WHAT CAN CANADA LEARN FROM OTHER COUNTRIES TO IMPROVE ITS *EMERGENCIES ACT*?

By

Darius Sowiak

Under the supervision of

Professor Doug King

An Honours Project submitted in

partial fulfillment

of the Degree requirements for the degree of

Bachelor of Arts - Criminal Justice Honours

Mount Royal University

April, 2025

MOUNT ROYAL UNIVERSITY

CALGARY, AB, CANADA

Land Acknowledgement

Mount Royal University is located in the traditional territories of the Niitsitapi (Blackfoot) and the people of Treaty 7 which includes the Siksika, the Piikani, the Kainai, and the Tsuut'ina, and the Îyârhe Nakoda. We are situated on land where the Bow River meets the Elbow River, and the traditional Blackfoot name of this place is Mohkinstsis, which we now call the City of Calgary. The City of Calgary is also home to the Métis Nation.

Abstract

The use of emergency powers in Canada has often been scrutinized. This thesis outlines the history and evolution of the current *Emergencies Act* and its predecessor, the *War Measures Act.* Through the analysis, the strengths and weaknesses of the act can be found. The thesis also examines the emergency powers acts of the United Kingdom and the United States. Both of these countries have more experience with emergency legislation. This thesis includes the thorough analysis of the pieces of legislation with background on the acts, what powers are granted, how it has been used and the prevalent criticisms. This thesis includes four suggestions drawing on the strengths and pitfalls of the various acts in an attempt to improve the *Emergencies Act* and ensure that the next time it is used, it will be less controversial. Finally, this thesis concludes with speculation on how Canada may respond to the United States' tariffs using its emergency legislation.

Dedication and Acknowledgements

Firstly, I would like to thank my family. I want to thank my parents for supporting me through the entirety of my education, financially and mentally. Thank you. Next, my brother and my sister. You may not think you had a big influence on my education and life, but you have. You two have always pushed me to work hard and improve my life, so thank you.

I would like to thank my friends who have always been there for me through all the struggles of life and school. You have no idea how much it meant to me. I would like to thank my partner. You have supported me through late nights and early mornings of this thesis project. You were always there for me to bounce ideas off of and support me in any way I needed. I really appreciated every time you got food delivered for me.

Thank you to the Criminal Justice professors. You showed me just how cool this degree and subsequent industry can be.

Finally, Thank you to Doug King, my professor for multiple Criminal Justice classes and supervisor of my thesis project. Since the first day of classes with you, the care you show your students does not go unnoticed. Thank you for taking me on as a thesis project, letting me deep dive into a topic that I wanted and loved researching and finally passing your immense knowledge of the Charter onto your students.

Table of Contents

What Can Canada Learn from Other Countries to Improve Its *Emergencies Act*?

The *Emergencies Act* [*EA*], enacted in 1988, is Canada's present-day legislation for wartime and domestic emergencies. Prior to this, the *War Measures Act* [*WMA*] was the framework used from 1914 to 1988, allowing the Canadian government to oversee domestic crises and respond during international conflicts (Smith, 2020, para. 1). This earlier legislation was often criticized for granting the federal government excessive and unchecked power (Smith, 2020). In contrast, the *EA* incorporates essential checks and balances (Smith, 2020, para. 23). In 2022, the Liberal Party of Canada activated the *EA* in response to escalating tensions arising from the Freedom Convoy (Bronskill, 2025, para. 5). A Federal Court later ruled that this invocation was unjustified, stating that it did not meet the criteria necessary for such action (*The Canadian Frontline Nurses v Canada (Attorney General),* 2024 FC 42, para. 372). Nonetheless, an inquiry board investigated the matter and declared the invocation justified (Tunney, 2023, para. 1). The inquiry's commissioner, Paul Rouleau, ultimately attributed the failure to manage the situation to the Ontario provincial government (Tunney, 2023, paras. 1, 31-33).

Both iterations of Canada's domestic emergency legislation have been perceived as excessive, with the *WMA* limiting Canadian civilians' freedoms in both World Wars (Smith, 2020, para. 1) and the invocation of the *EA* in 2022 during the Freedom Convoy (*The Canadian Frontline Nurses v Canada (Attorney General),* 2024 FC 42, para 372). Keeping these controversies in mind, how can the *EA* or subsequent legislation be structured to be effectively utilized? This thesis aims to answer that question by examining similar legislation from the United Kingdom [U.K.] and the United States [U.S.]. This thesis will explore the evolution of the *EA* from the *WMA* to what it is today, the powers it grants to the federal government, the instances in which it has been invoked, and the prevalent controversies. After analyzing

Canada's legislation, the same examination will be conducted for the U.K. and the U.S. and their respective laws. As a result of the analyses, the strengths of each piece of emergency legislation will be highlighted, allowing me to provide suggestions for strengthening the *EA.*

Methodology

This thesis aims to provide real-world suggestions for the Canadian federal government to improve its *EA*. By examining the evolution of Canada's wartime legislation, the contemporary version of the laws can be better understood. The advantages and controversies can be highlighted by examining the U.K. and the U.S. war or domestic emergency laws. I chose to analyze the U.K. and the U.S. because they are part of Five Eyes, an alliance of countries that share intelligence for global security amongst each other (Haan, 2024, paras. 1-2). The coalition includes Canada, the U.S., the U.K., New Zealand, and Australia (Haan, 2024, para. 2). Canada has based its political and legal system on the U.K. So, by looking at them, we can see how emergency legislation works in a similar system. As for the U.S., they are our closest and largest ally within Five Eyes, so it would be beneficial to see the effectiveness of emergency policies from an ally with a different political system. This study holds value because there can always be issues with statutes, especially those that have only ever been used once. Improvements often only occur through the law being used, where problems are more accessible to observe. There has not been extensive use of the law to provide adequate evidence of the issues of the *EA.* The best way to improve a law is to look at similar laws and find what problems have been identified.

This study aims to enhance the effectiveness of the *EA*. An investigative board extensively scrutinized the act's only use, deeming its invocation unreasonable (Tunney, 2024, para. 1). By conducting this study, the weaknesses and potential remedies can already be outlined, so suggestions are readily available if lawmakers wish to amend the law. Additionally,

by examining previous versions of the law, solutions included in past iterations can be highlighted to assess how effectively they addressed the controversies of earlier versions.

To achieve the objectives of the thesis, a systematic comparative analysis will be employed to examine the laws effectively. Each law will be explored through key primary and secondary legal sources that highlight relevant information and controversies. In addition to the legal framework from which the laws are derived, instances of their application will be examined, including a case study of how the legislation is used and general controversies surrounding the law. Once each law has been outlined, they will be compared collectively, emphasizing their strengths and weaknesses, which can be leveraged to improve Canada's.

Canada's *Emergencies Act*

Evolution

Just after the start of World War I [WWI], Canada's federal government passed the *WMA* in an attempt to preserve national security and proactively prepare for war conditions (Niemczak and Rosen, 2001, para. 2). The *WMA* lays out guidelines for "public welfare emergencies, public order emergencies, international emergencies and war emergencies" (Niemczak and Rosen, 2001, para. 1). Niemczak and Rosen (2001) outline the governmental powers that the act provided:

> The Act, …:
>
> a) allowed the Governor in Council to proclaim the existence of war, invasion or insurrection, real or apprehended;
>
> b) provided that the issuance of such a proclamation was conclusive evidence that such a state of conditions was actually in existence; and
>
> c) permitted the Governor in Council to make whatever orders and regulations were necessary to maintain security, defence, peace, order and welfare in Canada. (para. 2)

The *WMA* was invoked twice during international war, during WWI and World War II [WWII] (Niemczak and Rosen, 2001, para. 4), once to appropriate land (de Brui, 2019, para. 2) and once during a domestic emergency, during the October Crisis, to address the Front de libération du Québec [FLQ] Crisis (McIntosh & Cooper, 2020). However, actions were made under the justification of the *WMA* (Smith, 2020, para. 1)

During WWI, the government utilized the *WMA* to "censor and suppress communications; to arrest, detain, and deport individuals without charges or trials; to control transportation, trade, and manufacturing; and to seize private property" (Smith, 2020, para. 3). Furthermore, the government implemented numerous sweeping orders under the *WMA*, including suspending habeas corpus, extensive media censorship, banning labour strikes, and limiting court processes to expedite trials (Clément, n.d., para. 1). Concerning changes to the court system, the federal government shifted the burden of proof, making an accused person guilty until proven innocent (Clément, n.d., para. 1). Unlike today's standards, the defence was required to prove beyond a reasonable doubt that the accused was innocent instead of the prosecutor needing to establish guilt beyond a reasonable doubt. Simply put, if a person was charged with a crime, they were presumed guilty unless they could demonstrate their innocence. The presumption of innocence is enshrined in the *Canadian Charter of Rights and Freedoms,* which currently protects the rights of Canadians (*Canadian Charter,* 1982, s 7). During this time, any Canadians "found" guilty of using unfavourable language towards the government faced a $5000 fine and a five-year incarceration sentence (Clément, n.d., para. 1). The government could also now declare any organization unlawful with minimal evidence (Clément, n.d., para. 1). The evidence required to support an organization being deemed unlawful was any comment that was "profane, scurrilous, or abusive towards the government" (Clément, n.d., para. 1). In addition to verbal

support for an “unlawful” group, any person who rented a space used by a newly deemed unlawful organization would be charged with the same offences (Clément, n.d., para. 1). This act enabled the government to intern 8,579 enemy aliens throughout WWI, of which 5,441 were Canadian civilians designated as “enemy aliens” (Smith, 2020, paras. 4-5). The federal government could classify anyone as an enemy alien, with most being recent immigrants from Eastern Europe (Smith, 2020, para. 4). Beyond the 8,579 interned aliens, approximately 80,000 individuals, mainly Ukrainian Canadians, were required to register as enemy aliens, carry identification papers, and undergo check-ups with the police (Smith, 2020, para. 4).

Before Canada declared war in 1939, the *WMA* was invoked and used to establish the *Wartime Prices and Trade Board* (Smith, 2020, paras. 8-10). The Board aimed to control inflation and domestic unrest that Canada experienced during WWI (Smith, 2020, para. 9). While the Board’s intentions were beneficial, it was used to control the Canadian economy, setting controls on wages and price, limits on rental and hosting costs and goods such as steel, timber, coal, milk and sugar (Smith, 2020, para. 9). At first, the controls were minimal, but once they fully set in, the cost of living did level out from an increase of 17.8% from 1939 to 1941 and to only 2.8 from 1941 till the end of the war in 1945 (Smith, 2020, para. 10). However, controls and limits also resulted in immense shortages of goods (Smith, 2020, para. 10). During WWII, citing the invocation of the *WMA* with the same justification as in WWI, the government interned thousands of enemy aliens, with approximately 22,000 of those interned being Japanese Canadians who had their property confiscated (Smith, 2020, paras. 13-14). Under the *WMA*, the *Defence of Canada Regulations* were created, resulting in 325 newspapers being censored and 30 religious, cultural or political groups being banned (Smith, 2020, para. 11). Similar to WWI, the government allowed themselves to accuse and detain anyone they saw as a threat to public safety

(Smith, 2020, para. 12). Again, this directly contradicts the *Canadian Charter of Rights and Freedoms* and the right against arbitrary detention (*Canadian Charter,* 1982, s 11). Royal Canadian Mounted Police [RCMP] officers could even write their warrants and execute the search warrant without external oversight (Clément, n.d., para. 3).

In 1942, the government sought to have the Kettle and Stony Point Band (now the Kettle & Stony Point First Nation) surrender reserve land for military training purposes (Smith, 2020, para. 15). When the Band refused, the government appropriated the land for military use under the *WMA* (Smith, 2020, para. 15). In return for the land, the government compensated the Kettle and Stony Point First Nation approximately $50,000 (de Bruin, 2019, para. 2). Although the government promised the land would temporarily be used for military training, it remained as such until the 1990s (de Bruin, 2019, para. 3).

After WWII, the *WMA* was not formally invoked until 1970 when it was first used to respond to a domestic emergency, the October Crisis (Smith, 2020, paras. 16-19). The lead-up to the invocation of the *WMA* at the start of the crisis included a series of attacks by the FLQ from 1963 until the crisis erupted in 1970 (McIntosh & Cooper, 2020, para. 1). In October 1970, three FLQ members kidnapped British trade Commissioner James Cross (McIntosh & Cooper, 2020, para. 6). The Quebec Justice Minister agreed to only some ransom demands, but when the FLQ extended the deadline and no more negotiations were made, the deadline passed (McIntosh & Cooper, 2020, para. 8). The FLQ consequently kidnapped Pierre Laporte, Quebec's Minister of Immigration and Minister of Labour (McIntosh & Cooper, 2020, para. 8). The double kidnappings caused public fear (McIntosh & Cooper, 2020, paras 9-11). Canadian Prime Minister Pierre Trudeau invoked the *WMA* and deployed members of the Canadian Armed Forces [CAF] (McIntosh & Cooper, 2020, paras 9-11). The invocation led to the outlawing of the

FLQ, allowing for arrests of its members, the suspension of civil liberties, and, as with the two previous uses of the *WMA*, enabling arrests and detention without proper due process (McIntosh & Cooper, 2020). Many politicians criticized this use of the emergency law, including former Canadian Prime Minister John Diefenbaker (McIntosh & Cooper, 2020, para. 13). Within two days of the invocation, over 250 people were arrested (McIntosh & Cooper, 2020, para. 14). Laporte's body was discovered in a vehicle trunk (McIntosh & Cooper, 2020, para. 14). Within a week, warrants for a known leader and members of FLQ cells were issued, leading to 1,628 police raids in search of FLQ members and Cross (McIntosh & Cooper, 2020, para. 16). By November 13, 1970, 46 individuals detained under the *WMA* were formally charged (McIntosh & Cooper, 2020, para. 19). On 14 November, Cross' release was exchanged for the freedom of all members of one of the FLQ cells and safe passage to Cuba (McIntosh & Cooper, 2020, para. 20).

The use of the *WMA* in response to the October Crisis faced scrutiny, particularly from Quebec nationalists and civil libertarians (McIntosh & Cooper, 2020, para. 23). Federal polls indicated that the general public perceived the invocation as reasonable; however, the mass detention of suspects sparked controversy (McIntosh & Cooper, 2020, para. 23). Of the 497 individuals arrested during the crisis, 62 were charged, and 32 were held without bail (McIntosh & Cooper, 2020, para. 23). When the crisis concluded, the RCMP received permission from Cabinet to break in, steal, and conduct electronic surveillance without warrants (McIntosh & Cooper, 2020, para. 24). Nevertheless, these actions were later deemed unreasonable and resulted in the creation of the Canadian Security Intelligence Service [CSIS] in 1984 (McIntosh & Cooper, 2020, para. 24)

In 1988, the *WMA* was repealed and replaced by the *EA* due to perceptions of unfairness (Smith, 2020, para. 23). The *EA* mandates that government actions require approval from both Parliament and Cabinet, with these actions being more specific and limited than previously (Smith, 2020, para. 23). They must adhere to the *Canadian Charter of Rights and Freedoms* and the *Canadian Bill of Rights* (Smith, 2020, para. 23). However, this new emergency legislation has been invoked only once, drawing criticism.

Governmental Powers

The *EA* serves to "authorize the taking of special temporary measures to ensure safety and security during national emergencies" (*Emergencies Act,* RSC 1985, c. 22, para. 1). As per the *Emergencies Act* (s 3), a national emergency is defined as an urgent and critical situation that:

> a) seriously endangers the lives, health or safety of Canadians and is of such proportions or nature as to exceed the capacity or authority of a province to deal with it, or
> b) seriously threatens the ability of the Government of Canada to preserve the sovereignty, security and territorial integrity of Canada
> and that cannot be effectively dealt with under any other law of Canada. (s 3).

The *EA* can be invoked in cases of Public Welfare Emergencies, Public Order Emergencies, International Emergencies, and War Emergencies (*Emergencies Act,* ss 16-45). For this thesis, the governmental powers for a public order emergency and, consequently, international emergencies shall be specified. *Emergencies Act* (s 16) defines a public order emergency as follows:

> an emergency that arises from threats to the security of Canada and that is so serious as to be a national emergency…
> threats to the security of Canada: has the meaning assigned by section 2 of the *Canadian Security Intelligence Service Act.* (s 16)

Section 2 of the *Canadian Security Intelligence Service Act* (*Canadian Security Intelligence Service Act,* RSC 1985, c C-23, s 2) details that threats to the security of Canada are defined as:

> a) espionage or sabotage that is against Canada or is detrimental to the interests of Canada or activities directed toward or in support of such espionage or sabotage,
> (b) foreign-influenced activities within or relating to Canada that are detrimental to the interests of Canada and are clandestine or deceptive or involve a threat to any person,
> c) activities within or relating to Canada directed toward or in support of the threat or use of acts of serious violence against persons or property for the purpose of achieving a political, religious or ideological objective within Canada or a foreign state, and
> d) activities directed toward undermining by covert unlawful acts, or directed toward or intended ultimately to lead to the destruction or overthrow by violence of, the constitutionally established system of government in Canada,
> but does not include lawful advocacy, protest or dissent, unless carried on in conjunction with any of the activities referred to in paragraphs (a) to (d). (s 2)

In simpler terms, a public order emergency occurs when an entity commits espionage against Canada, commits activities detrimental to Canada, including attempts to overthrow or destroy the government, or the entity shows support for activities detrimental to Canada. However, lawful advocacy, protest or dissent does not constitute a threat unless it occurs with the same desired outcomes as the goals mentioned above. When the government deems that a public order emergency has occurred, the Governor in Council must consult with the Lieutenant Governor in Council of the province in which the emergency occurs and can make a declaration of emergency (*Emergencies Act,* ss 17(1), 25). Within the declaration, three things need to be included: the state of affairs that make up the emergency, which temporary powers are anticipated to be used and the area of Canada where the powers will be in effect (*Emergencies Act*, s 17(2)). As per the *Emergencies Act* (s 19(1)), in cases of public order emergencies, the government grants itself the power of:

> a) the regulation or prohibition of
> (i) any public assembly that may reasonably be expected to lead to a breach of the peace,
> (ii) travel to, from or within any specified area, or
> (iii) the use of specified property;
> b) the designation and securing of protected places;
> c) the assumption of the control, and the restoration and maintenance, of public utilities and services;

> d) the authorization of or direction to any person, or any person of a class of persons, to render essential services of a type that that person, or a person of that class, is competent to provide and the provision of reasonable compensation in respect of services so rendered; and
> e) the imposition
>
> (i) on summary conviction, of a fine not exceeding five hundred dollars or imprisonment not exceeding six months or both that fine and imprisonment, or
> (ii) on indictment, of a fine not exceeding five thousand dollars or imprisonment not exceeding five years or both that fine and imprisonment,
>
> for contravention of any order or regulation made under this section. (s. 19(1))

Section 19(1) highlights how, in the case of a public order, the government grants itself five different powers, ranging from prohibiting travel to assuming control of utility services.

2022 Freedom Convoy

In addition to other governmental mandates during the COVID-19 pandemic, the final push for the 2022 Freedom Convoy was a mandatory quarantine for any Canadian transport trucker once they entered Canada from the U.S. (Murphy, 2022, para. 4). The Convoy originally comprised of transport truckers from across Canada, starting in Western Canada, who drove to the nation's capital, Ottawa, to protest the mandates but quickly gained support both in person and online from regular Canadians and people outside of Canada (Murphy, 2022, paras. 5-8). The protest gained significant attention and donations, raising over $7 million on its GoFundMe page (Murphy, 2022, para. 6). Ottawa police had concerns about far-right groups that had attached themselves to the convoy (Murphy, 2022, para. 12). The government’s fears were not unwarranted. While the Convoy began as a protest by truckers, far-right groups, including documented white supremacists, joined in (Aziz, 2022, para. 30). These extremist groups joined in and began using the Convoy platform to publicize “Nazi flags, Confederate Flags and Canadian flags marred by swastikas.” (Aziz, 2022, para. 30). The large-scale publicity of the Convoy allowed for the extremist groups to endorse their agenda and beliefs (Aziz, 2022, para. 31). Furthermore, while there was a lack of violence and threats leading up to the Convoy

entering the Capital, once it did, the Ottawa Police Service [OPS] did see an uptick in violence (Tunney, 2023, paras. 39-42). The tow truck drivers hired by the government to extract the vehicles from the protest reportedly even got death threats (Tunney, 2023, para. 43)

The Ottawa protest was comprised of demonstrations and vehicles blocking main roads in the downtown and never-ending honking of the large vehicles' horns (Tunney, 2023, para. 5). After protests in downtown Ottawa and smaller demonstrations across Canada, the federal government invoked the *EA,* declaring a national state of emergency on 14 February 2022 (Canadian Civil Liberties Association, 2025, para. 4). With this enactment, two emergency orders were established, leading to violations of freedoms and rights (Canadian Civil Liberties Association, 2025, para. 7). Specifically, any assemblies, even peaceful protests which obstructed sidewalks or streets were dismantled, and any near bus stations, hospitals, or vaccination sites gained more scrutiny from the government (Canadian Civil Liberties Association, 2025, para. 8). Following the protests, under the authority of the two enacted orders, CSIS and the RCMP compelled banks to disclose personal details of bank accounts belonging to those who protested or donated to the protests, again, without external oversight (Canadian Civil Liberties Association, 2025, para. 9). The authorities utilized this banking information to freeze bank accounts (Canadian Civil Liberties Association, 2025, para. 10). Zimonjic (2022) reports that the aim of freezing bank accounts was to encourage protesters to end their activities and go home (para. 12).

Criticisms/Issues

The primary criticism regarding the invocation of the *EA* stems from the fact that the powers granted were neither proportional nor targeted, as required (Canadian Civil Liberties Association, 2025, para. 11). Furthermore, the essential threshold to invoke it was not met,

rendering the invocation unreasonable (Canadian Civil Liberties Association, 2025, para. 16). Many agree that while the protests in Ottawa warranted additional action, the invocation itself was excessive and unnecessary (Canadian Civil Liberties Association, 2025, para. 6). Hibbits (2022) outlines that one of the main criticisms of the *EA* was that the federal government could not reasonably justify that the Convoy could not have been dealt with by provincial authorities (para. 11). Essentially if the provinces could have effectively dealt with the protests themselves then the *EA* should not have been invoked. The usage was unreasonable since the government could not prove such a fact. However, while there was a lack of proof of Ontario's inability to subdue the Convoy on their own, it was highlighted in Commissioner Rouleau's investigation that the province simply ignored the situation until it was too late (Tunney, 2023, para. 32). According to Tunney (2022), the Ontario Provincial Police [OPP] gained credible intelligence that the protest was planning for an extended stay but failed to take it seriously, resulting in no well-formed plans to respond (paras. 1-3). The OPP also assumed that the OPS had a plan to keep the protests under control when no plan was fully formed (Tunney, 2022, paras. 25-27). A plan was not entirely made until 4 February 2022, a week after the protesters had arrived in Ottawa (Tunney, 2022, para. 31). The federal Government also violated various Rights and Freedoms of Canadians, such as freedom of assembly and privacy, the invocation was further unreasonable and unjustifiable (Canadian Civil Liberties Association, 2025, para. 6). According to Nardi & Lévesque (2022), the *EA* allowed bank accounts of protest supporters to be frozen without court orders and the banking institutes to disclose any personal information of the account holders as requested by RCMP and CSIS (para. 6). In freezing the accounts, many families of those supporting the Convoy were left with no ability to purchase groceries or other

necessary bills, an unforeseen consequence admitted by lawmakers (Nardi & Lévesque, 2022, para. 1).

The controversy concerns the government using the situationally overreaching *EA* and the local authorities failing to handle the situation independently. The various levels of law enforcement could also not properly coordinate and address the problem. Even though the OPP had credible information that the Convoy should be taken seriously, the organization failed to do so. Furthermore, the OPP assumed that the OPS had handled the situation and had plans to address the Convoy when it arrived at the Capital.

United Kingdom

Civil Contingencies Act

The U.K.'s current version of emergency legislation is the *Civil Contingencies Act 2004* [*CCA*] (Cabinet Office, 2013, para. 1). After the 9/11 terrorist attacks, the U.K. government saw the need to update its emergency response legislation (Mann et al., 2021, para. 3). Three years later in 2004, the *CCA* passed through Parliament and was approved (Mann et al., 2021, para. 3). The *CCA* replaced its predecessors the *Emergency Powers Act 1920* and the *Civil Defence Act 1948* which were used to address industrial unrest after WWI and fear of nuclear conflict respectively (Ward, 2020, para. 5). Due to concerns of the *Civil Defence Act 1948* lacking proper capability to manage a significant emergency, the *CCA* was developed providing a concise framework from which civil protection can be created from (Ward, 2020, para. 6). However, it has yet to be used. Later in this section, I will discuss a case where the *CCA* could have been used, but the U.K. government decided against its use. The Cabinet Office (2013) outlines that the *CCA* prepares for and handles emergencies (para. 1). *The Civil Contingencies Act 2004* (2004, c 36, s 1) outlines what is classified as an emergency:

> a) an event or situation which threatens serious damage to human welfare in a place in the United Kingdom,
>
> b) an event or situation which threatens serious damage to the environment of a place in the United Kingdom, or
>
> c) war, or terrorism, which threatens serious damage to the security of the United Kingdom. (s 1)

An emergency for the U.K. is any event that threatens the life of people, the environment or the security of the U.K. The *CCA* elaborates on what is included under s 1(a) and s 1(b):

> For the purposes of subsection (1)(a) an event or situation threatens damage to human welfare only if it involves, causes or may cause—
>
> (a) loss of human life,
> (b) human illness or injury,
> (c) homelessness,
> (d) damage to property,
> (e) disruption of a supply of money, food, water, energy or fuel,
> (f) disruption of a system of communication,
> (g) disruption of facilities for transport, or
> (h) disruption of services relating to health. (s. 2)
>
> For the purposes of subsection (1)(b) an event or situation threatens damage to the environment only if it involves, causes or may cause—
>
> (a) contamination of land, water or air with biological, chemical or radio-active matter, or
> (b) disruption or destruction of plant life or animal life. (s.3)

The first three sections of the *CCA* act as the interpretation and outline the threshold of an emergency for the act.

The *CCA* has two parts: the first guides handling emergency management, and the second outlines the actual governmental powers granted under the *CCA* (Cabinet Office, 2013, para. 2). Part one sets out explicit allocations for which organizations are responsible for emergency response (Cabinet Office, 2013, para. 3). The involved organizations are put into two groups: category one and category two (Cabinet Office, 2013, para. 3). Category one involves first responders and National Health Services [NHS] personnel, who are responsible for the most

number of roles at the heart of the emergency (Cabinet Office, 2013, para. 4). These category one duties include assessing the risk of an emergency, putting emergency plans into place, implementing business continuity management, making information about the emergency available to the public, sharing inter-agency information, working cooperatively to improve efficiency, and aiding local businesses about business continuity management plans (Cabinet Office, 2013, para. 4). Category two agencies are the Health and Safety Executive and transport and utility companies, who act as support and cooperative agencies addressing accidents in their respective fields (Cabinet Office, 2013, para. 5). Together, category one and two groups act as coordinating responders at a local level (Cabinet Office, 2013, para. 6). Part two outlines what powers and abilities are granted to the government in the case of an emergency (Cabinet Office, 2013, para. 8). However, as Cabinet Office (2013) outlines, the use of governmental powers should be treated in exceptional cases (para. 8). The *CCA* is set up in such a way that it aims to allow the emergency planning and response to be enough to quell the emergency and the emergency powers are only used if necessary (Cabinet Office, 2013, para. 8).

Governmental Powers

The *CCA* (2004) outlines what regulations can be created under the invocation of the *CCA* in section 22(2):

(1) Emergency regulations may make any provision which the person making the regulations is satisfied is appropriate for the purpose of preventing, controlling or mitigating an aspect or effect of the emergency in respect of which the regulations are made.
(2) In particular, emergency regulations may make any provision which the person making the regulations is satisfied is appropriate for the purpose of—
    (a) protecting human life, health or safety,
    (b) treating human illness or injury,
    (c) protecting or restoring property,
    (d) protecting or restoring a supply of money, food, water, energy or fuel,
    (e) protecting or restoring a system of communication,
    (f) protecting or restoring facilities for transport,
    (g) protecting or restoring the provision of services relating to health,

(h) protecting or restoring the activities of banks or other financial institutions,
(i) preventing, containing or reducing the contamination of land, water or air,
(j) preventing, reducing or mitigating the effects of disruption or destruction of plant life or animal life,
(k) protecting or restoring activities of Parliament, of the Scottish Parliament, of the Northern Ireland Assembly or of the National Assembly for Wales, or
(l) protecting or restoring the performance of public functions. (s. 22(1),(2))

All this means is that the government can create any regulation that will resolve any of the subsections of s 22(2). These subsections include but are not limited to, protecting human life, treating illness, restoring food supply, keeping animals and plant life safe, and reducing the decontamination of land, water or air (*CCA,* 2004, s 22(2)). However, the government is not allowed to just make laws without oversight; any creation of regulation must pass a criteria check first. Section 21 of the *CCA* (2004) outlines that there are three main criteria for emergency regulations to be created:

> 2) The first condition is that an emergency has occurred, is occurring or is about to occur.
> 3) The second condition is that it is necessary to make provision for the purpose of preventing, controlling or mitigating an aspect or effect of the emergency.
> 4) The third condition is that the need for provision referred to in subsection (3) is urgent. (s 21(2),(3),(4)

Section 21 explains that for any new regulation to be made under the *CCA,* three criteria must be met. First, there must be an emergency, whether it has occurred, is occurring or is about to occur. Next, the regulation must be necessary to lessen the effect of the emergency. Finally, the need to create the regulation must be urgent in that moment. As highlighted by Lent (2020), the regulations created and the continuation of the usage of the *CCA* must be routinely reviewed and approved by Parliament every 30 days after the invocation (para. 10). This allows for proper oversight over what power the government is giving itself and allows for intervention or complete revocation of the *CCA.* Ward (2020) highlights that the *CCA* allows the government to

create new regulations very quickly without needing Parliamentary approval, which may slow down the process (para. 9). The oversight of the 30-day review allows for Parliament, which is separate from the initial creation of the emergency regulation, to step in and review the regulation and stop it if need be (Ward, 2020, para. 9). This is the oversight that benefits the *CCA* and keeps checks and balances in the act.

Usage

While it has never been invoked, the roles and responsibilities laid out in the *CCA* have been used, for example, after the 2005 bombing of the London transit system. The act was not invoked but the guidelines in the legislation were used to coordinate emergency responders and react to the attacks (Action on Armed Violence [AOAV], 2015, para. 16). During the COVID-19 outbreak, many expected the U.K. government to declare a state of emergency and use the *CCA,* but they did not (Lent, 2020, para. 1). However, the criteria for the *CCA* directly includes human illness in s 2. According to Lent (2020), the U.K. government instead created an entirely new bill, the *Coronavirus Bill 2020,* and used that to respond to the growing COVID-19 emergency (para. 3). When pushed on the reason for not using the well-established legislation for which the situation fit, the Leader of the House said that the bill is "for emergencies of which the government has had no warning" (Lent, 2020, para. 3). Since the government was able to plan for the upcoming emergency, they decided to create new legislation specifically for the emergency. This creation of new legislation under the false guise of the established act being ill-fitting garnered criticism (Lent, 2020, para. 1). The *CCA* outlines the exact roles and responsibilities of agencies, with local level agencies taking the lead (Lent, 2020, para. 5). However, the *Coronavirus Bill 2020* outlines that the central level agencies make decisions and move the local agencies to the side. The bill essentially flipped the responsibilities of the *CCA,*

where the local, most exposed agencies had to listen to the higher level on critical decisions. This change of roles resulted in Public Health England being appointed the lead on contact tracing; however, the organization was overburdened with the number of cases and the program was abandoned (Lent, 2020, para. 7). Eventually, the central government decided to incorporate local agencies in the decision-making process (Lent, 2020, para. 7). The *CCA* was subsequently never enacted during the rest of the COVID-19 pandemic. The then Secretary of State for Wales, Simon Hart, claimed the decision not to invoke the *CCA* was because it would "require frequent Parliamentary approval" (Torrance, 2025, para. 9). This is due to a provision in the act that requires approval every 30 days after invocation where Parliament would oversee how the act is being used and scrutinize decisions (Lent, 2020, para. 10).

Criticisms/Issues

During COVID-19, there was general criticism of the government's inability to use the *CCA* and instead create the *Coronavirus Bill 2020* (Lent, 2020, para. 3). An extensive criticism was that the *CCA* directly outlines roles and responsibilities and prioritizes local entities taking the lead with coordination from higher levels because "decisions should be taken at the lowest appropriate level with coordination at the highest necessary level" (Lent, 2020, para. 5). This is because local decisions allow for the fastest possible actions in a quickly evolving situation (Lent, 2020, para. 5). The lack of the *CCA* invocation also resulted in funding and reimbursement issues (Lent, 2020, para. 8). When the *CCA* is invoked, a provision is the automatic invocation of the Bellwin Scheme (Lent, 2020, para. 8). The provision outlines and authorizes how funding will be allocated to the different agencies (Lent, 2020, para. 8). This serves two purposes; ensures the councils and services will be financially supported through an emergency but also allows proper planning because each knows how much funding they will get

(Lent, 2020, para. 8). They know they can properly plan because everyone knows exactly what they will receive (Lent, 2020, para. 8). During the first wave of COVID-19, the government told municipalities that they would be reimbursed in full for the expenditures spent in response but then the decision was changed (Lent, 2020, para. 9). This meant many councils had to make massive budget cuts and worry about funding (Lent, 2020, para. 9). Compared to the ongoing approval by Parliament necessary under the *CCA*, the *Coronavirus Bill 2020* does not require the same level of oversight, and the powers granted can remain for up to two years (Lent, 2020, para. 10).

United States of America

The U.S. has three different emergency response acts (Adkins et al., 2020, para. 2). There is the *Robert T. Stafford Disaster and Emergency Assistance Act* [*SA*], the *National Emergencies Act* [*NEA*], and the *Public Health Service Act* [*PHSA*] (Adkins et al., 2020, Summary section). Each act allows for powers and authorities to be given to the federal government following the declaration of an emergency (Adkins et al., 2020, Summary section). The *NEA* provides a framework of congressional oversight of the granted powers used in response to a national emergency (Adkins et al., 2020, Summary section). The *NEA* also "established procedures for declarations of national emergencies, requiring their publication and congressional notification of the measures to be invoked" (Adkins et al., 2020, Summary section). The *SA* outlines several powers given to the executive branch of the government that can be used in an emergency or major disaster (Adkins et al., 2020, Summary section). Finally, section 319 of the *PHSA* allows the Health and Human Services [HHS] Secretary to take appropriate actions in response to a determined public health emergency (Adkins et al., 2020, Summary section). As explained by the U.S. Congress (2020), each of the various types of emergency declarations allows for executive

power (Summary section). When the declarations are made, the restrictions in the *U.S. Code* are relaxed against the executive powers under the acts (Adkins et al., 2020, Summary section).

The National Emergency Act

The *NEA* was enacted in 1976 to give presidential powers in times of emergency (Adkins et al., 2020, The National Emergencies Act section). While the act itself does not define a "national emergency" (Adkins et al., 2020, The National Emergencies Act section), it says an emergency results from "a general declaration of emergency made by the President." (Marino, 2021, para. 13). This definition leaves the determination of emergency up to the President. The act does, though, outline how Congress will oversee the declarations and provide checks and balances to prevent the emergency powers from continuing unnecessarily (Adkins et al., 2020, The National Emergencies Act section). As outlined in the *NEA*, to declare a national emergency, the President must:

> a) specify which statutory emergency authorities he intends to invoke upon a declaration of a national emergency;
> b) publish the proclamation of a national emergency in the *Federal Register* and transmit it to Congress;
> c) maintain records and transmit to Congress all rules and regulations promulgated to carry out such authorities; and
> d) provide an accounting of expenditures directly attributable to the exercise of such authorities for every six-month period following the declaration. (The National Emergencies Act section)

The *NEA* requires that national emergencies can only last one year from the time of invocation (Adkins et al., 2020, The National Emergencies Act section). There are three exceptions to this automatic cessation of the emergency (Adkins et al., 2020, The National Emergencies Act section). For the emergency to continue past one year, the President must publish a notice of renewal in the *Federal Register* (Adkins et al., 2020, The National Emergencies Act section). For

the emergency to end before the year is up, the President must declare the emergency as over or Congress enacts a joint resolution, thus ending the emergency (Adkins et al., 2020, The National Emergencies Act section). However, for Congress to pass a joint resolution, a two-thirds majority vote would likely be needed to override a presidential veto (Adkins et al., 2020, The National Emergencies Act section).

The Stafford Act

The *SA* was enacted in 1988 and amended the *Disaster Relief Act of 1974* (Federal Emergency Management Agency [FEMA], 2023, para. 1). The act outlines the extra authorities the executive branch gains when an emergency or major disaster is declared (Moss et al., 2009, p. 2; Adkins et al., 2020, The Stafford Act section). The *SA* also acts as a framework to outline the types of assistance from the federal government and the cost-sharing allocation for response measures (Moss et al., 2009, p. 1). Unlike the *NEA*, the *SA* correctly defines an emergency as "any circumstance in which the President determines that federal assistance is necessary to supplement state and local efforts to protect public health and safety" (Adkins et al., 2020, The Stafford Act section). The main objectives of the *SA* are the coordination of federal assistance with state and local authorities, public funding to repair and replace infrastructure, individual assistance to aid those affected, and finally, to encourage proactivity to avoid future disasters (Tidal Basin, 2024, Purpose of the Stafford Act section).

There are three situations in which the President can declare an emergency under the *SA* (Adkins et al., 2020, The Stafford Act section). First, the Governor of a state can request a Presidential declaration if the state lacks the proper capabilities to respond to an emergency (Adkins et al., 2020, The Stafford Act section). Secondly, a tribal chief executive may request an

emergency declaration under the same criteria as the first (Adkins et al., 2020, The Stafford Act section). Lastly, a declaration may happen if an emergency occurs where the federal government is the primary responder to the emergency (Adkins et al., 2020, The Stafford Act section). In addition to allowing the President to call an emergency, the *SA* grants the President the power also to call a major disaster (Adkins et al., 2020, The Stafford Act section). A major disaster is defined as "any natural catastrophe (including any hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought) or, regardless of cause, any fire, flood or explosion" (Moss et al., 2009, p. 2). Unlike an emergency, a major disaster can only be declared if a state Governor or tribal executive requests a declaration (Adkins et al., 2020, The Stafford Act section). The President cannot declare one without a formal request (Adkins et al., 2020, The Stafford Act section).

The Public Health Service Act

In addition to the powers granted under the *SA* and *NEA*, the *PHSA* can also be invoked, granting the government another set of powers. The *PHSA* is invoked in times of public health emergencies (Adkins et al., 2020, Section 319 of the Public Health Service Act section). The extra powers can only be granted after the HHS Secretary deems the emergency occurs and makes a declaration (Adkins et al., 2020, Section 319 of the Public Health Service Act section). The powers included after the declaration include "[any] action as may be appropriate to respond to the public health emergency, including making grants, providing awards for expenses, and entering into contracts and conducting and supporting investigations into the cause, treatment, or prevention of a disease or disorder" (Adkins et al., 2020, Section 319 of the Public Health Service Act section). This act seems to be used much less often than the *NEA* and *SA.* However, it was used in 2020 in response to the COVID-19 pandemic (Harris, 2021, Current State and

Federal Public Health Law Statutes section). The *PHSA* was used to limit international travel (Harris, 2021, Current State and Federal Public Health Law Statutes section).

Governmental Powers

The whole point of the *NEA* is to give the President immediate power so that issues can quickly and effectively be dealt with (Wirkus, 2024, para. 1). The power afforded to the President is given to them by Congress because they recognize that congressionally passed powers take too long, so Congress pre-approves emergency powers to the President (Wirkus, 2024, para. 1). Once the President makes the emergency declaration, they are allowed 130 special powers that are usually off limits, 13 of which need further Congressional approval (Marino, 2021, para. 13). These include, but are not limited to, the power to draw equipment from national stockpiles and shutting down communication facilities (Wirkus, 2024, para. 1). The *SA* outlines that the federal government will supply 75% of the funds while the other 25% is up to the state and local government (Moss et al., 2009, p. 2). However, federal funding for emergencies is capped at $5 million, but the President can formally allocate more if necessary (Moss et al., 2009, p. 2). While the President authorizes the assistance and funds, FEMA is the disseminating organization (Moss et al., 2009, p. 2). The difference between an emergency and a major disaster under the *SA* is that an emergency requires short-term, limited aid from the federal government (Harton, 2024, paras. 21-22). In contrast, a major disaster is much larger and requires more federal intervention (Harton, 2024, paras. 21-22). After a declaration is made, FEMA will create a document that includes the disaster period, areas included in the assistance plan, and the type of assistance (Harton, 2024, paras. 26-27). Once the *SA* is invoked, three kinds of federal intervention are available: individual, public, and hazard mitigation (Harton, 2024, paras. 30-32).

Usage

The *NEA* is used incessantly by the various American Presidents. In 2019, President Trump used the act to bypass Congress and fund a more extensive wall along the U.S.-Mexico border (Wirkus, 2024, para. 3). In 2021, President Biden used emergency powers to forgive student loans amidst the COVID-19 pandemic (Wirkus, 2024, para. 3). The U.S. has technically been in a state of emergency since 1979 when a state of emergency was declared blocking Iranian Government property; this is still in effect (Brennan Center for Justice, 2025, p. 1). Since the first declaration of the *NEA* in 1979, 88 different emergencies have been declared, ranging from matters of international relations, such as banning trade with Sudan in 1997, to domestic issues, such as an emergency for the Southern Border in 2019 (Brennan Center for Justice, 2025, p. 1). According to the Brennan Center for Justice (2025), the 88 emergency declarations are up until 31 March 2025, and of the 88, 50 are still in effect and get renewed annually (p. 1). This consistent declaration of emergency could be attributed to the lack of a proper definition in the *NEA*. As mentioned above in the *National Emergencies Act* section, the definition of an emergency is vague and leaves discretion solely up to the President. As for the *SA,* it is commonly used for winter storms for emergencies and floods, tornadoes, winter storms and hurricanes for major disasters (Congressional Research Service, 2017, p. 2). The average number of major disaster declarations was 18.6 and 57.1 from 1960-1969 and 2000-2009, respectively (Congressional Research Service, 2017, p. 2).

Criticisms/Issues

When the *NEA, SA,* and *PHSA* are examined, they overlap and leave the reader confused. Regarding this thesis, the *NEA* is the primary emergency legislation*,* and the other two are

supporting pieces of legislation. The perceived overuse of the *NEA* means that future uses are minimized and almost mean nothing. The very first use of the act is still in effect 46 years after its declaration (Brennan Center for Justice, 2025, p. 1). Another criticism of the emergency powers in the U.S. is the President's ability to make policies independently without Congressional oversight (Marino, 2021, The Problem with the President Acting Alone Section). In one case, President Trump made an emergency policy and allocated $1.375 billion for the southern border wall, and in the next term, President Biden got rid of the wall policies (Marino, 2021, D. The Problem with the President Acting Alone section). This meant over a billion dollars got allocated to a project just to get scrapped a few years later. This wall policy provides another hole in the Congressional oversight of the U.S. legislation. The power for Presidential vetoes. In the example, both the House and the Senate vetoed President Trump’s declaration of an emergency (Marino, 2021, Congress, F. Think Before You Draft; Presidents, Think Before You Act section). In response to the veto, President Trump made a reciprocal veto to the rejection (Marino, 2021, Congress, F. Think Before You Draft; Presidents, Think Before You Act section). As mentioned above, for Congress to override the President, a two-thirds majority vote would have to pass, and it did not, so the wall emergency stood (Marino, 2021, Congress, F. Think Before You Draft; Presidents, Think Before You Act section). The wall example shows that time and money can be wasted when a President makes emergency policy because it can simply be undone by the next President (Marino, 2021, Congress, IV. Conclusion section). As Marino (2021) suggests, citizens should lobby for amendments to the emergency legislation instead of criticizing the President's emergency legislation (IV. Conclusion section). The system is too broad and generous in what power it gives the President without adequate oversight.

Discussion

How Do the Other Acts Compare to Canada's?

Since there are three distinct emergency acts in the U. S., with the *NEA* and *SA* being the most prominent, this thesis will compare them to those of other countries and will not include the *PHSA* in this comparison. The primary analysis will focus on the *EA, NEA, SA*, and *CCA*. Both the *EA* and *NEA* concentrate on disaster response at the federal level. In contrast, the *CCA* requires a federal declaration while granting the most power to local authorities; thus, Canada and the U.S. operate differently from the U.K. The *SA* dictates coordination among federal, state, and local governments, but FEMA leads the response effort.

The *CCA* and *EA* also provide more stringent definitions of what constitutes an emergency. Since the *SA* does this while the *NEA* does not, there is potential for the *NEA* to be misused as a political tool rather than strictly for emergency response. While the *EA* and *CCA* specify situations in which they can be invoked, the *NEA*, due to the lack of a proper definition, could technically be used for the same reasons as the former acts. Another distinction between the *CCA* and *SA*, compared to the *EA*, is the stated allocation of funds for emergency response. The former acts delineate how funding will be utilized in response, whereas the *EA* lacks this specification. The *CCA* and *SA* outline emergency management, but the *EA* does not. The *EA* merely describes an emergency, and the powers granted to allow the government to respond. No proper emergency management is included within the *EA*. Although the *CCA* has not been invoked, it has served as a model for creating new legislation and managing emergencies. This means it has been employed for its emergency resource management rather than its emergency control applications. This demonstrates the effectiveness of the *CCA*; it was designed as a model

that the government can reference without needing its invocation. Compared to the *NEA* and *SA*, where two acts are necessary to accomplish the same task, the U.K. government developed two components that can function independently or in support of one another. The *CCA* also specifies precisely who is in charge of emergency response and how they will coordinate with various categories of agencies.

Suggestions for Emergencies Act

Taking inspiration from the *CCA, SA,* and *NEA*, suggestions can be made to improve the *EA.* There are four suggestions to improve and increase the efficacy of the *EA*. Within each suggestion, I will explain why I believe the alteration or addition will enhance the act and what literature aided in my decision.

1. Better Address Roles and Responsibilities

   The *CCA* effectively outlines the roles and responsibilities of various agencies. It focuses more on management rather than on emergency control. The *EA* should adopt a similar process that emphasizes emergency management more. However, this should be consolidated into a single act. Unlike the *NEA* and *SA*, where one act governs control and another manages, Canada could benefit from adopting the U.K. model, which incorporates both functions in one act. This approach streamlines the referencing process and alleviates confusion created by one act stating one thing while another includes contradictory information. Additionally, Canada should embrace the U.K. model to address the interagency confusion that arose during the Convoy. Four different agencies were involved in emergency management, yet nobody knew who should take the lead, resulting in significant governmental inefficiency.

2. Improve Oversight and Require Ongoing Approval

While section 63 of the *EA* already requires that an inquiry board investigate the invocation within 60 days, there should be an ongoing review and approval process. In the same way that the *CCA* requires Parliamentary review every 30 days after invocation, section 62(6) of the *EA* requires that a Parliamentary Review Committee review the powers and performance of duties of the invocation. The findings have to be submitted and redone at least once every 60 days while the act is in effect. While this is effective, section 18(2) of the *EA* outlines that the emergency expires after 30 days if the declaration is not continued. So the declaration expires after 30 but the review board has to submit findings every 60 days. The review period should be lowered to 30 days in the same way that the *CCA* is. This way, the review committee has its responsibilities outlined, and the powers are reviewed more regularly.

Furthermore, in addition to simply reviewing and reporting the powers, the committee should also be able to veto powers. We gather this from the *NEA* where Congress can veto emergency powers under the declaration of an emergency by the President. However, as seen with the case of the Southern border wall, the President vetoed the Congressional veto, and the Congress could not gather enough votes to override the decision. This should not be allowed within the *EA*. This Presidential ability to veto a Congressional veto undermines the objective of having oversight. It leads to an abuse of power and can lead to unreasonable expenditures with no real result. By having proper oversight with effective checks and balances in place, it can legitimize the process of invoking the act and give the government a solid argument for its invocation.

3. Transfer Authority from Federal Government to Local Government

Instead of the federal government taking lead and making decisions, the power should be made by the local government. As seen in the *CCA*, the local governments are given the most power to make decisions. This goes alongside suggestion one of addressing roles of agencies. By explicitly giving power to the local and provincial governments, with higher power for local, decisions can be made quicker. The *EA* already has a provision that the situation must be too much for the local and provincial governments to handle. However, if the *EA* directly gives emergency power to the lowest agencies, they will be better equipped to handle it. Those making decisions will not have to pass the request up the chain of command, wait for approval, then wait for it to come back down, it may be too late at that point. The decision makers can see an issue, find a solution and make the decision to fix the problem and not worry about being reprimanded as the legislation will directly support their decision. The decisions will be better fitting for the community because those making the choices know the community best. The whole goal should be to keep the power at the lowest possible level. It will involve less people, require less energy from other agencies and allow the federal government to focus on other issues.

4. Provide Funding Allocation for Budget Planning

The final suggestion for the *EA* is the direct and proper allocation of funds for emergency management and recovery. Both the *CCA* and *SA* have provisions of what funds will be allocated and how much. This is effective in multiple aspects. Firstly, it provides the agencies with legislation directly showing that they deserve funding, so it would guarantee that the agencies get funding or at the very least, legislation to support

them if they do not get it. Secondly, it would allow the agencies to properly budget and plan for emergency management and recovery. If the local government knows how much funding they will get, they can proactively plan for what services will be provided or what they will use to manage an emergency. Finally, this would support the current provision that the local and provincial government should manage the emergency first. If they cannot, the *EA* can be invoked. But if funding was already allocated, as soon as it was declared, the province or municipality could get that additional money to better manage and control. Again, supporting the idea that the management should be down at the lowest possible level.

Possible Contemporary Usage

The current political climate between the U.S. and Canada, caused by U.S. President Trump's and Canada's reciprocal tariffs, has caused the two nations to enter a trade war. With such a situation, the *EA* could theoretically be invoked again. This is due to Part 3 of the *Emergencies Act.* As per the *EA,* it may be invoked during an "International Emergency" (*Emergencies Act* s 27). As per s 27 of the *EA,* an international emergency may be declared when:

> an emergency involving Canada and one or more other countries that arises from acts of intimidation or coercion or the real or imminent use of serious force or violence and that is so serious as to be a national emergency. (s 27)

According to the *Emergencies Act* (s 30)*,* an international emergency allows the Governor in Council:

> a) the control or regulation of any specified industry or service, including the use of equipment, facilities and inventory;
> b) the appropriation, control, forfeiture, use and disposition of property or services;
> c) the authorization and conduct of inquiries in relation to defence contracts or defence supplies as defined in the Defence Production Act or to hoarding, overcharging, black marketing or fraudulent operations in respect of scarce commodities, including the

conferment of powers under the *Inquiries Act* on any person authorized to conduct such an inquiry;
d) the authorization of the entry and search of any dwelling-house, premises, conveyance or place, and the search of any person found therein, for any thing that may be evidence relevant to any matter that is the subject of an inquiry referred to in paragraph (c), and the seizure and detention of any such thing;
e) the authorization of or direction to any person, or any person of a class of persons, to render essential services of a type that that person, or a person of that class, is competent to provide and the provision of reasonable compensation in respect of services so rendered;
f) the designation and securing of protected places;
g) the regulation or prohibition of travel outside Canada by Canadian citizens or permanent residents within the meaning of subsection 2(1) of the *Immigration and Refugee Protection Act* and of admission into Canada of other persons;
h) the removal from Canada of persons, other than
(i) Canadian citizens,
(ii) permanent residents within the meaning of subsection 2(1) of the *Immigration and Refugee Protection Act*, and
(iii) protected persons within the meaning of subsection 95(2) of that Act who are not inadmissible under that Act on grounds of
(A) security, violating human or international rights, sanctions or serious criminality, or
(B) criminality and who have not been convicted of any offence under any Act of Parliament for which a term of imprisonment of more than six months has been imposed, or five years or more may be imposed;
(i) the control or regulation of the international aspects of specified financial activities within Canada;
(j) the authorization of expenditures for dealing with an international emergency in excess of any limit set by an Act of Parliament and the setting of a limit on such expenditures;
(k) the authorization of any minister of the Crown to discharge specified responsibilities respecting the international emergency or to take specified actions of a political, diplomatic or economic nature for dealing with the emergency; and
(l) the imposition
(i) on summary conviction, of a fine not exceeding five hundred dollars or imprisonment not exceeding six months or both that fine and imprisonment, or
(ii) on indictment, of a fine not exceeding five thousand dollars or imprisonment not exceeding five years or both that fine and imprisonment,
for contravention of any order or regulation made under this section. (s. 30)

As mentioned earlier in the U.S. section, and as we have seen in many instances involving current U.S. President Trump, emergencies can be declared in response to actions from other countries, as demonstrated by the Southern border wall emergency. Since there is only a vague definition of what constitutes an emergency, President Trump could theoretically declare an emergency against Canada. Moreover, given the recent series of retaliatory tariffs and actions- such as Ontario Premier Doug Ford's pledge to halt energy supplies from Ontario to certain U.S. states- President Trump could readily declare a national emergency against Canada in retaliation. Concerning Canada's legislation, Section 27 of the *EA* defines an international emergency as acts of intimidation or coercion, or real or anticipated force or violence directed at Canada as a country. Tensions have already risen between the two nations, with Canadian Prime Minister Mark Carney stating, "the old relationship we had with the United States… is over" (Boynton & Aziz, 2025, para. 4).

If, hypothetically, the U.S. were to declare a national emergency against Canada while Canada simultaneously declared an international emergency against the U.S., what might arise? It is difficult to say for sure. It is difficult because the U.S. has 130 different powers granted in an emergency. One such power in the U.S.'s arsenal would be shutting down communication centres. It is safe to assume that Five Eyes intelligence would be affected. If the two nations declare emergencies against each other, they will cease intelligence sharing capabilities which does not just affect Canada but would also affect the other three nations in Five Eyes. Given that Canada is a commonwealth country of the U.K., the U.K. would side with us and then reductions, if not total ceases, in intelligence sharing would occur. On the Canadian side, in the case of an international emergency, the Governor in Council could use a variety of powers to protect Canada as a whole. One such approach may be denying entry into or the removal of

Americans from Canada. This action would be supported by section 30(h) of the *EA.* As long as the Americans were neither Canadian citizens, permanent residents or protected people under section 95(2) of the *Immigration and Refugee Protection Act*. The government could also begin entering homes and businesses of those suspected of having evidence of fraudulent sales such as hoarding or black market selling. Finally, the government could ban the entry of Canadians into the United States. However, speculations can be made and have none become true. These are simply an overview of just a few of the powers that could be used. The tariffs could cease to occur in just the coming months and the relationship between Canada and the U.S. could begin to recover.

Conclusion

The *EA* has been used once, and its use was riddled with controversy and criticism. Its predecessor's usage was scrutinized immensely almost every time it was used. Emergency legislation has not been Canada's strong suit. However, that does not need to continue to be the case. By adopting practices from other allied nations and using their pitfalls to improve our acts, Canada could realistically have an incredibly strong and effective emergency control and management act. The country needs to amend and improve the act sooner than later because emergencies happen without warning. This is even more true with the looming geopolitical landscape that makes up Canada's relations with the United States. The improvements would not only improve the effectiveness of the act but also improve the perception of how the act works and the checks and balances included within the act. When it is used next, the oversight will allow for better usage and a better argument for the government on why it was reasonable.

Limitations

While the Trucker Convoy happened over 3 years ago, the Federal Court's decision of unreasonableness is still being deliberated and appealed. A final decision has not yet been made, so the literature on the subject is limited. In addition to limited information about the *EA*, all researched acts had limited literature. The *CCA* was not used, so a proper case study was difficult. I chose to look at how it could have been used during the COVID-19 outbreak. An analysis of this kind has not been done before, so it was difficult to find applicable literature. Finding information about the usage of the acts was difficult, primarily when the acts had not been used multiple times. When carefully used, the criticisms of the legislation were minimal. I found as much literature as possible and applied the strengths and weaknesses appropriately.

References

Action on Armed Violence. (2015). *The 7/7 Bombings: Lessons learned from the provision of victim assistance.* *https://aoav.org.uk/2015/77-bombings-lessons-learned-provision-victim-assistance/*

Adkins, B. L., Elsea, J. K., Lampe, J. R., Lewis, K. M. & Sykes, J. B. (2020). *Emergency authorities under the National Emergencies Act, Stafford Act, and Public Health Service Act.* Library of Congress. https://www.congress.gov/crs-product/R46379

Aziz, S. (2022). *'Incredibly scary': How Canada's trucker convoy protest is galvanizing the American right.* Global News. https://globalnews.ca/news/8602177/freedom-convoy-protest-us-far-right-support/

Boynton, S. & Aziz, S. (2025). *Canada's 'old relationship' with U.S. 'is over' amid Trump tariffs: Carney.* Global News. https://globalnews.ca/news/11100883/donald-trump-tariffs-auto-canada-response/

Brennan Center for Justice. (2025). *Declared national emergencies under the National Emergencies Act.* *https://www.brennancenter.org/our-work/research-reports/declared-national-emergencies-under-national-emergencies-act*

Bronskill, J. (2025). *Ottawa defends use of Emergencies Act during convoy protests before Federal Court of Appeal.* CBC. https://www.cbc.ca/news/politics/emergencies-act-appeal-1.7450394

Cabinet Office. (2013). *Preparation and planning for emergencies: Responsibilities of responder agencies and others.* Government of United Kingdom.

https://www.gov.uk/guidance/preparation-and-planning-for-emergencies-responsibilities-of-responder-agencies-and-others

Canadian Charter of Rights and Freedoms, ss 7, 11, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c11

Canadian Civil Liberties Association. (2025). *Emergencies Act.* *https://ccla.org/major-cases-and-reports/emergencies-act*

Civil Contingencies Act 2004, c. 36. https://www.legislation.gov.uk/ukpga/2004/36/introduction

Clément, D. *War Measures Act. Canada's Human Rights History*. https://historyofrights.ca/encyclopaedia/main-events/war-measures-act/

Congressional Research Service. (2017). *Stafford Act declarations 1953-2016: Trends, analyses, and implications for Congress.* https://sgp.fas.org/crs/homesec/R42702.pdf

de Bruin, T. (2019). *Ipperwash crisis.* Canadian Encyclopedia. https://www.thecanadianencyclopedia.ca/en/article/ipperwash-crisis

Emergencies Act, RSC 1985, c. 22

Federal Emergency Management Agency. (2023). *Stafford Act*. United States Government. https://www.fema.gov/disaster/stafford-act

Haan, K. (2024). *What is the Fives Eyes alliance?* Forbes. https://www.forbes.com/advisor/business/what-is-five-eyes/

Harris C. E. (2021). The Conflict of Public Health Law and Civil Liberties: The Role of Research Data and First Amendment Law. *The American journal of medicine, 134*(11), 1312–1313. https://doi.org/10.1016/j.amjmed.2021.04.038

Harton, O. (2024). *The Stafford Act Explained.* FindLaw. https://www.findlaw.com/consumer/insurance/the-stafford-act-explained.html

Hibbitts, W. (2022). *Unpacking Canada's controversial Emergencies Act invocation over Ottawa 'Freedom Convoy.'* Jurist News. https://www.jurist.org/features/2022/05/20/explainer-controversy-surrounding-canadas-invocation-of-the-emergencies-act-over-ottawa-freedom-convoy/

Lent, A. (2020). *We have special legislation to cope with crises like Covid - so why didn't the government use it?* Civil Service World. https://www.civilserviceworld.com/news/article/we-have-special-legislation-to-cope-with-crises-like-covid-so-why-didnt-the-government-use-it

Mann, B., Towler, A., Settle, K. (2021). *An independent review of the Civil Contingencies Act (2004).* National Preparedness Commission. https://nationalpreparednesscommission.uk/publications/an-independent-review-of-the-civil-contingencies-act-2004/

Marino, M. (2021). A state of emergency: The unbridled expansion of U.S. presidential authority under the emergency powers. University of Cincinnati Law Review. https://uclawreview.org/2021/03/08/a-state-of-emergency-the-unbridled-expansion-of-u-s-presidential-authority-under-the-emergency-powers/

Moss, M., Schellhamer, C., & Berman, D. A. (2009). The Stafford Act and Priorities for Reform. (2009). *Journal of Homeland Security and Emergency Management*. *6(*1), 1-21. https://doi.org/10.2202/1547-7355.1538

Murphy, J. (2022). *Freedom Convoy: Why Canadian truckers are protesting in Ottawa.* BBC. https://www.bbc.com/news/world-us-canada-60164561

Nardi, C., & Lévesque, C. (2022). *Bureaucrats who froze bank accounts of Freedom Convoy leaders weren't trying to 'get at the family.'* National Post.

https://nationalpost.com/news/politics/bureaucrats-who-froze-bank-accounts-of-freedom-convoy-leaders-werent-trying-to-get-at-the-family

Niemczak, P., & Rosen, P. (2001). *Emergencies Act.* Government of Canada. https://publications.gc.ca/Collection-R/LoPBdP/BP/prb0114-e.htm

Smith, D., Foot, R., Yarhi, E., & McIntosh, A. (2020). War Measures Act. In *The Canadian encyclopedia.* https://www.thecanadianencyclopedia.ca/en/article/war-measures-act

The Canadian Frontline Nurses v Canada (Attorney General), 2024 FC 42

Tidal Basin. (2024). *Exploring the Stafford Act - history, updates, and impact on emergency management.* *https://www.tidalbasingroup.com/exploring-the-stafford-act-history-updates-and-impact-on-emergency-management/*

Torrance, D. (2025). *Intergovernmental relations during the COVID-19 pandemic.* House of Commons Library. https://commonslibrary.parliament.uk/intergovernmental-relations-during-the-covid-19-pandemic/

Tunney, C. (2022). *After failing to heed intelligence, Ottawa police were left 'floundering,' Emergencies Act inquiry hears.* CBC. https://www.cbc.ca/news/politics/ferguson-ottawa-police-convoy-intelligence-1.6623001

Tunney, C. (2023). *Federal government met the threshold to invoke Emergencies Act: Rouleau.* CBC. https://www.cbc.ca/news/politics/poec-report-released-friday-1.6750919

Tunney, C. (2024). *Ottawa's use of Emergencies Act against convoy protests was unreasonable. violated Charter, court rules.* CBC. https://www.cbc.ca/news/politics/emergencies-act-federal-court-1.7091891

Ward, C. (2020). Civil Contingencies Act 2004 - What is it, why do we need it and when will it be used? *Sills & Betteridge Solicitors Law Blog.* *https://www.sillslegal.co.uk/news/2020/03/civil-contingencies-act-2004-what-is-it-why-do-we-need-it-and-when-will-it-be-used*

Wirkus, E. (2024). *Presidential emergency powers, explained.* Protect Democracy. https://protectdemocracy.org/work/presidential-emergency-powers-explained/