

# It Gets Personal: Impact of Language Laws

by Gerry Cutting

Not long after Bill 96 was tabled, my older son and his family, who have been living in Newfoundland for over 20 years, decided that they wanted to relocate to Quebec. My wife and I were at first overcome with joy: Our son, a ninth generation Townshipper, would be “coming home”! We would get to be with our grandkids on a regular basis. This was one of those big WOW times in our lives.

However, as happens from time to time with both sons, the question was posed, “What do you think, Dad?”

As one grows older, there is an assumption that one has gained a certain measure of wisdom and therefore can be a trusted source of advice on how to navigate one’s way through difficult times that require difficult decisions. While this topic may well be a subject that merits debate, my focus is much more centered on the impact of two current language laws.

The first is a Quebec law: Bill 96, An Act Respecting French, the Official and Common Language of Quebec. The second is proposed by the federal government: Bill C-13, An Act to amend the Official Languages Act, to enact the Use of French in Federally Regulated Private Businesses Act and to make related amendments to other Acts.

## “This May Not Be the Place You Want to Be”

To my son’s question, with something of a broken heart my wife and I had to answer, “Son, you need to read Bill 96. Even though you are bilingual and your three kids have been in French immersion from kindergarten, this may not be the place you want to be anymore.”

While C-13 is not yet enshrined in law, it cannot be overlooked. It spells out how the federal government will recognize and support Canada’s two official languages and our two official linguistic minority communities, wherever these communities may be located in Canada.

My son read Bill 96. Then he put their plans on hold pending the outcome of what looks like years of court battles.

So, if you are a young person planning to come to Quebec, leave Quebec or stay in Quebec, what are the factors that I think you should be aware of in order to make a decision that is not a knee-jerk reaction?

My first bit of advice is very simple: Get the information you need to make an informed decision about the course of action you decide to follow. Especially do this if you are a young person looking to start up a business or expand your present operations.

## What If We Are No Longer an Official Minority?

The first aspect of Bill 96 to grasp is that this law makes French not only the *common* language of Quebec but the *only official* language of the “Quebec nation.” This is going to be written into the Constitution unilaterally, i.e. without consultation with the other provinces. Especially troubling is the possibility that the federal government may well go along with this position in the final version of its Bill C-13, *thereby abandoning the constitutional recognition of two official linguistic minority communities with equal status.*

What, then, does it mean for members of the English-speaking community if we are no longer an official language minority community?

In very real terms, with the passing of Bill 96, the use of the English language in public life, government services, and business is permitted only in certain, well defined situations. One of these situations is found in Chapter 3 of Bill 96, which makes reference to Article 133 of The British North America (BNA) Act. Article 133 spells out clearly that any bill, law, regulations or statutes, to be legal and binding, must be published, passed and assented to in both French and English. Does that not indicate that English still has an official status in the “Quebec nation”? Why not say so?

## Translation at One’s Own Expense

In addition, Article 133 of the BNA Act states that any person has the right to plead their case in either French or English before the courts. However, Bill 96 makes access to justice in English both complicated and costly. While one may plead one’s case in English, all supporting documentation must be provided in French, and a legal translation must be done by a certified translator (i.e. not Google Translate) at one’s own expense.

Small Claims Court, which is designed to be fast and easy, will not be, if you wish to plead your case in English. I suspect that when challenged, the courts will find this approach is most certainly not the intention of Article 133. Will the federal Minister of Justice continue to remain silent while our Constitution is dismantled?

In addition, if you are in business, all legal documents, such as contracts, bills of sale, and leases, must be drawn up in French even if the signatories are English speakers. (NB: Certain exceptions are permitted in Bill 96, and these are to be more carefully defined as the regulations are made public in the Official Gazette of Quebec, to be accessible on the Government of Quebec website later

this year. Due to the complexities of this bill, this may well take longer than anticipated.)

### **Additional Language Tests for Professionals**

If you are about to enter into a profession that requires certification, such as doctor, lawyer, notary, engineer, dentist, nurse, or physiotherapist, you will have to undergo rigorous language testing on a regular basis to maintain your certification to practice, even if the bulk of your clientele is English. Again, this is an added burden applied only to members of the immigrant and English-speaking communities, who are already confronted with a French competency test before they are allowed to practice their profession. This initial test has been required since 1977 by Bill 101 (the Charter of the French Language); regular re-testing is required by Bill 96.

If you are looking at setting up a business—or are already in business—be aware that Bill 96 was passed by preemptively using the “notwithstanding clause,” thereby setting aside the Canadian Charter of Rights and Freedoms and preventing any recourse through the courts if you believe your rights have been denied in the application of this bill.

### **In French Only, Even Among Family Members**

Here are the factors you must be aware of under Bill 96 if your business has 25 employees or more. First of all, employees now have the right to work in French. Consequently, the Office québécoise de la langue française (OQLF) will require that employers prepare and implement a program of francization with very specific requirements as laid out in the Bill and subsequent regulations.

Beprepared:allinternalcommunicationsandbusiness correspondence must be in French. That includes contracts, invoicing, digital sites, ads, postings, job descriptions and internal communications between staff members, even if they happen to be family members.

In order to obtain an exemption, employers who might require an employee to work in English must prove that they have taken all reasonable means to avoid such a requirement.

### **Searches Without a Warrant**

To ensure strict adherence to these regulations, the OQLF has been assigned, in conformity with Article 174, the authority to enter at any reasonable hour any place of business except a private dwelling without a warrant and examine, copy or seize any document, electronic device of a client, employee or owner. As per Article 205, failure to comply can result in a fine of \$700 to \$7,000 per person and from \$3,000 to

\$30,000 for a company. These fines can be doubled or tripled for a subsequent offense, with no recourse to the courts.

Clearly, this is a shocking abuse of power and basic civil rights, which amounts to the criminalization of the use of English. To keep yourself well-informed, I would suggest contacting the OQLF to find out exactly how your present or future operations will be affected. Their website is [oqlf.gouv.qc.ca](http://oqlf.gouv.qc.ca).

### **Rights and Freedoms?**

The Minister Responsible for Anglophone Relations, Eric Girard, has promised to address the huge credibility gap that has opened up between English speakers and the CAQ government. Some quick and easy redress can and should be enacted; this would go a long way toward restoring the sense that we, as English speakers, have not been legislated into second class citizenship. English-speaking Quebecers who have chosen to stay in our home province deserve much better treatment.

And to all our federal parliamentarians, no matter which side of the house you sit on: You have sworn an oath to safeguard the rights and freedoms of all Canadians—please reflect carefully on the implications of Bill 96, for the sake of all Canadians.



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