



Quebec Federation of Home and School Associations, Inc.

A Response to C-13: An Act to amend the Official Languages Act, to enact the Use of French in Federally Regulated Private Businesses Act and to make related amendments to other Acts

Submitted by: The Quebec Federation of Home and School Associations Inc.
To: Standing Committee on Official Languages of the House of Commons and the
Standing Committee on Official Languages of the Senate.

Address: Quebec Federation of Home and School Associations Inc.
3285 Cavendish Blvd., Room 560
Montréal, QC H4B 2L9

Contact : Rosemary Murphy, President
Tel.: 514 481-5619
Fax: 514 481-5610
president@qfhsa.org
www.qfhsa.org

TABLE OF CONTENTS

Our Organization	2
The QFHSA and Language	3
Executive Summary	6
Language Communities in Québec	8
Precedents Set	10
Part VII as Modified	12
Conclusion	14

OUR ORGANIZATION

The Quebec Federation of Home and School Associations Inc. (hereafter “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.

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 and 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 84 school communities and work with, for example, community learning centers, community organizations, and other associations who share our goals and objectives. We have 4000 family members, and the reach of the local Home and School associations includes well over 20,000 students.

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 Québec. 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 75 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.

The QFHSA welcomes the opportunity to submit this consultation Brief to the Standing Committee on Official Languages of the House of Commons and the Standing Committee on Official Languages of the Senate. It does so from its position of long-standing involvement in education, and in respect of the effects of language/language laws thereupon.

THE QFHSA AND LANGUAGES

In 1965, in our Brief to the Royal Commission on Bilingualism and Biculturalism, the 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 1969, with the announcement of the *Official Languages Act*, the QFHSA looked forward to having a strengthening of the dual/duality principle as envisioned by the Fathers of Confederation and incorporated into the British North America Act 1867. (Section 93 [1-4])

In the Forward to his Annual Report 2007-2008 (Page V) Graham Fraser, Commissioner of Official Languages stated:

“On the last night of the Confederation Debates, on March 10, 1865, John A Macdonald responded to a question about the status of French in the new political arrangement that was being developed. He said that “the use of the French language should form one of the principles on which the Confederation should be established.” George-Étienne Cartier immediately rose to add that it was also necessary to protect the English minorities in Lower Canada with respect to the use of their language.”

Strong political tensions were on the rise on the issue of the future of the French language and culture in Québec. The QFHSA presented a Brief to the Commission of Inquiry on the Position of the French Language and on Language Rights in Quebec (Gendron Commission, 1969), stressing the right to schools in both official languages and the right of parents to choose the language of schooling. We also stressed the importance of a working knowledge of French for all graduates from English schools. Subsequent legislation was enacted: *The Charter of the French Language* (Bill 101), section 59 of the *Canadian Constitution Act 1982*, the removal in 1997 of section 93 from the Constitution Act 1982, Bill 104 (declared unconstitutional by the Supreme Court of Canada), Bill 103 and now Bill 40 and Bill 96. Blocked from being challenged in the courts as unconstitutional by pre-emptive application of the notwithstanding clause, they have all had and will continue to have an impact on the ability of the English minority language community to grow and develop, particularly within the English public school system.

Also, in 1969 there would be bilateral agreements between the Government of Canada and the Council of Ministers of Education Canada to provide funding for minority language education and second languages instruction. The QFHSA began to track these funds from the very beginning and it has been a preoccupation as well as a frustration over the last fifty years. In 1979 the opportunity came for the QFHSA to apply for core funding and for special grants under the Secretary of State (later Canadian Heritage) Official Languages Community Support Program. Our financial base of membership fees had been eroded due to the effects of the *Charter of the French Language* (Law 101). Without these federal funding programs, the QFHSA and many similar organizations would have been unable to continue.

Our relationship with the Commissioner of Official Languages (OCOL), Québec region, has always been excellent. Eva Ludwig, David Y Johnston, and Charles Taker, Québec Region Representatives, have gone out of their way to meet our needs. Ms. Ludvig was key in arranging for the QFHSA to host two meetings with Commissioners of Official Languages, Dyane Adam (2002) and Graham Fraser (2008). There was a very free-flowing discussion, and the Commissioners were very attentive and interested in our point of view.

More recently in January of 2022, the Committee for the Enhancement of the Curriculum of the History of Quebec (ComECH-QC) – an offshoot of the QFHSA – met with Commissioner of Official Languages Raymond Thériège to discuss our concerns.

Some of the issues addressed in those meetings are likely to be repeated here. While we agree with the mandate, in principle, we have some concerns about its implementation in Québec. We will be dealing with aspects of C-13 throughout this consultation.

EXECUTIVE SUMMARY

The passage of Bill 96 – *An Act respecting French, the official and common language of Quebec* – makes the protections afforded by the *Official Languages Act* more important to Québec’s English-speaking community than ever. This community is not simply an extension of the other English-speaking communities of Canada; it is a unique community that is largely bilingual and as diverse in culture and geographical location as it is proud. The many challenges it faces are not only mostly unaddressed by Bill C-13 but likely to be exacerbated by it.

While Bill C-13: *An Act to amend the Official Languages Act, to enact the Use of French in Federally Regulated Private Businesses Act and to make related amendments to other Acts* has an admirable goal and some noteworthy initiatives to meet it, the QFSA has concerns regarding the following:

1. The premise that the French language needs further protection **within** Québec, which is not supported by the results of the 2021 census, and the lack of protection afforded the minority English-speaking community
2. The precedent it sets with regards to:
 - a. The asymmetrical treatment of official languages and minority languages
 - b. The circumvention of Charter rights
 - c. The endorsement of the *Charter of the French Language* – including its recent modification to declare Québec a nation and assert that French is the province’s **ONLY** common language – by directly referencing it
3. That Part VII fails to put forth **legally-enforceable** obligations, instead providing justifications for declining to adhere, and seems geared towards supporting French in Québec rather than the official language minority (English)

The QFSA contends that all of the above will have a negative impact on Québec’s English-speaking minority community in general and on the English education system in specific. We therefore make recommendations as follow:

1. Specify the following:
 - I. That ‘linguistic minority community’ and ‘official language minority community’ refer to those communities not only in the country overall but also within each province and territory
 - II. That nothing in the *Official Languages Act* can be used as justification to override the *Canadian Charter of Rights and Freedoms*, the *Québec Charter of Human Rights and Freedoms*, or the rights of those linguistic minority communities as granted by the *Official Languages Act* itself
 - III. That all federal-provincial agreements require that the province protect and promote its official language minority community and be transparent regarding the spending of the funding it receives
 - IV. That “official language communities” in the new section 41(6)(b) is “official **minority** language communities” to avoid room for interpretation on a territorial basis
 - V. That any language rights implicating federally-regulated businesses apply equally to speakers of both official languages
 - VI. That funding the Court Challenges Program is mandatory

2. Remove the following:

- I. “The government of Canada is committed to protecting and promoting the French language” which infers priority given to one official language over the other
- II. References to the *Charter of the French Language* in the preamble and section 45.1
- III. Qualifiers such as “that [the federal institution] considers appropriate” which allow for loopholes in meeting obligations

LANGUAGE COMMUNITIES IN QUÉBEC

Despite the prevailing myth that it is a privileged elite, the English-speaking community in Québec faces many obstacles.¹ Since the introduction of the *Charter of the French Language* in 1977, the decline in enrolment in English-language primary and secondary schools, as well as many of its own members leaving the province, have hindered population growth.² Those English-speaking Quebecers who live outside the Greater Montréal area – where the community is centered – have greater difficulties in securing services in their own language,³ a stressful and isolating experience, especially for the older generations who are less likely to be bilingual.⁴ The current provincial government seeks to take away the community's management of its own educational institutions with the passage of Bill 40 – *An Act to amend mainly the Education Act with regard to school organization and governance* – which would abolish locally-controlled school boards,⁵ and has intentionally excluded certain members of minority religions (many of whom are also members of the English-speaking community) from holding public positions of authority with the thinly-veiled xenophobic and discriminatory Law 21: *An Act respecting the laicity of the State*. The median income of English-speakers in Québec is below that of French-speakers,⁶ while the rate of unemployment is higher.⁷ Government positions – both federal and provincial – skew heavily towards French-speakers, not accurately representing the proportion of those they are meant to serve; despite 7.6% of the population having English as a mother tongue and 10.4% speaking predominantly English at home,⁸ English speakers represent less than 1% of those in provincial civil service positions in Québec.⁹ Finally, Education is controlled by the French-speaking majority, resulting in the curriculum often being biased and lacking proper acknowledgement of the province's many communities, cultures, and contributors, and with its English materials (translated from French) subpar and released much later.¹⁰

¹ Graham Fraser, Commissioner of Official Language (31 May 2010), cited in Senate, Standing Committee on Official Languages, *The Vitality of Quebec's English-speaking Communities: From Myth to Reality* (May 2011) at 1 (Chair: Hon Maria Chaput) [*From Myth to Reality*].

² Patricia Lamarre, "English Education in Quebec: Issues and Challenges," in Richard Y. Bourhis, ed., *Decline and Prospects of the English-Speaking Communities of Quebec*, (Ottawa: Canadian Heritage and Canadian Institute for Research on Linguistic Minorities, 2012), pp. 175-180.

³ See e.g. the state of English services in certain rural regions as described in *From Myth to Reality*, *supra* pp. 37-38.

⁴ *Ibid.* p. 14.

⁵ See Québec's *An Act to amend mainly the Education Act with regard to school organization and governance*, currently subject to a constitutional challenge before the Superior Court of Quebec: Superior Court file 500-17-112190-205. See also *Procureur général du Québec c. Quebec English School Board Association*, 2020 QCCA 1171 (stay application).

⁶ Statistics Canada, 2016 Census of Population, *First official language spoken in Quebec [Province] and Canada [Country]*, Catalogue No 98-316-X2016001 (29 November 2017) [2016 Census Data] According to census data, the median income of English-speakers was \$30,022 per annum, compared to \$33,933 for French-speakers.

⁷ According to the 2016 census data, *ibid.*, the unemployment rate for English-speaking Quebecers was 8.9% while that of French-speaking Quebecers was 6.8%.

⁸ Statistics Canada, 2021, *The Daily, While English and French are still the main languages spoken in Canada, the country's linguistic diversity continues to grow* (17 August 2022).

⁹ According to recent data from Québec, Secrétariat du Conseil du trésor, *Les membres de communautés culturelles, les anglophones, les Autochtones et les personnes handicapées* at 1, the proportion of "anglophones" in the provincial public service has remained constant at 1% from 2013-2017.

¹⁰ See the secondary III History of Quebec and Canada textbooks introduced in 2016, as well as the upcoming Quebec Citizenship course which is replacing the Ethics and Religious Culture course.

Another prevailing myth, also advanced by the provincial government, is that French needs protection within Québec.¹¹ According to the 2021 census, however, of the 8.6 million population, those whose first official language is **only** French represent 83.7%, 85.5% speak French at home, and 93.7% can carry on a conversation in French.¹² While in certain metrics the proportion has decreased (something the advocates of the myth often cite as proof), that is a result of the immigration on which our society is reliant for population and economic growth, and the number itself has actually increased.¹³ A shift in demographics does not immediately equate to a threat to the vitality of the French language, though it is often presented as such.

Regardless their veracity, the Québec provincial government exploited both these myths and its citizens' emotions thereof, and tabled Bill 96 to, among other things, "promote, assert the value of and protect the French language and its status..."¹⁴ Beyond the fallacies it is based upon, there are many problems with the Bill, since passed. It preemptively blocks the application of the *Québec Charter of Human Rights and Freedoms* and the *Canadian Charter of Rights and Freedoms* via application of the notwithstanding clause,¹⁵ while also attempting to unilaterally amend the *Constitution Act, 1867* with sections 90Q.1 and 90Q.2.¹⁶ The law and its resultant pieces of legislation, by implying that speakers of other languages are not true Quebecers, will foster resentment and mistrust between its citizens. Bill C-13 as it stands tacitly supports those ends.

Recommendation:

- Specify that any language rights implicating federally-regulated businesses apply equally to speakers of both official languages

¹¹ See e.g.: Jean-Pierre Corbeil, « Le «déclin» du français, aveuglement volontaire et pensée magique » *Le Devoir* (5 October 2021); Calvin Veltman, « Lecture sociolinguistique du recensement canadien : succès inespéré de la Loi 101 » (8 March 2022), online : Études récentes | La situation linguistique au Québec | études sociolinguistiques (mobilitelinguistiqueveltman.net). See also: Jean-Benoît Nadeau, « Pour en finir avec le déclin de la langue française », *L'actualité* (9 April 2022).

¹² Statistics Canada, 2021, *The Daily, While English and French are still the main languages spoken in Canada, the country's linguistic diversity continues to grow* (17 August 2022).

¹³ *Scénarios de projection de certaines caractéristiques linguistiques de la population du Québec (2011-2036)*, 2021, Office québécoise de la langue française; *Langues utilisées dans diverses situations de travail au Québec en 2018*, 2021, Office québécoise de la langue française.

¹⁴ *Bill 96: An Act respecting French, the official and common language of Québec*, s 94 ["Bill 96"]; *Bill 96-Modified Charter of the French Language*, s 155.

¹⁵ *Bill 96, supra*, s 213.1, 214

¹⁶ *Ibid*, s 159

PRECEDENTS SET

ASYMMETRY OF OFFICIAL LANGUAGES AND MINORITY LANGUAGES

The government of Canada has an obligation to ensure both official languages and their speakers are treated equally and granted the same rights in areas under its jurisdiction. Part VII of the *Official Languages Act* declares that the federal government is committed to “enhancing the vitality of English and French linguistic minority communities.”¹⁷ However, one of Bill C-13’s stated purposes is to protect and promote the French language, both in Canada overall and by territory,¹⁸ thereby indirectly making the two official languages no longer equal with equal protections under federal law and discarding its central guiding principle; regardless of whether it is the majority official language community, as in Québec, French is being given preferential treatment. Additionally, by territorializing language rights, it will fall on the governments of individual provinces and territories to ensure that speakers of the two official languages are treated equally, which the tabling (and subsequent passage) of Bill 96 has already proven to be an unrealistic expectation.¹⁹

Recommendations:

- Specify that ‘linguistic minority community’ and ‘official language minority community’ refer to those communities not only in the country overall but also within each province and territory
- Change “official language communities” in the new section 41(6)(b) to “official **minority** language communities” to avoid room for interpretation on a territorial basis
- Remove “The government of Canada is committed to protecting and promoting the French language” which infers priority given to one official language over the other

¹⁷ *Official Languages Act*, s 2(b).

¹⁸ *Bill C-13*, Modified *Official Languages Act* preamble; see similar language in ss 2(b.1), 41(2), 41(6)(b)(i).

¹⁹ *Bill 96*, *supra* s 15, ss 35-36, etc.

THE CIRCUMVENTION OF CHARTER RIGHTS

The current Québec provincial government has repeatedly demonstrated its willingness to infringe upon its citizens' rights by invoking the notwithstanding clause in several of its pieces of legislation.²⁰ One such instance is in Bill 96, which directly affects language and language rights, where the fundamental rights and freedoms of all Quebecers are essentially sacrificed to the *Charter of the French Language*.²¹ By giving the territories increased authority over its language laws, Bill C-13 tacitly endorses these infringements, failing to protect rights afforded by the *Canadian Charter of Rights and Freedoms* and allowing Québec to ignore its own *Québec Charter of Human Rights and Freedoms*.

Recommendation:

- Specify that nothing in the Official Language Act can be used as justification to override the *Canadian Charter of Rights and Freedoms*, the *Québec Charter of Human Rights and Freedoms*, or the rights of those linguistic minority communities as granted by the Official Languages Act itself

RECOGNIZING THE *CHARTER OF THE FRENCH LANGUAGE*

As seen with the tabling and passing of Bill 96, the *Charter of the French Language* is susceptible to modifications meant to further enshrine the superiority of the French language and diminish the rights of the speakers of other languages, English included. By explicitly recognizing the Charter,²² Bill C-13 locks the federal government into not only the discriminatory and restrictive modifications as made by Bill 96, but any modifications made in the future. No other territorial language laws are recognized by Bill C-13, putting the Charter on par with constitutionally-granted rights and further highlighting the preferential treatment of Québec and the French language.

Recommendation:

- Remove references to the *Charter of the French Language* in the preamble and section 45.1

²⁰ See *Bill 21, Bill 96*

²¹ *Bill 96, supra*, s 213.1, 214

²² *Bill C-13, Modified Official Languages Act* preamble, s 45.1

PART VII AS MODIFIED

Part VII of the *Official Languages Act* aims to support Canada's English and French linguistic minority communities and promote the full recognition and use of both official languages in Canada.²³ Despite its admirable objective, however, Part VII, as is, lacks clear methods to achieve that goal and ways to enforce them. The modified Part VII as set forth in Bill C-13 – the main incentive for updating the OLA – is unfortunately not much better.

While Part VII originally did require “positive measures” be taken, it is now specified that those measures must respect “the necessity of protecting and promoting the French language in each province and territory,”²⁴ where ‘each’ ostensibly includes Québec despite French being its majority language. Is it therefore acceptable for these measures to come at the expense of Québec’s English-speaking minority, which represents over 13% of the population? A second requirement is that the measures must respect the necessity “of considering the specific needs of each of the two official language communities of Canada, taking into account the equal importance of the two communities”²⁵ which seems at odds with the first requirement and to not apply to Québec’s English-speaking community as it doesn’t specify ‘minority’ communities. At the very least, it would appear that federal institutions would be expected to prioritize measures that protect and promote the French language, even in Québec.

While the modified Part VII does provide clearer definitions of “positive measures” and require federal institutions to determine which measures to take based on dialogue and consultation²⁶ – essential for official language minority communities to be heard – the latter is to be done “to the extent possible”²⁷ and the measures taken are those “that the federal institution considers appropriate.”²⁸ Firstly, the Québec government does not have a positive track record on consulting with its minority communities before developing legislation that affects them negatively. Secondly, given the requirements as noted above, it is unlikely that federal institutions in Québec will consider measures that protect and promote the English-language minority community to be ‘appropriate.’

While the modified Part VII makes specific mention of the Court Challenges Program, the Minister of Heritage is not required to fund the program, with the language used being “may” and “such measures as that Minister considers appropriate.”²⁹ Given recent pieces of legislation tabled by the provincial government, this program is a necessity for the beleaguered English-speaking community in Québec to invoke its rights and should not be optional.

²³ *Official Languages Act*, s 41(2)

²⁴ *Bill C-13*, s 21, C-13-Modified OLA s 41(6)(a).

²⁵ *Bill C-13*, s 21, C-13-Modified OLA s 41(6)(b).

²⁶ *Bill C-13*, s 21, C-13-Modified OLA s 41(10).

²⁷ *Bill C-13*, s 21, C-13-Modified OLA s 41(8).

²⁸ *Bill C-13*, s 21, C-13-Modified OLA s 41(7).

²⁹ *Bill C-13*, s 22, C-13-Modified OLA s 43(1)(c).

While a new section in Part VII is dedicated to federal-provincial agreements geared towards supporting Part VII's stated goals, it makes specific reference to the *Charter of the French Language*, leaving it unclear who in Québec these agreements are meant to benefit as the newly revised Charter is at odds with those goals. Further, Part VII does not include any requirements for future agreements to provide for the territory's official language minority, nor any requirements for accountability and transparency in their support of those minorities.

Overall, Part VII as modified places an emphasis on prioritizing protection and promotion of the French language, allowing federal institutions too much latitude in deciding what is 'possible' and 'necessary' and 'appropriate' with regards to protecting, funding, and consultation, and provides the provincial government in Québec ample opportunity and justification to block funding for the English-speaking minority community. Without the protections afforded the English-speaking community by Part VII, current and future Québec governments will be emboldened to enact legislation that will further 'protect' French at the expense of all other minority language groups, especially English which it has unfairly scapegoated.

Recommendations:

- Remove qualifiers such as "that [the federal institution] considers appropriate" which allow for loopholes in meeting obligations – obligations should be non-negotiable and legally-enforceable
- Specify that funding of the Court Challenges Program is **mandatory**
- Specify that all federal-provincial agreements require that the province protect and promote its official language minority community, and also be transparent regarding the spending of the funding it receives

CONCLUSION

With each administration the Québec provincial governments have only become more hostile towards the English-speaking community, religious minorities, and Indigenous peoples, necessitating the protection of the federal government now more than ever. Bill C-13, in its current iteration, is not sufficient in providing that protection.