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The Decline of the English School System in Quebec

Prepared by

Richard Y. Bourhis

Université du Québec à Montréal (UQAM)

Pierre Foucher

Université d'Ottawa

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Preface

“La démocratie ce n’est pas la dictature de la majorité, c’est le respect des minorités”.

Albert Camus

There are two version of the preamble of “The Charter of the French Language” (Bill 101). The 1977 version had the following wording:

Langue distinctive d’un peuple majoritairement francophone, la langue française permet au peuple québécois d’exprimer son identité...L’Assemblée nationale entend poursuivre cet objectif dans un esprit de justice et d’ouverture, et celui des minorités ethniques, dont elle reconnaît l’apport précieux au développement du Québec... SA MAJESTÉ, de l’avis et du consentement de l’Assemblée nationale du Québec, décrète ce qui suit : Le français est la langue officielle du Québec.

Following sustained representations by the English speaking communities of Quebec, Gérald Godin, an esteemed democrat of the Parti Québécois, succeeded in 1984 to convince the Quebec National Assembly to amend the preamble of Bill 101 to read as follows:

Langue distinctive d’un peuple majoritairement francophone, la langue français permet au peuple québécois d’exprimer son identité...L’Assemblée nationale entend poursuivre cet objectif dans un esprit de justice et d’ouverture, *dans*

le respect des institutions de la communauté québécoise d’expression anglaise et celui des minorités ethniques, dont elle reconnaît l’apport précieux au développement du Québec...SA MAJESTÉ, de l’avis et du consentement de l’Assemblée nationale du Québec, décrète ce qui suit : Le français est la langue officielle du Québec.

Over two decades later, key elements of Bill 103 modifying the Quebec *Charter of Rights and Freedoms* and further restricting access to English schools, respect neither the memory of Gérald Godin, nor the legitimate institutions of the English speaking communities of Quebec.

Note

Throughout this document the term English speaking communities of Quebec (ESCQ) will be used to refer to groups of citizens of various cultural and ethnic backgrounds who regularly use English in their everyday life. Anglophones and English speakers will sometimes be used interchangeably with ESCQ for the sake of brevity and stylistic convenience.



Introduction

With the adoption of the *Charter of the French Language* by the Parti Québécois in 1977, Quebec Anglophones were most concerned about the erosion of their educational institutions resulting not only from the out-migration of Anglophones and Allophones to the rest of Canada (ROC), but also from the Bill 101 law stipulating that international immigrants to Quebec could no longer choose to send their children to English schools (Mallea, 1984). Thus, following Bill 101, Quebec Anglophones could no longer count on immigrants to maintain the demographic base necessary to keep open key English medium schools across the province (McAndrew, 2002). However by 1982, Anglophones, as English mother tongue “rights holders”, could now count on their right to English schooling in Quebec as enshrined in Article 23 of the Canadian Constitution:

Citizens of Canada a) whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, or b) who have received their primary school instruction in Canada in English or French and reside in a province where the language in which they received that instruction is the language of the English or French linguistic minority population of the province, have the right to have their children receive primary and secondary school instruction in that language in that province (s.23,1982).

Twenty years later the Parti Québécois Government adopted Bill 104 which further

reduced access to English schools in Quebec. Bill 101 allowed parents from all linguistic backgrounds to send their children to fee paying English private schools not funded by the provincial government. A small minority of Allophone and Francophone parents paid full fees to send their children to these English medium private schools for one or two years. As allowed in Bill 101, such pupils could then be admitted in English public schools, thus increasing the number of pupils enrolled in the English public school system. French language activists denounced this Bill 101 ‘loophole’ which allowed Allophone and Francophone pupils to enter the English public school system after first attending private fee paying ‘écoles passerelles’ or ‘bridging schools’. Bill 104 closed this ‘loophole’ by making it impossible for pupils to switch to publicly funded English medium schools after first attending such ‘bridging schools’. Bill 104 was adopted in the Quebec National Assembly in 2002 with the support of both the ruling Parti Québécois and the federalist Liberal Party. After 5 years of application from 2002 to 2007 a number of Allophone and Francophone parents contested the constitutionality of Bill 104 in restricting access to English schools by using Article 23 of the Canadian Constitution. Bill 104 was successfully challenged in both the Quebec court of appeal and in the Canadian Supreme Court. The Canadian Supreme Court ruling of October 2009 recognized the right of the Quebec government to preserve the French language but gave the province until October 2010 to craft a new law to limit access to English schools without violating Article 23 of the Charter of Rights



and Freedoms. In line with this requirement, the Quebec Liberal Government proposed Bill 103: *An Act to amend the Charter of the French language and other legislative provisions*. Bill 103 proposed amendments to the *Quebec Charter of Rights and Freedoms* and also to the *Charter of the French Language* (Bill 101). The Quebec government drafted Bill 103 with regulations making it virtually impossible for Francophone, Allophone and immigrant children to be admitted as pupils in the publicly funded English schools of the Province. As the past Education Minister Michelle Courchesne stated on June 3rd 2010 “*I won’t deny that the objective (of Bill 103) is to have as few as possible (approved)*”.

We argue that a key premise of Bill 103 is based on the erroneous notion that the French language and its speakers are threatened in the Province of Quebec. Chapter 1 deals with the declining demolinguistic vitality of the English speaking communities of Quebec (ESCQ) and the strength of the dominant Québécois francophone majority in the Province. In Chapter 2 we provide evidence of the enrolment decline in the English school system since the adoption of Bill 101. Bill 103 was proposed by the Quebec Government despite repeated pleas by English School Boards to be granted ‘*a bit of oxygen*’ by allowing entry of some immigrant pupils from English speaking countries as a way of stemming the enrolment decline of English schools in the Province. Interestingly Bill 103 was proposed at a time when polling results showed that 61% of Francophones and 87% of Allophones and Anglophones wanted their children to have more access to

English schooling in the Province (May 11, 2010).

Following the Quiet revolution, the Québécois French emerged as the dominant majority in the province. In Chapter 3 we highlight the economic ascendancy of the Quebecois Francophone majority relative to Anglophone and Allophone minorities in the province. However many political and opinion leaders from the Québécois French majority still depict Anglophone, Allophone and immigrant minorities as ‘Trojan Horse’ threats to the French language and culture in the Province. It is time to shed the notion that the Québécois French are a disadvantaged and threatened linguistic community in Quebec. Thus our *first paradigm shift* is that Québécois Francophones have the demolinguistic, political and economic ascendancy to act as a *secure* dominant majority in the Province. The Québécois French majority has the *power* and *responsibility* to protect the institutional vitality of its vulnerable national minorities including the ESCQ. Adoption of this first paradigm shift would help reduce the divisive ‘us/them’ rhetoric which continues to undermine intergroup relations between the French dominant majority and linguistic minorities including Anglophone, Allophone and First Nation communities.

We propose a second *paradigm shift* for improving the social cohesion of the French and English language communities in the province. There is a long standing premise that Québécois Francophones need *collective rights* to protect their linguistic and institutional vitality within the Quebec territory situated in the broader geopolitical context of English Canada and North



America. The Québécois Francophone majority is not the only linguistic community that needs the support of *collective rights* to protect its demolinguistic and institutional vitality in the Province. We propose as a *second paradigm shift*, that the English speaking communities of Quebec also need *collective rights* to protect their demolinguistic and institutional vitality as a national minority long established within the Quebec territory.

Our judicial analysis of Bill 103 presented in Chapter 4 shows that by proposing to amend the *Quebec Charter of Rights and Freedoms* and features of the *Charter of the French language*, Bill 103 undermines both the individual and *collective rights* of English speaking communities of Quebec. For instance Article 19 of Bill 103 proclaims that the *Quebec Charter of Rights and Freedoms* should be amended so that: “*Toute personne a droit de participer au maintien et au rayonnement de la culture québécoise, dont le français en constitue l’un des éléments indissociables*”. We assert that there are other languages that constitute ‘des éléments indissociables’ of Québécois culture. Given the presence of English speaking and allophone minorities on the Quebec territory for the last 250 years, we propose that Anglophones, Allophones and Aboriginal peoples also have the right to contribute to the construction of Québécois culture as this culture has never been uniquely French.

As argued in Chapter 4, the individual and *collective rights* of the ESCQ are also eroded by another proposed amendment to the Quebec Charter of Rights and Freedom. Article 21 of Bill 103 proposes that: “*Les droits et libertés énoncés dans la présente*

Charte sont interprétés en tenant compte du fait que le français est la langue officielle du Québec et de l’importance d’en assurer la pérennité”. This Bill 103 proposal is undermining the principle of protection of minorities enshrined in the *Canadian Charter of Rights and Freedoms* which set forth that English and French are the official languages of Canada (s.16 (1)). The protection of minorities, including the English speaking communities of Quebec, is a fundamental and unwritten constitutional principle, as emphasized in the Quebec’s secession reference (1998, 2 R.C.S. 217). The affirmation of French as the dominant language of Quebec enshrined as a legal principle of interpretation of individual and *collective rights* runs against this essential element of the very fabric of Canada. The equilibrium sought for by the Canadian Supreme Court in protecting minority rights is jeopardised by key features of Bill 103.

Why should the individual and collective rights of Quebec’s linguistic minorities be subsumed under the imperative of pursuing only the support of the French dominant majority? As Albert Camus observed long ago, it is the linguistic and cultural rights of minorities that are most in need to be protected from the excesses of the dominant majority. We thus propose that there are strong grounds to balance mention of French as the official language of Quebec within Bill 103, with a recognition that English speaking minorities have collective rights that are as important and legitimate. Consequently the *second paradigm shift* is that English speaking communities of Quebec must also be guaranteed *collective rights* to foster their development as a distinctive linguistic community with deep historical roots in



Quebec society and whose official status is enshrined in the Canadian Constitution.

Chapter 5 provides a brief review of the events which followed the tabling of Bill 103 in June 2010 and which eventually lead the Quebec Government to adopt a modified

law known as Bill 115 on October 19, 2010, on time to respect the one year deadline requested in the 2009 Canadian Supreme Court ruling on Bill 104.



Chapter 1 – First Paradigm Shift: Francophones are a Secure Dominant Majority in Quebec

In Quebec the ‘two solitudes’ often speak at cross purposes when considering their respective fate in the Province: while Francophones feel most concerned about the fate of their own language relative to the spread of English, Anglophones feel most concerned about the decline of their community relative to the Francophone dominant majority. Thus Francophones have tended to focus on the threat and drawing power of the English language relative to French worldwide, while ignoring the decline of the Anglophone community as a national minority in the province. Conversely, Anglophones have focused on the dominant position of the Francophone majority in the province while asserting that French is no longer threatened as the majority language in Quebec. Many Québécois Francophones choose Canada and North America as the territorial units of analysis to highlight the threatened status of French relative to English on the continent. Rhetorically it is to protect the threatened status of French at the continental level of analysis that the Francophone majority seeks to legitimize laws that in effect erode the demographic and institutional support of the Anglophone minority within the Province.

Anglophones with little support from the rest of Canada, focus on the Province of Quebec as the territorial unit of analysis to highlight their declining community vitality relative to the vitality of the Francophone majority who controls the political agenda in all the provincial ministries and the Quebec National Assembly. Given that it is

on the Quebec territory that key language laws are adopted and applied by the Provincial government, our unit of analysis in this section must remain the Province of Quebec as the jurisdiction having the most immediate impact on the vitality of the Francophone and Anglophone communities of Quebec.

1.1 Language Policies and the Vitality of Language Communities in Quebec

The group vitality framework was originally proposed to analyse the Quebec context at a time when sociolinguistic research was developed to guide the crafting of the Charter of the French language (Bill 101) adopted by the Quebec Government in 1977. Group vitality was defined as ‘*that which makes a language community likely to behave as a distinctive and collective entity within multilingual settings*’ (p. 308, Giles, Bourhis & Taylor, 1977). The more vitality a group was assessed to have, the more likely it was expected to survive collectively as a distinctive linguistic community within its multilingual environment. Conversely, communities that had little vitality would be expected to assimilate more readily and eventually disappear as distinctive linguistic communities (Bourhis & Landry, 2012). The vitality framework proposed that demographic, institutional support and status factors contribute to the vitality of language communities in multilingual settings (Bourhis, El-Geledi & Sachdev,



2007). In the 1970s, four factors were identified as undermining the future vitality of the Francophone majority in Quebec: 1) the decline of Francophone minorities in the rest of Canada; 2) the drop in the birthrate of the Quebec Francophone population from one of the highest to one of the lowest in the Western world; 3) immigrant choice of the English rather than the French school system for their children; and 4) Anglophone elite domination of the Quebec economy (d'Anglejan, 1984). Successive Quebec governments promulgated a number of language laws designed to address each of the above factors undermining the long-term prospects of the French language and its majority speakers in the province (Bourhis, 2001).

Relative to previous language laws such as Bill 63 and Bill 22, Bill 101 was the major legislative tool designed to address most of the perceived threat to the French language relative to English in Quebec (Bourhis, 1984). The immediate reactions of many Francophones to Bill 101 were quite positive, given the law was seen as being effective in securing the linguistic future of the French language in the province. During the three decades following the adoption of Bill 101, many studies acknowledged its success in increasing the status and use of French relative to English in the Province (Bouchard & Bourhis, 2002; Plourde, Duval & Georgeault, 2000; Stefanescu & Georgeault, 2005). However, many Québécois Francophones including nationalists, language activists and academics consider that the law did not go far enough and has been unduly diluted by

Quebec and Canadian Supreme Court rulings, thus claiming that French is still threatened in Quebec (Corbeil, 2007). Numerous sociolinguistic and demolinguistic analyses are devoted to assessing the effectiveness of language laws and regulations designed to enshrine the ascendancy of French while highlighting the increasing presence of Allophone immigrants settled in the Province (Georgeault & Pagé, 2006). The Quebec Government requires government commissions to report every five years on the health and status of French, thus keeping the language debate topical in the media and amongst various factions claiming that the French language is more or less threatened in Quebec. However, it is only recently that sustained attempts were made to also assess the impact of Bill 101 on the vitality of the English-speaking communities of Quebec (Bourhis 2001, 2012; Jedwab, 2004; Johnson & Doucet, 2006).

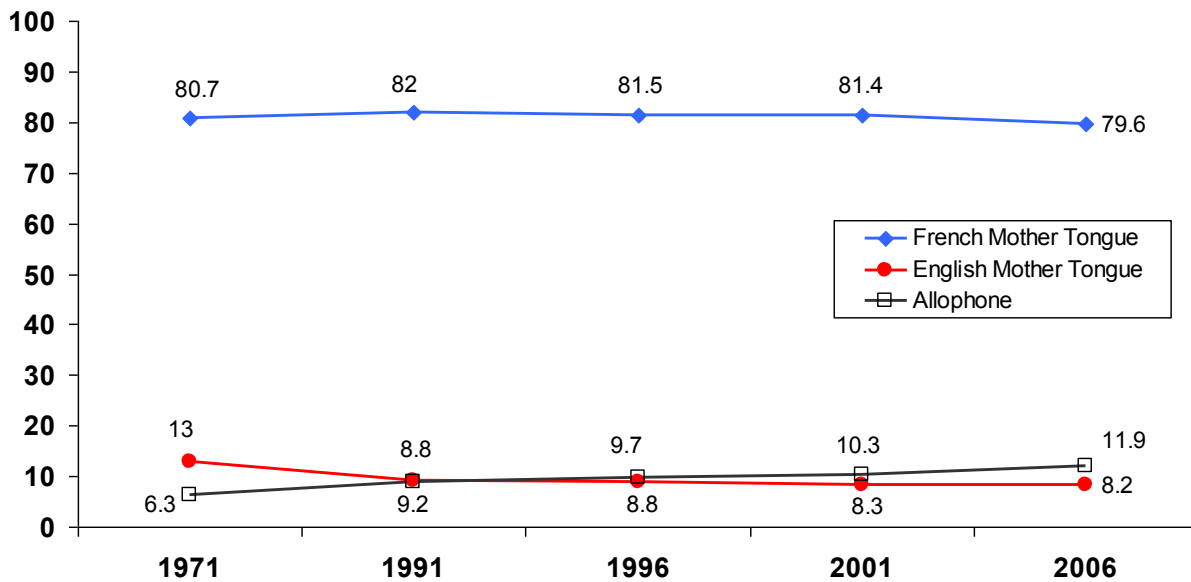
1.2 The Declining Demographic Vitality of Anglophones in Quebec

Fundamental variables likely to influence the vitality of language groups are those related to demography. Demographic variables are those relating to the number of individuals constituting the language community, as well as the number of those who still speak the language and their distribution throughout a particular urban, regional, or national territory. The number component refers not only to the absolute number of language speakers, but also includes their birth and mortality rates, endogamy/exogamy, and patterns of

immigration/emigration. Further, the distribution component includes such variables as the numeric concentration of speakers in various parts of the territory, the proportion of minority group speakers relative to that of other linguistic groups, and whether or not language groups still occupy their “ancestral” or “national”

territory. In turn ‘strength in numbers’ legitimises the institutional support of language communities in domains such as education, health care, the police and military, the judiciary, the public administration, business and mass-media (Harwood, Giles & Bourhis, 1994).

Figure 1: Mother Tongue (L1) population in Quebec. Canadian Census: 1971 to 2006



◆ French MT	4,860,410	5,585,645	5,741,435	5,802,020	5,916,840
● English MT	788,830	626,195	621,865	591,380	607,165
□ Allophones	390,415	598,445	681,285	732,180	866,000

What impact did pro-French language laws have on the demographic vitality of the Francophone and Anglophone communities of Quebec? As seen in Figure 1, Canadian census results showed that while the number of French mother tongue speakers increased by over a million from 1971 to 2006, the proportion of French mother tongue (L1) speakers in Quebec remained

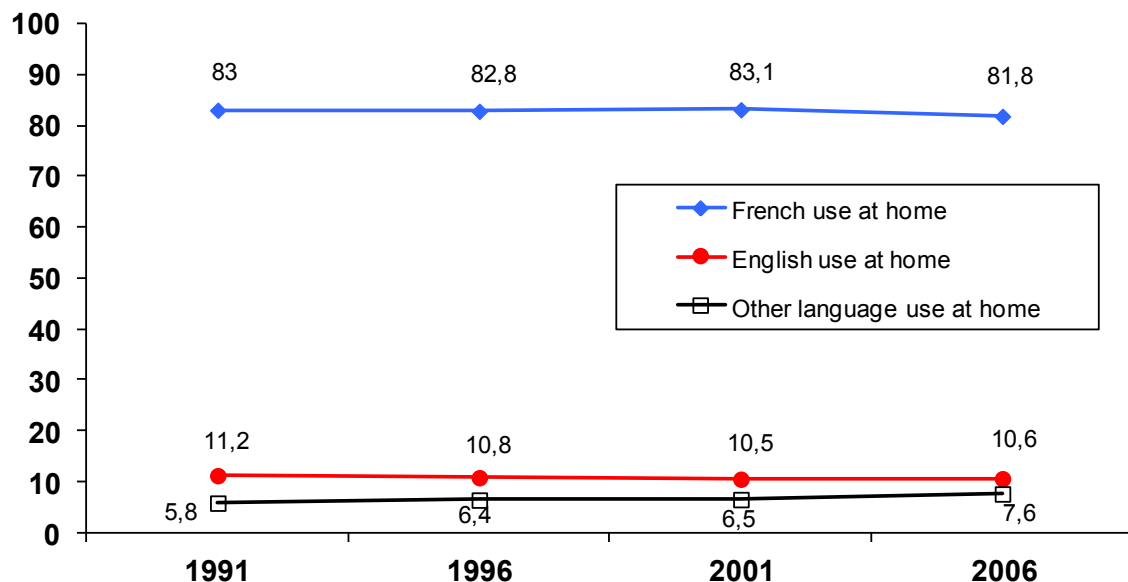
stable from 1971 (80.7%) to 2006 (79.6%). The 1% drop in the proportion of French mother tongue speakers obtained in 2006 was due mostly to the increase in the proportion of Allophones in the province from 6.3% in 1971 to 11.9% in 2006.

However, in the Montreal metropolitan region, the proportion of French mother

tongue speakers (L1) dropped from 68.1% (2,255,610) in 1996, to 65.7% (2,356,980) in 2006. This marginal decrease reflects the fact that Quebec Francophones have tended to move to the outer suburbs of Montreal during the last decades (Levine, 2002). Meanwhile more than 85% of immigrants to Quebec settle in Montreal, a trend reflected in the growing proportion of Allophones residing in the Montreal region, which rose

from 27.7% (484,970) in 1996 to 32.6% (594,525) in 2006. “*Nous perdons Montréal*” is the reaction of many Québécois nationalists who fear that Francophones will lose their majority position on the Island of Montreal due to the enduring presence of Allophone and Anglophone mother tongue speakers settled on the Island.

Figure 2: Most frequent language use at home in Quebec population: Use of French, English & other languages. Canadian Census: 1991 to 2006



◆ French use	5,651,790	5,830,085	5,918,390	6,085,155
● English use	761,805	762,460	746,895	787,885
□ Other lang.	396,690	452,540	460,295	562,860

Language use at home is a private matter beyond the reach of the State. Thus language use at home (HL) should *not* be used as an indicator of the success of Bill 101 in promoting the French language. However, language use at home, when

contrasted with mother tongue, can be used as an indicator of linguistic assimilation, especially for language minorities. Overall, Canadian census results show that the majority of Quebec residents have used mostly French as the language of the home

during the last three decades: 80.8% in 1971, 83% in 1991, and 81.8% in 2006 (see Figure 2). Taken together, trends in mother tongue and home language use suggest an increasing intergenerational transmission of French from 1971 to 2006 in Quebec. For instance, more residents reported using French at home (HL) than the number of French mother tongue speakers (L1): in 1991: L1: 5,585,645 vs. HL: 5,651,790 = **+ 66,145** (+ 1%); and more so in 2006: L1: 5,916,840 vs. HL: 6,085,155 = **+ 168,315** (+ 2.2%). Thus, compared to the drawing power of French as the home language in 1991, the 2006 census results suggest a doubling in language shift in favour of French. Of course, language activists are most interested in the drawing power of French relative to English during this period.

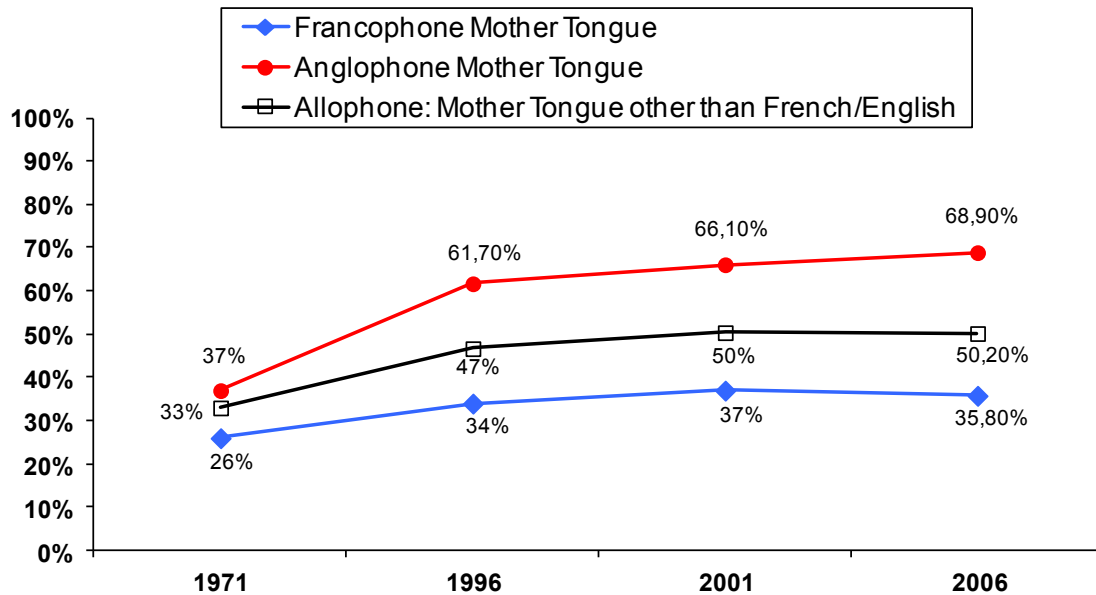
When comparing scores presented in Figures 1 and 2 for English mother tongue speakers (L1) and English use at home (HL), the following trends in private language use emerge. More Quebec individuals reported using English at home than the number of English mother tongue speakers in 1991: L1: 626,195 vs. HL: 761,805 = **+ 135,610** (+ 21.6%); and in 2006: L1: 607,165 vs. HL: 787,885 = **+ 180,720** (+ 30%). Though in absolute terms, almost as many individuals switched to French as their home language (168,315) as those who switched to English (180,720) during the 2006 census period, the relative drawing power of English (+ 30%) remained much greater than that of French (+ 2.2%) during this period. However, it is noteworthy that English language use at home in the Quebec population dropped from 14.7% in 1971 to 10.5% in 2001, and remained at 10.6% in 2006 (Figure 2). Even if the majority of Anglophones declared using English at

home (85.7%) in the 2001 census, 12.5% declared using French, thereby attesting to the rising “drawing power” of French among Quebec Anglophones. While these trends could be seen as encouraging for those who wish French to increase its drawing power as the home language, Québécois nationalists remain outraged as they consider it abnormal that the language of a minority such as Quebec Anglophones should have more drawing power than French as the home language in the Province. However such concerns ignore the role of English as the *lingua franca* of business, technology and culture in North America including the province of Quebec.

As seen in Figure 1, Allophones increased from 6.3% of the population in 1971 to 11.9% in 2006, reflecting increasing immigration to the province. When contrasting mother tongue (L1) and home language use (HL) of Allophones in the province, one notes a steady loss in the transmission of heritage languages in the 1991 to 2006 census. In 1991 the loss in heritage language transmission in the home was: L1: 598,445 vs. HL: 396,690 = **- 201,755** (- 33.7%). In the 2006 census, heritage language loss was greater: L1: 866,000 vs. HL: 562,860 = **- 303,140** (- 35%). Census results also showed that Allophones who declared using English as the language of the home dropped from 61% in 1996 to 49% in 2006. Conversely, Allophones who declared using French as their home language increased from 39% in 1996 to 51% in 2006. Thus by 2006, Allophones were assimilating as much to French as to English at home, though such language shifts represent a net loss of multilingual and multicultural diversity for Quebec society.



Figure 3: French – English Bilingualism in Quebec: Francophones, Anglophones and Allophones. Canadian Census: 1971 to 2006



The growing integration of Quebec Francophones within the North American economic and cultural mainstream is implied by the rise of French-English bilingualism amongst Francophones especially from 1971 to 1996. As seen in Figure 3, whereas only 26% of French mother tongue speakers reported being French-English bilingual in 1971, this proportion had increased to 34% in 1996, but reached a *plateau* at 37% in 2001 and 36% in 2006. Thus, only a minority of Francophones bother to learn English in Quebec. While most bilingual Francophones can be found in the greater Montreal region, unilingual Francophones are mostly found across the French majority regions of the Province.

In the last century many Francophones who learned English experienced “subtractive bilingualism”: their acquisition of the second language (L2) was achieved at the cost of losing fluency in L1 and at times resulted in

cultural assimilation to English (Lambert, 1974; Clément, Noel & Macintyre, 2007). The diglossic situation at that epoch favoured English as the formal high status language relative to French as the lower status private language of the disadvantaged Francophone majority (Bourhis, 2001). With the benefit of three decades of language planning in favour of French and the ascendancy of the Francophone majority in the economy and all institutions of the Province, the French language gained much status in the Province, thus neutralising the diglossic situation which favoured English in decades past. Consequently, Francophones learning English today are more likely to experience “additive bilingualism”: a type of bilingualism contributing to greater cognitive development and a broadening of cultural horizons without undermining mother tongue skills and attachment to the

dominant culture of French Quebec (Hamers & Blanc, 2000).

As seen in Figure 3, an increasing proportion of Anglophones have become French/English bilinguals since the adoption of Bill 101: a rise from 37% in 1971 to 69% in 2006. For Anglophone communities concentrated in the western sectors of Montreal who benefit from health, education and mass media institutions also provided in English, this bilingualism is more likely to be 'additive' than 'subtractive'. However, for declining Anglophone minorities residing in isolated regions of the province where English language services are declining, this bilingualism may develop to be more 'subtractive' than 'additive'.

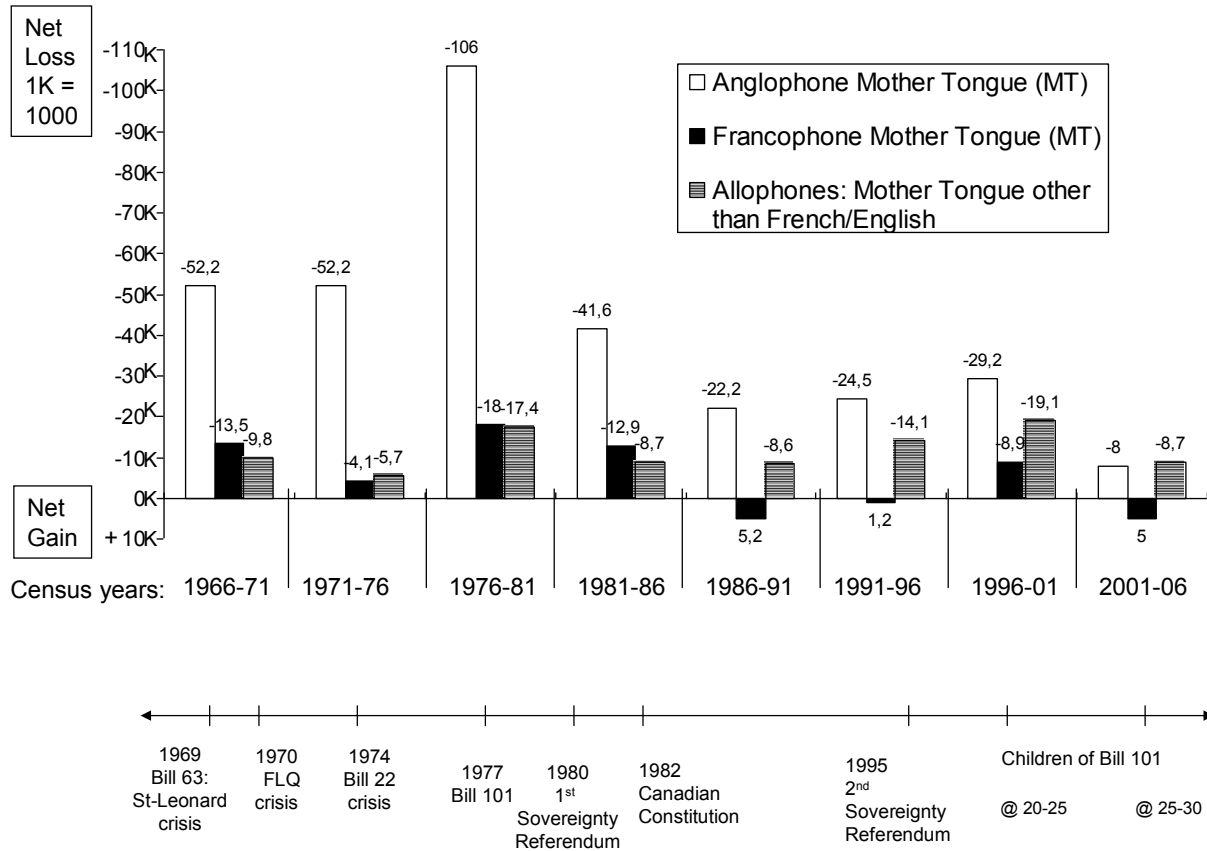
Figure 3 also shows that Quebec Allophones have become increasingly bilingual: from 33% in 1971 to 50.2% in 2006. This trend reflects in part the cumulative effect of the Bill 101 provision requesting children of international immigrants to attend French rather than English primary and secondary schools in Quebec. As seen above, Allophones have suffered a 30% loss of heritage language use at home, an assimilation trend suggesting the effect of "subtractive bilingualism" and the lack of status granted to non-official languages in the Province.

Based on the above demolinguistic data, it is clear that the English language is not threatened in Quebec. Nevertheless, Bill 101 did have the intended effect of eroding the demographic vitality of the English-speaking communities of Quebec. Immediate Anglophone reactions to Bill 101 were largely negative because the law was seen as threatening the traditional elite

status of the English minority in the province (Stevenson, 1999). Pro-French laws forced many Quebec Anglophones to see themselves as a linguistic minority like other Allophone ones in the Province (Caldwell, 1994). With the election of the pro-separatist Parti Québécois in 1976, many Anglophones dissatisfied with Quebec's language laws and fiscal policies emigrated to Ontario and other regions of Canada. Emigration from the province and a low fertility rate were key factors that contributed to the erosion of the demographic vitality of the ESCQ.



Figure 4: Net Interprovincial Migration of Anglophones, Francophones & Allophones in Quebec: Arrival-Departure = Net loss in thousands (K). Canadian Census: 1966 to 2006



As seen in Figure 4, the net outmigration of Quebec Anglophones was particularly important following the election of the Parti Québécois and the adoption of Bill 101 in 1977 (1976-81: -106,000). Note that Anglophone outmigration in the 1966 to 1976 decade also coincided with the linguistic tensions surrounding the adoption of language laws such as Bill 63 in 1969 and Bill 22 in 1974. Census results showed a decline of 12% in Quebec’s English mother tongue population between 1971 and 1981 (Caldwell, 1998). This net loss of English L1 speakers occurred among the more qualified and economically mobile elements of the Anglophone community, a trend still

very much in evidence in the 2001 and 2006 census (Floch & Pocock, 2012). By this century, these outmigration trends took their toll on the proportion of Anglophones in Quebec. As seen in Figure 1, while English mother tongue speakers made up 13% of the population in 1971, this proportion dropped to only 8.2% by 2006, a net drop of 181,835 Anglophones in the province. English mother tongue speakers also dropped in the metropolitan Montreal region, from 13.6% (451,855) in 1996 to 12.5% (448,325) in 2006.

Retention rate is the proportion of a particular mother tongue group that



continues to reside in a province of birth at the time of a census. Expressed as provincial retention rate, Quebec born Anglophones had a retention rate in the Province of 69% in 1971 which dropped steadily to only 50% in 2001. In 2001, this retention rate dropped to 34% for Anglophones holding Master's degree and to 27% for those holding Ph.Ds. (Floch & Pocock, 2012). In contrast, the retention of Quebec born Francophones was a steady 96% during the 1971 to 2001 census periods.

The outmigration of unilingual Anglophones, combined with more Anglophones learning French, had an impact on the proportion of Anglophones who declared having knowledge of French as a second language in the province. Thus for Anglophones who stayed in Quebec, the percentage of bilinguals increased from 37% in 1971 before the adoption of Bill 101, to as much as 68.9% in 2006 (Figure 3). The 2006 census also showed that as many as 80% of young Anglophones (between 15 and 30 years of age) were bilingual in Quebec. However, according to Magnan (2004), this high rate of bilingualism among young Anglophones was not sufficient to prevent their outmigration from the province. Magnan's study revealed that it was their feeling of not being accepted by the Francophone majority, especially in the work world, that forced many highly educated Anglophones to emigrate from Quebec.

Data published by the Treasury Board Secretariat of the Quebec Government showed that whereas Quebec Anglophones made up 8.3% of the provincial working population in 2003-2004, their presence as employees in the Quebec government

public administration was less than 1%. Likewise, whereas cultural communities made-up 10% of the provincial working population, their presence as employees in the Quebec Government was only 2.5% (Quebec, Conseil du Trésor, 2005). Analyses showed that this underrepresentation of non-Québécois francophones could not be readily explained by inadequate proficiency in French, candidate lack of qualifications or an absence of candidatures from these groups (Commission des droits de la personne et des droits de la jeunesse, 1998). Qualitative interviews suggest that when hiring, Québécois Francophone managers within the Provincial public administration tend to favour candidates similar to themselves who share their linguistic and cultural background (Eid, 2009; Simard, 1998).

Surveys also revealed that political uncertainty due to the separatist movement, pro-French language laws, and more promising economic opportunities in other regions of Canada remain important reasons for the outmigration of young Anglophones. In their analysis based on the 2001 census, Flock & Pocock (2012) showed that Anglophones who left Quebec were almost as likely to be bilingual (61.4%) as those who stayed (70.7%), suggesting that lack of French skills is not the main reason for the continuing dearth of Anglophones hired in the Provincial Public Administration or their outmigration from Quebec.

Despite an optimal rate of intergenerational transmission, it is clear that the ESCQ minority is experiencing a sharp decline on more fundamental indicators of demographic vitality such as absolute and relative group numbers, outmigration, and

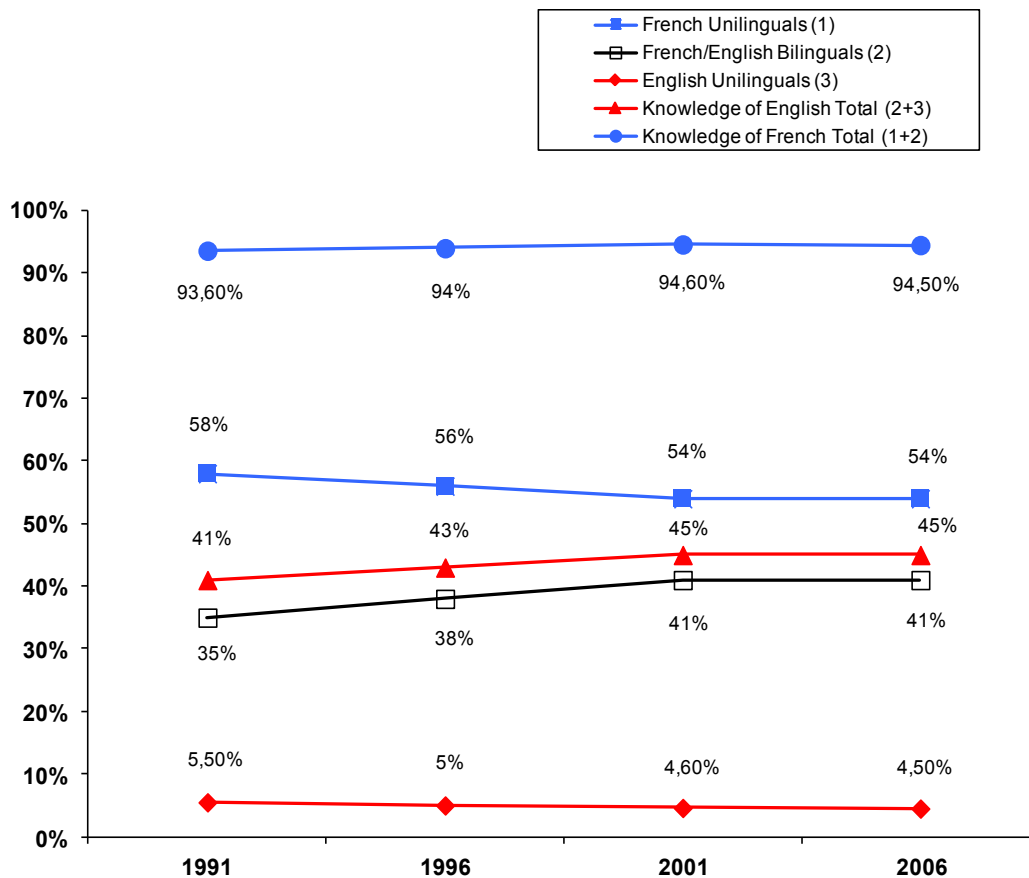


fertility rates. With a declining fertility rate from 3.3 children per woman in 1961 to only 1.4 in 2006 and few prospects for Anglophone migration from Anglo-Canada, Quebec Anglophones have recognized their growing dependence on the dual linguistic integration of Allophones and international immigrants to maintain the vitality of their institutions. However, Figure 4 shows that Allophones have also been steadily leaving Quebec since Bill 101, including the children of Bill 101, from 1996-2001 (-19,000) and from 2001-2006 (-8,700).

Growing linguistic tensions between the

Francophone and Anglophone host communities put added pressure on Allophone minorities to openly “take sides” in the Quebec linguistic debate (Bourhis, 1994). One response of Allophones was to learn both French and English. By 2006, as many as 80% of young Allophones (age 15-30) declared they were French-English bilinguals. With the knowledge of their heritage language, as many as 50% of Quebec Allophones can be considered trilingual (Figure 3), thus creating a linguistic and cultural capital that contributes to the diversity and dynamism of Quebec society, especially in Montreal.

Figure 5: Knowledge of French and English in Quebec Population.
Canadian Census: 1991 to 2006



A key role of Bill 101 was to promote the conditions necessary to ensure the widespread knowledge of French as the shared public language of Quebec society. Figure 5 provides data on the knowledge of French and English amongst the population of Quebec based on the 1991 to 2006 Canadian census. Figure 5 shows there are still some English unilinguals in Quebec, though their share of the provincial population dropped from 5.5% in 1991 to 4.5% in 2006. Most English unilinguals are older Anglophones who did not leave Quebec, a number of English Canadians who recently migrated from the rest of Canada to Quebec, as well as international immigrants from English speaking countries who have not yet learned French. In contrast, the majority of the Quebec population can afford to stay unilingual French in the province: 58% in 1991 and 54% in 2006. Quebec Francophones can afford to stay unilingual French especially in most regions of the province where they are the overwhelming majority. The knowledge of English is rising in the province: from 41% of the population in 1991 to 45% in 2006. This rising individual bilingualism attests to the continuing economic integration of Quebec within the North American market, especially since the adoption of the North American Free Trade Agreement (NAFTA).

The greatest success of Bill 101 has been its role in ensuring that the vast majority of the provincial population knows French: a steady majority of 93.6% in 1991 and 94.5% in 2006. Taken together, these trends show that many factors including Bill 101 were successful in enshrining French as the shared public language of all Quebec citizens.

In 2001, for the first time in Canadian census history, Statistics Canada included questions related to the language of work. In Quebec, when comparing these census results with earlier self-report studies, the proportion of Francophone workers who declared working most often in French increased from 52% in 1971 to 95.7% in 2001 and 95.8% in 2006. Similarly, the proportion of Allophone workers who declared working mostly in French increased from 17% in 1971 to 56.6% in 2001 and to 59.3% in 2006. For these last two census years, when including the number of Allophones who also reported using French *regularly* at work, the total combined use of French at work was 76% in 2001 and 77.3% in 2006. Conversely, the proportion of Allophones who used a language other than English or French at work (combining most often and regularly) was 22.3% in 2001 and dropped to 19.6% in 2006. Bill 101 also had an impact on the proportion of Anglophones using mostly French at work which increased from 2% in 1971 to 30.7% in 2001 and 31.6% in 2006. When including Anglophones who also reported using French *regularly* at work, the combined proportion of Anglophones using French at work was 65.4% in 2001 and 67.9% in 2006 (Statistics Canada, 2008).

Finally, the proportion of the Quebec population that reported using English most often at work was 17.8% in 2001 and 17.1% in 2006. When including the proportion of the Quebec population also reporting using English *regularly* at work, the combined proportion using English at work was 39.5% in 2001 and 40.4% in 2006, this in a continental setting where English is the *lingua franca* of work in both Canada and the USA with a trading activity worth 2



billion dollars a day. Taken together, it is possible to conclude that the *francisation* measures adopted by successive Quebec governments have met the objective of improving the use of French at work, particularly for Francophones and Allophones. The tendency is not as strong for Anglophones; however, we have seen that their demographic weight within Quebec, and therefore within the workforce, has been declining steadily since Bill 101.

Bill 101 along with other provincial government measures also had the intended effect of eroding the demographic vitality of the ESCQ. In turn, the demographic decline of the ESCQ

undermines the institutional vitality of this minority. The closure of English schools and hospitals in the last decades attest to this institutional decline. English-speaking Quebecers must mobilize to maintain and develop their institutional vitality in education, health, welfare, the economy and culture. Maintaining institutional vitality in these sectors should help reduce the outmigration of young talented Anglophones, thus improving the future over-all vitality of the ESCQ. Ideally, Provincial Government support of English language institutions contribute to the linguistic duality of Quebec society while enhancing its economic, scientific and technological drawing power within North America.



Chapter 2 – Erosion of Anglophone Institutional Support in Education

The demographic decline of the Anglophone minority has had a dramatic impact on the vitality of English language institutions across the province. This negative impact is most strongly felt in the English school system (Lamarre, 2012). Because language laws such as Bill 101 and Bill 104 were specifically designed to reduce access to English schooling, it is relevant to review the impact of such laws on school enrolments in the English and French school systems. This is important given that both Bill 104 and Bill 103 invoked the threat to the vitality of the French language as the legitimising argument for reducing access to the English school system. The following analysis shows that it is the English School system more than the French one that suffered the most decline since the adoption of Bill 101 and Bill 104. First it is useful to cite Michel Paillé, a demographer who worked at the *Office québécois de la langue française*. Commenting on the impact of Bill 101 on enrolments in the French and English school system of the Province Michel Paillé (2002) concluded that:

“Il importe, enfin, de situer les effets de la loi 101 en matière de langue d’enseignement dans le contexte démographique général du Québec. Bien que la Charte de la langue française s’applique depuis 1977, 100 600 adultes scolarisés en français plutôt qu’en anglais ne peuvent compter que pour 1,7 % de la population adulte du Québec en 2001 (5,8 million adultes au Québec en 2001). C’est relativement peu.

L’apport de toute immigration à une population majoritaire n’a pas la même signification numérique qu’à l’endroit d’une minorité. Ainsi dans le cas particulier du Québec, 100 écoliers qui optaient jadis pour l’école anglaise comptaient pour la minorité anglophone ce que 13 écoliers, que la loi 101 dirige à l’école française, sont maintenant à la majorité francophones. Espérer trouver dans les effets de la scolarisation en français des enfants des immigrants la panacée à nos problèmes démographiques tant généraux que linguistiques reviendrait à donner à la Charte de la langue française une mission qu’elle n’avait pas. Ce serait confondre notre politique linguistique, aussi efficace soit-elle dans le milieu scolaire, à une politique de population” (pp. 65-66).

The first obvious point made in Paillé’s analysis is that Bill 101 was very effective in getting immigrants/allophones to enrol in French schools rather than in the English school system. But for the Francophone majority, this influx of immigrant/allophone pupils in the French school system does not have as much impact on the overall demography of the Francophone majority as it does on the Quebec Anglophone minority. Michel Paillé demonstrates that 13 immigrant students enrolled in the *French majority* school system are worth 100 immigrants enrolled in the *English minority* school system. Put yet another way, we could say that a gain of 13 immigrants to the



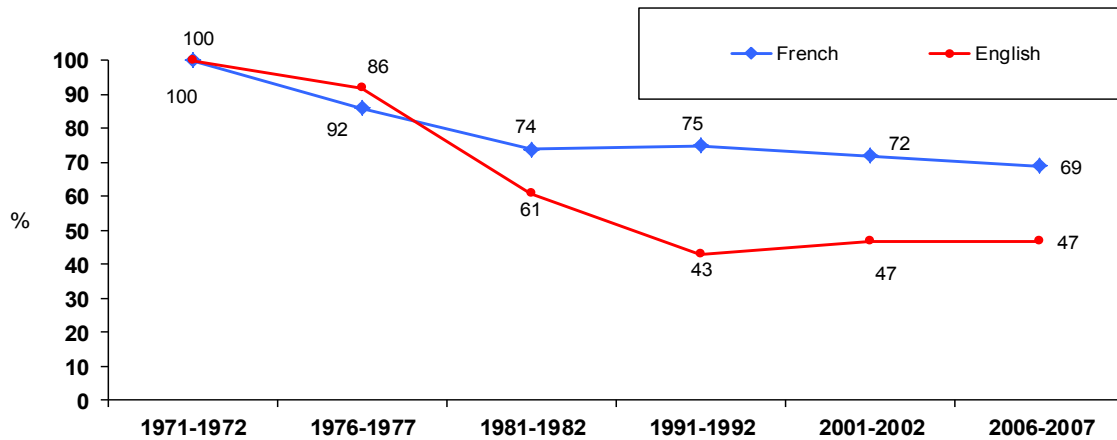
French majority school system is worth the gain of 100 immigrants for the English minority school system. Conversely, the loss of any pupil from the school system has a much greater negative impact on the minority English school system than it does for the French majority school system. When considering pupils gained in the French school system who have now reached adulthood, Paillé calculated that obtaining 100,600 adults of immigrant background schooled in French since Bill 101 only contributed to an increase of 1.7% of the total adult Quebec *Francophone* population by 2001. So relying on immigrant enrolment in French schools to boost the Quebec Francophone population does not significantly impact the overall demolinguistic weight of the Francophone majority in the Province.

We could make the same argument as regards the marginal impact of Bill 104 and the proposed Bill 103 in significantly increasing the number of pupils in the French school system and in ultimately boosting the population of the Francophone adult majority in the Province. We also know that Bill 101 regulations did the major share of the job in limiting access to English schools relative to Bill 104 and the proposed Bill 103. However, Bill 101 and possibly Bill 104 caused a much greater relative *cost* on the English school system and on the ESCQ demographic and institutional vitality than the relative *benefit* gained from these laws for the French school system and the Francophone dominant majority.

Other than language laws restricting access to English schools, one must consider that the over-all decline in the number of pupils attending the English school system reflects

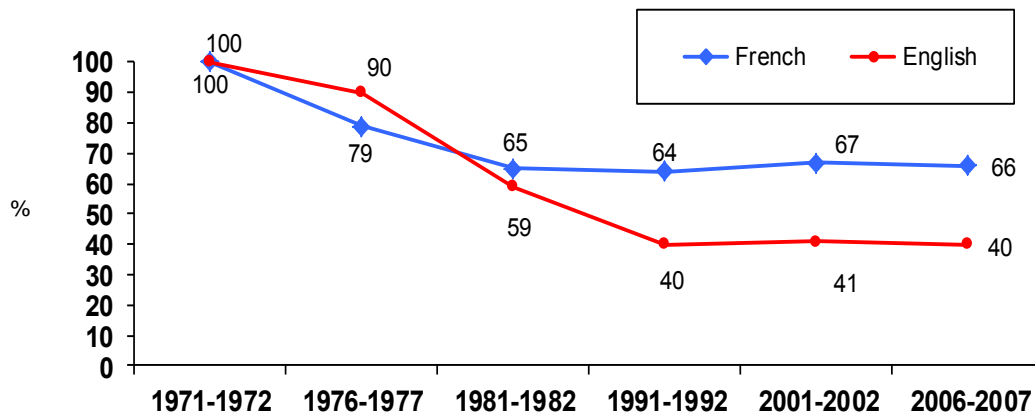
the general demographic decline in the school aged population of Anglophones from 1972 to 2007. As seen in Figure 4, the exodus of Anglophones was due to numerous push factors such as linguistic tensions surrounding the adoption of pro-French laws, the rise of the separatist movement, repeated referendum on Quebec separation, high provincial taxes and economic decline (Bourhis, 2001; Stevenson, 1999). The weak fertility rate of Anglophone women also contributed to the demographic decline of this community during the last 30 years thus also contributing to declining school enrolments in the English school system.

Figure 6: Percentage of students in pre-school, primary and secondary school in Quebec province by language of schooling (public & private): 1971-2007
(Ministère de l'Éducation, du Loisir et du Sport, 2008)



◆ French	1,378,788	1,186,102	1,026,951	1,035,358	997,358	951,738
● English	256,251	236,588	155,585	111,391	121,225	119,508

Figure 6a: Percentage of students in pre-school, primary and secondary schools by language of schooling (public & private) on Island of Montreal: 1971-2007
(Ministère de l'Éducation, du Loisir et du Sport, 2008)



◆ French	271,753	214,876	177,704	172,762	181,713	178,086
● English	154,338	138,144	90,898	61,955	63,812	61,002

On Figure 6 we use enrollment numbers in the respective English and French schools systems in 1971-1972 as our 100% benchmark enrollment numbers as this period was prior to the adoption of Bill 101 in 1977 which most effectively restricted access to English schools across the Province. As can be seen in Figure 6, for the Quebec primary and secondary school system as a whole (public and private system) the number of pupils studying in English schools dropped from 256,251 in 1972, before the adoption of Bill 101 to only 119,508, thirty years later in 2007 (Ministère de l'Éducation, du Loisir et du Sport, 2008). Thus relative to our 100% benchmark in 1972, Figure 6 shows that the total enrollment in the English school system had dropped to only 47% of its original size by 2007. This represented a loss of 136,743 pupils in the English school system, a massive **53%** drop in enrolment for the official minority school system. A similar enrollment drop in English schools also occurred on the Island of Montreal during this period. As can be seen in Table 6a, while 154,338 pupils were enrolled in English schools on the Island of Montreal in 1972, there were only 61,002 pupils enrolled in the system by 2007. Thus relative to our 100% benchmark in 1972, Figure 6a shows that the total enrollment in the English school system had dropped to only 40% of its original size by 2007.

Did further restrictions on access to English schooling since the adoption of Bill 104 in 2002 have an impact on school enrolments by 2007 the year when the law was challenged in the courts? The separate effects of Bill 101 and Bill 104 cannot be distinguished, so changes in enrolment numbers must reflect the combined effects

of both laws and the other demolinguisitic factors mentioned above. As seen in Figure 6, the number of pupils in the English school system dropped from 121,225 in 2002 to 119,508 in 2007, a loss of 1,717 pupils during this five year period of Bill 104 application.

The nationalist campaign against replacing Bill 104 by Bill 103 was based on the fact that while in 1992 enrolment in English schools bottomed at 111,391 pupils (9.6% of total pupils in Quebec school system), enrolment in English schools did increase to 121,225 in 2002 (10.8%), while numbering 119,508 in 2007 (11.1% of total pupils in Quebec school system; Ministère de l'Éducation, du Loisir et du Sport, 2008). This increase in English school enrolments was portrayed as a dire threat to the vitality of the French language in Quebec. The rise in enrolment in English schools from the 1992 to the 2007 period (+1.5%) was the main evidence used by nationalists to scrap Bill 103 and replace it by a ban on access to ALL non-subsidized private English schools in the province other than for Anglophone rights holders protected by section 23 of the Canadian Charter of Rights and Freedoms. However, as seen in Table 6b, Québécois nationalists avoid drawing attention to enrolment trends in English schools on the Island of Montreal which bottomed at 61,955 pupils in 1992 and stayed low at 61,002 in 2007. Thus, Bill 103 was assailed by nationalists for allowing too much access to English schools while the Bill was criticized by Anglophone and Allophone minorities for further limiting access to English schools.

Figure 6 also shows that the number of pupils studying in French schools across

Quebec dropped from 1,378 788 in 1972 to 951,738 in 2007, a decline of 427,050 pupils representing a **31%** drop in the French school system for the Province during this period. Using the total number of pupils enrolled in French schools in 1972 as the 100% benchmark before the adoption of Bill 101, Figure 6 shows that total enrolment in the French school system had dropped to 69% of its original size by 2007. Note that enrolment in the French school system declined from 997,358 in 2002 when Bill 104 was adopted to 951,738 in 2007, a decline of 45,620 pupils in the French school system. As seen in Figure 6a, a similar enrolment drop in French schools emerged on the Island of Montreal. Even after blocking the so-called loophole of bridging schools ('écoles passerelles') with Bill 104 during five years, one must still account for the 45,620 enrolment drop in the French school system across the Province during this five year period. This enrollment drop in the French school system is seen by educationalist as being mainly due to the large school drop-out rates prevalent in the French school system and the continuing low fertility rate of Francophone women in the Province. Given the importance of these two factors, why further restrict access to English schools through Bill 103 as a panacea for addressing the enrolment drop in the French school system?

Despite the avowed goal of Bill 101 to forcibly boost immigrant/allophone enrolment in the French school system, we have seen that enrolment in the French school system nevertheless dropped to 69% of its original benchmark in 1972. Ministry of Education figures also showed that in 1972 the percentage of pupils enrolled in French schools amounted to **84.3%** of the

total school population in the Province (1,378,788/1,635,039), while pupils enrolled in English schools constituted **15.7%** of total school enrolment in the Province 256,251/1,635,039 (Ministère de l'Éducation, du Loisir et du Sport, 2008). However by 2007, the percentage of pupils enrolled in the French school system had grown to **88.9%** (951,738/1,071,246) while those in the English school system had dropped to **11.1%** of the total enrolment in the provincial school system (119,508/1,071,246).

Clearly Bill 101 succeeded in its intended effect of eroding the size of the English school system relative to that of the French system in Quebec. The decline in enrolment from the English School system was 1.7 times the drop experienced in the French school system (53%/31%) during the 1972 to 2007 period. Even when combined with Bill 101, Bill 104 had little effect in reducing the number of pupils enrolled in the English school system from 2002 to 2007 across the Province. However for the 1972 to 2007 period as a whole, other factors such as the net outmigration of Anglophones from Quebec contributed to the enrolment drop suffered by the English school system (Figure 4; Statistics Canada, 2008). Given the more than 53% loss of enrolment in the English school system since 1972, how can the present Quebec government invoke threats to the French language as an excuse to further limit access to English schools as proposed in Bill 103? Why should the English minority school system be forced to pay for the declining school enrolment of the Francophone majority?



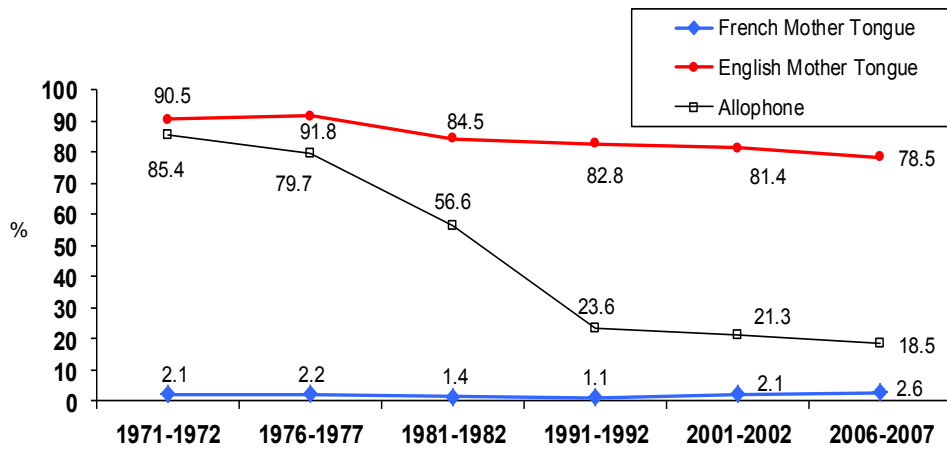
2.1 Enrollment decline in English Schools

Overall in Quebec, it is the absolute number of pupils enrolled in the respective French and English school systems which determines the total budgets allocated by the Ministry of Education to the linguistic school boards. Thus when English School boards are faced with lowered budgets due to declining enrollments, decisions about which schools must close and which can stay open are based on the number of pupils attending each school regardless of the linguistic background of pupils attending such schools. The percentage of Anglophones, Allophones and Francophones enrolled within English schools is not the main factor determining which schools can stay open and which ones must close due to declining enrollments. Moreover it remains that an analysis of the mother tongue of pupils attending English schools provides a more detailed portrait of the effect of language laws restricting access to English schools in the Province.

As seen in Figure 7, for Quebec as a whole, the number of Anglophone pupils studying in the English school system dropped from 171,175 in 1972 to 72,092 in 2007 a loss of 99,083 pupils. This represents a **58% drop** in the total number of Anglophone pupils enrolled in the English school system during this period. Note that in 1972, 171,175 Anglophone pupils were enrolled in English schools while 17,924 were enrolled in French schools for a total number of Anglophone pupils enrolled in Quebec schools being 189,099 (see Figures 7 & 8). Figure 7 shows that in 1972 before the adoption of Bill 101, 90.5% of all

Anglophones enrolled in the Quebec school system did attend English schools (171,175/189,099). However, by 2007 only 78.5% of all Anglophones enrolled in the Quebec school system were attending English schools (72,092/91,780). Note that in 2002, the year of adoption of Bill 104, the number of Anglophone pupils in the English school system in the Province was 76,818 and dropped to 72,092 in 2007, a loss of 4,726 pupils across the 5 years of Bill 104 application. Figure 7a shows a similar trend in English school enrolment on the Island of Montreal.

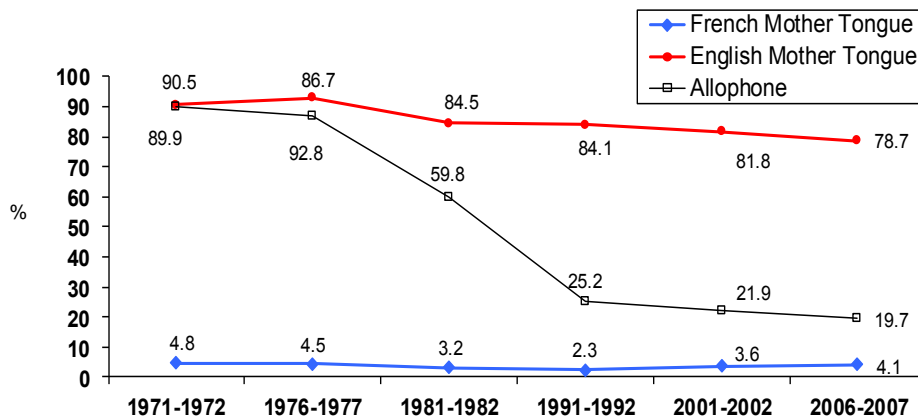
Figure 7: Percentage of students in English pre-school, primary and secondary schools in Quebec province by mother tongue: 1971 to 2007
(Ministère de l'Éducation, du Loisir et du Sport, 2008)



◆ French	28,700	26,012	13,839	10,361	19,505	22,101
● English	171,175	159,385	101,695	79,004	76,818	72,092
□ Allophones	56,376	51,080	37,264	19,508	22,199	22,057

PS: Mother Tongue (MT): First language learned at home as a child and still understood at census time

Figure 7a: Percentage of students in English pre-school, primary and secondary schools on Island of Montreal by mother tongue: 1971 to 2007
(Ministère de l'Éducation, du Loisir et du Sport, 2008)



◆ French	12,180	9,394	4,811	2,814	4,087	4,203
● English	92,911	85,373	54,691	43,161	42,079	39,878
□ Allophones	48,617	43,377	31,172	15,908	17,572	16,837

PS: Mother Tongue (MT): First language learned at home as a child and still understood at census time

Figure 7 also shows that the number of Allophones studying in the English school system dropped from 56,376 in 1972 to 22,057 in 2007, for a loss of 34,319 pupils. This represents a **61% drop** of Allophone students attending the English school system since the adoption of Bill 101. Figure 7 also shows that of the total of all Allophones enrolled in the Quebec school system, as many as 85.4% attended English schools in 1972 before the adoption of Bill 101 (56,028/66,028). By 2007, the proportion of all Allophones enrolled in the provincial school system attending English schools dropped to only 18.5% (22,057/119,342). By the time of the adoption of Bill 104 in 2002, the number of Allophones pupils in the English school system for Quebec as a whole was 22,199, an enrolment which dropped slightly to 22,057 in 2007 representing a loss of 142 pupils during the five year period. As seen in Figure 7a, the number of Allophones studying in the English school system on the Island of Montreal dropped from 48,617 in 1972 to only 16,837 in 2007, for a loss of 31,780 pupils attending the English school system across this period. These trends suggest that Bill 101 more than Bill 104 had the effect of limiting Allophone access to English schools in the Province.

Figure 7 also shows there were 28,700 Francophones enrolled in the English school system (public + private) across the Province in 1972 before the adoption of Bill 101. With Bill 101 restrictions on access to English schools, 22,101 Francophones were attending English schools by 2007, a decline of 6,599 pupils across these two periods. It is noteworthy that only 2.1% of all Francophones enrolled in the Quebec school system attended English schools in

1972 before the adoption of Bill 101 (28,700/1,379,912). By 2007, 2.6% of all Francophone pupils enrolled in the Provincial school system attended English schools (22,101/852,440), attesting to the efficiency of Bill 101 in keeping Francophones outside the English school system. Note that the very low Francophone enrolment in English schools prevails despite the rise in French-English mixed marriages in Quebec. Evidence suggests that some mixed language couples do exert their 'rights holder' option under Article 23 of the Canadian Constitution by sending their children to English schools.

Since the adoption of Bill 104, the number of Francophones attending English schools in Quebec increased from 19,505 in 2002 to 22,101 in 2007, an addition of 2,596 pupils, many of whom were likely 'rights holder' as children of French-English marriages, though some were likely enrolled in non-funded private English schools. As seen in Figure 7a, on the Island of Montreal, 12,180 Francophone pupils were enrolled in English schools in 1972, a presence which dropped to only 4,203 in 2007 representing a decline of 7,977 Francophone pupils from the Montreal English school system across these two periods. During the application of Bill 104 from 2002 to 2007, there was a marginal increase of 116 Francophone pupils attending English schools on the Island of Montreal.

Taken together, these results show that in Quebec, enrolment of Allophones and Anglophones in English schools dropped considerably in absolute numbers from 1972 to 2007. One must also consider that as intended, Bill 101 and to a lesser degree Bill 104 did limit the number of

Francophones enrolled in the English school system. These laws successfully achieved their intended goal of restricting access to English schools in the Province (combining public and private system). The drop in the absolute number of pupils enrolled in the English school system had the effect of forcing the closure of English schools while reducing the number of English teachers and staff employed across the Province. We have seen that the decline of the English school system was also caused by the exodus of Anglophones from Quebec and the weak fertility rate of Anglophone women. The effects of language laws such as Bill 101 and Bill 104 restricting access to English schooling further contributed to the erosion of this federally funded school system in Quebec, a trend further entrenched by the current Quebec Government through its Bill 103 proposal.

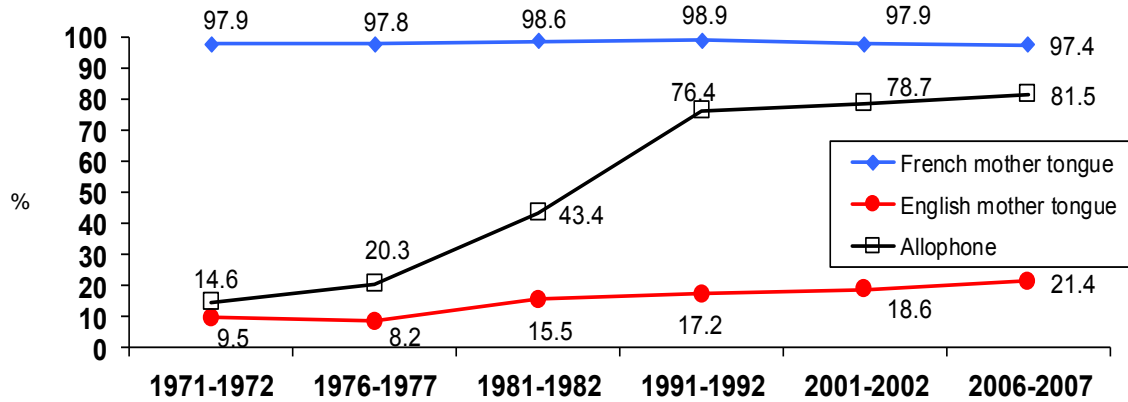
school system did attend French schools in 1972 before the adoption of Bill 101 (1,351,212/1,379,912). By 2007, after Bill 101 and Bill 104, 97.4% of all French pupils in the Quebec school system still attended French schools (830,339/852,440), attesting to the efficiency of Bill 101 in keeping Francophone pupils within the French school system. As seen in Figure 8a similar trends emerged for Francophones enrolled in French schools on the Island of Montreal.

2.2 Enrollment decline in French Schools

Bill 101 and Bill 104 restricting access to English schooling had the intended goal of bolstering enrolment in the French school system across the Province (Mallea, 1984). As can be seen in Figure 8 as many as 1,351,212 Francophones were enrolled in the public and private French school system across the Province in 1972 before the adoption of Bill 101 (Ministère de l'Éducation, du Loisir et du Sport, 2008). More than thirty years later, Francophone pupils enrolled in the French school system had dropped to 830,339, a loss of 520,873 pupils enrolled in the French school system by 2007 (- **38.5%**: 520,873/1,351,212). However we note that as many as 97.9% of all the French pupils enrolled in the Quebec

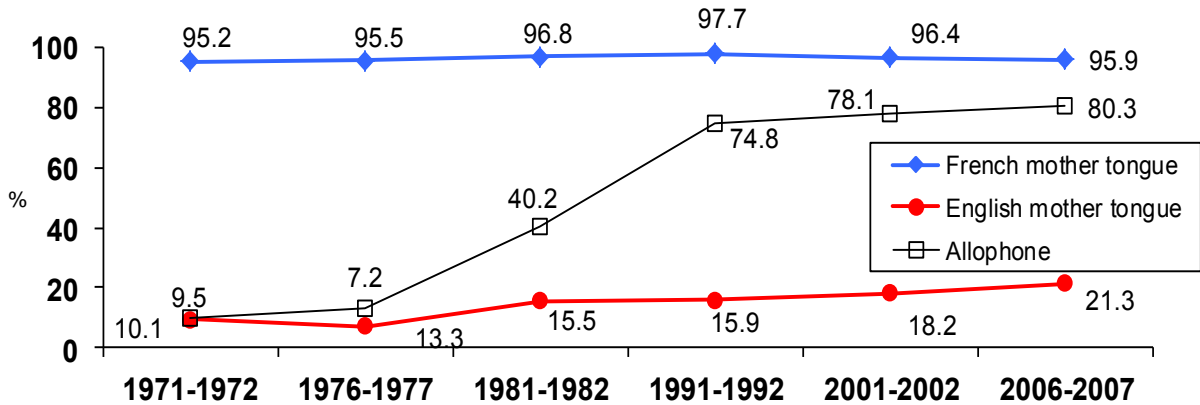


Figure 8: Percentage of students in French pre-school, primary and secondary schools in Quebec province by mother tongue: 1971-2007
(Ministère de l'Éducation, du Loisir et du Sport, 2008)



◆ French	1,351,212	1,158,822	975,897	951,220	893,105	830,339
● English	17,924	14,233	18,708	16,414	17,585	19,688
□ Allophone	9,652	13,047	28,595	62,995	81,831	97,285

Figure 8a: Percentage of students in French pre-school, primary and secondary schools on Island of Montreal by mother tongue: 1971-2007
(Ministère de l'Éducation, du Loisir et du Sport, 2008)



◆ French	256,535	201,554	146,632	117,233	109,712	99,133
● English	9,783	6,661	10,051	8,153	9,384	10,825
□ Allophones	5,435	6,661	20,929	47,323	62,556	68,807

Figure 8 shows that for Quebec as a whole, the number of Anglophone pupils studying in the French school system increased from 17,924 in 1972 to 19,688 in 2007 a gain of 1,764 pupils. Thus while French schools attracted 9.5% of all Anglophones pupils enrolled in the provincial school system in 1972 (17,924/189,099), by 2007 as many as 21.4% of all Anglophone pupils in the provincial system attended French schools (19,688/91,780). As seen in Figure 8a, a similar trend was observed for the number of Anglophones enrolled in the French school system on the Island of Montreal.

We note that around the time of the Bill 104 adoption in 2002, the number of Anglophone pupils enrolled in the French school system was 17,585 and increased to 19,688 in 2007, a gain of 2,103 pupils across the Province. That this many 'rights holders' to English schools have chosen to attend French schools attests to the growing drawing power of the French majority school system in the Province and the concern of Anglophone parents to maximise the French-English bilingualism skills of their children. Despite the prevalence of French immersion in the Quebec English school system, anecdotal evidence suggests that these English school 'rights holders' are switching to the French school system to gain stronger spoken and written French fluency as individuals, but at the collective cost of further undermining the institutional vitality of the English school system across the Province. Unlike the Francophone majority who by law must send their children to French schools, Bill 101 allows Quebec Anglophones the choice to send their children to English or French schools.

Finally the number of Allophones studying in the French school system in Quebec increased from 9,652 in 1972 to as much as 97,285 in 2007, for a gain of 87,633 pupils (see Figure 8). This represents a **907%** gain of Allophone students within the French school system across these two periods (87,633/9,652). Thus while only 14.6% of all Allophone pupils enrolled in the provincial school system were attending the French school system in 1972 (9,652/66,028), this proportion increased to 81.5% by 2007 (97,285/119,342). As seen in Figure 8a, a similar increase is observed for Allophones attending French schools on the Island of Montreal. This substantial increase of Allophone pupils enrolled in French schools attest to the success of Bill 101 in restricting access to English schooling for international immigrants/Allophones across the Province. When Bill 104 was adopted in 2002, the number of Allophones pupils in French schools within Quebec was 81,831. This number increased to 97,285 in 2007 representing a gain of 11,868 pupils which reflected the combined effect of greater number of school aged international immigrant and Allophones present in the school system and the impact of Bill 101+Bill 104 restrictions on access to English schools.

The increased presence of Allophones in the French school system challenged the linguistic homogeneity of French schools especially in the Montreal region. In November 2011 the 'Commission scolaire de Montréal' (CSDM) adopted a policy banning all languages other than French on school premises including corridors, washrooms and schoolyards, a rule taking effect in September 2012 (Gervais, 2012).



Thus the largest French school board in the Province advised 47% of its pupils who happen to be Allophones that they must learn French at the cost of excluding their heritage language from school premises. Similar bans against the use of minority languages on school premises were adopted in Canadian residential schools against first nation speakers (Skutnabb-Kangas, 2000) and in France against the use of Breton, Basque, Alsatian, Occitan and Corsican from the end of the 19th century to the middle of the 20th century (Citron, 1991). In France, l'Éducation Nationale succeeded in enforcing such bans with a policy of punishing pupils using minority languages with the penance of writing a hundred times "I shall not speak the ... language in school". This punishment could be avoided by culprits who succeeded in denouncing another pupil using the minority language to their teacher before the end of the school day. Eventually the CSDM may draw from the Éducation Nationale experience in France to more effectively ban the use of heritage languages from French school premises in Montreal.

While Bill 101 (1977) and Bill 104 (2002) were designed to increase the total number of pupils enrolled in French schools across the Province, these language laws did not succeed in increasing the absolute number of pupils enrolled in French schools by 2007. In effect these laws could not offset the low fertility rate of the Francophone majority (fertility rate: 1.4 – 1.7) which resulted in fewer Francophone pupils entering the French school system from 1977 to 2007 (Paillé, 2002). The large systemic drop-out rate in the French school system also contributed to the decline in the absolute

number of pupils enrolled in the French school system during these decades.

2.3 Enrollment in Public and Private Schools

Quebec public schools in both the French and English school system are fully funded by the provincial government (including federal Government transfers for English schools). In contrast semi-funded French and English private schools do receive Quebec government funding which ranges from 50% to 65% of the school costs at the primary and secondary school levels. However, private schools that receive no government funding at all can accept pupils regardless of their linguistic background given that parents pay the full cost of their children's education in such schools while also contributing fully to the public school system through income tax and local school taxes. We recall that Bill 104 was adopted in 2002 to close the so-called loophole of 'bridging schools' which allowed some pupils to pay the full fees of non-funded private English schools for a year or so and then as new 'rights holders', transferred to the English public school system.

As can be seen in Table 1, the enrolment of pupils in Quebec private schools (semi-funded and non-funded) increased from 102,844 in 1998 to 124,108 in 2007 (21.6% increase), while the total number of pupils enrolled in public schools dropped from 1,036,763 in 1998 to 947,002 in 2007 (9.1% decrease) (Ministère de l'Éducation, du Loisir et du Sport, 2008). These enrolment trends suggest some dissatisfaction with public schools amongst both Francophone and Anglophone parents in the Province.

Table 1: Number of primary & secondary pupils in private and public schools according to language of instruction in Quebec: 1998 - 2007 (MELS, 2008)

	1998-1999	2001-2002 Adoption of Bill 104	2004-2005	2006-2007
PRIVATE SCHOOLS: TOTAL	102,844 (100%)	108,387 (100%)	118,441 (100%)	124,108 (100%)
Semi-funded private schools				
French schools	85,216 (82.8%)	89,814 (82.9%)	100,804 (85.1%)	105,281 (85%)
English Schools	10,644 (10.3%)	10,917 (10.1%)	11,310 (9.5%)	11,194 (9%)
Non-funded Private schools				
French schools	4,700 (4.6%)	4,702 (4.3%)	3,108 (2.6%)	3,750 (3%)
English schools	2,284 (2.2%)	3,134 (2.9%)	3,219 (2.7%)	3,873 (3.1%)
PUBLIC SCHOOLS: TOTAL	1,036,763 (100%)	1,008,276 (100%)	978,614 (100%)	947,002 (100%)
French schools	932,005 (89.9%)	900,192 (89.3%)	868,719 (88.8%)	840,798 (88.8%)
English schools	102,541 (9.9%)	106,914 (10.6%)	107,787 (11%)	104,201 (11%)

Of the pupils enrolled in Private schools, Table 1 shows that in 1999, before the adoption of Bill 104, the number of pupils enrolled in French semi-private schools was 85,216, an enrolment which increased to 105,281 by 2007 (Ministère de l'Éducation, du Loisir et du Sport, 2008). The English semi-funded private school system is much smaller than the French one, though it was the main target of Bill 104 and now Bill 103. While 10,644 pupils were enrolled in semi-funded private English schools in 1999, this enrolment increased to 11,194 in 2007, five years after the adoption of Bill 104. As noteworthy is the small number of pupils enrolled in both French and English *non-*

funded private schools in Quebec. While enrolment in non-funded French schools was 4,700 pupils in 1999, enrolment dropped to 3,750 in 2007. In contrast, while 2,284 pupils were enrolled in non-funded English schools in 1999 before the adoption of Bill 104, the number of pupils enrolled in such schools increased to 3,873, five years after the adoption of Bill 104. Thus despite five years of Bill 104 legislation restricting access to non-funded English schools as so called 'bridging schools' to English public schools, enrolment in such English non-funded schools still increased. In the end, it remains that Bill 104 and the proposed Bill 103 are socially divisive language laws which

target the potential “illicit behaviour” of a tiny minority of pupils attending semi-funded and non-funded English private schools, many of whom are simply concerned with quality education per se. All told in 2007, enrolment in English semi-funded (11,194) and non-funded English private schools (3,873) totalled 15,067 mainly Anglophone pupils, compared to a total of 109,031 Francophone pupils enrolled in French semi-funded (105,281) and non-funded private French schools (3,750). Thus Bill 103 is designed to curtail the potential illicit behaviour of 15,067 pupils attending English private schools who are perceived as threatening the development of a combined French private (109,031) and public school system (840,788) made-up of a total of 949,829 French pupils in Quebec.

2.4 Concluding Notes on School Enrollments

Gains in enrolment in the French school system as a result of the influx of Allophones obliged to attend the French school system increased the share of French school enrolment in the Province from 84.3% in 1972 to 88.9% in 2007. However the Bill 101 and Bill 104 restrictions on access to English schools were not sufficient to offset the drop in the absolute number of Francophone pupils attending French schools from 1972 (1,351,212) to 2007 (830,339). Demographers and education specialists agree that the decline in the fertility rate of the Francophone majority from the 1960s onwards along with the high drop-out rate in French schools contributed to the decline in the number of Francophone pupils enrolled in the French

school system (Paillé, 2002). Surely Anglophones and Allophones cannot be blamed for educational standards in French schools and the low fertility rate of the French majority in Quebec. While the Francophone majority school system *gained* somewhat in its enrolments by restricting access to English schools in the province, the *cost* suffered by minority English schools has been enormous. We have seen a dramatic 53% drop in the English School system between 1972 and 2007. As mentioned earlier, English school enrolments in the province constituted 15.7% of the total school enrolment in the Province in 1972 but dropped to only 11.1% of school enrolment by 2007.

In summary, language laws restricting access to English schools along with the demolinguistic decline of the ESCQ combined to erode the institutional vitality of the English school system in Quebec. Language policies in favour of French, Québécois nationalism, repeated referendums on Quebec separation and fiscal policies were push factors accounting for the emigration of Anglophones from Quebec including highly educated bilinguals (Floch & Pocock, 2012). Without the pressures of these ‘push factors’ it is likely that the exodus of Quebec Anglophones would not have been as sustained over the last three decades. This exodus of Anglophones from Quebec had the inevitable consequence of reducing the number of ‘rights holders’ pupils enrolled in the English school system. Despite its long history of distinctive development and its valuable contributions to the Quebec educational system, most indicators point to the decline of the English schools system in the Province (Lamarre, 2012). Despite

Québécois nationalist rhetoric, the education system in jeopardy in Quebec is the English school one not the French one. The *costs* imposed on the minority English school system to prop-up the dominant French majority school system through Bill 101 and Bill 104 dramatically eroded the viability of the English school system, while also contravening Article 23 of the Canadian constitution and recent features of the Official Languages Act. Though the Canadian Supreme court ruling of November 2009 did strike down Bill 104, the proposed Bill 103 pursues the Quebec government quest to

further curtail access to English schooling. Ultimately, Bill 103 is also about gaining votes amongst Francophone 'soft sovereignist' who consider that restricting access to English schools will reduce threats to the French language in the Province, the very rhetoric adopted by Parti Québécois nationalist. The current nationalist quest to ban Francophone and Allophone students from access to post-secondary English colleges (CEGEPS) is also destined to further erode the institutional vitality of the English educational system in the Province.



Chapter 3 – The Economic Ascendancy of Québécois Francophones

In an interview a year before his death, Camille Laurin, the architect of Bill 101, stated that: *“The ultimate goal of the Charter of the French language was to insure that more and more Francophones seize power in business, that they become the directors and CEOs, and that the Quebec economy be at last controlled by them”* (Picard, 2003, p. 247-248). This ascendancy was largely achieved as is evident in the growth of ownership of Quebec’s economy by Francophone firms, from 47% in the 1960s to 67% today with the rest being controlled by multinational corporations (USA, Europe) and some Anglo-Canadian corporations (Vaillancourt, Lemay & Vaillancourt, 2007). The election of pro-independence governments, two referendums on Quebec separation fiscal policies and the *francisation* of the Quebec workplace contributed to the departure of many Anglo-Canadian business firms. The resulting outmigration of Anglophone employees and administrators had an impact on the position of Francophones and Anglophones in the work world. For instance, in the Montreal region, while the proportion of Anglophone administrators dropped from 34% in 1971 to just 18% in 1991, the proportion of Francophone administrators and professionals within the workforce increased from 55% in 1971 to 68% in 1991. Also, the proportion of Anglophones holding senior administrative positions dropped from 47% in 1971 to 20% in 1991, and the proportion of

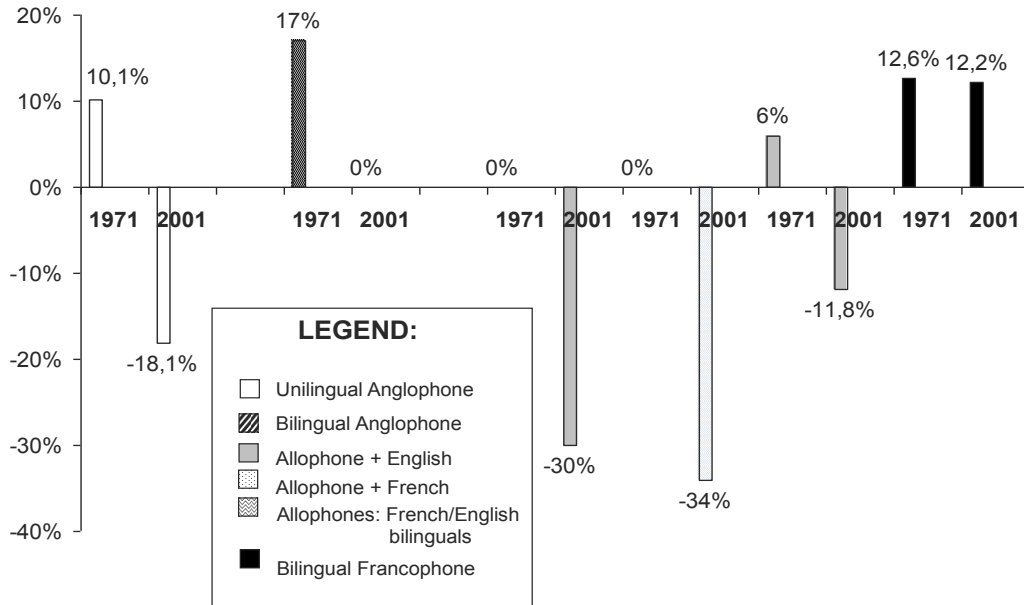
Francophones holding such positions increased from 41% in 1971 to 67% in 1991. In their analysis of these trends using employment data from the censuses and a Statistics Canada Labour Force Survey, Vaillancourt, Lemay & Vaillancourt (2007) concluded:

“...impressive growth in the ownership of Quebec’s economy by Francophones from 1961 to 2003, with the overall rate up by 20 percentage points; ... a decline in foreign ownership of Quebec’s economy by 26 percent between 1961 and 2003, while Anglophone Canadian ownership declined by 44 percent” (p.11).

By virtue of its control of the state through the government, the public administration and much of the economy, the Francophone dominant majority plays an important role in determining the economic, linguistic, and political integration of immigrants and linguistic minorities. Of these interrelated domains of integration, it is economic inclusion which contributes most to the successful integration of minorities thus facilitating social cohesion and intercultural harmony. What can be said of the economic integration of Allophones and Anglophones depending on their language skills within the Quebec economy?



Figure 9: Income differential of unilingual and bilingual Anglophones and Allophones relative to base rate unilingual Francophones in Quebec: 1971 vs 2001
(Vaillancourt, Lemay, & Vaillancourt, 2007)



Based on Canadian census data, Vaillancourt, Lemay & Vaillancourt (2007) used the labour income of unilingual Francophone men to calculate the percent income advantage or disadvantage of being a unilingual or bilingual Anglophone, and a bilingual or trilingual Allophone in the Quebec workforce. These percentage income differentials were calculated based on the 1971 census data, before the adoption of Bill 101 and in 2001, thirty years after the adoption of the law. These labour income comparisons were statistically adjusted to control for age, level of education, years of work experience in Quebec and the number of weeks in paid employment in the province.

Based on Table 3 of the Vaillancourt, Lemay & Vaillancourt (2007) study, the horizontal line in Figure 9 represents the income of

unilingual Francophones adjusted in constant dollars for 1971 and 2001. The income of Anglophones and Allophones depending on language competence is represented as a percentage of the income of unilingual Francophones in 1971 and 2001. While unilingual Anglophones had a 10.1% income advantage over unilingual Francophones in 1971, they had an **-18.1%** income disadvantage relative to unilingual Francophones by 2001. While bilingual Anglophones had a 17% income advantage over unilingual Francophones in 1971, this advantage was reduced to zero by 2001. The income position of Allophone men relative to Francophone unilinguals declined substantially from 1971 to 2001. While English-speaking Allophones had a zero advantage in 1971, they suffered a **-30%** income disadvantage relative to Francophone unilinguals by 2001. While

French-speaking Allophones contribute to the use of French in Quebec, such French bilinguals had income parity with Francophone unilinguals in 1971, but were suffering a - **33.9%** income disadvantage relative to Francophone unilinguals in 2001. While French-English bilingual Allophones enjoyed a 6% income advantage over Francophone unilinguals in 1971, such trilingual Allophones were suffering a - **11.8%** income disadvantage relative to Francophone unilinguals by 2001. However, the economic advantage of being a Quebec Francophone rather than an outgroup Allophone or Anglophone is evident when considering that bilingual Francophones maintained their income advantage over unilingual Francophones in both 1970 at + **12.6%** and in 2001 at + **12.2%**. Why should the bilingualism of Québécois Francophones be better rewarded economically than the bilingualism and trilingualism of Allophones and Anglophones? Not being an ethnic member of the Québécois Francophone dominant majority has a cost, even in a meritocratic society such as Québec (Eid, 2009). Vaillancourt, Lemay & Vaillancourt (2007) conclude their study of income differentials between Francophone, Anglophone and Allophone employees as follows:

“The socioeconomic status of Francophones in Quebec has increased substantially since 1960, whether one uses as an indicator mean labour income, returns to language skills, or ownership of the Quebec economy. The relative status of Francophones within Quebec itself is under no immediate threat, though one might see a relative decline in the socioeconomic status of all Quebec

workers in the North American context if policy makers fail to address concerns about productivity issues” (p.11).

Taken together these results attest to the economically advantaged position of Québécois Francophones relative to Anglophones and Allophones minorities in the province. Despite the income advantage of unilingual Francophones, survey results and testimonials during the 2007 Commission on ‘*Reasonable Accommodation*’ showed that many Francophones in Quebec still felt threatened and ambivalent about the presence of ‘others’ in the province, including Quebec Allophones and Anglophones (Bouchard & Taylor, 2008). Portraying French as an endangered language in Quebec is a predictable nationalist rhetoric designed to nurture linguistic insecurity amongst elements of the Francophone dominant majority. Invoking the threatened status of French in Quebec to justify language laws designed to erode the institutional vitality of linguistic minorities simply reflects the intolerance of dominant majorities towards minorities. By international language planning standards, the demolinguistic and institutional position of Québécois Francophones cannot be considered as that of a threatened linguistic community (Bourhis, 2001; Bourhis & Landry, 2012; Oakes & Warren, 2007). That Québécois Francophones are the dominant majority in Quebec is undeniable linguistically, culturally, sociologically and economically.

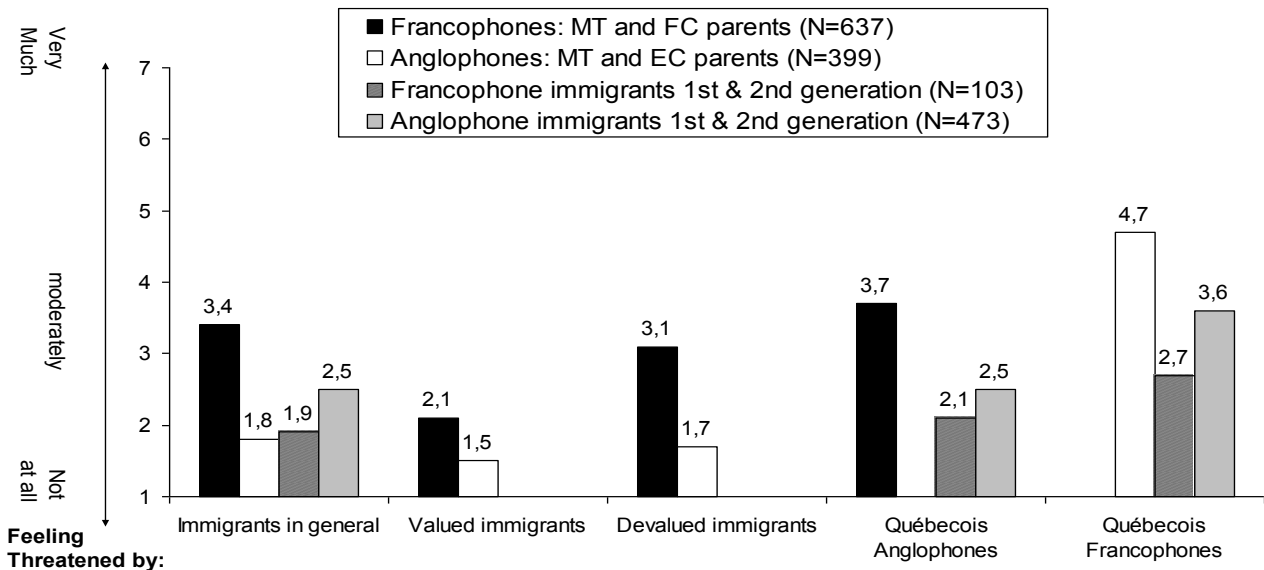


3.1 Nurturing a Feeling of Threat from the Presence of 'Others' in Quebec

The nationalist rhetoric about the threat to the French language in Quebec remains constant and ever present in the Francophone electronic and mass media. The threat to the French language is portrayed as being due not only to the drawing power of the English language worldwide but also to the presence of the English speaking communities of Quebec who by their very presence and institutions undermine, from within, the last bastion of a dominant French society in North America. Few studies have examined empirically feelings of threat experienced by Francophones, Anglophones and Allophones in Quebec. As part of a number of studies examining host majority and immigrant acculturation orientations in Quebec, college students attending French and English language CEGEPS in the Montreal region rated how threatened they felt from the presence of various ethnolinguistic groups in the Province (Bourhis & Montreuil, 2004; Bourhis, Barrette & Moriconi, 2008). The Quebec students who took part in the studies were: 1) Francophones (N=637) born in Quebec with French as a mother tongue and with both parents born in Quebec also with French as a first language (L1); 2) Anglophones (N=399) born in Quebec with English as a mother tongue and with both parents born in Quebec with English as their L1; 3) first and second generation Anglophone immigrants with English as a mother tongue (N=473); 4) first and second generation Francophone immigrants with French as a mother tongue (N=103). The college

students rated how threatened they felt by the presence of: immigrants in general, 'valued' and 'devalued' immigrants, as well as host majority Québécois Francophones and host minority Quebec Anglophones. For Québécois Francophone students the 'valued' immigrants were Francophones from France while 'devalued' immigrants were Francophones but visible minority Haitians. Note that both these French-speaking immigrants contribute to the French speaking majority in Quebec. For Quebec Anglophone respondents the 'valued' immigrants were those from Britain while the 'devalued' ones were visible minority Sikhs from the Punjab in India.

**Figure 10: Feeling threatened by presence of various groups in Quebec:
Montreal college students**
(Bourhis & Montreuil 2004; Bourhis, Barrette, Moriconi, 2008)



As seen in Figure 10, feelings of threat were generally low on the seven point scale, though the following trends emerged. Compared to the three groups of minority students, Québécois Francophone host majority respondents felt more threatened by the presence of *all* outgroups in the province. Notably, Francophones felt more threatened by the presence of Québec Anglophones (3.7) than by French immigrants from France (2.1). Anglophone host minority students did not feel threatened by the presence of immigrants in general (1.8), immigrants from Britain (1.5) or Sikhs from India (1.7) but did feel threatened by the presence of the Québécois Francophone majority (4.7). As seen in Figure 10, Francophone and Anglophone immigrants did not feel threatened by immigrants in general (1.9 & 2.5) or by Québec Anglophone host minority

members (2.1 & 2.5). However, Anglophone immigrants felt more threatened (3.6) than Francophone immigrants (2.7) by the presence of Québécois Francophones.

Taken together, Quebec Anglophones and immigrants of both French and English background share in common their feeling of threat from the dominant majority in Quebec, namely Québécois Francophones. On the symbolic front it is the case that Anglophones and Allophone immigrants remain painfully aware of the statement by Jacques Parizeau, the former Quebec Prime Minister, who stated that the separatist vote was lost in the 1995 referendum because of ‘money and the ethnic vote’. In a follow-up interview in 1997, Jacques Parizeau clearly identified those he blamed for the referendum defeat: the Jews, the Greeks and the Italians, and this despite the

fact that 40% of the Québécois francophone majority also voted against separatism in the 1995 referendum (Bourhis & Montreuil, 2004). That 93% of Allophone, Anglophone and cultural communities took part in the Quebec referendum vote testified to the political integration of such minorities whose right to vote for the political option of their choice without being blamed by the dominant majority constitutes the backbone of Western democracy. Subsequent nationalist campaigns blamed immigrants and Anglophones for not speaking French at home and being the cause of the impending 'minorisation' of Québécois Francophones on the Island of Montreal. The nationalist "Nous perdons Montréal" campaign omits the fact that it is Québécois Francophones who emigrate to the outer suburbs of greater Montreal thus contributing to the decline in the proportion of Francophones residing on the Island of Montreal (Levine, 2002). Though ethnic, linguistic and religious diversity is high amongst the ESCQ, Anglophones and Allophones feel singled out as part of the problem rather than as part of the solution in the dominant Francophone discourse on language issues in the province.

Why do Québécois Francophone majority students in our studies feel more threatened by the presence of 'others' than do minority group members such as Quebec Anglophones, Allophones and immigrants? It must be recalled that the Québécois nationalist movement has long nurtured feelings of insecurity as regards the position of the French language in Quebec, a security represented as being undermined by the presence of linguistic outgroups such as Anglophone, Allophone and immigrant

minorities. Nationalist movements have a vested interest in nurturing feelings of threat from the presence of 'exogenous' groups as such sentiments reinforce feelings of ingroup solidarity, foster the demonisation of outgroups, boost loyalty to the ingroup cause and mobilize action against outgroups perceived as diluting or contaminating the linguistic and cultural authenticity of the ingroup (Branscombe *et al.*, 1999; Vaes & Wicklund, 2002). The Québécois nationalist movement nurtures a sense of linguistic insecurity despite the fact that over 94% of the Quebec population has a knowledge of French, which attests to the success of Bill 101 in maintaining French as the language of the majority population in the Province.

That Québécois Francophone students also felt threatened by the presence of Francophone immigrants from Haiti shows that feelings of threat can be generalized to any outgroup: even Haitians contributing to the French speaking majority in Quebec (Montreuil, Bourhis & Vanbeselaere, 2004). Thus Québécois Francophones can feel threatened by the presence of Haitians because their 'devalued' position is related to another dimension of difference, namely their visible minority status. Other empirical studies have shown that Québécois Francophones tend to hold unfavorable attitudes towards other Francophone outgroups, especially towards visible minorities such as Arab Muslim immigrants of Maghrébins background whose French/Arab bilingualism cannot be blamed for undermining the use of French in Quebec but whose religious background is devalued (Bourhis, Barrette & Moriconi, 2008).

Chapter 4 – Paradigm Shift 2: Quebec Anglophones also have Collective Rights

The goal of this chapter is to analyze the judicial implications of Bill 103 for individual and collective minority rights in Quebec. Our analysis focuses on the proposed amendments to the *Quebec Charter of Rights and Freedoms* and also to the *Charter of the French Language* contained in Bill 103. Using Quebec and Canadian jurisprudence, this section closes with possible changes to Bill 103 which would better protect the collective rights of the ESCQ. Note that implications of Bill 103 for Aboriginal minority rights are not addressed in the present analysis. To answer the Supreme Court's decision in *N'Guyen v. Quebec (Attorney general)*, [2009] 3 RCS 208, the Quebec government introduced *An Act to amend the Charter of French language and other legislative provisions* (hereinafter "Bill 103"). The present analysis evaluates the possible impact of some of the measures contained in that Bill with regard to the *Canadian Charter of Rights and Freedoms*. The educational aspects of the Bill are not covered by this analysis.

Bill 103 seeks to modify two important pieces of legislation: the *Charter of French Language* and the *Quebec Charter of Rights and Freedoms*. Both sets of modifications are destined to reinforce the French fact in Quebec, from a legal point of view. Both sets of modifications introduce new rights and principles of interpretation that will orient judicial analysis of Quebec's laws.

4.1 Modifications to the Charter of the French Language (CFL, Bill 101)

The Charter of the French language (CFL) would be modified to impose linguistic obligations on educational institutions and municipal bodies, as well as increasing the powers of the *Office québécois de la langue française* (OQLF).

4.1.1 Language Policies of Educational Institutions

The CFL already requires colleges and universities to develop a language policy. It acknowledges the special needs of English speaking institutions but require them to provide for the use of French in some circumstances. The proposed modifications would have the institutions publicize their language policy, report periodically to the Minister on its implementation, and empower the Minister to order corrective measures, after consultation with the OQLF. This is an administrative mechanism destined to regulate the language activities of educational institutions. As such, its impact is almost impossible to measure until the power has been fully exercised. It leads to an increase in the Minister's discretion and enhances the role of the OQLF. Should the Minister decide to impose French, it could impact on the language of communication of these institutions with legal persons established in Quebec and with the Quebec government's administration.



4.1.2 Language of Communication with Government Institutions

Within Bill 103, s. 133.1 would give the OQLF the power to investigate and propose corrective measures with regard to the language used by government's departments in their communications with the public. The CFL contains a duty for departments to communicate in French with other governments, other governmental agencies and legal persons doing business in Quebec (s. 16). Furthermore, there are detailed rules as to the compulsory use of French within government, and limited exceptions authorizing either the use of bilingual forms or the use of an English translation on a separate document. The proposed s. 133.1 would augment the Office's powers with regard to these matters. The existing rules are already quite restrictive and have not yet been challenged on a constitutional basis. The CFL intends to rule the use of French within the Quebec government and the Supreme Court has recognized the right of any government to organize its official language policy (*Jones v. New Brunswick* [1975] 2 RCS 182).

In the *Constitution Act, 1867*, S.133 imposes the use of both French and English to adopt laws, and case law has extended this obligation to regulations and necessarily incorporated documents (including forms required by the Act or a Regulation) – see *Blaikie v. Quebec (Attorney general)* no 2, [1981]1 RCS 312; and *Re: Minority language rights (Manitoba)* no 2, [1992] 1 RCS 212; *Sinclair v. Quebec*, [1992] 1 SCR 579. That is the extent of Quebec's constitutional obligations with regards to official communications with the public. Other than

that, it is empowered to establish its own rules. It must also be recognized that the Court has distinguished between official language policies and individual rights and freedoms, which operate only in the realm of private relations (see *Ford v. Quebec*, [1988] 2 SCR 712). In the *Constitution act, 1867*, S. 133 does not specify the exact form that the documents need to take to comply with its disposition. Therefore, it has so far been assumed that both bilingual (either French-English on each side, or English on one side and French on the reverse) and bi-unilingual forms would comply with the constitutional obligation, as long as both have the same legal value and are adopted simultaneously in both languages. It has been held that a mention on English census form that “Ce document est aussi disponible en français” did not violate any linguistic obligation. But this could be subject to attack. Linguistic equality could mean compulsory bilingualism on forms. Even if this was so, it would apply only to forms mandated by legislation or regulations, on the basis of an interpretation of s. 133 of the *Constitution Act, 1867*, requiring real equality.

In *R. V. Remillard*, 2009 MBCA 112, 249 CCC (3d) 44, the Manitoba Court of Appeal was examining the extent of an obligation contained in some sections of the City of Winnipeg Charter. Namely, s. 456(1) stated: “All notices, statements of account, certificates, demands in writing and other documents sent or given by the city to persons resident in the designated area shall be in both official languages.” The City provided its notices of municipal offences, delivered by police officers, on pre-printed bilingual forms, and the Court just assumed that this was what was required. The Court

found that the form had also to be filled in a bilingual way. S. 841(3) of the *Criminal Code*, providing for pre-printed bilingual forms, was interpreted as not including the handwritten information added by officials – see *R. v. Goodine* (1992), 71 CCC (3d) 146 (NSCA). But it was interpreted as meaning that the pre-printed forms have to be bilingual, rather than available in either unilingual English or French forms, albeit not on a constitutional basis but only on a statutory interpretation of the clause: *R. c. Noiseux* (1999), 172 DLR (4th) 447 (QCCA). There is not much that can be legally argued against this proposed modification. It falls within Quebec's constitutional powers and does not offend any constitutional language rights, except maybe, as was said, with regard to bilingualism of official government forms under a possible interpretation of s. 133 of the *Constitution Act, 1867*.

4.1.3 Language Policies of Municipal Bodies

Municipalities are under provincial jurisdiction and as such, a provincial government is empowered to establish its linguistic regime (*Baie d'Urfe v. Quebec* [2001] JQ 4821 (QL)). New Brunswick has imposed some linguistic obligations to its cities (*Official Languages Act* (2002), R.S.N.B. c. O-0.5 s. 35-38); Ontario let cities decide for themselves (*French Language Services Act* R.S.O. c. F-32, s. 14). So far Ottawa has a language policy (validly adopted: *Canadian for Language Fairness v. Ottawa*, 2006 OJ 3969 (Ont. S. Ct) and some municipalities from Eastern Ontario have imposed bilingual commercial signs (by-laws are valid: *Galganov v. Municipality of Russell*, 2010 OJ 3512 (Ont S.Ct).

The Bill 103 modification would have all cities in Quebec, even those where a substantial proportion of the population is English speaking, to establish a language policy. The thrust of the measure is explained in the proposed s. 156.2: the policy must state that French is the official language of Quebec, that it has a prominent place in the activities of the municipality, that it is the language of public communications, and an essential instrument for Quebec's social cohesion. Designated municipalities under s. 29.1 that are empowered to use English in their communications with their citizens are not exempted from either requirement. It may be that to impose the adoption of a language policy, and to empower the authorities to monitor its implementation, is acceptable. But s. 156.2 seems to run contrary to the intent, if not the letter, of s. 29.1 and generally of the *rationale* for designated municipal institutions, capable of offering public services in English. Such a language policy would make it more difficult for designated municipalities under s. 29.1 to continue operating as English-language institutions. This should therefore be balanced with recognition that when a municipality has been designated under s. 29.1, the language policy it must put in place should duly take this factor into account, or exempt altogether designated municipalities from s. 156.2. Otherwise, it might be beneficial to force municipal institutions to have a language policy, even when they are not or cannot be designated, for it would help municipal councils to define more properly how they will provide services for their English speaking population. We now turn to the proposed modifications to Quebec's Charter of Human Rights and Freedoms.



4.2 Modifications to the Quebec Charter of Human Rights and Freedoms

Three Bill 103 modifications have to be noted here: adding the right to learn French and integrate Quebec's society; adding the right to contribute to Quebec's culture of which French is an indissociable aspect; and adding an interpretative clause reinforcing French.

Proposed s. 40.1: The right to learn French and to integrate within Quebec society

Quebec is a predominantly French speaking society situated within an Anglo-dominant continent. Within Quebec, the English speaking communities are a minority, and should be considered as such to benefit from minority rights including the right to learn French, Quebec's official language, which can be viewed as an asset. It is to be noted that under international law a community can be granted the status of a minority only at the level of the country as a whole but not within federal components such as in specific Provinces, and that the right to learn the official language is a right that should be granted to minorities by a state. For example, s. 4.5 of the International Declaration of the Rights of National Minorities (1992) grants the right of minorities to fully participate in their country's progress, presumably in the country's official language. In addition, the Framework Convention for the Protection of National Minorities (Council of Europe, 1995) does guarantee in section 14.3 the right of minorities to learn the official language of the State. Furthermore, it is the case that the European Charter for Regional

and Minority Languages does grant some rights to minority language education "without prejudice to the teaching of the official language(s) of the State"(Section 8(1)). So even if the English speaking communities of Quebec are not, *stricto sensu*, minorities in international law, the granting of this right can be seen as going beyond what international law requires from Quebec and conforms to international law of minorities. This provision does not deny the historical rights granted to the English Speaking Communities of Quebec. It is difficult to see how the right to integrate within Quebec society can be put into concrete operation. From a symbolic point of view, it would be preferable that the clause also recognize that Quebec society is also comprised of an English speaking minority.

Proposed s. 42.1: The right to contribute to Quebec's culture of which French is an indissociable aspect

The right to contribute to Quebec's culture can be viewed positively if the remarks made in the above paragraphs are taken into account. Furthermore, international documents cited above also guarantee minorities the right to contribute, in their own language and culture, to the cultural life of their country. Does the mention of the French Language as "an indissociable aspect" of Quebec's culture trump the cultural rights of the English speaking minorities? The answer would depend on the interpretation of the reach and scope of this clause. If it is viewed as granting preference to French cultural endeavours, it might then put in jeopardy efforts by English speaking communities to promote their own cultural endeavours. Access to

governmental programs could, based on this proviso, be oriented so as to deny that English cultural endeavours benefit from a full and unobstructed access to governmental programs aimed at supporting culture. Some cultural endeavours need governmental support, such as community radios, community centers, local theatres, local newspapers, etc. Some cultural activities do not generate sufficient revenues to support themselves without state intervention. Even if French is “an indissociable part” of Quebec’s culture, so is English and the English speaking communities of Quebec.

Proposed s. 52.1: The Quebec Charter of Rights and Freedoms shall be interpreted so as to reinforce the fact that French is the official language of Quebec and that it is important to ensure its perpetuity

An interpretative clause serves as a guide for the courts when they give content, meaning and substance to specific rights. It also serves as an indication of any reasonable limits that may be put on rights. For example, in *R. v. Beaulac*, [1999] 1 RCS 768, it was held that language rights should, in all cases, be given an interpretation that is compatible with its object and purpose. The right to a criminal trial in one’s official language should therefore be interpreted as being almost absolute and not limited to bilingual accused citizens. Two interpretative rules are proposed within Bill 103:

- French is the official language of Quebec
- It is important to ensure its perpetuity

These two interpretative principles could have an impact both on the individual rights guaranteed by the Quebec *Charter of Rights and Freedoms* and on collective rights also recognized in this *Charter*. The clause is carefully drafted so as not to have any impact on constitutional rights, but it could have this effect nevertheless if Courts begin to use them as a further aid to interpretation when language rights apply to Quebec.

4.2.1 Effect on Individual Rights and Freedoms

Individual rights that have a linguistic component in the *Quebec Charter of Rights and Freedoms* and in the *Canadian Charter* could be affected by the Bill 103 provisions. Although the interpretative clause is limited to the *Quebec Charter*, it could be invoked for the interpretation of the *Canadian Charter’s* limitation provision in s. 1.

Freedom of association might be impacted by this clause. An association should have the right to function in its own language and pursue its goals, as long as they are lawful. In *Dunmore v Ontario* [2001] 3 RCS 1016, the Supreme court decided that legislation could not deprive a category of workers from the right to affiliate and create a labour union. In *Delisle v. Canada* [1999] 2 SCR 989, the Supreme Court decided that Freedom of Association enabled individuals to pursue collectively goals that they can pursue lawfully individually. Private schools are of this nature and the interpretation clause proposed in Bill 103 could lead a court of law to consider it permissible for the Quebec government to restrict access to English private schools. Should this be seen as infringing freedom of association *per se*,



the interpretative clause could lead the Court to consider that it is a reasonable limit under s. 9.1 of the *Quebec Charter of Rights and Freedoms*. The other freedom that could be affected is, of course, freedom of expression. Totally forbidding the use of English in some circumstances was considered unconstitutional in *Ford v. Quebec* [1988] 2 RCS 712. This Bill 103 interpretative clause could, if there is evidence that French is not progressing in Quebec, justify a court of law to consider that it is a reasonable limit on freedom of expression.

Another right that could be affected is the equality rights in s. 10 of the *Quebec Charter of Rights and Freedoms*. This guarantees that all other rights in that Charter should be enjoyed without discrimination and the courts have determined that language can be an illegal basis of discrimination when other rights are involved (*Ford, supra*). With the Bill 103 interpretative clause, linguistic discrimination could be considered a reasonable limit, if evidence is adduced as to the precarious status of French in Quebec.

4.2.2. Effect on Limitation Clauses

Individual rights may be limited, under s. 9.1 of the *Quebec Charter* if the limit is imposed in the name of public order, democratic values and the general wellbeing of the citizen of Quebec, and under s. 1 of the *Canadian Charter*, if the limit is reasonable in a free and democratic society. In *Ford (supra)*, it was held that both should receive the same interpretation. Limitation clauses in charters of rights are introduced to enable government to pursue collective values and to encroach upon individual

rights and freedoms, if their goal is legitimate and if the limits are reasonable. The Bill 103 interpretative clause would include the need to ensure the perpetuity of French, which is not *per se* problematic, but could become so if it allows forbidding the use of English in any public sphere. It also denies that the English speaking communities are legitimate and a true part of Quebec society. So far, limitation clauses have been invoked by the Quebec Government to attempt to justify its legal measures in favour of French. Although the Courts have recognized the legitimacy of the legislative objective of promoting French in Quebec (see *Ford* and *N'Guyen, supra*), they have consistently decided that the measures contemplated by Quebec legislation were not reasonable and that this objective could be achieved with less intrusion on the rights of linguistic minority members. The proposed Bill 103 clause could give courts some legal ammunition to “cross that bridge” and consider it reasonable, at least in the context of Quebec laws, to not only impose French but to forbid the use of English in some contexts. Absent a true factual situation, it is impossible to go further in the present analysis.

4.2.3 Effect on Socio-Economic Rights

The *Quebec Charter of Rights and Freedoms* contains some socio-economic rights. They are generally non-justiciable, meaning that their violation does not lead to a judicial remedy. The *Canadian Charter* does not, generally speaking, contain socio-economic rights, either within its text or by interpretation (see *Louise Gosselin v Quebec*, [2002] 4 SCR 429), except for

official bilingualism (limited to the federal and New Brunswick jurisdictions) and minority language education rights (not addressed here). Although there has been some indication that the Court could, in some cases, recognize a socio-economic aspect to the right to life, liberty and security of the person (see *Chaoulli v. Quebec* [2005] 1 SCR 591), this has been very limited and fact specific. Generally speaking, the cultural and social aspects of language are treated within language rights themselves, and as was said, they do not – except for language of legislation, of court proceedings and of education – apply here. Socio-economic rights are nevertheless an indication of what government policy should be. They serve as guidelines for governmental programs. A few socio-economic rights contained in the Quebec Charter are engaged by the Bill 103 proposed modifications.

The right to choose private schooling (s. 42) is one of them, provided that the establishments are approved by law. The interpretative clause could justify the government to impose *Charter of French Language* standards of eligibility for access to private schools. The right to maintain and develop cultural interests in common with other members of ethnic minorities (s. 43) is another. Given that French would be by law the predominant language, ethnic minorities could receive less state support if their cultural interests are not pursued in French, even if language is an integral part of culture (see, in other context, *Mahe v Alberta*, [1990] 1 SCR 342). A better balance should therefore be sought: the interpretative clause should be modified, or another clause added, saying: “nothing in this Charter (Bill 103) shall derogate from

the rights of the English Speaking Communities of Quebec”.

4.3 Concluding notes: English Speaking Minorities and Canada’s Linguistic Duality

Canada’s linguistic duality is a prominent part of the fabric of the country. As the Supreme Court of Canada has emphasized in *Solski v. Quebec* [2005] 1 SCR 201, in the Province of Quebec the challenge is to balance the rights of the English speaking minorities, who are a majority within Canada as a whole, and who have the chance or misfortune to use as their language, the world’s *lingua franca*, with the fact that Quebec Francophones are a majority inside the Province but a minority within Canada. In *Solski v. Quebec* [2005] 1 SCR 201, the Supreme Court has aptly remarked:

Owing to the existence of these two levels of social and legal relationships, the establishment of rules to govern language rights is a sensitive issue. First, the members of the minority communities and their families, in every province and territory, must be given the opportunity to achieve their personal aspirations. Second, *on the collective level, these language issues are related to the development and existence of the English-speaking minority in Quebec and the French-speaking minorities elsewhere in Canada.* They also inevitably have an impact on how Quebec’s French-speaking community perceives its future in Canada, since that community, which is in the majority in



Quebec, is in the minority in Canada, and even more so in North America as a whole. To this picture must be added the serious difficulties resulting from the rate of assimilation of French-speaking minority groups outside Quebec, whose current language rights were acquired only recently, at considerable expense and with great difficulty. Thus, in interpreting these rights, the courts have a responsibility to reconcile sometimes divergent interests and priorities, and to be sensitive to the future of each language community. Our country's social context, demographics and history will therefore necessarily comprise the backdrop for the analysis of language rights. Language rights cannot be analysed in the abstract, without regard for the historical context of the recognition thereof or for the concerns that the manner in which they are currently applied is meant to address. [emphasis added]

In *R v. Mercure* [1988] 1 SCR 234, Justice La Forest commented on the nature of language rights in these terms at 268:

If human rights legislation can be said to be fundamental or almost constitutional, it is at least equally true of the legislation at issue here; for many years it was entrenched, so far as the inhabitants of the area to which it applied were concerned, since it could only be removed by Parliament, not the local legislature, something, it will be remembered, Parliament had refused to do. It formed part of the basic law of a vast

area of this country from the earliest days of the founding of the nation and *is rooted in a deeply sensitive reality recognized in the Canadian Charter of Rights and Freedoms, which, among our fundamental constitutional values, sets forth that English and French are the official languages of this country (s. 16(1)).* (Emphasis added)

The protection of minorities, including English speaking minorities in Quebec, is a fundamental and unwritten constitutional principle, as emphasized in the *Quebec's secession reference*, [1998] 2 R.C.S. 217:

However, we highlight that even though those provisions [pertaining to minority rights] were the product of negotiation and political compromise, that does not render them unprincipled. Rather, such a concern reflects a broader principle related to the protection of minority rights. Undoubtedly, the three other constitutional principles [Rule of law, federalism and democracy] inform the scope and operation of the specific provisions that protect the rights of minorities. We emphasize that the protection of minority rights is itself an independent principle underlying our constitutional order. The principle is clearly reflected in the *Charter's* provisions for the protection of minority rights. See, e.g., *Reference Public Schools Act (Man.)*, s. 79(3), (4) and (7), [1993] 1 S.C.R. 839, and *Mahe v. Alberta*, [1990] 1 S.C.R. 342.

And the Court hastens to add:

The concern of our courts and governments to protect minorities has been prominent in recent years, particularly following the enactment of the *Charter*. Undoubtedly, one of the key considerations motivating the enactment of the *Charter*, and the process of constitutional judicial review that it entails, is the protection of minorities. However, it should not be forgotten that the protection of minority rights had a long history before the enactment of the *Charter*. Indeed, the protection of minority rights was clearly an essential consideration in the design of our constitutional structure even at the time of Confederation: *Senate Reference, supra*, at p. 71. Although Canada's record of upholding the rights of minorities is not a spotless one, that goal is one towards which Canadians have been striving since Confederation, and the process has not been without successes. The principle of protecting minority rights continues to exercise influence in the operation and interpretation of our Constitution.

The Quebec Government Bill 103 proposal is undermining the principle of protection of minorities. Beyond the strict legal effect it could or could not have on other rights, the mention of French as the dominant language in Quebec as a legal principle of interpretation of individual and collective rights runs against this essential element of the very fabric of Canada. The equilibrium sought for by the Supreme Court is jeopardised.

Even in the Meech Lake Accord and in the Charlottetown Accord, the mention of Quebec as the “foyer” of French speaking Canadians was counterbalanced with a mention that there were also Francophones outside Quebec, and the mention of the rest of Canada as being the foyer of English speaking Canadians was balanced by the mention that there were also Anglophones in Quebec. The language used in the first draft of the Meech Lake Accord was even more explicit by referring to a French Canada and an English Canada, to be replaced down the road by a more individualistic formulation. The clause was to be used as an interpretative one for the application of more specific provisions of the Canadian Constitution.

As was mentioned, Ontario now has some protection for its French speaking minority, mainly with its *French Language Services Act*, RSO 1990 c. F.32. New Brunswick is not only officially bilingual but it recognizes the equal rights of both linguistic communities in s. 16.1 of the *Canadian Charter of Rights and Freedoms*. Other provinces have followed suit and have some legal recognition of their French speaking minorities. Even if each province is free to have its own language policy, that policy operates within a Canadian context in which linguistic duality and the protection of linguistic minorities, who are national minorities in Canada, play an integral part. So there are strong grounds to balance the mention of Quebec as a French speaking majority, with a recognition that English speaking minorities have rights that are as important and legitimate.



Chapter 5 – Postscript

The October 2009 Canadian Supreme Court ruling on the challenge of Bill 104 did recognize Québec’s right to preserve the French language but gave the province one year to craft a new law to limit access to English schools without violating Article 23 of the *Canadian Charter of Rights and Freedoms*. Citing obstruction from the Parti Québécois opposition in the National Assembly, the Liberal Government declared that adoption of Bill 103 in time for the October 2010 deadline would be impossible without suspending the normal rules for debate. Using the closure procedure in the Quebec National Assembly, a shorter modified version of Bill 103 known as Bill 115 was adopted by the Liberal majority Government on October 19, 2010 thus avoiding the legal void caused by the suspension of Bill 104 if a new law had not been adopted by the October 22, 2010 deadline set by the Canadian Supreme Court.

Bill 115 allows pupils, not eligible to attend public English schools in Quebec under Bill 101, to potentially obtain that right after studying three consecutive years in a private non-funded English school. Each pupil must also undergo a personal evaluation by a panel of four civil servants from the *Ministère de l’Éducation du Loisir et du Sport* (MELS) who will rule, using a point system, whether the pupil applying for inclusion in the English public school system was engaged in a “legitimate educational pathway” in English. This notion of “legitimate pathway” came from the *Solski v. Quebec* (2005) 1 SCR 201 Canadian Supreme Court ruling. The Supreme Court

said that to ascertain if a student had done most of his or her studies in English, enabling him or her to attend an English public school in Quebec, simply counting the number hours of school time in each language was not enough and that consideration had to be made for other criteria, one of them being the idea of a “legitimate educational pathway” in English. As proposed by the Quebec Education Minister, it is estimated that only a few Francophone, Allophone or Anglophone ‘non rights holders’ could possibly gain access to public English schools under such stringent conditions. The Quebec English School Boards Association attested publicly in June 2011 that it had yet to identify a single student who had entered English public schooling as a direct result of these provisions.

The Parti Québécois vehemently opposed Bill 103 because the law was seen as creating two classes of Quebecers: those with the financial means to attend three years of full fee (non-funded) English schooling and those without such financial means. The Parti Québécois proposed instead that the Liberal Government invoke the *notwithstanding clause* of the *Canadian Constitution* and extend current Bill 101 restrictions on English *public* schools to all *private* non-funded English schools in the Province. The notwithstanding clause would have as an effect to shield the proposed law from any constitutional challenge based on individual freedoms or the anti-discrimination provision, but it could not prevent a challenge based on constitutional language rights such as Article 23 of the



Canadian Charter. Thus the Parti Québécois sought to restrict access to fee paying English schools to only those Anglophone pupils who were already constitutional rights holders (*ayants droit*) to English public schools in the Province: those pupils of Canadian parents with at least one parent having received most of their education in English anywhere in Canada. The '*Conseil supérieur de la langue française*', the institution advising the Quebec Government on the protection of the French language, also supported this further restriction on access to private unsubsidized English schools through the application of the notwithstanding clause.

Of the forty-one briefs submitted to the Parliamentary Commission on Bill 103 during September 2010, most briefs submitted by Québécois francophone organizations such as trade unions, student and teacher federations, French language school boards, artist trade unions and nationalist militants decried Bill 103 for being too lenient in providing access to English schools and instead supported stiffer restrictions on access to both private and public English schools across the province. Some of those briefs, including the Parti Québécois one, also supported banning access to English language Colleges (CEGEP) to all students other than Anglophone rights holders currently protected by the Canadian Charter. Disagreeing with this position, the head of the *Fédération des CEGEPs du Québec* observed that the proportion of Francophone and Allophone students studying in English CEGEP remained at about 8% in the last decade, a proportion not likely to threaten the survival of the more than 47 French language CEGEPs

relative to the 4 English language CEGEPs in the Province. The Federation head also noted that the Parti Québécois proposition would be contrary to the nature of higher education where freedom of choice should prevail.

Briefs submitted by English speaking groups such as English school boards, private schools and associations defending English minorities across the Province also decried Bill 103 but for different reasons. Some asserted that all Quebec parents regardless of citizenship and language status, should have the right to choose the language of schooling they felt was best for their children while arguing that the French language was not threatened in the Province. As summarized in 'The Gazette' newspaper, the Quebec English School Boards Association brief proposed that:

"... children be allowed to switch to public English schools after two years in an unsubsidized English school. The Association pleaded that the English school system needs the "oxygen" of increased enrolment to sustain itself and insisted the English school system, which turns out fluently bilingual graduates, is no threat to the survival of French in the province. It added that the rules in Bill 103 probably will not allow a single new student to enter an English public school. The brief also challenged the notion of "bridging schools" as misleading, as most unsubsidized private English schools are long established and their prime purpose is to provide quality education" (Gazette, September 9, 2010).

Taken together, Bill 103 as amended within Bill 115 pleased no one. However Bill 115 did drop the re-writes of the *Quebec Charter of Rights and Freedoms* included in Bill 103. As seen in Chapter 4 of this report, we had numerous misgivings concerning Articles 17 to 24 of Bill 103 pertaining to the *Quebec Charter of Rights and Freedoms*. Bill 103 would have changed the Quebec Charter to give primacy to the protection of French:

“Any interpretation of the rights and freedoms set out in this Charter must take into account both the fact that French is the official language of Québec and the importance of ensuring its perpetuity “(Article 21 of Bill 103).

Thus Bill 103 stipulated that individual rights argued in courts and tribunals would be subordinated to the supremacy of French enshrined as the ‘collective right’ of the dominant majority. As pointed out by Don Macpherson of *The Gazette* newspaper: “The amendments could give protection of French priority over the protection against discrimination, notably on grounds of language, in the private sector as well as the public ones” (October 16, 2010). Furthermore as noted by Don Macpherson, Bill 115 did not actually replace Bill 103 which remains a proposed law in the Quebec National Assembly. Though Government sources asserted that the Quebec Charter amendments within Bill 103 could be adopted by the end of 2010, MacPherson in his October 28 article in *The*

Gazette concluded that “... it might be significant that the government introduced Bill 115 instead of simply using closure to pass all of Bill 103...that might be a sign that the government prefers to leave the rest of Bill 103 to die a quiet death on the Assembly order paper”.

Taken together, tensions surrounding the adoption of Bill 115 following the growing French/English polarisation concerning Bill 103, attests to the fragility of provincial Charters of Rights and Freedoms which can be amended to enshrine the collective rights of the dominant language majority over the collective rights of linguistic minorities and over the individual rights of citizens. Given the dramatic decline of the English school system over the last three decades, could the Quebec Government have taken the *responsibility* of improving access to English education rather than cater to the linguistic intolerance of Québécois nationalists? Without the needed support from the Quebec Government, could Quebec Anglophones have expected support from the rest of Canada still relieved that Bill 101 helped undermine separatism by making Québécois Francophones feel more secure about their linguistic and cultural vitality in the Province? The Bill 104 - 103- 115 saga shows that English-speaking communities of Quebec must live dangerously, a reality that Francophone minorities in the rest of Canada have known for a long while (Fraser, 2006; Gilbert, 2010; Landry & Rousselle, 2003).



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