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QCGN Intervenes in B.C. School Board Case at Supreme Court of Canada

Winnipeg – September 25, 2019 – Section 23 of Canada’s Charter of Rights and Freedoms – which guarantees minority language educational rights to French-speaking communities outside Quebec and to the English-speaking minority within Quebec – requires a generous and expansive interpretation that favours all official language minorities throughout Canada.

This is what the lawyer for the Quebec Community Groups Network (QCGN) will plead Thursday as the Supreme Court of Canada hears arguments in the case of Conseil scolaire francophone de la Colombie-Britannique v. British Columbia, at proceedings taking place in Winnipeg, Man.

“The QCGN is showing solidarity with Francophone minority organizations in calling for a broad and generous interpretation of Section 23,” QCGN President Geoffrey Chambers declared. “We aim to remind the court that this section applies to English-speaking as well as French-speaking minorities and explain why management and control of minority-language education is equally important in the Quebec context.”

“While this case is about language education rights for French speakers in British Columbia, the outcome of this appeal may affect the future of English-language public education in Quebec,” Chambers explained: “Both access to English-language education in Quebec and community control over English-language public education are restricted by provincial legislation and policies. As such, Section 23 is a critical constitutional provision to ensure our community’s control over our schools.”

“The purpose of Section 23 is to ensure that English- and French-speaking minority communities can flourish everywhere in Canada,” QCGN lawyer Marion Sandilands said. She maintains in addition that the right to manage and control schools is exercised collectively.

“Although it is an individual right, Section 23 protects collective interests,” Sandilands added, underlining that minority language schools provide the primary instrument for the transmission of language and culture. “Section 23 rights can only be exercised alongside other rights-holders; it presupposes a community is present,” she said.

The QCGN had earlier been granted leave to intervene in this appeal hearing, which takes place tomorrow in Winnipeg. The QCGN has filed a 10-page factum (available [here](#)) and has been allocated five minutes to deliver oral arguments.

The QCGN is one of a dozen non-government interveners. In addition, five provincial attorneys-general will provide testimony, although not the Attorney General of Quebec. Non-governmental participants include the Commissioner of Official Languages of Canada; Minority Francophone education organizations, school boards, and parent associations; and others including the Assembly of Manitoba Chiefs and the David Asper Centre for Constitutional Rights.

This “mega-trial” began in British Columbia. It dealt with a wide variety of issues around Section 23 of the Charter. The original trial centred on the constitutional right to financing for minority language education. Those proceedings touched on many issues, including the right to minority school facilities; the quality of those facilities; admissions policies; management and control; and capital funding.

The Conseil Scolaire experienced mixed success at trial, and it lost its appeal at the British Columbia Court of Appeal. The trial judge ruled that the province breached the French-speaking community’s rights under Section 23 of the Charter in several communities. She also awarded \$6 million in Charter damages for B.C.’s failure to properly fund student transportation. The B.C. Court of Appeal maintained all of the trial judge’s findings but found that the trial judge was wrong to award Charter damages.

At the Supreme Court, the case is mainly focussed on funding for minority education. However, the Supreme Court will likely pronounce on the purpose of Section 23 of Canada’s Charter and the basis upon which a government can justify breaches under Section 1 of the Charter. As such, the Court’s judgment may carry nationwide consequences for minority communities affected by Section 23.

The case will be heard tomorrow at the Winnipeg Law Courts (Manitoba Court of Appeal), 408 York Ave., Winnipeg - Courtroom 330.0. Proceedings will be webcast live at <https://www.scc-csc.ca/case-dossier/info/webcast-webdiffusion-eng.aspx?cas=38332>. The [case summary](#) is provided on the Supreme Court’s website.

The Quebec Community Groups Network (www.qcgn.ca) is a not-for-profit organization bringing together 60 English-language community organizations across Quebec. Its mission is to identify, explore and address strategic issues affecting the development and vitality of English-speaking Quebec and to encourage dialogue and collaboration.

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