# SUPREME COURT OF CANADA

*disponible en français*

## *Case in Brief*: *English Montreal School Board v. Quebec (Attorney General)*

**Judgment of November 27, 2026 | On appeal from the Court of Appeal of Quebec**
**Neutral citation: 2026 SCC 41**

---

To learn more about the background of the case, the lower court decisions and the questions before the Supreme Court, consult the *Case Pre-Brief*.

---

**The Supreme Court of Canada confirms the validity of the *Act respecting the laicity of the State*, except for a provision that infringes the democratic rights set out in section 3 of the *Canadian Charter of Rights and Freedoms,* to the extent that it applies to members of the National Assembly of Quebec. The Court confirms that the exercise of the override power does not prevent a court from making a declaration of inconsistency with the *Charter* provisions, but the Court does not make a declaration in this case.**

The Court concluded that the Quebec legislature, by enacting the *Act respecting the laicity of the State* (commonly called "Bill 21"), had validly used the power given to it by the override clauses set out in section 33 of the Canadian *Charter* and in section 52 of Quebec's *Charter of human rights and freedoms*.

To reach this conclusion, the Court relied on the text of section 33, its context and its purpose and effects. It therefore confirmed the interpretation adopted by the Supreme Court in a prior decision, *Ford v. Quebec (Attorney General)*, [1988] 2 SCR 712. As a result, the exercise of the override power is not subject to any limit other than those expressly set out in the provision's text.

The Court said that a court has the power to rule on a law's consistency with the rights and freedoms protected by the Canadian *Charter* and the Quebec *Charter* despite the invocation of the override clauses. This power stems from the principle of the separation of powers and the inherent jurisdiction of the judiciary to determine the legal effect of legislation and to grant a remedy. But the Court has made no such declaration in this case.

### Section 28

The Court also examined section 28 of the Canadian *Charter*, which states that the rights and freedoms guaranteed by the *Charter* apply equally to male and female persons. This section serves to guide how the other rights and freedoms of the *Charter* must be understood and applied. However, it alone does not create a distinct right that could be invoked to challenge a law. The Court held that Bill 21 cannot be invalidated because of section 28.

### Section 23

The Court also ruled that Bill 21 does not infringe the rights of Quebec's English-speaking minority in education. Section 23 of the Canadian *Charter* protects, among other things, the right of English-speaking and French-speaking minorities to have their children receive instruction in their language and to participate in the management of their educational facilities. The Court recognized that Bill 21 could limit the ability of English-language school boards to recruit, retain, transfer or promote certain people in their schools. The Court, however, determined that it had not been demonstrated that these restrictions undermine the specific linguistic or cultural interests of the English-speaking minority that section 23 is intended to protect.

### Section 3

The Court, however, ruled that section 8 of Bill 21 infringes the democratic rights guaranteed by section 3 of the Canadian *Charter* to the extent that section 8 applies to members of the National Assembly of

*…cont'd*

Quebec. Section 3 protects the right of citizens to vote and to seek election as a member of a legislative body. Section 8 of Bill 21 prevents people elected to the National Assembly whose religious beliefs require them to wear a face covering from exercising their right to sit in it and to participate in the legislative process.

**Other questions**

Lastly, the Court concluded that Bill 21 does not infringe certain pre-Confederation statutes and is not contrary to the constitutional division of legislative powers between the federal Parliament and the provincial legislative assemblies and that it is not inconsistent with the constitutional architecture. The Court of Appeal's finding that the government's count of the number of employees wearing religious symbols does not violate the *Charter* is upheld.

**Conclusion**

The Court therefore dismissed the appeals of the English Montreal School Board and other parties and dismissed the cross-appeal of the Attorney General of Quebec.

---

**Breakdown of the decision:** The Quebec legislature, by enacting Bill 21, had validly used the power given to it by the override clauses (Chief Justice Wagner and Justices Karakatsanis, Côté, Rowe, Kasirer and O'Bonsawin). Section 8 infringes the democratic rights set out in section 3 of the *Canadian Charter of Rights and Freedoms*, to the extent that it applies to members of the National Assembly of Quebec (Chief Justice Wagner and Justices Karakatsanis, Côté, Rowe, Kasirer, Martin and O'Bonsawin). The exercise of the override power does not prevent a court from making a declaration of inconsistency with the *Charter* provisions (Justices Karakatsanis, Kasirer, Martin and O'Bonsawin). The Court does not make a declaration in this case (Chief Justice Wagner and Justices Côté, Rowe and Martin).

**More information:** Decision | Case information

**Lower court rulings:** Applications (Superior Court of Quebec – in French only) | Appeals (Court of Appeal of Quebec)

---

*Cases in Brief are prepared by staff of the Supreme Court of Canada to help the public better understand Court decisions. They do not form part of the Court's reasons for judgment and are not for use in legal proceedings.*