

6 August 2025

File No: 51684

The Honourable Justice Colin CJ Feasby
Calgary Courts Centre – Kings Bench of Alberta
601 5th Street SW
Calgary, AB T2P 5P7

Dear Justice Feasby,

Subject: Special Case under s 2.1(1) of the *Citizen Initiative Act*; King's Bench Action: 2503 15116

On July 29, 2025, the Chief Electoral Officer of Alberta stated the following question to the Court of King's Bench in the form of a special case under section 2.1(1) of the *Citizen Initiative Act*, SA 2021, c C-13.2, with respect to an initiative petition for a constitutional referendum proposal submitted by Mr. Mitch Sylvestre:

Does the following proposal contravene section 2(4) of the *Citizen Initiative Act*, in that it contravenes any or all of sections 1 through 35.1 of the *Constitution Act, 1982*:

“Do you agree that the Province of Alberta shall become a sovereign country and cease to be a province in Canada?”

I am counsel for the Minister of Justice of Alberta (Minister) on this matter, scheduled for hearing on August 7, 2025, commencing at 10:00 am in Edmonton.

Pursuant to section 2.1(2)(a) of the *Citizen Initiative Act* and sections 13(1)(b) and 14 of the *Administrative Procedures and Jurisdiction Act*, RSA 2000, c A-3, the Minister is entitled as of right to be heard and participate in this matter and with this letter, advises that he intends to do so.

As stated many times publicly by the Premier of Alberta, the Government of Alberta does not support secession from Canada but supports a sovereign Alberta within a united Canada. The Government does, however, support the democratic right of every citizen of Alberta to participate in a citizen's initiative process, as set out in the *Citizen Initiative Act*, and bring forward a petition asking a clear question for citizens to consider.

The special case stated by the Chief Electoral Officer asks whether the above-noted constitutional referendum proposal complies with section 2(4) of the *Citizen Initiative Act*, which states that an initiative petition proposal must not contravene sections 1 to 35.1 of the *Constitution Act, 1982*. The Minister's position is that the proposal is not unconstitutional, and therefore should be approved and permitted to proceed. It is settled law that the government of any province of Canada is entitled to consult its population by referendum on any issue, and that the result on a referendum on the secession of a province, if sufficiently clear, is to be taken as an expression of

democratic will, giving rise to an obligation on the part of the federal government and the governments of other provinces to enter negotiations that may lead to secession (as set out in the *Reference re Secession of Quebec*, [1998] 2 SCR 217 and *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*, SC 2000, c 26).

The relevant legislation is clear that if a constitutional referendum proposal is successful, the results of the referendum are binding on the Government only insofar as the Government must “as soon as practicable, take any steps within the competence of the Government of Alberta that it considers necessary or advisable to implement the results of the referendum” (*Referendum Act*, RSA 2000, c R-8.4, s 4(2)). If the Government proposes legislation in response to a referendum, that legislation will be subject to constitutional scrutiny. Asking a question about secession, and indeed, taking the steps in section 16 of the *Citizen Initiative Act* following collection of signatures, does not violate any of sections 1 to 35.1 of the *Constitution Act, 1982*.

The Minister requests permission to provide both written and oral submissions. I understand that the Court has asked for briefs to be filed. I will attend court tomorrow and take the Court’s direction on when to file but do submit that it would be appropriate for the Minister to wait until the position of all intervenors is established.

It is not anticipated that the Minister’s involvement in this stated case will unduly impact the timing of this matter.

The Minister also understands that Mr. Sylvestre has brought an application to strike the special case. The Minister takes no position on the application of Mr. Sylvestre, nor on the other procedural issues of whether an *amicus curiae* should be appointed, the process for determining intervenors, and timelines.

Yours truly,



Nicholas Trofimuk
NT/eo

cc: Shores Jardine LLP (Counsel for Chief Electoral Officer)
Rath & Company (Counsel for Mitch Sylvestre)
Olthuis, Kleer, Townshend LLP (Counsel for Athabasca Chipewyan First Nation)