Language Rights and Quebec Bill 101

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INTRODUCTION

IN THE WORDS of Maclean's, Canada's news magazine: “On November 15, 1976, Canada entered a new era. In the year since, the unthinkable has suddenly become normal and the impossible suddenly conceivable.” The Quebec provincial elections of November 1976 brought to power a party whose primary goal is the separation of the Province from the rest of Canada and the establishment of Quebec as a sovereign independent state. The election victory of the Parti Québécois under the leadership of René Lévesque has forced Canadians across the political spectrum to face some difficult questions regarding the essence of Canadian identity and the feasibility of formulae which more effectively could accommodate the unique character of Quebec, the only Canadian province with a predominantly French-speaking population.

1759 brought the defeat by the British of the 74,000 French inhabitants of Quebec. Despite that defeat, the roughly six million descendants of those French colonists have maintained their identity, their culture, and their language on a continent where they are greatly outnumbered by English-speakers. As historian Mason Wade wrote many years ago:

Nowhere in North America is the cult of the past stronger than in French Canada. Quebec's motto is "Je me souviens" (I remember) . . . and this motto is no empty formula. French Canada has a sense of tradition unique in North America, and the French Canadians live in and on the past to a degree which is difficult for English-speaking North Americans to appreciate.

For a period of about a century the proportion of francophones (French-speakers) in the Canadian population remained relatively stable. Despite the large number of immigrants during that period who adopted or already spoke English, francophones maintained their

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1 Fraser, Quebec: End of Year One, Maclean's, Nov. 14, 1977, at 30, 30.
2 Glazier, Separatism and Quebec, CURRENT HISTORY, Apr. 1977, at 154, 154.
3 Id.
4 Id. at 155.
5 Id.
6 Quoted in Glazier, supra note 2, at 156.
proportionate presence in Canada due to a very high birth rate. In the last decades, however, that birth rate has fallen significantly, prompting concern among francophones that their identity was threatened. Recent years have seen an additional influx of immigrants, only a small proportion of whom have chosen to integrate into francophone Canadian society, even in Quebec. Demographers warned that they foresaw a decline in the percentage of francophones in Quebec, and they predicted a particularly marked decline in the Montreal area, the economic and intellectual center of the Province. This is due in part, if not primarily, to the fact that about two-thirds of all immigrants to the Province adopted English over French at least as of a few years ago. Demographer Jacques Henripin advised that in some way immigrants to Quebec should be convinced to choose French and that is precisely what Quebec Bill 101, which was passed by the Quebec legislature in August of 1976, accomplishes. The law, also called the Charter of the French Language, requires that virtually all newcomers to the Province send their children to French-speaking schools, and provides that French is the only official language of the Province. It has easily been the most controversial piece of legislation passed under the Lévesque Government and has precipitated passionate debate both in Quebec and in the rest of Canada.

In this note the factors leading to the enactment of Bill 101 will be explored as will public reaction to its passage. Primary attention will be given to the provisions regarding the language of instruction in the schools and the language of commerce, for it is around these issues in the months immediately following the Bill's approval by the Quebec legislature, that the controversy has centered. The Charter of the French Language is clearly a cornerstone of the Government's legislative program. Language is an important element in shaping the identity of a nation or ethnic group. Indeed, according to a recent poll, when Quebec residents were asked to identify the essence of

8 Id. at 8.
9 Glazier, supra note 2, at 155.
10 Id.
12 Dossiers, supra note 7, at 8.
13 Id.
"Québécois" identity, the language component was second only to heritage.14

When questioned as to whether Bill 101 might prove to be an impediment to independence (apparently in that it would satisfy the desire among Quebecers for "linguistic independence"), Premier Lévesque suggested the significance of that law in his drive for independence:

[W]e have a proverb in French: *L'appétit vient en mangeant*—the more you eat the more appetite you have. I think that anything that is identity building, and is in the process of maturing the community is eventually just a step along the way.... Temporarily there are a lot of unhealthy things that come up or out of a change like that. But on a perspective of a few years, I think we are going to succeed, and it's going to help us build this identity feeling, this national feeling that Quebec has to build because we've been colonial forever.15

I. BILL 101: BACKGROUND

The approach of the Canadian Federal Government to the presence of two major language populations in Canada, French and English, is embodied in the Official Languages Act, which was passed by Parliament in 1969. Its provisions were summarized in a publication of the Office of the Commissioner of Official Languages:

It's a federal law supported by all parties and passed by Canada's Parliament in 1969 to establish the equality of the English and French languages in all federal institutions: that means government departments, Crown corporations and agencies—everything that's federal.... In simple terms it seeks to realize equality of status, rights and privileges for the two languages as languages of service by federal institutions to their "publics" and as languages of work within those institutions. In this light, English and French are the "official" languages of Canada.... Institutional bilingualism—the kind of bilingualism intended by the Official Languages Act—is just the opposite of forcing everyone to be bilingual. It's based on the principle that a bilingual institution is not an institution staffed exclusively with bilinguals, any more than a bilingual country is a country in which every citizen speaks two languages. It assumes that large numbers of individual unilinguals will continue to claim their right to service from federal agencies in the official language of their choice; and that most unilingual federal employees will be able, with widening opportunity, to choose their language of work.... A federal in-

14 What Quebec really wants, sec. 1 (1977) (published by the Toronto Star) [hereinafter cited as What Quebec wants].
15 Interview with René Lévesque, Maclean's, Dec. 12, 1977, at 4, 12.
stitution is thus bilingual when it has the capacity to serve unilinguals of either language and offer such unilinguals the opportunity to work in their official language.\(^{16}\)

It has also been stressed by Keith Spicer, until recently the Commissioner of Official Languages,\(^{17}\) that the long term thrust of Canada's bilingualism policy should center on improved language training in the schools.\(^{18}\) In short, it has been the desire of the Federal Government to create circumstances under which francophones as well as anglophones (English-speakers) could be both served and employed by the Federal Government in their own languages. Indeed the ratio of Federal openings available to unilingual anglophones as against unilingual French-speakers has fallen from ten to one to six to one between 1971 and 1975.\(^{19}\) Parenthetically, it might be asked whether the vigorous pursuit by the Federal Government of a policy of bilingualism, in this period when the unity of Canada is being challenged, would deflect support within Quebec for the independence to which the Parti Québécois aspires. A series of polls commissioned by the Toronto Star suggests that it would not:

[T]he independence or separation movement is not a function of what happens outside Quebec or what conditions or freedoms exist for French-speaking Canadians outside of Quebec. . . . (81%) of those interviewed and a like number of separatists say that if French-speaking Canadians were treated as equals outside Quebec this would not affect their attitude toward the independence of Quebec.\(^{20}\)

Despite the efforts of the Federal Government in the past ten years to make French-speaking Canadians feel more "at home" in all areas of the country, concern continued among francophones that the status of the French language was deteriorating in the only province in which it was the language of the majority.\(^{21}\) (It should be noted that there are significant francophone populations in certain areas outside of Quebec, e.g., sections of Ontario and New Brunswick).\(^{22}\)

\(^{16}\) Twenty Questions . . . and a few more, on Canada's Official Languages (1973) (distributed by the Office of the Commissioner of Official Languages) (unpaginated).

\(^{17}\) Naming language head unlikely until autumn. (Toronto) Globe & Mail, July 28, 1977, at 9 (Ontario ed.).


\(^{20}\) What Quebec wants, supra note 14, at sec. 3.

\(^{21}\) Henripin, supra note 11, at 157.

\(^{22}\) Dossiers, supra note 7, at 8.
The lower birth rate among francophone Quebecers coupled with the flow of immigrants to Quebec and the subsequent integration of large numbers of the immigrants within the English-speaking community of the Province engendered anxiety among many French-speakers that the stream of newcomers would relegate them to minority representation in the Montreal region, where about 40% of the inhabitants of the Province reside.23 Montreal is by far the largest city in Quebec and is its main economic and intellectual center.24 A recent poll of French-speaking Montrealers indicated that fully 76% of the city’s francophones opposed further immigration to the Province.25 Although demographer Jacques Henripin did not foresee the francophone presence in Montreal dropping below 50% by the year 2000, he did predict, several years ago, that French-speakers will represent between 52.7% and 60.0% of the metropolitan population (depending upon the magnitude and composition of future net immigration) at the end of the century compared to 66.4% in 1961.26

Before the drafting of the Quebec language bill, the Minister of State for Cultural Development, Dr. Camille Laurin, set out his government’s views with respect to the state of the French language in Quebec in a position paper which was submitted to the provincial legislature. As is understandable originating with a government committed to Quebec’s independence, Laurin’s paper, entitled La politique québécoise de la langue française (Quebec French-Language Policy) was prefaced by a statement that the status of French cannot be disassociated from the whole question of the “nationality” of Quebec’s economy and culture.27 Laurin asserted that since the 1950’s francophone Quebecers have come to realize that they, like their language, were dominated by others and that their continued existence (as French-speakers apparently) was imperiled.28 He noted the growing importance which had been attached to immigration in Quebec and in many other industrialized societies, as a source of population increase,
in the face of the decrease in birth rates. Dr. Laurin contended that these newcomers to Quebec frequently identify with the English-speaking minority of the Province because anglophones constitute, in effect, the dominant group in Quebec even though native francophones represent about 80% of the population of Quebec. In their desire to improve their position, he asserted, immigrants identify with that community which seems more influential, more powerful. As the language of business and as a language which one must frequently be able to speak as a condition of employment, English understandably provides an attraction to the newcomer. The Minister maintained that only when French becomes the language of work and business, only when Quebec society truly becomes "Frenchified", will immigrants feel it in their best interest to identify with the French-speaking population. (The immigration issue should not be overemphasized, however. Doubtless Laurin would see the increased francization of Quebec business for its own sake as an important step towards the establishment of a more intrinsically francophone Quebec). As for the Federal policy of bilingualism, Laurin called it a "smoke screen" which does not conceal the reality that North America is English-speaking.

Rightly or wrongly, many francophones felt their language was threatened, notably by the integration of newcomers into the anglophone community of Quebec. "How can I tell an English Canadian I'm worried about losing my cultural identity?" asks Montrealer Réal Beland. "He doesn't understand my terms of reference or what I'm talking about because there is nothing in his daily life that forces him to deal with such a reality."

II. BILL 101: THE CHARTER OF THE FRENCH LANGUAGE

Bill 101 replaced another language law, Bill 22, which had been enacted in 1974 under Lévesque's predecessor, Liberal Party Premier Robert Bourassa. The 1974 law, which provoked the wrath of many in the English-speaking community at the time, contained a provision which sought to meet the challenge of immigration by requiring that

19 Id. at 5.
20 Id. at 6; supra note 7, at 31.
31 Politique, supra note 23, at 6-7. Laurin cited 1973 findings which indicated that those that used only French in their work were at the bottom of an income scale on which unilingual English positions were on top and bilingual positions in the middle. Id. at 8.
32 Id. at 7.
33 Id. at 16.
34 What Quebec wants, supra note 14, at sec. 3.
children of immigrants take English-language proficiency exams before being allowed to attend English schools. Although the former law conferred upon French the status of the official language, its provisions were, according to Minister Laurin, intended to make Quebec both institutionally bilingual and at the same time more "Frenchified". Laurin asserted that the law had resulted from the erroneous view that Quebec could at the same time be an administrative division of a bilingual Canada and the national state of the French-Canadians.

In his language policy paper, the Minister delineated the principles upon which his Government's language policy would be based. They included the premise that French in Quebec is not only a means of communication but a way of life (milieu de vie). (It was noted that the French language in Quebec is coincident with a society and that it was the desire of the Government to assure the strength of the language as the basic medium of communication, just as English is in the rest of Canada). A second basic principle by which the Lévesque administration undertook to be governed was that minorities, their languages and their cultures should be respected. Laurin noted that English would always have a position of importance in Quebec; however, he added that it would be normal that Quebecers of all ethnic and cultural origins would be able to express themselves in French, participating fully in a French society in Quebec where French would be the general language of communication.

The policy paper then went into an important examination of the British North America (BNA) Act, which was enacted by the British Parliament and which constitutes the constitution of Canada. The question of English-language rights, as conferred by the BNA Act, is a major element of the debate which was precipitated by the passage of Bill 101. It has been argued by some opponents of the French Language Charter that portions of Bill 101 are unconstitutional. The specific grounds upon which the Charter has been challenged will be discussed below. It should be noted here, however, that the Laurin

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35 A minor rebellion, to be sure—but a rebellion, nonetheless, Maclean's, Sept. 19, 1977, at 20, 20-21 [hereinafter cited as Rebellion]. The law also conferred certain advantages upon businesses which gave priority to the use of French. N.Y. Times, Aug. 26, 1974, at 9, col. 1.
37 Politique, supra note 23, at 19.
38 Id. at 20.
39 Id. at 22.
40 Id. at 23.
position paper asserts that there is no constitutional guarantee with regard to the status of English in Quebec.\textsuperscript{41} The Minister drew special attention to Sections 92(1), 93, and 133 of the BNA Act.\textsuperscript{42} He argued

\textsuperscript{41} Id. at 25.

\textsuperscript{42} Section 92 of the BNA Act, in its relevant part, reads:

In each Province the Legislature may exclusively make Laws in relation to Matters coming within the Classes of Subject next herein-after enumerated; that is to say,—

1. The Amendment from Time to Time, notwithstanding anything in this Act, of the Constitution of the Province, except as regards the Office of Lieutenant Governor.

The text of Section 93 is as follows:

In and for each Province the Legislature may exclusively make Laws in relation to Education, subject and according to the following Provisions:

(1) Nothing in any such Law shall prejudicially affect any Right or Privilege with respect to Denominational Schools which any Class of Persons have by Law in the Province at the Union:

(2) All the Powers, Privileges, and Duties at the Union by Law conferred and imposed in Upper Canada on the Separate Schools and School Trustees of the Queen's Roman Catholic Subjects shall be and the same are hereby extended to the Dissentient Schools of the Queen's Protestant and Roman Catholic Subjects in Quebec:

(3) Where in any Province a System of Separate or Dissentient Schools exist by Law at the Union or is thereafter established by the Legislature of the Province, an Appeal shall lie to the Governor General in Council from any Act or Decision of any Provincial Authority affecting any Right or Privilege of the Protestant or Roman Catholic Minority of the Queen's Subjects in relation to Education:

(4) In case any such provincial Law as from Time to Time seems to the Governor General in Council requisite for the due Execution of the Provisions of this Section is not made, or in case any Decision of the Governor General in Council on any Appeal under this Section is not duly executed by the proper Provincial Authority in that Behalf, then and in every such Case, and as far only as the Circumstances of each Case require, the Parliament of Canada may make remedial Laws for the due Execution of the Provisions of the Section and of any Decisions of the Governor General in Council under this Section.

Section 133 provides:

Either the English or the French Language may be used by any Person in the Debates of the Houses of the Parliament of Canada and of the Houses of the Legislature of Quebec; and both those Languages shall be used in the respective Records and Journals of those Houses; and either of those Languages may be used by any Person or in any Pleading or Process in or issuing from any Court of Canada established under this Act, and in or from all or any of the Courts of Quebec.

The Acts of the Parliament of Canada and of the Legislature of Quebec shall be printed and published in both of those Languages.
that, although Section 133 allowed the use of both English and French in the Quebec National Assembly (as the provincial legislature is called) and required that all laws be published in English and French in Quebec, Section 92(1) allows Quebec to circumvent that provision. That section, it is contended, authorizes Quebec to amend its provincial constitution in any respect as long as the role of the Lieutenant-Governor is not altered. Most jurists, according to the policy paper, were of the opinion that, with regard to the Province of Quebec, Section 133 constitutes a portion of the provincial constitution and is therefore subject to amendment by the Quebec National Assembly. With respect to language rights in the field of education, the Minister expressed the view that no constitutional provision guaranteed instruction in the English language or the existence of an English-language school system. Section 93 of the BNA Act applied only to parochial schools in Laurin's view.

Having concluded that the anglophones of Quebec are accorded no constitutional rights with respect to their language, Laurin nonetheless stressed that Quebecers had always shown respect for the minorities of the Province. It was noted that without such an attitude any legal guarantee would be tenuous.

Bill 101 must be seen in its context. The motivations underlying the enactment of Bill 101 are more easily understood if one is cognizant of the demographic and social issues discussed above: the concerns which immigration has engendered among many francophones, the inferiority to which French has traditionally been relegated on the Montreal economic scene, and the belief that it is simply natural that French be preeminent in all spheres of activity in Quebec.

Using the policy paper of Minister Laurin as a starting point, the Parti Québécois Government began the legislative process of enacting a French language charter to replace Bill 22 of the Bourassa Government, which, as noted above, the Lévesque administration considered inadequate. Public hearings, in which various interested parties participated, were begun on the Charter, then known as Bill 1, however, before being completed, the hearings were halted by the Quebec Government, which then introduced a revised version known as Bill.


43 Politique, supra note 23, at 25.
44 Id.
45 Id.
Although Lévesque insisted that the legislative maneuver had been blown out of proportion, the tactic was strongly criticized in a (Toronto) Globe and Mail analysis by William Johnson:

The Government had been too cute by half when it tried a trick to end committee hearings on Bill 1 without enduring protracted debate. It declared that Bill 1 was dead, and proceeded to introduce into the National Assembly a supposedly brand new bill, now called Bill 101. The trick boomeranged. The opposition argued procedural points and brought motions of censure against the Government. The press condemned the Government's high-handed way with the rules of the game. Most embarrassing of all, the Speaker of the National Assembly ruled out of order a motion by the Government to withdraw Bill 1. This means that there are now two almost identical language bills on the order paper, Bill 1 and Bill 101.

Further legislative discord followed. A bid by Liberal members of the National Assembly to include a provision allowing all English-speaking newcomers to the Province to send their children to English-speaking schools was defeated in committee. Cultural Development Minister Camille Laurin declared that, although he recognized that anglophone Quebeckers should be able to retain their schools, they did not have the right to maintain their numbers through "Canadian, American, British, Australian or other contributions." Laurin did, however, suggest reciprocal educational agreements with the other nine Canadian provinces under which a newcomer to Quebec would be accorded the right to education in English in exchange for reciprocal French-language schooling for francophones living outside of Quebec. (At this writing, apparently, no province has proved amenable to such an arrangement).

Finally, on August 26, 1977, the Charter of the French Language, Bill 101, became law in Quebec. The Charter is a broad linguistic blueprint for insuring preeminence for French as the language of

47 Id.
49 Bid to allow English-speaking newcomers into English schools defeated by PQ vote, (Toronto) Globe & Mail, Aug. 9, 1977, at 9.
50 Id.
51 Id.
business, government, and education. In its preamble, the Charter reads:

WHEREAS the French language, the distinctive language of a people that is in the majority French-speaking, is the instrument by which that people has articulated its identity;

Whereas the Assemblée Nationale du Québec recognizes that Québécois wish to see the quality and influence of the French language assured, and is resolved therefore to make French the language of Government and the Law, as well as the normal and everyday language of work, instruction, communication, commerce and business;

Whereas the Assemblée Nationale du Québec intends in this pursuit to deal fairly and openly with the ethnic minorities, whose valuable contribution to the development of Québec it readily acknowledges;

Whereas, the Assemblée Nationale du Québec recognizes the right of the Amerinds [Indians] and the Inuit [Eskimos] of Québec, the first inhabitants of this land, to preserve and develop their original language and culture;

Whereas these observations and intentions are in keeping with a new perception of the worth of national cultures in all parts of the earth, and of the obligation of every people to contribute in its special way to the international community;

Therefore, Her Majesty, with the advice and consent of the Assemblée Nationale du Québec, enacts as follows:

[The first six provisions of the Charter are especially noteworthy.]

1. French is the official language of Québec.
2. Every person has a right to have the civil administration, the health services and social services, the public utility firms, the professional corporations, the associations of employees and all business firms doing business in Québec communicate with him in French.
3. In deliberative assembly, every person has a right to speak in French.
4. Workers have a right to carry on their activities in French.
5. Consumers of goods and services have a right to be informed and served in French.
6. Every person eligible for instruction in Québec has a right to receive that instruction in French.

\[54\] Id.

\[55\] Id. §§ 1-6.
Bill 101 makes French the language of the legislature and the courts.\textsuperscript{56} The issue has been raised as to the constitutionality of this provision.\textsuperscript{57} (The constitutional challenge will be discussed below). The language Charter provides that only the French version of statutes and regulations is official,\textsuperscript{58} although an English translation is also to be printed.\textsuperscript{59} In a move that doubtless has significant implications for Quebec business, the National Assembly included a provision requiring artificial persons to communicate with judicial and quasi-judicial bodies in French and to use that language in pleading before those bodies unless all the parties to the suit agree to use English.\textsuperscript{60} Only the French-language versions of the judgments of the courts of Quebec are considered official.\textsuperscript{61} (The Charter with respect to a number of its provisions, provides for a transitional period after which the law takes effect. It is provided, for example, that the use of French in court communications and pleadings will not be required until January 3, 1979).\textsuperscript{62}

Title I Chapter IV of the Charter makes French the language of the civil administration, in certain instances to the exclusion of any other.\textsuperscript{63} Chapter V, which deals with semi-public bodies, requires that public utilities, professional corporations,\textsuperscript{64} and members of such professional corporations insure that their services are available in French.\textsuperscript{65} It requires, \textit{inter alia}, that the professional corporations use French in their written communications with their membership, although an individual member may be addressed in his own language.\textsuperscript{66} Though

\textsuperscript{56} Id. § 7.
\textsuperscript{58} 1977, Bill 101 § 9.
\textsuperscript{59} Id. § 10.
\textsuperscript{60} Id. § 11.
\textsuperscript{61} Id. § 13.
\textsuperscript{62} Id. § 209.
\textsuperscript{63} Id. §§ 14-29. Section 29 provides that traffic signs be written in French only, though symbols or pictograms can be used to complement or replace the French inscriptions. Ironically, the Government is completing a job which had been carried out on a smaller scale by private citizens at their own initiative. Once-bilingual “stop” signs on which the English has been covered with spray paint are a fairly common sight in Quebec.
\textsuperscript{64} The term “professional corporation” (\textit{ordre professionnel} in the official French version) is not defined in the Bill, however it seems to refer to bar associations, medical associations, and the like.
\textsuperscript{65} 1977, Bill 101 § 30.
\textsuperscript{66} It should be stressed that, pursuant to § 89, “[w]here this act does not require
provision is made for the issuance of temporary permits to some individuals under conditions delineated in the Bill, in general:

[T]he professional corporations shall not issue permits in Québec except to persons whose knowledge of the official language is appropriate to the practice of their profession. Proof of that knowledge must be given in accordance with the regulations of the Office de la langue française [a language agency which the Bill established], which may provide for the holding of examinations and the issuance of certificates.67

Two other fields of activity to which the Charter directs attention are the commercial sector and the area of education. In order to appreciate the broad scope and exacting detail of the law and its accompanying regulations in the business field it will be necessary to examine the text of the Charter. The reader should be reminded of the importance which Cultural Development Minister Laurin attached to making French the language of business.68 One might question, however, whether such minutiae as the equal availability of boxed games in French or the language in which the name of a business firm is expressed is the legitimate or necessary concern of the Quebec Government. Does the choice of language community into which an immigrant chooses to integrate or the desired pervasive French character with which the Lévesque Government seeks to imbue the Province as an end in itself turn on the availability of “Monopoly” in French? The Charter requires that:

[ex]cept as provided by regulation of the Office de la langue française, it is forbidden to offer toys or games to the public which require the use of a non-French vocabulary for their operation, unless a French version of the toy or game is available on no less favourable terms on the Québec market.69

Subject to exceptions provided by regulation, Bill 101 also requires that:

[ev]ery inscription on a product, on its container or on its wrapping or on a leaflet, brochure or card supplied with it, including the directions for use and the warranty certificate, must be drafted in

the use of the official language exclusively, the official language and another language may be used together."

67 1977, Bill 101 § 35.
68 Politique, supra note 23, at 31, 32.
69 1977, Bill 101 § 54.
French. This rule applies also to menus and wine lists. The French inscription may be accompanied with a translation or translations, but no inscription in another language may be given greater prominence than that in French.\textsuperscript{70}

Excepted by regulation are the inscriptions on the containers of products of a scientific, medical or pharmaceutical nature. The exception is available only if French instructions appear on the wrapping or on a leaflet or brochure and so long as the container has a capacity of less than five cubic centimeters or the contents have a weight of less than a hundred grams.\textsuperscript{71} (It should be noted that, throughout the Language Charter, another language may be used in conjunction with French where exclusive use of the official language is not specifically required).\textsuperscript{72}

Subject to regulations to the contrary and exceptions provided in the Bill itself, signs, posters and advertising must be solely in French.\textsuperscript{73} The provision does not apply to messages of a religious, humanitarian, political, or ideological character so long as the activity is of a non-profit nature, nor does it apply to advertising in a non-francophone news medium.\textsuperscript{74} Among the other exceptions, firms employing up to four persons, including the employer, may erect signs in French and another language so long as the French inscriptions are given at least equal prominence.\textsuperscript{75} Although the law provides that some billboards and illuminated signs must have been made unilingually French at the time of the passage of the Charter in August, 1977, other signs need not be changed until as late as September of 1981.\textsuperscript{76}

Of great importance in the Charter is the provision for issuance of "francization certificates" which attest that the holders of the certificates are undertaking to make French the language of business at all levels of their firm.\textsuperscript{77} Issued by the Office de la langue française, which Bill 101 itself establishes, the certificate is to be required (in general only by firms employing fifty or more persons) by such time as is provided by regulation.\textsuperscript{78} Although special consideration is to be

\textsuperscript{70} Id. § 51.
\textsuperscript{71} Reg. 77-488, 26 Aug. 1977, at § 6 (effective July 3, 1978).
\textsuperscript{72} 1977, Bill 101 § 89.
\textsuperscript{73} Id. § 58.
\textsuperscript{74} Id. § 59.
\textsuperscript{75} Id. § 60.
\textsuperscript{76} Id. §§ 210, 211.
\textsuperscript{77} Id. § 141.
\textsuperscript{78} Id. §§ 100, 136, 141, 151. The Bill stipulates that the regulations must require francization certificates of firms subject to the certificate requirement no later than
given to the relations which a firm has outside of Quebec, and to persons due to retire, as well as to other exceptional circumstances, francization programs are intended to generalize the use of the official language in internal communications, to promote the knowledge of French on the part of the board of directors, etc. Once a francization certificate is required of a firm, Bill 101 provides that, in addition to costs, a fine of $100 to $2000 is to be imposed for each day that business is transacted without the certificate.

An appeal lies from a decision of the Office refusing, suspending or cancelling a francization certificate. The appeal is brought before an appeals committee established by the Government for such purpose, following the procedure it may establish. The appeals committee consists of three members appointed by the Government.

Apparently no appeal is available from the decision of the appeals committee. There would therefore, it seems, be no remedy for a business whose case was disposed of in a capricious or unjust manner at the appeals stage. Because the committee is appointed by the Quebec Government, it might tend to reflect the ideological orientation of the Government with respect to language rights.

December 31, 1983. A set of regulations which have already been issued require the acquisition of a certificate as early as eight months from September 7, 1977 for certain businesses and as late as thirty-nine months from that date, depending on the nature of the business. Reg. 77-489, 26 Aug. 1977.

According to Canadian Broadcasting Corporation radio news reports monitored by this writer during the week of January 9, 1978, a major row has just erupted in Quebec over the impact of Bill 101 on business in the Province. It is reported that Sun Life of Canada, the largest insurance company in the country, is seriously contemplating moving its headquarters from Montreal to Toronto. Among its reasons the company cites its difficulties in recruiting new people from outside the Province because these new employees would have to send their children to French-language schools (unless they were only temporarily in Quebec). No regulations, apparently, have been drafted yet governing the degree to which companies with head offices in Quebec (and business ties elsewhere) will have to implement francization programs. It seems that the regulations might exempt some companies entirely from the francization requirements. Sun Life, nevertheless, also cited the francization provisions of Bill 101 among its reasons for the contemplated move from Montreal.

The Charter also sets up an appeals committee to hear disputes involving the educational provisions. With respect to those appeals hearings, the Bill explicitly states that the decisions are final (§ 83), however the finality of an appeal over the availability of a francization certificate is not explicitly stipulated.
In the field of labor relations the following provisions are noteworthy:

An employer is prohibited from dismissing, laying off, demoting or transferring a member of his staff for the sole reason that he is exclusively French-speaking or that he has insufficient knowledge of a particular language other than French. . . . An employer is prohibited from making the obtaining of an employment or office dependent upon the knowledge of a language other than the official language, unless the nature of the duties requires the knowledge of that other language. The burden of proof that the knowledge of the other language is necessary is on the employer, at the demand of the person or the association of the employees concerned or, as the case may be, the Office de la langue française. The Office de la langue française has the power to decide any dispute.83

It is undoubtedly as a result of the Charter provisions concerning the language of instruction in Quebec schools that Bill 101 has incurred the most vociferous criticism. Subject to some very significant exceptions, all elementary and secondary school children in the Province must attend French-language schools.84 In derogation of the general rule, the following exemptions are of greatest importance:

[T]he following children, at the request of their father and mother, may receive their instruction in English:

(a) a child whose father or mother received his or her elementary instruction in English, in Québec [emphasis added];

(b) a child whose father or mother, domiciled in Québec on the date of the coming into force of this act (August 26, 1977), received his or her elementary instruction in English outside Québec;

(c) a child who, in his last year of school in Québec before the coming into force of this act, was lawfully receiving his instruction in English, in a public kindergarten class or in an elementary or secondary school;

(d) the younger brothers and sisters of a child described in paragraph c.85

Regulations promulgated pursuant to Section 85 of the Language Charter permit the education in English of the children of several

83 1977, Bill 101 §§ 45, 46.
84 Id. §§ 72, 73.
85 Id. §§ 73.
categories of temporary residents of Quebec. In general, however, only the children of a parent who received his or her education in English are eligible under the regulation.

III. REACTION TO BILL 101

So far, it is not an offense to think in English here, but, like all English-speaking Quebecers, I have nightmares. I see my nine-year-old being tossed in the unilingual slammer, having copped three years of eating alphabet soup whose letters were proven to be without [French] accents grave or aigu. Treason.

—Mordecai Richler, Montreal novelist

It should by now be clear to the reader that the Charter of the French Language constitutes a truly comprehensive blueprint for the enhancement of the francophone character of Quebec. Reaction to Bill 101 understandably varies according to whom one listens to. Surprisingly, though, there are indications that considerable opposition exists even among large numbers of French-speaking Quebecers, the group whose status and cultural security the Charter is designed to promote. These sentiments were reflected in the results of two polls published soon after the Charter became law in Quebec. A study by sociologist Marvin Goldfarb pegged anti-Charter opinion among Quebec francophones at 56%. A survey by the Centre de recherche sur l'opinion publique, using a considerably larger sample, found support for Bill 101 among 59% of the French-speakers questioned. The magnitude of the incongruity of the results is clearly puzzling, but one conclusion which can be drawn is that support among francophones for the French Language Charter is far from universal. It should be added that in many of the smaller towns of the Province the issue doesn't appear to be a major concern. Jean Yves Poisson, president of the Chamber of Commerce of Asbestos, Quebec, remarked that Bill 101 simply doesn't significantly affect the people of his town. Asbestos is about 95% French-speaking. Even in Danville, Quebec, where English speakers comprise about a quarter of the town's

87 Id.
88 Richler, Oh! Canada! ATLANTIC MONTHLY, Dec. 1977, at 41, 49.
90 Id.
91 Language has low priority, PQ minister learns on tour, (Toronto) Globe & Mail, Sept. 19, 1977, at 11.
92 Id.
residents, opposition is apparently minimal. The mayor contended that it was primarily some of the French-Canadians of Danville who opposed the legislation because they had wanted to send their children to English-language schools.

The Federal Government, however, was far from reticent. The approach of the Canadian Government seemed two-pronged. First, the Trudeau Government undertook to support constitutional challenges to the Charter which were brought by private citizens. Second, Prime Minister Trudeau began exploring possible constitutional revisions in the area of language rights. The Minister for Federal-Provincial Relations in the Federal Cabinet, Marc Lalonde, defended a decision by the Prime Minister not to initiate a direct federal challenge of Bill 101. Though it was felt in the Federal Government that the Language Charter abridged certain fundamental liberties, it was decided not to take the issue to the Canadian Supreme Court or to exercise the powers of reservation or disallowance for which the BNA Act provides. Minister Lalonde argued that such an action would have been counterproductive. "What people must realize is that we are waging a broad political war [presumably against Quebec's separation] and this is just a particular battle in the war." He contended that a challenge by private citizens in the lower courts of Quebec would be "much more damaging" to the Lévesque Government, pointing out that three of the nine Canadian Supreme Court justices are francophones, whereas most of the judges in Quebec are French-speaking. Lalonde subsequently committed the Canadian Government to intervene as a party to all private challenges. As intervener in a suit which was brought by a group of Montreal lawyers, the Federal Government was prepared to argue that Bill 101 conflicts with Section 133 of the BNA Act. That section, according to the Government, provides that both English and French may be used in the debates of the Quebec National Assembly and that both should be used in the records and journals of

93 Id.
94 Id.
97 Id.
the Quebec legislature. It also stipulates that either language can be used in any pleading or process before the Quebec courts.\textsuperscript{100} Ironically, in the opinion of the Federal Justice Minister, the two portions of the Charter which are apparently the most controversial, the provisions dealing with business and education, could not easily be challenged.\textsuperscript{101} Prime Minister Trudeau remarked that the most effective means of opposing Bill 101 was to work to defeat the Parti Québécois (PQ) Government.\textsuperscript{102}

The other major thrust of the Trudeau Government in the area of language rights involved a proposal by the Prime Minister to amend the BNA Act to guarantee the right of parents throughout Canada to have their children educated in the language of their choice (but presumably only English or French) where numbers warranted it.\textsuperscript{103} Trudeau suggested that Quebec be allowed to maintain more restrictive standards under which English schooling would be available only to children of parents at least one of whom had himself been educated in English, and apparently only if that education was had in Canada.\textsuperscript{104} The Prime Minister's proposed constitutional amendment would alter Bill 101 only in that it would admit children of Canadians coming from other provinces to English-language schools in Quebec.\textsuperscript{105} Trudeau stated several weeks later that Quebec would not be given special status under the amendment.\textsuperscript{106} It was hoped, he said, that Quebec would "opt in" to the provisions of the amendment when it felt that it could relax the restrictions imposed by Bill 101. He added, however, that the option to be bound by the amendment only later would be available to all of the provinces.\textsuperscript{107} Referring to a conference of provincial premiers in St. Andrews, New Brunswick at which Lévesque pushed for bilateral agreements with the other provinces on education rights, Trudeau argued in a letter to the Quebec Premier:

If [my proposed] constitutional guarantees were established . . . , it seems to me that the result would be to achieve and to give force to very much the result for which you argued at St. Andrews . . . . The

\textsuperscript{100} Id. The reader will recall the arguments propounded by Quebec's Minister Laurin on this matter as they appear in Section II of this article.
\textsuperscript{101} Ottawa won't test language bill, (Toronto) Globe & Mail, Oct. 7, 1977, at 1.
\textsuperscript{102} Id.
\textsuperscript{103} (Toronto) Globe & Mail, Sept. 9, 1977, at 1, col. 1.
\textsuperscript{104} (Toronto) Globe & Mail, Sept. 10, 1977, at 1, col. 3.
\textsuperscript{105} Rebellion, supra note 35, at 21.
\textsuperscript{106} Ottawa won't test language bill, (Toronto) Globe & Mail, Oct. 7, 1977, at 1-2.
\textsuperscript{107} Id.
capacity of Quebec to limit access for other categories of people to English-language schools could be preserved within the framework of the present constitution so long as the Government of Quebec considers it necessary.108

The initial response of the Quebec Premier was unequivocal. René Lévesque declared that Quebec would never give up jurisdiction over such an important interest as provincial control over education.109 By the end of September 1977, it was clear that the PQ Government position was not rigid. Quebec's Education Minister Jacques-Yvan Morin agreed to the suggestion that all of the provinces adopt educational policies which would, when practicable, be designed to provide for educational opportunity in English as well as in French when the need warrants it.110 Such a commitment is susceptible to differing interpretations, however.

The true battleground over language rights in education has been in the Montreal area. In a policy which, in effect, constituted open defiance of the education provisions of Bill 101, the Quebec Association of Protestant School Boards asked the thirty-three boards who are members of the association to admit the child of any parent who requests such admission to an English-language school, whether or not Bill 101 permits the child's education in English.111 The Association's president said that his organization was not urging defiance of the law by member boards, but was simply requesting that "they respect the human right of every parent to educate his or her child in the language of their choice."112 The clarification seemed to suggest a distinction without a difference. Quebec Government estimates made soon after the start of the 1977-8 school year indicated that 2100 students on Montreal Island had illegally enrolled in English-language schools.113 Lévesque called the situation one of "civil disobedience that cannot be tolerated" and remarked that "eventually, measures will have to be taken to counter it."114 A spokesman for Education Minister Morin announced that the Quebec Government would not attempt to physically remove those students who were registered illegally.115 School

108 (Toronto) Globe & Mail, Sept. 9, 1977, at 1, col. 1.
109 (Toronto) Globe & Mail, Sept. 10, 1977, at 1, col. 3.
110 (Toronto) Globe & Mail, Sept. 28, 1977, at 8, col. 2.
112 Id.
113 (Toronto) Globe & Mail, Sept. 9, 1977, at 8, col. 5.
114 (Toronto) Globe & Mail, Sept. 7, 1977, at 1, col. 1.
115 (Toronto) Globe & Mail, Sept. 8, 1977, at 2, col. 2.
boards, however, would lose the $1200 in provincial grants, which is provided the school systems on a "per student" basis, for each pupil illegally enrolled. The spokesman declared:

We're not a totaliation state here. We won't send the army into the schools. For the time being what the school boards have been doing is illegal, but we won't be taking any approach of force. . . . The French population of Quebec is watching all this these days. Those anglophones are the same ones who used to be telling francophones during the days of colonization that we had to respect the law even when it didn't suit us.

The spokesman admitted that the loss of the grants would not significantly affect the school systems, but he anticipated that this would not be the case in five to ten years if the illegal enrollments increased. Furthermore, a leaving certificate issued for an illegal student would not be recognized by provincial institutions. "They may hide them out in the toilet for three or four days but that won't help." Unlike public schools, private schools do not receive provincial subsidies as a matter of right. Although most private English-speaking high schools in the Province reportedly receive very substantial portions of their budgets from the Provincial Government, the Education Minister noted that those high schools which had not accepted provincial aid would not be affected by the education provisions of Bill 101.

Bill 101 also provoked defiance of the Quebec Government in northern Quebec among the Province's Eskimo population. A major demand was that the Inuit (Eskimos) be allowed to increase the use of French at their own rate in their dealings with the Quebec Government. (English has historically been their second language). A group of northern Quebec Inuit pulled down the Quebec provincial flag and asked Provincial officials to leave. Leaders of the Quebec

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116 Id.
117 Id.
118 Id.
119 Id.
120 Id.
122 Id.
123 Rebellion, supra note 35, at 20.
125 Rebellion, supra note 35, at 20.
Inuit even prevented distribution of provincial welfare checks. At the outset of the trouble, the Provincial Government dispatched a platoon of riot police, but the twenty-five man riot squad was later withdrawn. It should be noted that opposition to Bill 101 was not universal among Quebec's native peoples. A Cree spokesman expressed satisfaction with Quebec Government assurances that the use of English would be permitted to continue in exchange for a Cree commitment to learn French in the long term.

There are strong signs of insecurity among the anglophone population of Quebec. Doubtless this stems not only from anglophone opposition to the language Charter but also from the political uncertainty which the Parti Québécois victory brought to Quebec. In a poll of English-speaking Quebecers carried out before the actual passage of Bill 101, 58% of the anglophones surveyed said they had thought or were thinking of leaving Quebec. That same proportion of those questioned said that their chances of leaving the Province were "extremely good" or "possible" rather than "not very likely" or "impossible". The publisher of an English language suburban Montreal weekly made these comments before Bill 101 was formally passed by the National Assembly:

They say anglophones are welcome but their actions make them out as liars. I'm not being hysterical when I say there is a possibility that their language legislation and other matters are part of a large program planned by psychiatrists such as Dr. Laurin and Dr. Lazure (Denis Lazure, Quebec minister of health) to force the English to relocate. I am sure they feel they cannot build the social democratic French state they want with such a large English population in the Montreal area. Montreal is the spirit, the sparkle, the

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126 Id.
127 Id.
130 Estimates in 1977 indicated, for example, that between ten and twenty-five per cent of the 115,000 Jews who lived in Montreal when the Parti Québécois came to power would have left Quebec by the end of 1977. (Toronto) Globe & Mail, Sept. 19, 1977, at 1, col. 2. (According to 1971 findings made by Statistics Canada, the Jews are the most bilingual anglophone group in Canada. Id.).
131 What Quebec wants, supra note 14, at sec. 1.
132 Id.
essence, the soul of Quebec. It's the thing everyone is fighting for. Right now the sparkle is gone.133

In the analysis of a public opinion survey conducted after the PQ election victory, it was concluded:

An interesting aspect of . . . [the] question of who is a Quebecois and who is not is that while at least 70% of French Quebeckers regard [French-speaking] Jews, Italians and Greeks as Quebecois, far fewer proportions—only around 50%—of English Quebeckers see these groups in this light. What the English and other groups obviously fear is that no matter what language they speak—English or French—they are in danger of being judged on ethnic grounds in the new Quebec and opportunities are likely to be closed to them because they are not of French origin.134

IV. THE CONSTITUTIONALITY OF BILL 101

Although the constitutional ramifications of Bill 101 have already been touched on in this note, recent developments make it imperative that the issue be explored further. Within days before this writing, the chapter of the Charter which deals with the language of the courts and the legislature was held unconstitutional by the Chief Justice of the Quebec Superior Court. There are undoubtedly many months of legal wrangling ahead as the case proceeds through the appeals process. It is nonetheless instructive to examine the issues raised by the case as it now stands.

The feeling in Canadian Federal Government circles since the passage of Bill 101 has reportedly been that the most controversial sections of the legislation, those dealing with education and business, could not easily be challenged.135 It should be recalled that Minister Laurin had argued in his policy paper that nowhere in the BNA Act was the existence of an English-language school system guaranteed in Quebec:136 Section 93 of the BNA Act,137 which deals with provincial jurisdiction in the field of education, simply safeguards certain rights of parochial schools.138 Laurin also insisted that the BNA Act did not compel Quebec to maintain a bilingual judiciary and legislature. The

133 Id. at sec. 6.
134 Id. at sec. 4.
136 Politique, supra note 23, at 25.
137 VAN LOON, supra note 42.
138 Politique, supra note 23, at 25.
Minister argued that, although Section 133 provided for the use of English as well as French in the courts and legislature of Quebec, Section 92(1) allowed the Province to amend its provincial constitution of which, he contended, Section 133 is a part. There is clearly great disagreement as to Laurin's latter position. Indeed, it is precisely Laurin's contention that Quebec has the right to modify the provisions of Section 133 that the Quebec Superior Court rejected in the recent constitutional challenge.

The general contours of Bill 101 as it deals with the language of the courts and the Quebec National Assembly were outlined in Part II of this note, however it would be helpful here to quote some of the important passages from the provisions which were under attack in the Superior Court case:

7. French is the language of the legislature and the courts in Québec.

8. Legislative bills shall be drafted in the official language. They shall also be tabled in the National Assembly, passed and assented to in that language.

9. Only the French text of the statutes and regulations is official.

10. An English version of every legislative bill, statute and regulation shall be printed and published by the civil administration.

11. Artificial persons addressing themselves to the courts and to bodies discharging judicial or quasi-judicial functions shall do so in the official language, and shall use the official language in pleading before them unless all the parties to the action agree to their pleading in English.

13. The judgments rendered in Québec by the courts and by bodies discharging judicial or quasi-judicial functions must be drawn up in French or be accompanied with a duly authenticated French version. Only the French version of the judgment is official.

On its face Section 133 of the BNA Act clearly conflicts with Bill 101. The section explicitly provides:

Either the English or the French Language may be used by any Person in the Debates of the Houses of the Parliament of Canada and of the Houses of the Legislature of Quebec; and both those

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139 Id.
140 (Toronto) Globe & Mail, Jan. 25, 1978, at 1, col. 2.
Languages shall be used in the respective Records and Journals of those Houses; and either of those Languages may be used by any Person or any Pleading or Process in, or issuing from any Court of Canada established under this Act, and in or from all or any of the Courts of Quebec.

The Acts of the Parliament of Canada and of the legislature of Quebec shall be printed and published in both those Languages.142

It has generally been believed that the motivation of the drafters of Section 133 was twofold. The provisions guaranteed certain anglophone rights in Quebec and safeguarded francophone rights on the Federal level.143 This reciprocity was stressed in the Superior Court opinion in the recent constitutional challenge to Bill 101. In 1949, when the British Parliament conferred on Canada the right to amend the BNA Act, it expressly provided that that right did not give the Canadian Parliament the power to affect existing constitutional guarantees as to the use of English and French.144 In a study conducted for the Canadian Royal Commission on Bilingualism and Biculturalism, Claude-Armand Sheppard surveyed the arguments in support of Quebec's right to amend Section 133. As already noted, Section 92(1) allows Quebec to amend its provincial constitution. Section 133, it is asserted, constitutes part of Quebec's constitution and can therefore be amended by the National Assembly of the Province.145 Proponents of this view point out that the British Parliament specifically imposed limitations on the exercise of provincial power as it relates to electoral districts (Section 80) and parochial schools (Section 92)146 in Quebec.147 It is argued that, if the Parliament in London had intended to limit the jurisdiction of the Quebec legislature in the area of language rights, it would have explicitly provided such a limitation in the text of the BNA Act, as it had done with respect to other matters in Sections 80 and 92.148

In contrast, Gérald A. Beaudoin, dean of civil law at the University of Ottawa, noted that many jurists were of the belief that Quebec

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142 Reprinted in VAN LOON, supra note 42.
144 Id. at 102.
145 Id. at 103.
146 Quoted supra note 42.
147 SHEPPARD, supra note 143, at 103.
148 Id. at 104.
could not unilaterally alter the provisions of Section 133.\textsuperscript{149} Among the proponents of this position, it was felt that, although Section 92(1) allows Quebec to amend its own constitution, Section 133 does not fall within the ambit of the Section 92(1) provisions. The provincial constitutional powers, it is argued, are delineated in Part V of the BNA Act, and it is only with respect to the provisions of Part V that Section 92(1) applies.\textsuperscript{150} The language guarantees of Section 133 are not located in Part V. It has also been argued that, whereas the prohibition against Federal modification of language guarantees is explicit, the corresponding limitation on Quebec's powers to amend is implicit.\textsuperscript{151}

In his recent court decision arising out of the challenge to the constitutionality of the legislative and judicial provisions of Bill 101, Quebec Superior Court Chief Justice Jules Deschênes held that the French Language Charter was unconstitutional in that it violated Section 133 of the BNA Act.\textsuperscript{152} The suit was brought by Peter M. Blaikie, Roland Durand, and Yoine Goldstein, three Montreal-area attorneys.\textsuperscript{153} In his opinion Deschênes asserted:

\[\text{[P]rotection of the use of English in Quebec is an integral part of the constitutional provision which ensures the protection of French in Ottawa. The two aspects are beyond the reach of any federal or provincial legislative intervention. . . . In other words, Article [Section] 133 is part of the constitution of Canada before being part of the constitution of Quebec. In view of this conclusion, the major proposition submitted by the attorney-general of Quebec must fall: Article 133 is indivisible. . . . It must not be forgotten that Article 133 was the fruit of a joint political decision [an apparent reference to the Quebec Conference which preceded the enactment of the BNA Act]; if one of the parties wishes to change it it is by the medium of another decision of the same nature that it must be arrived at.}\textsuperscript{154}

In finding unconstitutional Title I Chapter III of the Charter, that portion which deals with the language of the courts and legislature,


\textsuperscript{150} \textit{Id}.

\textsuperscript{151} Patenaude, \textit{De la capacité constitutionnelle du Québec à légiférer en matière de la langue officielle}, 3 \textit{REVUE DE DROIT UNIVERSITÉ DE SHERBROOKE} \textbf{61}, 70 n.25 (1972).


\textsuperscript{153} (Montreal) \textit{Gazette}, Jan. 25, 1978, at 1, col. 5.

\textsuperscript{154} \textit{Id}.
Deschênes noted that "[t]he court believes that the federal and provincial aspects of Article 133 make up both sides of the same medal. . . . Article 133 is indivisible." In his conclusion the Chief Justice wrote: "If it is true that circumstances have changed . . . , that spirits have evolved and that some no longer accept being governed by texts which were there at the birth of this country, it is up to them to implement their convictions into the Canadian political reality."

The Deschênes ruling raises the possibility that all of the laws which were enacted by the Quebec National Assembly since the passage of Bill 101 are invalid in that they were sanctioned in French only. Indeed, the validity of Bill 101 as a whole was questioned for the same reason. When the Charter of the French Language was passed by the National Assembly, only the French version was signed by the Queen's representative in Quebec, Lieutenant-Governor Hughes Lapointe. The PQ Government admitted that passage of Bill 101 should have been according to pre-Charter procedure. Previously an English version of Quebec legislation was sanctioned along with the French text. Lapointe has since signed an English version of the Charter.

In the opinion of this writer, the significance of the Deschênes decision has been somewhat exaggerated. It is true that the validity of the National Assembly legislation passed since the enactment of the Charter may have been temporarily thrown into doubt. A pro forma vote on a bilingual text of legislation passed in French only might be necessary. It is also possible that the legislative and judicial provisions of Title I Chapter III of Bill 101 may be found unconstitutional by the Canadian Supreme Court. One should bear in mind, however, that that chapter was of rather peripheral consequence. Even if the National Assembly were compelled to revise Chapter III, the major thrust of the French Language Charter would remain unaffected. There is apparently no chance in the foreseeable future that the sections dealing with education and business will be struck down.

155 (Toronto) Globe & Mail, Jan. 25, 1978, at 9, col. 3.
156 Id. at 9.
157 (Montreal) Gazette, Jan. 25, 1978, at 1, col. 5.
159 (Toronto) Globe & Mail, Feb. 3, 1978, at 1, col. 1. The act of sanctioning refers to the formal approval of legislation by the Lieutenant-Governor.
160 Id.
161 Two years ago the constitutionality of largely similar educational provisions contained in Quebec Bill 22 was upheld by none other than Judge Deschênes. (Montreal) Gazette, Jan. 25, 1978, at 7, col. 5.
Although he refused to discuss future Quebec Government policy in the event that the Canadian Supreme Court agrees with Deschênes, Quebec Minister of Cultural Development Camille Laurin told the press that Bill 101 remains in effect.\textsuperscript{161} His frustration over the Deschênes opinion was evident, however:

If the present constitution of Canada does not even make possible this minimum of dignity and normality, the conclusion leaps out—it's the Canadian constitution itself which is abnormal and outdated. If the federal straightjacket can stifle Quebec's evolution toward francisation desired by the very great majority of its citizens, that will be another of innumerable examples which demonstrate once again the urgency of ridding ourselves of this straightjacket in order to give ourselves a political regime attuned to our identity and our aspirations.\textsuperscript{163}

V. CONCLUSION

René Lévesque spoke about Bill 101 in two recent interviews with news magazines. In \textit{Newsweek} he stressed the economic aspect of the legislation:

Within the present federal system, we cannot change economic development as fast as we want. We can't use coercion. So we must promote our own language to overcome English dominance in our economic life, which is tantamount to a colonial setup.\textsuperscript{164}

To Canada's \textit{Maclean's} Lévesque commented:

Look, I instinctively don't like this idea of having to legislate about language. I know it's inevitable, until further notice, which means until Quebec is a normal self-governing society. Then, I don't know. I hope the future is going to take care of itself in another way because once you're a normal society, I don't think you require that kind of legislation.\textsuperscript{165}

Despite the acrimonious exchanges between the Government of Quebec and the Federal Government one area in which, at this writing, the two sides are near agreement involves arrangements which would give Quebec some authority over immigration to the Province.\textsuperscript{166}

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\item \textsuperscript{161} (Toronto) \textit{Globe & Mail}, Jan. 26, 1978, at 11, col. 2.
\item \textsuperscript{162} Id.
\item \textsuperscript{163} 'We're A Satellite', \textit{NEWSWEEK}, Dec. 5, 1977, at 54, 55.
\item \textsuperscript{164} \textit{Interview with René Lévesque}, \textit{MACLEAN'S}, Dec. 12, 1977, at 4, 12.
\item \textsuperscript{165} \textit{Les Nouveaux Canadiens}, \textit{MACLEAN'S}, Oct. 3, 1977, at 20, 20; The 'war' has been suspended until further notice, \textit{MACLEAN'S}, Dec. 12, 1977, at 18, 18.
\end{itemize}
The Lévesque Government seeks to make immigration to Quebec reflect the French character of the Province.\textsuperscript{167} It remains to be seen whether this accommodation is a sign that French Quebec can find a place in the Canadian Confederation which would satisfy the concerns that many francophones have had concerning the future of their culture and language.\textsuperscript{168} Language, certainly in Quebec,\textsuperscript{169} is a major ingredient in a people's self-definition. In the view of Premier Lévesque, French can only be the real official language of Quebec when his goal of Quebec sovereignty has been secured.\textsuperscript{170}

\textbf{CLIFFORD SAVREN*}

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\item Surely the drive for Quebec independence is not fueled solely by francophone concerns of demographic insecurity. A study, published by the Toronto Star under the title \textit{What Quebec really wants}, concluded that it is economics and power, and not cultural preservation, that are the areas of primary concern to Quebec separatists. What Quebec wants, \textit{supra} note 14, at sec. 1.
\item Id. at sec. 1.
\item Interview with René Lévesque, Maclean's, Dec. 12, 1977, at 4, 12.
\item * J.D. Candidate, Case Western Reserve University, 1979.
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