

**QUEBEC FEDERATION OF HOME AND SCHOOL  
ASSOCIATIONS, INC.**



**A BRIEF**

**PRESENTED TO**

**THE PARLIAMENTARY COMMITTEE OF THE NATIONAL ASSEMBLY**

**ON**

**BILL 103**

**AN ACT TO AMEND THE CHARTER OF  
THE FRENCH LANGUAGE AND OTHER LEGISLATIVE  
PROVISIONS**

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August 2010

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# QUEBEC FEDERATION OF HOME AND SCHOOL ASSOCIATIONS, INC

## Brief on Bill 103 – SUMMARY

August 2010

The Quebec Federation of Home and School Associations Inc. (QFHSA) welcomes the opportunity to present this Brief to the Parliamentary Committee of the National Assembly on Bill 103.

QFHSA is an independent, incorporated, not-for-profit volunteer organization dedicated to enhancing the education and general well being of children and youth. It promotes the involvement of parents, students, educators and the community at large in the advancement of learning and acts as a voice for parents.

**QFHSA believes that all parents in Quebec, regardless of citizenship and linguistic status, should have the right to choose the language of schooling best suited for their children. At no time must a child's education be delayed because of a bureaucratic decision on eligibility for admission to an English language school.**

This belief is premised on *Article 26(3) of the United Nations Universal Declaration of Human Rights, 1948:*

*"Parents have a prior right to choose the kind of education that shall be given to their children" [‘Prior’ means prior to the state.]*

This Brief will explain the Federation's position on Bill 103 under the following headings:

1. Parental Rights in Education: a Historical Perspective
2. Bill 103 – Procedural Impediments Trump Democratic Principles
3. Protection and Promotion of the French Language
4. The Future of the English Language School System in Quebec
5. Conclusions and Recommendations

Parental rights in education in Quebec have over 200 years of historical and legal precedent. The Federation is deeply concerned about the future viability of the English school system.

We firmly believe that Bill 103 should be withdrawn as it places severe restrictions on the parents' right to choose their preferred language of schooling for their children. Furthermore, it does not comply with the intent and legal judgment of the Supreme Court of Canada's ruling on "Bill 104".

We believe that Quebec is and will remain the principal center of French culture in Canada and North America. This Brief will illustrate the steps the QFHSA has taken to support and promote the French language and culture in Quebec long before the restrictive language laws of the past thirty-five years.

The QFHSA is respectfully asking the Quebec government to seriously consider the concerns of all parents of Quebec as reflected in this Brief.

# **QUEBEC FEDERATION OF HOME AND SCHOOL ASSOCIATIONS INC.**

## **BRIEF ON BILL 103**

**AUGUST 2010**

The Quebec Federation of Home and School Associations Inc. welcomes the opportunity to present this Brief to the Parliamentary Committee of the National Assembly on Bill 103, an *Act to Amend the Charter of the French Language and other Legislative Provisions*.

### **OUR ORGANIZATION**

The Quebec Federation of Home and School Associations Inc. (the "QFHSA") was officially inaugurated in May 1944 and was incorporated by Letters Patent under the *Quebec Companies Act* in August 1959.

The QFHSA is an independent, incorporated, not-for-profit volunteer organization dedicated to enhancing the education and general well being of children and youth. The QFHSA promotes the involvement of parents, students, educators and the community at large in the advancement of learning and acts as a voice for parents. (See Appendix 1 – Constitution and Mission Statement)

We are a federation of local Home and School Associations driven by one objective: to provide a caring and enriched educational experience for students. Members of Home and School Associations come from all sectors of society: working parents, stay-at-home parents, grandparents, educational professionals and other ordinary citizens with an interest in maintaining a high level of education in this province. The schools that their children attend are scattered across the province: in Western Quebec, the Eastern Townships, the North Shore, the Gaspé and the Greater Montreal area. They represent the cultural diversity within the minority English-language school system: Anglophones, Allophones and Francophones. Our members pay a modest annual fee through their local associations to the QFHSA. Membership is also open to individuals without any school affiliation. We represent 75 school communities and work with, for example, community learning centers, community organizations, and other associations who share our goals and objectives.

The QFHSA is a charter member of the Canadian Home and School Federation (CHSF).

The roots of the QFHSA run deep in the history of the education system of Quebec. Historically linked to the former Protestant system (both English and French), it has continued to build relationships within the linguistic system. Partnerships with school boards, teacher and administrative associations, community organizations and other parent associations have been long-standing, and necessary, in addressing common concerns affecting the minority language communities as a whole.

For over 65 years, our briefs, position papers and resolutions to various provincial and national governments and agencies illustrate that we have been consistent in stating our beliefs and values, and further demonstrate that we have no affiliation to any political party.

At the Annual General Meeting of the QFHSA on April 24, 2010, our delegates voted unanimously in favour of a resolution on “Bill 104”:

*“Therefore Be It Resolved that the Quebec Federation of Home and School Associations Inc. urge the Government of Quebec to respect the 2009 unanimous ruling of the Supreme Court of Canada that “Bill 104” is unconstitutional, and henceforth, to absolutely take no further legal, legislative and/or other actions to lessen access to education in English.” (See Appendix 2 for complete text – QFHSA Resolution 2010/1)*

**This Brief and its recommendations are based on the above mandate.**

## INTRODUCTION

**The QFHSA vigorously opposes the adoption of Bill 103, An Act to Amend the Charter of the French Language and other Legislative Provisions (“Bill 103”).**

Article 26(3) of the *United Nations Universal Declaration of Human Rights, 1948* stipulates that:

*“Parents have a prior right to choose the kind of education that shall be given to their children.” [‘Prior’ means prior to the state.]*

In our opinion, Bill 103 runs counter to this principle as have other restrictive Quebec legislative bills initiated since 1974 (Bills 22, 101 and 104).

**The QFHSA believes that all parents in Quebec, regardless of citizenship and linguistic status, should have the right to choose the language of schooling best suited for their children. At no time must a child’s education be delayed because of a bureaucratic decision on eligibility for admission to an English language school.**

Let us also be very clear in stating that the QFHSA and its membership throughout the province are sympathetic to the natural desire of the French majority in Quebec to make this province a centre of French culture that is strong, secure and expansive. **Quebec is and will remain the principal centre of French culture in Canada and North America.**

The QFHSA believes, in today’s context, that the French language and culture is strong and secure. Therefore, there is no basis for the implementation of further restrictive language legislation directed against the English minority communities.

**The QFHSA Brief will concentrate on the following topics:**

- 1. Parental Rights in Education: an Historical Perspective**
- 2. Bill 103 – Procedural Impediments Trump Democratic Principles**
- 3. Protection and Promotion of the French Language**
- 4. The Future of the English Language School System in Quebec**
- 5. Conclusions and Recommendations**

## 1. PARENTAL RIGHTS IN EDUCATION: AN HISTORICAL PERSPECTIVE

### Historic Rights for the Majority/Minority Population

- **Pre-Confederation**

The roots of constitutionally guaranteed rights in education for both French and English citizens of Quebec date to before Confederation.

Prior to 1867, Ontario and Quebec had for some years been one province: the Province of Canada. As negotiations proceeded to form a Confederation, both the French and the English populations of what was to become Quebec were concerned about minority rights under majority rule. The genius of Confederation was the acceptance of the pluralism that these concerns implied. The nation of Canada was to be a **dual duality**: with the French-speaking population (Quebec) a minority in Canada and a majority in Lower Canada (Quebec), while the English-speaking population would be a majority in Canada and a minority in Lower Canada (Quebec).

Unity was to be achieved through the recognition of duality, and that character was to be preserved by a division of powers that accepted the principle of 'self-administration of the minority', especially in community and school affairs. The two most notable leaders in crafting this compromise were Alexander T. Galt (an English Protestant) and Georges-Étienne Cartier (a French Catholic). What these spokesmen were negotiating for at the time of Confederation were not privileges **but the preservation of their birthrights**.

- **Confederation**

This dual duality principle has since become known as the fundamental compromise of Confederation. The very formation of Canada was conditional **on accepting this democratic principle**.

Sections 93(1) to 93(4) of the *British North America Act, 1867* (the "BNA Act") provided for a denominational school system in Quebec to give both the majority (French) and the minority (English) powers of self-administration. All of the rights and privileges accumulated **in law** before Confederation regarding education had been reflected in the *Consolidated Statutes of Lower Canada* (1861) and were enshrined in Section 93 of the "BNA Act". **Self-administration meant that freedom of choice was preserved in the matters of curriculum, language of instruction and religious conscience**. The Fathers of Confederation had fashioned a concept of nationhood based on cultural, religious, and linguistic diversity rather than on homogeneity. This same principle of the division of powers, also enshrined under Section 133 of the "BNA Act", made both French and English equal in the legislatures and the courts.

Despite occasional stresses and adaptation, the concept of Confederation maintained a relative equilibrium between the dual majorities/minorities for one hundred years. In that period

Quebec evolved from a relatively rural and insular society to a society on the threshold of modernity.<sup>1</sup>

- **The 1960s: Change and Reform**

The 1960s was a period of rapid change and reform in Quebec. The so-called Quiet Revolution instituted a form of popular nationalism to bring Quebec into the North American mainstream. Many recognized the need for direct state intervention in the economic, social, and cultural spheres; education was seen as one of the means to achieve a new and better society. The political agenda of the Liberal Government included attempts to find a basis for a public system of education. It would be under the supervision and control of the state that accommodated the realities of religion, language and the Constitution.

In 1962 the Government established the *Parent Commission* (1962-66) to study and recommend reforms as the basis for a modern educational system. The watchwords were democratization, accessibility and equality of opportunity. The QFHSA was a very active participant, as described later in this Brief.

A major change called for a Department of Education, which the QFHSA supported and which, over time, would become a centralizing, standardizing force. The administration of schools, school boards, confessional committees, curriculum, finances, *et cetera* was thoroughly examined and reorganized. **The principle of 'self-administration of the minority' disappeared in the face of a government bureaucracy.**

From 1960 to 1974 parental choice in education became increasingly a political issue. Various educational Commissions (*Parent, Pagé, and Gendron*) had recommended that parental choice be respected, but nationalist ideology won over. A new and unsettling vision of Quebec had emerged.

At the same time, in the rest of Canada, the minority francophone population was calling on its provincial and federal governments to establish their constitutional rights. In 1963, the federal government initiated a *Royal Commission on Bilingualism and Biculturalism*. In 1969, the *Official Languages Act* gave equal status to both the French and English languages across Canada. The QFHSA gave strong support to recognizing this equal status.

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<sup>1</sup> QFHSA - *Whither the Protestant School System in Quebec?* 1989, written and researched by Harry Kuntz, Secretary, Protestant Education Committee of the Superior Council of Education and Dr. Calvin C. Potter, Professor of Finance, Concordia University, and Chair of the QFHSA Rights Committee.



## **1974 – “Bill 22” Onwards: The Erosion of the Parental Rights of Quebecers**

- **“Bill 22” – The Official Language Act**

Freedom of parental choice disappeared in 1974 when the Liberal Party passed “Bill 22”. It made French the only official language of instruction in Quebec. It imposed a language test for eligibility into English school. This test effectively removed the rights of any Francophone parents who wished to send their children to an English school for a few years to learn the language. It equally removed the rights of Allophone parents who wished their children to have instruction in English.

In its *Position Statement to the Parliamentary Committee*, the QFHSA vehemently protested the infringement of the parental right to choose.

- **1977 – “Bill 101” – The Charter of the French Language**

In our *Brief on “Bill 1”* (later named “Bill 101”), the QFHSA stated:

*“We believe “Bill 1” is a transformation of Quebec society from an open society to a closed one. A society in which the civil liberties of its individual citizens, ALL its citizens, are being sacrificed on a pretense of a collective need. A society where human rights are being encroached upon and suppressed in order to achieve a supposed goal of the primacy of the French language and culture, irrespective of the means to achieve it”. (1977 Brief, “Bill 1”, p. 18)*

The effects of “Bill 101” have fundamentally changed the fabric of society in Quebec, under the guise of a ‘Language Bill’. It is a bill that diminishes rather than expands on rights for all Quebecers and especially for those in the historic minority language communities. The plummeting enrolments in English schools since 1977 have been catastrophic. This will be discussed in part 4 of this Brief.

- **1982 –*Constitution Act, Canadian Charter of Rights and Freedoms, Section 23***

The new Constitution, it was hoped, would alleviate some of “Bill 101”’s restrictions. Section 23 of the *Constitution Act, 1982* was deliberately modeled on Section 73 of “Bill 101”. Like 73, Section 23 designated categories of students eligible for official minority language education (English in Quebec, French in the rest of Canada).

For Quebec, Section 23(1)(a) – the mother tongue clause – was replaced with Section 59. This change means that English-speaking parents, coming to Quebec from around the world, do not have the equivalent right granted to French-speaking parents, who live in the rest of Canada and who may choose English or French education for their children. (See Appendix 3 – QFHSA Resolution 2008/1)

We support the basic human right that a child should receive his schooling in his mother tongue. This human right is recognized internationally. Perhaps the world’s best example is that

of Switzerland where the national languages are each protected and respected in its constitution, and where each enjoys far-reaching autonomy.

- **1997 – *Constitution Act, 1982* – Removal of Sections 93(1) to 93(4)**

Upon the request of the Parti Québécois Government, a bilateral agreement with the Government of Canada allowed for the removal of Sections 93(1) to 93(4) from the 1982 *Constitution Act*. The dismantling of the confessional system of education with its inherent rights for both the English and French minorities gave way to the present linguistic system. This system has no built-in guarantees for the minority except as defined by the Charter of the French Language. (See Appendix 4 – QFHSA Resolution 1997/2)

- **2002 – “Bill 104” – *An Act to Amend the Charter of the French Language***

Between 1977 and 2002, some parents exercised their constitutional right to send their child to an unsubsidized English private school for one year, to acquire an eligibility certificate for entry to an English public school.

Bill 104 took away that right. Twenty-six families, under great personal and financial stress, took on a court action to assert the ‘right to choose’ for their children and others yet to come. On October 22, 2009, the Supreme Court of Canada ruled that “Bill 104” was unconstitutional and gave the Quebec Government a year to enact new legislation where the constitutional rights of the linguistic minority were to be respected.

Ironically Bill 103, the subject of this Brief, demands a much tougher route to gain eligibility to English schooling.

**In our opinion, this Bill should never be allowed to become yet another obstacle to the freedom of parents to choose the kind of education that is best suited for their children.**

## 2. BILL 103 – PROCEDURAL IMPEDIMENTS TRUMP DEMOCRATIC PRINCIPLES

**We believe that in a democratic society one should always seek to expand on rights, never to diminish them.**

Bill 103 is merely an extension of the philosophy and belief of successive Quebec Governments since 1974, that the right of parents to choose the language of schooling for their child must be limited in order to protect the French language. However, these limits have had a significant impact on the sustainability of the English school system.

It is worth noting that Bill 103 was introduced by the Minister of Culture and Communications, who is responsible for the application of the *Charter of the French Language* (“Bill 101”), and not the Minister of Education, Leisure and Sport, who oversees the education system. Consequently, in our view, it is evident that the principal focus of Bill 103 is to limit the right of entry into English public schools.

### **PROCEDURAL IMPEDIMENTS**

**Note:** All section numbers below refer to amendments (Bill 103) applicable to “Bill 101”. All words bolded are for emphasis only.

We believe the government has crafted Bill 103 with the following in mind:

#### **Meeting the Constitutional Ruling on “Bill 104”**

The Supreme Court of Canada, in October 2009, instructed the Quebec government to reformulate “Bill 104” because it was deemed to be unconstitutional. This resulted in Bill 103.

Now a child must attend one of nine approved unsubsidized private English schools **for three years** even to be considered for a certificate of eligibility. The Government’s argument for defending Bill 103 has been that “Bill 104” was necessary to prevent individuals from **buying** a right. If that were ever true, the new law simply inflates the price. Without exception, these schools are expensive, costing up to \$15,000 per annum.

This new measure takes a basic parental right and makes it a privilege that only a small number of families can afford. The Canadian Charter of Rights and Freedoms recognizes rights – not privileges.

Any possibility that one could seek a less expensive institution than the nine identified by the Minister of Education, Leisure and Sport is forbidden. Bill 103 adds:

*“78.2 No person may set up or operate a private institution...**in order to circumvent Section 72** or other provisions of this chapter governing eligibility to receive instruction in English.*

*It is prohibited, in particular, to operate a private educational institution principally for the purpose of making children eligible for instruction in English who otherwise would not be admitted to a school of an English school board or to a private English language institution accredited for the purposes of subsidies under the Act respecting private education.” (Section 5)*

### **Amendments and new Regulations regarding The Charter of the French Language (“Bill 101”)**

The three-year requirement for eligibility is only the beginning of the process to impede a student’s ability to enter an English public school.

- **Government Framework: Making a Request**

*“73.1. The Government may determine **by regulation** the **analytical framework** that a person designated under section 75 **must use** in assessing the major part of the instruction received, invoked in the support of an eligibility request under section 73. The **analytical framework** may, among other things, **establish rules, assessment criteria, a weighting system, a cutoff or a passing score and interpretive principles.**” (Section 2)*

Even to make a request, there are undefined procedures to follow.

*“80. The **Government may determine by regulation** the **procedure for submitting requests** eligibility under section 73 or 86.1.” They include the “**role of the school**”, the “**fees...to create a file**”, the “**time granted for submitting a request**” and “**the information and documents that must accompany a request.**” (Section 6)*

One must not overlook that additional documents and information may be requested as well.

*“75. **In addition** to those required by regulation...**may require...within a set time, any document or information relevant to the verification of a request...**” (Section 4)*

It would seem that a prospective applicant, upon reading what is required to obtain an eligibility certificate, might surely become dissuaded from ever applying.

Furthermore,

*“75. The designated person **may require** that the **documents or information be accompanied by a sworn statement of their veracity.**” (Section 4)*

- **Family History**

The draft regulations also give permission for public servants to delve further into a family's personal history: wanting to know other places of residence, what languages parents have studied and what schools the siblings may have attended.

The following excerpts are taken from the draft Regulation respecting the criteria and weighting used to consider instruction in English:

*"5.(2) "Consistent, true commitment": The **family context** is considered as are **other elements of the child's environment** that may shed light on the **authenticity of the commitment to an English-language education...**"*

*"2.2 Continued commitment, changes or inconsistencies in **siblings' school attendance**." (Schedule 3)*

*"2.3 Continued and consistent commitment in **relation to the parents' mobility**." (Schedule 3)*

*"5.(3) Specific situation and overall education: **Other related or distinct contextual elements** that may shed light...such as **what prompted the choice of or change in educational institution, when this choice or change was made during the child's schooling, the instruction received in a language other than English by the parents of the child concerned...**"*

- **Final Evaluation for Eligibility**

*"73.1 (2<sup>nd</sup> para.) The **regulation** may **specify in which cases and under which conditions** a child is presumed or **deemed to have satisfied the requirement of having received the major part of his instruction in English within the meaning of section 73.**" (Bill 103, Section 2)*

This evaluation is based to some degree on an interview where an applicant can earn or lose a number of points, which are tabulated by the public servants. A total of 15 points would be required, all of which could be garnered by **three years** in an unsubsidized English private school. However, points could then be lost when other factors in the child's educational pathway are considered. In our opinion, this process could become very subjective.

- **Timeframe**

The whole exercise of obtaining a certificate of eligibility may prove to be futile if the application process is not completed before the child finishes high school. Nowhere in Bill 103 is there a clear timeframe to have a decision on eligibility for English schools. **Justice delayed is justice denied.**

## Quebec Charter of Human Rights and Freedoms

Several amendments from Bill 103 will be made to this Charter. They will further exclude any official recognition of English as a minority language. One example:

*“50.2 Any interpretation of the rights and freedoms set out in this Charter must take into account both the fact that French is the official language of Quebec and the importance of insuring its perpetuity.” (Section 21)*

**We firmly believe Bill 103 does not meet the intent and spirit of the ruling, as it does not constitute minimal impairment of the constitutional rights of Quebec parents. It fails to meet both the moral and legal aspects as prescribed in the Supreme Court of Canada’s judgement on “Bill 104”.**

### 3. PROTECTION AND PROMOTION OF THE FRENCH LANGUAGE

The implied reason for this Bill is that the welfare of the French language is at stake. However, the QFHSA believes that the abstract situation of a language cannot and should not be measured against the educational welfare of children.

#### Sociological Change: An Historical Perspective

- **The Early Years: Cultural Isolation**

Prior to the Quiet Revolution, Quebec had created a strong religious hierarchy, which controlled a narrow classical (private) educational system and a weak public denominational educational system. There was an attempt to preserve those cultural values that this society held dear. Population growth was not a problem as birthrates were high.

- **The Common School: A Pathway to Cultural Diversity**

The Common School principle as laid down in the “*BNA Act*”, 1867 meant that the first school in a district was a common school, which all children had the right to attend. In those districts that were French and Catholic, the schools, in fact, were French and Catholic. In those that were English and Protestant, the schools were English and Protestant. **But such schools were, nevertheless, legally common; that is, open to children of all faiths.** When, however, a district was mixed, the school of the majority, as the first school, was common. The religious minority of that district had the right to dissent and organize a denominational school, open only to Catholic or Protestant children. They were subject to the same conditions and regulations as common schools.

For the cities of Montreal and Quebec, the organization of the school system was different. Each city had two denominational boards, each of which was classified as common. They, therefore, could admit students of a different faith who were not otherwise provided for.

**Freedom of choice was preserved in the matters of curriculum, language of instruction, and religious conscience.** Catholic French common schools generally did not welcome the other. Within the school system both the church and the teachers’ associations opposed an open policy of accommodation, especially for the large influx of new non-Catholic immigrants who were exercising a parental choice. Recent immigrants were often interested in a school close to home, be it Catholic or Protestant. The protection from religious diversity also hampered cultural diversity in these schools until well into the 20<sup>th</sup> century.<sup>1</sup>

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<sup>1</sup> QFHSA – *Whither the Protestant School System in Quebec?* 1989

- **Dramatic Societal Change**

During the 1950s and 1960s new technologies had a dramatic impact on the generally closed society of French Quebec. Television alone opened a window onto a larger world not previously accessible to most Quebecers, especially in rural areas.

A second dramatic change was driven by the advent of new birth control options in the early 1960s. Birthrates in Quebec plummeted from one of the highest in the Western world to one of the lowest. The school population began to show a dramatic decrease.

By the 1970s, successive governments were focusing on the protection of the French language as the prominent issue of their political platforms. As a minority in North America, political parties claimed that they must undertake **restrictive** measures to ensure its survival. Where the province could have chosen to **expand** on the rights of all of its citizens regarding parental choice in education, it chose instead to restrict this choice through the *Charter of the French Language*. Welcoming new immigrant families into the Catholic French common school would not have required new legislation. The right of parents to choose already existed through the “BNA Act”.

### QFHSA and the Promotion of the French Language

In 1962 the QFHSA was privileged to present an extensive 45,000-word Brief to the *Royal Commission on Education (Parent Commission)*. This was brought forward after an exhaustive two year study by the QFHSA and its local associations representing 27,000 families. They were assisted by a large corps of distinguished educators. The purpose of the Brief was to focus on the need to overhaul the education system.

Seventeen reports contained 176 recommendations. The Commission praised the QFHSA’s Brief for its outstanding coherence and insight.

A major topic of concern was the long overdue need for quality French language instruction in our English schools.

*“In view of the fact that French is the language of the majority of the population of this Province **an improvement in teaching is urgent.**” (1962 Brief, p. 20)*

*“Improved teaching of French will help to instill interest in **and greater appreciation of French culture in English-speaking pupils.**” (1962 Brief, p. 21)*

*“We urge that the teaching of French **commence in Kindergarten** and that **more emphasis be placed in French conversation** throughout the curriculum. It is also our earnest hope that it may be possible for French-speaking Roman Catholic teachers to be engaged by Protestant school boards **to the end that our children may have the advantage of being taught French by those whose mother-tongue it is.**” (1962 Summary of Brief, p. 3)*



In 1965, in our Brief to the *Royal Commission on Bilingualism and Biculturalism* QFHSA, representing 20,000 families, emphasized its support in giving French an official language status in Canada.

*“The Federation is unambiguous in its assertion that it considers it a cultural attribute and a positive quality to be able to speak a second language. For reasons of history, for reasons of proximity, for reasons of common courtesy and, above all, because of its inherent faith in the future of Canada and in the capacity of the French Canadian and the non-French Canadian elements to accommodate to each other, the Federation welcomes French as the other language of Canada.” (1965 Brief, p. 5, No. 5)*

In 1963, the St. Lambert Bilingual Study Group was initiated by twelve English-speaking parents. After two years of hard work, a Kindergarten French immersion program was set up as a pilot project. Researchers from McGill University released very encouraging results on second language acquisition through total immersion. Over time, French immersion has become one of the most researched language acquisition programs in history. By 1969, parents across Canada were requesting French immersion programs. Today, countries around the world look to Canada and Quebec for help in establishing their own language immersion programs.<sup>2</sup>

It is noteworthy that parents, representative of a wider public opinion in the minority English-speaking communities, made a passionate plea for the promotion of the French language in Quebec **long before** the restrictive language laws of the 1970s and beyond.

**That was the 1960s. This is 2010.** Our membership remains steadfast in its belief that students who attend English schools must graduate fully qualified to live and work in a majority French language environment.

We believe that the perceived threat to the French language comes principally from being a smaller population in proportion to the Canadian and American cultures.

It is also our firm belief that the supportive bilingual minority English-speaking communities in Quebec **do not threaten** the French language.

**In our opinion, it is difficult to accept that a few students affected by Bill 103 can undermine the status of the French language.**

**We believe the real desire of all Quebecers – French and English – is to preserve the richness of the French language and culture, without political intervention. There is a will among all Quebecers to make this happen.**

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<sup>2</sup> A Meeting of the People – School Boards and Protestant Communities in Quebec, 1801-1998, 2004, written by Roderick Macleod and Mary Anne Poutanen. Other source: [hrsbstaff.ednet.ns.ca/bgromick/history.html](http://hrsbstaff.ednet.ns.ca/bgromick/history.html) – Halifax Regional School Board: Teacher webspace).

#### **4. THE FUTURE OF THE ENGLISH LANGUAGE SCHOOL SYSTEM IN QUEBEC**

The reality is that the English school system in Quebec is in decline and in jeopardy.

We believe that Bill 103 does not allow for the maintenance and nurturing of the English school system. It is a fact that in 1971 the enrolment in English public schools was 250,000 while today it stands at 93,000. It is also a fact that, with the implementation of Bill 103 further declines will occur, and down the road more English schools will face mergers or closures.

The Quebec Community Groups Network (QCGN) talks about sustaining the vitality of the English-speaking communities. But without an English school system within these communities, this minority language population cannot be sustained, particularly in rural Quebec. In addition, Allophone and Francophone parents will lose their eligibility for English education by attrition. If this historic English education system is eroded to the point of inadequate funding for the provision of services to its students, then the parental rights of all Quebecers will be diminished.

##### **Confirmation of the Decline of English School Enrolment**

In 1992, members of the *Task Force on English Language Education* stated:

*“In 1992, the English language school system had seen its enrolment fall considerably in the fifteen years after the adoption of the Charter of the French Language. Citing a 57 percent decline in English enrolment between 1972 and 1990, from 250,000 to 108,000, the Task Force on English education in Quebec presented a rather gloomy picture of the future of the English language school system in the absence of changes aimed at widening admission to that sector. (French enrolment declined by 24 percent over the same period). They noted that the greatest decline occurred between 1976 and 1986 and that the drop was particularly felt on the Island of Montreal (some 64 percent between 1970 and 1990).”<sup>3</sup>*

##### **1990 to the Present Day**

- **Cultural Diversity**

From the 1960s to the 1990s, the mainstay of English language schools was the presence of Anglophone and Allophone children. While Allophone students were educated in English, most retained their own cultural heritages.

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<sup>3</sup> The *Chambers Report, Ten Years After: The State of English Language Education in Quebec, 1992-2002*. *The Missisquoi Reports, Volume 4*. Jack Jedwab, January, 2002, p. 2

In the 1990s and onwards, an increasing number of Francophone families, who have eligibility status, have enrolled their children in English schools. This has had a dramatic effect in helping retain enrolment in off-island schools. Again, these Francophone families have tended to retain their cultural heritage while seizing the opportunity to have their children learn English. Their preferred choice for English schooling is at the primary and elementary levels. Bicultural and multicultural diversity is widely celebrated in the English school system and in the communities linked to the definition of English language minority.

- **Francophone Enrolment in the English School System**
- **Anglophone Enrolment in the French School System**

*“The majority of French mother tongue students who are eligible for English schooling reside outside of Montreal. For this reason French mother tongue students represent only 6% of total enrolment in Montreal’s English language schools and about one quarter of the English sector in the rest of Quebec. As it is the regions where English schools have benefited most from the influx of French mother tongue students, the total enrolment in the English language sector outside of Montreal is greater than enrolment in Montreal. In some regions outside of Montreal, the demographic viability of English language schools depends on the presence of the Francophone students.” (Ibid., p. 22)*

Table 4: Student population (part time and full time) in youth sector, Quebec schools, by mother tongue and language instruction, 2002-2003 to 2006-2007 <sup>4</sup>

Mother tongue	Language of instruction	2002-2003	2003-2004	2004-2005	2005-2006	2006-2007
French	In French schools	883,045 97.7%	871,246 97.6%	860,519 97.6%	846,880 97.5%	829,494 97.4%
	In English schools	20,413 2.3%	21,033 2.4%	21,402 2.4%	21,719 2.5%	21,950 2.6%
	Total French mother tongue <sup>(1)</sup>	903,470	892,291	881,932	868,610	851,454
English	In French schools	17,801 18.9%	18,322 19.4%	18,739 20.0%	19,270 20.7%	19,617 21.4%
	In English schools	76,495 81.1%	76,101 80.6%	75,184 80.0%	73,918 79.3%	72,163 78.6%
	Total English mother tongue <sup>(1)</sup>	94,327	94,455	93,957	93,206	91,807

Source: Ministère de l'Éducation, du Loisir et du Sport (MELS), DCS, Quebec (2007).

(1) Total French and English mother tongue students include a small minority (N = 15-30) who attend First Nation language schools in each year

<sup>4</sup> *English Education in Quebec: Issues and Challenges, 2008 – Patricia Lamarre, Professor of Education, Université de Montréal, p. 74*

*“Statistics show that roughly 20,000 English mother tongue students are currently in the French sector of the provincial primary and secondary school system: half of these by choice and the other half, primarily of immigrant origin, because of the educational clauses of Bill 101.” (Ibid., p. 79)*

*“It should also be remembered that there are roughly 20,000 French mother tongue students in Quebec’s English schools by choice, as compared to 10,000 English mother tongue students in French schools through legislation (the other 10,000 have voluntarily crossed-over.” (Ibid., p. 79)*

Approximately 20,000 English-speaking students currently attending French schools represent a loss of about 21.4 percent of students to the English school system. Roughly 20,000 French-speaking students currently attending English schools represent a loss of only 2.6 percent of students to the French school system.

The QFHSA is fully aware of the right of parents who are eligible for English schooling to enrol their children in French schools. While this diminishes the enrolment for English schools, it is still a parental right to choose the education that they feel is best suited for their children. The same applies for French parents who enrol their children in English schools.

The QFHSA is deeply concerned about the 10,000 English mother tongue students enrolled in French schools due to the legislative constraints of “Bill 101”, section 59 of the *Constitution Act* and “Bill 104”. These families are new English-speaking immigrants coming to Quebec from around the world, who do not have the equivalent right that is granted to French-speaking parents living in the rest of Canada and who have a choice of English or French education for their children. In addition, these 10,000 students represent approximately 10 percent of the potential total English-speaking student population, which would help to maintain and sustain the English school system.

For many years, QFHSA has urged both the provincial and federal governments to widen access to English education, thus respecting the parental right to choose the language of schooling for their children. (See Appendix 3 – Resolution 2008/1)

- **“Bill 104”**

As described earlier in this Brief, “Bill 104”, in particular, placed severe restraints on even minimal growth. Between 2002 and 2009, the provincial government saw fit to deny an estimated 500 students per year from access to English education, affecting enrolment primarily on the island of Montreal. This represents a mere 0.025 percent of total French school enrolments. However, an approximate 0.5 percent loss of students per year, in addition to other demographic issues, is significant for English schools.

In 2005-06, the combined kindergarten and elementary numbers in the province’s English schools stood at 58,730. In 2009-10, they have dropped to 50,233, a decline of 14.4 percent in that five-year timeframe. The secondary enrolment fared better, declining only 3.0 percent.

However, it is the elementary system that most accurately predicts future enrolment, as these students move up through the system. Declines at the elementary level are indicative of future lower secondary numbers.

A breakdown comparing the island of Montreal and the rest of Quebec indicates that the island boards' elementary/kindergarten numbers plummeted by 18.1 percent in the past five years, but the rest of Quebec hardly fared better, falling by 10.6 percent. (See Appendix 5 – 2005-06; 2009-10 Student Enrolments – Quebec English School Boards Association (QESBA))

A poll conducted by Léger Marketing that was commissioned by the Montreal Gazette shows that a majority of Quebec parents would like to be able to choose the schools their children attend.

*“A new survey of Quebecers’ attitudes on education shows that two out of three prefer the right to send their children to any school in the province, public or private.*

*The poll conducted for the Gazette by Léger Marketing, asked whether students other than those now allowed, including francophones, should have access to English-language schools if they wish.*

*A total of 66 per cent of a representative sample of Quebecers agreed that they should, including a 61 per cent clear majority of francophones.*

*Non-francophones were even more overwhelmingly in favour, at 87 per cent.*

*The online poll was conducted May 3-6, 2010, with 1,001 respondents. Data was weighed by age, gender, mother-tongue, education level and household composition to obtain a representative sample of Quebec’s population.”<sup>5</sup>*

**Bill 103, if implemented, will further accelerate the decline of the English language system of education. The loss of an English language education system in Quebec would be a loss for all Quebecers: socially, economically and, above all, culturally. It would add further fundamental change to the fabric of society in Quebec, a society rich in the tradition and history of two founding cultures for over two hundred years.**

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<sup>5</sup> *Poll shows Quebecers support right to choose language of education*, by Kevin Dougherty and Hubert Bauch, Montreal Gazette, May 10, 2010

## 5. CONCLUSIONS AND RECOMMENDATIONS

**In a democratic society one should always seek to expand on rights, never to diminish them: with rights come responsibilities. In this case, it is the responsibilities of the majority towards the minority and the minority towards the majority.**

### Conclusions

We firmly believe that:

1. Bill 103 does not meet the intent and spirit of the ruling, as it does not constitute minimal impairment of the constitutional rights of Quebec parents. It fails to meet both the moral and legal aspects as prescribed in the Supreme Court of Canada's judgment on "Bill 104".
2. The perceived threat to the French language comes principally from being a smaller population in proportion to the Canadian and American cultures. The supportive bilingual minority English-speaking communities in Quebec do not threaten the French language.
3. All parents in Quebec, regardless of citizenship and linguistic status, should have the right to choose the language of schooling best suited for their children.

This belief is based on Article 26(3) of the *United Nations Universal Declaration of Human Rights, 1948*:

*"Parents have a prior right to choose the kind of education that shall be given to their children."*

### Recommendations

We respectfully recommend that:

1. **The Government of Quebec withdraw Bill 103.**
2. **The Government of Quebec respect the ruling of the Supreme Court of Canada on "Bill 104", as stated in our Resolution of April 24, 2010:**

*"Therefore Be It Resolved that the Quebec Federation of Home and School Associations Inc. urge the Government of Quebec to respect the 2009 unanimous ruling of the Supreme Court of Canada that Bill 104 is unconstitutional, and henceforth, to absolutely take no further legal, legislative and/or other actions to lessen access to education in English."*  
(See Appendix 2 – QFHSA Resolution 2010/1)

3. **The Government of Quebec undertakes further action to abrogate section 59 of the *Constitution Act, 1982*, as stated in our Resolution of May 3, 2008:**

*“Be it further resolved that s. 23(1)(a) of the Constitution Act, 1982, which guarantees access to minority official language education on the basis of a citizen’s mother tongue, be brought immediately into force in Quebec, by the exercise of the power conferred by section 59, that is to say, by the proclamation made by the Queen or the Governor General under the Great Seal of Canada with the authorization of the legislative assembly or government of Quebec.” (See Appendix 3 – QFHS Resolution 2008/1)*

## BIBLIOGRAPHY

- Article 26(3) of the United Nations Universal Declaration of Human Rights 1948
- Whither the Protestant School System in Quebec? QFHSA, 1989, Harry Kuntz and Dr. Calvin C. Potter
- A Meeting of the People: School Boards and Protestant Communities in Quebec, 1801 – 1998, Roderick MacLeod and Mary Anne Poutanen
- St. Lambert (Quebec) Bilingual Study Group – Halifax Regional School Board: Teacher webspace - <http://hrsbstaff.ednet.ns.ca/bgromick/history.htm>.
- The Chambers Report, Ten Years After: The State of English Language Education in Quebec, 1992-2002. The Missisquoi Reports, Volume 4, 2002  
Jack Jedwab
- English Education in Quebec: Issues and Challenges, 2008. Patricia Lamarre
- Poll shows Quebecers support right to choose language of education, May 10, 2010, Montreal Gazette, Kevin Dougherty and Hubert Bauch
- QFHSA Briefs, Position and Policy Statements
  - 1962 – Quebec Royal Commission of Inquiry on Education (Parent Commission)
  - 1965 – Quebec Royal Commission on Bilingualism and Biculturalism
  - 1969 – Commission of Inquiry on the Position of the French Language and on Language Rights in Quebec (Gendron Commission)
  - 1974 – A Position Statement Regarding Bill 22
  - 1977 – A Policy Statement to the Parliamentary Committee respecting Bill 1
  - 1980 – Joint Committee of the Senate and House of Commons on the Proposed Constitution Act
  - 1991 – Special Joint Committee on a Renewed Canada (Beaudoin – Dobbie Committee)
  - 1997 – The Special Joint Committee of the Senate and House of Commons on the Proposed Amendment to Section 93 of the Canadian Constitution



## APPENDICES

1. QFHSA Constitution and Mission Statement
2. QFHSA Resolution 2010/1  
An Appeal to the Government of Quebec  
Wider Access to English Education re: Bill 104
3. QFHSA Resolution 2008/1  
Wider Access to English Education
4. QFHSA Resolution 1997/2  
Protection of Civil Rights in Education in Quebec
5. Quebec English School Boards Associations (QESBA)  
2005-06; 2009-10 Student Enrolments
6. Background: Legislative References
  - Section 73 – Charter of the French Language
  - Section 23 – Constitution Act 1982 – Charter of Rights and Freedoms
  - Section 59 – Constitution Act, 1982
  - Section 3 – “Bill 104”

## CONSTITUTION

### ARTICLE I

#### NAME

The name of this organization shall be:-

**QUEBEC FEDERATION OF HOME AND SCHOOL ASSOCIATIONS, INC.**

### ARTICLE II

#### CONSTITUTION

The constitution of the Federation shall be set forth in the Letters Patent granted under the Quebec Companies Act on August 27<sup>th</sup>, 1959, and Supplementary Letters Patent granted on May 08<sup>th</sup>, 1997, for the following purposes: To promote, encourage and assist Home and School organization and activity in the schools throughout the Province of Quebec.

For the carrying on of the above mentioned purposes, the corporation may:

1. Provide facilities for bringing together the members of Home and School Associations for discussions of matters of general interest, and to stimulate co-operative effort.
2. Assist in forming public opinion favourable to reform and advancement of the education of the child.
3. Develop between educators and the general public such united effort as shall secure for every child the highest advantage in physical, mental, moral and spiritual education.
4. Raise the standard of home life and national life.
5. Maintain a non-partisan, non-commercial, non-racial and non-sectarian organization.

### ARTICLE III

Federation policy is contained in its "Statement of Policy", which contains those resolutions and/or recommendations deemed by the Annual General Meeting to complement its purposes and objectives above.

# MISSION STATEMENT



THE QUEBEC FEDERATION OF HOME AND SCHOOL ASSOCIATIONS INC. IS AN INDEPENDENT, INCORPORATED, NOT FOR PROFIT VOLUNTEER ORGANIZATION DEDICATED TO ENHANCING THE EDUCATION AND GENERAL WELL BEING OF CHILDREN AND YOUTH.

THE QUEBEC FEDERATION OF HOME AND SCHOOL ASSOCIATIONS INC. PROMOTES THE INVOLVEMENT OF PARENTS, STUDENTS, EDUCATORS AND THE COMMUNITY AT LARGE IN THE ADVANCEMENT OF LEARNING AND ACTS AS A VOICE FOR PARENTS.



QUEBEC FEDERATION OF HOME AND SCHOOL ASSOCIATIONS INC.  
LA FÉDÉRATION QUÉBÉCOISE DES ASSOCIATIONS FOYERS-ÉCOLES INC.

3285 Cavendish Blvd., Suite 560, Montreal, Quebec H4B 2L9  
Tel: (514) 481-5619 Fax: (514) 481-5610 www.qfhsa.org e-mail: info@qfhsa.org

RESOLUTION 2010/01

**AN APPEAL TO THE GOVERNMENT OF QUEBEC  
WIDER ACCESS TO ENGLISH EDUCATION re: BILL 104**

**WHEREAS** in 2007, the Court of Appeals of Quebec ruled that Bill 104 was inconsistent with the Canadian Charter of Rights and Freedoms; and

**WHEREAS** in 2009, the Supreme Court of Canada ruled unanimously that Bill 104 was unconstitutional; and

**WHEREAS** the rights of Canadian citizens should not be overridden by Quebec law; and

**WHEREAS** less than 1.5 per cent of students entering Quebec schools each school year are prevented from attending English schools due to Bill 104, clearly an insignificant threat to the protection of the French language in the province; and

**WHEREAS** the protection of the majority official language and culture in Quebec should not diminish the historic language rights and cultural heritage of the minority official language population of Quebec; and

**WHEREAS** it has always been the position of the Quebec Federation of Home and School Associations Inc. to advocate for the rights of students to have wider access to education in English; and

**WHEREAS** one should always seek to expand on rights, never to diminish them

**THEREFORE BE IT RESOLVED** that Quebec Federation of Home and School Associations Inc. urge the Government of Quebec to respect the 2009 unanimous ruling of the Supreme Court of Canada that Bill 104 is unconstitutional, and henceforth, to absolutely take no further legal, legislative and /or other actions to lessen access to education in English.

Destinations: Prime Minister of Canada  
Premier of Quebec  
Vice-Premier of Quebec  
Minister of Education, Leisure and Sport (MELS)  
Minister of Justice and Attorney General of Quebec  
Minister of Communications and Culture of Quebec  
Minister of Immigration and Cultural Communities of Quebec  
Advisory Board on English Education  
Quebec Community Groups Network (QCGN)  
Quebec English School Boards Association (QESBA)  
Quebec Provincial Association of Teachers (QPAT)  
Association of Directors-General of English Schools of Quebec (ADGESQ)  
Association of Administrators of English Schools of Quebec (AAESQ)  
Quebec Association of Independent Schools (QAIS)  
Chairperson of Central Parents' Committees of all 9 English School Boards  
Chairperson of Central Parents' Committee of the Littoral School Board  
English Parents Committee Association (EPCA)  
Fédération des comités de parents du Québec (FCPQ)

For Information: Canadian Home and School Federation (CHSF)





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## **Resolution 2008/1 WIDER ACCESS TO ENGLISH EDUCATION**

Whereas there continues to be a steady decline of the student population in the English public schools of Quebec; and

Whereas the following factors taken together account for the lack of opportunity for the growth and prosperity of a viable English language system of education now and in the future:

- 1977 “Bill 101” (Statutes of Quebec, 1977, ch. 5), the *Charter of the French Language*, Section 73, which limits choice by specifying four categories of students deemed eligible for entry into English schools;
- 1982 *Constitution Act, 1982*, Section 59, which excludes the application of section 23-1(a) of that Act in the province of Quebec only, by preventing it from coming into force in Quebec without the consent either of the Quebec executive government or of the Assembly;
- 2002 “Bill 104” (Statutes of Quebec 2002, ch.38), amending the Charter of the French Language, sealed an opening whereby parents could establish public school eligibility by sending a child to a private English school [not abiding by Bill 101] in grade 1 for one year, thus establishing eligibility for that child and his/her siblings;
- 2006 Falling birth rate; and

Whereas the loss of an English-language school system would result in the loss of a cultural identity which pre-dates Confederation; and

Whereas the protection of the majority official language and culture in Quebec should not diminish the historic language rights and cultural heritage of the minority official language population of Quebec; and

Whereas one should always seek to expand on rights, never to diminish them,

THEREFORE BE IT RESOLVED that Quebec Federation of Home & School Associations Inc. once again urge the Minister of Culture and Communications, in conjunction with the Minister of Education, Leisure and Sport, to recommend to the Government of Quebec that access to education in English be widened; and

Continued....





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**Resolution 2008/1 WIDER ACCESS TO ENGLISH EDUCATION**

BE IT FURTHER RESOLVED that Quebec Federation of Home & School Associations Inc. request the Minister of Culture and Communications and the Minister of Education, Leisure and Sport to permit any child who has begun his/her education in English to continue his/her education in English; and

BE IT FURTHER RESOLVED that s. 23(1)(a) of the Constitution Act, 1982, which guarantees access to minority official language education on the basis of a citizen's mother tongue, be brought immediately into force in Quebec, by the exercise of the power conferred by section 59, that is to say, by a proclamation made by the Queen or the Governor General under the Great Seal of Canada with the authorization of the legislative assembly or government of Quebec; and

BE IT FURTHER RESOLVED that the Prime Minister of Canada and the premiers of the provinces encourage the bringing into force of s. 23(1)(a) in Quebec, the only province where it does not apply; and

BE IT FURTHER RESOLVED that the Quebec Federation of Home and School Associations Inc. urge the Minister of Education, Leisure and Sport to direct all English School Boards to admit immediately eligible students to their schools, while awaiting an eligibility certificate; and

BE IT FURTHER RESOLVED that the Quebec Federation of Home and School Associations Inc. urge the Minister of Education, Leisure and Sport to recognize that neither waiting for the confirmation of a parent's Canadian citizenship, nor the confirmation of the school of attendance of a child in another province of Canada, is a legitimate reason for delaying the child's provisional entry into an English language school.

**Destinations:**

- Premier of Quebec
- Quebec Minister of Education, Leisure and Sport
- Quebec Minister of Immigration and Cultural Communities
- Quebec Minister of Culture and Communications
- Prime Minister of Canada
- Minister of Canadian Heritage, Status of Women and Official Languages
- Secretary of State (Multiculturalism and Canadian Identity)
- Provincial Premiers
- Quebec English School Boards Association
- Quebec Provincial Association of Teachers
- Association of Administrators of English Schools of Quebec
- Quebec Community Groups Network

**For Information:** Canadian Home & School Federation

(File: ResIn/2008-1 Wider Access)





## QUEBEC FEDERATION OF HOME AND SCHOOL ASSOCIATIONS

3285 CAVENDISH BLVD., SUITE 562, MONTREAL, QUEBEC H4B 2L9 TELEPHONE: (514) 481-5619

### 1997/2 PROTECTION OF CIVIL RIGHTS IN EDUCATION IN QUEBEC

WHEREAS in an article in *Le Devoir* of March 28, 1997, the Minister of Education announced the intention of converting the existing system of confessional public schools and school boards to make the school boards linguistic and, concurrently, the National Assembly proposed a resolution linking that conversion to a bilateral agreement between the Federal Parliament and the National Assembly whereby the Federal Government would quickly accede to a modification of Section 93 of the Canadian Constitution; and

WHEREAS Civil Rights - the freedom of conscience and religion and right of association - are protected by Section 93 of the Constitution; and

WHEREAS in a recent decision of the Supreme Court of Canada, November 21, 1996, the Supreme Court determined that any action under Article 2(a) of the Charter of Rights and Freedoms (1982) has to be "grounded in Section 93(1) of the Constitution because it is the comprehensive code of denominational school rights"; and

WHEREAS Section 93, by its provisions, molds the accommodation of minority right to dissent from established creed or ideology; and

WHEREAS the Federal Government has a role in the protection under sub-section 3 and 4 of Section 93; and

WHEREAS the eligibility for Civil Rights protection is limited by Section 93(1) to the minority religious group of people in the municipality (The Protestants or The Roman Catholics) insofar as their schools or school boards are designated by law as 'denominational or dissentient or separate'; and

WHEREAS the Anglo Protestant inherited tradition of recognition of freedom of choice in matters of conscience based on the Tolerance Act of 1689 would therefore be threatened; and

WHEREAS the quid pro quo for Quebec, as a party to the compromise, was equal representation in the Senate for Upper and Lower Canada, despite the disproportionate populations; and

WHEREAS the resolution of the National Assembly, if adopted, would abolish the minority rights of the dissentients in a municipality, but would retain the rights of the National Assembly to exercise full plenary power which is unchallengeable in education;

.... see overside



A MEMBER OF THE CANADIAN HOME AND SCHOOL AND PARENT-TEACHER FEDERATION





THEREFORE BE IT RESOLVED that the Quebec Federation of Home and School Associations (QFHSA) urge the Governments of Quebec and Canada to protect the Civil Rights in education in Quebec by retaining the protection afforded by Section 93 of The Canadian Constitution (1867).

Destination:      Premier of Quebec  
                         Leader of the Opposition  
                         Minister of Education Quebec  
                         Prime Minister of Canada  
                         Intergovernmental Affairs Minister (Canada)

For information:      Provincial Premiers  
                         Quebec School Boards Association  
                         Council of English Language Education (CELE)

ASSOCIATION DES COMMISSIONS SCOLAIRES ANGLOPHONES DU QUEBEC  
 QUEBEC ENGLISH SCHOOL BOARDS ASSOCIATION

2005-2006 STUDENT ENROLLMENT

<u>School Board</u>	<u>Kindergarten</u>	<u>Elementary</u>	<u>Secondary</u>	<u>Adult Education</u>	<u>Other</u>	<u>Total Enrollment</u>
Central Quebec	410	2,572	1,770	82	233	5,067.00
Eastern Shores	89	664	640	124		1,517.00
Eastern Townships	425	3,111	2,686	467		6,689.00
English Montreal	1,769	12,751	10,708	5,584		30,812.00
Lester B. Pearson	1,880	13,613	11,640	2,178		29,311.00
Littoral	57	364	314.11	5.6		740.71
New Frontiers	254	2,070	2,113	541.9	7	4,985.90
Riverside	802	5,638	4,497	61.2	147.2	11,145.40
Sir Wilfrid Laurier	995	7,261	6,291	387		14,934.00
Western Quebec	459	3,546	3,721	533	14	8,273.00
<b>TOTAL:</b>	<b>7,140.00</b>	<b>51,590.00</b>	<b>44,380.11</b>	<b>9,963.70</b>	<b>14.00</b>	<b>113,475.01</b>

APPENDIX 5

ASSOCIATION DES COMMISSIONS SCOLAIRES ANGLOPHONES DU QUEBEC  
 QUEBEC ENGLISH SCHOOL BOARDS ASSOCIATION

2009-2010 STUDENT ENROLMENT

<u>School Board</u>	<u>Kindergarten</u>	<u>Elementary</u>	<u>Secondary</u>	<u>Adult Education</u>	<u>Other</u>	<u>Total Enrolment</u>
Central Quebec	407.00	2,442.00	1,873.00	90.00	0.00	4,812.00
Eastern Shores	97.00	590.00	569.00	319.00	0.00	1,575.00
Eastern Townships	420.00	2,553.00	2,474.00	437.68	0.00	5,884.68
English Montreal	1,495.00	10,196.00	10,331.00	5,050.00	262.00	27,334.00
Lester B. Pearson	1,694.00	11,199.00	11,443.00	2,525.00	32.00	26,893.00
Littoral	92.00	265.00	267.67	45.00	0.00	669.67
New Frontiers	295.00	1,737.00	1,802.00	687.80	34.00	4,555.80
Riverside	689.00	4,602.00	4,342.00	274.00	0.00	9,907.00
Sir Wilfrid Laurier	1,054.00	6,700.00	6,650.00	402.89	0.00	14,806.89
Western Quebec	521.00	3,185.00	3,276.00	426.00	0.00	7,408.00
<b>Totals</b>	<b>6,764</b>	<b>43,469</b>	<b>43,028</b>	<b>10,257.37</b>	<b>328</b>	<b>103,846.04</b>

## **Charter of the French language**

### *Instruction in English.*

**73.** The following children, at the request of one of their parents, may receive instruction in English:

- 1) a child whose father or mother is a Canadian citizen and received elementary instruction in English in Canada, provided that that instruction constitutes the major part of the elementary instruction he or she received in Canada;
- 2) a child whose father or mother is a Canadian citizen and who has received or is receiving elementary or secondary instruction in English in Canada, and the brothers and sisters of that child, provided that that instruction constitutes the major part of the elementary or secondary instruction received by the child in Canada;
- 3) a child whose father and mother are not Canadian citizens, but whose father or mother received elementary instruction in English in Québec, provided that that instruction constitutes the major part of the elementary instruction he or she received in Québec;
- 4) a child who, in his last year in school in Québec before 26 August 1977, was receiving instruction in English in a public kindergarten class or in an elementary or secondary school, and the brothers and sisters of that child;
- 5) a child whose father or mother was residing in Québec on 26 August 1977 and had received elementary instruction in English outside Québec, provided that that instruction constitutes the major part of the elementary instruction he or she received outside Québec.

### *Exception.*

However, instruction in English received in Québec in a private educational institution not accredited for the purposes of subsidies by the child for whom the request is made, or by a brother or sister of the child, shall be disregarded. The same applies to instruction in English received in Québec in such an institution after 1 October 2002 by the father or mother of the child.

### *Exception.*

Instruction in English received pursuant to a special authorization under section 81, 85 or 85.1 shall also be disregarded.

1977, c. 5, s. 73; 1983, c. 56, s. 15; 1993, c. 40, s. 24; 2002, c. 28, s. 3.

# Constitution Acts, 1867 to 1982

PARTIE I DE LA LOI CONSTITUTIONNELLE DE 1982<sup>(80)</sup>

Sanctionnée le 29 mars 1982

## ***Minority Language Educational Rights***

### Language of instruction

**23.** (1) Citizens of Canada

(a) whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, or

(b) who have received their primary school instruction in Canada in English or French and reside in a province where the language in which they received that instruction is the language of the English or French linguistic minority population of the province,

have the right to have their children receive primary and secondary school instruction in that language in that province.<sup>(93)</sup>

### Continuity of language instruction

(2) Citizens of Canada of whom any child has received or is receiving primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school instruction in the same language.

### Application where numbers warrant

(3) The right of citizens of Canada under subsections (1) and (2) to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority population of a province

(a) applies wherever in the province the number of children of citizens who have such a right is sufficient to warrant the provision to them out of public funds of minority language instruction; and

(b) includes, where the number of those children so warrants, the right to have them receive that instruction in minority language educational facilities provided out of public funds.

### Commencement of paragraph 23(1)(a) in respect of Quebec

**59.** (1) Paragraph 23(1)(a) shall come into force in respect of Quebec on a day to be fixed by proclamation issued by the Queen or the Governor General under the Great Seal of Canada.

### Authorization of Quebec

(2) A proclamation under subsection (1) shall be issued only where authorized by the legislative assembly or government of Quebec.<sup>(107)</sup>

### Repeal of this section

(3) This section may be repealed on the day paragraph 23(1)(a) comes into force in respect of Quebec and this Act amended and renumbered, consequentially upon the repeal of this section, by proclamation issued by the Queen or the Governor General under the Great Seal of Canada.

## Bill 104

(2002, chapter 28)

## An Act to amend the Charter of the French language

**Introduced 7 May 2002**

**Passage in principle 28 May 2002**

**Passage 12 June 2002**

**Assented to 13 June 2002**

### Article 3

**3.** Section 73 of the said Charter is amended by adding the following paragraphs at the end :

“However, instruction in English received in Québec in a private educational institution not accredited for the purposes of subsidies by the child for whom the request is made, or by a brother or sister of the child, shall be disregarded. The same applies to instruction in English received in Québec in such an institution after (*insert here the date of coming into force of this section*) by the father or mother of the child.

Instruction in English received pursuant to a special authorization under section 81, 85 or 85.1 shall also be disregarded.”