Unofficial English Translation

Fédération étudiante collégiale du Québec (FECQ) c. Québec (Gouvernement du) **2012 QCCS 2860**

SUPERIOR COURT

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No.: 500-17-072160-123

DATE: June 27, 2012

PRESIDING: THE HONOURABLE FRANÇOIS ROLAND, C.J.

FÉDÉRATION ÉTUDIANTE COLLÉGIALE DU QUÉBEC (FECQ), and
LEO BUREAU-BLOUIN (1st)
-and-
ASSOCIATION POUR UNE SOLIDARITÉ SYNDICALE ÉTUDIANTE (ASSÉ), and
PHILIPPE ÉTHIER, and
SOCIÉTÉ GÉNÉRALE DES ÉTUDIANTES et ÉTUDIANTS DU COLLÈGE DE MAISONNEUVE, and
LOUIS-PHILIPPE VERONNEAU (2nd)
-and-
FÉDÉRATION ÉTUDIANTE UNIVERSITAIRE DU QUÉBEC (FEUQ), and
MARTINE DESJARDINS, and
TABLE DE CONCERTATION ÉTUDIANTE DU QUÉBEC (TACEQ), and
PAUL-ÉMILE AUGER, and
REGROUPEMENT DES ÉTUDIANTS et ÉTUDIANTES DU CÉGEP DE SANT-HYACINTHE (R.É.É.C.S.H.) (3rd)
-and-
Other applicants (see appendix)

Applicants

v.

GOVERNMENT OF QUEBEC, legally represented by the Attorney General Of Quebec
and
MICHELLE COURCHESNE, in her capacity as Minister of Education

and
ROBERT DUTIL, in his capacity as Minister of Public Security
Defendants

JUDGMENT ON MOTION FOR SUSPENSION

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[1] The applicants seek a suspension during the proceedings of certain provisions of *Law 12* (Bill 78), namely divisions III and IV (sections 16 to 21 of the Law). *Law 12* was enacted by the National Assembly of Quebec on May 18, 2012.

[2] These sections set out conditions for demonstrations and the consequences of non-compliance with sections 13 and 14 of *Law 12*, which provide unrestricted access to students wishing to resume their studies and attend classes.

[3] The Attorney General of Quebec (hereinafter "AGQ") contests this motion for suspension on the ground that it does not meet the tests set out in the case law in *Manitoba (Attorney general) v. Metropolitan Stores Ltd*.,[1] *RJR - MacDonald Inc. v. Canada (Attorney General*)[2] and *Harper v. Canada (Attorney General).*[3]

[4] Since this case involves a motion for suspension during the proceedings on a motion for declaratory judgment seeking the invalidity of several sections of *Law 12*, the Court considers it appropriate to briefly summarize the facts giving rise to this litigation.

[5] The Court notes that the issue here is not to decide the motion to strike down the Law, which will be done by the trial judge.

[6] Other associations (not related to the student associations, teachers' unions or associations, or worker or professional unions or associations) also challenge the validity of *Law 12*, or rather the provisions that limit freedom of expression by restricting the right to demonstrate.

THE FACTS

[7] Some time ago, the government of Quebec ordered university tuition fees to be increased over a five-year period.

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1 [1987] 1 S.C.R. 110.
2 [1994] 1 S.C.R. 311.
3 [2000] 2 S.C.R. 764.

[8] In 2011, student movements formed to contest this increase in tuition fees and student demonstrations began in February 2011.

[9] In February 2012, students began to boycott classes at several colleges and several university faculties and departments in Quebec.

[10] These boycotts were renewed, sometimes for unlimited durations, so that by May 18, 2012, almost 30% of college and university students, or 147,070 students, were deprived of instruction.

[11] According to the evidence, before the beginning of the student conflict, in Montreal, based on tradition and without any legislative or regulatory obligation, the organizers of demonstrations voluntarily collaborated with the SPVM (Montreal police department) by giving it advance notice of their event, the estimated number of participants, and the route to be followed.

[12] Mr. Bourdages mentions numerous demonstrations prior to which the police were informed of the route and the number of participants, including the huge March 22 demonstration, which had more than 100,000 participants, and concludes that:

> [TRANSLATION]
>
> All of these demonstrations regarding which advance notice was given to the SPVM generally went well, and there were no major incidents.

[13] The same tradition was followed in Quebec City.[4]

[14] Between mid-April and May 18, 2012, more than fifty injunction orders were issued, mainly at the request of students, but also at that of educational institutions to allow those students to resume their studies.

[15] Many students were not able to resume their studies because of the failure to comply with many injunctions.

[16] During this time, many demonstrations were held in Montréal and Quebec City on an almost daily basis. Demonstrations were also held elsewhere in Quebec. For the most part, these demonstrations were related to the tuition increase, but over time they were also motivated by other subjects.

[17] According to the evidence presented by the AGQ,[5] 387 demonstrations were held on the Island of Montreal between February 16 and May 15, 2012.

[18] These demonstrations are now being held on an almost daily basis at various locations on the island and elsewhere.

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4 Affidavit of Serge Morin.

5 Affidavit of Alain Bourdages.

[19] For the vast majority of these demonstrations, no information regarding the routes or the number of participants is given to the police department.

[20] The demonstrators frequently walk the wrong way along city streets, making it difficult for police officers to ensure the safety of citizens and demonstrators by blocking perpendicular streets before they are crossed by demonstrators.

[21] Some demonstrators have even marched on expressways such as the Viger tunnel.

[22] During some demonstrations, the safety of citizens has been compromised and violent conflicts have sometimes erupted between demonstrators and citizens.

[23] The most recent demonstrations have been characterized more specifically by the fact that some demonstrators have primarily targeted police officers to incite them to intervene with force.

[24] Between February 12 and May 15, 2012, thirty-three Montreal police officers and several demonstrators were injured.

[25] A great deal of mischief was committed during the demonstrations.

[26] Since May 18, the police have not been informed of the routes of any evening demonstrations.

[27] Many demonstrators wear masks, scarves or hoods.

[28] Injuries, some of them very serious, and significant damage have been caused during some of these demonstrations.

[29] Many demonstrations have also been held outside major centres, such as in Lower St. Lawrence, the Gaspé Peninsula, the Magdalen Islands, Laurentides-Lanaudière, and Abitibi-Témiscamingue, under the jurisdiction of the Sûreté du Québec (the provincial police force).

[30] The Sûreté du Québec has responded to approximately thirty calls for assistance aiming to ensure the safety of individuals and the protection of property. Mr. Allaire of the Sûreté du Québec, says this, for example:

> [TRANSLATION]
>
> On March 20, 2012, demonstrators belonging to the student movement suddenly blocked all entrances to the Champlain Bridge on the south shore of Montreal. They arrived aboard two school buses at about 7:30 a.m. and completely blocked

> the bridge, exit 132, and Highway 10 eastbound. To reinforce this obstruction, the demonstrators placed concrete blocks on the highway.[6]

[31] As mentioned, as at May 18, 2012, the AGQ had identified more than fifty injunctive orders issued: interlocutory interim injunctions, extensions, safeguard orders, and interlocutory injunctions.

[32] According to the evidence presented by the AGQ, the situation deteriorated considerably between February and May 2012.

[33] It was in this context that, on May 18, 2012, the National Assembly enacted Law 12 titled *An Act to enable students to receive instruction from the postsecondary institutions they attend*.

[34] The explanatory notes state this:

> *The purpose of this Act is to enable students to receive instruction from the postsecondary institutions they attend.*
>
> *The Act suspends academic terms in progress as regards all classes interrupted and still interrupted on its coming into force. It provides for when and how classes are to resume and includes measures to ensure the validity of the 2012 winter and fall terms and the 2013 winter term. Other provisions in the Act are aimed at ensuring the continuity of instructional services as regards all other classes.*
>
> *The Act contains further provisions to maintain peace, order and public security as well as various administrative, civil and penal measures to ensure enforcement of the law*. (Emphasis added.)

[35] This Law was assented to on the same day it was enacted: May 18,012.

[36] The provisions of the Law that are the subject of the motion for suspension state the following:

> **DIVISION III**
>
> PROVISIONS TO MAINTAIN PEACE, ORDER AND PUBLIC SECURITY
>
> **16.** A person, a body or a group that is the organizer of a demonstration involving 50 people or more to take place in a venue accessible to the public must, not less than eight hours before the beginning of the demonstration, provide the following information in writing to the police force serving the territory where the demonstration is to take place:

[6] Affidavit of Pierre Allaire.

(1) the date, time, duration and venue of the demonstration as well as its route, if applicable; and

(2) the means of transportation to be used for those purposes.

When it considers that the planned venue or route poses serious risks for public security, the police force serving the territory where the demonstration is to take place may, before the demonstration, require a change of venue or route so as to maintain peace, order and public security. The organizer must submit the new venue or route to the police force within the agreed time and inform the participants.

17. A person, a body or a group that is the organizer of a demonstration and a student association or a federation of associations taking part in the demonstration without being its organizer must employ appropriate means to ensure that the demonstration takes place in compliance with the information provided under paragraph 1 of the first paragraph of section 16 and, if applicable, under the second paragraph of section 16.

DIVISION IV

ADMINISTRATIVE AND CIVIL MEASURES

§1. — *Assessments, premises and furniture*

18. On noting that it is unable to deliver instructional services to all or some of the students having a right to such services, an institution must, without delay, report the situation to the Minister of Education, Recreation and Sports, including the circumstances that caused the situation, the groups of students affected and, for each of those groups, the student association to which it belongs as well as any other information that may be useful for the purposes of this Act.

If the Minister notes that the institution is unable to deliver instructional services as a result of a failure by a student association to comply with an obligation imposed by this Act, the Minister may, despite any provision to the contrary, order the institution to cease collecting the assessment established by the student association or any successor student association and to cease providing premises, furniture, notice boards and display stands to the student association or any successor student association free of charge.

The cessation is effective for a period equal to one term per day or part of a day during which the institution was unable to deliver instructional services as a result of the failure to comply.

19. Despite any provision to the contrary, students represented by a student association referred to in the second paragraph of section 18 are not required

to pay any assessment, contribution or other similar amount to the student association, any successor student association or a third party for the benefit of either for the duration of the cessation ordered under section 18.

20. If the Minister of Education, Recreation and Sports notes that a federation of associations has failed to comply with an obligation imposed by this Act and that the failure to comply has resulted in hindering the delivery of instructional services to students having a right to such services, the Minister may, despite any provision to the contrary, order all student associations to cease paying any assessment, contribution or other similar amount to the federation of associations, any successor federation of associations or a third party for the benefit of either.

The cessation is effective for a period equal to one term per day or part of a day during which the delivery of instructional services was not possible as a result of the failure to comply.

21. Despite any provision to the contrary, a student association that belongs to a federation of associations referred to in the second paragraph of section 20 is not required to pay any assessment, contribution or other similar amount to the federation of associations, any successor federation of associations or a third party for the benefit of either for the duration of the cessation ordered under section 20.

PARTIES' SUBMISSIONS

Position of the applicants

[37] In connection with submission of the motion for suspension, the applicants argue that the tests for a suspension, in particular those established in *Manitoba (Attorney general) v. Metropolitan Stores Ltd*., *RJR - MacDonald Inc. v. Canada (Attorney general)*, and *Harper v. Canada (Attorney general)*, *supra*, would be met.

[38] The three relevant tests are as follows: (1) a *prima facie* case, i.e., the demonstration of a serious question to be tried; (2) irreparable harm if the suspension is not granted; (3) the balance of convenience.

[39] As for the *prima facie* case, or the serious question to be tried, the applicants argue that sections 16 and 17 of *Law 12* infringe freedom of expression in the sense that they limit the right to demonstrate.

[40] The right to demonstrate is subsumed under the guarantee of freedom of expression since both the message and the vehicle and location of expression are protected by the Charters.

[41] According to the applicants, *Law 12* has the effect of making all spontaneous demonstrations unlawful. This has a much broader effect than the obligation to submit routes for so-called organized demonstrations.

[42] They also argue that sections 18 to 21 of *Law 12* infringe the rights of student associations in that they jeopardize their very existence and survival.

[43] With respect to irreparable harm, the applicants argue that a fundamental right such as freedom of expression cannot readily be calculated in monetary terms and that the courts are generally reluctant to award damages in compensation for the violation of this right. People suffering prejudice as a result of the application of *Law 12* could not be adequately compensated.

[44] According to the applicants, given the limited duration of *Law 12*, it is probable that the underlying proceeding will not be resolved before the end of the effective period of the Act, namely, July 1, 2013. No remedy would then be possible.

[45] As for the application of sections 18 to 21, student associations would suffer irreparable harm in not receiving assessments and in being deprived of the facilities and physical resources that are granted to them by universities and colleges.

[46] With regard to the balance of convenience and the public interest, the applicants argue that the eight hours' notice required by *Law 12* is excessive. According to them, the objective of *Law 12*, namely to enable students to receive instruction from postsecondary institutions, would not be affected by the suspension of the effects of sections 16 and 17. The public authorities would still have the statutory measures needed to secure social peace.

[47] According to the applicants, the public interest requires the suspension of sections 18 to 21 because there is a current and timely need for student associations to take full advantage of their freedom of expression, association, and demonstration. The silencing of student associations and their weakening would be contrary to the public interest since they enrich public debate in a free and democratic society.

[48] *Law 12* would also have a deterrent effect on citizens wishing to participate in demonstrations of a political nature, which would be contrary to the public interest in a free and democratic society.

[49] Finally, the penal fines set out in *Law 12* constitute unusual punishment and are contrary to the public interest.

Position of the Attorney General of Quebec

[50] For its part, the AGQ argues that all tests required to grant the suspension of sections 16 to 21 of the Act have not been satisfied.

[51] For example, according to the AGQ, sections 16 and 17 of the legislation governing demonstrations [TRANSLATION] “do not deprive” citizens of their constitutional right to peaceful assembly.

[52] According to the AGQ, there is, strictly speaking, no absolute prohibition fettering or restricting freedom of expression. Demonstrations, including spontaneous demonstrations, are in no way prohibited.

[53] According to the AGQ, provisions governing demonstrations exist elsewhere in the country. Municipal by-laws in Winnipeg, Regina, Calgary, Vancouver, Victoria, Whitehorse, and Yellowknife include obligations similar to those under review herein.

[54] He argues that the issues put before the Court require a debate on the merits and full constitutional scrutiny, which cannot be done at the stage of a motion to stay or suspend.

[55] The AGQ does not dwell on the first test, namely that of the serious question or a prima *facie* case. He acknowledges that the applicants’ remedy is neither frivolous nor vexatious.

[56] As for the test of irreparable harm, the AGQ argues that it has not been met since freedom of expression is not fettered by sections 16 and 17 of *Law 12*. Freedom of expression is not an absolute right, and these provisions merely serve to set guidelines for the right of citizens to peaceful assembly and to protect the public from confrontations, which are unfortunately too frequent.

[57] The sunset clause (*Law 12* is in force only until July 1, 2013) will limit the duration of any annoyances suffered.

[58] Moreover, sections 16 and 17 are directed not at demonstrators per se but at the organizers and associations that participate in demonstrations. Spontaneous demonstrations would not be prohibited, since they are not [TRANSLATION] “organized” by anyone.

[59] Only in the case of serious risk to public security would the venue of demonstrations be changed by police authorities.

[60] These provisions are not applicable to demonstrations of fewer than fifty people.

[61] Concerning freedom of association, the AGQ argues that there is a factual vacuum with regard to student associations. The freedom of association recognized by the Charters concerns associations of employees as defined by the *Labour Code*. Furthermore, the AGQ argues that the student associations have already collected the assessments and the courses have been suspended.

[62] He also affirms that, in its decisions regarding the student conflict, the Superior Court has recognized that, strictly speaking, this is not a strike. The case law regarding labour disputes does not apply to the student conflict.

[63] In any event, the AGQ argues that the action is premature since no evidence has been adduced regarding actual prejudice caused to the student associations.

[64] Finally, with respect to the balance of convenience, the AGQ notes the presumption that *Law 12* was enacted in the public interest. The objective of *Law 12*, passed by a democratically elected National Assembly, is to allow students to resume their studies, and is presumed to have been enacted for the public good.

[65] According to the AGQ, to safeguard the public interest, we must wait until the issue of constitutionality is conclusively resolved; at the present time, too many elements are premature and hypothetical.

DISCUSSION AND DECISION

[66] As mentioned, to take the exceptional step of suspending legislation, the Court must be convinced that the tests defined by the Supreme Court of Canada have been met: the demonstration by the applicants of (a) a serious question or a non-frivolous *prima facie* case; (b) irreparable harm; and (3) the balance of convenience favouring the defendants, taking public interest into account.

[67] Here, the *prima facie* case is not in dispute. Beetz J., writing for the Court, states the following about the first test :

> …all that was necessary to meet this test was to satisfy the Court that there was a serious question to be tried as opposed to a frivolous or vexatious claim.[7]

[68] The Court need not dwell further on this first test, which it considers to have been met.

[69] The second test consists in showing that irreparable harm would be caused if the suspension were not granted.

[70] Beetz J. writes this:

> The second test consists in deciding whether the litigant who seeks the interlocutory injunction would, unless the injunction is granted, suffer irreparable harm, that is harm not susceptible or difficult to be compensated in damages. Some judges consider at the same time the situation of the other party to the litigation and ask themselves whether the granting of the interlocutory injunction would cause

[7] *Manitoba (Attorney General) v. Metropolitan Stores Ltd*., *supra* note 1 at para. 32.

> irreparable harm to this other party if the main action fails. Other judges take the view that this last aspect rather forms part of the balance of convenience.[8]
>
> [Emphasis added.]

[71] Beetz J. continues:

> The third test, called the balance of convenience and which ought perhaps to be called more appropriately the balance of inconvenience, is a determination of which of the two parties will suffer the greater harm from the granting or refusal of an interlocutory injunction, pending a decision on the merits.
>
> I now propose to consider the particular application of the test of the balance of convenience in a case where the constitutional validity of a legislative provision is challenged. As Lord Diplock said in *American Cyanamid, supra,* at p. 511:
>
> > ...there may be many other special factors to be taken into consideration in the particular circumstances of individual cases.[9]

[72] In the words of Beetz J., "Unless the public interest is also taken into consideration in evaluating the balance of convenience, they very often express their disinclination to grant injunctive relief before constitutional invalidity has been finally decided on the merits". The assessment of the balance of convenience thus takes into account an essential consideration: the public interest.

[73] Clearly, as is noted in several Supreme Court decisions, interlocutory procedure rarely enables a motion judge to ascertain these crucial questions.[10] There may be clear-cut cases where, because of aberrations or violations of certain essential formalities, it is possible to rule.

[74] In this case, we must decide later on the merits whether the impugned provisions infringe fundamental rights (s. 2) and, if so, whether the infringements are reasonable limits that can be justified in a free and democratic society.

[75] As mentioned, *Law 12* was enacted by the National Assembly of Quebec, whose members were democratically elected.

[76] In *Metropolitan Stores*, Beetz J. stated this:

> While respect for the Constitution must remain paramount, the question then arises whether it is equitable and just to deprive the public, or important sectors thereof, from the protection and advantages of impugned legislation, the invalidity of which is merely uncertain, unless the public interest is taken into consideration in the balance of convenience and is given the weight it deserves. As could be expected, the courts have generally answered this question in the negative. In

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8 *Manitoba (Attorney General) v. Metropolitan Stores Ltd.*, *supra* note 1 at para. 35.
9 *Ibid.* at paras. 36 and 37.
10 *Ibid.* at para. 43.

looking at the balance of convenience, they have found it necessary to rise above the interests of private litigants up to the level of the public interest, and, in cases involving interlocutory injunctions directed at statutory authorities, they have correctly held it is erroneous to deal with these authorities as if they have any interest distinct from that of the public to which they owe the duties imposed upon them by statute.[11]

[77] *RJR - MacDonald Inc. v. Canada (Attorney general) stated this:*

When a private applicant alleges that the public interest is at risk that harm must be demonstrated. This is since private applicants are normally presumed to be pursuing their own interests rather than those of the public at large.[12]

[78] At page 46, we find this:

In our view, the concept of inconvenience should be widely construed in *Charter* cases. In the case of a public authority, the onus of demonstrating irreparable harm to the public interest is less than that of a private applicant. This is partly a function of the nature of the public authority and partly a function of the action sought to be enjoined. The test will nearly always be satisfied simply upon proof that the authority is charged with the duty of promoting or protecting the public interest and upon some indication that the impugned legislation, regulation, or activity was undertaken pursuant to that responsibility. Once these minimal requirements have been met, the court should in most cases assume that irreparable harm to the public interest would result from the restraint of that action.

[79] Finally, at page 49, we find this:

When the nature and declared purpose of legislation is to promote the public interest, a motions court should not be concerned whether the legislation actually has such an effect. It must be assumed to do so. In order to overcome the assumed benefit to the public interest arising from the continued application of the legislation, the applicant who relies on the public interest must demonstrate that the suspension of the legislation would itself provide a public benefit.

[80] To conclude the review of the case law, we find the following in *Harper* :

Applying the principles enunciated in previous decisions of this Court, and without prejudging the outcome of any appeal from the injunction, we are satisfied that the public interest in maintaining in place the duly enacted legislation on spending limits pending complete constitutional review outweighs the detriment to freedom of expression caused by those limits. To leave the injunction in place is to grant substantial success to the applicant Harper even though the trial has not been completed. Moreover, applying *RJR--MacDonald*, we must take as given at this stage that the legislation imposing spending limits on third parties will serve a valid public purpose. Weighing these factors against

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11 *Manitoba (Attorney General) v. Metropolitan Stores Ltd.*, *supra* note 1 at para. 57.

12 *RJR - MacDonald Inc. v. Canada (Attorney General), supra* note 2 at 44.

> the partial limitation on freedom of expression imposed by the restrictions, we conclude that the balance of convenience favours staying the injunction granted by the trial judge.[13]

[81] Having applied these principles to this case and reviewed the evidence, the Court is not convinced that the applicants have demonstrated irreparable harm or that the balance of convenience favours them with regard to granting a suspension.

[82] Sections 16 and 17 deal primarily with the conditions for demonstrations. These provisions regulate demonstrations, but do not prohibit them, although certain restrictions are imposed. Moreover, these sections are not directed at participants, but at the organizers and participating student associations and federations.

[83] The AGQ affirms that sections 16 and 17 do not prohibit spontaneous demonstrations. Moreover, can spontaneous demonstrations be said to be organized?

[84] With regard to organized demonstrations, section 16 of *Law 12* provides that, for demonstrations involving fifty people or more, the police must be informed of the route eight hours ahead of time.

[85] The reasons for this requirement are described in affidavits I-2, I-3 and I-4, filed by the AGQ. The affidavits of Morin and Bourdages point out that, in the past, several of the applicants informed police of the routes of their demonstrations, sometimes up to several days in advance.

[86] According to the evidence, such notifications are necessary for the following reasons:

> [TRANSLATION]
>
> 12. Obtaining information prior to demonstrations specifically allows us to achieve the following objectives:
>
> (a) Gather information about the planned demonstration (number of participants, beginning and end points, route followed)
>
> (b) Communicate with partners concerned: Sûreté du Québec, other municipal police forces, Société de Transport de Montréal (Montreal Transit Corporation), Urgences-Santé (emergency services), Services d'intervention incendies de Montréal (fire department), Transport Québec (department of transportation)
>
> (c) Plan the operation (prepare a plan of operation);
>
> (d) Organize the deployment of resources

[13] *Harper v. Canada (Attorney General)*, *supra* note 3 at para. 11.

(e) Mobilize resources

(f) Avoid confrontations between two or more groups with opposing interests

(g) Supervise demonstrations on public roads to avoid affecting surrounding areas

(h) Ensure the safety of demonstrators and road users

(i) Ensure the free flow of emergency vehicles (ambulances, police cars, fire fighters, etc.)

(j) Avoid major obstructions on arterial roadways that could heighten tensions between users and demonstrators and potentially endanger demonstrators

(k) Give the public advance notice of demonstrations to be held in certain locations or on certain routes to allow those affected to take steps to minimize the inconveniences they may cause (road users, business owners…) and to plan their movements accordingly

13. Obtaining advance information about demonstrations allows us to assess potential risks to public security.

[87] The evidence shows, moreover, that difficulties and confrontations occur when advance notice of routes is not given, even if the majority of participants appear to behave correctly.

[88] Strictly speaking, then, nothing prohibits the holding of demonstrations. The parameters are set: namely, the informing of police of the route eight hours ahead of time. Is freedom of expression infringed? If so, is that infringement a reasonable limit that can be justified in a free and democratic society?

[89] This will have to be decided on the merits at trial.

[90] Does the application of sections 16 and 17 of the Act result in irreparable harm? If there is harm, the balance of convenience clearly favours the public interest given the objectives of the Act and the facts established during the events of recent months (violence, misdeeds, damage).

[91] The fact that there are other statutory provisions to preserve order and public security does not allow me to override the presumption that the legislation was enacted in the public interest.

[92] Admittedly, the legislation imposes an obligation on a student association or a federation of associations taking part in the demonstration without being its organizer to employ appropriate means to ensure that the demonstration takes place in compliance with the information provided under subparagraph 1 of the first and second paragraphs

of section 16, but the Court does not believe that this provision justifies granting a suspension of the Act, due to the application of the above-mentioned principles.

[93] With regard to Division IV of the Act, namely, sections 18, 19, 20 and 21, titled "Administrative and civil measures", they do not lay the basis for a suspension, since these motions are essentially hypothetical, classes being suspended until mid-August and the student associations referred to in these provisions having already received their assessments for the suspended sessions.

[94] Moreover, at the stage of suspension, the Court believes that the balance of convenience favours the public interest and upholding the Act. Indeed, how can we assume that the applicants (student associations and federations) will not respect the obligations imposed by sections 13 and 14 of the Act, which deal with the return to school and unrestricted access to classes?

[95] In short, the motion for suspension does not meet all the tests established by the case law to obtain the suspension of sections 16 to 21 of the impugned Act.

[96] **FOR THESE REASONS, THE COURT:**

[97] **DISMISSES** the motion for suspension with costs.

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FRANÇOIS ROLLAND, Chief Justice

Mtre Félix-Antoine Michaud and Mr. Mathieu Huchette
Juripop
For the applicants (1st and 3rd)

Mtre Giuseppe Sciortino, Mtre Pierre Brun and Mtre Sibel Ataogul
Melançon Marceau Grenier et Sciortino
For the applicants (2nd)

Mtre Richard McManus
For the Fédération québécoise des professeures et professeurs d'université (4th)

Mtre Kathleen Cahill
Syndicat général professeurs(es) Université de Montréal
For the Syndicat, Mr. Jean Portugais and Ms. Marianne Kempeneers (4th)

Mtre Suzanne P. Boivin

DJB
For the Syndicat des professeures et professeurs de l'Université du Québec en Outaouais and Ms. Louise Briand (4th)

Mtre Gérard Notebaert and Mtre Robert Fuoco
ROY ÉVANGELISTE avocats - CSN
For the applicants (5th)

Mtre Claudine Morin
Barabé Casavant
For the applicants (6th)

Mtre Danielle Lamy and Mtre Annick Desjardins
Syndicat canadien de la fonction publique (SCFP)
For the applicants (7th)

Mtre Denis Bradet and Mtre Jacqueline Bissonnette
Poudrier Bradet
For the applicants (8th)

Mtre Josée Lavallée
Melançon Marceau Grenier et Sciortino
For the applicants (9th)

Mtre Normand Lavoie, Mtre Alexandre Ouellet and Mtre Jean-François Paré
Justice Québec – Chamberland Gagnon
For the defendants

Mtre Marc A. Fournier
Direction générale des affaires juridiques et législatives
For the [should read: Minister of] Public Security

Dates of hearing: June 12 and 13, 2012

APPENDIX

FÉDÉRATION QUÉBÉCOISE DES PROFESSEURES ET PROFESSEURS D'UNIVERSITÉ, and
SYNDICAT GÉNÉRAL DES PROFESSEURS ET PROFESSEURES DE L'UNIVERSITÉ DE MONTRÉAL, and
JEAN PORTUGAIS, and
MARIANNE KEMPENEERS, and
SYNDICAT DES PROFESSEURES ET PROFESSEURS DE L'UNIVERSITÉ DU QUÉBEC EN OUTAOUAIS (SPUQO), and
LOUISE BRIAND (4th)
-and-
CONFÉDÉRATION DES SYNDICATS NATIONAUX, and
FÉDÉRATION NATIONALE DES ENSEIGNANTES ET ENSEIGNANTS DU QUÉBEC, and
FÉDÉRATION DES EMPLOYÉES ET EMPLOYÉS DE SERVICES PUBLICS-CSN, and
FÉDÉRATION DES PROFESSIONNELES, and
SYNDICAT DU PERSONNEL ENSEIGNANT DU CÉGEP DE SHERBROOKE-CSN, and
STEEVE MACKAY, and
SYNDICAT DES PROFESSEURS ET PROFESSEURES DE L'UNIVERSITÉ DU QUÉBEC À MONTRÉAL, and
MICHÈLE NEVERT, and
SYNDICAT NATIONAL DES EMPLOYÉS DU CÉGEP DE RIVIÈRE-DU-LOUP, and
FRANÇOIS CHOUINARD (5th)
-and-
CENTRALE DES SYNDICATS DU QUÉBEC, and
FÉDÉRATION DES PROFESSIONNELLES ET PROFESSIONNELS DE L'ÉDUCATION DU QUÉBEC (CSQ), and
JEAN FALARDEAU, and
SYNDICAT DES PROFESSIONNELLES ET PROFESSIONNELS DES COMMISSIONS SCOLAIRES DE LA MONTÉRÉGIE (CSQ), and
ROGER TREMBLAY, and
FÉDÉRATION DU PERSONNEL DE SOUTIEN SCOLAIRE (FPSS-CSQ), and
DIANE CINQ-MARS, and
SYNDICAT LAVALLOIS DES EMPLOYÉS DE SOUTIEN SCOLAIRE (SLESS-CSQ), and
YVES BROUILLETTE, and
FÉDÉRATION DU PERSONNEL DE SOUTIEN DE L'ENSEIGNEMENT SUPÉRIEUR (F.P.S.E.S.) (C.S.Q.), and
MARIE RACINE, and
SYNDICAT DU PERSONNEL DE SOUTIEN DU COLLÈGE D'AHUNTSIC (CSQ), and
CHRISTIAN CHAMPAGNE, and
FÉDÉRATION DU PERSONNEL DE L'ENSEIGNEMENT PRIVÉ (CSQ), and
FRANCINE LAMOUREUX, and
SYNDICAT DU PERSONNEL DE L'ACADÉMIE LAFONTAINE (CSQ), and
ALLAN BAILEY, and

FÉDÉRATION DE LA SANTÉ DU QUÉBEC FSQ-CSQ, and
CLAIRE MONTOUR, and
SYNDICAT DES INFIRMIÈRES, INFIRMIÈRES AUXILIAIRES ET INHALOTHÉRAPEUTES DE L'EST DU QUÉBEC (CSQ), and
MICHELINE BARRIAULT, and
FÉDÉRATION DU PERSONNEL DU LOISIR, DE LA CULTURE ET DU COMMUNAUTAIRE (FPLCC) (CSQ), and
JACQUES LEGAULT, and
SYNDICAT DU PERSONNEL DES ORGANISMES DE DÉVELOPPEMENT DE LA MAIN-D'ŒUVRE, and
NADIA LAKROUZ, and
FÉDÉRATION DES ENSEIGNANTES ET ENSEIGNANTS DE CÉGEP, and
MARIO BEAUCHEMIN, and
SYNDICAT DES ENSEIGNANTES ET ENSEIGNANTS DU CÉGEP DE BOIS-DE-BOULOGNE, and
ÉRIC BEAUCHESNE, and
FÉDÉRATION DU PERSONNEL PROFESSIONNEL DES COLLÈGES (FPPC), and
BERNARD BÉRUBÉ, and
SYNDICAT DE PROFESSIONNELS ET DE PROFESSIONNELLES DU COLLÈGE DE MAISIONNEUVE, and
PHILIPPE BONNEAU, and
ASSOCATION DES RETRAITÉES ET RETRAITÉS DE L'ÉDUCATION ET DES AUTRES SERVICES PUBLICS DU QUÉBEC (AREQ) (CSQ), and
PIERRE-PAUL CÔTÉ, and
FÉDÉRATION DES SYNDICATS DE LA SANTÉ ET DES SERVICES SOCIAUX (CSQ), and
RENÉ BEAUSÉJOUR, and
SYNDICAT DES EMPLOYÉES ET EMPLOYÉS DU SECTEUR BUREAU (CSQ) (CENTRE HOSPITALIER DE JONQUIÈRE), and
RUTH TREMBLAY, and
SYNDICAT DES CHARGÉES ET CHARGÉS DE COURS DE L'UNIVERSITÉ DE SHERBROOKE (CSQ), and
ROBERT CHEVRIER, and
SYNDICAT DES PROFESSIONNELLES ET PROFESSIONNELS DE RECHERCHE DE L'UNIVERSITÉ LAVAL (SPPRUL-CSQ), and
RACHEL LÉPINE, and
FÉDÉRATION DES SYNDICATS DE L'ENSEIGNEMENT (CSQ), and
MANON BERNARD, and
SYNDICAT DE L'ENSEIGNEMENT DE LA RÉGION DE QUÉBEC (SERQ), and
DENIS SIMARD, and
SYNDICAT DE LA FONCTION PUBLIQUE ET PARAPUBLIQUE DU QUÉBEC, and
LUCIE MARTINEAU, and
SYNDICAT DE PROFESSIONNELLES ET PROFESSIONNELS DU GOUVERNEMENT DU QUÉBEC, and
GILLES DUSSAULT, and
SECRÉTARIAT INTERSYNDICAL DES SERVICES PUBLICS, and
GILLES DUSSAULT, and
FÉDÉRATION INTERPROFESSIONNELLE DE LA SANTÉ DU QUÉBEC, and
RÉGINE LAURENT, and
ALLIANCE INTERPROFESSIONNELLE DE MONTRÉAL, and

CHANTAL TANCRÈDE (6th)
-and-
LA FÉDÉRATION DES TRAVAILLEURS ET TRAVAILLEUSES DU QUÉBEC, and
CANADIAN UNION OF PUBLIC EMPLOYEES (CUPE) and
LUCIE LEVASSEUR, and
SYNDICAT DES EMPLOYÉS DE L'UNIVERSITÉ DE MONTRÉAL, Local 1244, and
MARGARET LAPOINTE, and
SYNDICAT DES EMPLOYÉS ET EMPLOYÉES DE L'UNIVERSITÉ LAVAL, Local 2500 (FTQ-CTC), and
LUC BROUILLETTE, and
SYNDICAT DES CHARGÉS DE COURS DE L'UNIVERSITÉ DU QUÉBEC À TROIS-RIVIÈRES, Local SCFP – 2661, and
CAROLE NEIL, and
SYNDICAT DES EMPLOYÉS ET EMPLOYÉES DE SOUTIEN DE L'UNIVERSITÉ DU QUÉBEC À TROIS-RIVIÈRES, section local SCFP 1800, and
DENISE BÉLAND, and
SYNDICAT DES EMPLOYÉES ET EMPLOYÉS DE L'UQAM, Local SCFP-1294, and
THÉRÈSE FILION, and
SYNDICAT DES CHARGÉS D'ENCADREMENT DE LA TÉLÉ-UNIVERSITÉ, Local SCFP-4476, and
MARTIN MALTAIS, and
SYNDICAT DES EMPLOYÉES ET EMPLOYÉS DE SOUTIEN DE L'UNIVERSITÉ DE SHERBROOKE (S.E.E.S.U.S.), Local SCFP-7498, and
STÉPHANE CARON, and
SYNDICAT DES EMPLOYÉS DE L'ÉCOLE DE TECHNOLOGIE SUPÉRIEURE MONTRÉAL ET QUÉBEC, SCFP Local 3187, and
SERGE PLAMONDON, and
SYNDICAT DU PERSONNEL DE SOUTIEN DE L'UNIVERSITÉ DU QUÉBEC À RIMOUSKI, Local SCFP-1575, and
DENIS OUELLET, and
SYNDICAT DES ÉTUDIANTS SALARIÉS DE L'UNIVERSITÉ DE MONTRÉAL (S.É.S.U.M.) Local 17750-AFPC/FTQ, and
JESSICA LEBLANC, and
SYNDICAT DES ÉTUDIANT-E-S ET EMPLOYÉ-E-S DE L'UQAM, Local 10721-AFPC FTQ, and
JONATHAN VALLÉE-PAYETTE, and
TRAVAILLEURS ET TRAVAILLEUSES UNIS DE L'ALIMENTATION ET DU COMMERCE (TUAC), and
INTERNATINAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS (IAMAW), and
SYNDICAT DES EMPLOYÉES ET EMPLOYÉS PROFESSIONNELS-LES ET DE BUREAU (SEBP-QUÉBEC), and
INTERNATIONAL BROTHERHOOD OF TEAMSTERS, and
NATIONAL AUTOMOBILE, AEROSPACE, TRANSPORTATION AND GENERAL WORKERS UNION OF CANADA (CAW-Canada), and
CANADIAN UNION OF POSTAL WORKERS (CUPW), and
UNION DES EMPLOYÉS ET EMPLOYÉES DE SERVICE (UES-800), and
SYNDICAT QUÉBÉCOIS DES EMPLOYÉES ET EMPLOYÉS DE SERVICE, Local 298 (FTQ), and

FTQ – CONSTRUCTION, and
COMMUNICATIONS, ENERGY AND PAPERWORKERS UNION OF CANADA (CEP), and
SYNDICAT DES MÉTALLOS, and
GUILDE DES MUSICIENS ET MUSICIENNES, and
UNION DES ARTISTES, and
ASSOCIATION QUÉBÉCOISE DE LUTTE CONTRE LA POLLUTION ATMOSPHÉRIQUE (AQLPA), and
CENTRE D'ÉCOLOGIE URBAINE DE MONTRÉAL, and
ALTERNATIVES, and
ACTION POUR LA SOLIDARITÉ, L'ÉQUITÉ, L'ENVIRONNEMENT ET LE DÉVELOPPEMENT (ASEED), "ÉQUITERRE", and
GREENPEACE, and
CONSEIL D'INTERVENTION POUR L'ACCÈS DES FEMMES AU TRAVAIL (CIAFT) DU QUÉBEC INC., and
FÉDÉRATION DES FEMMES DU QUÉBEC, and
ACTION TRAVAIL DES FEMMES DU QUÉBEC INC., and
ASSOCIATION DU PERSONNEL DE SOUTIEN DU COLLÈGE MARIE-VICTORIN, Local 1993-SCFP, and
JOSÉE MÉNARD, and
ASSOCIATION SYNDICALE DES TRAVAILLEURS ÉTUDIANTS ET TRAVAILLEUSES ÉTUDIANTES DE L'UQTR, Local 12555-(ASTRE UQTR-APFC), and
HUGO LORANGER, and
SYNDICAT DES EMPLOYÉ(E)S DE LA RECHERCHE DE L'UNIVERSITÉ DE MONTRÉAL, Local 17751 AFPC/FTQ, and
FRANCE FILION, and
NATURE QUÉBEC, and
DAVID SUZUKI FOUNDATION, and
L'ASSOCATION DU PERSONNEL DE SOUTIEN DU COLLÈGE MARIE-VICTORIN, Local SCFP (7th)
-and-
CENTRALE DES SYNDICATS DÉMOCRATIQUES, and
ALLIANCE DU PERSONNEL PROFESSIONNEL ET TECHNIQUE DE LA SANTÉ ET DES SERVICES SOCIAUX, and
CAROLLE DUBÉ (8th)
-and-
LA FÉDÉRATION AUTONOME DE L'ENSEIGNEMENT (FAE), and
PIERRE ST-GERMAIN (9th)