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Opinion / Editorials

Editorial: Sadly, Bill 21 lives on, but there's an important exemption

Ruling concerning minority-language education rights is welcome and shows the value of maintaining English school boards.

Montreal Gazette Editorial Board

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People protest against Bill 21 at Westmount High School in Montreal, on Wednesday, April 3, 2019. PHOTO BY ALLEN MCINNIS /Montreal Gazette

Tuesday's ruling in Superior Court upholding most of the provisions of Bill 21 is a deep disappointment, even if its exemption for English school boards is to be heartily welcomed.

Bill 21, titled An act respecting the laicity of the state, rammed through the National Assembly in June 2019 by the Coalition Avenir Québec majority government, remains an unnecessary, discriminatory and divisive law. A central provision bars several categories of public sector employees — including police officers, teachers and prison guards — from wearing “religious symbols” at work. While the law claims to be religiously neutral, it is anything but, effectively barring from such jobs those whose religious beliefs lead them to wear hijabs, kippahs or turbans. (Wearing a crucifix or cross necklace would also be barred, but those can easily be tucked inside a shirt.)



In his complex, 242-page decision, Judge Marc-André Blanchard made it clear that he took a dim view of the government's quick and very broad use of the notwithstanding clauses in both the Canadian and Quebec rights charters, even as he acknowledged that it had the legal right to do so. This, he noted, made it impossible to overturn the law on the basis of its abrogation of the fundamental rights being overridden.

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The judge struck down the prohibition of the wearing of religious face coverings in the National Assembly, because it interferes with the right of citizens to be qualified to sit in the legislature.

Of more immediate import, however, was his ruling that applying religious symbols prohibitions to the English Montreal School Board (and by implication, other English boards) would infringe on the minority-language education rights in the Canadian Charter. The practical implications of that ruling are welcome. More broadly, it is an encouraging and timely acknowledgment of the reach of constitutional minority-education rights, just as English school boards are fighting for their lives. They have been in court challenging the CAQ government's Bill 40, which would abolish them and replace them with service centres, as has been done in the French sector. Tuesday's ruling also shows the value of maintaining the independence of English boards; had they been abolished, it is hard to imagine that English service centres would have been willing or able to mount a challenge to Bill 21.

Judge Blanchard's ruling is not likely to be the final word. Quebec seeks to appeal, and it won't be alone. While one cannot presume to know how higher courts will rule, it seems safe to predict that in the public and political arenas, this toxic law will spark yet more division, injustice and rancour.

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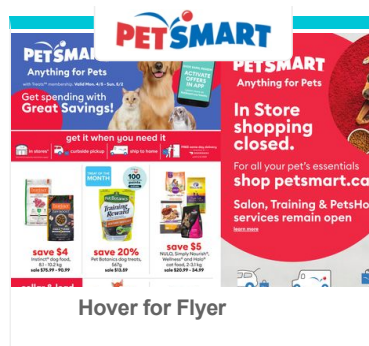
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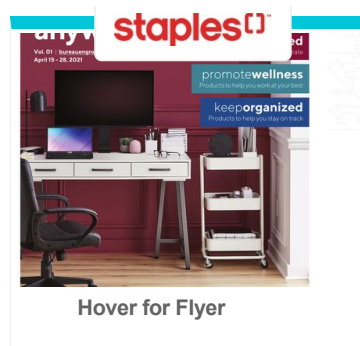
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