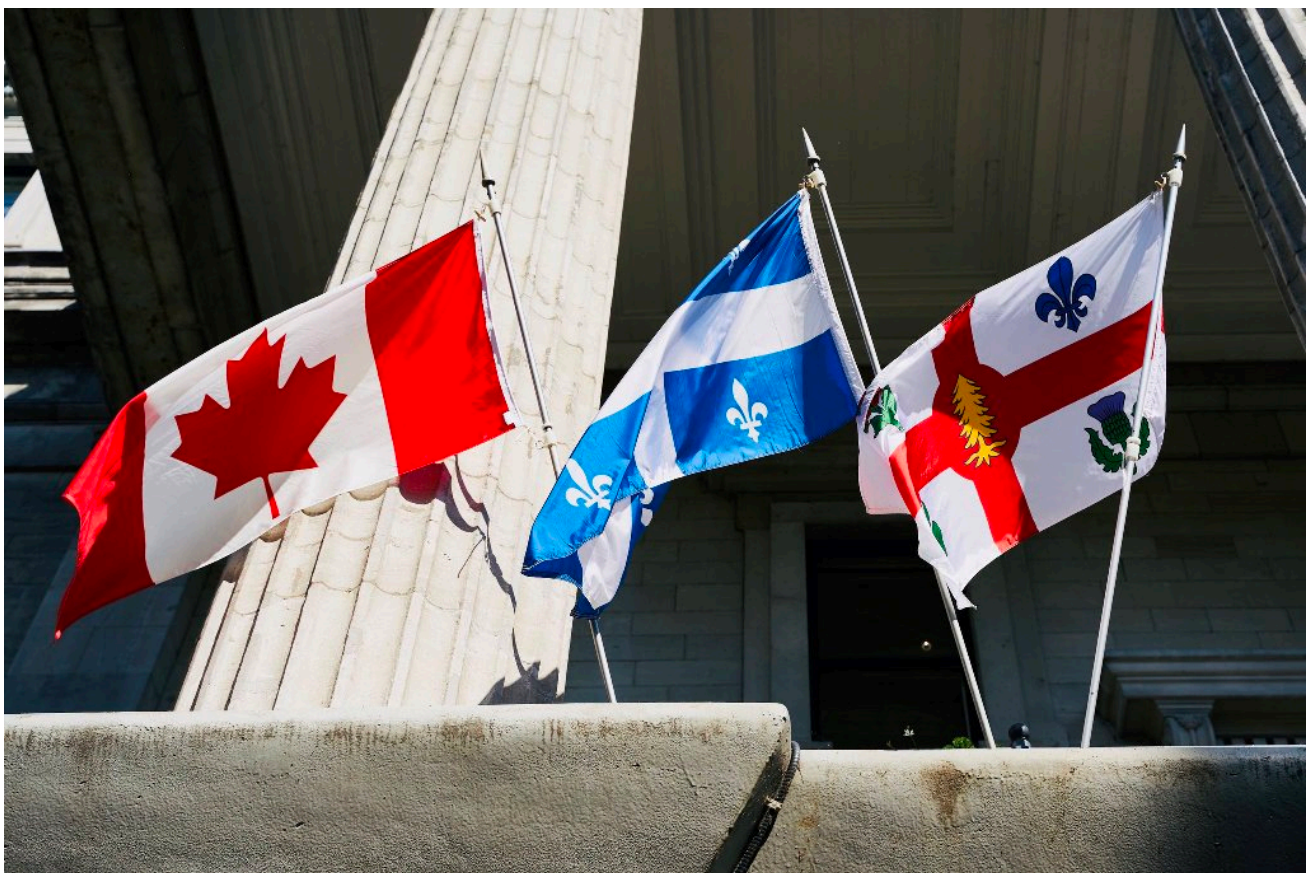


Quebec language law is a political gambit

It is the latest in a series of measures designed to elicit screams of protest from the province's English-speaking minority, while placating the majority of French Quebecers who want more autonomy, but not a complete breakup with Canada

by Conrad Black



Quebec's Bill 96 is an obnoxious piece of legislation that was meticulously composed and timed to be a political winner for the Quebec government of Premier François Legault, as it approaches an election next year. It is the latest in a series of measures by Quebec governments designed to elicit screams of protest from the province's English-speaking minority and vocal critics from outside Quebec, while placating the majority of French Quebecers who want more autonomy, but not a complete breakup with Canada. Like most of modern Quebec, this

all began with former premier Maurice Duplessis, who merged the old Quebec Conservative party with dissident Liberals into the Union Nationale in 1935 and, in 1936, evicted the Liberals from government after 39 years in office. His formula, which required exquisite political judgment to execute, was designed to get the conservatives and the nationalists to vote together. He devised the formula of "autonomy," a constitutional status that consisted of the fullest exercise of Quebec's rights under the British North America (BNA) Act, while strenuously opposing separatism. In practice, this meant establishing a flag for Quebec, imposing a provincial income tax and threatening the federal government of Prime Minister Louis St. Laurent with a provincial election on the issue if the federal government did not reduce its personal income tax rate to accommodate the Quebec tax, as it is a concurrent jurisdiction. Next came the announcement of a Quebec office in Paris, and the initial application for a world's fair for Montreal. Duplessis famously told his cabinet that Quebec nationalists were "a 10-pound fish on a five-pound line; they have to be let out slowly and reeled in slowly."

The trick was always to raise the ante, rhetorically and symbolically, to please the nationalists, without ever jeopardizing Confederation itself, thus placating the conservatives. Duplessis won an unequalled five terms as premier and died in office in 1959. His most assiduous disciple, Daniel Johnson, privately described his strategy as, "Give Ottawa every kick except the last one." Johnson won the 1966 provincial election on the slogan "Québec D'Abord" (Quebec First). When he died in office in 1968, the nationalist torch passed from the right, which had held it since Henri Bourassa at the start of the 20th century, to the left and Rene Levesque. Johnson's successor, Jean-Jacques Bertrand, tried "Quebec Plus que Jamais" (Quebec More Than Ever), but he was sideswiped by Levesque and the Parti Québécois (PQ) in 1976, with its more ambitious "Sovereignty-Association." In the referendum of 1980, on the trick question

of seeking authority to hold a further referendum on sovereignty-association, it lost 60-40, but was almost even among French-speaking Quebecers.

Prime Minister Pierre Trudeau won the referendum with his program of bilingual packaging and television, radio and government services in both official languages throughout the country, and the patriation from the British Parliament of the capacity to amend the BNA Act. In order to achieve his program, an agreement was made with all of the provinces except Quebec (which was not bargaining in good faith), and Quebec has never officially subscribed to the reformulated Canadian Constitution of 1982. Levesque was dumped as leader of the PQ when he said he was prepared to pursue the "beau risque" of negotiating with Prime Minister Brian Mulroney. Once back in office with Jacques Parizeau and Lucien Bouchard, the PQ tried another referendum on another trick question that amounted to retaining all the benefits of Canada, while exchanging embassies with every country in the world – in other words, eating and retaining the same cake. Then-prime minister Jean Chrétien botched the campaign and the no vote only prevailed by 54,000 votes out of a total of 4.76 million cast, a 93.5 per cent turnout. Chrétien somewhat made up for the near-disaster of the second referendum by seeking a Supreme Court opinion on secession and enacting it in the Clarity Act of 2000, which required that any act of secession be approved by a substantial majority and on a clear question.

Substantive changes crept in through legislation on education and advertising. Johnson and Bertrand (bills 62 and 63) required all Quebec students to learn French, but left parents the freedom to choose the primary language of instruction. Liberal Premier Robert Bourassa tried unsuccessfully to steal Levesque's thunder with his Bill 22 in 1974, which declared French to be Quebec's (single) official language, required testing of pre-school children of immigrants to see if they had an aptitude for English over French, banned bilingual

outdoor advertising, required French characters to be larger than any other in store displays and set up the absurd "language police." In 1977, Levesque produced Bill 101, which somewhat increased the coercive aspects of Bill 22. Mulroney tried hard, with the Meech Lake and Charlottetown accords, to gain the adherence of all provinces to further constitutional reforms, but was sand-bagged by the premier of Newfoundland and a Manitoban legislator, and then narrowly lost a referendum over Charlottetown. The referendum, the constitutional arguments, adjudications and invocations of the notwithstanding clause reasserting provincial (i.e., Quebec's) authority over civil rights, took up the rest of the 1980s and '90s and federalist Liberal Quebec premiers Jean Charest (2003-2012) and Philippe Couillard (2014-2018) didn't stir the pot. Prime Minister Stephen Harper ignored Couillard's efforts to negotiate Quebec's adherence to the modified Constitution.

Bill 96 is larded with the usual authoritarian and semi-racist nonsense: English-language junior colleges (CEGEPs) may not exceed 17.5 per cent of the total provincial CEGEP enrolment, and that percentage can never be higher than the previous year. In English CEGEPs, priority will be given to English-language students and access to English-language programs in French CEGEPs will be reduced. The government will put a cap on how long foreign students can attend English-language schools. Any signs containing non-French trademarks will be forced to ensure the French version is "markedly predominant." Citizens who aren't served commercially in French will be able to file complaints by telephone or launch litigation. Being greeted with "Bonjour-Hi" is specifically recognized as acceptable. Unilingual French workplace rules will be applied to establishments with 25 or more employees, as well as federal workplaces, because, according to the government, "the requirement of knowing the language other than French in order to attain a position has become too commonplace." What former senator and McGill University chancellor Michael Meighen famously described in 1974 as "Quebec's fatuous linguistic

bureaucracy” rides again. It was a mistake for federal Conservative Leader Erin O’Toole to throw in with all this pre-emptively.

As with all the preceding nationalist posturing, we will have to wait and see whether Bill 96 is a Duplessis-style attempt to take more for Quebec without assaulting Canada, what Quebec comedian Yvon Deschamps described 50 years ago as, “An independent Quebec in a strong Canada”; or if it is intended as another step toward secession. In either case, as with past language laws, the bill infringes upon freedom of expression and revives the contest between individual liberty and the theory – which is frequently invoked in Quebec, usually in fraudulent claims of possible French-Canadian cultural extinction – that collective rights must prevail over individual rights. There will be agitation for the abolition of the notwithstanding clause that enables federal and provincial governments to vacate court decisions that impinge upon their jurisdictions, but that clause conserves the BNA Act’s allocation to the provinces of authority over civil rights and no government is going to give that up.

Bill 96 is shabby and offensive, almost nauseating in places, but well crafted to achieve a political goal: Legault’s Coalition Avenir Québec is aiming to eliminate the PQ. It will not be mourned.

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