

EXTRACT FROM THE MINUTES OF A REGULAR MEETING OF THE ENGLISH MONTREAL SCHOOL BOARD HELD IN THE CITY OF MONTREAL ON THE FIRST DAY OF SEPTEMBER TWO THOUSAND AND TWENTY-ONE

Motion: The English Montreal School Board calls on the Quebec government to withdraw Bill 96

WHEREAS, Bill 96, An Act respecting French, the official and common language of Québec, was introduced in the National Assembly by Simon Jolin-Barrette, Minister Responsible for the French Language, on May 13, 2021;

WHEREAS, Bill 96 passed first reading in the legislature by a vote of 121-0;

WHEREAS, Bill 96 contains over 200 amendments, in more than 100 pages, to Quebec's existing language legislation including vast search and seizure measures, restrictions on who is entitled to receive government services in the language of their choice, a cap on English CEGEP enrolment, and a narrowed definition of who qualifies as a member of Quebec's English-speaking community;

WHEREAS, Bill 96 declares that Quebecers form a nation, with French as the only common and only official language of Quebec;

WHEREAS, Bill 96, seeks to eliminate the bilingualism of more than 50 of the 89 bilingual-status municipalities across Quebec;

WHEREAS, not only is Bill 96 Premier François Legault's long-awaited legislation to bolster the French language, throwing decades of hard-won protections and hotly contested rights into jeopardy, it's also seeking to unilaterally rewrite the Constitution to recognize Quebec as a nation where the only language is French. And by shielding the whole bill with the notwithstanding clause, it will circumvent court challenges that have served us well in the past;

WHEREAS, the actual decline of the French language in Montreal and Quebec has been questioned by many;

WHEREAS, the Quebec Community Groups Network (QCGN) is highly critical of the CAQ government's Bill 96:

- A purported unilateral amendment to the Constitution Act, 1867 to recognize that “Quebecers form a nation”, that “French shall be the only official language of Quebec” and that French is “also the common language of the Quebec nation”;
- A sweeping use of overrides for both the Canadian Charter of Rights and Freedoms and of Quebec's Charter of Human Rights and Freedoms;
- Bill 96, which some are now referring to as the new Bill 101, will make a major impact on areas of everyday life such as commerce, employment, education, access to public services, free expression and the operation of the province's legal system;
- Where rights that would otherwise be protected are infringed, the courts under Bill 96 will not be able to review and remedy the conduct under either the Canadian or the Quebec Charters. Further, this bill positions the Quebec Nation as holding

collective rights, although these rights are not defined. And the bill places the National Assembly, not our courts, as the arbiter between these collective rights and individual human rights;

- New laws mean all federal institutions may have to follow Quebec's language laws, including federally regulated institutions that normally would be subject to the Official Languages Act;
- Access to justice and the right to use English in the courts;
- A further decline in enrolment at English schools;
- The new rules will introduce complicated constraints on when an agency can communicate with the public in English;
- Use of the notwithstanding clause to recognize that "Quebecers form a nation" could be based on language;
- The bill will see a sweeping override of the Canadian Charter of Rights and Freedoms and the Quebec Charter;
- Concerns it will create essentially a charter-free zone in Quebec;
- Litigants will need to attach French translations to pleadings drawn in English;
- English judgements will need to be accompanied by French versions;
- Judges will only need to speak French to get appointed to the bench;
- Here is the question we need to ask over and over: Why does protecting the French language require the blanket suspension of human rights?

WHEREAS, according to Julius Grey, respected human rights and constitutional lawyer:

- Bill 96 would give Quebec's language police unprecedented grounds for search and seizures on companies, with no recourse for those targeted to contest overzealousness;
- Restrictions on the use of English in the legal system are blatantly unconstitutional. In an interview, Grey predicted the requirement of attaching French translations to all English court documents will create such impediments to justice that it will be overturned by the courts one way or another;
- Another "regrettable" aspect of Bill 96 is that it discourages bilingualism by restricting francophones and allophones from accessing English CEGEPS;
- the worst aspect of Bill 96 is that it would be difficult — if not impossible — to challenge any infringements on rights, given the pre-emptive use of the notwithstanding clause;
- Given the weaknesses of the arguments justifying Bill 96 and its impotence in protecting and promoting French, Grey concludes it should be abandoned entirely.

WHEREAS, according to Robert Libman, former Equality Party leader, Member of the National Assembly and mayor of Côte-St-Luc, the Quebec anglophone community will be facing one of its greatest political challenges of the past 50 years this fall, as Bill 96, which adds more teeth to Bill 101, will be going through parliamentary hearings and debate in the National Assembly;

WHEREAS, according to Jon G. Bradley, Associate Professor (Retired), Education/McGill University:

- Quebec is not a "nation". It never has been. Its status is recognized by the United Nations as a province within the nation of Canada. Calling oneself something does not make it so and Quebec's intelligentsia is deliberately misusing the word "nation" so as to imply a reality that exists only in their self-mirage. The only precise word to use regarding Quebec's reality is "province". If English is to be respected, then we - those who are English speakers - must demand that all those who use our language do so correctly and with respect. We must insist that Quebec is always referred to as a "province";
- The concept of "collective rights" may exist in a labour bargaining situation but not when identifying those unique protections held by individuals. A review of the United Nations, Canadian and Quebec Charters clearly illustrate that "freedoms and rights" are attached solely to the individual. Therefore, a person may have a religious right, but a gaggle or collective cannot have a similar right. For example, an individual has freedom of expression, but a collective freedom of expression is an impossible concept and absurd on its face. Rights rest individually embedded in each citizen and not within a collective.

WHEREAS, Section 109 of Bill 96 calls for the establishment of an "inspection program" to ensure that Francophone workers can work in French and correspond in French with their employers. Since Bill 96 would now extend Bill 101 to companies with 25 employees or more instead of 50 or more, it directly targets small businesses that may not have the resources or money to employ high-priced lawyers to protect their rights;

WHEREAS, Section 111 would provide official language inspectors with the authority to enter at any reasonable hour any place, other than a dwelling house, where an activity governed by (the Charter of the French Language) is carried on and cause any person present who has access to a computer ... to use it to access data contained in an electronic device, computer system or other medium to verify, examine, process, copy or print such data. It adds that "Any person who has custody, possession or control of documents referred to in this section must communicate them to the person making an inspection and facilitate their examination by that person. In other words, the language inspectors may take photographs of the premises and property. They also have the power, without judicial order, to cause any employee to print out data from their computers, cell phones or any other data devices;

WHEREAS, under Section 112, government inspectors can order any employee to deliver any information the inspectors — in their own discretion — deem necessary and seize any and all devices — including personal cell phones — if they so choose. All this without colour of judicial right or warrant. And all this can be acted upon by simple "anonymous denunciation";

WHEREAS, Colin Standish, constitutional lawyer and long-time rights advocate, has organized a Task Force on Linguistic Policy which includes Quebecers from all walks of life, to fight against Quebec's Bill 96 and Ottawa's Bill C-32. This Task Force shares seven key principles in opposition to these bills:

1. Quebec's English-speaking community is a distinct group of more than one million people who share a common language as well as established institutions, values, history and culture;
2. The English- and French-speaking communities have long worked together for the betterment of Quebec, having lived side-by-side, married, collaborated in the community and supported one another in democratic endeavours;
3. The English-speaking community is dynamic, diverse, multiracial and multicultural: it embraces people of Indigenous, African, Asian, American and European heritage, of dozens of ethnicities and faiths;
4. Our support for Canadian federalism does not diminish our love for Quebec. It is a belief in a country praised as one of the greatest in the world for its capacity to embrace difference and encourage understanding;
5. We oppose any legislation that reduces the rights of any of our fellow citizens, based on language, race, religion, gender, sexual preference or national origin;
6. The only way to create a better society is through dialogue and protection of the rights of all, not through the imposition of laws that reduce access, diminish rights or create barriers between people;
7. English Quebecers are the largest bilingual community in Canada. We choose to live, work, and raise our families here, but we do not accept being discriminated against for who we are.

WHEREAS, many other prominent individuals have spoken out against Bill 96:

- “Bill 96 will cripple all Quebecers’ ability to express themselves and live their lives in dignity, at home, the workplace and in the classroom.” Brian Rock, a former principal, Board member and Past President of the Quebec Federation of Home and School Associations, and member of Regional Association of West Quebecers;
- “All Quebecers and Canadians should be deeply concerned by the fundamental changes being put forward in legislation by the Federal and Provincial governments that can and will have a profoundly negative impact on the core values and identity we all share. This is not a time for complacency, we must stand together.” Gerry Cutting, President of Townshipers’ Association and a past Director General of a CEGEP, Champlain College-Lennoxville;
- “The Canadian Constitution is the bedrock of our civil liberties and national unity. We cannot allow it to be adulterated by the excesses of a Quebec government hell bent on violating our unity and freedoms.” Keith Henderson, a former leader of the Equality Party and CEGEP Professor;
- “The unconstitutional aspects of the Bill are flagrant, and extend far beyond the amendment. The Quebec government is seizing jurisdiction over federally

regulated trademarks and workplaces. That's not allowed, period." Brent Tyler, Constitutional lawyer;

- "Small bilingual villages, where English and French speakers have lived side-by-side for generations, now risk losing the ability to communicate with their neighbours." Walter Dougherty, Mayor of Bury, and Randy Jones, Mayor of Gros-Mécatina;
- "We are all Quebecers. We must be treated equally before the law. There are no groups more important than others. Rights and freedoms are not negotiable. We can fight back, but we need people of good faith to pitch in." Andrew Caddell, Columnist, Former Canadian diplomat and journalist;
- "The basic individual and civil liberties of all Quebecers are at stake, regardless of language." Colin Standish, Founder of the Task Force, Townshipper.

WHEREAS, according to Keith Henderson, lawyer, and former leader of the Quebec Equality Party and member of the Quebec National Assembly, an official language is one that can be used and recorded in a country's courts and legislatures. In Canada and in Quebec, by virtue of section 133 of the British North America Act, English and French are official languages. However, Bill 96 purports unilaterally to amend the BNA Act (with respect to Quebec) by adding the following after section 90: "French shall be the only official language of Quebec. It is also the common language of the Quebec nation." The Quebec legislature cannot unilaterally amend the Constitution of Canada;

WHEREAS, fewer people will be entitled to ask for service in English from the Quebec government and its agencies, but how things will work in practice remains to be seen. And will non-rights holders still be able to file their Quebec tax return in English? How will access to health care in English be affected?;

WHEREAS, the Legault government has once again used the notwithstanding clauses in both the federal and Quebec rights charters to override rights, as it did in Bill 21. And it has done so in a blunderbuss fashion, not only applying them to such provisions as the renaming of a provincial constituency in honour of Camille Laurin, but slipping them into the Charter of the French Language itself;

WHEREAS, out of the speakers invited to take part in the Bill 96 hearings, between September 29 and October 7 at the Committee on Culture and Education, for the government's proposed overhaul of language legislation, there are just a few groups representing the Anglophone community, including the Quebec Community Groups Network (QCGN), the Townshippers' Association and the Consortium of English-language CEGEPS, Colleges and Universities of Quebec;

WHEREAS, the Quebec English School Boards Association (QESBA), the voice of English public education in Québec and representing 100,000 students in 340 elementary, high schools, and adult and vocational centres across Quebec, was initially excluded from the Bill 96 hearings this fall;

WHEREAS, a major concern for QESBA, and especially the English Montreal School Board (EMSB), is a limit to three years for certificates for the children of foreign nationals to study in English;

WHEREAS, the premier of Quebec, has made it clear that the government will shield Bill 96 through the use of the Notwithstanding clause to prevent judicial scrutiny;

WHEREAS, the proposal to invoke the notwithstanding clause to bypass both the provincial and federal rights changes, and the fact that it involves an amendment to the Canadian Constitution is totally unacceptable;

IT WAS MOVED BY JOSEPH LALLA AND UNANIMOUSLY RESOLVED THAT the English Montreal School Board calls on the Quebec government to withdraw Bill 96 in its present form;

IT WAS FURTHER UNANIMOUSLY RESOLVED THAT the English Montreal School Board calls on the federal government to refer Bill 96 to the Supreme Court of Canada for a ruling on the legality of Bill 96;

IT WAS STILL FURTHER UNANIMOUSLY RESOLVED THAT this resolution be forwarded to the following:

- Premier François Legault, Simon Jolin-Barrette, Minister Responsible for the French Language, and MNA Christopher Skeete, parliamentary assistant to Premier François Legault for relations with English-speaking Quebecers;
- Prime Minister Justin Trudeau and Mélanie Joly, Federal Minister of Official Languages;
- Quebec English School Boards Association (QESBA).

Vote: 13-0-0, Adopted

Resolution #21-09-01-11

CERTIFIED that the foregoing is a true and correct extract from the Minutes of a Regular Meeting of the ENGLISH MONTREAL SCHOOL BOARD held on September 1, 2021.

Me Nathalie Lauzière, Secretary General
English Montreal School Board
September 7, 2021