

Quebec sovereignty: Ex-Equality Party leader appeals Bill 99 ruling

Keith Henderson says Superior Court ruling sows confusion over whether Quebec has the right to secede unconditionally.



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Keith Henderson: "Who's right here? Is it Bill 99 or the Constitution of Canada." PATRICK DOYLE / THE CANADIAN PRESS

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The former leader of the now-defunct Equality Party, Keith Henderson, is appealing a recent Quebec Superior Court ruling that upheld Bill 99, calling the decision “misleadingly wrong” and “fundamentally confusing.”

Henderson, 73, filed the notice of appeal last Friday.

Bill 99 was adopted by Lucien Bouchard’s Parti Québécois government in 2000. The bill argued the people of Quebec have a right to self-determination and that a majority of 50 per cent plus one is enough for victory in a referendum.

Henderson, who is now chairman of the Special Committee for Canadian Unity, challenged the bill in 2001 on the grounds it contradicts the federal Clarity Act, which governs how a province can secede from the federation. His concern was that some of its articles might be used as a springboard to a unilateral declaration of independence. Though she noted Henderson’s concerns were reasonable, Justice Claude Dallaire rejected his bid to have the bill declared unconstitutional in her April judgment, downplaying any fears that it could lead to “anarchy and chaos.”

“In our opinion, the purpose of Bill 99 is to reaffirm things that already exist; the Quebec government has always claimed that there is a Quebec people, and it has reaffirmed it in this bill,” Dallaire wrote. “Bill 99 does not create this Quebec people and in no way allows it to secede without first negotiating.”

On Friday, however, Henderson said the 101-page ruling is contradictory and sows confusion over whether Quebec has the right to secede unconditionally.

“What (Dallaire) is saying is that a unilateral declaration of independence is only a UDI if there are no preceding negotiations or attempt to achieve them,” Henderson said, adding that the judge’s opinion goes against what the Supreme Court of Canada has said on the matter.

“Who’s right here? Is it Bill 99 or the Constitution of Canada,” he asked. “As a resident of Quebec, but also a citizen of Canada, who’s defining my rights? Which one is predominant? It’s fundamentally confusing.”

Henderson said Dallaire’s decision is about the “fundamental rights of the Quebec people” and needs to be clear. Not challenging it could have future repercussions, he added.

The sovereigntist group Société Saint-Jean-Baptiste, which had been granted intervenor status in the court proceedings, has welcomed Dallaire’s decision as a victory.