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**One Language and One Nationality
The Forcible Constitution of a Unilingual Province
in a Bilingual Country, 1870–2005¹**

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Introduction

In 1870, Canada purchased the Hudson's Bay Company holdings known as Rupert's Land and joined them with the North-West Territory; it then redivided these newly consolidated lands, renaming them Manitoba and the North-West Territories. (In 1905, after further reorganization, it carved two large pieces out of the North-West Territories in order to create the provinces of Alberta and Saskatchewan.) Manitoba, encompassing the former District of Assiniboia, the most settled part of Rupert's Land, had used English and French in its government and courts for more than two decades and, as part of the Confederation bargain, the Canadian government agreed to constitutionally entrench this language regime. It followed suit, seven years later, by also providing for official bilingualism in the North-West Territories.

The 1870 annexation opened the floodgates to immigrants from the neighbouring province of Ontario and, in less than a decade, thousands of English-speaking colonists had swamped the North-West's original population. French-speakers, for example, who had numbered about three-quarters of the non-Native population in the 1870s, accounted for less than one-fifth by 1885. The new majority demanded an end to bilingualism and biculturalism—it sought, instead, exclusivity for the English language and supremacy for the British nationality. Thus began the forcible constitution of a unilingual region, initiated first by the government of the North-West Territories, then continued subsequently by the government of Alberta.

Political scientist Jean Lapointe has argued convincingly that such efforts are the norm in situations of language contact: "Each language group strives to establish its domination and exclusivity in a given territory, goals much more easily achieved if a language has control of the machinery of government and in particular the control of an independent state."²

Historian Ramsay Cook concurs, observing that Canada's language debates have been shaped since the nineteenth century by Lord Durham's assumption that linguistic homogeneity is fundamental to nation-building. If British North America were to remain British, "its inhabitants would have to speak English. Francophones would have to accept assimilation."³ However, as constitutionalist Joseph Eliot Magnet rightly points out with particular reference to the Western Canadian experience, attempts to legislate unilingualism have often borne bitter fruit: "The examples illustrate a vicious vein in Canada's history typified by bitter, dangerous conflict fought over language rights as a result of a stingy, vindictive spirit by provincial majorities. It is [a] history of explosive racial strife, full of dangers for the Canadian Federal State."⁴

This essay examines the history of language legislation in Alberta and the regional government's determined attempt to build a unilingual province in a bilingual country. Three distinct time periods are highlighted. The first, a relatively short period dating from 1870 until 1887, was a time of official bilingualism, when both English and French co-existed as languages of government and justice. The second, characterizing most of the next century, was a time of forcible unilingualism, as the government actively legislated the exclusive use of the English language. The third, beginning about 1988, has been a time of relative tolerance. English is now universal in Alberta, but the provincial government has permitted, and occasionally supported, the use of other languages.

Official Bilingualism in Canada's North-West, 1870-1887

Manitoba-based Bilingualism, 1870-1876

On May 12, 1870, Canada proclaimed the *Manitoba Act, 1870*, an act that provided primarily for the government of the newly created province of Manitoba, but also for the North-West Territories. Section 35 charged the lieutenant-governor of Manitoba with responsibility for the North-West Territories, thereby assuring them a bilingual administration. Section 23 had formally recognized English and French as Manitoba's official languages:

Either the English or the French language may be used by any person in the debates of the Houses of the Legislature, and both these 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 the British North America Act, 1867, or in or from all or any of the Courts of the Province. The Acts of the Legislature shall be printed and published in both those languages.

The first lieutenant-governor of Manitoba and the North-West Territories, Adams G. Archibald, was a Nova Scotian, and a Father of Confederation, who spoke both English and French. He appointed a North-West Executive and Legislative Council composed of three prominent Manitoba residents, Francis G. Johnson, Pascal Breland and Donald A. Smith, and reported that "my present Council gives a fair representation of the three great interests of the West, the English, the French & the Hudson's Bay interest."⁵ Unfortunately, Archibald had exceeded his authority by making these appointments and although he subsequently submitted a new list of nominees to the Canadian government, he finished his term of office before it was approved.

Archibald's successor, Alexander Morris, the former chief justice of Manitoba, took office on December 2, 1872. The first North-West Council, appointed the same month, was composed of 11 members, although it increased a year later to 18. Five councillors were French-speaking: Marc Girard, Pascal Breland, Joseph Dubuc, Joseph Royal, and Pierre Delorme. Girard, Dubuc and Royal were French Canadians; Breland and Delorme, French-speaking Métis. Although a minority, they carried considerable political weight. Marc Girard, the senior councillor, had been called to the Canadian Senate in 1871 and was subsequently appointed premier of Manitoba in 1873. Joseph Dubuc and Joseph Royal were co-founders of Manitoba's French-language newspaper, *Le Métis*. Pascal Breland had been a member of the Council of Assiniboia; Pierre Delorme had served as a delegate to the provisional government's 1869 and 1870 conventions. All five held seats in the Manitoba Legislative Assembly.

The North-West Council apparently recognized two, and occasionally three, official languages. For example, on September 13, 1873, it directed its legislative committee "to see that all Acts of Council &c shall be published in the English, French, and Cree languages."⁶ The following year, at its March 16, 1874 meeting, the Council requested that the clerk prepare a legal manual containing all its acts, and print a number "in both French and English" for use by public officials. On June 2, 1874, a council committee, chaired by Joseph Dubuc, reported two bills and instructed the secretary "to enlarge their

Electoral Districts and Elections in the North-West Territories, section 50, provided that: "In any Electoral District in which a number of the electors speak the French language, such proclamation and notices shall be issued in the English and French language." Three years later, the *Ordinance Providing for the Organization of Schools in the North-West Territories* issued more comprehensive directives. According to section 15(1), all notices advising electors of a proposed school district "must be in both the French and English languages." Further, in section 17(2), the returning officer was obliged to post, in the polling place, "a copy of the notice of voting in both languages." Finally, once the lieutenant-governor had proclaimed the election of a school district, section 41 required that: "This proclamation shall be printed and posted up in at least ten public and conspicuous places throughout the district, at least fourteen days before the day appointed therein for the nomination and election of trustees, and shall be in both the French and English languages."

Dewdney's Obstruction of Bilingualism, 1882-1887

The Canadian government's decision, on December 3, 1881, to appoint Edgar Dewdney, an English-born engineer, as lieutenant-governor, marked an important turning point in the North-West's official bilingualism. The population's linguistic composition was rapidly changing, and Dewdney's anti-French prejudices fitted the new environment. A year earlier, the census had shown that while French-speakers still constituted a majority of the non-Native population, their proportions were dwindling: there were 2,900 French and 2,500 British inhabitants.¹⁰ Four years later, however, a special census conducted in three provisional districts—Alberta, Assiniboia, and Saskatchewan—counted 4,900 French, but 22,000 British inhabitants.¹¹ The government moved with the tide and in March 1883 the North-West capital settled in Regina.

In 1883, the North-West Council held its fourth legislative session and the new government printer, Nicholas Flood Davin, published both the English- and French-language ordinances promptly during the same year. Thereafter, however, the situation deteriorated. Although the English-language ordinances for 1884, 1885, 1886 and 1887 were printed almost immediately, at the end of the corresponding legislative session, the French language ordinances languished. They were neither translated nor printed. Finally, during the last year of his mandate, Lieutenant-Governor Dewdney apparently tried to make

amends, contracting for the full printing of the backlog. Before this work could be completed, however, Dewdney's successor ordered that the North-West ordinances be revised and consolidated, thereby rendering the previous versions obsolete. In 1889, Frederick Haultain, a leading member of the North-West Assembly, reported disgustedly that "[l]ast year, just as the House had finished revising and consolidating the ordinances, large bales of French ordinances were being brought in from the east and deposited in the government buildings. The Territories were saddled with this large expense and the printing was altogether useless."¹²

The ordinances were not the only French-language publication, although they were the most important. The first issue of the *North-West Territories Gazette* appeared on December 8, 1883, and was printed in both English and French, in parallel columns. Seven issues appeared in 1884; this was increased to twelve issues in 1886. The council minutes were not published until 1886, at which time the complete series was printed *en bloc*, in both English and French.

The failure to print the French-language ordinances, except after a considerable delay, was a portent of things to come. The council was routinely eliminating, without fanfare, its various legislative provisions for French-language proclamations and notices. In 1885, for example, when the council amended and consolidated the *School Ordinance*, it systematically purged all bilingual requirements. The 1888 consolidation of North-West legislation similarly omitted all references to language, whether English or French.

**One Language and one Nationality in the North-West
and Alberta, 1888–1987
*The Dual-Language Question, 1888–1904***

On May 22, 1888, the Canadian parliament amended the *North-West Territories Act* and provided, in section 2, for a Legislative Assembly that "shall have the powers and shall perform the duties heretofore vested in and performed by the Council of the North-West Territories." The new Assembly would be composed of 22 elected members sitting for a three-year term, and three appointed members. The latter would be legal experts entitled to participate in debates, but with no voting rights. The executive power of the lieutenant-governor continued unchanged; however, he was to be assisted by an "advisory council on matters of finance" selected from among the Assembly members.

The new lieutenant-governor, Joseph Royal, had been a member of the first North-West Council from 1872 until 1876. He had also served as speaker of Manitoba's Legislative Assembly, as well as provincial secretary, minister of public works and attorney-general, before taking a seat in the Canadian House of Commons in 1879. Perhaps more significantly, Royal was the recognized leader of Western Canada's French-speaking population, both Métis and Canadian. His appointment had been widely anticipated, but not altogether welcomed. In the words of Lewis H. Thomas, it "aroused a considerable volume of adverse comment in the territorial press, much of it motivated by prejudice against French Canadians."¹³ When, in 1887, Prime Minister John A. Macdonald advised Dewdney concerning his possible successor, Dewdney responded: "I shall be very sorry to see a Frenchman here and it will create a very bad feeling."¹⁴

The North-West Legislative Assembly, convened on October 31, 1888, was composed of 22 elected legislators returned in 19 electoral divisions. All were English-speakers of British origin and most were Ontario-born. They were nearly all recent arrivals; indeed, 15 had immigrated to the North-West between 1882 and 1884. More than half had just been elected to the North-West Legislature for the first time and the longest-serving member, James Ross, had been elected only five years earlier in 1883.¹⁵ No French-speakers were returned to the Assembly until 1891 when Antonio Prince was elected in the newly-created riding of St. Albert, and Charles Nolin in the readjusted riding of Batoche.¹⁶ The North-West's three Supreme Court judges, James Macleod, Hugh Richardson and Charles Rouleau, acted as legal advisors to the Assembly and non-voting members until 1891.

In all probability, very few of the newly elected legislators were aware that the *North-West Territories Act* recognized two official languages. The effects of this provision were often invisible, particularly since no French-language ordinances had been published for several years. Thus, the assembled parliamentarians reacted with shocked disbelief when, at the opening of the Legislative Assembly, Royal read his speech from the throne, first in English and then in French. William Perley, a former member of the North-West Council, blamed this event for "the agitation commenced by the people declaring that they did not want French as an official language":

When I was a member of the Assembly I never heard any fault found about the dual language. There was no question about it at all; I hardly knew that it was on the Statute-book, and there would not have been

any fault found with it had it not been that Mr. Royal undertook to force the French language on the people of that country. There were 22 elected members representing the North-West Territories, and not one of them could speak the French language at all. Mr. Royal was conversant with that fact, yet he read his speech in French. Not one of the members of the House understood him, and the ceremony was neither edifying nor amusing.¹⁷

Senator Bellerose later reported that the North-West legislators had "warned Governor Royal that if he should [again] speak French at the opening he would be insulted."¹⁸

A year later, in 1889, Royal read the speech from the throne in English only. However, the speech was immediately followed by an unusual intervention: "Before the speech was replied to or any other business done, Mr. [Hugh] Cayley of Calgary gave notice of introducing a motion to have a committee appointed to draft a resolution to be submitted to the Governor-General, to have clause 110 of the Northwest Territories act expunged."¹⁹ Two days later, Cayley moved the committee's appointment and explained that "owing to the unanimous opinion of the House on this question it was not necessary to make any comments."²⁰ His motion was carried. The committee immediately prepared its report, but deferred public discussion for several days in order that Judge Charles Rouleau, one of the Assembly's three legal experts, might be present.

On October 28, 1889, Cayley justified the committee's request for repeal "on the grounds that the needs of the Territories do not demand the official recognition of a dual language in the North-West, or the expenditure necessitated by the same."²¹ Frederick Haultain (MacLeod), voiced his support "on the ground of convenience and on the ground of economy." While the proponents lauded the cost savings, they were, ironically, quite uncertain as to what these might be. Two years earlier, in response to a question from John Turriff (Moose Mountain) regarding the cost of the French-language ordinances, Edgar Dewdney, the previous lieutenant-governor, had responded:

Ordinances of 1884, 1885 and 1886 are now under contract for translation at a cost of \$1,000; and the printing will probably cost as much more. The sum of three thousand dollars was voted for this purpose at the last session of the Dominion Parliament, and it is hoped that this amount will prove sufficient to cover also cost of translating and printing of the Ordinances of this [1887] session.²²

Cayley cited this information, with some exaggeration, during the 1889 debate, describing the cost of the French-language ordinances as "about \$1,000 a year." In fact, the cost was \$605 per year over the three-year period, including \$250 for translation and \$355 for printing.²³ This exceeded, but only moderately, the thirteen-year average of \$581 per year, including \$185 for translation and \$396 for printing.

Other legislators, however, gave a different explanation for abolishing the official use of the French language. Benjamin Richardson (Wolseley), for example, stated quite simply that "the sentiment of the country was strongly in favour of one language and one nationality."²⁴ Frank Oliver (Edmonton), publisher of the *Edmonton Bulletin*, expanded on this theme, editorializing that a single language was necessary "to build up a strong nation, having a national sentiment, that will be purely Canadian."²⁵ The Assembly adopted the Cayley motion, known thereafter as "the language resolution," by a vote of 17-2.

Three months later, in the Canadian House of Commons, D'Alton McCarthy, the Conservative member for Ontario's Simcoe North, moved the repeal of section 110 of the *North-West Territories Act* as a step "to create and build up in this country one race with one national life, and with a language common to us all."²⁶ McCarthy had already signalled his intentions several months earlier, arguing in Winnipeg that Canada would never be united unless it adopted English as its common language. If French-speakers could be assimilated, political violence would be avoided: "We have the power to save this country from fratricidal strife, the power to make this a British country in fact as it is in name."²⁷ McCarthy's conclusions were buttressed by the scholarly research of a contemporary, Edward A. Freeman, Regius Professor of Modern History at Oxford University.²⁸ Freeman held that language defined the nation ("where there is not community of language, there is no common nationality") and that "a government and a nation should coincide."²⁹ He reasoned that language diversity invariably led to political instability, since "the only way in which national feeling can show itself is by protesting, whether in arms or otherwise, against existing political arrangements."³⁰

Although the motion was defeated on the second reading, the issue dominated the parliamentary agenda for several weeks and provoked a national crisis. The minister of justice, John Thompson, proposed a compromise solution: official bilingualism would be maintained in the North-West, but the Assembly could determine the language of its proceedings. The Canadian parliament adopted this proposal on September 30, 1891 by adding a qualifying clause to section 110:

Provided, however, that after the next general election of the Legislative Assembly, such Assembly may by ordinance or otherwise, regulate its proceedings, and the manner of recording and publishing the same; and the regulations so made shall be embodied in a proclamation which shall be forthwith made and published by the Lieutenant Governor in conformity with the law, and thereafter shall have full force and effect.³¹

The North-West welcomed the amendment with jubilation. Cayley's *Calgary Herald* bluntly revealed "the real issues" and called "a spade a spade."³² It trumpeted: "The country knows, the French members know, that there has been administered a knock down blow to French pretensions, a great discouragement and mortification to the French race throughout Canada." The editorialist regretted, somewhat gallantly, that unity and patriotism required a winner and a loser. However:

Men may do this [express their regrets] while refusing to yield their conviction of the absolute necessity of securing for the English language in Canada that supremacy which British arms, British blood, British courage, British ideas, British institutions may fairly claim, at the close of this nineteenth century in a country over which the British flag has waved for a century and a quarter. The Northwest will part and part forever with a system which prevents national unity, encourages race strife, promotes national disintegration and is a standing menace to the integrity of British institutions and the permanence of British power in this half of the North American continent.³³

Territorial elections were held about a month later, and the North-West Legislative Assembly convened on December 10, 1891. Shortly afterwards, the lieutenant-governor called upon Frederick Haultain to form a four-member executive committee. The committee met for the first time on January 4, 1892 and that same day, Haultain made an announcement to the Assembly:

With regard to the Journals he might say that they had not been printed in French for some time past and he could inform the House that it was the intention of the Executive Committee to bring a resolution before the House on this matter, at which time they hoped to be able to give full reasons for their policy of having the Journals printed only in English. (Applause).³⁴

Two weeks later, on January 19, 1892, Haultain moved "that it is desirable that the proceedings of the Legislative Assembly shall be recorded and published hereafter in the English language only."³⁵

Once again, Haultain cited the potential cost savings. He explained that "he brought up the question simply as one affecting expenditure and he commended the motion to them as reasonable from the point of economy, convenience and necessity."³⁶ James Clinkskill (Battleford) concurred, calling it "a question of economy and necessity," and Thomas Tweed (Medicine Hat) "one of necessity and economy." Others, of course, hinted at more nationalist motives. During the 1891 election campaign, Daniel Mowat (South Regina) had urged his electors: "With reference to languages, I say let this be an English speaking country and let us do away with having the Ordinances, etc. printed in any other language, and thereby save expense."³⁷

The Haultain motion was debated and, later that same day, adopted by a vote of 20-4. The lieutenant-governor did not, as required, proclaim the resolution. Nonetheless, the government never again published a French-language version of the Assembly's proceedings; the 1890 edition of the *North-West Journals*, already in press, was the last to be printed in that language.

Later the same year, a closely-related issue reared its head when the North-West Assembly considered revisions to the *School Ordinance*. Daniel Mowat (South Regina) proposed that English be the sole language of instruction, arguing that "we would never have true patriotic feeling in the country until there was one language."³⁸ Nevertheless, he was persuaded to accept a compromise that permitted the teaching of a French-language primary course. Mowat justified this revised proposal by explaining that the "provision to make the teaching of English compulsory was rendered necessary on account of the large influx of foreigners. An exception was made in favor of teaching a primary course in French, as the French were fellow Canadians."³⁹ On December 29, 1892, the Legislature adopted the new school bill. Section 83 provided that "all schools shall be taught in the English language." An additional clause, section 83.1, allowed school trustees "to cause a primary course to be taught in the French language."

This "exception" allowed a course in reading and composition at the primary level, that is, during the first two years of schooling.⁴⁰ However, the prescribed text, a bilingual reader, was—perhaps by design—best suited for teaching English to the French-speaking population. When the course was

offered, the allotted time generally varied between a half-hour and a full hour per day, strictly controlled by the local school inspector.⁴¹

With the adoption of the 1892 school bill, public debate on the dual-language question largely came to a close. However, the surreptitious suppression of the French language continued apace. The practice of publishing French-language regulations and reports ended in the 1891 fiscal year with the printing of 500 French-language copies of the Department of Public Works annual report, and 300 French-language copies of the Board of Education regulations.⁴² The publication of the French-language ordinances ended in 1894 with the printing of the 1892 edition, although no formal announcement was made and no public explanation given.⁴³ Similarly, the *North-West Territories Gazette* published its last bilingual issue on August 15, 1895; thereafter, it appeared exclusively in English.

In 1901, the German-speaking community entered the political fray, petitioning the Legislative Assembly to allow school instruction in German. In response, the Assembly amended the *School Ordinance*, section 136, and permitted a school board to "employ one or more competent persons to give instructions in any language other than English" subject to the departmental regulations and on condition that this not interfere with the required school program and that the costs be collected directly from the parents concerned. The department of education regulations subsequently provided the necessary clarification: "Such instruction shall be given between the hours of three and four o'clock in the afternoon of such school days as may be selected by the board and shall be confined to the teaching of reading, composition and grammar. The text books used shall be those authorized by the Commissioner of Education."⁴⁴ Schools rarely took advantage of this possibility however, since, as the legislators had probably anticipated, the immigrant population lacked the necessary financial means.⁴⁵

Alberta's Inherited Language Regime, 1905-1918

In 1905, the Canadian parliament created two new provinces, Alberta and Saskatchewan, and provided for their governance. The *Alberta Act*, section 14, stipulated that "all the provisions of the law with regard to the constitution of the Legislative Assembly of the Northwest Territories and the election of members thereof shall apply, *mutatis mutandis*, to the Legislative Assembly of the said province." Section 16, similarly, provided that "all laws and all orders

and regulations" already in vigour in the Territories would continue in the new province of Alberta until such time as the provincial legislature (or the federal parliament, as appropriate) decided otherwise.⁴⁶

The *Alberta Act* made no explicit provision for an official language in the province although, in introducing the act, the Canadian minister of justice, Charles Fitzpatrick, had explained that "we are perpetuating the rights, whatever they may be, in the North-West Territories with respect to language, leaving it to the legislature to determine hereafter to what extent these rights may be maintained."⁴⁷ This meant, first and foremost, that section 110 of the *North-West Territories Act*, recognizing English and French as the official languages of the legislature and courts, continued to have legal force in Alberta until amended by the provincial Legislature. Of course, the North-West Legislature had, in practice, completely (and illegally) abandoned the use of French more than a decade earlier. Provincial legislators and jurists, often recent immigrants to Western Canada and blissfully ignorant of the region's constitutional history, blindly conformed to this English-only regime. If they occasionally permitted the use of French, this was considered to be a temporary privilege rather than a legal right.

The Alberta Legislative Assembly, for example, published its statutes and regulations exclusively in English. However, in 1909, Alberta's first French-speaking cabinet minister, Prosper Edmond Lessard (Pakan), proudly announced that the government had translated all its statutes into French.⁴⁸ Two years later he backtracked somewhat, claiming simply that the most useful laws were available in French, "telles que celles concernant les Batailles, les clôtures, les animaux errants, les Sociétés d'Agriculture, les Privilèges d'ouvriers, les mauvaises herbes, la fabrication du beurre et du Fromage, les feux de prairie, les Mines de charbon, les mariages, et décès, etc."⁴⁹ He also warned, furthermore, that the government was still not convinced that there was a real demand for this service.⁵⁰ In subsequent years, Lessard's newspaper, *Le Courrier de l'Ouest*, took over the job itself, occasionally reprinting translated statutes in its own pages.⁵¹

The North-West Territories' *School Ordinance* was also carried into the new province, including section 136, in slightly revised form, which stated that "All schools shall be taught in the English language but it shall be permissible for the board of any district to cause a primary course to be taught in the French language." Nevertheless, in 1913 the Liberal minister of education, John R. Boyle, boasted that in Alberta "we have no Bi-lingual schools.... English is the only language permitted to be used as a medium of

instruction in our schools.”⁵² Two years later, during a by-election held in Whitford, he accused the Conservative opposition of catering to the immigrant vote by advocating the establishment of Ukrainian schools.⁵³ The opposition, eager to prove its innocence, immediately moved a resolution: “That this House place itself on record as being opposed to Bi-lingualism in any form in the School system of Alberta, and as in favour of the English language being the only language permitted to be used as the medium of instruction in the schools of Alberta, subject to the provisions of any law now in force in the Province in that effect.”⁵⁴ The Liberal government, caught ignominiously in its own trap, voted with the opposition, and the resolution passed unanimously.

The Alberta Legislative Assembly, taking over where its territorial predecessor had left off, continued to legislate the use of the English language in public affairs. In 1909, for example, it adopted an *Alberta Election Act* requiring, in section 121, that the returning officer in each riding publish a proclamation “in the English language” listing the place and time for nominations and voting, and the boundaries of the polling subdivisions. Section 175 made provision for an interpreter: “If the person desiring to vote is unable to understand the English language the deputy returning officer shall enter a remark to that effect opposite his name in the poll book and may allow him to retire from the polling place until a competent interpreter can be procured.” More disconcertingly, a second paragraph added: “If no such interpreter is found or presents himself at the polling place the voter shall not be allowed to vote.”

Since English was, in practice, the sole language of the courts, the 1914 *Rules of Court*, section 404, similarly provided for an interpreter during the written interrogation of non-English-speaking witnesses:

Where a witness does not understand the English language the order or commission shall, unless otherwise ordered, be executed with the aid of an interpreter nominated by the examiner or commissioner and sworn by him to interpret truly the questions to be put to the witness and his answers thereto, and the examination shall be taken in English.

The Legislative Assembly also imposed English as the official language of municipal government. The 1912 *Rural Municipality Act*, section 178(1), required the municipal secretary to “keep a full and correct record in the English language of the proceedings of every meeting of the council.” The 1912 *Town Act*, sections 15 and 72, demanded that candidates for election as mayor or

councillor be “able to read and write the English language.” In the same vein, the 1913 *Edmonton Charter*, section 21, provided that “no person shall be eligible for election as mayor or alderman, unless he is...able to read and write the English language.”

Provincial law similarly made English the required language for employment. The *Coal Mines Regulations Ordinance*, section 34, carried into Alberta from the North-West Territories, ordered that “no person unable to speak and read English shall be appointed to or shall occupy any position of trust or responsibility.” The 1910 *Alberta Land Surveyors Act*, section 22(1), required that a person articling with a land surveyor first pass an examination in English grammar. The 1913 *Mines Act*, section 22, required that each applicant for a miner’s certificate “satisfy the board that he is able to read and write in the English language.” The 1917 *Alberta Provincial Police Act*, section 8, required that all constables be “able to read and write the English language legibly.”

Few laws regulated commercial signage. Nevertheless, a 1917 statute requiring the City of Calgary to adopt an early-closing policy also ordered that exempted shops “expose in two prominent places in the front door, and in the front window, a card not less than two feet square on which there shall be printed in English, in type of not less than one inch high, the following words only: ‘This shop is closed by law, except for the sale of (*here state the goods, or any of them, mentioned in this subsection*).’”⁵⁵ This obligation was later extended to all cities in Alberta.

Alberta’s Official Language Provision, 1919

On April 17, 1919, the Alberta Legislature adopted an amendment to the *Interpretation Act*, affirming English as the province’s official language: “Unless otherwise provided where any Act requires public records to be kept or any written process to be had or taken it shall be interpreted to mean that such records or such process shall be in the English language.” The province had inherited some 124 ordinances from the North-West Territories, regulating a wide range of activities, including elections, government departments, public printing, public health, civil justice, marriage, professions and trades, companies, municipalities, schools, agriculture, liquor sales, tax assessment, and insurance—and the great majority did indeed require the keeping of public records or the taking of written process. The *Elections Ordinance*, for example, described in exquisite detail a plethora of required written records and

procedures, including the issuing of writs, the publication and posting of notices, the taking of oaths and statements, the printing of ballots, the recording of electoral information, the keeping of poll books and record books, the certification of nominations and elections, the serving of summons, and the filing of appeals.

Oddly, the attorney-general, John R. Boyle (Sturgeon), buried the English-language amendment deeply within an omnibus housekeeping bill modifying 51 different statutes, and formally entitled *An Act to Amend The Factories Act, The Liquor Act, The Soldiers' Home Tax Exemption Act, and certain other Acts and Ordinances*. The bill made only a fleeting appearance in the Legislature, attracting little attention and no debate. Its second reading, late on a Monday afternoon, was completely upstaged by lengthy and heated exchanges concerning the practice of chiropractic. The legislative reporter's summary was revealingly brief and inarticulate: "The house agreed without discussion to the second readings of two acts introduced by the attorney general, one to amend the factories act, the liquor act, and other effected by the special revisions of certain measures; and the other to postpone the commencement of certain other acts."⁵⁶

The Legislature's silent support for the English-language amendment contrasted dramatically with the outspoken stance of the Orange Order. A few weeks earlier, on March 20, 1919, at meetings addressed by the mayor of Edmonton and the lieutenant-governor of Alberta, the Grand Orange Lodge of Alberta had adopted the following resolution:

That in the interests of a united Canada urgent representation be made to the federal and provincial governments, so far as their respective jurisdictions are concerned, (1) to enact legislation whereby the English language shall be the sole medium of instruction in every grade of every school under government control, and (2) to enforce the existing law of the land so that within the province of Alberta the English language only shall be read officially on any public form or document, or in any public office, school or assembly.⁵⁷

The Orangemen also called upon the federal government to "enact legislation preventing the immigration of persons from alien enemy countries or of such extraction, for a period of twenty years and further, to deport all such aliens now in Canada unless they furnish ample proof of loyalty."

In 1922, when Alberta's statutes were consolidated, the English-language provision was labelled "English as official language." In 1958, the legislature

adopted a new *Interpretation Act*, and section 27, now labelled "Public records," appeared in revised form: "Where by an enactment public records are required to be kept or any written process to be had or taken, the records or process shall be had or taken in the English language." The provision was repealed in 1980.

Alberta's Intrinsic Unilingualism, 1920–1967

During the next several decades, Alberta made no substantive changes to its official language regime. None were needed. The dominance of English was uncontested; competing languages had been vanquished. The legislative framework supporting English unilingualism was firmly in place, and the norms regulating language use were now intrinsic.

For many years, the French-speaking community had lobbied cautiously for the right to introduce French-language instruction in its schools. Knowing that the government would not modify the statutory provisions adopted in 1892, banishing languages other than English, its leaders astutely focused instead on the interpretation given the expression "a primary course." Instead of a single French-language course, they sought a complete French-language program, albeit for only the first two years of schooling. In 1925 these efforts finally paid off and the Department of Education discretely issued new instructions for the teaching of French:

In all schools in which the board by resolution decides to offer a primary course in French, in accordance with Sec. 184 of the School Ordinance, French shall be for the French-speaking children one of the authorized subjects of study and may be used as medium of instruction for other subjects during the first school year. Oral English must, however, from the beginning be included in the curriculum as a subject of study. During the second year and after the child has learned to read in the mother tongue, the formal teaching of reading in English shall be begun. From Grade III on, a period not exceeding one hour each day may be allotted to the teaching of French.⁵⁸

Some four decades later, the provincial government modified the *School Act* to formally confirm this practice. A 1964 amendment provided that French might be the language of instruction up to grade 9 on condition that in grades one and two "at least one hour a day shall be devoted to instruction

in English;" in grade three "not more than two hours a day shall be devoted to instruction in French;" and, in grades four through nine "not more than one hour a day shall be devoted to instruction in French."⁵⁹

No such concessions were made for language use in the Legislative Assembly. English continued to be the sole language of law-making and record-keeping. Indeed, in 1971, constitutionalist Claude-Armand Sheppard concluded (mistakenly) that "English has been the only language ever used in the legislature or in any of its committees."⁶⁰ In fact, French had been spoken on rare occasions, but its use was considered a privilege, to be reluctantly granted or rudely denied. In 1936, *La Survivance* reported that J. William Beaudry (St. Paul), a member of the governing Social Credit party, had delivered parts of his maiden speech in French.⁶¹ His remarks, including praise for the contribution of the province's French-speaking pioneers, were warmly received. In 1952, the *Edmonton Journal* noted that the Liberal opposition leader, J. Harper Prowse (Edmonton), had spoken "in what the house assumed was French" to underline his opposition to the planned elimination of "foreign" languages taught in grade 10.⁶² However, his speech met with a frosty response, and a government backbencher rising on a point of order questioned "whether members were allowed to speak French in the legislature." A decade later, a new Liberal opposition leader, Michael Maccagno (Lac La Biche), endured more blatant bigotry when commenting in French on Canadian bilingualism. A government member allegedly demanded: "Mr. Speaker, have the honourable member from Lac La Biche speak white."⁶³ Instead, the chair permitted Maccagno to continue in French, but requested an oral translation.

The provincial Legislature persisted in requiring the use of the English language in municipal affairs. The 1919 *Municipal Hospitals Act*, section 7(2) limited eligibility for election to a hospital board to those "who can read and write the English language." Although this condition was repealed in 1947, it resurfaced the following year in the *Lloydminster Hospital Act*, section 35(4)(b). The *Town and Village Act* and the *Municipal District Act*, as amended on April 6, 1945, also established English-language competence as a condition for eligibility to elected office. The 1951 *City Act*, section 95, added an oral requirement: "No person shall be qualified to be elected mayor or a member of the council of a city unless,—(a) he can speak, read and write the English language." A 1951 amendment to the *Irrigation Districts Act* required that district trustees be "able to read and write in the English language."

In at least once instance, the province also imposed the use of English in the business sector. The 1936 *Male Minimum Wage Act*, section 14(1), required

that "every employer shall keep in his principal place of business in the Province a true and correct record in the English language of the wages paid to and the hours worked each day by each of his employees, together with a register in the English language of the names, nationalities, ages and residential addresses of all his employees." This same obligation also appeared in the 1936 *Hours of Work Act*, section 13(1), and the 1947 *Alberta Labour Act*, section 10(1).

Alberta's Unilingualism Is Breached, 1968-1987

In 1968, a tidal wave of official bilingualism, set off by the federal *Official Languages Act*, opened an important breach in Alberta's system of unilingual schooling. The provincial government amended its *School Act*, section 386, to permit the use of French for up to "50 per cent of the total period of time devoted to classroom instruction each day" in grades three through twelve. In 1971, it also amended section 150 so that other minority languages received similar status: "A board may authorize (a) that French be used as a language of instruction, or (b) that any other language be used as a language of instruction in addition to the English language, in all or any of its schools." The minister of education then authorized instruction in these languages, notably Ukrainian, during 50 per cent of each school day for grades one through three.⁶⁴ In 1976, this was extended to grades four through six; in 1980, to grades seven and eight; and, finally, in 1983, to grades 9 through 12.⁶⁵ In a 1988 report, the government declared: "Alberta Education supports the provision of opportunities for students who wish to acquire or maintain languages other than English or French so that they may have access to a partial immersion (bilingual) program or second language courses in languages other than English or French."⁶⁶ The same report noted that some 2,775 students were enrolled in these bilingual programs, chiefly in Ukrainian (1,362), but also in Hebrew (458), German (339), Arabic (265), Mandarin (234) and Polish (117).⁶⁷ They accounted for 1.5 per cent of all enrolments in provincial language programs or courses.

In 1976, the provincial government again expanded the number of hours available for French-language instruction by reducing the English-language minimum. As before, schools were obliged to offer at least one hour of English instruction per day in grades one and two, but they were now freed from the 50 per cent rule for subsequent grades. Instead, French-language schools could

limit their English instruction to 190 hours per year in grades three through six, 150 hours in grades seven through nine, and 125 hours in grades 10 through 12.⁶⁸ This meant, in effect, that French-language instruction could occupy up to 80 per cent of regular class time.

On February 23, 1978, at a meeting of provincial leaders in St. Andrews, New Brunswick, Premier Peter Lougheed signed a national statement on minority language rights: "Each child of the French-speaking or English-speaking minority is entitled to an education in his or her language in the primary or secondary schools in each province wherever numbers warrant."⁶⁹ The following day, however, he issued a distinctly Albertan clarification:

It should be recognized that the provision of French language instruction is not limited to those students whose mother tongue is French. In fact, because of Alberta's population mix and distribution, many boards must rely on large numbers of students whose mother tongue is other than French in establishing classes where French is used as the language of instruction. It will continue to be our policy to allow admission to French language programs regardless of mother-tongue.⁷⁰

Alberta thereby diverged from the national consensus, refusing to distinguish between immersion schools designed for the English-speaking majority, and Francophone schools intended for the French-speaking minority.

This refusal took on added significance when, several years later, the *Constitution Act, 1982*, section 23, guaranteed the right of official language minorities to have their children instructed "in minority language educational facilities provided out of public funds." Since Alberta's French-language educational facilities were, in reality, immersion schools and not minority schools, they fell considerably short of the constitutional requirement. In 1982, a group of French-speaking parents, led by Jean-Claude Mahé, Angéline Martel and Paul Dubé, attempted to obtain French minority schooling for their children. First, they contacted the minister of education and then, on his advice, the Edmonton Public School Board and the Edmonton Catholic School Board. When their efforts failed, the parents took the province to court, claiming that the *School Act* contravened the Canadian constitution. In 1985, Purvis J. of the Alberta Court of Queen's Bench ruled in their favour and ordered the province to make specific provision for French minority schools.⁷¹ Two years later, Kerans J., speaking for the Alberta Court of Appeal, confirmed this decision.⁷²

In 1980, a spate of new laws further softened the province's unilingual face, discretely dropping legal references to longstanding English-language obligations. For example, the Alberta Legislature adopted a new *Interpretation Act*, but the provision recognizing English as an official language, first adopted in 1919, was nowhere to be found. The new bill, introduced by a government backbencher, slipped phantom-like through the Assembly, including committee of the whole, unquestioned and uncommented.⁷³ The new *Election Act* no longer specified, for the first time since 1909, that the electoral proclamation would be published "in the English language." Nor did it disenfranchise non-English-speaking electors if no interpreter could be found. Similarly, the *Municipal Election Act*, as amended in 1980, no longer required that prospective council members be "able to speak, read and write English."

Any illusion that the Legislature might be inclined to temper its own unilingualism was quickly dispelled, however, when it adopted a standing order, on November 27, 1987, providing that "the working language of the Assembly, its committees, and any official publications recording its proceedings shall be in English."⁷⁴ This "new" rule was the Legislature's heavy-handed response to a bizarre political crisis. Several months earlier, opposition member Leo Piquette (Athabasca-Lac La Biche) had spoken several words in French during question period: "Thank you, Mr. Speaker. To the Minister of Education, le ministre de l'éducation. Mr. Speaker, these questions are pertaining to section 23 of the Constitution Act signed by this province on April 19, 1982. Les franco-Albertains attendent impatiemment depuis 1982."⁷⁵ At this point, the Speaker intervened, called Piquette to order, and commanded: "The Chair directs that the questions will be in English or the member will forfeit the position." Piquette immediately contested the speaker's decision, claiming that "the language rights guaranteed in section 110 of the North West Territories Act were never extinguished and do still obtain in the Legislative Assembly of the Province of Alberta."⁷⁶ Subsequently, the Standing Committee on Privileges and Elections rejected Piquette's claim, and upheld the Speaker's ruling. It decided, moreover, that Piquette had breached the privileges of all members of the Assembly "by his failure to uphold the absolute authority of the Speaker to rule on points of order and to accept such rulings without debate or appeal."⁷⁷ For this, it recommended that he "unconditionally apologize to the Assembly."

A New Tolerance for Bilingualism in Alberta, 1988–2005
Alberta's Languages Act, 1988

A few months later, on February 25, 1988, the Supreme Court of Canada confirmed unequivocally, in the *Mercure* case, that section 110 was still in vigour in Saskatchewan and, by implication, Alberta. It noted that laws giving expression to language rights possess an almost constitutional nature, and could only be repealed by "clear legislative pronouncement."⁷⁸ Where there is a conflict between a fundamental law and other specific legislation, "the human rights legislation must govern."⁷⁹ Further, the long-standing practice of using English exclusively in the debates, statutes and court proceedings did not in any way change the statutory protection accorded the French language since "statutes do not, of course, cease to be law from mere disuse."⁸⁰ In sum:

Section 110 of *The North-West Territories Act* was a law existing at the establishment of the province. Since no provision of the *Saskatchewan Act* was inconsistent with s.110 or was intended as a substitute for it, and since there was no amendment of the provisions of that section with respect to the language of the statutes and of the proceedings in the courts, it follows that s.110 continues in effect for that purpose and that the statutes of Saskatchewan must be enacted, printed and published in English and French and that both languages may be used in the Saskatchewan courts.⁸¹

Nevertheless, the court declared that the province could, if it wished, adopt a statute repealing this provision although, paradoxically, any such statute would have to "be enacted, printed and published in the English and French languages."⁸² Thus, on June 22, 1988, Attorney-General James Horsman (Medicine Hat) introduced a bilingual bill entitled the *Languages Act*, providing that "section 110 of *The North-West Territories Act*, chapter 50 of the Revised Statutes of Canada, as it existed on September 1, 1905, does not apply to Alberta with respect to matters within the legislative authority of Alberta."⁸³ Horsman argued, without embarrassment or apology, that this measure was "fair and reasonable and practical and recognizes the reality of Alberta and the distinct nature of Alberta society."⁸⁴ He explained further:

Mr. Speaker, we are dealing with the reality of the fact that the *Mercure* decision has said that an Act passed in 1886—which had never been used in this province, never been implemented, had fallen into complete disuse in the Northwest Territories prior to Alberta becoming a province in 1905—is still the law because of a technicality.... We have now been told by the Supreme Court of Canada how we must proceed in order to change that antiquated, unused piece of legislation which was a hangover from 1886.⁸⁵

The Liberal leader, Nick Taylor (Westlock-Sturgeon), retorted that this was “nothing more than summoning up the prejudices of centuries past and taking a poke at a defenseless minority under the guise that it reflects Alberta’s reality.”⁸⁶ Attorney-General Horsman was the only member of the governing Conservative party to participate in the debate. Nine members of the 20-person opposition intervened, however, and several made comments in French. The speaker conducted the proceedings in both languages, announcing each reading and each vote in English and in French, as did the chairman in committee of the whole. In one particularly ironic turn of events, the chairman refused to accept an opposition amendment calling for the translation of selected laws into French, because the amendment itself had not been translated into French.⁸⁷

The principal objective of the *Languages Act* was the suppression of section 110 and its requirement that all statutes be enacted and printed in French. This measure drew public attention, and was hotly debated. However, the act also provided, in section 5(1), that “members of the Assembly may use English and French in the Assembly.” This resulted subsequently in a modest, largely symbolic, increase in French language use. For example, in 1999, Nancy MacBeth (Edmonton-McClung), the Liberal opposition leader, spoke in French when she congratulated the government on its creation of a *Secrétariat aux affaires francophones*, although she then repeated her remarks in English.⁸⁸ Two years later, the president of this secretariat, Denis Ducharme (Bonnyville-Cold Lake), also spoke in French when he announced that the *Association canadienne-française de l’Alberta* was celebrating its 75th anniversary.⁸⁹ Ducharme did not repeat his announcement in English, but he did provide a written translation, and this too was printed in *Hansard*.

The *Languages Act* also provided, in section 4(1), that “any person may use English or French in oral communication” in court proceedings. Nevertheless, French continues to get short shrift in civil matters before Alberta’s courts,

largely because the province has failed to provide the necessary resources, including bilingual judges. McIntosh J. Prov. Ct. unwittingly illustrated this problem when he admonished a French-speaking defendant:

With respect, you can do all the talking in French that you like but in Alberta, with respect, Provincial matters are conducted in English, so if you're going to communicate with me you'll have to do it in English, or you will have to have somebody here that can assist you in English. But this trial is conducted in English. That's the law in Alberta, for Provincial Statutes.⁹⁰

In criminal matters, of course, the government must comply with federal legislation that grants an accused, on application, the right to "be tried before a justice of the peace, provincial court judge, judge or judge and jury, as the case may be, who speak the official language of Canada that is the language of the accused or, if the circumstances warrant, who speak both official languages of Canada."⁹¹

Tolerance for the French Language in Alberta, 1988–2005

The movement to a more tolerant language regime was evident mainly in the area of French-language education. Ironically, this new tolerance was conceded under duress, often as a reluctant response to litigation. For example, in 1987, in the *Mahé* case, the Alberta Court of Appeal vindicated French-speaking parents who argued that the province's *School Act* was not constitutional. As a result, the provincial Legislature adopted a new act the following year that recognized in section 5(1), albeit awkwardly and ambiguously, the right to French minority schooling: "If an individual has rights under section 23 of the *Canadian Charter of Rights and Freedoms* to have his children receive school instruction in French, his children are entitled to receive that instruction in accordance with those rights wherever in the Province those rights apply." Unsatisfied, the parents appealed to the Supreme Court of Canada, claiming that the provincial legislation still failed to provide for minority schools, that is, schools managed and controlled by the French-speaking minority. The court agreed and, in 1990, ruled that the province must enact legislation granting exclusive authority to the French minority for decisions

relating to the minority language instruction and facilities, including: (a) expenditures of funds provided for such instruction and facilities; (b) appointment and direction of those responsible for the administration of such instruction and facilities; (c) establishment of programs of instruction; (d) recruitment and assignment of teachers and other personnel; and (e) the making of agreements for education and services for minority language pupils.⁹²

Three years later, the Legislative Assembly amended the *School Act* to provide for minority school boards, described formally as “Regional authorities for Francophone Education Regions.” These authorities were responsible for the management and control of French minority schools in their region, including: tracking eligible students and facilitating their education in French, representing French-speaking parents, promoting French-language instruction in the province; maintaining links with other regional authorities, and developing rules and regulations for French education.⁹³ Further, as school boards, they were empowered to establish policies for the provision of educational services and programs; to employ teachers and non-teaching personnel, including administrators and supervisors; to maintain and furnish their real property; to make rules respecting the attendance and transportation of students; and, generally, to deal with all matters within their jurisdiction.

The *School Act* was further revised in 2000 with the introduction of a preamble that, for the first time, highlighted minority schooling. It proclaimed that:

the Regional authority of a Francophone Education Region has a unique responsibility and the authority to ensure that both minority language educational rights and the rights and privileges with respect to separate schools guaranteed under the Constitution of Canada are protected in the Region, such that the principles of francophone educational governance are distinct from, not transferable to nor a precedent for, the English educational system.

Since 2001, section 255(3) has stipulated that “a Regional authority must designate each school either as a public school or as a separate school.” In 2003–2004, the province could boast five regional authorities administering 18 French Catholic schools and seven French Public schools, with 3,638 registered students.⁹⁴

The Alberta Legislature's decision to permit the use of French in corporate names also reveals a significant, if less momentous, break with the long-standing tradition of repressive unilingualism. For example, the current *Interpretation Act*, section 16(e), vests a corporation that has "a name consisting of an English and French form or a combined English and French form" with the power "to use either the English or French form of its name or both forms." The *Business Corporations Act*, section 10(6), similarly recognizes that the name of a corporation "may be in an English form or a French form or in a combined English and French form and the corporation may use and may be legally designated by any of those forms." The *Cooperatives Act*, section 16(2), the *Insurance Act*, section 21(2), and the *Loan and Trust Corporations Act*, sections 20(2) and 34(3), all include similar provisions.

The *Business Corporations Act*, section 10(1) also requires that corporations include, as the last part of their name, one of a select number of English or French words, or abbreviations: "Limited," "Limité," "Incorporated," "Incorporé," "Corporation," "Ltd.," "Lté," "Inc.," or "Corp." The *Cooperatives Act*, section 16(2), contains a parallel provision, requiring that cooperatives include words such as "cooperative", "co-operative", or "coopérative," as does the *Loan and Trust Corporations Act*, section 20(1)(e), requiring that trust companies use "trust," or "fiducie." Similarly, the *Insurance Act*, section 213, stipulates that only an incorporated insurance company may use the words "insurance company" or "insurance corporation," or "the French equivalents of those words," in its name.

Conclusion

For more than a century, Alberta's legislators imposed the use of English in a wide variety of domains, including government, justice, education, business and commerce. Their goal was to suppress minority languages and to build a homogeneous English-speaking province, hence the rallying cry "one language and one nationality." This behaviour was fully consistent with Jean Lapointe's "language war" thesis that languages in contact struggle for domination, seeking to drive their rivals out.⁹⁵ Governments, of course, are favoured instruments in this struggle since their language choices are critical and their social powers are formidable. They cannot remain neutral: a government cannot function without using a language for public affairs, that is, without choosing an official

language. But they can intervene: a government has the power to regulate both individual and societal language use.

Nevertheless, the Alberta government's extensive and longstanding intervention in language matters runs counter to the avowed tenets of its present-day ideology, and to the widely-held perceptions of its past behaviour. In recent decades, Alberta has proclaimed its commitment to a free enterprise, market-driven economy, and a minimalist government. This neo-liberal philosophy is reflected in the province's declarations trumpeting freedom of language choice—unimpeded by political constraints and tempered only by market forces. For example, in a 1992 statement on Alberta's constitutional policy, former premier Don Getty called for the abolition of language legislation so that individuals could make free and independent decisions. Needless to say, this call was directed solely and quite unselfconsciously at the federal government: "I propose that in Canada, we recommit ourselves to the concept of bilingualism as a positive, fundamental characteristic of Canadian unity but, I believe the time has come when bilingualism should be removed from the force of law. This would be a fundamental change in Canada. Bilingualism by choice, not law."⁶

Today, the Alberta government intervenes no less often than in the past, but the nature of its intervention has changed, veering from generalized repression to selective tolerance. Provisions that impose English language usage are increasingly rare, provisions that tolerate minority languages increasingly common. Education provides a prime example. Whereas after 1892, the provincial government imposed a sole language of instruction, English, it has now, since 1971, permitted teaching in several minority languages, including French, Ukrainian, German and Hebrew. Further, since 1994, in a particularly dramatic breakthrough, the government has created a province-wide system of French minority schools managed by French school boards.

Nevertheless, the decisions that ended repressive unilingualism were often made with reluctance and under duress. Again, education provides a defining example. It was only after French-speaking parents had appealed to the Alberta Court of Queen's Bench and, in the *Mahé* case, successfully demonstrated that the *School Act* contravened section 23 of the *Constitution Act, 1982*, that the province recognized in a 1988 amendment that the French-speaking minority had a right to its own schools. Nevertheless, this recognition still fell considerably short of the standards set by the constitution, since it did not provide the minority with exclusive powers in matters pertaining to instruction in these schools. When, in 1990, the Supreme Court of Canada

ordered Alberta to enact the necessary legislation, the provincial government threatened, ill-advisedly, to override this requirement. (Surprisingly, the government did not at first realize that the constitution's so-called "notwithstanding" clause was not applicable to section 23.) Finally, in 1993, the Legislative Assembly adopted an amendment to the *School Act* providing for French minority school boards and, in 1994, these were established.

Of course, repressive unilingualism, when successful, frequently sows the seeds of its own demise. Why legislate the use of English in a society composed overwhelmingly of English-speakers? In Alberta, English is now universal and unthreatened: 99 per cent of the province's population is able to converse in English, and 94 per cent speak it in their homes. If there ever was a reason to forcibly impose a common language, it has long since disappeared.

Notes

1. This essay draws extensively on previously published research dealing with the history of language law in Alberta. See, for example: Edmund A. Aunger, "Language and Law in the Province of Alberta," in *Language and Law*, eds. Paul Pupier and José Woehrling (Montreal: Wilson & Lafleur, 1989), 203-29; Edmund A. Aunger, "The Mystery of the French Language Ordinances: An Investigation into Official Bilingualism and the Canadian North-West, 1870 to 1895," *Canadian Journal of Law and Society* 13 (1998): 89-124; Edmund A. Aunger, "Justifying the End of Official Bilingualism: Canada's North-West Assembly and the Dual-Language Question, 1889-1892," *Canadian Journal of Political Science* 34 (2001): 451-86; Edmund A. Aunger, "Legislating Language Use in Alberta: A Century of Incidental Provisions for a Fundamental Matter," *Alberta Law Review* 42 (2004): 463-97; Edmund A. Aunger, "De la répression à la tolérance: Les contrariétés du néolibéralisme linguistique en Alberta," in *La gouvernance linguistique: Le Canada en perspective*, ed. Jean-Pierre Wallot (Ottawa: Presses de l'Université d'Ottawa, 2005), 111-26.
2. Jean Lapointe, *Languages and Their Territories* (Toronto: University of Toronto Press, 1987), i. This is the English translation of *Langue et territoire* (Québec: Presses de l'Université Laval, 1984).
3. Ramsay Cook, "Language Policy and the Glossophagic State," in *Language and the State*, ed. David Schneiderman (Cowansville, Quebec: Éditions Yvon Blais, 1991), 75.
4. Joseph Eliot Magnet, *Official Languages of Canada* (Cowansville, Quebec: Éditions Yvon Blais, 1995), 20-21.
5. Adams G. Archibald, lieutenant-governor, Rupert's Land and the North West Territory, to Joseph Howe, secretary of state for the provinces (22 October 1870) reprinted in Edmund H. Oliver, ed., *The Canadian North-West: Its Early Development and Legislative Records*, vol. 2 (Ottawa: Government Printing Bureau, 1915), 976.
6. This quotation, and subsequent references to the council minutes, are taken from the original minute book "North-West Territories Council Minutes, 1873-1875," found in

the collection of the Saskatchewan Archives Board, Saskatoon, file NWT I.1. Oliver has conveniently reprinted these minutes, but his hand-copied source contained occasional errors. See Oliver, *The Canadian North-West*, 990-1075.

7. "Le Gouvernement du Nord-Ouest," *Le Métis* (Saint-Boniface, Manitoba), April 12, 1877, 2.
8. *Senate Debates* (April 9, 1877), p. 319.
9. "Return Showing, by Years, the Cost of Printing the Ordinances and Other Official Papers and Publications in the French language from the Time of Passage of the North-West Territories Act of 1877," in Canada, House of Commons, *Sessional Papers*, 1890, no. 1890-33, p. 3.
10. Canada, Department of Agriculture, *Census of Canada, 1880-81*, vol. 1 (Ottawa: Maclean, Roger, 1882), 300.
11. Canada, Department of Agriculture, *Census of the Three Provisional Districts of the North-West Territories, 1884-5* (Ottawa: Maclean, 1886), 10-11.
12. "Legislative Assembly," *The Regina Leader* (November 1, 1889), 1.
13. Lewis H. Thomas, *The Struggle for Responsible Government in the North-West Territories, 1870-97*, 2 ed. (Toronto: University of Toronto Press, 1978), 160.
14. Edgar Dewdney, lieutenant-governor, to John A. Macdonald, prime minister (April 11, 1887), quoted in Thomas, *Struggle for Responsible Government*, 160.
15. This information is drawn from "Sketches of the Members," *The Regina Leader* (October 30, 1888), 4-5.
16. Nolin's election was subsequently declared void and the following year he was replaced by Charles Boucher.
17. *Senate Debates* (April 29, 1890), p. 632.
18. *Senate Debates* (September 3, 1891), p. 547.
19. "Assembly Notes," *Edmonton Bulletin*, November 2, 1889. The article continued: "Most of the Territorial papers are clamoring for the abolition of the separate schools, and use of the French [language] as an official language. One significant fact was that the governor's speech was read in English only, while last year it was read in both French and English."
20. "Legislative Assembly," *The Regina Leader* (October 22, 1889).
21. "Legislative Assembly," *The Regina Leader* (November 1, 1889).
22. North-West Territories Legislative Assembly, "Return showing number of Ordinances printed in French since 1883, number distributed, number on hand, and cost of said printing," *Journals of the Council of the North-West Territories of Canada, Session 1887* (Regina: Amédée E. Forget, Printer to the Government of the North-West Territories, 1887), 101.
23. Aunger, "Justifying the End of Official Bilingualism," 469.
24. "Legislative Assembly," *The Regina Leader* (November 1, 1889).
25. "School Question," *Edmonton Bulletin* (December 7, 1889).
26. Canada, House of Commons, *Debates* (January 22, 1890), col. 51.
27. "McCarthy's Speech," *Manitoba Weekly Free Press* [Winnipeg] (August 8, 1889).
28. J.R. Miller, "'As a Politician He is a Great Enigma': The Social and Political Ideas of D'Alton McCarthy," *Canadian Historical Review* 58 (1977): 43.
29. Edward A. Freeman, "Race and Language," in *Historical Essays*, 3rd series, 2nd ed. (London: Macmillan, 1892), 206. These essays were first published in 1879. See also, Edward A. Freeman, *Comparative Politics*, 2nd ed. (London: Macmillan, 1896).
30. *Ibid.*, 226.
31. *North-West Territories Act*, R.S.C. 1886, c. 50, s. 110, as amended by S.C. 1891, c. 22, s. 18.
32. "The Commons Debate," *Calgary Daily Herald* (February 24, 1890).
33. *Ibid.*

34. "N.W. Parliament," *The [Regina] Leader* (January 12, 1892).
35. *Journals of the Second Legislative Assembly of the North-West Territories, Session 1891-92* (Regina, NWT: R. B. Gordon, Printer to the Government of the North-West Territories, 1892), 110.
36. "The Assembly!" *The [Regina] Leader* (January 26, 1892).
37. "Elections," *The [Regina] Leader* (November 3, 1891).
38. "The Legislature," *The [Regina] Leader* (August 18, 1892), 1.
39. "Legislative Assembly," *The Edmonton Bulletin* (August 22, 1892), 2.
40. Y.T.M. Mâhé, "L'enseignement du français dans les districts scolaires bilingues albertains, 1885-1939," *Cahiers franco-canadiens de l'Ouest* 4 (1992): 294-95.
41. *Ibid.*, 295.
42. Canada, *Report of the Auditor General for the Year ended 30th June 1891* (Ottawa: S.E. Dawson, Queen's Printer, 1892), D226, D229.
43. Auger, "The Mystery of the French Language Ordinances," 121.
44. *Regulations of the Department of Education* (Regina: John A. Reid, 1903), s. 25.
45. In 1916, Bishop Legal received legal advice that this regulation conflicted with the provision for a French-language primary course taught during school hours. His solicitors also noted that "no other language other than French has been taught between the hours of three and four in the afternoon limited to grammar, reading, and composition, except perhaps in some isolated districts where the teacher had taken the liberty to do as she pleased." See S.T. Rusak, *Relations in Education between Bishop Legal and the Alberta Government, 1905-1920* (M.Ed. Diss., University of Alberta, 1966), 94-95.
46. *Alberta Act*, S.C. 1905, c. 3 (reprinted R.S.C. 1970, App. II, No. 19), s. 16. One of the new government's first priorities, then, was to consolidate the existing laws. See Alberta, Department of the Attorney-General, *The Ordinances of the North-West Territories, Being an official consolidation of the Ordinances of the North-West Territories in force on August 31st, 1905* (Edmonton: J.E. Richards, 1907).
47. House of Commons, *Debates* (30 June 1905), p. 8634.
48. "Le problème français de l'Ouest," *Le Courrier de l'Ouest* [Edmonton] (June 17, 1909), 4.
49. P.E. Lessard, Editor of *Le Courrier de l'Ouest*, to A. Turgeon, Attorney-General of Saskatchewan (September 29, 1911), Saskatchewan Archives Board, File M3-17K.
50. "Les ordonnances en français," *Le Courrier de l'Ouest* [Edmonton] (October 19, 1911), 1.
51. See for example "Acte des liqueurs," *Le Courrier de l'Ouest* [Edmonton] (May 20, 1915), 6.
52. *Canadian Annual Review of Public Affairs*, 1913 (Toronto: Annual Review Publishing Company, 1914), 655.
53. "La question bilingue à la législature d'Alberta," *Le Courrier de l'Ouest* [Edmonton] (April 8, 1915), 1.
54. *Canadian Annual Review of Public Affairs*, 1915 (Toronto: Annual Review Publishing Company, 1916), 702.
55. *Act to amend the Acts and Ordinances constituting the Charter of the City of Calgary, and to validate Certain By-laws of the said city*, S.A. 1917, c. 45, s. 19(4).
56. "Chiropractic Bill removed from Agenda," *The [Edmonton] Morning Bulletin* (April 15, 1919), 5.
57. "Resolutions passed by the Orange Lodge," *The [Edmonton] Morning Bulletin* (April 21, 1919), 1.
58. Alberta, Legislative Assembly, "Instructions concerning the Teaching of French in the Elementary Schools of the Province of Alberta," in *Sessional Papers* (1925), Vol. 20, Paper No. 4-e, 1.
59. *An Act to Amend the School Act*, S.A. 1964, c. 82, s. 43, amending R.S.A. 1955, c. 297, s. 386.
60. Claude-Armand Sheppard, *The Law of Languages in Canada* (Ottawa: Information Canada, 1971), 297.

61. "Premier discours du député de St-Paul à la Législature," *La Survivance* [Edmonton] (February 26, 1936), 1.
62. "Language Courses Questioned As Education Budget Studied," *Edmonton Journal* (March 20, 1952), 1.
63. Michael Maccagno, "Excerpt from unpublished memoirs." See Alberta, Legislative Assembly, Standing Committee on Privileges and Elections, Standing Orders and Printing, *Minutes* (June 22, 1987), exhibit 12.
64. P. Lamoureux, *Bilingual Schooling in Alberta* (Edmonton: Alberta Education, c. 1984), 3-4.
65. *Ibid.*
66. Alberta, Government of Alberta, *Language Education Policy for Alberta* (Edmonton, 1988), 16.
67. *Ibid.*, 22.
68. *French Language Regulations*, Alta. Reg. 250/76.
69. Canada, Premiers' Conference, "Statement on Language" (February 23, 1978).
70. Alberta, Government of Alberta, "Statement by Premier Peter Lougheed and Education Minister Julian Koziak RE: Minority Language Instruction" (February 24, 1978).
71. *Mahé v. Alberta* (1985), 39 Alta. L.R. (2d) 215.
72. *Mahé v. Alberta* (1987), 54 Alta. L.R. (2d) 212.
73. *Alberta Hansard* (November 26, 1980), 1751.
74. *Alberta Hansard* (November 27, 1987), 2093.
75. *Alberta Hansard* (April 7, 1987), 631.
76. L. Piquette, MLA Athabasca-Lac La Biche, to D.J. Carter, Speaker, Legislative Assembly of Alberta (April 8, 1987). See Alberta, Legislative Assembly, Standing Committee on Privileges and Elections, Standing Orders and Printing, *Minutes* (6 May 1987), exhibit 2.
77. Alberta, Legislative Assembly, Standing Committee on Privileges and Elections, Standing Orders and Printing, *Minutes* (June 25, 1987), 212.
78. *R. v. Mercure*, [1988] 1 S.C.R., 237.
79. *Ibid.*, 267.
80. *Ibid.*, 255.
81. *Ibid.*, 236.
82. *Ibid.*, 280.
83. *Languages Act*, S.A. 1988, c. L-7.5, s. 7.
84. *Alberta Hansard* (June 30, 1988), 2170.
85. *Ibid.*, 2171.
86. *Ibid.*, 2170.
87. *Ibid.*, 2153.
88. *Alberta Hansard* (March 16, 1999), 543.
89. *Alberta Hansard* (May 30, 2001), 933.
90. *R. v. Desgagné* (June 13, 1996), Peace River A 06115443 T (Alta. Prov. Ct.), 3; cited in Canada, Department of Justice and Department of Canadian Heritage, *Annotated Language Laws of Canada*, 2nd ed. (Ottawa: Department of Public Works and Government Services, 2000), 208.
91. *Criminal Code*, R.S.C. 1985, c. C-46, s. 530(1).
92. *Mahé v. Alberta* [1990] 1 S.C.R., 345.
93. Alberta, Alberta Education, *Guide de mise en oeuvre de la gestion scolaire francophone* (Edmonton: School Business Administration Services, March 4, 1994), 9.
94. Éric Batalla and Sandrine Griffon, *Écoles francophones, Alberta* (Edmonton: Le Franco et La Fédération des conseils scolaires francophones de l'Alberta, 2003).

95. Jean Laponce, *Languages and Their Territories* (Toronto: University of Toronto Press, 1987).
See also: Louis-Jean Calvet, *La guerre des langues et les politiques linguistiques* (Paris: Hachette Littératures, 1999).
96. "Excerpts from Premier's speech on the Constitution," *The Edmonton Journal* (January 10, 1992), A2.
96. "Excerpts from Premier's speech on the Constitution," *The Edmonton Journal* (January 10, 1992), A2.