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The Future of Official Language Minorities

Joseph Eliot Magnet

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Article abstract

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Tout cela nous amène à nous interroger à savoir si les minorités linguistiques survivront au Canada. Pour cela, il faudrait que ces minorités soient centralisées territorialement et que soient mises sur pied des institutions permettant l'usage de leur langue, telles des écoles, des structures gouvernementales, culturelles et économiques.

La grande lacune au Canada en matière de protection des communautés linguistiques se situe au plan du développement économique. Le gouvernement, en implantant des centres de recherches et des services spécialisés au sein d'une communauté minoritaire, assurerait sa subsistance.

The Future of Official Language Minorities

Joseph Eliot MAGNET *

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Francophone communities outside of Quebec have been declining since the late nineteenth century. The process has speeded up. Between 1971–1981, francophones outside Quebec diminished in real numbers, and also as a percentage of total population. According to the 1981 census, a mere 3.7% of Canadians outside of Quebec used French as their language in the home. Saskatchewan and Newfoundland have passed the point of no return. Whereas sixteen thousand (1.7%) Saskatchewan residents used French in the home in 1971, only ten thousand (1.0%) did so in 1981 — a disappearance of 37% of the Franc-Saskois community in ten short years. During the same period, the tiny francophone community in Newfoundland shrunk a further

* Professeur à la Faculté de droit de l'Université d'Ottawa.

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21 percent, counting a mere 1800 souls in their ranks in 1981 (0.3 percent of provincial population). Practically speaking, the Franc-Saskois and Franco-Terre Neuviens are gone. If current trends continue, they shortly will be followed into extinction by rapidly shrinking French communities in Manitoba, Prince Edward Island, and Nova Scotia, each of which declined respectively by twenty-two, fifteen, and ten percent during the ten years preceeding 1981. [1]

Anglophones in Quebec have had relatively stable numbers in this century, making up approximately 20% of total provincial population to 1976. [2] An important trend is the decline of anglo-celts as the mainstay of the English speaking community. Eighteen percent of English speaking quebecois came from anglo-celtic backgrounds in 1901 ; only 11% were of this stock in 1981. At the same time, the ethnic component assimilating into anglophone ranks climbed steadily, and in about equal proportion to the decline of anglo-celts. Incorporation of ethnics replenished the ranks of the English speaking community and kept its numbers stable. [3]

Bill 101 stopped this process abruptly. Bill 101 gives clear, sharp and effective directions to Quebec immigrants to assimilate into the francophone community, by prohibiting their children from attending English school and by francizing the language of work. Recent arrivals to Quebec have gotten the message : English now holds little attraction for those intending to make Quebec their home. The result is that Quebec anglophones are in a process of rapid and "ineluctable decline". [4] Between 1971 and 1981 the anglophone community lost 158,000 people (20% in real terms) by out-migration. There were few anglophone immigrants to replace them. The result is that anglo-quebecois declined from 15% to 12.7% of the total Quebec population. Most emigrants were young, of child bearing age. Their exodus has left Anglo-quebecois with an astonishingly low birth rate (1.3 per woman) — way below

1. This is a long term phenomenon. Franco-Manitobans, for example, constituted 50% of the provincial population in 1871 ; 15.1% in 1881 ; 7.1% in 1901 ; 4% in 1971 and 3% in 1981. What is relatively new, however, is that francophones outside of Quebec are now shrinking in real terms in addition to shrinking as a proportion of total provincial population. Fewer Canadians used French at home in 1981 (666,000) than in 1971 (676,000).
2. Anglophones diminished rapidly in the nineteenth century. They constituted 25.5% of the Quebec population in 1851 ; 18% in 1901 ; remaining relatively stable at 18-20% in this century — until recently.
3. Caldwell, "Anglo-Quebec : Demographic Realities and Options for the Future", in Bourhis, *Conflict and Language Planning in Quebec* (Avon, England : Multilingual Matters, 1984), at p. 206-8.
4. This is the language of Chief Justice Deschênes in *P.S.G.B.M. v. A.G. Qué.* (1982), 140 D.L.R. (3d) 33 (Qué S.C.), affd. S.C.C. Sept. 19, 1984. This is a finding of fact by the court, based on extensive expert evidence.

the 2.1 needed to keep the community stable. Anglophones are expected to decline further, to ten percent of total provincial population in the next fifteen years. [5] The community is already close to, and may soon plunge below, the point at which it will no longer have the numbers to maintain its institutional infrastructure, even if provincial funding continues at present levels. The near future may bring profound changes to the linguistic character of traditionally anglophone hospitals, universities, schools, libraries and media. If that should happen, anglophones in Quebec will become like their francophone counterparts in English Canada — "a family whose home has been destroyed by fire... without shelter... with eyes fixed on odd belongings scattered here and there" — a people with an empty soul. [6]

Some commentators view portending disappearance of official language minorities with equanimity. They reason from sociolinguistics. English is the dominant, French the weaker language in Canada. Knowledge of English is the norm among the Québec elite; knowledge of French the exception among its English Canadian counterpart. A shift from English to French is associated with a rise in prestige for English Canadians. The reverse is true, it is said, for French Canadians. "The shift of a French Canadian to English," argues Professor Laponce, "is increasingly likely to have negative effects on the speaker alienating him from self and from his cultural group". [7] The conclusion drawn is that the only sensible language policy is one that protects the dominant language in a given territory. Guarantees for minority languages are ineffective and harmful. The argument is that it is preferable for Canada to divide into two linguistic islands : French in Quebec, English elsewhere. Canadian language policy should concentrate on reinforcements for French in Québec, and English in the other provinces. Protections for linguistic minorities should be withdrawn. The faster linguistic minorities disappear, the more stable will be our political system, the more rational relation between Quebec, Ottawa and the other provinces, the more secure the positions of the English and French languages. [8]

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5. This estimate is that of J. HENRIPIN, *The English Speaking Population of Quebec : A Demolinguistic Projection* (Alliance Quebec, 1984), p. 19. See also *Alliance Quebec Brief on Demographic Tendencies* presented to the Standing Committee on Culture of the National Assembly (Nov. 1984), p. 52 f.
6. *The Heirs of Lord Durham : Manifesto of a Vaninshing People* (F.F.H.Q., 1978), p. 19, 20.
7. LAPONCE, "Relating Linguistics to Political Conflicts : The Problem of Language Shift in Multilingual Societies", in *Multilingual Political Systems : Problems and Solutions* Quebec. C.I.R.B. 1975 at p. 195-6. Professor Laponce reaffirmed this view in August, 1984 in a colloque sponsored by the Royal Commission on Economic and Development Prospects for Canada held in Ottawa.
8. *Id.*, p. 201. Professor Laponce reaffirmed and amplified on these views at the 1984 colloque, *supra*, note 7.

This line of reasoning is buttressed by developments in the general theory of language planning. Language planning theory postulates "two main principles... the principle of personality and the principle of territoriality." [9] These principles are explained by Professor Mackey :

> According to the first [the personality principle], it is the institution which accommodates the individual ; according to the second, it is the individual who accommodates the institution. Countries such as Canada, for example, where each person has the statutory right to be served by the government in the official language of preference, (according to the provisions of the Official Languages Act), are governed by the principle of personality. Countries such as Switzerland, where the citizen's relations with the state are in the language or languages of the canton, are governed by the principle of territoriality according to which, *cuius regio, eius lingua*, the language of the region is that of its rulers. [10]

Those who agree with Professor Laponce see Canadian language planning options as a choice between these two principles. Professor Laponce examines the experience of other multilingual societies through the prism of Mackey's theory. His conclusion is irremediably coloured by the assumption of "two main principles", and the need to choose between them. So Professor Laponce is led to say : "Whether I induce from the Canadian, Swiss and Belgium cases or deduce from the laws of specialization, I conclude in favour of the solution which seeks to give distinct areas of monolingual security to each linguistic group." [11] In shorter language — "let the minorities disappear".

The first point to notice is that Canada's linguistic complexion is utterly different from Switzerland and Belgium. Switzerland has four principle languages, not two ; Swiss and Belgium language groups are territorially compact, not territorially diffuse. Canada, by contrast, must accomodate a population of 666,000 francophones widely diffused in the provinces outside of Quebec, and 809,000 anglophones who are somewhat less diffused in Quebec. That is a lot of people (6% of total Canadian population) to condemn to extinction against their strongly expressed will, because they do not fit in with academic theory. The second point is that the theory is unsophisticated. Each case of language planning is unique. Policy must be adapted to specific local circumstances. I know of no country that presents

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9. MACKEY, "Prolegomena to Language Policy Analysis" (1979) 30 *Word* 5, 9. Mackey's statement of two main principles is not only accepted by LAPONCE, *supra*, note 7, but by most commentators on language planning theory : see BOURHIS, "Language Policies in Multilingual Settings", in BOURHIS, *Conflict and Language Planning in Quebec*, Multilingual Matters, 1984, 1, at 14.

10. *Id.*

11. LAPONCE, *supra*, note 7, p. 201.

the same spectrum of problems about linguistic accommodation as does Canada. As our problems are singular, so must be our solutions. [12]

A final point must be made in this regard. Language policy need not be limited to support for demographically viable linguistic groups. Language policy may equally strive to revive dying, dead, or ancestral languages. The revivification of Hebrew as the national language of Israel is a spectacular case in point. At the time resuscitation attempts began, not a single person spoke Hebrew as a language in the home. Other revival efforts are being made in Ireland, Wales and Scotland (Gaelic), France (Flemish), Holland (Frisian) and elsewhere. Many national governments have implemented language revival policies in order to stem the rise of "more radical separatist movements", or otherwise to pacify national minorities. [13]

Canada's efforts to support French in Manitoba have already been characterized as a language revival policy. [14] Even if that be true, which I do not concede, the effort does not for that reason lose legitimacy. A language revival policy such as is alleged to be occuring in Manitoba is certainly in furtherance of appropriate political objectives. The intricate political interface between Canada and Quebec, the desire to increase mobility for Quebec francophones so as to give them a greater sense of belonging in Canada, and the intention to respect the determined will of 1.5 million affected people in Canadian linguistic minorities is justification enough for French revival efforts in Manitoba and elsewhere, if, indeed, these efforts can even be characterized as revival, as opposed to maintenance.

The dramatic disappearance of official language minorities in Canada has three principal causes : interprovincial migration, language of work, and language of schooling.

Interprovincial migration is the most important factor shrinking the anglo-quebec community. Anglophones left Quebec primarily because they have no economic future. This is partly the result of a shrinking economy, but the plight of anglophones is exacerbated by governmental determination to make French the only language of work, an initiative to which many anglophone emigrants could not quickly adapt. Anglophones equally left Quebec because of the perceived punitive nature of Bill 101.

Francophones outside of Quebec are assimilated into the English community by the overwhelming use of English as the language of work.

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12. *Accord*: CARTWRIGHT, *Official Language Populations in Canada: Patterns and Contacts*, Montreal, IRPP, 1980, p. 147. As I read Professor Mackey, I understand him to agree with the desirability of tailoring language policy to specific circumstances : *supra*, note 9.
13. BOURHIS, *supra*, note 9, p. 10.
14. *Id.*, p. 9.

Outside of the bilingual belt, [15] French has little economic value apart from second language teaching and translation. Constant battles over the language of schools, government services, health care institutions and media have worn francophone minorities down, sapped their will to resist and caused further losses by emigration to Quebec.

Determined governments can counterweight the principal forces causing declining numbers in official language communities. Economic development, language of work, language of education, and language of media are phenomena on which governments can and do impact profoundly. That is why official language policy is a live subject of political debate in Canada. The development of our official language minorities is something that lies in our power as a political community to control.

There is an important limit to the achievements governments may expect with respect to community development. Governments cannot dramatically increase the numbers of an official language community. The French language outside of Quebec will thus remain in a relatively weak position, constantly in contact with the dominant English language. Our research experience with languages in contact is conclusive that in these demographic, economic and cultural circumstances, English will forcefully attract francophones as they begin school, enter the workforce, marry and participate in social and economic institutions. [16] To a lesser extent the same attractive power of the dominant French language will be exerted on anglophones in Quebec. Although in the North American context French can never rival English for assimilating power, Quebec initiatives to defend French will make up much of the difference. Mr. Trudeau was quite wrong when he wrote in 1965: "Like the United States, we must move beyond 'separate but equal' to 'complete integration'". [17] "Complete integration" for linguistic minorities means complete assimilation. Linguistic minorities can survive only if they remain territorially concentrated, albeit on a local and municipal level.

15. See JOY, *Languages in Conflict*, Toronto, McClelland and Stewart, 1972, who describes the bilingual belt which stretches from Moncton to the Sault.

16. The research on languages in contact is impressive. See, for an introduction, W.F. MACKEY, "Puissance, Attraction, et Pression des Langues en Contact: Modeles et Indices", in *Multilingual Political Systems: Problems and Solutions*, Quebec, CIRB, 1975, p. 119; W.F. MACKEY, "Proligomena to Language Policy Analysis" (1979), 30 *Word* 5; W.F. MACKEY, "U.S. Language Status Policy and the Canadian Experience", in Cobarrubias and Fishman (eds.), *Progress in Language Planning*, Mouton, 1983.

17. TRUDEAU, *Federalism and the French Canadians*, MacMillan, 1968, p. 48.

From the perspective of theory, I would disagree strongly that there are but *two* proper approaches to language planning analysis. Canadian circumstances suggest a third approach to the "two main principals" of linguistic accommodation delineated by Professor Mackey. This third possibility is a modification of the territorial approach. It requires reversal of the institutional conclusions drawn by Professor Laponce. Professor Laponce thinks that all territorial approaches are the same, just as all require removal of institutional supports for linguistic minorities outside of the protected territory. The modified territorial approach conceptualizes territorial groupings as small separate linguistic islands, linked together by a network of common institutions. These islands could be made doubly secure by overarching institutions in the central state that, on language matters, deal with linguistic minorities on the basis of equality with other national communities.

The modified territorial approach accepts that linguistic minorities should be perceived as inhabiting particular territories. But this does not mean that there are only two territories. There might be many territories, large and small. The territories do not have to be co-extensive with the borders of political sub-divisions, nor must their language resources be drawn from their own local communities. Thus, Quebec certainly forms a territorial grouping. But so do St-Boniface, Mattawa, Sudbury, eastern Ontario, Gravelsborg, and other sub-provincial, municipal or sub-municipal groupings where official language minorities are concentrated.

The modified theory is useful because it allows us to ask what conditions are necessary to insure the survival and prosperity of linguistic minorities. Linguistic minorities can resist the attractive power exerted by the dominant language on two conditions: (1) That linguistic communities be territorially concentrated in large or small areas; (2) That linguistic minorities be supported energetically by a meaningful network of institutions and services.

The first condition is certainly met in Canada. There are many concentrated groupings of linguistic minorities — in Montreal, St-Boniface, Gravelsborg, eastern Ontario, northern Ontario, P.E.I. and elsewhere. But the second condition is not met. That is what I want to explore. It is the network of services. This network can only be provided by federal and provincial governments in Canada, and, to a lesser extent, by linguistic minority associations. So I also want to make certain remarks about the failure of governments, and the linguistic communities, to deal forthrightly with this problem.

What would be included in the network of institutions necessary to support official language communities ? There are four principal ingredients : schools, culture, government services and economic structures.

Schools are crucial. As the Symons and Mayo Commissions on French language education found : "... with the decline of the parishes, the schools are now becoming the center of cultural life for the French speaking [outside of Quebec]". [18] A principal cause of assimilation is the lack of effective control of French language education and facilities by French linguistic minorities. [19] Francophones watch their children being swept into the net of English in "mixed schools". "Mixed schools" are the principle institution of French education in anglophone Canada. These schools are cauldrons of assimilation. Courts, legislatures and executive commissions have independently found, on extensive expert evidence, that the grouping of anglophones and francophones together in "mixed schools" is harmful to the linguistic minority child and community, and leads directly to assimilation. [20]

There is reason for some optimism in the education sector. In *Reference re Minority Language Educational Rights* the Ontario Court of Appeal declared loud and clear that the *Charter of Rights* was specifically designed to cure this mischief. Provincial legislatures, said the Court, have the duty to design educational facilities which can be said to be of or appertain to the linguistic minority in that they can be regarded as being part and parcel of the minority's social and cultural fabric. The minority's educational system must provide education of equal quality as that given to the majority. [21] It is doubtful that linguistic mixing in instructional facilities can survive this ruling, and equally doubtful that the linguistic majority can continue to use its control of school governing structures to determine this issue against the linguistic minority.

Declarations are one thing. Actions are another. What are provincial governments likely to do ?

Provincial governments outside of Quebec cannot but have been impressed with the events of the Manitoba language rights crisis of 1983-84. The Manitoba government's plan, under threat of a Supreme Court of

18. *Report of the Ottawa-Carleton Review Commission* [The Mayo Report] (1968), p. 133; *Report of the Ministerial Commission on French Language Secondary Education* [The Symons Report] (1972), p. 13-15.

19. *Reference re Minority Language Educational Rights*, Ont. C.A., June 16, 1984, p. 68.

20. *S.A.N.B. v. Minority Language School Bd. No. 50* (1983), 48 N.B.R. (2d) 361. This conclusion was reached independently by the N.B. legislature (*School Act*, R.S.N.B. 1973, c. s-5 as amended, secs. 3.1-3.3, 18.1); and by the Official Language Commissioner, *Report* (1978), p. 35.

21. *Supra*, note 19, p. 71.

Canada ruling, to respect *partially* its constitutional obligations for institutional bilingualism and to expand modestly French language services provoked hysteria in the population, violence against the francophone minority, widespread demonstrations, paralysis of the legislature and — significantly — collapse of political support for the N.D.P. government. A similar phenomenon is currently occurring in New Brunswick. With the single exception of New Brunswick (where the francophone minority is 37% of total population, and is politically powerful) it is unlikely that any provincial government will voluntarily take significant initiatives to support the francophone community outside of Quebec. This is probably true even in the education sector, where there are as yet imprecise constitutional guarantees for French [22]; but it is certainly true with respect to governmental services and culture, where constitutional guarantees are at best implicit, not express, and have not yet been tested before the Supreme Court.

Litigation in the education sector is inescapable for francophone minorities in the near future. It is worrisome that provincial francophone associations have had difficulties mobilizing for the legal and political challenges which lie plainly in view. The Ontario Reference on Minority Language Education was a significant initial victory for official language communities, but that ruling will become hollow *de facto* if further cases are not pursued energetically to implement the promise of new educational guarantees in all provinces. Nevertheless, one does not have to be in the trenches long to realize that francophone associations are frightened by the Manitoba events, worn out, lacking effective leadership, and losing their will to fight. Governments that resort to palliative measures while the shrinkage in numbers continues will find many linguistic communities willing partners in the enterprise.

Litigation in support of official language minorities in the services and cultural sectors is possible and probably desirable in Manitoba, New Brunswick and Quebec under various constitutional provisions. [23] This process has started, and produced mixed results. We will shortly receive judgments from the Supreme Court of Canada in three leading cases on point. [24] This will be an important indication of the attitude of that Court to the strategy suggested. The only other way to improve the situation would be for Ottawa to bear the cost of expanding French language services in areas of

22. *Canadian Charter of Rights and Freedoms*, s. 23.
23. *Manitoba Act, 1870*, 32-33 Vict., c. 3, s. 23 (Can.); *Constitution Act, 1867*, 30-31 Vict., c. 3, s. 133 (U.K.); *Constitution Act, 1982*, Secs. 16(2), 17(2), 18(2), 19(2), 20(2).
24. *Manitoba Language Rights Reference*, argued June 12, 1984; *Bilodeau v. A.G. Manitoba*, argued June 12, 1984; *MacDonald v. City of Montreal*, argued Dec. 9, 1984.

provincial jurisdiction,[25] or to attach appropriate conditions to transfer payments in this regard. Prior to the language rights crisis of 1983-84, the Manitoba government agreed to expand critically important French language municipal services on Ottawa's promise to pay 50% of the cost. Given the negative public reaction to that agreement, current federal preoccupations with economic development, deficit reduction and improved federal-provincial relations, this seems unlikely to happen again in the near future.

I must say something about certain actions of the federal government which are particularly difficult to understand. The Department of Justice repeatedly intervened in court *against* francophone attempts to expand official language rights. In some cases the action was explained as an oversight or error, and the Department moved to amend its position.[26] But in the *MacDonald* case the Justice Department intervened four-square against the linguistic minority's attempt to achieve an expansive reading of official language rights. "A broad and generous interpretation [of language rights]", the Department maintained, "cannot be used".[27] Opposition members questioned the Prime Minister about the matter in the House. They asked that Justice's factum be withdrawn. The factum was not withdrawn. It is difficult to resist the conclusion that Justice, and perhaps other departments, have an institutionalized bureaucratic resistance to established federal official languages policy. The courts have commented on this with respect to the Justice Department's actions relating to Indian litigation.[28] Perhaps other minorities have had similar experiences?

A more serious problem is Ottawa's failure to exercise its constitutional powers intelligently to support official language minorities in the areas of

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25. As Ottawa was partially prepared to do at the time of the Victoria Charter in 1971: see *Victoria Charter*, art. 13.

26. *Bilodeau v. A.G. Manitoba, supra*, note 24 (Justice withdrew its factum); *Reference re Minority Language Educational Rights, supra*, note 19 (Justice filed supplementary notes); *Manitoba Language Rights Reference, supra*, note 24 (Justice intervened against the position of the francophone minority and did not amend its position); *MacDonald v. City of Montreal, supra*, note 24 (Justice intervened against the anglophone minority and refused to change its position). If there were not something to be said on both sides of the issue, these cases would not be in the Supreme Court of Canada. This is what makes Justice's choice of positions so difficult to understand.

27. *Macdonald v. City of Montreal, supra*, note 24, Factum of the Attorney General of Canada, p. 10. See the comment at the end of note 26, *supra.*

28. *Guerin v. The Queen*, S.C.C., Nov. 1, 1984 (unreported). Wilson, J commented as follows concerning the actions of counsel for the Attorney General of Canada: "The Crown's tactics in this regard left a lot to be desired... The Crown's behaviour does not, in my view, exemplify the high standard of professionalism we have come to expect in the conduct of litigation;" (p. 22).

broadcasting and culture. While the *Broadcasting Act* guarantees services in English and French to all Canadians subject to availability of public funds,[29] the reality falls far short of that promise. CBC consistently refuses[30] to provide francophones outside of Quebec with programming that relates to the vital concerns of their communities. Francophones in St-Boniface are not interested in strikes at Laval University (which is what CBC "network programming" offers them). They are interested in strikes at St-Boniface College, for which they have to switch to local programming in English. This is why the Federation des francophones hors Quebec stigmatizes CBC programming as contributing "to the anglicization of Francophones outside Quebec".[31]

Ottawa's most significant failure has been with respect to the language of work. Ottawa's only effort in this regard relates to the federal civil service. Ottawa has made no effort in the private sector, and no serious attempt to co-operate with Quebec's initiative to make French the language of work in that province, despite the recommendations of the federal Laurendeau-Dunton Commission to this effect.[32] The failure of Ottawa to support Quebec's language of work initiatives by complimentary legislation for firms outside Quebec impedes Quebec's efforts to give French economic value. Quebec is placed in the position of erecting defensive linguistic barriers around the province, a strategy that could contribute to the further weakening of Quebec's economy and the ghettoization of French in Quebec.

Even Ottawa's attempts at improving the position of French in the civil service show modest results. Only 17% of appointments to bilingual positions were filled on an imperative basis between 1979–1983. Anglophones graduating from federal language training courses use French in the workplace a mere 9% of the time.[33] These depressing failures to implement French as a secure working language in the federal civil service are disquieting, to say the least.

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29. *Broadcasting Act*, R.S.C. 1970, c. B-11, s. 3(e).
30. In a meeting with ACFO, CBC officials said: "The CBC's position is firm: our radio programming will not change and televised production outside Quebec will not exceed 5 to 7 hours per week. This objective is already considered as ideal and it will not be achieved in the near future": see *The Heirs of Lord Durham, supra*, note 6, p. 61.
31. *The Heirs of Lord Durham: Manifesto of a Vanishing People*, F.F.H.Q., 1978, p. 60.
32. *Report of the Royal Commission on Bilingualism and Biculturalism*, Ottawa, Queen's Printer, 1969, Book 3, p. 554 ("We recommend that in the private sector in Quebec, governments and industry adopt the objective that French become the principal language of work at all levels...").
33. *Minutes of Proceedings and Evidence of the Special Joint Committee of the Senate and House of Commons on Official Languages* (Nov. 2, 1983), 65: 16.

The Constitution of 1867 guaranteed linguistic protection in the legislature and courts of Canada and Quebec.[34] Although s. 133 does not expressly extend to the executive, this is probably explainable more by the vestigial state of executive action in 1867, than by any stingy spirit in regard to linguistic minorities. The Supreme Court of Canada found that the original guarantee, which now includes Manitoba and New Brunswick,[35] extends by implication at least partially into the executive sphere.[36] In the *MacDonald* case,[37] now under consideration by the Supreme Court, counsel for official language minorities asked the court to extend the guarantees further.

In *Blaikie (No. 1)*[38] the Supreme Court explained that quasi judicial tribunals, by implication into s. 133, are equally subject to institutional bilingualism as are courts. Minimally this requires implementation of the right to speak English or French in adjudicative proceedings before many executive instrumentalities, and requires these agencies to publish their rules of practice in both languages. In *Robin v. Le College St-Boniface*[39] plaintiff sought more. Plaintiff attempted to require a court to operate with a fully competent francophone presiding officer in place, as opposed to implementing the right to speak French through the medium of an interpreter. The action failed before the Court of Queen's Bench. The Manitoba Court of Appeal upheld the trial judge in a split decision over the stinging dissent of French speaking Chief Justice Monnin.

The wider significance of *Robin's* case is that if ultimately successful, it would subject a wide range of courts and quasi judicial tribunals to a strict form of institutional bilingualism requiring imperative staffing by bilinguals or a cadre from each official language group. If this happens, it is but a small and inevitable step for the affected agency to provide bilingual services in all of its functions.

The *MacDonald* and *Robin* cases rely on the "court clause" of s. 133 in attempting to expand government services available in the minority language.[40] *A. G. Quebec v. Collier*[41] is the first case to rely on the "records and

34. *Constitution Act, 1867*, 30 and 31 Vict., c. 3, s. 133 (U.K.).
35. *Manitoba Act, 1870*, 32 and 33 Vict., c. 3, s. 23 (Can.); *Constitution Act, 1982*, secs. 16–20.
36. *Blaikie v. A.G. Quebec*, [1979] 2 S.C.R. 1016.
37. *Supra*, note 24.
38. *Supra*, note 36.
39. *Robin v. Le College St-Boniface*, Man. C.A., Oct. 16, 1984 (unreported).
40. "... either of those languages may be used by any person or in any pleading in or issuing from any court of Canada established under this Act, and in or from all or any of the courts of Quebec": *Constitution Act, 1867*, s. 133.
41. Argued before the Quebec Court of Appeal, Dec. 13, 1984, judgment pending.

journals" clause.[42] One thesis advanced in this case is that "records and journals" as used in s. 133 captures every public documents used in the legislative process. If this be right, a vast array of government documents hitherto unavailable to the linguistic minority in their own language, will be required to be produced bilingually. As with cases based on the court clause, a favourable ruling in this case with respect to Quebec, would equally apply to Canada, Manitoba and New Brunswick, and, possibly, to Alberta and Saskatchewan.[43] It is impossible to overestimate the importance of this litigation to the juridical structure protecting official language minorities, especially in the current political climate.

Ottawa could do much to support official language minorities by intervening directly with French language economic structures. French language research centers and specialized services, such as laboratories and data processing centers, could be decentralized and located in francophone communities such as St-Boniface and Sudbury.[44] Research centers could be blended into existing French language institutions, for example St-Boniface Hospital or Laurentian University. Ottawa could make significant investments in existing francophone institutions like College St-Boniface. With appropriate start-up funds, College St-Boniface could become a major research center, networking and contracting with compatible French language institutions throughout western Canada. With appropriate direction, College St-Boniface could become self-supporting through research contracts. This kind of activity would provide much needed economic opportunity for francophones outside of Quebec, would imbue French with significance beyond family and church, and would undoubtedly contribute to the long term survival of official language minorities.

Economic development in the minority language is the critical initiative so far lacking in governmental support for linguistic communities. If progress could be made here, all else could be forgiven. Current trends towards shrinkage, in that event, might be arrested. Economic development

42. "... both those languages shall be used in the respective Records and Journals of those Houses": *Constitution Act, 1867*, s. 133.

43. See MAGNET, *Constitutional Law of Canada: Cases, Notes and Materials* (1983), p. 1067-68.

44. See ALLAIRE and MILLER, *Canadian Business Responses to the Legislation on Francization in the Workplace*, C.D. Howe Institute, 1980, p. 43 ff, for a discussion of organizational structures, and modalities of francization in various organizational units.

for linguistic communities is the key ingredient needed to stop the moving finger[45] from writing the obituary of Canada as a land where linguistic minorities thrive.

45. "The moving finger writes, and, having writ,
Moves on; nor all your Piety nor all your Wit
Shall lure it back to cancel half a Line,
Nor all your Tears wash out a word of it."
— *The Rubáiyát of Omar Khayyám.*