



Association des commissions scolaires anglophones du Québec  
Quebec English School Boards Association

Montréal, August 17, 2021

**Letter sent to the Party leaders in the 2021 Federal Election**

Dear Mr./Mrs.,

At the start of the federal election campaign, the Quebec English School Boards Association (QESBA) is writing open letters to the leaders of all parties with representation in the House of Commons to seek their positions regarding a number of issues of major importance to the English-speaking Community of Quebec.

The QESBA represents the nine English school boards in the province. Our boards are responsible for 340 schools and adult centres with roughly 100,000 students and over 20,000 employees. Although concentrated in the Greater Montreal area, there are English schools in every administrative region of Québec, and in most federal ridings in the province. Our Association has long been involved in public policy issues in education and in the area of the protection of minority-language rights. Most recently, the nine English school boards and the QESBA have undertaken a Constitutional challenge, based on section 23 of the Canadian Charter of Rights and Freedoms, of Québec's Bill 40 which reforms educational governance by abolishing school boards. A judgement on the merits is pending from the Quebec Superior Court.

As you are aware, the Government of Québec recently tabled Bill 96, *An Act respecting French, the official and common language of Québec* in the Quebec National Assembly. There are several aspects of this bill which have national implications and which are of grave concern to our community.

Your responses, and those of all the federal party Leaders, to the questions which follow will be widely shared within our network.

### Constitutional Amendment

Section 159 of Bill 96 proposes to unilaterally amend the Constitution Act 1867 by adding sections:

- 90Q.1. Quebecers form a nation.
- 90Q.2. French shall be the only official language of Quebec. It is also the common language of the Quebec nation.

The Constitutional implications for the English-speaking minority of Quebec of this are not clear. However, it is unlikely that such an amendment would be benign. In fact, Québec Justice Minister Simon Jolin-Barrette has stated on number of occasions that the proposed amendments will have a Constitutional impact. The proposed section 90Q.2 appears to be incompatible with section 133 of the Constitution Act 1867 which provides for bilingualism in the Quebec legislature and in federal and Quebec courts.

**Question 1: What is the position of your party on the proposed unilateral amendment by Québec to the Constitution Act 1867 declaring that French shall be the only official language of Quebec?**

**Question 2: What is your interpretation of the impact of this proposed amendment on Section 133 of the Constitution Act 1867?**

### Use of the Notwithstanding Clause

Section 118 of Bill 96 integrates the federal notwithstanding clause directly into the Charter of the French Language and covers all the provisions of that Charter.

Sections 199 and 200 of the Bill stipulates that all the other provisions of Bill 96 apply notwithstanding respectively the Quebec and federal charters of rights and freedoms.

This pre-emptive, blanket use of the notwithstanding clause contained in the Canadian Charter of Rights and Freedoms shields the modifications proposed in Bill 96 from virtually any judicial challenge. We are seeing a use of these exceptional measures with a degree of nonchalance not thus far seen in the country.

**Question 3. What is the position of your party on this pre-emptive use of the Canadian Charter's notwithstanding clause thereby shielding Bill 96 from any judicial challenge, including those aspects which have national consequences?**

### Language Knowledge of Judges

Section 12 of Bill 96 stipulates that judges appointed by the Government of Québec cannot be required to have a knowledge of a language other than French unless the Minister of Justice of Québec and the Minister of the French Language consider that the exercise of their office requires such knowledge (and only after all reasonable means have been taken to avoid requiring the knowledge of another language).

This section has the potential, in practical terms, to reduce the ability of Quebec courts (including municipal courts) to hear cases in English, thereby making access to justice for English-speakers more difficult. Furthermore, once again, on the face of it this section seems to be incompatible with section 133 of the Constitution Act 1867 which allows for the unfettered use of English in Québec courts.

**Question 4: What is the position of your party regarding the proposed restrictions on the knowledge of English for judges appointed by the Government of Québec?**

Although Bill 96 is a proposed piece of provincial legislation, its potential national ramifications warrant clear answers from federal parties during the election campaign. We hope to receive your response in a timely fashion, allowing Quebecers and indeed all Canadians to benefit from this information in order to make an informed choice before they cast their ballots for their local Member of Parliament on September 20<sup>th</sup>.

Sincerely,



Dan Lamoureux  
President

cc: Russell Copeman, Executive Director, QESBA  
Kim Hamilton, Director of Communications and Special Projects, QESBA