Bill makes oath to King optional

Some argue move requires consent of provinces, houses of Parliament

Sidhartha Banerjee The Canadian Press

MONTREAL - The oath of allegiance to the monarch that has long rankled Quebec sovereigntist politicians is a thing of the past after the provincial legislature passed a law on Friday abolishing the requirement for its elected members.

The Coalition Avenir Québec government tabled a bill this week to make the oath optional after weeks of debate in the aftermath of the October election, as three members of the opposition Parti Québécois refused to swear allegiance to King Charles and were barred from sitting.

The law adds to the Constitution Act of 1867 a section exempting Quebec from the application of the section that requires the oath.

PQ Leader Paul St-Pierre Plamondon welcomed the unanimous passing of the bill, which came with just a handful of members in the chamber ahead of Christmas break. When proceedings resume at the end of January, he and his two colleagues will be the first members in the history of the national assembly to sit after an election without taking the oath.

"This is a fine moment for Quebec democracy," St-Pierre Plamondon said, telling reporters he has been assured that even if the law is challenged in the courts, the PQ members won't be ejected.

Previously, Quebec members of the legislature had to swear two oaths - one to the people of Quebec and one to the Crown. Many sovereigntist politicians have found their way around that over the years, either by taking the oath privately or by adding a few words to make it more palatable.

Québec solidaire's 11-member caucus also initially refused to swear the oath last month but ultimately relented, taking the pledge in private after the Speaker ruled they couldn't sit without doing so.

Constitutional scholars are divided on whether the Quebec legislature has the power to allow members to participate in legislative debates and votes without taking the oath.

Some experts are of the opinion it can't be done unilaterally and would require the consent of some or all provinces and both houses of Parliament.

But others have argued Quebec could change the oath requirement through the power provinces possess to change their own constitutions.

Quebec invoked that provision when it passed its new French language law, known as Bill 96, in May, amending the Constitution to declare that Quebeckers form a nation and that French is the province's only official language.

Errol Mendes, a law professor at the University of Ottawa, believes all the attempts are unconstitutional.

"And stunningly it looks as if they may get away with it," Mendes said in an interview Friday, noting in the case of Bill 96 specifically, it seems no one has the
political will to take it on.

But legal challenges are likely in the case of the Quebec language law and someone might decide to add the oath issue to that fight, he added.

"Quebec is basically acting ... as if it is a sovereign government and is claiming it can do whatever it wants regardless of what's in the Canadian Constitution," Mendes said.

Frédéric Bérard, a constitutional law professor at Université de Montréal, says he has no issue with Quebec trying this route, but for him, it remains unclear whether a court hearing a future challenge would agree the move is constitutional.

Bérard wondered what could happen to laws passed by the legislature if the decision to let members sit without the oath is eventually struck down.

The Monarchist League of Canada said it was deeply disappointed with Friday's vote, saying the move showed a lack of respect for Canada and its institutions.

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