Annals of Language Rights – 2015

I – COURT CASES

A – CANADA

Supreme Court of Canada

Association des parents de l'école Rose-des-vents v. British Columbia (Education), 2015 SCC 21, [2015] 2 S.C.R. 139

Le présent pourvoi met en lumière une nouvelle génération de questions liées aux droits à l'instruction dans la langue de la minorité. Dans quelles circonstances la qualité de l'instruction dans la langue de la minorité équivaut-elle à celle de l'instruction dans la langue de la majorité? Quels sont les facteurs à prendre en considération pour déterminer s'il y a équivalence?

Ces questions sont au cœur du présent pourvoi. Elles font intervenir l'art. 23 de la Charte canadienne des droits et libertés, soit la disposition relative à l'instruction dans la langue de la minorité qui garantit aux titulaires de droits linguistiques minoritaires le droit de faire instruire leurs enfants, aux niveaux primaire et secondaire, en français ou en anglais. Bien que la Cour ait examiné ce droit garanti par la Charte à plusieurs reprises au cours des 30 dernières années, le présent

This appeal reflects a new generation of issues for minority language education rights. When is the quality of a minority language school education equivalent to that of the majority language schools? What factors go into determining equivalence?

These questions lie at the heart of this appeal. They engage s. 23 of the Canadian Charter of Rights and Freedoms, the minority language education provision that guarantees minority language rights holders the right to have their children receive primary and secondary school instruction in English or French. While this Court has considered this Charter right on several occasions over the past 30 years, the present appeal illustrates the evolution of minority language education

pourvoi illustre l'évolution des différends en matière d'instruction dans la langue de la minorité depuis l'adoption de la Charte : au lieu de mettre l'accent sur le droit initial d'un groupe à un certain niveau de services d'enseignement dans la langue de la minorité, le pourvoi soulève la question de savoir comment un tribunal peut décider si un groupe reçoit, dans les faits, les services auxquels il a droit. (para 1-2)

disputes since the adoption of the Charter: rather than focusing on a group's initial entitlement to a given level of minority language educational services, this appeal asks how a court may determine whether a group is, in fact, receiving its entitlement. (para 1-2)

Lire la suite…
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Yukon Francophone School Board, Education Area #23 v. Yukon (Attorney General), 2015 SCC 25, [2015] 2 S.C.R. 282

Cela nous amène aux deux questions de droit qui ont fait l'objet du pourvoi devant notre Cour et que la Cour d'appel n'a pas renvoyées pour nouvelle instruction. Premièrement, la Commission est-elle habilitée à décider unilatéralement qui peut être admis à l'école de langue française? (para 63)

This brings us to the two legal issues which were appealed to this Court and which the Court of Appeal did not send back for a new trial. The first is whether the Board can unilaterally decide whom to admit to the French school. (para 63)

Cela nous amène à la deuxième question tranchée par la Cour d'appel, à savoir si le Yukon est tenu, par application du par. 6(1) de la Loi sur les langues, de communiquer avec la Commission et ses employés en français et de leur fournir des services dans cette langue. (para 75)

This bring us to the second issue decided by the Court of Appeal, namely, whether the Yukon is required, by virtue of s. 6(1) of the Languages Act, to communicate with and provide services to the Board and its employees in French. (para 75)

Lire la suite…
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Caron v. Alberta, 2015 SCC 56, [2015] S.C.J. No. 56 (QL)

Les présents pourvois se situent à un carrefour litigieux en droit constitutionnel canadien, à l'intersection des droits linguistiques de la minorité et des pouvoirs législatifs provinciaux. Suivant la Loi linguistique de l'Alberta, R.S.A. 2000, c. L-6, les lois peuvent être édictées dans cette province en anglais seulement. Les appelants prétendent que cela est inconstitutionnel. Ils ne contestent pas la règle générale voulant que la question de la langue de la législation dans la province ressortisse à celle-ci, mais font valoir qu'une exception à cette règle générale s'applique dans le cas qui nous occupe. Selon eux, un droit constitutionnel, auquel la Province ne peut déroger, obligerait l'édiction des lois albertaines en anglais et en français. Dans les présents motifs, nous utiliserons le terme droit au bilinguisme législatif pour renvoyer à ce concept. La Province soutient qu'il n'existe pas de tel droit. (para 1)

These appeals sit at a contentious crossroads in Canadian constitutional law, the intersection of minority language rights and provincial legislative powers. The province of Alberta's Languages Act, R.S.A. 2000, c. L-6, provides that laws may be enacted in English only. The appellants claim that this is unconstitutional. While they take no issue with the general rule that the language of provincial legislation is a matter for the Province to decide, they say that an exception to this general rules applies here: there is a constitutional right, from which the Province may not derogate, to have Alberta laws enacted in both English and French. We will refer to this as a right to legislative bilingualism. The Province maintains that there is no such right. (para 1)

Lire la suite…
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Federal Court

Tailleur c. Canada (Procureur général), 2015 CF 1230, [2015] A.C.F. no 1260 (QL)

Federal Court

La présente affaire porte sur la tension qui existe entre deux volets de la Loi sur les langues officielles, LRC, c 31 (4e suppl) [LLO] : les droits linguistiques reconnus aux membres du public d'être servi par une institution fédérale dans la langue officielle de leur choix, et les droits linguistiques octroyés aux agents des institutions fédérales de travailler dans l'une ou l'autre des deux langues officielles du Canada.

Le demandeur M. Luc Tailleur, un francophone, travaille dans la fonction publique

fédérale. Il y occupe le poste d'agent des services aux contribuables dans un centre d'appels de l'Agence du revenu du Canada [ARC] situé à Montréal. Le poste de M. Tailleur, tout comme la région de Montréal où il travaille, sont tous deux désignés comme étant bilingues. Dans le cadre de son emploi, M. Tailleur reçoit des appels téléphoniques des contribuables et répond à leurs questions au sujet des impôts et des programmes gérés par l'ARC. En août 2010, M. Tailleur sert une contribuable anglophone dans la langue de choix de celle-ci, soit l'anglais. Suite à son appel avec la contribuable, M. Tailleur doit écrire une note dans un des systèmes informatiques de l'ARC afin d'assurer le suivi du traitement du dossier de la contribuable. M. Tailleur rédige alors cette note dans la langue de travail de son choix, soit le français. Invoquant les politiques en place au sein de l'ARC, les supérieurs de M. Tailleur le contraignent de refaire sa note dans la langue de la contribuable, ce à quoi M. Tailleur se conforme. (para 1-2)

Lire la suite…

B – CANADA-PROVINCES

Alberta

R. c. Car-Fre Transport Ltd., 2015 ABPC 280, [2015] A.J. no 1441 (QL)

Provincial Court

Selon la défense, « Les questions en litige de cette requête sont comme suit :

A. La langue officielle des Accusés est la langue française.

[…]

C. Est-ce que la Charte et les principes constitutionnels non écrits du Canada exigent que les Actes de dénonciation soient déposés par la Couronne du chef du Canada en français?

D. Quel est l'effet de la violation de la Charte et de la Loi sur les langues officielles? »

Juste avant l'audition de cette requête, la défense a précisé les questions dans son mémoire écrit daté le 31 août 2015 :

> « En partant du principe que selon la Loi sur les langues officielles ("LLO"), la Charte canadienne des droits et libertés (la "Charte") et des principes constitutionnels non écrits, les Accusés soumettent que la Couronne fédérale est obligée de déposer les Actes de dénonciation dans les deux langues officielles.

> Les Accusés demandent à cette honorable Cour d'annuler les Actes de dénonciation. »

(para 1-2)

Lire la suite…

Colombie-Britannique

R. v. Bessette, 2015 BCPC 230

Provincial Court

Joseph Bessette seeks an order that his trial on a charge of driving while prohibited under the Motor Vehicle Act be conducted in French. He does not seek a remedy under the Charter of Rights, but rather argues that his right to have a trial in the French language arises from the proper interpretation of s. 133 of the Offence Act, which he says should be interpreted to incorporate sections 530 to 533 of the Criminal Code which permit an accused to apply for a trial in French, or for that matter, in English, depending on the circumstances.

The Crown replies that the law of British Columbia has been ever since its creation in 1858 that proceedings in all of its courts must be in the English language. The Crown argues that merely because the legislature has not passed any legislation to alter the operation of that law does not mean that the provisions of s. 530 of the Code are applicable to the defendant's case. The Crown argues that it means the opposite; the law has not been changed and, therefore, Mr. Bessette's trial must be in English. (para 1-2)

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Nouveau-Brunswick

Moncton Firefighters' Assn., section locale 999 v. Moncton (Ville), 2015 NBBR 230, [2015] N.B.J. No. 284 (QL)

Court of Queen's Bench

Essentiellement, l'Association avait fait valoir que, malgré le fait que la Ville ait l'obligation de fournir certains services, dont les services de prévention des incendies, dans les deux langues officielles conformément aux dispositions de la Loi sur les langues officielles, L.N.-B. 2002, ch.

Essentially, the Association asserted that despite the City's obligations to provide certain services, including fire prevention services in both official languages, pursuant to the provisions of the Official Languages Act, SNB 2002, c. O-05, and the City designating the Assistant Fire

O-0.5, et qu'elle ait désigné le poste d'officier adjoint de prévention des incendies comme exigeant [TRADUCTION] "une compétence linguistique dans les deux langues officielles", comme le lui impose sa politique linguistique mise en place par suite de modifications apportées à la Loi sur les langues officielles, il était interdit à la Ville d'ajouter unilatéralement une telle exigence dans la description de poste à moins de l'avoir négociée au préalable avec l'Association et de l'avoir incluse dans le texte de la convention collective qui, jusque-là, ne prévoyait pas expressément que le poste en cause était un poste bilingue ou comportait des exigences en matière de bilinguisme.

Prevention Officer (AFPO) position as requiring the "ability to function in both official languages" in compliance with its Language Policy put in place following amendments to the Official Languages Act, that the City was constrained from unilaterally inserting such a requirement into the posting unless it was negotiated with the association and included in the terms of the collective agreement which did not specifically provide for bilingual positions or requirements for the position of Assistant Fire Prevention Officer.

Pour sa part, la Ville avait fait valoir que l'ajout de la nécessité d'être bilingue dans la description du poste d'officier adjoint de prévention des incendies affiché en l'espèce était autorisé en vertu des dispositions en matière de droits de la direction de la convention collective et compte tenu de l'obligation d'offrir des services bilingues que lui imposaient les dispositions de la Loi sur les langues officielles, d'une part, et de ses obligations constitutionnelles en vertu de la Charte canadienne des droits et libertés, d'autre part. (para 3-4)

For its part, the City took the position that the insertion of a bilingual qualification into the job posting for an Assistant Fire Prevention Officer in this case was permissible pursuant to the management rights provisions of the collective agreement, and in light of its obligations to provide bilingual services pursuant to the provisions of the Official Languages Act and its constitutional obligations under the Canadian Charter of Rights and Freedoms. (para 3-4)

Ontario

R. c. Halich, 2015 ONCA 76, [2015] O.J. no 651 (QL)

Court of Appeal

« Le requérant a été reconnu coupable de deux infractions aux termes des articles 2(3)(b) et 2(1)(a) de la Loi sur l'assurance-automobile obligatoire, L.R.O. 1990, c. C.25. Il demande l'autorisation d'interjeter appel à cette cour. »

[…]
« Néanmoins, cette cause soulève une question qui a une pertinence au-delà de la situation particulière du requérant et qui concerne les droits linguistiques des appelants dans les instances relatives aux infractions provinciales, sous l'article 126 de la Loi sur les tribunaux judiciaires et les dispositions du règlement 53/01 (en particulier les articles 4, 5, 7 et 8). Est-ce qu'un appelant francophone a le droit à un appel bilingue, même s'il n'a pas demandé un procès bilingue? Un élément qui peut être important dans l'analyse est que le tribunal peut exercer les pouvoirs d'un juge de première instance "s'il estime que cela sert les intérêts de la justice", selon l'article 117(1) de la Loi sur les infractions provinciales?

Pour ces raisons, je conclus que c'est dans l'intérêt public et pour la bonne administration de la justice que la demande d'autorisation d'interjeter appel soit accordée. » (para 1, 8-9)

R. v. Munkonda, 2015 ONCA 309, 126 O.R. (3d) 691

Court of Appeal

L'appelant interjette appel de la décision de la Cour supérieure rejetant sa requête en certiorari. Le juge saisi de la requête a constaté quatre violations des droits linguistiques de l'appelant, mais a toutefois refusé d'accorder un arrêt des procédures ou toute autre réparation.

L'appel soulève des questions importantes relatives aux droits linguistiques d'un accusé lors d'une enquête préliminaire ou d'un procès bilingue, ainsi qu'à la procédure à suivre au cours de ceux-ci et aux réparations qu'accorderait un tribunal par suite de la violation de tels droits. (para 1-2)

The appellant appeals from the decision of the Superior Court dismissing his application for certiorari. The certiorari judge found four violations of the appellant's language rights, but nonetheless refused to grant a stay of proceedings or any other remedy.

The appeal raises important questions concerning the language rights of an accused at a bilingual preliminary inquiry or trial, as well as the procedure to be followed during those proceedings, and the remedies that a court should award as a result of a violation of those rights. (para 1-2)

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Il me semble, d'après les passages de la transcription cités, que l'appelante parle couramment français et comprend bien cette langue. À mon avis, le juge saisi de la requête a commis une erreur de fait en tirant la conclusion contraire. L'avocat de l'appelante (qui n'est pas l'avocat qui l'a représentée devant le juge saisi de la requête) confirme que l'appelante communique avec lui en français. L'avocat de l'appelante ne demande pas réparation au regard de la décision et des commentaires du juge saisi de la requête portant sur sa demande d'audience bilingue, mais il demande à notre cour d'indiquer que le tribunal de juridiction inférieure a effectivement commis une erreur en contestant la demande d'instance bilingue présentée par l'appelante. Il y a bien eu une instance bilingue après que l'appelante en eut fait la demande. Le juge saisi de la requête a correctement invoqué le critère pertinent relativement à une instance lorsqu'une partie demande la tenue d'une instance bilingue.

It appears to me based on the quoted passages of the transcript that the Appellant speaks and understands French fluently. In my view the motions judge erred in fact in concluding otherwise. The Appellant's counsel (who was not the counsel who acted for the Appellant before the motion judge) confirms that the Appellant communicates with him in French. Counsel for the Appellant does not request a remedy in respect of the motions judge's rulings and comments as to her request for a bilingual proceeding, but does request that this court enunciate that an error has been made in the court below in challenging the Appellant's request for a bilingual proceeding. A bilingual proceeding did take place at the request of the Appellant when she requested it. The motion judge correctly referred to the test relevant to a proceeding where a party requests that the proceeding take place as a bilingual proceeding.

Je n'ai pas de solution facile pour régler le problème qui, selon les dires du juge saisi de la requête, l'a préoccupé, à savoir qu'il est possible que des « plaideurs obstructionnistes » et leurs avocats fassent valoir des droits linguistiques uniquement pour différer l'instruction de l'affaire, si ce n'est que je ferai remarquer qu'il devrait être suffisant d'informer toutes les parties, au début de l'audience, de leur droit à une instance bilingue pour s'assurer que les parties sont au courant de ce droit. Si je

I do not have a ready solution for the problem that the motion judge stated gave rise to his concern with respect to the possibility of obstructionist litigants and their counsel invoking linguistic rights as a delay tactic, other than to note that it should be sufficient to advise all litigants of the right to a bilingual proceeding at the outset in order to ensure that they are aware of that right. It is my understanding that the bar is under an obligation to advise clients of the right to

comprends bien, le Barreau a l'obligation d'informer les clients de leur droit à une instance bilingue. Cela ne suffit peut-être pas à répondre à ce qui, selon le juge saisi de la requête, est une préoccupation dans son ressort. D'après mon expérience, il n'y a pas, et il n'y a jamais eu, de tel problème dans ce ressort. (para 19-20)

have a bilingual proceeding. This may not be sufficient to address what the motion judge states is a concern in his jurisdiction. In my experience in this jurisdiction there is not and never has been any such problem. (para 19-20)

Lire la suite…
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R. v. Bassi, 2015 ONCJ 340, [2015] O.J. No. 3293 (QL)

Court of Justice

During the course of the initial detention and arrest, and then later in the breath room, there were several points where issues were raised by Mr. Bassi about not understanding things said by the officers. In the breath room, Mr. Bassi told the breath technician, Constable Simmonds, that he was Punjabi, that English was not his first language, that he sometimes did not pick up things in English, and that he understood probably 90 percent of what duty counsel had told him. At no time did the any of the officers who dealt with Mr. Bassi offer the assistance of a Punjabi speaking officer, Punjabi speaking duty counsel, or a Punjabi interpreter for the purpose of consulting with counsel. Crown counsel Crown concedes that each of these were readily available in the jurisdiction.

The primary issue in this case is whether the police complied with their informational and implementational duties under s. 10(b) of the Charter as they relate to language. (para 3-4)

Read more…

Quebec

A.N. v. R., 2015 QCCA 1109, [2015] Q.J. No. 5742 (QL)

Court of Appeal

On at least one occasion, the judge remarked that she had difficulty understanding the accused's French. Appellant submits that there was an infringement of his linguistic rights protected by Section 14 of the Canadian Charter of Rights and Freedoms:

> 14. A party or witness in any proceedings who does not understand or speak the language in which the proceedings are conducted or who is deaf has the right to the assistance of an interpreter.
>
> * * *
>
> 14. La partie ou le témoin qui ne peuvent suivre les procédures, soit parce qu'ils ne comprennent pas ou ne parlent pas la langue employée, soit parce qu'ils sont atteints de surdité, ont droit à l'assistance d'un interprète.

When an accused does not understand or speak the language of the proceedings, a court has an obligation (independent of any request) to provide an interpreter.59 This does not mean that a court must always inquire into the language proficiency of an accused.60 Before this Court, the burden is on Appellant to establish on a balance of probabilities that in the circumstances of this case he needed the assistance of an interpreter either because he could not adequately speak or understand French.61 This is the first part of the test laid down by the Supreme Court of Canada in R. v. Tran to determine if language rights under the Charter have been infringed in the accused's trial. (para 120-121)

Read more…

Quebec (Attorney General) v. 156158 Canada Inc. (Boulangerie Maxie's), 2015 QCCQ 354, [2015] Q.J. No. 362 (QL)

Court of Quebec

The defendants are all Anglophone merchants who operate their businesses in or around the Montreal area. They are charged with having violated various provisions of the Charter of the French Language (hereinafter referred to as CFL) that prohibit or restrict the use of a language other than French on public signs, posters, advertising, brochures and packaging.

The nature of the violations to the CFL is best described by grouping them into four different categories:

1. Bilingual outdoor signs (French-English) that failed to respect the marked predominance of the French language (s. 58 of the CFL). In essence, the fault of the defendants lay in posting a sign wherein the space allotted to the English text was equal to the space allotted to the French text. For the Attorney General of Quebec, marked predominance at section 58 of the CFL requires that the French text on a sign be at least twice the size of the characters or space allotted the text printed in the other language.

2. Commercial signs written in a language other than French (s. 58 of the CFL). Here, the merchants were at fault for having commercial signs written only in English.

3. The inscriptions on a product, on its container or on its wrapping, or a document supplied with it were not in French or did not have a French equivalent (s. 51 of the CFL).

4. Catalogues, brochures, folders, commercial directories and any similar publications that were not drawn up in French (s. 52 of the CLF): Here, the fault of the merchants lay in promoting their goods and services on the internet exclusively in English. (para 1-2)

Read more…

Northwest Territories

Northwest Territories (Attorney General) v. Commission Scolaire Francophone, Territoires du Nord-Ouest, 2015 NWTCA 1, [2015] N.W.T.J. No. 2 (QL)

Court of Appeal

La Cour est saisie de l'appel de la décision de première instance a) qui ordonnait aux appelants d'agrandir un établissement scolaire de la minorité linguistique, et b) déclarait inconstitutionnelle la directive ministérielle relative aux critères d'admission à une école de la minorité linguistique : Commission Scolaire Francophone, Territoires du Nord-Ouest c Territoires du Nord-Ouest (Procureur général), 2012 CSTN-O 44. Il s'agit d'une décision connexe à Territoires du Nord-Ouest (Procureur général) c Association des Parents Ayant Droit de Yellowknife, 2014 CATN-O 2. Ces deux affaires soulèvent des questions qui touchent les obligations du gouvernement des Territoires du Nord-Ouest en vertu de l'article 23 de la Charte canadienne des droits et libertés. Le présent appel porte

This is an appeal from a trial decision (a) ordering the appellants to construct more minority language school facilities, and (b) declaring unconstitutional the Minister's directive on admissions to the minority language school: Commission Scolaire Francophone, Territoires du Nord-Ouest v Northwest Territories (Attorney General), 2012 NWTSC 44 (CanLII). It is the companion to Northwest Territories (Attorney General) v Association des Parents Ayant Droit de Yellowknife, 2015 NWTCA 2 (CanLII). Both cases raise issues with respect to the Government of the Northwest Territories' obligations under section 23 of the Canadian Charter of Rights and Freedoms. This appeal engages the unique question of the scope of government's discretion regarding admission to the French first language

sur une question unique, soit la portée du pouvoir discrétionnaire du gouvernement en matière d'admission à l'établissement d'enseignement en français langue première de Hay River, l'École Boréale, et la constitutionnalité d'une directive ministérielle qui limitait les pouvoirs en matière d'admission de la Commission scolaire francophone, Territoires du Nord-Ouest. (para 1)

school in Hay River, École Boréale, and the constitutionality of a Ministerial Directive curtailing the Commission Scolaire Francophone, Territoires du Nord-Ouest's (school board's) power with respect to admission. (para 1)

Lire la suite…
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Northwest Territories (Attorney General) v. Association des parents ayants droit de Yellowknife, 2015 NWTCA 2, [2015] N.W.T.J. No. 4 (QL)

Court of Appeal

La question en litige dans le présent appel est celle de savoir si l'École Allain St-Cyr, l'école de la minorité linguistique de Yellowknife, répond aux normes constitutionnelles minimales. La juge de première instance a répondu par la négative à cette question et a ordonné aux appelants de construire d'autres installations pour cette école (Association des parents ayants droit de Yellowknife c Territoires du Nord-Ouest (Procureur général), 2012 CSTN-O 43). (para 1)

The issue in this appeal is whether École Allain St-Cyr, the minority language school in Yellowknife, meets the minimum constitutional standards. The trial judge held that it does not, and ordered the appellants to construct further facilities for the school: Association des parents ayants droit de Yellowknife v Northwest Territories (Attorney General), 2012 NWTSC 43 (CanLII). (para 1)

Lire la suite…
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R. v. Caesar, 2015 NWTCA 4, [2015] N.W.T.J. No. 9 (QL)

Court of Appeal

The appellant appeals his convictions by a jury for sexual assault on two grounds:

(a) his trial was unfair because Crown counsel included inappropriate remarks in his jury address, and

(b) the trial court failed to advise him of his right to apply for a trial in either official language, as required by s. 530(3) of the Criminal Code.

The appeal is dismissed for the following reasons.

[…]

The appellant relies on R. v MacKenzie, 2004 NSCA 10, 221 NSR (2d) 51 and R. v Beaulac, [1999] 1 SCR 768 for the proposition that the failure to comply with s. 530(3) is a fatal error that undermines the trial. The appellant in MacKenzie, however, did have sufficient linguistic proficiency to instruct counsel in French. The breach in that case was substantive. While Beaulac identifies the right to a trial in one's own language as being fundamental in nature, those comments should be read as relating to the substantive right to a trial, not the collateral right to notice of the right to apply for that option. When a trial is held absent compliance with the notice provision in s. 530(3), and there is no indication that the trial was unfair (for linguistic or other reasons), the curative power in s. 686(1)(b)(iii) is available.

The appellant argues that proficiency in either of the official languages is irrelevant, and that every accused is entitled to the notice under s. 530(3). That is true. But while proficiency in the language is not relevant to the entitlement to get notice, it is relevant to remedy. MacKenzie confirms that the finding of a breach of s. 530(3) leads to a consideration of the appropriate remedy. Here there has been no substantive effect on the fairness of the appellant's trial. The Court is faced with the prospect of ordering a new trial, having the appellant elect a trial in English, and requiring the trial court, the witnesses, and the Crown to simply repeat the process. That could only serve to undermine the finality of criminal proceedings, undermine the jury verdict, and trivialize the importance of the right to a trial in one's first language.
(para 1, 8-9)

Read more…

II – LA LÉGISLATION

A – CANADA

Economic Action Plan 2015 Act, No. 1, S.C. 2015, c. 36.

Official Languages Act

144. The definition federal institution in subsection 3(1) of the Official Languages Act is amended by adding the following after paragraph (c.1):

(c.2) the Parliamentary Protective Service,

145. Section 33 of the Act is replaced by the following:

33. The Governor in Council may make any regulations that the Governor in Council considers necessary to foster actively communications with and services from offices or facilities of federal institutions — other than the Senate, House of Commons, Library of Parliament, office of the Senate Ethics Officer, office of the Conflict of Interest and Ethics Commissioner or Parliamentary Protective Service — in both official languages, if those communications and services are required under this Part to be provided in both official languages.

146. (1) The portion of subsection 38(1) of the Act before paragraph (a) is replaced by the following:

38. (1) The Governor in Council may make regulations in respect of federal institutions, other than the Senate, House of Commons, Library of Parliament, office of the Senate Ethics Officer, office of the Conflict of Interest and Ethics Commissioner or Parliamentary Protective Service,

(2) Paragraph 38(2)(b) of the English version of the Act is replaced by the following:

(b) substituting, with respect to any federal institution other than the Senate, House of Commons, Library of Parliament, office of the Senate Ethics Officer, office of the Conflict of Interest and Ethics Commissioner or Parliamentary Protective Service, a duty in relation to the use of the official languages of Canada in place of a duty under section 36 or the regulations made under subsection (1), having regard to the equality of status of both official languages, if there is a demonstrable conflict between the duty under section 36 or the regulations and the mandate of the institution.

147. Subsection 41(3) of the Act is replaced by the following:

(3) The Governor in Council may make regulations in respect of federal institutions, other than the Senate, House of Commons, Library of Parliament, office of the Senate Ethics Officer, office of the Conflict of Interest and Ethics Commissioner or Parliamentary Protective Service, prescribing the manner in which any duties of those institutions under this Part are to be carried out.

148. Subsection 46(1) of the Act is replaced by the following:

46. (1) The Treasury Board has responsibility for the general direction and coordination of the policies and programs of the Government of Canada relating to the implementation of Parts IV, V and VI in all federal institutions other than the Senate, House of Commons, Library of Parliament, office of the Senate Ethics Officer, office of the Conflict of Interest and Ethics Commissioner and Parliamentary Protective Service.

149. Paragraph 93(a) of the Act is replaced by the following:

(a) prescribing anything that the Governor in Council considers necessary to effect compliance with this Act in the conduct of the affairs of federal institutions other than the Senate, House of Commons, Library of Parliament, office of the Senate Ethics Officer, office of the Conflict of Interest and Ethics Commissioner or Parliamentary Protective Service; and

B – CANADA-PROVINCES

New-Brunswick

An Act to Amend An Act Respecting Official Languages, SNB 2015, c 39.

Professional associations

41.1(1) In this section, "professional association" means an organization of persons that, by an Act of the Legislature, has the power to admit persons to or suspend or expel persons from the practice of a profession or occupation or impose requirements on persons with respect to the practice of a profession or occupation.

41.1(2) When a professional association exercises a power referred to in subsection (1), the professional association

(a) shall provide services and communications related to the exercise of that power in both official languages, and

(b) with respect to its power to impose requirements, shall ensure that a person is able to fulfil those requirements in the official language of his or her choice.

41.1(3) No person shall be placed at a disadvantage by reason of exercising his or her right to choose an official language in which to fulfil requirements imposed by a professional association.

41.1 (4) A professional association shall offer its services and communications to members of the public in both official languages.

An Act to Amend the Electoral Boundaries and Representation Act, SNB 2015, c 37.

11(1) Subject to subsections (3), (4), (5) and (6), when dividing the Province into electoral districts, a Commission shall ensure that the number of electors in each electoral district is as close as reasonably possible to the electoral quotient.

11(2) When dividing the Province into electoral districts, a Commission shall consider the effective representation of the English and French linguistic communities in complying with section 3 of the Canadian Charter of Rights and Freedoms.

11(3) In order to comply with its obligations under subsection (2), a Commission may depart from the principle of voter parity as set out in subsection (1).

11(4) A Commission may depart from the principle of voter parity as set out in subsection (1) in order to achieve effective representation of the electorate as guaranteed by section 3 of the Canadian Charter of Rights and Freedoms and based upon the following considerations:

(a) communities of interest;
(b) municipal and other administrative boundaries;
(c) the rate of population growth in a region;
(d) effective representation of rural areas;
(e) geographical features, including the following:
    (i) the accessibility of a region;
    (ii) the size of a region; and
    (iii) the shape of a region; and
(f) any other considerations that the Commission considers appropriate.

11(5) If a Commission is of the opinion that it is desirable to depart from the principle of voter parity when establishing an electoral district, the number of electors in the electoral district shall deviate by no greater than 15% from the electoral quotient.

11(6) If a Commission is of the opinion that it is desirable to depart from the principle of voter parity when establishing an electoral district, in extraordinary circumstances the number of electors in the electoral district may deviate by no greater than 25% from the electoral quotient.

11(7) For greater certainty, "extraordinary circumstances" in subsection (6) includes the effective representation of the English and French linguistic communities.

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Pierre Foucher, « Le statut constitutionnel de la Proclamation royale de 1869 » dans Sophie Bouffard et Peter Dorrington, dir, *Le statut du français dans l'Ouest canadien : la cause carron*, Cowansville (QC), Yvon Blais, 2014*, 177.

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Office of the Commissioner of Official Languages, Audit of Service Delivery in English and French to Air Canada Passengers - Follow-up

Office of the Commissioner of Official Languages, Portrait of Official Languages Groups in the Gatineau Area

Office of the Commissioner of Official Languages, Portrait of Official Languages Groups in the Ottawa Area

New-Brunswick

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Ontario

Office of the French Language Services Commissioner, *Annual Report 2014-2015: A Voice for the Voiceless*.

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