

COMMENTS

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SOME ASPECTS OF QUEBEC'S OFFICIAL LANGUAGE ACT

I. INTRODUCTION

In July 1974, the legislature of Quebec passed an Official Language Act,¹ declaring French to be the sole official language of the province. Although the majority of Quebec's population speaks French, there is a significant minority of English-speaking Canadians living in the province who will be affected.² This Act, commonly known as Bill 22, will also affect businesses, particularly American corporations with subsidiaries operating in Quebec. Bill 22 has sparked a controversy in Canada with respect to both its constitutionality and the power of the Province of Quebec to pass such legislation.

Since no cases thus far have tested Bill 22, it is the purpose of this comment to survey some of the conflicting issues of its constitutionality together with the basic structure of the Act. The possible effects on two of the specific areas covered by the Bill, education and labor and business, will also be considered.

II. STRUCTURE AND CONSTITUTIONALITY

In examining Bill 22, the factors possibly influencing its provisions and aims must be considered. Thus, it must be viewed against the background of the past and current English-French language conflict. Further, existing federal constitutional provisions are relevant. Specifically, any conflicts with constitutional provisions dealing with language must be resolved in order to sustain its constitutionality.

A. *The Language Problem*

Since the majority of French-speaking Canadians are concentrated in Quebec,³ the other Canadian provinces are not as greatly exposed to the French language and French-Canadian culture.

1. Official Language Act, Bill No. 22, 30th Leg., 2d Sess. (July 31, 1974) [hereinafter referred to as Official Language Act]. All quotations from the Official Language Act are from the English version.

2. According to the 1971 census, there are 4.9 million francophones, or French-speaking Canadians and 0.8 million anglophones, or English-speaking Canadians in Quebec. 1972 CANADA Y.B. 1369-70.

3. According to the 1971 census, there are a total of 5.8 million francophones in Canada, of whom 4.9 million are concentrated in Quebec. The rest reside mainly in New Brunswick and eastern Ontario. *Id.*

Thus, since English is the dominant language in the major part of Canada, many Canadians fail to comprehend the controversy over French language rights.⁴ This dominance of the English language has persisted, even in Quebec, in the upper echelons of business management and, until recently,⁵ the federal government.⁶ Moreover, this dominance of the English language threatens the continued existence of the French language in North America and the corresponding French-Canadian culture.⁷ In order to preserve this heritage from being lost and to ensure preeminence of the French language in at least one province, Quebec has passed the Official Language Act, Bill 22.⁸

But, the British North America Act (B.N.A. Act),⁹ Canada's major constitutional component,¹⁰ provides that the province of Quebec use both French and English in specific situations.¹¹ Section 133 of the B.N.A. Act permits the use of either English or French in legislative debates and court proceedings. It further states that both "shall" be used in the legislative records, and that statutes "shall be printed and published" in both languages. These same

4. See Paradis, *Language Rights in Multicultural States: A Comparative Study*, 48 CAN. B. REV. 651, 681-82 (1970).

5. As a result of Canada's Official Languages Act, (STAT. CAN. 1969, c. 54), declaring both English and French to be the country's official languages, there is more need for francophones in government positions as many services must be provided in both languages.

6. McWhinney, *French-Canadian Nationalism and Separatism and Contemporary Canadian Federalism*, 21 JAHRBUCH DES ÖFFENTLICHEN RECHTS DER GEGENWART 571, 573 (1972). This situation has resulted in a career handicap for francophones in those sectors.

7. The danger of assimilation presented Quebec by its English-speaking neighbors, the United States and the other Canadian provinces which isolate French-speaking Quebec, is accentuated by the decline in recent years of the once high birthrate of French-Canadians.

8. The preamble of the Official Language Act begins:

WHEREAS the French language is a national heritage which the body politic is in duty bound to preserve, and it is incumbent upon the government of the province of Quebec to employ every means in its power to ensure the pre-eminence of that language and to promote its vigour and quality

9. BRITISH NORTH AMERICA ACT OF 1867, 30 & 31 Vict., c. 3 [hereinafter noted as BRITISH NORTH AMERICA ACT].

10. Unlike the United States Constitution, Canada's constitution is contained in not one, but several documents.

11. BRITISH NORTH AMERICA ACT, 30 & 31 Vict., c.3, s. 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 those Languages.

language provisions of section 133 are similarly applicable to the federal government. Section 133, however, singles out Quebec and the federal government and thus does not apply to any other province. The result is that Quebec is placed in a unique position, vis-à-vis the other provinces, in regard to the constitutionality of language legislation.

B. *The Constitutionality of Language Legislation*

Since Quebec holds such a singular position respecting the use of language in that province, the major issue raised by Bill 22 is whether Quebec can validly pass *any* legislation regulating language. Language was not expressly enumerated by the B.N.A. Act as a separate area of jurisdiction for either Parliament or the provinces. Thus, their jurisdiction to legislate on this subject seems to be merely incidental to that of other powers specifically granted by the B.N.A. Act.¹² These areas of legislative competence are enumerated in section 91 (those of the federal government) and sections 92 and 93 (those of the provincial governments).¹³ Furthermore, there is no specific provision prohibiting legislation with respect to language. However, aside from whatever power the other provinces may possess in regard to language legislation,¹⁴ section 133 serves to

12. de Mestral & Fraiberg, *Language Guarantees and the Power to Amend the Canadian Constitution*, 12 MCGILL L.J. 502, 505 (1966-1967).

13. BRITISH NORTH AMERICA ACT, 30 & 31 Vict., c. 3, s. 92, gives the provinces exclusive legislative powers in the following pertinent areas:

4. The Establishment and Tenure of Provincial Office and the Appointment and Payment of Provincial Officers

8. Municipal Institutions in the Province

11. The Incorporation of Companies with Provincial Objects

13. Property and Civil Rights in the Province

15. The Imposition of Punishment by Fine, Penalty, or Imprisonment for enforcing any Law of the Province made in relation to any Matter coming within any of the Classes of Subjects enumerated in this Section

16. Generally all Matters of a merely local or private Nature in the Province.

Id. s. 93 provides, in pertinent part:

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

14. At least two other provinces have passed Official Language Acts. Official Language of New Brunswick Act, STAT.N.B., c. 14 (1969) (declaring French and English as the official

limit the power of Quebec in this area.¹⁵

The power to amend section 133 itself was expressly denied Parliament by section 91(1) of the B.N.A. Act.¹⁶ This fact illustrates the general purpose of section 133, to "entrench"¹⁷ French language rights at the federal level and English language rights in Quebec.¹⁸ However, although section 133 itself is entrenched in Canada's constitution, it has not proved sufficient to ensure broad language rights.¹⁹

Bill 22 does not appear to be inconsistent with section 133 on its face.²⁰ Section 15 of the Official Language Act allows either

languages of New Brunswick); English Language Act, STAT.M., c. 14 (1890) (declaring English to be the official language of Manitoba).

15. Section 133 of the British North America Act similarly limits the power of the federal government.

16. BRITISH NORTH AMERICA ACT, 30 & 31 Vict., c. 3, s. 91(1), *as amended*, 13 Geo. 6, c. 81, s. 1 provides:

... the exclusive Legislative Authority of the Parliament of Canada extends to all Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,-

(1) The amendment from time to time of the Constitution of Canada, except as regards matters coming within the Classes of subjects by this Act assigned exclusively to the Legislatures of the Province, or as regards rights or privileges by this or any other Constitutional Act granted or secured to the Legislature or the Government of a province, or to any class of persons with respect to schools, or as regards the use of the English or the French language

17. This term refers to the inability to abrogate such provisions by subsequent legislation and has special constitutional significance in Canada.

18. de Mestral & Fraiberg, *supra* note 12, at 514 & n.55. See also statements by Cartier in PARLIAMENTARY DEBATES ON THE SUBJECT OF THE CONFEDERATION OF THE BRITISH NORTH AMERICA 945 (8th Provincial Parliament of Canada, Quebec 1865). Since Parliament cannot amend this section, as it deals with the use of English and French, it thus reserves language rights to French for the French minority throughout Canada and to English for the English minority in Quebec, in those situations it covers.

19. Paradis, *supra* note 4, at 675 states that "[I]t is clear that the courts have not been inclined to extend language rights beyond the ambit of section 133"

The very purpose of the Royal Commission on Bilingualism and Biculturalism, a fact finding body appointed in 1963, was to investigate the state of language and cultural rights in Canada. This Commission concluded that the vitality of the language is essential for preservation of a culture, and any attempt to provide for cultural equality is primarily an attempt to provide for linguistic equality. See also J.N. LYON & R. ATKEY, CANADIAN CONSTITUTIONAL LAW IN A MODERN PERSPECTIVE (1970).

20. The Official Language Act, Bill No. 22, s. 15, 30th Leg., 2d Sess. (July 31, 1974) specifically provides that either French or English may be used in addressing the chair in formal discussions. See note 21 *infra* for the text of section 15. This permits either language to be used in the legislative debates as provided for in section 133 of the British North America Act. The Official Language Act also provides in section 8 (see note 22 *infra*) that official texts and documents may be accompanied by an English version. This complies with the mandate of section 133 that the records and journals and the acts of the legislature be kept in both languages.

French or English to be used in formal discussions within the public administration.²¹ Sections 6 and 7 provide that official texts and documents are to be "drawn up" in French, while section 8 permits, but does not require, these to be accompanied by an English version.²² But, the failure to require that documents and texts be also published in English may contravene the provision of section 133 which states that such texts "shall" be printed and published in both languages.²³

On the other hand, Bill 22 arguably conflicts with interpretations of section 133. There is a strong historical argument that "printing and publication" of statutes has always been interpreted in practice as implying "enactment."²⁴ According to section 2 of Bill 22, however, where a discrepancy between the French and any English version cannot be satisfactorily resolved, the French version of the Quebec statute will prevail.²⁵ If section 133 truly means that

There is no specific provision in the Official Language Act denying use of English in court proceedings where section 133 specifies that either language may be used. In fact, section 16 seems to imply that English will continue to be used, as it requires judgments pronounced in English to be translated.

21. Official Language Act, Bill No. 22, s. 15, 30th Leg., 2d Sess. (July 31, 1974), states: Remarks addressed to the chair at formal discussions held within the public administration may be made in the French language or in the English language, at the option of the persons addressing the remarks.

22. *Id.* s. 6 provides: "Official texts and documents emanating from the public administration must be drawn up in French."

Id. s. 7 states:

The following are deemed official:

(a) texts and documents emanating from the public administration and declared authentic by law because of their public nature, particularly the writings contemplated in article 1207 of the Civil Code;

(b) authorizations, notices and other documents of the same kind emanating from the public administration.

Id. s. 8 provides:

Official texts and documents may be accompanied with an English version; in such a case, only the French version is authentic, subject to the exceptions provided in this act.

23. *Supra* note 11.

24. de Mestral & Fraiberg, *supra* note 12, at 511, n.43:

The historical argument is stronger in that "printing and publication" of statutes has always been interpreted as implying enactment. Thus Parliament and Quebec have always enacted both English and French texts since 1867. When Manitoba abolished the use of French in its laws and legislature it was simply stated that laws "need only be printed and published in the English language." (STAT.M. 1890, c.14, s. 1).

25. Official Language Act, Bill No. 22, s. 2, 30th Leg., 2d Sess. (July 31, 1974), provides:

Where any discrepancy cannot be satisfactorily resolved by the ordinary rules of interpretation, the French text of the statutes of Quebec prevails over the English text.

Quebec statutes must be "enacted" in both languages, this would imply that both texts must be equally official.²⁶ Thus, if this argument is correct, Bill 22 would be in conflict with section 133 of the B.N.A. Act, and therefore, unconstitutional.

Because Canada has enacted an Official Languages Act,²⁷ the validity of Bill 22 in the face of that legislation may be challenged. However, that Act applies only to federal agencies and arms of the federal government.²⁸ With a few possible exceptions,²⁹ Bill 22 restricts its application to provincial matters ordinarily within the enumerated powers of provincial legislatures.³⁰ Since the two acts operate in different areas, the question of whether an Act of Parliament is paramount to a provincial act in the same legislative area does not really arise.

It is clear that Bill 22 must be reconciled with section 133 of the B.N.A. Act in order to withstand constitutional muster. Canada's Official Languages Act does not appear to be an obstacle to Bill 22's constitutionality. Thus, if it can withstand the challenge of section 133, the individual provisions of Bill 22 are arguably within the enumerated powers delegated to the provinces by the B.N.A. Act.³¹

III. EFFECTS

The result of Bill 22's attempt to preserve the French-Canadian heritage for Quebec is detailed in the Act's provisions in the specific areas of the public administration and utilities, labor and business, education, and the Bill's implementation. Because of the internal

26. Before enactment of the Official Language Act, statutes of Quebec were enacted in both languages and both were equally valid. When a discrepancy arose, the "ordinary rules of interpretation" were applied to resolve the conflict.

27. Official Language Act, STAT. CAN. 1969, c. 54. This Act was passed in 1969 as an outcome of the recommendations of the Royal Commission on Bilingualism and Biculturalism. It puts English and French on an equal level for all federal purposes.

28. For example, Official Language Act, Bill No. 22, s. 2, 30th Leg., 2d Sess. (July 31, 1974), states:

The English and French languages are the official languages of Canada for all purposes of the Parliament and Government of Canada, and possess and enjoy equality of status and equal rights and privileges as to their use in all the institutions of the Parliament and Government of Canada.

29. *E.g.*, immigrants. See notes 46-48 *infra* and accompanying text.

30. See note 13 *supra*. The federal system of Canada is different with regard to the respective powers of the federal government and provinces, from that of the United States. In the United States, the federal government is one of limited powers, with the residue reserved for the states. In Canada, both the provincial and the federal systems are governments of enumerated powers.

31. *Id.*

nature of the specific provisions dealing with public administration and utilities, they are primarily of local interest to citizens of Quebec. Thus, these will be discussed no further than those few aspects touched upon in connection with other portions of the Bill and its constitutionality. Details of implementation will similarly not be dealt with in depth, being inherently procedural in nature.

A. Education

Education is one of those areas of legislative power specifically given to the provinces by section 93 of the B.N.A. Act.³² Accordingly, chapter V of Bill 22 provides that French is to be the language of instruction in Quebec.³³ Since 1917, the courts have consistently held that this legislative power in the field of education is absolute with respect to language.³⁴ In *Trustees of the Roman Catholic Separate Schools v. Mackell*,³⁵ the Privy Council, in affirming the decision of the Supreme Court of Canada, recognized rights in education based on religious belief, but not a classification according to language.³⁶ Thus, no rights in education based on language grounds have been recognized.

Formerly, the citizens of Quebec could choose whether their children would be educated in English or in French.³⁷ This preserved a "right" to be educated in English. Bill 22 abrogates this right for the English-speaking minority. Children will now be assigned to schools, not based upon their parents' choice, but rather upon the results of tests given to determine whether each child has sufficient knowledge of a language of instruction.³⁸ Since the courts have not

32. BRITISH NORTH AMERICA ACT, 30 & 31 Vict., c. 3, s. 93. See note 13 *supra*.

33. Official Language Act, Bill No. 22, s. 40, 30th Leg., 2d Sess. (July 31, 1974), provides in pertinent part:

The language of instruction shall be French in the schools governed by the school boards, the regional school boards and the corporations of trustees.

34. de Mestral & Fraiberg, *supra* note 12, at 507-08 & n.25.

35. [1917] A.C. 62 (P.C.) (Ont.).

36. *Id.* at 69. Lord Buckmaster writing for the court stated:

[T]he class of persons to whom the right or privilege is reserved must, in their Lordships' opinion, be a class of persons determined according to religious belief, and not according to race or language.

37. Act to Promote the French Language in Quebec, c. 9 (1969), *repealed by* Official Language Act, Bill No. 22, s. 112, 30th Leg., 2d Sess. (July 31, 1974).

38. Official Language Act, Bill No. 22, s. 41, 30th Leg., 2d Sess. (July 31, 1974), states in pertinent part:

Pupils must have a sufficient knowledge of the language of instruction to receive their instruction in that language.

Id. s. 43 provides, in part:

held that there is a constitutional right to an education in one particular language, this provision does not appear to be unconstitutional.

Schools with English as the language of instruction are preserved to a certain extent.³⁹ They can be phased out, however, but only where the school district has received the permission of the Minister of Education.⁴⁰ This permission can be given only where "the number of pupils whose mother tongue is English and who are under the jurisdiction of such body warrants it."⁴¹ Since there is a substantial minority of English-speaking Canadians in Quebec,⁴² most English-language schools are not really in danger of being phased out.

Despite the continuance of English instruction, the curricula of those schools must ensure their pupils' education in spoken and written French.⁴³ Those receiving instruction in French are ensured instruction in English as a second language. In this way, chapter V appears to recognize that English is an important national language, providing exposure to that language and culture to those

The Minister of Education may however, in accordance with the regulations, set tests to ascertain that the pupils have sufficient knowledge of the language of instruction to receive their instruction in that language

39. *Id.* s. 40, states in relevant part:

The school boards, regional school boards and corporations of trustees shall continue to provide instruction in English.

An existing or future school board, regional school board or corporation of trustees cannot validly decide to commence, cease, increase or reduce instruction in English unless it has received prior authorization from the Minister of Education, who shall not give it unless he considers that the number of pupils whose mother tongue is English and who are under the jurisdiction of such body warrants it; in the case of cessation or reduction of such instruction, the Minister shall also take into account, when giving his authorization, the number of pupils otherwise qualified.

Thus, they are preserved to the extent of the Minister's regulated discretion.

40. *Id.*

41. *Id.*

42. *Supra* note 2.

43. Official Language Act, Bill No. 22, s. 44, 30th Leg., 2d Sess. (July 31, 1974), provides:

The curricula must ensure that pupils receiving their instruction in English acquire a knowledge of spoken and written French, and the Minister of Education shall adopt the necessary measures to that effect.

The Minister of Education must also take the necessary measures to ensure instruction in English as a second language to pupils whose language of instruction is French.

It seems that this could result in requiring the attainment of a certain degree of proficiency in French for all pupils, while perhaps only a minimal exposure to English of those being taught in French. The same concern was expressed by Député Harry Blank in the legislative debates on Bill 22. 15 JOURNAL DES DÉBATS DE L'ASSEMBLÉ NATIONALE, 30th Leg., 2d Sess. 1799 (1974).

French-speaking children who otherwise may not come into contact with it.⁴⁴ This chapter assures that, in the near future, all Quebec children will have the "working knowledge" of the French language required by other chapters of the Bill, particularly for promotions in the public administration and business in Quebec.⁴⁵

A significant problem may arise, however, in regard to immigrants, many of whom first arrive in Canada by way of Quebec. Section 41, which provides that pupils must have sufficient knowledge of the language of their instruction, also provides that those children who do not have an adequate knowledge of either French or English must receive their instruction in French.⁴⁶ Most immigrants to Canada, desiring the best opportunities for their children, will prefer that they obtain fluency in English. In fact, since World War II, immigrants to Canada have generally chosen English as their second language.⁴⁷ Although instruction in English will be available in the French language schools, it is not clear from section 44 how great a proficiency in English is required to be taught in those schools. Even if instruction sufficient to impart fluency is provided, however, immigrant children may still be handicapped. For those who already know their mother tongue, or whose family speaks it in the home, English will be their third language. Thus, some resentment by immigrants is foreseeable.

It also may be possible for the federal government to prevent the operation of section 41 with regard to immigrants. Section 95 of the B.N.A. Act gives the provinces power to make laws in relation to immigration as long as they are not repugnant to any act which

44. Perhaps if other provinces followed this example, this would give Canadians more of an awareness of the language problem, and thus help to solve it. This would be especially applicable to western provinces where there is little or no contact with the French-Canadian culture or language.

45. Official Language Act, Bill No. 22, s. 14, 30th Leg., 2d Sess. (July 31, 1974), provides in pertinent part:

No one shall be appointed, transferred or promoted to an administrative office in the public administration unless his knowledge of the official language is appropriate to the employment sought.

46. *Id.* s. 41, provides in relevant part:

Pupils who do not have a sufficient knowledge of any of the languages of instruction must receive their instruction in French.

There is an exception in section 40, providing that Indians and Inuits may receive instruction in their own language. This avoids a possible constitutional conflict since section 91(24) of the B.N.A. Act gives Parliament exclusive legislative power over Indians.

47. McWhinney, *The "Quiet Revolution" in French Canada and its Constitutional Implications for Canadian Federalism*, 19 JAHRBUCH DES ÖFFENTLICHEN RECHTS DER GEGENWART 331, 333 (1970).

Parliament passes on the same subject.⁴⁸ The language of section 95, however, actually reads "Immigration into" which may serve to limit the application of this section to the act of immigration itself, and not extend to subsequent education of those who have immigrated.

Generally, the provisions of Bill 22 with respect to education appear to be fair, considering that the Bill's main objective is to make French the dominant language. It allows those who are fluent in English to continue to receive instruction in English, yet provides that they must also gain a working knowledge of French. If the Bill is successful in meeting its goals, such knowledge will be necessary in the future. It also provides exposure to English for French-speaking Canadians, some of whom may never have learned English. If these measures are applied in good faith, they can go far to bring the languages and people together, perhaps breaking down the chauvinism that exists in both the English- and French-speaking Quebecois.

B. Labor and Business

The second major area in which Bill 22 will have broad effects is the field of labor and business. It will be here that those effects will be most immediately noticeable. Most of the provisions in chapter IV seem to be directed toward the achievement of two goals: increasing the francophone representation in business and management, thus eliminating incidents of discrimination against those who do not speak English, and increasing the exposure of each citizen to the French language.

In order to achieve these goals, firms are urged to adopt a "francization" program.⁴⁹ Such a program is primarily concerned with the language used by Canadian businesses. Internal communica-

48. BRITISH NORTH AMERICA ACT, 30 & 31 Vict., c. 3, s. 95, provides in relevant part: . . . and it is hereby declared that the Parliament of Canada may from Time to Time make Laws in relation to Agriculture in all or any of the Provinces, and to Immigration into all or any of the Provinces; and any Law of the Legislature of a Province relative to Agriculture or to Immigration shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of the Parliament of Canada.

Thus, the laws Parliament makes concerning immigration are paramount to any laws on the same subject made by Quebec.

49. Official Language Act, Bill No. 22, s. 26, 30th Leg., 2d Sess. (July 31, 1974), provides in pertinent part:

The Lieutenant-Governor in Council shall, by regulation, provide for the issue of certificates to business firms attesting that they have adopted and are applying a francization program in accordance with sections 29 and 39 or that the status of the French language within their firms is already that envisaged by such programs.

tions and instructions, and communications to outside persons, such as customers and Quebec stockholders, must be in French.⁵⁰ In implementing such a program, affirmative steps must be taken to ensure francophone presence in management positions.⁵¹ Those firms which establish such a program or are already operating sufficiently in French, will be issued a certificate by the *Régie de la langue française*, the enforcement body for Bill 22.⁵² Although establishment of a francization program is voluntary,⁵³ the certificate will be necessary in order to receive benefits from the provincial government.⁵⁴ Therefore, practically all businesses desiring to receive or

50. *Id.* s. 29, states in relevant part:

The francization programs . . . must . . . relate especially to:

- (a) the knowledge that the management and the personnel must have of the official language;
- (b) the francophone presence in management;
- (c) the language in which the manuals, catalogues, written instructions and other documents distributed to the personnel must be drawn up;
- (d) the provisions that the business firms must make for communication in French by the members of their personnel, in their work, among themselves and with their superior officers;
- (e) the terminology employed

Id. s. 39 provides in relevant part:

The francization program . . . must . . . also relate to:

- (a) the firm name of the business;
- (b) the language in which the firm must carry on its day-to-day dealings with its customers and other persons;
- (c) the language in which notices, communications, certificates and forms intended for the public, or for the shareholders or members of the firm resident in the province of Quebec, must be drawn up.

These sections are now implemented by regulations for francization programs. The specifics of such programs are given in the Official Language Act (22), Basic Principles of the Regulations, Div. 6, Reg. 6.03 *et seq.* [hereinafter cited as Regs.], which are reproduced in Appendix A, *infra*.

51. Official Language Act, Bill No. 22, s. 29, 30th Leg., 2d Sess. (July 31, 1974) and Regulations, Reg. 6.06.

52. Official Language Act, Bill No. 22, s. 26, 30th Leg., 2d Sess. (July 31, 1974). *Id.* s. 55 states in relevant part: "The functions of the Régie are: . . . (h) to issue the certificates contemplated in sections 26 and 28 . . ." The Régie is established to oversee implementation and enforcement of Bill 22. Chapter I of Title IV provides for a terminology committee whose duty is to standardize terms by making an inventory of technical expressions and recommending terms for those areas where none exist. One is reminded by these two bodies, of the *Académie française* which has existed in France for centuries to formalize the rules of grammar and spelling, and strives to keep pure the French language in that country.

53. However, section 27 permits the Régie to request any business firm to undertake a francization program. The Régie will help a business establish a francization program under authority to do so by section 55(g) and Regs. 7.02, Appendix A, *infra*.

54. Official Language Act, Bill No. 22, s. 28, 30th Leg., 2d Sess. (July 31, 1974), provides in pertinent part:

In addition to the requirements of any other act, business firms must have the

continue to receive these awards will be affected.⁵⁵

Section 25⁵⁶ provides that French will be the language of labor relations in accordance with the Labour Code.⁵⁷ It appears that this reference to the Labour Code involves only section 51⁵⁸ of that Code, the sole provision dealing with language. This section provides merely that either party to collective bargaining may demand that an agreement be drawn up in both the French and the English languages.

Further, all firms must adopt a French name, or be denied juridical personality.⁵⁹ This name may be accompanied by an English name, which cannot figure more prominently than the French on any signs or written material.⁶⁰ This provision will have a significant effect upon those firms with non-French names. There will naturally be the costly inconvenience of printing all new stationery, invoices and order forms.⁶¹ More importantly, however, many businesses have established and relied heavily upon their names for

certificates contemplated in section 26 in order to be entitled to receive the premiums, subsidies, concessions or benefits from the public administration determined by regulation, or to make with the government the contracts of purchase, service, lease or public works

55. There may be serious effects on small business. Those businesses which decide not to undertake a francization program may still be requested to do so, although they do not normally receive the government benefits for which it is necessary. Even if they never have to implement such a program, since most businesses will do so and thus receive the certificate for this, some future forms of discrimination or stigmatization may result, more closely affecting the small business.

56. Official Language Act, Bill No. 22, s. 25, 30th Leg., 2d Sess. (July 31, 1974), states: French is the language of labour relations, to the extent and in accordance with the terms and conditions provided in the Labour Code.

57. LABOUR CODE, REV. STAT. Q., c. 141 (1964).

58. *Id.* s. 51 provides that, "Either party may demand that the agreement be drawn up in both the English and French languages."

59. Official Language Act, Bill No. 22, s. 30, 30th Leg., 2d Sess. (July 31, 1974), provides in pertinent part:

Juridical personality shall not be conferred unless the adopted firm name is in the French language. Firm names may nevertheless be accompanied with an English version.

60. *Id.* s. 32 states:

The French firm names must stand out or at least figure no less prominently in the texts and documents than their English versions.

Id. s. 35 provides:

Public signs must be drawn up in French or in both French and another language, except within certain limits provided by regulation. This section also applies to advertisements in writing, in particular to bill-boards and electric signs.

61. *Id.* s. 33 provides in relevant part:

Contracts pre-determined by one party, contracts containing printed standard clauses, and printed order forms, invoices and receipts must be drawn up in French.

reputation and goodwill. In such cases the French name, or a French and English name together, may impair the public recognition of a business.

Further contact with French is provided in two other areas where persons come into everyday contact with language: advertisements and product labels.⁶² All public signs, billboards and advertisements must be in French,⁶³ although they may also include another language. Those placed by members of an association or ethnic, cultural, or religious group for the sole purpose of communicating with its members need not be in French.⁶⁴ However, a transition period of five years is given to comply with this section.⁶⁵

Product labels, directions supplied with products, and warranty certificates must also be printed in French.⁶⁶ Although section 34 does not specifically provide that these may be accompanied by an English version, the implementing regulations make clear that the requirement is met if the information also appears in a second language.⁶⁷ Because of daily contact with such items, these provisions should perform an educative function.⁶⁸

The total effect of these provisions can be significant upon firms doing business in Quebec. The Civil Code of Quebec provides that the laws of the province relating to persons, including corporations, apply to all persons present in the province, even to those not domi-

62. See note 60 *supra*. Official Language Act, Bill No. 22, s. 34, 30th Leg., 2d Sess. (July 31, 1974), provides in relevant part:

Products must be labelled in French, except within certain limits provided by regulation; the same applies to the warranty certificates and directions supplied with products, and to menus and wine lists.

63. See note 60 *supra*. According to the implementing regulations, private signs within the limits of an individual's residence need not be in French if he is not engaged in a trade.

64. Official Language Act (22), Basic Principles of the Regulations. The Language of Public Signs (Section 35) [hereinafter cited as Sec. 35 Regs.] (b), which are reproduced as Appendix C, *infra*. However, the regulations state that a sign in a language other than French may not be accompanied with a non-French version.

65. Official Language Act, Bill No. 22, s. 37, 30th Leg., 2d Sess. (July 31, 1974), states:

Owners of bill-boards or electric signs erected before July 31, 1974 shall have a delay of five years from that date to comply with section 35.

66. *Id.*, s. 34. See note 62 *supra*. The implementing regulations make exceptions for certain local and trial products. Official Language Act (22), Basic Principles of the Regulations, The Language of Labels, Warranty Certificates and Directions Supplied With Products, and of Menus and Wine Lists (Section 34) [hereinafter cited as Sec. 34 Regs.] 3, which are reproduced as Appendix C, *infra*.

67. Sec. 34 Regs. 2, Appendix B, *infra*. Certain religious and imported products are also exempt from the labelling requirement.

68. Section 34 will probably not greatly affect the products market in Quebec, since most products in the province are currently marketed with French and English labels.

ciled in Quebec.⁶⁹ Large Canadian corporations and Canadian subsidiaries of United States corporations which are accustomed to conducting business in English, and whose management may be nearly 100 percent anglophone, will have to take francization measures to continue to operate in Quebec, or to establish any new operation in Quebec. Businesses which do not have to be located in the province may simply decide that it would be easier to move to Ontario or New Brunswick than to comply with the provisions of the Bill. Even if most businesses would not simply move out of the province completely, these measures may keep a new company or expansion of an existing company from moving into Quebec in the first instance, resulting in stifling the province.

IV. CONCLUSION

Viewing its provisions in these two important areas, it seems that the immediate aims of Bill 22 are to define French as the official language of the province, and to promote its learning and use so that it comes into the everyday experience of all citizens, thus eliminating the superiority of English in certain sectors. If Bill 22 survives its major challenge to constitutionality, it may still cause much resentment by English-speaking Canadians, both in Quebec and outside of it. Aside from the possible conflicts with section 133 as to language of enactment of statutes, it appears that the legislature of Quebec was careful to keep within the bounds of its powers as enumerated under the B.N.A. Act.⁷⁰ Moreover, most of the provisions seem to be clearly within these powers.

It may be necessary to take such an apparently drastic measure as declaring French the sole official language in Quebec in order to prevent that language from being virtually overtaken by English, and thus to preserve an important element of Canada's cultural identity. In addition, if the Act is successful, the resulting situation

69. QUEBEC CIVIL CODE (17th ed. 1967) Art. 6 states:

"The laws of Lower Canada relative to persons, apply to all persons being therein, even to those not domiciled there"

Moreover, Regs. 3.01, Appendix A, *infra*, states that the regulations apply to all private businesses which operate in Quebec. Article 6 of the Civil Code also provides that as long as a person retains domicile in Quebec, he remains subject to the laws of that province, even when absent. Thus, corporations domiciled in Quebec can be subject to Quebec laws, even at their locations outside of Quebec. However, Regs. 4.04, Appendix A, *infra* makes it clear that these provisions only apply to divisions operating in Quebec territory.

70. *Supra* note 13.

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may increase the French-Canadians' feelings of equality and thus greatly lessen the spirit of separatism in Quebec.

Yvonne W. Rosmarin