** Launch public awareness campaigns to educate citizens about their rights, including the right to a jury trial and the principles of jury nullification.
4. **Transparency in Emergency Powers:** Develop strict guidelines for the invocation and use of emergency powers, ensuring that they are subject to judicial and public scrutiny.
5. **Strengthening Jury Authority:** Expand the applicability of jury trials to include cases currently handled by administrative tribunals and summary proceedings, ensuring that juries serve as a check on legislative and executive overreach.

Closing Reflection

The jury system is not merely a procedural mechanism but the lifeblood of democracy and justice. It is the voice of the people, the conscience of the community, and the ultimate safeguard against tyranny. In denying Mr. Ayotte his right to a jury trial, the judiciary has not only failed him but has failed the principles that define us as a democratic society.

As a political philosopher and advocate for justice, I urge this court to recognize the gravity of this case. Let it serve as a reminder of the principles that underpin our legal system and the importance of vigilance in their defense. In the words of John Adams:

"Representative government and trial by jury are the heart and lungs of liberty. Without them, we have no fortitude, no independence, no security against the wanton oppression of the government."

Let this court honor the legacy of these principles and ensure that justice is not only done but seen to be done. In doing so, it will reaffirm the foundational values of our democracy and restore faith in the rule of law.

Sworn this day, under the full weight of my oath, with unwavering commitment to truth and justice.

Video Conference

Complete if deponent and commissioner are not in same city or town:
by Verin Gandhi of the municipality of Val-des-Monts, Quebec in the Country of Canada before
me at the city Ottawa, Ontario in the Country of Canada on January 11, 2025 in accordance with
O. Reg. 431/20, Administering Oath or Declaration Remotely:



.....Deponent

SWORN BEFORE ME at the City of Ottawa in the Province of Ontario,
this 11 day of January, 2025.



Jane Scharf
Licensed Paralegal
#P06406

..... Commissioner for Taking Affidavits

BOOK OF AUTHORITIES

LAW

Canadian Bill of Rights section Preamble 1 (a), 1 (d), 2 (e) and 2 (f) and 5 (1)
<https://laws-lois.justice.gc.ca/eng/acts/c-12.3/page-1.html>

Magna Carta (1215):

[1] In the first place we grant to God and confirm by this our present charter for ourselves and our heirs in perpetuity that the English Church is to be free and to have all its rights fully and its liberties entirely. We furthermore grant and give to all the freemen of our realm for ourselves and

our heirs in perpetuity the liberties written below to have and to hold to them and their heirs from us and our heirs in perpetuity.

[39] No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any other way, nor will we proceed with force against him, or send others to do so, except by the lawful judgment of his equals or by the law of the land."

EXPERT MATERIAL

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2. Sir Wilfrid Green, Lawyer and Judge
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4. Verin (Vee) Gandhi
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4. **Curr v. The Queen**, [1972] S.C.R. 889
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ONTARIO COURT OF JUSTICE

No.: 22-42309

IN THE MATTER OF THE CRIMINAL CODE OF CANADA

BETWEEN:

HIS MAJESTY THE KING

(Respondent)

-and-

JEAN-PHILIPPE AYOTTE

(Applicant/Defendant)

APPLICATION FOR A JURY

BACKSHEET

Filed By:

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