

Un rôle d'exemplarité en matière linguistique

Brief submitted to the National Assembly of
Quebec's Committee on Culture and Education on
*Bill 14 : An Act to amend the Charter of the French
language, the Charter of human rights and
freedoms and other legislative provisions*

By:

Tony Kondaks

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Summary

Quebec does not currently comply with Section 25 of the *Official Languages Act* which requires services provided by the Quebec government on behalf of the federal government to be available in both English and French. This includes signage (of equal size) as well as all communications, verbal and written, with the public. Ministers whose ministries are responsible for such services must have signage identifying themselves and their ministries in both English and French and of equal size on their own offices and must communicate, verbally and in written form, in both English and French when speaking regarding these services in the National Assembly and its committees. If Ministers are unable or unwilling to communicate in both of the official languages of Canada when speaking on these matters, the law requires that the National Assembly adopt simultaneous oral translation of its proceedings as well as written translation for the *Journal des débats*. In addition to its own audit, the Quebec government will allow Language Inspectors from the general public to inspect the offices of the Quebec government to determine compliance with Section 25. These Language Inspectors will be invested with the same powers as provided language inspectors under Title III.1 of the *Charter of the French Language* (Bill 101). All of the above is required by current law and has been implicitly agreed to by the Quebec government when it entered into agreements with the federal government transferring administration of federal services, contemplated by the *Official Languages Act*, to Quebec.

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Section 3 of Bill 14

Section 3 of Bill 14 would amend *The Charter of the French Language* (Bill 101) by inserting the following after section 1:

“1.1. In accordance with the provisions of this Act, the Government, its departments and the other agencies of the civil administration **shall play an exemplary role in language matters**, according to their respective powers and functions and in keeping with the specific context in which they operate,

...

“(2) by making sure that it is possible for all who so desire to live in French in Québec and **that French is the language used in the public sphere**. (my emphasis)

...

Section 25 of Canada's *Official Language Act* (OLA) reads:

“**25.** Every federal institution has the duty to ensure that, where services are provided or made available by another person or organization on its behalf, any member of the public in Canada or elsewhere can communicate with and obtain those services from that person or organization in either official language in any case where those services, if provided by the institution, would be required under this Part to be provided in either official language.”

As the members of the Committee are no doubt aware, numerous services under federal jurisdiction are, through administrative agreement between the Quebec Government and the Federal Government, now being provided by “organisations” (e.g., Ministries and Departments of the Quebec Government) on behalf of federal institutions. Two examples are:

- Administration of the GST
- Administration of various programs under the Indian Act

Bill 14's proposed amendment is incomplete as is and must be amended in order to reflect the obligations of the Quebec government under section 2 of the *Official Languages Act*. In doing so, Quebec will do justice to that part of section 3 of Bill 14 which reads:

“...the Government, its departments and the other agencies of the civil administration shall play **an exemplary role in language matters...**” (my emphasis)

Section 25 of the Official Languages Act is most certainly a “language matter” and any agreements the Quebec Government entered into with the Canadian federal government that transferred services under federal jurisdiction to Quebec were entered into by Quebec with the *full knowledge and understanding* of its obligations under section 25.

Members of this committee should not express surprise that such agreements concerning language are made between various governments. Note that such agreements are contemplated in Bill 14, of which section 3 reads in part:

“1.3. As part of the Minister’s functions, the Minister may make an agreement with any person and, in accordance with the applicable legislative provisions, **with a government other than that of Québec...**” (my emphasis)

Before the Quebec government thinks about making any new arrangements with other governments, it would be good for it to first ensure that its obligations under *existing* agreements with the federal government be satisfied.

Recommendation

I recommend that Section 1.1 (2) of the proposed amendment to the *Charter of the French Language* found in Section 3 of Bill 14 be deleted and replaced by the following:

“**1.1 (2)** by making sure that the Quebec Government satisfies its current obligations pursuant to section 25 of the Official Languages Act and that it play an exemplary role in language matters, the Quebec Government shall immediately initiate an audit of all departments, programs, and activities of the Quebec Government in order to effect full compliance with section 25 of the Official Languages Act.

“**1.1(2)(a)** Full compliance as it pertains to **1.1 (2)** means:

- i) All signage of Quebec government offices, departments, programs, and ministries must be in both English and French, in equal size;
- ii) All communications, written and oral, must be available in both English and French;
- iii) All forms and documents must be in French and English, in equal size and made publicly available at the same time.
- iv) Where such services fall under the responsibility of a Ministry of the Quebec Government, the Minister of the Government in charge of that Ministry must have signage on his or her office in both French and English, in equal size.
- v) Where such services fall under the responsibility of a Ministry of the Quebec Government, the Minister of the Government in charge of that Ministry must communicate in all oral proceedings concerning such services that take place in the National Assembly or its committees in both French and English, both orally and in written form, including the *Journal des débats*.
- vi) If a Minister under the circumstances referred to in (v) is unable to speak one of the two official languages or does not provide simultaneous oral translation, the National Assembly must provide that simultaneous oral translation.

“1.1(2)(b) The Government of Quebec shall publish the findings of the audit required under 1.1(2), including a list of all departments, programs, offices, and agencies which fall under section 25 of the Official Languages Act, noting, in particular, those not in compliance.

“1.1(2)(c) The Government of Quebec shall allow, without hindrance or deterrence, language inspectors from the general public to inspect and determine whether any office, agency, or ministry of the Quebec government is complying with the provisions of section 25 of the *Official Languages Act*. All rights, privileges, and actions provided to inspectors by the laws and regulations pursuant to ‘Inspections and Inquiries’ in Title III.1 of the *Charter of the French Language* shall apply to the aforementioned language inspectors. ”

Conclusion

I remind the Members of the Committee who are also Members of the Parti Québécois caucus of the official policy of their party regarding Anglophone rights in an independent Quebec:

Le Québec aura la responsabilité d’élaborer des partenariats féconds avec les nations autochtones, **de perpétuer les droits des Québécois anglophones** et aura la responsabilité et les moyens de faire rayonner au maximum la Francophonie dans les Amériques.¹ (my emphasis)

Note that there are no qualifiers or exceptions mentioned as regards Anglophone rights in an independent Quebec: *they are to be perpetuated fully and completely*. Indeed, *since its inception* virtually every single official policy of the Parti Québécois has declared that the rights its Anglophone minority enjoys currently within Canada will be respected in an independent Quebec.

Therefore, once Quebec becomes independent and repatriates to itself all of the powers currently under section 91 of the *B.N.A. Act*, the *Canadian Charter of Rights and Freedoms*, other parts of the *Constitution of Canada*, and any other language rights and privileges found in federal laws, that these Anglophone rights will necessarily follow and become part of the laws and regulations governing the new nation of Quebec.

For example, under sections 16-22 of the *Canadian Charter of Rights and Freedoms* (“Official Languages of Canada”), Anglophones have the right to communicate with the government in English. Federal law requires also that all proceedings of the House of Commons and its committees be simultaneously translated into English as well as in written English when proceedings take place in the French language. That means, in addition to programs and services, that, at the very least, all proceedings in the legislative assembly and its committees in the new nation of Quebec will have to be in both English and French, at least as it pertains to section 91 matters. Note that this will be an even greater requirement than what is contemplated under section 25 of the *Official Languages Act* which applies only to programs and services transferred from the federal government to Quebec and not *all* federal matters.

¹ “3. Notre identité : un Québec français qui se tient debout” in “« Agir en toute liberté » : le programme du Parti Québécois”; <http://pq.org/parti/programme> online on February 8, 2013.

But what about the situation as it exists in Quebec now? There are so many programs and services that the Quebec government is administering on behalf of the federal government that it may discover that once it is complying fully with the provisions of section 25 of the *Official Languages Act* that it has become *de facto* officially bilingual.

As such, why not save everyone a lot of time and energy and just amend *The Charter of the French Language* by deleting section 1 and replacing it with the following:

“1. English and French are the official languages of Quebec.”

Why wait until Quebec is a nation to extend to Quebec Anglophones the tolerance, compassion, and generosity you claim to hold for them? Real nations are benevolent to their minorities. I suggest to you that acting as if you already are a nation *while still a province of Canada* will enable nationhood to become a reality that much sooner.

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Tony Kondaks is the author of “Why Canada must end”. See: www.whycanadamustend.com .

(From Amazon.com)

Twice (in 1980 and 1995), referendums were held asking the Quebec people whether they wanted their province to become an independent country. Twice, the “yes” side lost. Both times, a majority of Quebec’s francophones voted “yes”, the only obstacle to victory being the 20% “no” block vote of the predominantly federalist non-francophone community, concentrated in the western half of Montreal.

In “Why Canada Must End”, author Tony Kondaks outlines the only formula that can achieve a “yes” majority and Quebec independence: The Two Question Referendum. Kondaks proposes a deal between the Parti Quebecois and the minority Anglophone community: neutralization of the non-francophones’ “no” block vote in exchange for their own province within an independent Quebec.

“Why Canada Must End” analyzes the reasons the Two Question Referendum will succeed and why it is the last chance the separatists have to obtain nationhood. A vision of a Quebec free of the oppressive and segregationist Charter of the French Language (the notorious “Bill 101”) is discussed along with a history of linguistic and human rights abuses in Quebec. Canada’s failure to protect its minorities and why it has thus broken the deal that is Confederation is convincingly presented, leading the reader to the inevitable conclusion that Canada must end.