

## Video 3, Day 3 of Bill 96 Hearings prepared by Andréanne Langevin

### 3.1 Summary

During the third day of discussions on Bill 96, it was proposed that children of a foreign national who reside in Québec temporarily will have the possibility of attending school in English, but only for a maximum of three years. Even though minister Jolin-Barrette argues that the Bill will not affect anglophone educational institutions, going as far as saying that anglophone students will benefit from having more chances of being admitted if less francophones can be selected, the director of anglophone school boards believes that this new decree of three year maximum will affect admission numbers in anglophone schools. The director agrees that immigrants should be sent to French schools, but not the temporary ones, as they represent such a small number of students. In his words “a couple thousands could not affect the linguistic equilibrium” of the province. However, if those temporary students were to stay, (i.e., because their parents decide to stay in Québec permanently by asking for the *Certificat de sélection du Québec*), the children would have to be transferred to francophone schools. It was said that immigrants, regardless of their origins, must integrate the Québec community by learning French. A counter remark was that anglophone schools are capable of preparing young students to integrate Québec society. On one side, the anglophone speaker highlights the negative aspect of preventing temporary residents access to anglophone education, whilst a francophone speaker argues that to permit them access to English education would threaten the understanding that Québec is a francophone province. A deputy added that it is problematic when people fail to recognise that the French language in Québec is threatened.

A guest speaker and constitutionalist, André Binette, explains that although article 45 gives a province unilateral authority to modify a section of their constitution, this does not apply to the Assemblée nationale if they are trying to modify a law in the *Charte de la langue française* which also appears in the Canadian Constitution; in the present case, a province would need multilateral engagement to modify the constitution. Furthermore, he explains that even if article 159 is adopted, it would be immediately countered by the Supreme Court, as it significantly modifies the Canadian Constitution. Article 159 of Bill 96 seeks to modify the 1867 and 1982 constitutional law by the insertion of the following: Quebecers form a nation, the French language is the sole official language of Québec, and French is the common language of the Québec nation (Projet de loi 96, article 159). Mr. Binette explains that Canada is a multinational state, composed of the Canadian Nation, la nation Québécoise, and Indigenous Nations, and each possesses the right to self-determination. Québec’s major laws, such as the Civil Code and Bill 96, are thus an expression of self-determination, but this notion has not been historically respected by the Canadian nation. Mr. Binette argues that the Canadian Constitution does not reflect Québec’s reality and was not adopted with Québec in mind, as Québec was not consulted in 1982. He further argues that this is the reason why Québec needs its own provincial, or more specifically to Québec, its own national constitution, and that every other province should emulate the francophone province’s actions and have their own provincial constitutions, separate from the Canadian one. Otherwise, constitutional tensions will continue to arise within Canada. Mr. Binette explains that derogatory clauses would not threaten citizens’ ability to contest abuses of power because one does not have to contest the law in order to contest

specific administrative actions. Therefore, the anglophone community would still be protected against abuses and disproportionate uses of power. It was also added that Indigenous nations and their ancestral rights would not be threatened. It is even proposed that Indigenous ancestral rights be integrated, or at least mentioned, within Bill 96. Citizens have voiced their concern, arguing that anglophones would lose certain rights. They are worried that Bill 96 might prevent anglophone speakers from receiving health and legal services in English, though this right is assured by the *Loi sur les services de santé et les services sociaux* (Act Respecting Health Services and Social Services). However, nothing in the Bill suggests that anglophones would lose this right as it does not go against the Canadian Constitution which allows any type of services to be offered in both French and English.

Guest speaker, Prof. Taillon, explains that the importance of protecting the French language in Québec is a valid justification which should be considered by tribunals when it comes to human rights. When Québec modifies its own constitution, the province also modifies the federal one. Article 45 permits certain freedoms for provinces to make changes, but articles 38 to 43 require support from the rest of Canada, that is, federal support and support from a certain number of provinces. Therefore, article 45 provides some limited freedom, and gives Québec some leeway to act for the province. This is why having a 'referee' between the federal and provincial governments is useful, unless the referee is chosen unilaterally, which is the case here. As such, the federal judges are less likely to support Québec self-determination, which in itself introduces a bias against Québec's interests, and makes it difficult to predict outcomes regarding self-determination. According to a definition by the Supreme Court, article 45 in correlation with article 52 (which applies to the entirety of the 1867 constitution) permits that a province modifies its constitution, when the parliament of a province expresses their intentions clearly. Thus, Bill 96 is an appropriate way to modify or add to the constitution of 1867. Prof. Taillon explains that the parliament's attention should be directed towards identifying the rights and interests of individuals and collective rights, and to determine a reasonable way for Bill 96 to find a balance between these rights. The way to determine this, as is done in tribunals, is to assess the goal of promoting French and preventing its decline, and assessing the way to reach this goal. The choice would lie amongst the solutions that are least disruptive and that are most respectful of rights (but not necessarily the solution that is most respectful of rights, nor the least disruptive one).

Guest speaker, Mr. Lacroix, author of *Pourquoi la loi 101 est un échec*, discusses that one goal of Bill 96 is to restrain the growing bilingualism of the province, which follows with making French the only official language of Québec. However, he comments on the fact that this will prove difficult, as young francophones are increasingly interested in learning English. Projections demonstrate a significant decline in the use of French and of French as a mother tongue. Based on the propositions of Bill 96, Lacroix does not believe that it will solve the current projections for two reasons. First, Bill 96 does not include a selection of immigrants who already have a good mastery of French. He states that Québec would have to accept only francophones as temporary and/or permanent immigrants for the projections to change. Both temporary and permanent immigration have an impact on the vitality of French. Since the current immigration does not favour francophone immigrants, Mr. Lacroix finds the level of immigration excessive. It is therefore difficult to integrate immigrants within Québec culture because of their linguistic propensity for English. Second, Bill 96 does not have a strong enough impact on the funds

directed at anglophone post-secondary institutions, which, according to Lacroix, receive a disproportionate advantage compared to francophone institutions. He predicts that it will be difficult to stop the bilingualism emerging in Québec, especially as young people, who are immersed in English throughout primary and secondary school, may not be open to using only French in public services. He believes that the restrictions imposed on anglophone Cegeps by Bill 96 will not be able to stop the anglicisation of young francophones. He also comments on the symbolic downgrading of French, which is presently occurring, as students are more prone to choosing anglophone Cegeps and later, McGill and Concordia as universities for better career prospects. To solve this, he proposes that anglophone higher education institutions no longer have the option of selecting the academic elite from their candidates but be forced to choose their students based on random selection. This would re-establish a balance, considering that the average R-score of students is higher in anglophone educational institutions. Currently, Bill 101 protects French on an educational level at the primary and secondary level but ceases beyond that. Mr. Lacroix considers this a mistake as Québec is essentially financing bilingualism, thus becoming a bilingual state, which goes against the goal of making French the common and official language.

Guest speaker Mr. Curzi, ex-deputy, states that the anglicisation of Montréal and of the border regions of Québec is an alarming situation that Bill 96 can resolve. However, it lacks structural elements that could make the Bill more efficient, which is to impose Cegep in French to those who have attended primary and secondary school in French. He recognises that knowledge of both French and English is unavoidable for success in Québec in the North American context, but in Québec one should be able to lead a complete life in French only. Language is strongly linked to culture, so the desire to have one common language is essential. In considering this, we see that learning a new language signifies the adoption of a new culture. Following this argument, an anglophone education could incite students to adopt the new culture associated with the teaching language, and to later use English at work, for example, which could lead to the absence of social cohesion. Mr. Curzi continues by adding that a degradation of the language brings a degradation of cultural values. Without a common language that is strong and well-established, we risk a lack of linguistic knowledge in both French and English. He states that foreign students are an asset bringing their own intellectual experiences to the community of Québec. However, the problem is that when these students come to Québec, they integrate the cultural minority of anglophones, rather than integrating within the francophone culture, which has a considerable anglicising effect. Thus, re-establishing a common language will make it easier for foreigners to integrate the francophone culture. Mr. Curzi concludes by saying that francophone culture brings about an important diversity; a diversity of language, of values and of culture, which enriches society.

### **3.2 Critique**

A random selection process of francophones by higher education institutions proposed by Mr. Lacroix is linked to the supposed need to reduce francophone admission into anglophone education. Many claim that the language of study directly prepares students for employment in that same language, which is an opinion shared by retired Prof. Castonguay of the University of

Ottawa (Bourdon, 2011). Although this statement may be well founded, it seems unfair that the government's solution to the rising levels of bilingualism in young people is to put francophone students at a considerable disadvantage in terms of their choice of schooling (Bourdon, 2011). This becomes especially unfair if their admissions no longer depend on merit, and other candidates with weaker grades and less experience are selected over them based on linguistic background. Mr. Lacroix proposed that anglophone higher education institutions no longer have the option to select the academic elite from their candidates, but be forced to choose their students based on random selection. Primary and secondary school, whether anglophone or francophone, may have little impact on a student's future career. But the choice of university can often depend on certain programs offered, as well as particular professors. Is it then fair of the government to forbid francophones and allophones from accessing the higher education institution of their choice? If we consider the words of Mr. Lacroix, who argues against the state's financing of bilingualism in higher education, then would not a fairer solution be that all levels of education be solely in French, and that there be no more anglophone schools? This solution would assuredly place French as the sole, official language of the province, but this is highly improbable.

Prof. Gagné of Vanier College highlights the problem of an unfair advantage; for more than 20 years, the importance of bilingualism in the workplace has been promoted (Bourdon, 2011). This change to the law would therefore place young francophones at a disadvantage compared to their anglophone colleagues. If the government wants to ensure that francophones still use French in the public and private sphere after their studies, they should focus on improving French acquisition in francophones, anglophones and allophones, regardless of whether their schooling is anglophone or francophone. Prof. Gagné also suggests that Cegeps involve a bilingual formation, which would allow for improvement in linguistic skills of both languages, and facilitate cultural reconciliation (Bourdon, 2011).

In the case of foreign nationals, it seems reasonable that the government permits a maximum of three years in anglophone education. This will allow temporary workers a reasonable amount of time to gradually integrate the community, and should they choose to stay, they will be more prepared to fully integrate Québec culture. This reinforces the idea that Québec is a French nation, which should be made clear to all newcomers. This idea should not be problematic, as long as the government remains open to multiculturalism. Following the idea of *Convergence culturelle*, Québec culture and the French language together form a strong societal link. The notion of *Convergence culturelle* originates from 1978 and promotes neither multiculturalism nor assimilation (Rousseau, 2021). Instead, it proposes that Québec can be enriched by immigrants and their cultures (in education, cuisine, literature, music, and films), so long as the Québec culture remains a point of convergence to all Québécois citizens (Rousseau, 2021). The French language is an indispensable tool for communication in Québec, and it is the principal transmitter of Québec culture (Rousseau, 2021). The government should put forward initiatives that promote integration, so as to preserve the majority status of Québec culture and of the French language, whilst focusing on the most important 'threats' to French, which according to the OQLF, is the high numbers of anglophone immigration and decreasing levels of French acquisition of all Québec students, rather than on the discriminatory admissions to Cegeps (OQLF, 2021). Ex-deputy Curzi discusses how bilingualism can bring about a degradation of linguistic skills in both French and English. It seems that a plan for French

education in primary and secondary school should also be introduced along with Bill 96, in order to avoid this degradation of French language skills.

The necessity of having the common language of Québec recognised as French links to the need for minority integration within the Québec culture. Integration can be seen as the process in which cultural minorities participate in social institutions founded upon a common language, such as educational institutions (Rousseau, 2021). A common language leads to a common culture, to which cultural minorities should adapt in order to share common values (Rousseau, 2021). The assembly thus expresses their well-founded concern that French is threatened, and that it should act as a cultural link. However, to avoid notions of anti-multiculturalism, the assembly should clarify their meaning and their intentions, and make it clear that they are opposed to assimilation. Since being succinct and explicit is important in such debates, this should be done as a statement, within the Bill for example, which would reject the notions of forced assimilation (Rousseau, 2021).

The significance of having French as the common language and Québec's culture as a central point of convergence for all citizens is undeniable. However, the government must make sure that their solutions are indeed the best suited to resolve the problems associated with a decreased use of French, and that their solution is still respectful of rights, as Prof. Taillon suggests, and does not infringe greatly upon citizens' rights, regardless of their linguistic background.

-Marina Koutsis, Second Language Education graduate student at McGill.

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