

Opening Remarks of Marlene Jennings, President of QCGN, to QCGN Hearings on Bill 96

September 9, 2021

Good morning and welcome.

Today is an important day for democracy as we begin our conversation on the type of Quebec we want to build together. Over the next several days we will be hearing from a wide cross section of Quebecers. Legal experts. Business people. Leaders in education, arts and culture and health and social services. Religious leaders. And members of our cultural communities and of course Quebec's English-speaking community.

We are coming together to share our views on Bill 96 *An Act respecting French, the official and common language of Québec*. This bill is not a simple update of the *Charter of the French Language*. It's 201 sections would amend 25 pieces of provincial legislation, and seeks to amend the *Constitution Act, 1867*. Nor is Bill 96 just about the protection and promotion of French; it seeks to fundamentally change the foundations of how Quebec is governed.

Obviously very few people have had time or perhaps the interest to wade through a 97-page bill. And this seems to have been the intention of the Simon Jolin-Barette, the Minister Responsible for the French Language, and his cabinet colleagues. Having skillfully floated trial balloons about drastic changes to sign laws, bilingual municipalities and access to CEGEPs, he tempered his proposals in each of these areas to the relief of many.

But the government has never taken the time to fully explain what is in the Bill.

To date, the government has skirted around issues related to the increased powers of the Office de la langue française as well as access to justice, education and social services. It seems unconcerned about the negative impact the Bill will have on our business climate as we emerge from the pandemic. Most importantly it has never justified the pre-emptive use of the notwithstanding clause to override the Quebec and Canadian Charters and why this is needed to promote the French language.

The Government's strategy is clearly to stifle debate, which is why it has severely limited the individuals and groups that it has invited to appear before the National Assembly Committee later this month.

Well, we have news for the government.

We have read the Bill.

We have major concerns.

Bill 96 does not reflect our values and the Quebec we want to build together.

And most importantly, we insist on our voices being heard.

But I want to start off by focusing on our common ground. The QCGN – like the community we serve – is proud to support the protection and promotion of the French language, and the unique cultures of Francophones in minority communities across Canada, and our home here in Quebec. English-speaking Quebecers are the most bilingual group of English-speaking Canadians, with an overall rate of French bilingualism of 66%. The rate of bilingualism amongst our young people is over 75%, a testament to our community’s commitment to integrating into and supporting a French-speaking Quebec.

We are pleased with the Bill’s creation of a universal right to French instruction.¹ This is a welcome development that the English-speaking community has been requesting for many years. It will assist many English-speakers to more fully participate in Quebec society. The QCGN is pleased to see this right created for all Quebecers.

The QCGN is one of the limited number of individuals and groups that has been invited to participate in the National Assembly hearings. What we hear over the coming days during our hearings will inform our position, and we will be attaching the various briefs we receive to our own.

At the outset I wish to thank the members of our Committee – Eleni Bakopanos, Joan Fraser, Thomas Ledwell and Marcus Tabachnick – for volunteering for this assignment. We are grateful for your history of public service and your ongoing contribution to Quebec and Canada. And we thank you for once again for stepping up to the plate.

As we listen to the input from participants, I thought that it would be helpful for me to share with you the prisms through which I am looking at Bill 96.

First, Bill 96 proposes to fundamentally alter the Quebec state, which is of concern to all Quebecers. The second prism is the impact on business and the economy and the third is the devastating impact it will have on Quebec’s English-speaking community.

Bill 96 is nothing short of the greatest overhaul to Quebec’s legal order since the Quiet Revolution. It is a constitutional project. It disrupts decades-old social peace around language in Quebec. It fundamentally changes the structure of the Quebec state and legal order. It upends 40 years of human rights protection in Quebec. It will affect many areas of life for all Quebecers. It requires serious discussions and debate within Quebec society.

In considering Bill 96, we urge all Quebecers to consider that Bill 96 removes the courts as the final arbiter in the balance between collective and individual rights. It also takes away from citizens the ability to seek remedy from the courts when people believe their rights and freedoms have been infringed. An ancient legal maxim says “where there is a right, there is remedy.” The corollary is “Where there is no remedy, there is no right.”

Much has been made about Bill 96 and the *Canadian Charter of Rights and Freedom’s* notwithstanding clause. This will shield the application of the *Charter of the French Language* from the fundamental rights and freedoms, legal and equality rights contained in the Canadian Constitution. Successive Quebec governments and intellectuals have resisted the *Canadian Charter of Rights and Freedoms* because of the way it was negotiated and implemented. But Bill 96 would also subordinate Quebec’s *Charter of Human Rights and Freedoms* to the *Charter of the French Language*. And as every Quebecer knows, our *Charter of Human Rights and Freedoms* predates the Canadian version, and is a point of national pride, reflecting

¹ Bill s 4, MCFL s 6.1. See also: Bill s 62, MCFL s 88.12.

international civil, political, economic, and social rights. Quebec is throwing away nearly 50 years of progress on establishing and protecting the rights of its citizens. Instead, Bill 96 hands virtually unlimited power to the legislature and executive branches of government, while decreasing the role, independence and accessibility of the judicial branch.

Bill 96 does not merely re-shape the Quebec state. It will also have a tangible effect on Quebec society. It will make it harder to do business in Quebec. It will turn Quebec inward on itself rather than outward, and it will signal a less inclusive Quebec society. Like the changes to the Quebec state, these changes ought to be of concern to all Quebecers.

Bill 96 places additional restrictions on the use of languages other than French and additional compliance requirements for businesses. It makes it harder to form and enforce contracts. It makes it harder to attract talent from outside the province. It creates new business risks. Thus, Bill 96 will likely make it harder to do business in Quebec.

And all of us should be concerned if investigators of the Office de la langue française are allowed to seize our computers and iPhones without a warrant and based on an anonymous complaint. This could lead to a business being blacklisted from government business and even losing its permit.

And finally, Bill 96 will have adverse impacts on Quebec's English-speaking minority, in the following ways:

- a. Restrictions on health and social services in English;
- b. Decreased access to justice in English;
- c. Decreased access to primary and secondary education in English;
- d. Restrictions on admissions to English-language CEGEPs;
- e. Decreased municipal services in English.

Overall, the Bill sends the message to English-speaking Quebecers –and, indeed, to all Quebecers whose mother tongue is not French—that they are not truly welcome in the province.

In conclusion, I wish to remind you that the QCGN statement of principles commits our organization to recognize the official language of Quebec as French. The current Charter of the French Language commits the National Assembly to pursuing the Charter's objectives "in a spirit of fairness and open-mindedness, respectful of the institutions of the English-speaking community of Québec, and respectful of the ethnic minorities, whose valuable contribution to the development of Québec it readily acknowledges."

Our belief is that Bill 96 fails to live up to this commitment. This bill endangers the linguistic peace all Quebecers have worked so hard to achieve over the last half-century. In our opinion, it evokes a time long past, before Quebec's enlightenment in the *révolution tranquille*, and an inclusive vision of our society.

I have lived long enough to know that language and identity are a sensitive and emotional topic in Quebec. While we are encouraging all to take part in the debate, we appreciate that discussions may become heated in the coming months. I urge all of us to be civil, to avoid name calling, to engage in a respectful manner, to listen to the concerns of our neighbours and to work hard to find a positive and welcoming path forward.

Thank you once again to our Committee members and to all who are participating in these hearings. Your voices and your views are important and need to be shared.

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