CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

NO: S.C.M. #500-05-065031-013

500-09-027502-188

500-09-027501-188

COURT OF APPEAL

KEITH OWEN HENDERSON, writer and publisher, retired college professor, domiciled and residing at 5 Fenwick Avenue, Montreal West, Quebec, H4X 1P3

APPELLANT/Petitioner

v.

ATTORNEY GENERAL OF QUEBEC, representing Her Majesty in right of Quebec, having an office at 1 Notre-Dame Street E., Suite 8.00, Montreal, Quebec, H2Y 1B6

RESPONDENT/Respondent

&

ATTORNEY GENERAL OF CANADA, representing Her Majesty in right of Canada, having an office in the Complexe Guy-Favreau, East Tower, 200 René-Lévesque Boulevard W., Ninth floor, Montreal, Quebec, H2X 1X4

MIS-EN-CAUSE/Intervener

&

SOCIÉTÉ SAINT-JEAN-BAPTISTE DE MONTRÉAL, a non-profit corporation, having an office at 82 Sherbrooke Street W., Montreal, Quebec, H2X 1X3

MIS-EN-CAUSE/Intervener

NOTICE OF APPEAL
Article 351 *et seq* C.C.P.

1. APPELLANT/Petitioner Keith Owen Henderson hereby appeals from the judgment of the Superior Court of the District of Montreal rendered by the Honourable Justice Claude Dallaire on April 18, 2018 (received by the APPELLANT/Petitioner on April 19, 2018) which dismissed the APPELLANT/Petitioner's Re-Amended Motion for a Declaratory Judgment pursuant to Article 453 of the old C.C.P. and Re-Amended Application for Declaratory Relief pursuant to sections 24(1) and 52 of the *Constitution Act, 1982,* without costs;

10 2. The hearing took place over a period of seven (7) days, March 20, 21, 22, 23, 24, 27 and 28, 2017;

3. APPELLANT/Petitioner (hereinafter the "Appellant") respectfully submits that the judgment *a quo* is in error **(a)** in upholding the constitutional validity of the six contested sections, (ss. 1, 2, 3, 4, 5 and 13) of S.Q. 2000, c. 46 (now R.S.Q. c. E-20.2), *An Act respecting the fundamental rights and prerogatives of the Québec people and the Québec State*, and **(b)** in declining in the reasons and the order even to circumscribe or "read down" their terms;

4. Specifically the judgment (with respect) is in error in that it does not acknowledge or give effect, either in its reasons or in its order, to the following:

20 **(i)** When read individually or read together, these six sections do explicitly express, assert, and declare, ***in absolute and unqualified terms***, a claimed right and power of the legislative institutions of Quebec, and its population or electorate, to alter, ***by themselves and without other formalities or conditions***, the constitutional position of Quebec in any manner, and with any consequence, they may choose. This is supported by the 12th and 13th recitals in the Preamble (note in the 13th the reference to the events in 1995, involving the *Loi sur l'avenir du Québec*);

(ii) Presumptions of constitutionality may cure ambiguity only, not an explicit text, especially one which also reflects the concurrent objectives and intentions of the framers and
30 promoters expressed in legislative debate;

(iii) These sections in their breadth also exactly reflect many programmes of the Parti Québécois (excerpts from which are of record; some cited in the judgment) under whose legislative majority the provisions were enacted;

(iv) In no way do the six sections acknowledge or reflect the absolute supremacy of the Constitution of Canada declared in ss. 52(1) and 52(3) of the *Constitution Act, 1982*, especially in respect of enacting constitutional amendments, by means of the prescribed processes, to accomplish constitutional change. Nor does the judgment *require* that they be expressed to do
40 so, still less does it curtail them to conform to constitutional limits. Rather the six sections, *both* on their face, *and* as promoted by their framers, confront and deny that supremacy, and in so doing reflect faithfully certain observations of the framers and promoters during debate on the Bill, "Bill 99";

(v) The obligatory constitutional-amendment procedures prescribed by Part V of the *Constitution Act, 1982* incontrovertibly embody the principle that constitutional changes affecting the Canadian Federation must be made by the Canadian people as a whole, through their federal and provincial legislative institutions collectively, and not by the people or institutions of one province;

(vi) Moreover, these declarations, in provincial ***statutory*** form in the six sections, are not authorized by any constitutional grants of legislative jurisdiction. This is particularly so since these six contested sections are perfectly general in their scope and address matters far beyond the internal institutions of Quebec. Internal institutions are the matters to which the provincial amending power is strictly limited by s. 45 of the *Constitution Act, 1982*, as it has been consistently interpreted by the Supreme Court of Canada. Section 45 of the *Constitution Act, 1982* (cited in paras. [298], [467]) is therefore insufficient to support the six sections. Ss. 92.13 and 92.16 of the *Constitution Act, 1867*, are (with respect) without relevance, though relied on in para. [297]), and cited (see para. [184]) by S.S.J.B.M., Intervener;

(vii) The legislative debates on Bill 99, – which became the statute under review, – clearly and unmistakably show that the framers and promoters both **(1)** ***reject***, and **(2)** ***intend in their statute to express rejection***, of the indispensable constitutional requirement that all lawful constitutional change be accomplished in compliance with the amending procedures of Part V of the *Constitution Act, 1982*. The judgment (para. [399]) even quotes one such explicit statement of rejection from the Bill 99 debates. Yet nothing on the face of the statute under review contradicts or qualifies this openly avowed purpose. Nor does the Court in its reasons or order impose any formal judicial restriction ("interprétation attenuée") on the statutory language. (See e,g. [440], [537].) On the contrary, the contested provisions are, and remain, expressed in absolute, unilateral, terms, though interpreted in the judgment as innocuous. This result directly violates s. 52(3) of the *Constitution Act, 1982*, especially when read with s. 52(1) and the *Secession Reference*, several times reiterating the requirement of recourse to the amending process for constitutional change;

(viii) And in particular, – where a proposed constitutional change extends beyond internal provincial institutions, – the framers and promoters of this Act, in the course of the legislative debates, specifically reject compliance with the two "multilateral" or "national" amending procedures (ss. 38 ff. and s. 41), which

(1) the Supreme Court has repeatedly laid down in the *Secession Reference* (paras. 84 (twice), 97, 104) and

(2) which the *Constitution Acts* themselves explicitly require in ss. 52(1) and 52(3) and Part V of the *Constitution Act, 1982.*

(See Judgment [399] for one such instance of explicit rejection in the debates.)

(ix) The contested provisions cannot (as the judgment does) be rendered innocuous or constitutionally *intra vires* by treating them either as merely :

(1) an internal codification of governing principles (e.g. [308], [330] & [331], [384], [467], [468], [565]); or

(2) a codification of allegedly fundamental or traditional or established rights or claims: Judgment, paras.104], 108], [304], [308], [309], [317], [323], [329], [348], [548], [549], [552], [565]. Paras. [158] and [159] are submissions of A.- G. Quebec); or

(3) simple internal housekeeping or

(4) reflecting principles of democracy (e.g. para. [548]), [[549] ff.), or

(5) several of these together (e.g. para. [565]).

(x) The six contested sections are formulated to assert, on their face, claims to an unlimited right of constitutional change, and for this purpose they appeal to two distinct principles: **(1)** They appeal to the right of self-determination of peoples in international law, even though the Supreme Court of Canada has held that only oppressed peoples have a right of secession. **(2)** They appeal to general democratic principles, ➡even though no such principles justify a right to constitutional change otherwise than through the prescribed procedures for constitutional change; and ➡even though Quebec's institutions fundamentally derive their *authority* directly from the Constitution of Canada, and their *legitimacy* from that Constitution, and from the free and democratic institutions which the Canadian Constitution creates and authorizes (contrary to s. 5 of the Act);

(xi) Quebec obviously has a population and an electorate, which, *in ordinary, non-technical, language*, can be called a "people". It also embraces identifiable sub-groups which can also be called "peoples". Even so, section 5 is, in effect, a political construct primarily relevant to and addressed to section 1. Whereas international law defines and confers limited rights of self-determination only on a ***"people" with a cultural and linguistic identity,*** – **which in Quebec, is most prominently the French-speaking ethno-linguistic majority,** – by s. 5 the "people" is expanded to embrace the *entire* population (see Judgment [346]), so as to create a wider "people" for s. 1, and, therefore, for the exercise of claims to "self-determination";

(xii) This all-encompassing "civic" "people", coextensive with Quebec's population, is by this Act declared to have the (unrestricted) right to choose and change the political régime and legal status of Quebec, in the name of the international law of self-determination. Yet, in truth, any such rights of self-determination belong ***only*** to ethno-linguistic peoples, ***not*** to entire heterogeneous populations. Only the French-speaking majority in Quebec can be ***"the"***

(necessarily ethno-linguistic) "people" *qualified to exercise the self-determination contemplated by s. 1.* In the context of the contested sections, especially s. 1, the Court's finding as to "people" (paras. [352], [353], [358]), is therefore, at minimum, too widely stated. It upholds the widening of "people" in s. 1 to try to satisfy the ethno-linguistic requirements of international self-determination. The French-speaking majority is by statute deemed to have absorbed the ethno-linguistic minorities to have formed not only a civic people, but one with the special identity demanded by international law;

10 **(xiii)** Section 1, read with section 5 and in the context of this Act, is designed to permit a referendum result in which the whole heterogeneous Quebec population has supposedly spoken as if, – though considered a "civic" people, – it has ***also*** become ***one, single, ethno-linguistic people in international law,*** – and as such entitled to speak as one. (The claim extends even to unconstitutional purposes. and even to exercise an asserted right to alter the political régime and legal status of Quebec.) The ***effect,*** *ex facie*, and the obvious ***purpose***, of this statutory arrangement is to bind minorities to a referendum result, especially one favourable to secession. In terms of the Act, *one single "people"* will thus be deemed to have spoken collectively under s.1;

20 **(xiv)** As to s. 5, the Appellant (see paras. [5], [132], [514]) did not at trial object to the *inherent validity* of the second and third paragraphs ***taken by themselves***. But his position at trial (possibly stated with insufficient emphasis) was, and it remains, that, as they appear in s. 5, the latter two paragraphs *are not severable from* the first paragraph. Accordingly, if the first paragraph falls, so do the second and third paragraphs fall with the first. This in no way abandons or impairs the Supreme Court's requirement of "clarity" in a referendum question and answer, ***regardless*** of the provisions in the *Election Act* or in the *Referendum Act.* Whether these concern the setting of the question or the voting, or the majority formally required by the *Referendum Act.*, the *Secession Reference* sets a specific standard for the specific purpose.(But contrast Judgment paras.[493] ff.).

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(xv) Legislative bodies are in principle free to express their opinions by resolution, but not by statute unless they do so strictly within their legislative authority. This is so because resolutions expressing opinions do not bind the courts, but statutes produce legal consequences if valid.

5. The judgment is, with respect, in error in that it does not *apply and enforce* (e,g. in paras. [104], [578] and elsewhere) the constitutional limits which restrict the extent of the provincial constitutional amending power, even though the judgment partly *acknowledges* those limits ([289] to [293], [296]). These limits have been explicitly laid down by the Supreme Court of Canada in various decisions; that
40 is to say:

the power of a provincial legislature to enact constitutional amendments extends ***only*** to the ***internal institutions of the province***, and even then with major exceptions, which **exclude** from provincial amending power:

1st all powers of the Crown and its representatives,
2nd the implementation of the federal principle,
3rd any fundamental term or condition of the Union,
4th anything which engages the interests of the other level of government, and
5th anything which alters the fundamental nature and role of the province's institutions.

6. The judgment is, with respect, in error in relying on all or any of the following, whether they be relied on **(a)** as extending provincial jurisdiction or **(b)** as justifying, or authorizing, or supporting the validity or legitimacy of the contested legislation:

(i) the assertions in the Preamble, since these seek to *justify* but do not *alter*, the actual substance of the legislation, which is explicit on its face, – far too explicit to be qualified by preambles;

(ii) the enactment by the Parliament of Canada of one or more statutes, in particular, the *"Clarity Act", An Act to give effect to the requirement for clarity as set out in the opinion of the Supreme Court of Canada in the Quebec Secession Reference*, S.C. 2000, c. 26. The *Clarity Act* is alleged by the Preamble and by the Bill 99 debates, and is apparently accepted by the trial Court, to have provoked the enactment of the contested provisions. (Judgment paras. [12] to [15], [17], [20], [29], [30], [72] to [74], [391]);

(iii) earlier decisions, actions, or omissions of the Parliament and Government of Canada, – and their involvement, or non-involvement, – in addressing earlier provincial proposals, bills, or referendums. These earlier federal courses of conduct can have many explanations, including the view that federal involvement was unnecessary. But they cannot (despite the assertions in the Preamble) be taken as *commitments* one way or another as to future federal action or abstention, nor as *barring* future federal action, nor even as *relevant to* future federal action. Judgment, para. [402], appears to imply otherwise. See Preamble, recitals 12 and 13, and Judgment, paras. [45], [400] to [406];

Rather, it is for the Courts themselves, not the Legislature or other institutions of Quebec, to determine, in case of dispute, the legitimacy and legality of any federal activity in relation to provincial measures attempting constitutional change. Indeed all governmental actions, federal as well as provincial, are judicially reviewable on their own merits as occasion requires.

7. In particular, the judgment fails to recognize that the multilateral or national Canadian constitutional amending procedures, which are **(1)** ***at least implicitly rejected*** on the face of the contested

provisions of the Act, and **(2)** ***very explicitly rejected*** as illegitimate and unacceptable by the framers and promoters of the Act, in the course of the Bill 99 debates (see e.g. para. [399]):

(i) are those which had been ***proposed by Quebec itself*** along with seven other provinces in opposition to the patriation proposals of the Government of Canada under Rt. Hon. Pierre Trudeau: *Constitutional Accord*, April 16, 1981. The exception concerns compensation to provinces which might opt out of possible future transfers of powers to the federal Parliament. But this divergence has no relevance to the process for constitutional changes in the status of Quebec as a member of the Canadian Federation and so is irrelevant to secession or other change in Quebec's status;

(ii) were held by the Supreme Court of Canada in the *Patriation References* to have been enacted both *lawfully* and also *legitimately* in compliance with the conventions of the Constitution;

8. The judgment repeatedly, but *incompletely*, and therefore mistakenly, – by quotation and otherwise, even by implication, – defines the secession, or lawful secession, of a Canadian Province *as secession preceded by negotiations*; meaning, in the case of Quebec, negotiations by Quebec with the Government of Canada and possibly with the other members of the Canadian Federation.

(i) The quotations are accurate in themselves, but are offered in isolation from other conditions. Judgment, paras. [28], [29], [59], [68], [157], [226], [349], [351], [415], [434], [452], [467], [469], [489], [524], [571].

As to [137], the Appellant's submissions at the hearing did not address merely negotiations precedent to secession, but also the need of a national constitutional amendment. Accurately in [144], and partly so in [146], the Court states Petitioner's submission as to the need of an amendment. In various respects the judgment (with respect) omits an adequate summary of the Appellant's submissions, particularly as regards Part V of the *Constitution Act, 1982* and its requirements. With respect, as regards [148], the Court of Appeal's deletion of the Appellant's *conclusions* (seeking declarations of principle) did not impair the subject matter of the Appellant's *arguments*, which are summarized by the Appeal Court as quoted by the trial judge in para. [136];

(ii) Though even this limited condition (precedent negotiations) for secession is nowhere reflected on the face of the contested provisions, the judgment nevertheless upholds these provisions on the basis that the provisions can, and should, be construed in accordance with concessions or acknowledgments to this effect made by the framers and promoters of the legislation *in the course of the Bill 99 debates,* and also in accordance with various presumptions favouring constitutional validity. See e.g. Judgment, para. [415], in which willingness to engage in negotiations is referred to as compliance with the *Secession Reference*;

(iii) But the Trial Court's frequent and usual characterization of lawful secession, as requiring merely precedent negotiations, is, with respect, inadequate and inaccurate. This is so because, though there is muted reference or allusion to amending procedures (e.g. [64], [296], [415], [452], [467], [510]), the Court avoids acknowledging, and imposing upon the contested sections, the indispensable requirement that **any lawful constitutional change** in status of a Canadian province, – and **in particular its secession, – *must*** be authorized by a constitutional amendment, – necessarily meaning one enacted by the only relevant amending procedures set out in Part V of the *Constitution Act, 1982.* These are the multilateral or national amending procedures set out in sections 38 ff., and s. 41. See *Secession Reference*, paras. 84 (twice), 97, 104. Near oblivion in the judgment for the constitutional-amendment requirement, and its near-burial in mere negotiations (see above **8.(i)**) permit the Court's findings upholding the contested provisions in the face of the framers' stated rejection of compliance with the requirements of Part V of the *Constitution Act, 1982.* (See e.g. the instance quoted in para. [399], and those found elsewhere in the Bill 99 debates included in the record.);

(iv) The Trial Court fails to invoke or apply, – and, except indirectly (see [64]), even omits citation of, – the Supreme Court's repeated insistence in the *Secession Reference (Reference re Secession of Quebec,* [1998] 2 S.C.R. 217), that a constitutional amendment is needed to make the constitutional changes which secession would bring about: *Secession Reference*, paras. cited **(iii)**);

(v) The judgment relies, (paras. [510], [512]) on a passage in a judgment of this Court *(Alliance Québec* v. *Directeur Général des Elections du Québec*, 2006 QCCA 651 at para 29) to support the proposition that a unilateral declaration of independence would be lawful were negotiations on secession unsuccessful. But, with respect, **(1)** this passage is an *obiter dictum* and **(2)** it misreads the *Secession Reference*, in which the Supreme Court nowhere either expresses or implies that such a process would be lawful. Indeed that would constitute revolutionary overthrow of the Canadian State and Constitution. Yet, even while relying on the cited passage, – which assumes a right in certain circumstances to unilateral secession, – the Judgment *a quo* nevertheless holds that the Act claims ***no*** right to unilateral secession (see e,g. paras. [431] to [435]). This is indeed contradictory;

(vi) The Appellant finds in the judgment only oblique references to any ***necessity*** of a constitutional amendment to achieve secession (as distinct from a right to *propose* and *pursue* amendments). Thus an amendment is needed at least to remove the word "Quebec" (paras. [296], [455], [456]) from the Constitution Acts. But not only is this **(1)** buried in the judgment, and **(2)** not reflected in the decision on the validity of the sections, but **(3)** it is overwhelmed by the repeated references to negotiation **(4)**, and it is on the whole treated as if it were insignificant. The need of an amendment is largely relegated to the Appellant's submissions and to casual references. It plays no role in the substance of the judgment, in which lawful secession is equated with negotiations, and in which a unilateral declaration of independence is held to be justified in certain circumstances ([510], [512]);

(vii) In the Bill 99 debates, the need to enact a national, – meaning a multilateral, – constitutional amendment to accomplish secession, is categorically and absolutely rejected by the framers and promoters of the legislation. Therefore, given the categorical and unilateralist language on the face of the contested provisions, these provisions cannot be construed as consistent with the constitutional requirements for lawful secession, precisely because *both* on their face, *and* as promoted, they reject the need of any such amendment. Many of the relevant passages from the Bill 99 debates are of record and several were cited at trial. See Judgment, para. [399], quoting one clear rejection of the amending process. The contested provisions are upheld on the assumption they implicitly accept the need of negotiations, and negotiations are treated as if they were constitutionally sufficient for constitutional change; see e,g. Judgment, paras. [415], [434], [435], [469], [547], [571];

9. The judgment erroneously accepts, and appears to adopt, the accusations that the federal *Clarity Act* is an illegitimate, and even unconstitutional, attack on Quebec, thus justifying the enactment of the contested provisions as a legitimate response, and even as retaliation. The Court cites, with no apparent disapproval, invocation of the *lex talionis*: Judgment, para. [103]). On this topic generally, and as the *Clarity Act* is invoked in support of various contested provisions, see: Judgment, paras. [17], [29], [74], [79], [80] ff. to [104], [295], [330], [331], [332], [347], [391], [395], [397] to [399], [461], [477], [484], [485], [498], [543], [557], [559], [560], [563] ("coup de semonce");

10. The judgment rightly acknowledges that the Supreme Court in *Secession Reference* has established that **(1)** the clarity of a referendum question on a secession proposal, and **(2)** the clarity of the answer in a secession referendum, are both matters for decision by the political actors, as is **(3)** the conduct of any consequent negotiations: Judgment paras. [7], [57], [58], [586];

But, despite this acknowledgment, the judgment nevertheless, – with evident approval (see e.g. paras. [476], [477]), addressing s. 3 of the Act), – cites the attacks on **(1)** the legitimacy of, and **(2)** even the constitutional validity of, the *Clarity Act*: see e.g. Judgment, paras. [85], [86]).

With respect, the *Clarity Act*, however, is clearly *intra vires* because:

(i) it is constitutionally supported by the federal residuary power (a well-established basis for legislation on federal institutions), and also by the terms of s. 44 of the *Constitution Act 1982*;

(ii) moreover it complies exactly with the requirements set forth by the Supreme Court in the *Secession Reference.* This is so because, exactly as the *Secession Reference* directs, the *Clarity Act*, which is itself the product of Parliament, a political branch of government, sets basic standards and time-lines and *remits to political actors*, – namely the federal legislative bodies and federal executive government:

(1) the determination of the clarity of the referendum questions and answer,

(2) the conduct of any succeeding negotiations and in addition

(3) a constitutional amendment is declared to be necessary to effect secession, exactly as the *Secession Reference* requires in its paras. 84 (twice), 97, and 104;

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Broader consultations are contemplated, and ultimately the involvement of the provincial governments, – again, all of them political actors.

11. The contested provisions violate the rights of the Appellant under the *Canadian Charter of Rights and Freedoms* because they authorize changes which would, – and other changes which could, – remove the operation of that Charter in Quebec: that is to say:

(i) constitutionally-unlawful secession which would *entirely*, – and

20 (ii) also other changes which could *entirely or partly*, – remove the operation of the *Charter;*

In so doing the contested provisions render *Charter* rights not absolute but conditional on the will of Quebec's electorate and institutions, and therefore precarious. It is not constitutionally permissible for a provincial statute to do so;

12. The judgment is in error in casting the gravest doubt on the legitimacy, and even the constitutional validity, of the *Clarity Act*. Accordingly Appellant respectfully submits that it is of the greatest importance to the rule of law, and to the stability of the Canadian state, that the appellate Court affirm both **(1)** the legitimacy and the constitutional validity of the *Clarity Act*, and also **(2)** the indispensable need to comply 30 in all circumstances with Part V of the *Constitution Act, 1982* in carrying out any constitutional change within Canada;

13. The judgment and reasons of the Superior Court are mistaken and unfounded in law and in fact, and that any discretion exercised against the Appellant was mistakenly exercised;

14. In the circumstances, the Appellant is entitled to the relief requested in the conclusions of the present Notice of Appeal;

15. Notice of the present appeal is given to those parties that appeared and/or participated in the 40 proceedings before the Superior Court:

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16. The present Notice of Appeal is well founded in fact and in law;

FOR THESE REASONS, THE APPELLANT/PETITIONER REQUESTS THAT THIS HONOURABLE COURT:

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1) **MAINTAIN** the present appeal;

2) **REVERSE** the judgment of the Superior Court of the District of Montreal rendered by the Honourable Justice Claude Dallaire on April 18, 2018;

3) **RENDER** the judgment that ought to have been rendered as follows:

1) **DECLARE** that sections 1, 2, 3, 4, 5 and 13 of the *Act respecting the exercise of the fundamental rights of the Québec people and the Québec State* and la *Loi sur l'exercice des prérogatives du peuple québécois et de l'État du Québec*, being Bill 99 of the First Session of the Thirty-sixth Legislature of Quebec, adopted on December 7, 2000 and being chapter 46 of the Statutes of Quebec for 2000 (now R.S.Q. c. E-20.2), are *ultra vires*, absolutely null and void, and of no force or effect;

2) **DECLARE** that sections 1, 2, 3 4, 5 and 13 of the said Act purporting to confer the authority to establish Quebec as a sovereign state, or otherwise to alter the political regime or legal status of Quebec as a province of Canada, constitutes an unjustified infringement and denial of APPELLANT/ Petitioner's rights under the *Canadian Charter of Rights and Freedoms*, and is accordingly unlawful, invalid, and of no force or effect;

(3) Or subsidiarily, **ORDER** that the said sections be judicially restated or circumscribed, if the rules respecting textual and substantial severance permit the Court to do so, in terms which render the said sections in clear conformity with the Constitution of Canada, particularly in requiring that all constitutional change be carried out in strict conformity with the amending procedures prescribed by Part V of the *Constitution Act, 1982;*

4) **ORDER** such further and other relief as may be just and expedient in the premises;

5) **THE WHOLE** with costs in both courts.

MONTREAL, May 10 , 2018

Brent D Tyler.

BRENT D. TYLER
ATTORNEY FOR APPELLANT/Petitioner

MONTREAL, May 10, 2018

Stephen A. Scott

STEPHEN A. SCOTT
COUNSEL FOR APPELLANT/Petitioner

True copy
BDT.

MISCELLANEOUS REQUIREMENTS

STATEMENT RELATING TO CONFIDENTIALITY

Civil Practice Regulation, Court of Appeal,
c. C-25.01, r. 10, s.8

The Appellant attests that no part of this file is confidential.

MONTREAL, May 10, 2018

Brent D Tyler

BRENT D. TYLER
ATTORNEY FOR APPELLANT/Petitioner

CERTIFICATE RELATING TO TRANSCRIPT OF DEPOSITIONS

Code of Civil Procedure
c. C-25.01, s. 353, para. 3

The Appellant certifies that no transcript of depositions will necessary for the appeal.

MONTREAL, May 10, 2018

Brent D Tyler

BRENT D. TYLER
ATTORNEY FOR APPELLANT/Petitioner

True copy
BDT.

OBLIGATION TO FILE A REPRESENTATION STATEMENT

Code of Civil Procedure
c. C-25.01, s. 358, para. 2

358(2) Within 10 days after notification, the respondent, the intervenors and the impleaded parties must file a representation statement giving the name and contact information of the lawyer representing them or, if they are not represented, a statement indicating as much. If an application for leave to appeal is attached to the notice of appeal, the intervenors and the impleaded parties are only required to file such a statement within 10 days after the judgment granting leave or after the date the judge takes note of the filing of the notice of appeal.

Civil Practice Regulation, Court of Appeal,
c. C-25.01, r. 10, s. 25, para. 1, s. 30

25. *Notification* (Art. 109). The parties shall notify their proceedings (including briefs and memoranda) to the appellant and to the other parties who have filed a representation statement by counsel (or a non-representation statement).

30. *Failure to File a Representation Statement* (Art. 358). If a party fails to file a representation statement by counsel (or non-representation statement), it shall be precluded from filing any other pleading in the file.

The appeal shall be conducted in the absence of such party.

The Clerk is not obliged to notify any notice to such party.

If the statement is filed after the expiry of the time limit, the Clerk may accept the filing subject to conditions that the Clerk may determine.