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The Texture of Canada

*A fabric is woven of many threads.
Those of us who speak English and
those of us who speak French – ourselves
made up of many different elements –
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fabric called Canada.*



OFFICE OF THE
COMMISSIONER OF
OFFICIAL LANGUAGES



COMMISSARIAT
AUX LANGUES
OFFICIELLES

CANADA

THE TEXTURE OF CANADA

A fabric is woven of many threads. Those of us who speak English and those of us who speak French – ourselves made up of many different elements – have joined together to weave a social fabric called Canada. The golden fabric at the centre of the pin symbolizes the meeting place of our two linguistic communities and the richness of the dialogue between them.



Wearers of the emblem of the Office of the Commissioner of Official Languages are signifying their commitment to fostering the best possible human relations between the English-speaking and French-speaking components of Canada's social fabric.

**THE SPEAKER,
SENATE, OTTAWA**

Mr. Speaker,

Pursuant to
Section 66 of the
Official Languages Act,
I hereby submit to
Parliament, through
your good offices,
the thirty-first
Annual Report
of the Commissioner of
Official Languages
covering the period
between
April 1st 2001, and
March 31st 2002.

Yours respectfully,



Dyane Adam

September 2002

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FOREWORD

FOREWORD

Each year, the Commissioner of Official Languages presents a report to Parliament on her Office's activities during the preceding year.¹ This third Annual Report by Commissioner Dyane Adam covers the year ending March 31, 2002. It includes recommendations aimed at ensuring full implementation of the *Official Languages Act* (the Act).

In her first Annual Report, the Commissioner criticized our leaders' indifference to official languages, and urged them to take prompt action to correct the situation. In her second Annual Report, she was pleased to note that the train's whistle had sounded, signalling a renewed commitment to official languages: in the Speech from the Throne, the government unequivocally announced that it intended to take action to recognize and promote linguistic duality. This third Annual Report takes stock of some measures initiated by the government in following up on its renewed commitment. Has the official languages train finally pulled out of the station?

Since the Commissioner considers it important to adopt an approach focused on concrete, sustainable results, most cases presented in the report include an overview of the background and the issues involved, a chronology of the action taken by the Office of the Commissioner of Official Languages (OCOL), and a description of the action (or lack of action) taken by the institution to remedy the situation.

The first three chapters describe in succession the importance of linguistic duality as a Canadian value, efforts by our political and administrative leaders over the past year to promote linguistic duality, and the approach recommended by the Commissioner to foster achievement of the objectives of the Act. Chapters four and five examine how the federal government has carried out its language responsibilities where service to the public, language of work, and equitable participation by both language groups in the public service are concerned. The last two chapters present the action taken by the Commissioner over the past year to help promote linguistic duality and enhance the vitality of official language minority communities.

¹ *Official Languages Act*, R.S.C. 1985 (4th Supp.), c. 31, s. 66.



SUMMARY

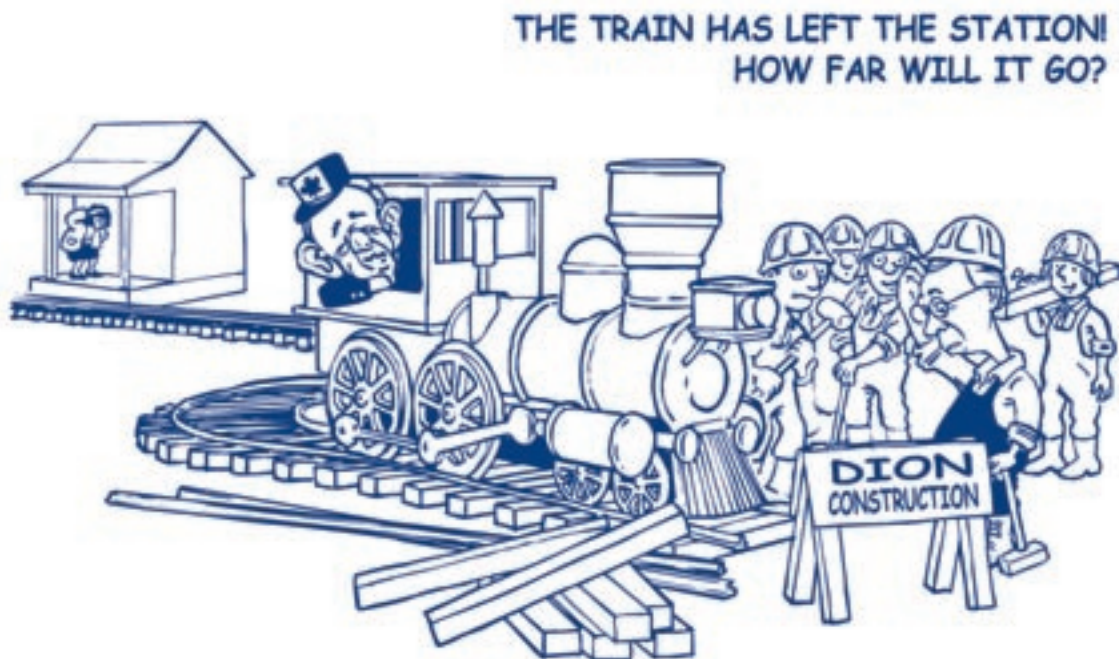
SUMMARY

The Act has three main objectives:

- to ensure the equality of status of English and French in Parliament, the Government of Canada, the federal public service, and institutions subject to the Act;
- to preserve and enhance the vitality of Canada's official language communities; and
- to advance the equality of status of English and French in Canadian society.

As was pointed out in the Commissioner's two previous Annual Reports, it bears repeating at the outset again this year that a major turnaround is essential if the objectives of the Act are to be achieved and Canadians' language rights are to become a concrete reality of everyday life, in the form of genuine equality of opportunity regardless of where we live in Canada.

Linguistic duality is a value that is central to the Canadian identity, and, as such, the government can no longer sidestep the issue. The intentions expressed by the government in the January 2001 Speech from the Throne gave reason to hope that concrete action would promptly be taken to ensure full implementation of the Act. Unfortunately, over the past year, these hopes have not materialized.



Although a number of recent initiatives suggest a definite mobilization of the federal government on official language issues, many of the expected changes have not yet seen the light of day. Specific efforts by certain institutions do not appear to be part of a comprehensive strategy of promoting linguistic duality. It is of the utmost importance that the action plan now being prepared by the President of the Privy Council change this situation and support co-ordinated government action to strengthen linguistic duality in all parts of Canada.

If their performance is to live up to the promises made, decision-makers must exercise more committed leadership in encouraging the various levels of the federal government to promote official languages. Federal political leaders must seek to lead by example, thus mobilizing not only federal institutions, but also every provincial and territorial government and, more broadly, Canadian society as a whole.



CHAPTER 1:

**LINGUISTIC DUALITY:
A CANADIAN VALUE**

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LINGUISTIC DUALITY: A CANADIAN VALUE

It is not difficult to list the major values that all Canadians share: freedom, democracy, the rule of law, equality, solidarity, respect, tolerance and compassion are some examples. It is on these values that our country is founded.

These values are civic virtues which, we believe, have become even more important in the aftermath of the terrorist attacks in the United States on September 11, 2001; we are reminded of the importance of solidarity in defending our rights and freedoms. Many of these values have been enshrined in the *Canadian Charter of Rights and Freedoms* (the Charter). The recent 20th anniversary of the Charter was given extensive media attention in all parts of Canada; most observers emphasized the far-reaching changes which have resulted from this, our most basic legal text.

Today, a sizable majority (88%) of Canadians considers that the Charter is a good thing overall.² As Claude Ryan has pointed out, [translation] “Adopting a constitutional charter reflected [...] a very widespread trend worldwide. And, by its very nature, the Charter had something to offer ordinary citizens: in their dealings with public authorities, their rights were better protected.”³

The innovative nature of the Charter lay not only in the legal expression it gave to the rights and values we cherish, but especially in the way in which it embedded these rights and values within a specific societal, cultural and linguistic setting, and thus reflected the existence of the two major language communities. A product of compromise, the Charter was intended to create for all Canadians a space of mutual recognition, a place where everyone would feel at home. Madam Justice Rosalie Abella of the Ontario Court of Appeal described this thrust as follows: “Our constitutional entrenchment of the Charter was designed to both represent and create shared, unifying national values of compassion, generosity and tolerance.”⁴

The Supreme Court of Canada has repeatedly emphasized the fact that language rights form part of our fundamental values. For example, in *Reference re: Manitoba Language Rights*, the Court stressed the role of language in building individual and collective identity:

The importance of language rights is grounded in the essential role that language plays in human existence, development and dignity. It is through language that we

² See “The Charter: Dividing or Uniting Canadians?,” *The CRIC Papers*, No. 5, Centre for Research and Information on Canada (CRIC), p. 8.

³ Claude Ryan, “Les 20 ans de la *Charte des droits et libertés* : Un bilan favorable,” *Le Devoir*, April 14, 2002, p. A11.

⁴ Rosalie Silberman Abella, “The Future After 20 Years Under the Charter,” paper presented at a conference organized by the Association for Canadian Studies to mark the 20th anniversary of the Charter, April 20, 2002, p. 1.

are able to form concepts; to structure and order the world around us. Language bridges the gap between isolation and community, allowing humans to delineate the rights and duties they hold in respect of one another, and thus to live in society.⁵

The Charter's recognition of the equal status of English and French was not without practical repercussions. In fact, that recognition was a commitment to bringing our two major language communities closer together.

Realizing that, increasingly, their national identity was defined by their two major languages, Canadians hoped to reinforce the fabric of their society by introducing genuine equality of status of English and French in Canada.

Canadians understood that the best way to bring about this renewed commitment was:

- to consolidate “official” bilingualism, that is, bilingualism in Parliament and the federal courts;
- to provide bilingual federal services where needed;
- to promote the creation and consolidation of official language minority schools; and
- to involve the provinces and territories in defending and promoting both official languages in Canadian society.

The Charter, then, specifically guarantees bilingualism in the institutions of the Parliament and Government of Canada, and confirms the right to minority language education. It also opens the door to greater co-operation between the federal government and the provinces and territories to support the development of the two language communities, that is, “to advance the equality of status”⁶ while taking into account demographic, societal and historical realities.

Language and identity

When the Charter was adopted, few observers could have predicted the level of popularity that second language instruction in French would attain among English-speaking Canadians. In barely one generation, openness towards French had become a part of their daily lives.

⁵ *Reference re: Manitoba Language Rights*, [1985] 1 S.C.R. 721, at 744.

⁶ Section 16(3) of the Charter reads as follows: “Nothing in the Charter limits the authority of Parliament or a legislature to advance the equality of status or use of English and French.”

Particularly striking evidence of this change is the more widespread bilingualism among young people aged 15 to 29 years, nearly 25% of whom are now bilingual (Statistics Canada, 1996 census). In other words, for more and more English speakers, as was already the case for many French speakers, bilingualism or even multilingualism has become an individual value and indeed an important aspect of their identity. As well, for them and for all Canadians, bilingualism is an economic asset in an increasingly competitive world.

Undoubtedly, over the years this development will have considerable repercussions for the delivery of bilingual service in Canadian society and will help enhance the value of both official languages in many sectors of international trade.

Canada relies increasingly on immigration for its growth. Therefore, diversity is both desirable and necessary. Under such conditions, however, we need to plan much more carefully how immigration can be used to develop official language communities, particularly those living in a minority context. These communities should exhibit as much diversity as the population does overall. Canada's official languages bring people together and increasingly act as an element of inclusion.

Development of official language minority communities

Realizing the importance of advancing the equality of status of English and French as set out in the Charter, the federal government, through Part VII of the Act, is committed, firstly, to enhancing the vitality of Canada's English-speaking and French-speaking minority communities and, secondly, to fostering the full recognition and use of both English and French in Canadian society.

This recognition is fundamental, first of all because official language minority communities have historic rights: the right to their language, schools, and other institutions essential to the expression of their culture. One lesson learned from the lengthy saga of the Montfort Hospital has been that we must not underestimate how deeply-rooted these institutions are in the communities. In 1990, the Supreme Court of Canada called Section 23 of the Charter⁷ "a linchpin in this nation's commitment to the values of bilingualism." Section 23 paved the way for the creation of schools which have also become deeply-rooted community institutions, even

⁷ Section 23 of the Charter spells out the minority language educational rights. Canadian citizens whose mother tongue is English or French and who reside in a linguistic minority community are entitled to have their children educated in the language of the minority.

though a complete network remains to be realized. For them the challenge is now to recruit the target student population into Francophone minority schools.⁸ A concerted effort on the part of several leaders is taking shape to meet this challenge. Currently, only half of all children born to a French mother tongue parent are attending Francophone schools outside Quebec. The Commissioner will spare no effort to ensure that this issue, which is of vital concern to Canada's Francophonie, is being addressed. In Quebec, the network of English-language schools also faces a number of unique challenges. A dynamic community life that is marked by constant renewal is indispensable for the ability of these communities to reinforce Canada's linguistic fabric.

Pursuing this line of thought, we quickly see that the minority communities enrich us all, not only culturally, but also socially and economically. In fact, Canada can only gain in terms of cohesiveness if minority Anglophones and Francophones have essential public services available in their own language.

Quebec: Key to Canada's Francophonie

Both the federal and Quebec governments have long, and not without friction, defended the French language and culture in Canada and abroad.

The most striking characteristics of this co-operation have undoubtedly been the gradual definition of each government's complementary roles in the Canadian and international Francophonie, as well as the agreements these governments have signed on immigration and labour force training. The future will no doubt reveal further opportunities to extend their co-operation.

It is also important that the provinces and territories with English-speaking majorities not only agree that the clear predominance of French in Quebec is legitimate but also recognize that greater consolidation of their own French-speaking communities is important. Their active, positive contribution is essential not only in developing each province and territory, but also in establishing harmonious relations between Quebec and the rest of Canada. In this regard, the ongoing efforts by Quebec's English-speaking community to build bridges between our two major language communities deserve special recognition.

A renewed understanding needs to embrace the fact that French-speaking Quebecers, while they are a majority in their province, nevertheless constitute part of the *language minority* in Canada and that, even in Quebec, the French language needs protection. This is an inescapable fact. As the centre of French life in North America, Quebec society will continue to need

⁸ OCOL, *Rights, Schools and Communities in Minority Contexts* (2001). OCOL Annual Reports and special studies can be consulted on its Internet site at www.ocol-clo.gc.ca.

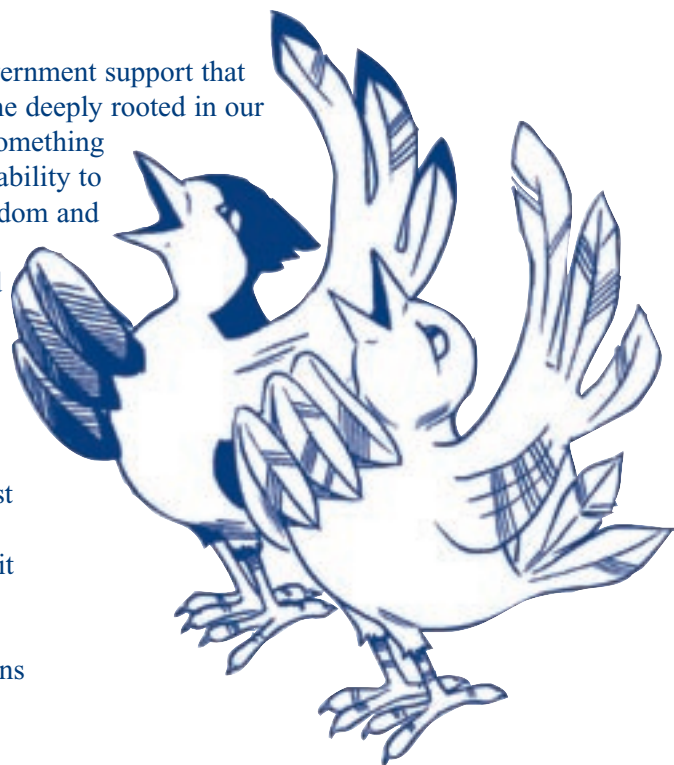
formal support. Given the North American context, linguistic insecurity among Quebec Francophones is very real. Of course, this fact does not mean that Quebec's English-speaking community is not also in need of protection. One must be careful not to rob Peter to pay Paul.

Still, in recent debates on the situation of the French language in Quebec it has often been forgotten that the federal government has actively helped promote the French fact in that province. This support for the French language has been demonstrated at many levels. Agencies including Radio-Canada, Telefilm Canada, TV5, the National Film Board, and the Canada Council for the Arts have stimulated artistic and cultural life in French both in Canada and abroad. As well, considerable resources have been devoted to French-language content and services on the Internet and in new technologies. These contributions have enhanced the vitality of the French language and culture.

It is in part thanks to this federal government support that the originality of Quebec society has become deeply rooted in our country's self-image. Linguistic duality is something Canadians value; it is proof positive of our ability to accept our diversity as a symbol of our freedom and openness to the world, and thus give daily affirmation to our capacity for dialogue and inclusiveness.

Uniting our voices

Our linguistic duality does not consist merely in acknowledging the fact that Canada has two official languages because it is made up of two major language communities, each one becoming increasingly diverse. Linguistic duality means acknowledging the fact that these two communities are *interdependent* and cannot function or be fully productive without solidarity and respect for each other.



TWO LANGUAGES - ONE VOICE

Indeed, the matrix of Canada's identity is this creative tension, this desire to live together, that must be re-established daily through a dialogue in English and French in which everyone has a voice.

We need to understand recognition between peoples as something more than a process of concession and negotiation alone. Properly considered, recognition is an act of enlargement that enables both sides to envisage new possibilities of living together. We don't simply recognize each other for what we are; we recognize what we could become together. To do that, we have to recognize what we already are: a peaceable kingdom, a place where languages, cultures, and peoples shelter together under the arch of justice. This is our raison d'être, our example to the world, our never-quite-realized possibility.

Michael Ignatieff
The Rights Revolution, Anansi, 2000, p. 136

Since her appointment the Commissioner has concentrated on the linkages between values, fundamental rights, and the development of the two official language communities. It is her firm belief that the dynamics which can arise from these linkages will provide for a more productive future and will better equip us to manage the diversity of a new Canadian society.

The Commissioner has, for example, stressed the importance of federal and provincial governments, associations, the private sector, and all Canadians working harder together to bridge the gap that has developed between language rights and social rights. In fact, language equality is a value only in theory, unless it advances equality of opportunity in practice and enhances the vitality of English- and French-speaking communities.

Working towards a collective vision

Year after year, the Commissioners' reports on the status of the implementation of the Act have noted bureaucratic hitches as well as holes and weaknesses in the government's commitment. The reporting exercise is both legitimate and necessary: vigilance is still the best guarantee for full implementation of the Act. In the more than 30 years since the Act was passed and the 20 years since the Charter was adopted, the overall efforts have produced results that may be imperfect but are no less significant.

Still, progress remains precarious: more often than not advances are vulnerable to the vagaries of political will. The future will depend on our individual and collective ability to assume our responsibilities and take up the challenges of linguistic duality. Beyond its symbolic importance, Canada's official languages constitute an immense resource and a guarantee for the ongoing vigour of our country.



CHAPTER 2:

POLITICAL AND ADMINISTRATIVE LEADERSHIP

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Where official languages are concerned, leadership by parliamentarians and heads of federal institutions must create an atmosphere of co-operation that encourages everyone to share a vision and provide an ongoing contribution to achieving a common goal. Without this political and administrative leadership, it is difficult to see how one can expect provincial and territorial leaders to rally around the vision for official languages.

The following sections report on concrete action over the past year by our political and administrative leaders to promote linguistic duality and achieve the objectives of the Act.

Commitment by parliamentarians

The 2001 Speech from the Throne gave official languages an importance not seen in 15 years. It was followed by some initiatives confirming the will of some federal leaders to promote the vision for official languages. For example, the government agreed to fund a number of projects supporting official language minority communities (see box). Many parliamentarians energetically defended Canadians' language rights. Various House of Commons and Senate Committees gave special consideration to bills directly and indirectly affecting official languages and the language communities.

Some timely investments

Over the past year, the government announced new funding for a number of official language projects such as the founding of an institute at Université de Moncton for research on official language minority communities; the translation of municipal by-laws in New Brunswick; youth language exchanges; a distance education network for the English-speaking community in Quebec in partnership with the province; the conclusion of new agreements under the Interdepartmental Partnership with Official Language Communities (IPOLC); language training for employees of the new City of Ottawa; and cultural and community projects for young Francophones in minority communities.

Government's action plan on official languages

Since April 2001, the Minister of Intergovernmental Affairs and President of the Privy Council has been responsible for co-ordinating all matters affecting official languages, with the mandate of drawing up a new action plan to strengthen the Official Languages Program and bilingualism in Canada.

The Commissioner asked the Minister to set specific objectives and to set up targeted measures that will achieve *concrete, sustainable, measurable* results. Proposing seven priorities and suggesting a number of avenues to be pursued, the Commissioner left it to the Minister to define the details and implementation strategy.

PRIORITIES PROPOSED BY THE COMMISSIONER FOR THE GOVERNMENT'S ACTION PLAN ON OFFICIAL LANGUAGES

- Strengthen the system for implementing the Act, for example by mobilizing political and administrative leadership and transforming the organizational culture of the federal public service.
- Stimulate community development, in particular through immigration and increased support for health care and social services.
- Guarantee quality services in both official languages for Canadians.
- Set up a system that will allow eligible public servants to effectively work in the official language of their choice.
- Achieve the objectives set out in section 23 of the Charter by enrolling, integrating and retaining the target student population.
- Promote full recognition and use of English and French as a fundamental Canadian value.
- Publicize Canada's linguistic duality internationally, in particular by enhancing the presence of French on the Internet.

No official document had been tabled by March 31, 2002.



RECOMMENDATION 1

The Commissioner recommends that the government draw up its action plan on official languages without further delay and allocate the funding required to implement measures set out therein.

Ministerial Reference Group on Official Languages

In the fall of 2001, several Cabinet members formed a Ministerial Reference Group to support the federal government's thinking on official languages. Following the January 2002 Cabinet shuffle, this Reference Group was considerably expanded and now includes nearly one-third of the members of the Cabinet Committee on Social Union. The Reference Group should facilitate a horizontal approach to implementing sectorial initiatives to be set out in the action plan on official languages.

RECOMMENDATION 2

The Commissioner recommends that the Prime Minister give the Ministerial Reference Group on Official Languages the status of a permanent committee, in order to stimulate leadership at the highest levels and to support implementation of the action plan on official languages.

Standing Joint Committee on Official Languages

Over the past year, the Standing Joint Committee on Official Languages was very active. The Committee took firm stands on a number of issues, particularly those involving Air Canada and the televised broadcasts of House of Commons proceedings, and their influence is increasingly being felt. The Committee heard testimony from numerous representatives of official language minority communities, and tabled a report setting out their expectations of the government's action plan on official languages.⁹

In the spring of 2001, the Committee considered the Commissioner's investigation report on the broadcasting of House of Commons proceedings in both official languages.¹⁰ The Committee shared the Commissioner's conclusions and tabled its own report recommending, among other things, that the Canadian Radio-television and Telecommunications Commission (CRTC) require cable companies to broadcast House of Commons proceedings in both official languages.

The Committee also considered the ongoing problem of Air Canada's failure to respect the Act. The Committee studied the many reports by OCOL on this issue and invited a series of witnesses to appear before it, including the Minister of Transport, the President of the Treasury Board, the President of Air Canada, members of Air Canada employee unions, and representatives of OCOL. The Committee's report, tabled in February 2002,¹¹ contained 16 recommendations to the President of Air Canada, the Minister of Transport, and the President of the Treasury Board. In particular, the Committee recommended that Air Canada make use of a guide published by the Commissioner in 2001¹² in drawing up an action plan for fulfilling its language obligations.

⁹ Report 8, *The Official Language Minority Communities Told Us...* (<http://www.parl.gc.ca/InfoComDoc/37/1/LANG/Studies/Reports/langrp05-e.htm>).

¹⁰ *Investigation Report Concerning the Broadcasts and Availability of the Proceedings of the House of Commons in Both Official Languages*.

¹¹ Report 7, *Air Canada: Good Intentions are Not Enough!* (<http://www.parl.gc.ca/InfoComDoc/37/1/LANG/Studies/Reports/langrp04-e.htm>).

¹² *Putting Into Place an Appropriate Official Languages Act Implementation Scheme at Air Canada*.

The Committee also considered implementation of Part VII of the Act. The official language minority community representatives who appeared were critical of the lack of results Part VII has produced since coming into force.

Standing Senate Committee on Legal and Constitutional Affairs

The Standing Senate Committee on Legal and Constitutional Affairs considered the scope of section 41 in Part VII of the Act, in which the federal government makes a commitment to enhancing the vitality and supporting and assisting the development of official language minority communities. Since coming into force in 1988, this ill-defined provision has been the focus of a great many debates, and clarifying its interpretation is long overdue.

The Committee's decision to study this issue was triggered by the tabling of Bill S-32, sponsored by Senator Jean-Robert Gauthier, a bill to amend the Act in order to make the government's commitment to official language minority communities more binding. Numerous stakeholders took part in the Committee's consultations, including the Commissioner, experts on language rights, and representatives of sectorial groups. Most participants emphasized the need to define more clearly the government's responsibilities under section 41 of the Act.

The Commissioner proposed amendments to better achieve the objectives of Part VII of the Act. It is imperative that the federal government adopt a coherent, generous interpretation of this provision, since a number of federal institutions have taken advantage of its ill-defined nature to justify their failure to take action to implement it.

RECOMMENDATION 3

The Commissioner recommends that the government clarify the legal scope of the commitment set out in section 41 of the *Official Languages Act* and take the necessary action to effectively carry out its responsibilities under this provision.

House of Commons Standing Committee on Citizenship and Immigration

The Commissioner also appeared before the Standing Committee on Citizenship and Immigration as part of its consultations on the new immigration legislation. The Commissioner's goal was to persuade Committee members to support certain amendments to the proposed *Immigration and Refugee Protection Act* that would ensure that both language groups benefited more equitably from immigration. The new legislation, which received Royal Assent in November 2001, responds to the Commissioner's recommendations, and endeavours to develop both majority and minority English-speaking and French-speaking communities and to advance the equality of status of English and French. The Commissioner also pointed out that the draft regulations proposed by the Minister of Citizenship and Immigration did not award enough points to immigrants with a good command of their second official language. The Committee took this point into consideration and, in its recommendations to the Department, suggested that the number of points awarded for knowledge of an immigrant's second official language be doubled.

Commitment by senior officials

Federal institutions have an important part to play in achieving the objectives of the Act: they are responsible for making the government's renewed commitment to official languages a reality. Only solid commitment by senior management can mobilize all levels of the public service.

Recognition of administrative leadership



Recently the Commissioner introduced the OCOL Leadership Award. Each year, this award will pay tribute to the head of a federal institution who has shown distinguished leadership in promoting linguistic duality and implementing the Official Languages Program in the institution. This award is symbolized by a mascot named Leon, an engineer at the controls of the official languages' train. Leon was presented to the Commissioner by the Federal Councils in the Atlantic region, at the Atlantic Symposium on Official Languages held in Charlottetown in October 2001 (see p. 26-27). The very first winner of the Leadership Award was Chief Statistician Ivan P. Fellegi (see p. 113-114).

Clerk of the Privy Council

At present, official languages form part of all Deputy Ministers' permanent objectives: under the performance agreements between them and the Clerk of the Privy Council, all Deputy Ministers are responsible for upholding standards of service delivery in both official languages, and for promoting a workplace conducive to the use of English and French.

All Deputy Ministers are responsible for selecting, from among the government's strategic priorities identified by the Clerk of the Privy Council, one or two priorities they undertake to implement. Over the course of the last two years, the Clerk has made a significant commitment by identifying official languages as one of these strategic priorities. Because changing organizational culture takes time, the Clerk of the Privy Council should continue to maintain official languages as one of these strategic priorities for several more years.

When senior officials are slow to implement the Official Languages Program in their institutions, the Privy Council Office should require them to make official languages a priority. It is vital that the Clerk define performance indicators that can be used to verify the extent to which each Deputy Minister has implemented the Official Languages Program.

RECOMMENDATION 4

The Commissioner recommends that the Clerk of the Privy Council maintain official languages as one of the federal administration's strategic priorities for a further three-year period, and make this a compulsory priority for all Deputy Ministers who have exhibited delays in implementing the Official Languages Program in their institutions.

Committee of Deputy Ministers on Official Languages

Although the responsibility of the Committee of Deputy Ministers on Official Languages is to support and inspire the interaction between the Ministerial Reference Group on Official Languages and federal departments, this Committee appears to be having trouble moving from deliberation to decision and action. If its work is to find more concrete expression, the Committee must work closely with the Minister responsible for co-ordinating issues related to official languages and assist him with the action plan on official languages.

In 2000, the Committee set four priorities for itself: health care, language of work, French on the Internet, and a vision for official languages. No visible action on these priorities appears to have been taken. The Committee indicates that it will work on four broad axes in 2002-2003: education, communities and linguistic duality, support for the French language, and the public service. The Committee will address the following areas: examining federal-provincial agreements on minority and second language education, support for language industries in order to allow for a more equitable presence of French on the Internet, and an evaluation of the implementation mechanisms of Part VII of the Act.

The Commissioner expects the Committee to indicate how these priorities will be carried out and how their realization will be measured, so that the Committee's work can be evaluated. The Deputy Ministers' leadership will be essential to effective implementation of the government's action plan on official languages.

Committees on Official Languages of Regional Councils of Senior Federal Officials

In each province, a council brings together the most senior officials of federal institutions in the region. These Federal Councils have each established a Committee on Official Languages. Over the past year, some of these Committees have exercised distinguished leadership.

The Commissioner's previous Annual Report was critical of the absence of a Committee on Official Languages in the Quebec region; this shortcoming has since been remedied. The main duties of this new Committee of the Quebec Federal Council will be to ensure that employees' right to work in the official language of their choice is respected, to increase representation of Anglophones in the federal public service in Quebec, to improve the quality of services provided in English, and to better support the development of English-speaking communities in Quebec.

In October 2001, the Committees on Official Languages of the Federal Councils in the Atlantic region organized an important symposium in Charlottetown (see box opposite). The previous year, the Commissioner had recommended that the Treasury Board Secretariat (TBS) increase the visibility of the Official Languages Program through the Federal Councils. The TBS responded to this recommendation by actively co-operating with the Symposium and by asking the participating Councils to make use of the Symposium's findings in their strategic planning and implementation of the Act. Since that time, the four Committees in the Atlantic region have each drawn up a plan to serve as a framework in their respective provinces for implementing the Act, particularly the provisions in Part IV on language of service, those in Part VII on the government's commitment to official language minority communities, and, in the case of New Brunswick, those in Part V on the language of work.

A shining example of administrative leadership

In October 2001, the Atlantic Symposium on Official Languages brought together some 150 public servants responsible for implementing the Official Languages Program in the Atlantic region. Deliberations took place under the title “Building a future... on linguistic, cultural and regional diversity” and covered the challenges and issues arising from implementation of the Act in the Atlantic region, possible solutions, and best practices that advance language equality and delivery of quality services in English and French.

The Symposium rallied participating institutions around the concept of linguistic duality. The Federal Councils in the Atlantic region, which organized the Symposium, indicated they would follow up as required in order to ensure that the forum results in the delivery of better-quality federal services in both official languages throughout the region. This event, organized by and for the departments, was the focus of a great deal of interest in the Atlantic region and elsewhere in the country. It was a shining example of the administrative leadership that official languages need so urgently and the event deserves to be repeated in other regions of Canada.

The Pacific Council of Senior Federal Officials made a significant contribution to carrying out the pilot project initiated by the TBS to improve the quality of federal service provided in both languages in British Columbia (see box on following page). The members of this Council’s Committee on Official Languages participated in many of the 180 visits to federal service points in the province, providing local managers with information about their language obligations. This support from the Federal Council greatly enhanced the success of this pilot project.

Conclusion

Since her appointment in 1999, the Commissioner has encouraged federal political and administrative leaders to take action in renewing linguistic duality. Essentially, taking action means adopting a comprehensive strategy that includes specific objectives and measurable results, and providing adequate funding. Also, the Commissioner proposed seven major priorities for the action plan being drawn up by the government. These priorities are hardly revolutionary, and are based on simple common sense.

The government has been quite active. It has identified official languages as one of its strategic priorities; it has named a Minister responsible for coordinating federal leadership on official language issues; it has set up a Ministerial Reference Group to support its thinking; it has allocated new funding to a number of projects that support the development of official language

Concerted action in British Columbia

In October 2001, a pilot project was set up in order to improve service in French in federal offices designated bilingual in British Columbia. This pilot project was the result of a partnership among the TBS, OCOL, the Committee on Official Languages of the Pacific Council of Senior Federal Officials, and the Fédération des francophones de la Colombie-Britannique (FFCB).

Accompanied by a member of the above-mentioned Committee on Official Languages or a representative of the FFCB, a consultant hired by the TBS met with each manager at the approximately 180 federal service points designated bilingual in British Columbia.

These meetings were a way of making managers aware of the importance of fulfilling their language obligations and informing them of best practices for delivering bilingual service in British Columbia. The pilot project also included a promotional aspect encouraging Francophones to make use of federal services in French in British Columbia. This approach, based on co-operation and education, is a promising model.

minority communities. Senior federal officials are exploring possible solutions. The importance of convinced leadership as well as sustainable, concerted planning cannot be overemphasized. All these initiatives are commendable. The wheels of the bureaucratic apparatus appear to have been set in motion with some resolve... but are turning ever so slowly.

The Commissioner stresses the urgency of moving faster because the Official Languages Program is not just another government initiative. It is a vital collective undertaking and central to our Canadian values. Its goal is not only to foster better understanding within Canadian society, but also to ensure a fair and dynamic balance between official languages as the basis for harmony and stability within our society.



CHAPTER 3:

**THE OFFICE OF THE
COMMISSIONER OF
OFFICIAL LANGUAGES,
AN AGENT OF CHANGE**

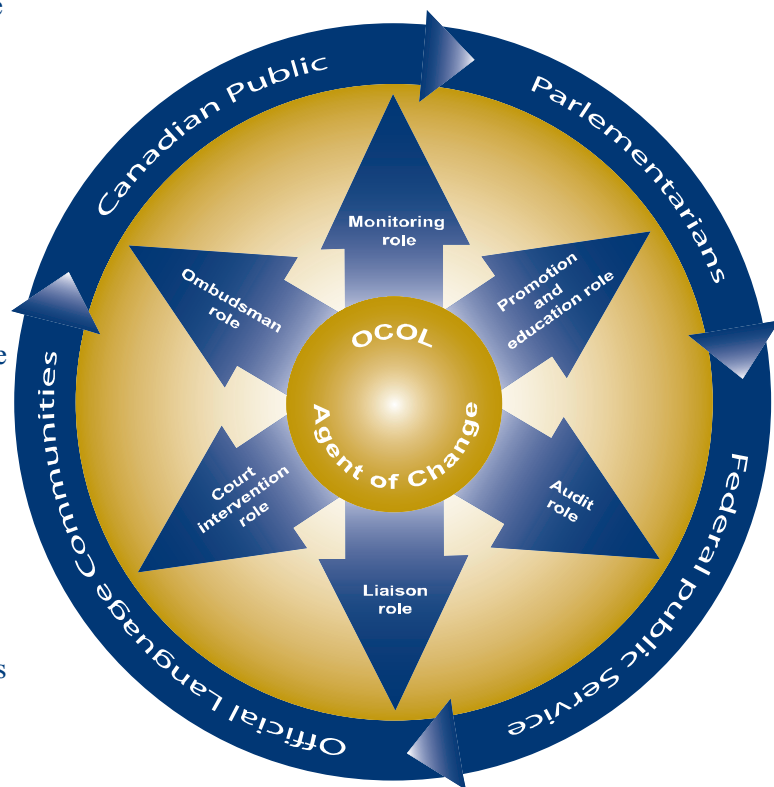
CHAPTER 3:

THE OFFICE OF THE COMMISSIONER OF OFFICIAL LANGUAGES, AN AGENT OF CHANGE

On being appointed in 1999, the Commissioner set herself the mandate of becoming an agent of change, so that Canada's political and administrative leaders can continue to reinforce our linguistic fabric. OCOL has considered how to focus this mandate and optimize the Commissioner's influence. From this reflection process, three main avenues have emerged:

- using a proactive approach focused on awareness and prevention as the Commissioner assesses compliance with the Act. This approach corresponds closely to the findings of parliamentarians, public servants and academics who participated in a series of thematic discussions on the relations between officers of Parliament and the public service;¹³
- mobilizing the public service around the concept of linguistic duality and encouraging public servants, each in their area of activity, to give concrete expression to Canada's language policy; and
- co-ordinating OCOL's activities, in order to advance simultaneously on several fronts.

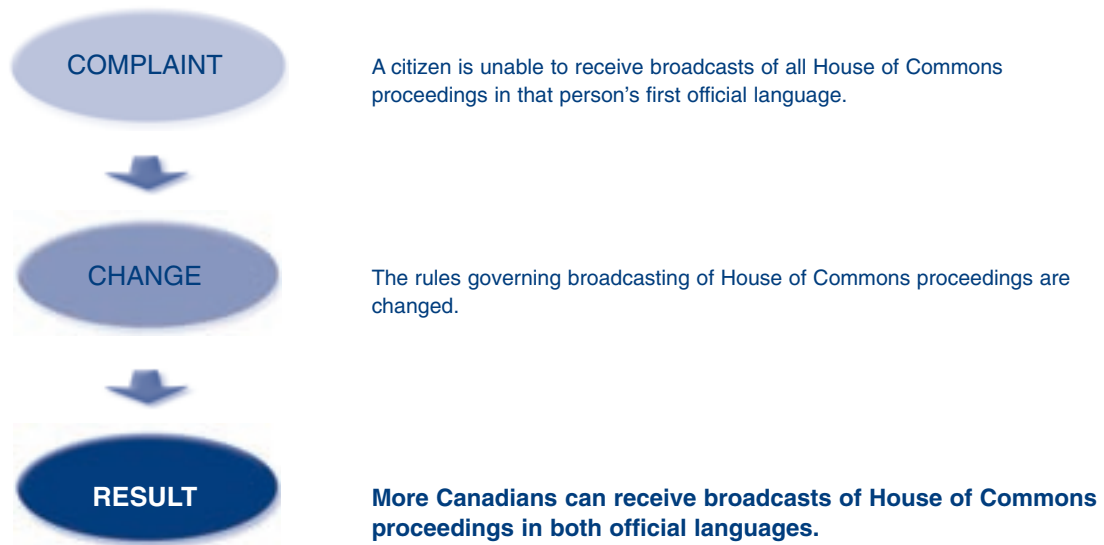
The Commissioner's mandate as an agent of change is carried out through six key complementary roles. The following sections describe the main characteristics of these roles, followed by an overview of complaints dealt with by OCOL over the past year.



¹³ This series of thematic discussions was organized by the Canadian Centre for Management Development (CCMD) in the winter of 2002. As well, a conference on the role of officers of Parliament, organized by the University of Saskatchewan in November 2001, highlighted a similar approach.

The ombudsman role of the Commissioner

The Commissioner receives, considers and, if necessary, investigates complaints and makes the required recommendations. Complaints are a powerful means of supporting the Commissioner's role as an agent of change. Here is a concrete example; it is described in greater detail in chapter 4.



Over the past year, OCOL completed a review of its investigation process in order to improve its ability to lead institutions to achieve lasting solutions to problems identified by complaints. The recommended approach is to seek the cause or causes of problems and then to identify, with the managers in federal institutions, how best to solve these problems. In being part of the search for solutions that respect the Act while taking into account the institutional context, managers will feel more involved in achieving sustainable results.

Although the Commissioner favours an approach based on awareness and persuasion, it should be pointed out that, in cases where institutions fail to act, she will use more forceful means in order to ensure that institutions change their behaviour.

In the case of complex or recurring problems or situations with a significant impact on official languages, the Commissioner usually asks her investigators to carry out a special study on the issue. Special studies are a way of examining problems in depth and proposing solutions that address their root causes.¹⁴

The auditing role of the Commissioner

In order to report faithfully to Parliament on the official language situation in the federal government, the Commissioner must directly audit how federal institutions fulfil their obligations under the Act, in terms of both structure and operations. The Commissioner intends to reactivate this aspect of her mandate—which had been set aside due to lack of resources—because these audits play an important preventive role. Audits often make it possible to identify shortcomings at the source, before they become systemic problems and result in complaints.

Reactivation of the auditing role is particularly important since the institutional control traditionally exercised by the TBS is increasingly limited. Firstly, the government now gives the departments greater responsibility for their own internal audits. Secondly, a number of programs including labour force training have been devolved to the provinces and territories. Thirdly, institutions such as Nav Canada and Canadian National have been privatized, and others such as the CCRA and Parks Canada have been given separate employer status. Although these institutions are still subject to the Act, they now have greater autonomy from the TBS, and thus there is a broad range of public service providers over whom the government exercises little control regarding implementation of the Act.

¹⁴ Some recent special studies are described in chapter 6.

In this new context, it is crucial that an independent agent adequately review all institutions subject to the Act, so that Canadians and their representatives in Parliament know how well their language rights are being respected. In her capacity, the Commissioner must assume a proactive auditing role similar to that of the Auditor General.

The liaison role of the Commissioner

The liaison role is an important one for OCOL, both in Ottawa and across the country. It involves working with institutions, official language communities and various levels of government. To enhance her supportive role, the Commissioner is backed by a group of liaison officers, who work to assist federal institutions in their efforts to improve the way they implement the Act. Liaison is carried out in a less coercive atmosphere than is the case in dealing with complaints.

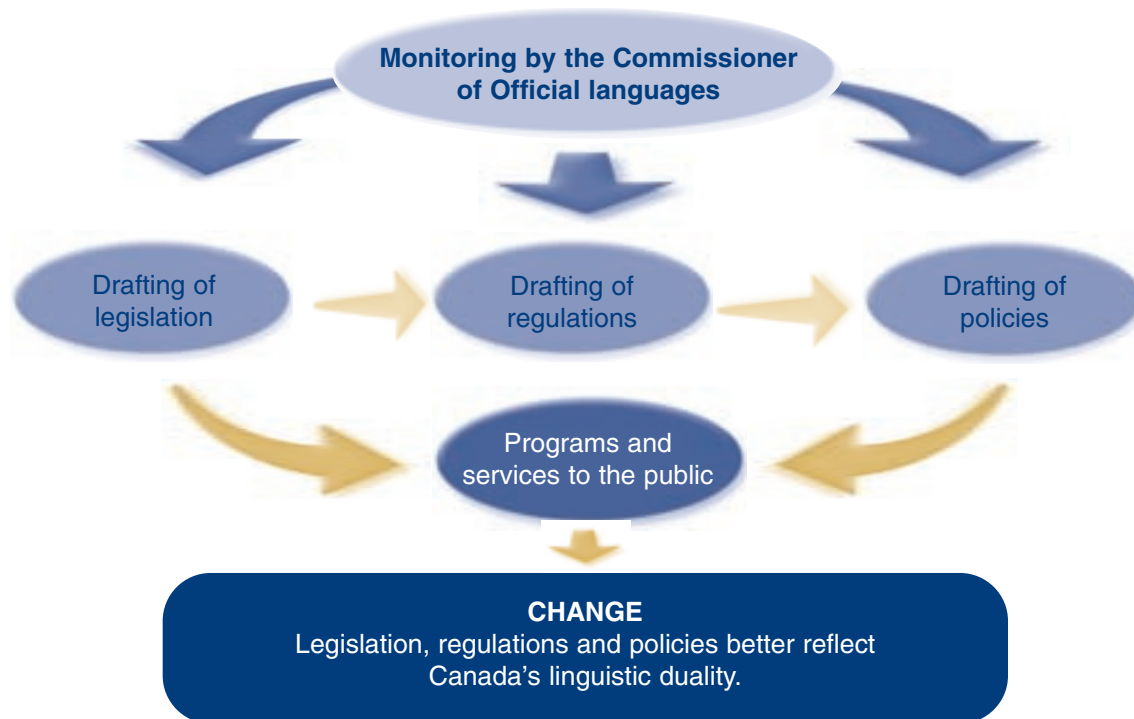
If genuine organizational change is to be brought about, a critical mass of executives and employees must share the same values and vision. For this reason, over the past year the Commissioner met with some 10 federal departmental management committees. These discussions covered the following points:

- the objectives of the Act;
- the benefits of a workplace that is conducive to the use of both official languages;
- the need to provide service to the public in both languages; and
- the importance of administrative leadership in official language matters.

Discussions with stakeholders and institutions provide OCOL with food for thought and a better understanding of the needs and concerns of the minority and majority communities, so that it can take appropriate action and make relevant recommendations.

The monitoring role of the Commissioner

Legislation, regulations and government policies underpin a great many aspects of Canadians' lives. Thus it is imperative that they take into account linguistic duality and the fundamental values that accompany it. The Commissioner's monitoring role consists in taking preventive action by intervening when bills, regulations and policies are being drafted in order to ensure that language rights are front and centre among our leaders' concerns. Over the past year, the Commissioner exercised this monitoring role in a number of fields including immigration, sport, and transportation. For example, in the area of transportation, the Commissioner asked the President of the Treasury Board and the Minister of Transport to take action so that the legislation on Canadian airports to be tabled next year ensures that Canadians' language rights are respected



at every airport in Canada. Without this action, the inhabitants of Sudbury for example, nearly one-third of whom are French-speaking, may no longer be guaranteed bilingual service by the airport administration.

The promotion and education role of the Commissioner

The Commissioner’s mission reveals the scope of her promotion and education role: “It is the duty of the Commissioner to take *all actions and measures* [...] with a view to ensuring recognition of the status of each of the official languages and [...] *the advancement of English and French in Canadian society*.”¹⁵ [emphasis added] The Commissioner therefore has a clear duty to promote linguistic duality, not only in the federal government but also in Canadian society.

This promotion and education role is exercised indirectly, through the Commissioner’s other roles such as doing research and publishing studies, and directly, through public awareness activities such as giving speeches and participating in symposiums to talk about the opportunities and benefits of linguistic duality. The Commissioner works with community organizations and regularly acts with federal institutions and the provincial and territorial governments to ensure that

¹⁵ *Official Languages Act* (*supra*, note 1), ss. 56(1).

official languages and official language minority communities are given the attention they deserve. For example, the Commissioner took part in the public hearings of the Special Committee on the Review of the Northwest Territories' *Official Languages Act* (described in chapter 7), making suggestions aimed at improving the Charter compliance of the Northwest Territories' official languages system.

The court intervention role of the Commissioner

Sometimes, positive change can only be obtained by resorting to the courts. Section 78(3) of the Act authorizes the Commissioner to seek leave from the courts to intervene "in any adjudicative proceedings relating to the status or use of English or French." Over the last 20 years, successive Commissioners have intervened in a great many cases involving the exercise of language rights, particularly the right to minority language education. In the past year, language rights have been the subject of four prominent court decisions, one of which is described below and the others later in this Report.¹⁶ The Commissioner participated directly in each of these cases.

A law suit initiated by a Moncton resident had significant repercussions on the extent of the principle of equality of New Brunswick's two language communities (see opposite).

The New Brunswick government did not appeal this decision, and announced that it would introduce legislation defining the language obligations of municipalities that are required to be bilingual. The federal government agreed to pay half the costs of translating the municipal by-laws.

Court decisions have done much to promote Canadians' language rights. However, as the Commissioner noted at Université de Moncton at the February 2002 Colloque sur l'application des



¹⁶ *Lalonde v. Ontario* (see p. 97-98); *Baie d'Urfé (Ville) c. Québec (Procureur général)* (see p. 100-101); *Fédération Franco-Ténoise v. Canada* (see p. 103).

¹⁷ *Charlebois v. City of Moncton*, 2001 NBCA 117.

droits linguistiques au Canada, court challenges often create an adversarial atmosphere that may damage relationships between governments and official language minority communities.

It is generally in the parties' interests to work together to find solutions rather than to have them imposed by the courts. Unfortunately, however, in the face of indifference by their governments, official language minority communities often have no choice but to turn to the courts to ensure that their rights are respected. This situation places a heavy burden on these communities: the constant need to reaffirm their constitutional rights undermines their confidence in their governments and elected representatives. As a result, democracy is weakened. This situation will change only when our elected representatives exercise leadership, by finding long-term solutions within a reasonable timeframe that will ensure the equality of both official languages in Canadian society.

Conclusion

Since OCOL's mandate is to promote change by simultaneously carrying out six key complementary roles, there is no shortage of work. OCOL must respond to citizens' complaints and to the day-to-day demands of linguistic duality. It must research, inform, persuade, criticize, recommend and, if necessary, exert pressure and issue reprimands. Lastly, it must regularly remind Canadians of the many benefits of our linguistic duality.

Above all, however, federal institutions must be encouraged to take steps to ensure that linguistic duality is firmly rooted in their organizational culture. It is important to clearly explain the profound interdependence between official languages and various areas of government intervention such as immigration, health care, communications, sport, transportation, and new technologies including the Internet. It is most important to rally key stakeholders around this objective so that they feel committed and involved.

There is a need to create an environment where dialogue, mutual respect and a proactive approach are encouraged in order to defuse linguistic tensions. Integrating both official languages means being open to diversity and allowing differences to find expression. While it will sometimes be necessary to turn to the courts to ensure that language rights are respected, it will always be best to avoid conflicts by seeking to solve problems before they escalate.

A few figures on OCOL interventions in 2001-2002

The ombudsman role of the Commissioner

- Over 1,200 new complaints were investigated
- 200 recommendations were made further to investigations
- Some 530 requests for information were treated
- Some 15 special studies and investigations were conducted

The liaison role of the Commissioner

- Presentations were made before the management committees of 10 federal institutions
- Some 75 meetings were held with Deputy Ministers or elected officials
- Some 30 meetings with associations
- Over 400 letters were sent

The monitoring role of the Commissioner

- Seven appearances before parliamentary committees
- Some 220 analyses, studies (published or not) and briefing notes
- Intervention in 12 major issues such as immigration, the legal scope of language rights, the Internet, broadcasting, minority language education and health

The promotion and education role of the Commissioner

- Some 250 interviews were given to the media
- Some 1,800 references to the Commissioner and/or OCOL in the national media
- 11 press releases
- Some 20 letters to the editor
- Some 33 speeches by the Commissioner
- Participation by OCOL in 12 information booths across the country

The court intervention role of the Commissioner

- Intervention in three court cases: *Baie d'Urfé (Ville) c. Québec (Procureur général)*, *Quigley v. Canada (House of Commons)*, *Doucet-Boudreau v. Attorney General of Nova Scotia*.
- Intervention in major cases such as Air Canada, Citizenship and Immigration (regulations), school governance, the review of the Northwest Territories' *Official Languages Act*, Bill S-32 regarding section 41 of the Act.

OVERVIEW OF COMPLAINTS

Over the past year, the Commissioner received 1,222 complaints. Over three-quarters of these complaints were considered admissible (Figure 1). Of the 935 complaints investigated, 719 (77%) were related to service to the public; the others concerned mainly the language of work (12%) and language requirements for employment (4%).

Nearly 65% of admissible complaints arose in the central region of Canada (the National Capital Region, Ontario, and Quebec), which is not surprising given the population concentration in this region. Despite its small population, the Atlantic region generated over 20% of complaints, while over 12% of complaints came from the western provinces and the territories (Figure 2).

As has been the case in the past, Francophones lodged the greatest number of admissible complaints (87%), most of which had to do with lack of service in French (80%) and violations concerning language of work requirements (11%). These two types of complaints were most frequent among Anglophones as well, although in different proportions (57% of complaints lodged by Anglophones were related to service to the public, 16% to language of work, and 13% to language requirements for the employment).

Over 70% of admissible complaints targeted a mere 16 institutions (Figure 3). Usually the institutions subject to the greatest number of complaints are the ones that have the most dealings with the public as part of their routine operations (such as Air Canada, Human Resources Development Canada (HRDC), Canada Post Corporation, and the Canada Customs and Revenue Agency) or as part of a specific major event (such as Elections Canada and Statistics Canada). Exceptionally, because the 10-year census was taken in 2001, Statistics Canada finds itself among these institutions.

Statistical profile of complaints related to service to the public

For a number of years now, some three-quarters of complaints lodged with OCOL concern service to the public (77% this year). Most of these complaints fall into four categories.

- *Complaints by the travelling public:* These complaints account for 22% of the total. Most of them were lodged by airline passengers who reported problems with ground service (such as security checks, check-in counters, and pre-boarding announcements) and in-flight service. Onboard train service elicited few complaints, which suggests a clear improvement in rail service, particularly in the Montreal-Toronto-Ottawa triangle. In the past, service on these routes was the subject of many complaints; it appears that steps taken by VIA Rail to remedy the shortcomings identified by the Commissioner have been effective.
- *Written communications:* These complaints account for 19% of the total. Most of them have to do with electronic government publications on the Internet. Although the initial pages of most federal sites are bilingual, a number of these sites contain pages that are poorly translated or not translated at all.
- *Print media communications:* These complaints make up 16% of the total. Most of them criticize the government for placing announcements such as advertising or notices in publications for the official language majority but not in those for the official language minority in a given region.
- *Telephone communications:* These complaints account for 15% of the total. An increasing number of federal institutions make use of call centres that can be contacted toll-free. It is surprising that these service providers have not made it possible for a number of institutions to offer better service to the public in both official languages.

Examples of complaints that have brought about change

In the Yukon, a French-language announcement is placed in an English-language newspaper

COMPLAINT	Officials at the Vancouver office of the Canada Mortgage and Housing Corporation (CMHC) placed a bilingual announcement entitled “HELP FOR LOW INCOME HOUSEHOLDS IN THE YUKON - AIDE DESTINÉE AUX MÉNAGES À FAIBLE REVENU AU YUKON” in the <i>Yukon News</i> , but not in <i>L’Aurore boréale</i> , which serves Yukon Francophones.
ACTION	As soon as the complaint was received, OCOL contacted the responsible CMHC manager in Vancouver in order to discuss the situation and find an appropriate solution.
RESULT	The manager made sure that the announcement in French was placed in <i>L’Aurore boréale</i> in subsequent weeks, and made a commitment to ensuring the same for future announcements. Thanks to citizens’ vigilance, prompt action by OCOL and genuine commitment by the manager, low-income French-speaking households in the Yukon were thus given access to an important announcement in their own French-language newspaper.

Administrative decision leads to unequal service

COMPLAINT	Fishing licences for the 2001-2002 season were delivered late to French-speaking fishermen in Nova Scotia.
ACTION	OCOL's investigation found that for logistical reasons Fisheries and Oceans Canada had divided the licence mail-out by recipients' language preference; this procedure had resulted in late delivery of licences to French-speaking fishermen.
RESULT	Fisheries and Oceans Canada gave assurances that the 2002-2003 licence mail-out would be grouped by recipients' postal code, not language preference, thus ensuring that both language groups will be treated equally.

Bilingual service queue poorly identified... but easily rectified

COMPLAINT	A passenger arriving at the Halifax International Airport naturally stood in the shortest line to go through customs. Unfortunately, not a good choice, after all: upon reaching the customs inspector, the passenger was told that service in French was available only at another counter. In order to avoid waiting in line a second time, the passenger agreed to deal with the customs inspector in English.
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ACTION	<p>OCOL's investigation found that, in fact, service in French is not available at all counters. Notices above the customs counters identify which ones do offer inspection in both languages.</p>
RESULT	<p>CCRA took corrective action by installing notices of active offer at the entrance to the queuing area, so that passengers know as soon as they enter the airport which line to choose to obtain service in their language. Passengers who desire service in French but end up in the wrong line by mistake are directed without delay by customs inspectors to a counter staffed by a bilingual inspector.</p>

At Air Canada, technology serves official languages

COMPLAINT	<p>In July 2001, a passenger travelling in Europe and wishing to contact Air Canada in Montreal dialed the toll-free number indicated on the Aeroplan Prestige card. At the time of the call, service in French was not available; the employee asked the passenger to obtain service in French by calling back later.</p>
ACTION	<p>Air Canada acknowledges that, at that time, a call in French could have been routed to a unilingual English-speaking employee because calls were switched by agent availability. In the fall of 2001, Air Canada set up a new telephone system in its call centres.</p>

RESULT

Now, when agents log on to the computerized network, they indicate their language(s) of service. When passengers call, the system uses their Aeroplan number to identify their language preference, and routes the call to an agent who can speak the official language of the passenger's choice.

Statistical profile of complaints concerning language of work

Of all complaints investigated by OCOL this past year, 12% concerned federal government employees' language of work, approximately the same percentage as in past years. Most of these complaints (83%) were lodged by Francophones. Over half of these complaints had to do with situations and incidents occurring in the National Capital Region; a little over one-quarter had to do with unilingual computerized tools such as software, e-mail, the Intranet and the Internet. The remaining complaints were related to unilingual training (20%), central services (20%), work tools (13%), supervisors (7%), workplaces not conducive to the use of both official languages (8%), and meetings held in only one language (5%).

Simultaneous interpretation is sometimes the only solution

COMPLAINT

In the National Capital Region, a mandatory videoconference attended by many Training and Development Canada staff within the Public Service Commission (PSC) was held almost exclusively in French. Although the documentation was provided in both official languages, the oral presentation was given almost exclusively in French.

ACTION	<p>OCOL's investigation found some lack of knowledge of what constitutes appropriate practice at meetings among members of both language groups. In this specific instance, alternating between English and French, while very much a partial solution, had been perceived as an adequate solution. Although this practice is satisfactory when meeting participants have a sufficient understanding of their second official language, it is not acceptable when unilingual meeting participants are also present.</p>
RESULT	<p>The PSC took satisfactory corrective action: (1) it reminded management at Training and Development Canada that they were responsible for leading by example; and (2) it wrote and posted on the Intranet more specific guidelines for holding meetings in bilingual regions.</p>

Equitable participation

Approximately 20 complaints were related to inequities experienced in federal institutions by one language group or the other with regard to equitable participation by both language groups. Most of these complaints were lodged by federal employees who felt that their opportunities for employment and advancement were limited because of the language group to which they belong. Other complaints were lodged by members of the public who were dissatisfied with the representation of members of one language group or the other in a given office or in an institution as a whole. With regard to this issue, see the section on representation of Francophones among Air Canada pilots, p. 75-76.

Figure 1

Breakdown of complaints, by region¹

Region	NATURE OF COMPLAINTS					
	Complaints lodged	Complaints ² investigated	Service to the public	Language of work	Language requirements	Others ³
Newfoundland and Labrador	6	4	4	-	-	-
Prince Edward Island	31	21	16	-	5	-
Nova Scotia	133	112	80	4	3	25
New Brunswick	86	70	43	12	14	1
Quebec ⁴	160	121	78	26	1	16
NCR (Quebec)	61	48	33	6	4	5
NCR (Ontario)	301	228	159	50	10	9
Ontario ⁴	269	206	185	9	2	10
Manitoba	34	21	21	-	-	-
Saskatchewan	17	15	14	-	-	1
Alberta	57	46	40	1	-	5
British Columbia	37	32	30	2	-	-
Territories ⁵	9	5	5	-	-	-
Foreign	21	6	5	-	-	1
TOTALS	1,222	935	713	110	39	73

¹ Information from Investigations Branch database.

² Approximately 80% of complaints are investigated. Complaints which are not investigated are referred to an appropriate institution or refused because they do not fall under the jurisdiction of the Act or its Regulations.

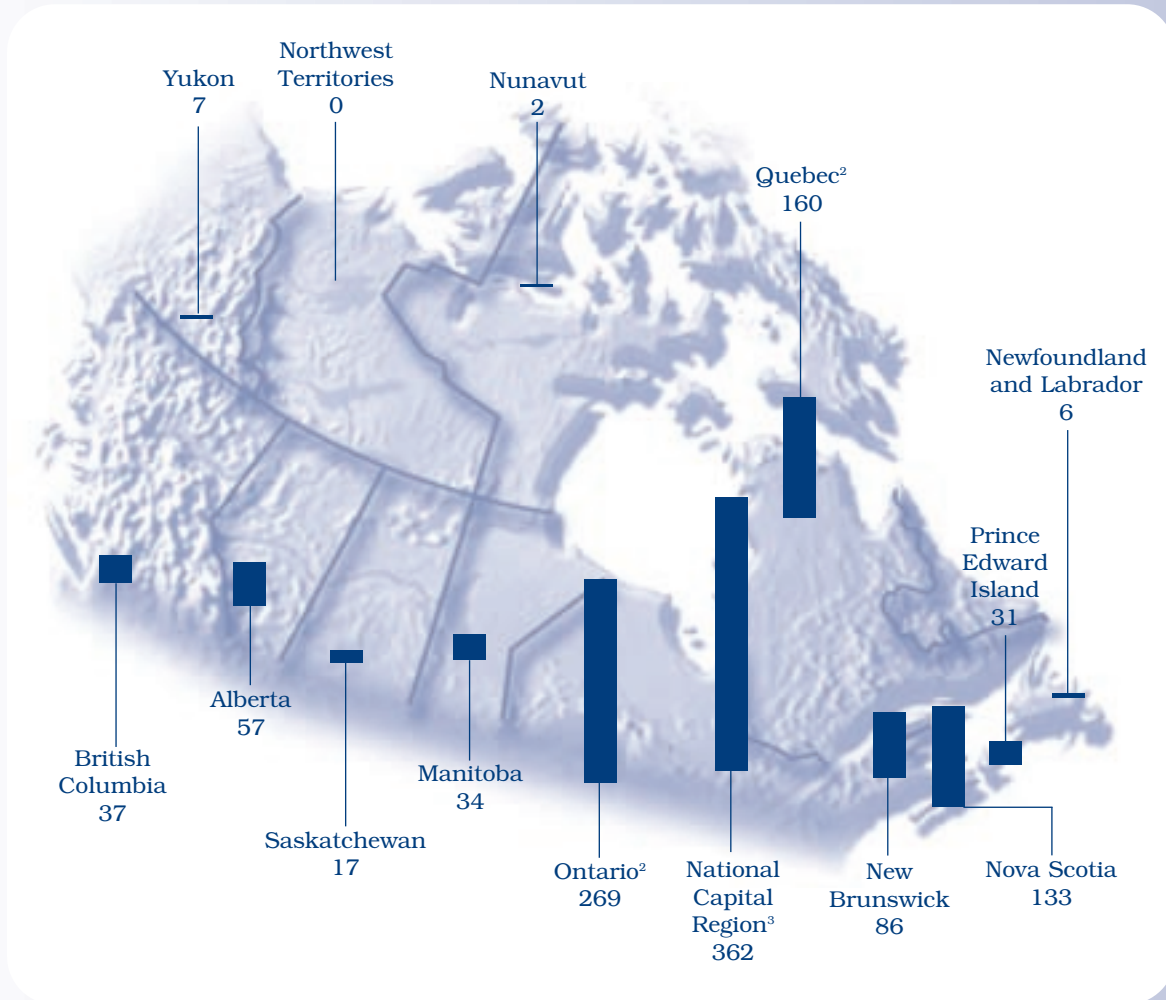
³ The category "Others" includes mainly complaints regarding notices, equitable participation and Part VII.

⁴ Excluding the National Capital Region (NCR).

⁵ Territories include Nunavut, Yukon and Northwest Territories.

Figure 2

Distribution of the 1,222¹ complaints lodged by province and territory



¹ Including 21 complaints dealing with services offered outside Canada.

² Excluding the National Capital Region.

³ 301 from the Ontario side and 61 from the Quebec side.

Figure 3

Institutions with more than 15 admissible complaints and their status

Department/Institution	Founded	Unfounded	Under investigation	Others	TOTAL
Air Canada	21	7	114	1	143
Human Resources Development Canada	50	3	41	-	94
Canada Post Corporation	50	5	34	-	89
Canada Customs and Revenue Agency	26	6	24	-	56
Statistics Canada	24	3	4	2	33
Public Works and Government Services Canada	16	4	12	-	32
National Defence	7	1	22	-	30
Royal Canadian Mounted Police	7	3	19	-	29
Ottawa International Airport Authority	9	5	13	-	27
Halifax International Airport Authority	9	0	17	-	26
Citizenship and Immigration Canada	16	0	6	-	22
Correctional Service Canada	4	3	13	-	20
Environment Canada	5	0	11	2	18
Health Canada	8	5	4	-	17
Industry Canada	5	5	5	-	15
Canadian Heritage	3	3	9	-	15



CHAPTER 4:

SERVICES TO THE PUBLIC

CHAPTER 4:

SERVICES TO THE PUBLIC

The delivery of federal services to the public in both official languages is an important aspect of Canada's linguistic duality. The way in which services are delivered to Canadians is constantly evolving. It is therefore important to keep a close eye on the situation to ensure that linguistic duality remains a key consideration when it comes to service delivery.

Implementation of special study entitled *Time for a Change in Culture*

In 2001, the Commissioner reported on follow-up studies conducted between 1996 and 2000 in federal offices designated to offer services to the public in both official languages.¹⁸ This special study showed that the situation had not improved since an initial study in 1994. In fact, services were not available in French close to 30% of the time. The Commissioner therefore made 22 recommendations to political and administrative leaders, in order to ensure that providing service of equivalent quality in English and in French forms an integral part of the organizational culture of federal institutions.

Nearly one year after this special study was published, a follow-up was conducted in order to verify whether the TBS, to which most of the recommendations were addressed, had implemented them.

Status of implementation

Of the **22** recommendations, **four** have been implemented, including the following:

- The TBS took concrete steps to increase the visibility of the Official Languages Program through the Federal Councils, and to encourage member institutions of the Councils to share their best practices.
- The TBS asked federal institutions to update the data in Burolis, the directory of offices designated bilingual.

As well, **13** of the recommendations are being implemented, including the following:

- The TBS carried out awareness exercises with the Departmental Advisory Committee on Official Languages and the Crown Corporations Advisory Committee on Official Languages.

¹⁸ OCOL, *National Report on Service to the Public in English and French: Time for a Change in Culture*, 2001. The results of this special study were presented on p. 73 of the Commissioner's last Annual Report.

- The TBS's Official Languages Directorate is developing a monitoring framework, under which federal institutions will report annually on the extent to which they have achieved the objectives of the Official Languages Program.
- The TBS has begun reviewing and updating its policies, emphasizing values and principles rather than rules.
- The TBS is developing an analytical chart accompanied by standards that will allow federal institutions to determine the number of bilingual positions required to meet actual needs for service in both official languages.
- The TBS has made a commitment to ensuring that Executives of federal institutions achieve the C-B-C level of proficiency in their second language by the 2003 deadline.

Of the recommendations, **five** have not been implemented, including the following:

- A training program aimed at making all managers aware of the attitudes and values for needed to develop an organizational culture conducive to linguistic duality. Although discussions have been initiated with the Canadian Centre for Management Development (CCMD), no concrete steps have been taken. It should be noted that, although the CCMD was open to this possibility, its funding depends on the Treasury Board.
- Measures to ensure that offices designated bilingual have enough bilingual employees, including the increased use of imperative staffing. The TBS is awaiting the results of the current modernization of human resources management exercise before allocating resources to implement this recommendation.

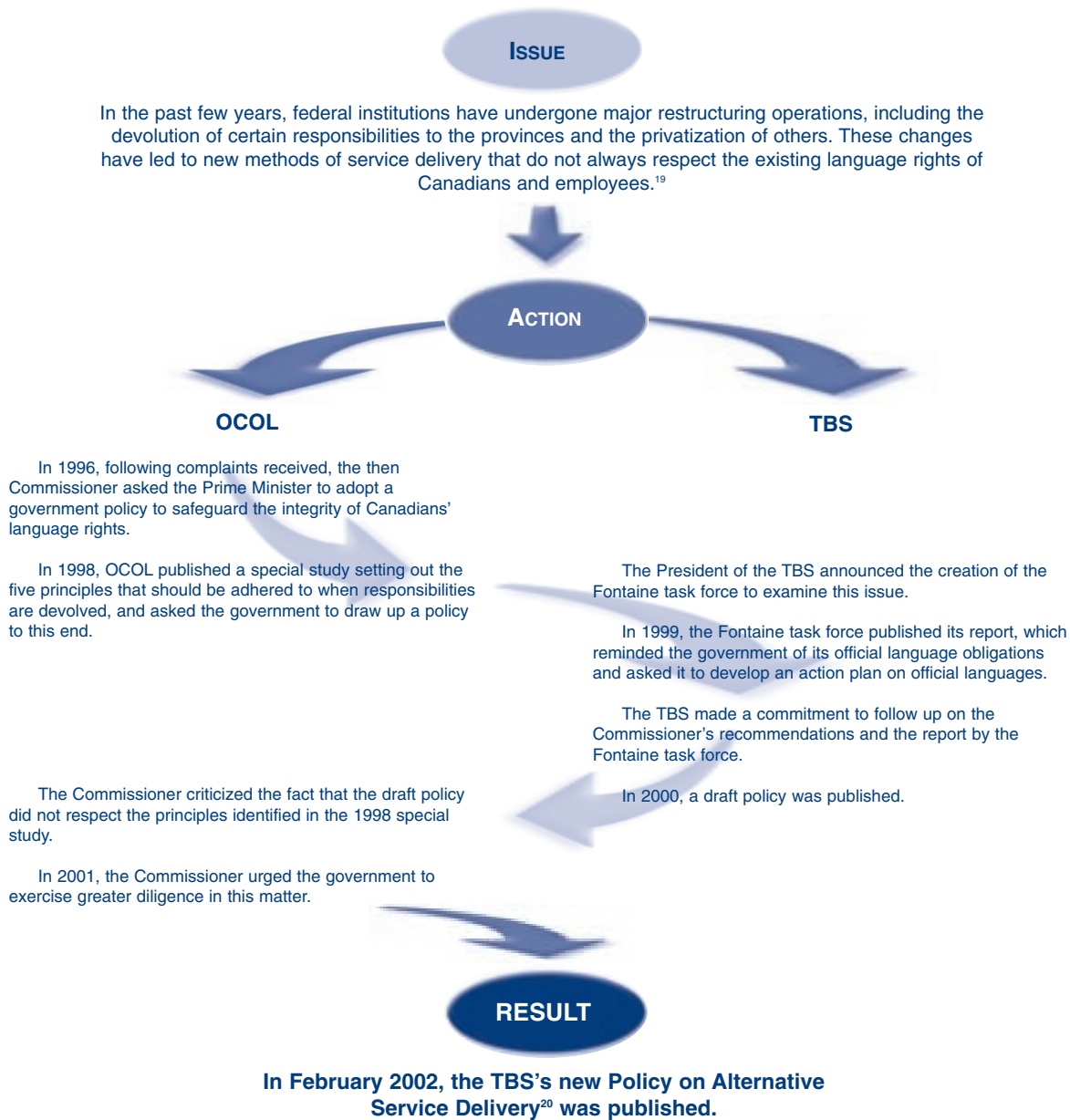
Picking up the pace

Although implementation of the recommendations has begun, the TBS must speed up this operation, in co-operation with the other institutions that may be involved. Allocating adequate resources is essential if the TBS is to fully exercise its role in supervising and evaluating federal institutions.

RECOMMENDATION 5

The Commissioner recommends that the federal government allocate adequate resources to ensure that the Treasury Board Secretariat can fully exercise its role in supervising and evaluating federal institutions.

Policy on Alternative Service Delivery: Moving in the right direction, but much too slowly



¹⁹ For example, see the section on the *Contraventions Act*, p. 59-60.

²⁰ http://www.tbs-sct.gc.ca/Pubs_pol/opepubs/TB_B4/asd-dmps_e.html.

However late in coming, the Policy does contain a number of the principles identified in the 1998 special study and, to this extent, may help improve the offer of service in both languages, provided adequate follow-up is done. The Policy nevertheless has some shortcomings: it does not make federal institutions accountable for implementing the principles, and contains no provisions guaranteeing the language rights of federal government employees when services are transferred. When services are privatized, a case-by-case approach is to be adopted, taking the public interest into account. The Commissioner will closely monitor how institutions apply the Policy in the next few years.

JobBank: The right system at last?

For nearly 20 years, OCOL has criticized the poor quality of translations in both official languages of job offers from private-sector employers posted by the federal government. The translation system set up by Human Resources Development Canada (HRDC) in 1995 improved the situation without, however, managing to remedy all the shortcomings. Like her predecessor, the Commissioner took action to inform senior HRDC management of how important it is to provide service of comparable quality in both official languages.

More recently, HRDC set up a new machine translation system adapted to its JobBank site. The new system uses diacritical marks and is equipped with terminology dictionaries to which researchers contribute. The system is the result of co-operative efforts by linguists, machine translation experts, and software designers. Translators will revise the quality of the machine generated translations. If the quality of the results is as hoped, HRDC plans to abandon its former translation system. The Commissioner continues to monitor the progress of this project.

These two examples (the Policy on Alternative Service Delivery, and JobBank) clearly show how difficult it is for the federal government to take prompt action when problems are brought to its attention. It is hard to talk about diligence when the government takes seven years to develop a policy.

Television broadcasts of House of Commons proceedings on the Cable Public Affairs Channel (CPAC)

This case shows how a complaint by one determined individual can be a catalyst to lead federal institutions to make significant changes that really make a difference in Canadians' lives!

ISSUE

Although the Act requires the House of Commons to ensure that all Canadians have equal access to its proceedings in the official language of their choice, Canadian cable companies are not required to broadcast proceedings of the House of Commons and its Committees to their subscribers in both official languages. As a result, Canadians do not have equal access to House of Commons proceedings in both official languages.

ACTION

OCOL investigated a complaint by an English-speaking resident of New Brunswick who was unable to receive full broadcasts of House of Commons proceedings in the official language of his choice. In the fall of 2000, the Commissioner concluded that the Act requires the House of Commons to ensure that all Canadians have equal access to its proceedings in both official languages, and asked the House to take action to this end.

Action before parliamentarians

SPRING 2001:

- The Commissioner appeared before the Standing Joint Committee on Official Languages to present the findings of her investigation.
- The Standing Joint Committee on Official Languages published a report recommending that the CRTC require cable companies to broadcast House of Commons proceedings in both official languages.

Action before the courts

WINTER 2000:

- The complainant exercised his right to legal recourse, applying to the Federal Court of Canada for an order that the House of Commons broadcast its proceedings in both official languages.

WINTER 2001:

- The Federal Court heard the case; the Commissioner intervened, defending her recommendations and the application of the Act to the House of Commons.²¹

Action before the CRTC

SPRING 2001:

- The Commissioner presented a detailed brief explaining her position to the CRTC.

RESULT

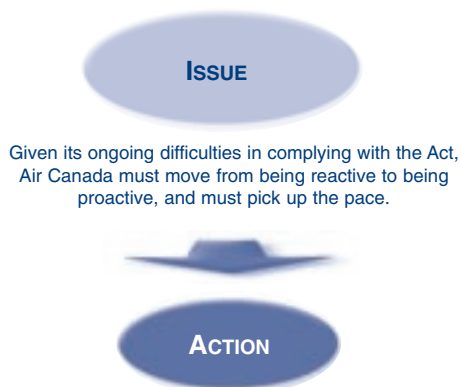
In the fall of 2001, the CRTC decided to require cable companies to broadcast House of Commons proceedings in both official languages, by distributing two audio signals to subscribers' homes using SAP technology.²²

²¹ *Quigley v. Canada (House of Commons)*, Federal Court, T-2395-00, heard at Halifax, December 5, 2001. On March 31, 2002, the Federal Court had not yet reached a decision.

²² *CRTC Public Notice 2001-115* (November 2001). This decision, to come into effect in September 2002, applies to all satellite cable companies and all cable companies with more than 2,000 subscribers.

The CRTC decision resulting from the complaint will have the effect of substantially increasing the number of Canadians who have access to House of Commons proceedings in both official languages. A healthy democracy requires that Canadians be able to hear their elected federal representatives in the official language of their choice.

Air Canada: Maintaining the momentum



Given its ongoing difficulties in complying with the Act, Air Canada must move from being reactive to being proactive, and must pick up the pace.

Action before the courts

Given the high volume of recurring complaints, in 1996 the Commissioner instituted legal proceedings to require Air Canada to provide bilingual service at the Toronto (Pearson) and Halifax airports, and to clarify the status of its collective agreements (particularly the seniority rule) with regard to the provisions of the Act.

In November 2001, following mediation requested by the Court, an agreement was reached among OCOL, Air Canada, and Air Canada's unions. Under the agreement, Air Canada is to discuss human resources planning with its unions in order to ensure that bilingual service is provided, and is to report to the Commissioner in six months.

Action by the Standing Joint Committee on Official Languages

After conducting hearings, the Committee tabled a report in February 2002 asking Air Canada to draw up an action plan.

Action by an independent observer of restructuring in the air transport industry²³

In her February 2002 interim report, Debra Ward noted practically the same shortcomings pointed out by the Commissioner and the Standing Joint Committee on Official Languages. She was pleased to note a firm commitment by Air Canada's President to improving the situation.

The Commissioner's last Annual Report reported extensively on systemic problems regarding official languages at Air Canada (see p. 77 of the 2000-2001 report). This year once again, Air Canada was the institution subject to the greatest number of complaints, most of which had to do with recurring problems. Still, in recent months Air Canada has made encouraging efforts to ensure that it better complies with the Act.

EXPECTED RESULTS

Following discussions with its unions about genuinely improving service at these two airports, Air Canada is to propose specific measures by the summer of 2003.

EXPECTED RESULTS

The action plan is to include specific objectives with reasonable deadlines, verifiable performance indicators, and specific measures to alleviate difficulties resulting from the acquisition of Canadian Airlines International and regional carriers.

EXPECTED RESULTS

Debra Ward's final report, expected in the late summer of 2002, is to contain recommendations to help Air Canada fulfil its language obligations.

²³ In August 2000, the Minister of Transport asked Debra Ward to study the repercussions for Canadians of the merger between Air Canada and Canadian Airlines International. Debra Ward has submitted interim reports; her final report is expected in the late summer of 2002.

Eventually, Air Canada's plans and commitments will be evaluated in terms of concrete results, particularly in regards to service in French, which has been unsatisfactory for too long, and the way Air Canada handles complaints. Travelling Canadians have the right to expect better service in the official language of their choice from Canada's main airline. The Commissioner will closely monitor progress in this case.

New Canadian Air Transport Security Authority: Hats off!

In response to the tragic events of September 11, 2001, the federal government decided to take responsibility for passenger security checks at Canada's airports. Over the years, many passengers have complained that these checks are not carried out in the official language of their choice. Transport Canada officials had the good idea of consulting the Commissioner at the beginning of the process of drafting Bill C-49 establishing the Canadian Air Transport Security Authority.



The Commissioner strongly encouraged the federal government to take this opportunity to ensure that pre-boarding passenger security checks are always carried out in English and French in future. Transport Canada's proactive attitude should help solve recurring problems with these checks. Bill C-49 received Royal Assent in March 2002. As a Crown corporation, the new Authority is fully subject to the Act.

Access to justice in both official languages: Light at the end of the tunnel?

“This Court has recognized that substantive equality is the correct norm to apply in Canadian law. Where institutional bilingualism in the courts is provided for, it refers to equal access to services of equal quality for members of both official language communities in Canada. Parliament and the provincial legislatures were well aware of this when they reacted to the trilogy [...] and accepted that the 1988 provisions would be promulgated through transitional mechanisms and accompanied by financial assistance directed at providing the required institutional services.”

R. v. Beaulac, [1999] 1 S.C.R. 768, at 789-790

ISSUE

Although every Canadian's right to use English or French before the federal courts is one of the fundamental language rights guaranteed in the Charter, equal access to the justice system in both official languages is not yet a reality.



ACTION

In 1995, OCOL carried out a special study on the use of English and French before the federal courts.²⁴ The special study shows that litigants are not informed of their language rights; that except for New Brunswick²⁵ no province or territory has adopted administrative procedures; that there are not enough bilingual provincial court judges; and that many jurisdictions provide inadequate interpretation services.



RESULTS

1995-2000: The only response by Justice Canada was to publish, and to shelve, a working paper.

2001: Justice Canada commissioned a national study to take stock of the availability of court services (in criminal, divorce, and bankruptcy cases) in English and French in all parts of Canada, and to assess the effectiveness of existing provincial and territorial structures.



EXPECTED RESULTS

In light of the Supreme Court decision in *Beaulac*,²⁶ the government's obligations under sections 530 and 530.1 of the *Criminal Code* concerning the right to a trial in the language of the accused need to be made clearer.

The government will have to allocate the resources required to apply the solutions identified in Justice Canada's national study. The Commissioner will be interested to monitor the Minister's follow-up to this initiative. However true it may be that haste makes waste, there is a need to act if solutions are to be applied.

²⁴ OCOL, *The Equitable Use of English and French Before the Courts in Canada*, 1995. OCOL subsequently carried out two other special studies: *The Equitable Use of English and French Before Federal Courts and Administrative Tribunals Exercising Quasi-Judicial Powers*, 1999; and *Study on the Official Language Obligations of Federal Crown Agents in the Province of New Brunswick*, 2000.

²⁵ Since that time, Ontario has adopted administrative procedures.

²⁶ *R. v. Beaulac*, [1999] 1 S.C.R. 768.

Best practices

The Manitoba and Saskatchewan governments recently introduced court services initiatives that should be an inspiration to all of Canada's other provinces and territories. The federal government must encourage similar initiatives and pilot projects as it did in Manitoba.



The Manitoba government, in partnership with the federal government, began to implement the single window model for court services in both official languages, as proposed by judge Chartier in his report on Manitoba government services in French.²⁷ A pilot project to this end is being carried out in Saint-Pierre-Jolys.

In Saskatchewan, the provincial Justice Minister, in response to recommendations made by the Association des juristes d'expression française de la Saskatchewan, announced a policy on court services in French. He also expressed his intention to consider AJEFS' and the Assemblée communautaire fransaskoise (ACF)'s recommendation that a bilingual circuit court be created.²⁸ The AJEFS and the ACF are co-operating actively with the Department of Justice in the development and implementation of such a policy. This ground-breaking initiative demonstrates the Saskatchewan government's determination to give its French-speaking residents access to justice in their language.

Contraventions Act: Implementation is slow

The *Contraventions Act*, passed in 1992, provides for simplified proceedings in cases involving contraventions of federal legislation or regulations. It allows offenders to pay fines without appearing in court, thus avoiding the disadvantages of a federal conviction, such as a criminal record. Following a 1996 amendment, the *Contraventions Act* provides that Justice Canada may sign agreements with provincial, territorial or municipal governments allowing them to issue tickets and prosecute individuals for contravening federal legislation or regulations.

²⁷ Commissioner the Honourable Judge Richard Chartier, *Above All, Common Sense: Report and Recommendations on French Language Services Within the Government of Manitoba*, 1998.

²⁸ *Mémoire relatif à l'établissement d'une Cour provinciale bilingue itinérante en Saskatchewan*, AJEFS and ACF, November 26, 2001.

ISSUE

Under the federal *Contraventions Act*, Justice Canada signed a draft comprehensive agreement with the Ontario government, as well as agreements with the City of Mississauga and the City of Ottawa, delegating to them authority to process parking contraventions and to collect fines. Neither the draft agreement nor the other agreements include language rights guarantees equivalent to the those given accused persons under sections 530 and 530.1 of the *Criminal Code* or those set out in Part IV of the *Official Languages Act*.

ACTION

In 1997, OCOL investigated a complaint lodged by the Association des juristes d'expression française de l'Ontario (AJEFO). The investigation report recommended that Justice Canada include guarantees of language rights in agreements negotiated with provinces and municipalities.

In 1998, the Commissioner initiated proceedings on behalf of AJEFO in the Federal Court to require Justice Canada to follow up on these recommendations. On March 23, 2001, the judge ruled in the Commissioner's favour, ordering Justice Canada to take the necessary legislative, regulatory or other action and specifically to revise within one year the draft agreement with the Ontario government and the agreements with the City of Mississauga and the City of Ottawa, in order to ensure that the language rights of persons charged under these proceedings are respected.²⁹

RESULTS

The agreements between Justice Canada and the two cities were satisfactorily revised.

Justice Canada has not yet come to an agreement with the Ontario government. The Federal Court has given Justice Canada another year to allow it to fully comply with its order. Justice Canada has agreed to inform the Commissioner and AJEFO periodically about its discussions with the Ontario government, and to consult them on any action being considered by the parties.

Justice Canada has not yet amended its regulations. It is imperative that it do so without further delay, in order to provide a statutory guarantee of the language rights recognized in the agreements with the City of Mississauga and the City of Ottawa. Simple recognition of these rights within the agreements will not suffice for accused persons to halt proceedings that do not respect their language rights. Further amendments to regulations will be required once Justice Canada signs an agreement with the Ontario government.

²⁹ *Canada (Commissioner of Official Languages) v. Canada (Department of Justice)*, [2001] FCT 239.

Conclusion

The principle of systematically offering service in both official languages in federal offices designated bilingual has long been established. Unfortunately, a number of institutions have come to believe that implementation of this principle goes without saying and that there is no reason to wonder (and still less reason to *check*) whether there is any slippage between theory and practice. In fact, special studies and follow-up by OCOL on this point, as well as complaints filed, have confirmed the existence of a wide gap in many instances.

Fortunately, the TBS has recognized the need for a turnaround, and the important thing now is to speed up this operation, particularly in the case of the problems noted in this chapter. Too often, scrutinizing situations and analyzing options become ends in themselves. At times, clients impatiently awaiting to see needed improvements are forgotten. When a physician takes too long to diagnose an illness and provide necessary treatment, the patient's condition may worsen, despite all the goodwill in the world.

In fact, the underlying theme of this Annual Report is the need to exercise diligence. Good managers consider diligence a cardinal virtue; they cannot pride themselves on exercising leadership if they fail to provide an essential aspect of service to Canadians.



CHAPTER 5:

**A PUBLIC SERVICE
THAT REFLECTS
CANADA'S LINGUISTIC
DUALITY**

CHAPTER 5:

A PUBLIC SERVICE THAT REFLECTS CANADA'S LINGUISTIC DUALITY

Often, official languages are still artificially grafted onto government operations. Linguistic duality is one of the salient features characterizing Canada, and it is essential that the public service integrate and reflect these underlying values. This chapter describes the proposals that the Commissioner submitted to the TBS to reach this objective, as well as the cases she has dealt with over the past year concerning language of work and equitable participation in the public service by both language groups.

Modernization of human resources management: An opportunity not to be missed

In April 2001, the federal government undertook an extensive exercise of modernizing its human resources management. The Commissioner asked the government to take this opportunity to place official languages front and centre, where they belong. Her proposals to the President of the Treasury Board include five strategic objectives.

RECOMMENDATION 6

The Commissioner recommends that the government ensure that legislation and policies adopted as a result of the human resources management modernization exercise help achieve the objectives of the *Official Languages Act*.

**PROPOSALS FOR MAKING OFFICIAL LANGUAGES AN INTEGRAL PART OF
THE FEDERAL GOVERNMENT'S HUMAN RESOURCES MANAGEMENT**

<p><i>Change institutions' organizational culture.</i></p>	<ul style="list-style-type: none"> • Among public servants, encourage deeper commitment to linguistic duality by highlighting the advantages of the presence of both languages and cultures in their institutions. • Promote internalization of the main objectives and the value of official bilingualism. • Encourage better mutual understanding between the two language groups.
<p><i>Enhance senior federal officials' accountability and restructure the official languages governance management framework.</i></p>	<ul style="list-style-type: none"> • Make senior officials more strictly accountable for their institutions' performance regarding official languages. The TBS must define expected results if Deputy Ministers are to evaluate their institutions' performance. • Replace specific rules with clear general principles, leaving institutions free to determine how the principles will be applied. That said, the TBS must continue to check periodically whether institutions are producing the expected results.
<p><i>Enhance the value of bilingualism as a basic skill.</i></p>	<ul style="list-style-type: none"> • Consider knowledge of English and French a basic skill, like other required skills for positions. • Make increased use of imperative staffing. • Eliminate the bilingualism bonus: bilingualism should be a rated requirement in classifying positions or duties, and thus be treated like other required skills.
<p><i>Redirect language training.</i></p>	<ul style="list-style-type: none"> • Adapt public servants' language training to their actual everyday work situations. • Put an end to lengthy waiting lists. • Make language training part of public servants' training and development plans.
<p><i>Emphasize receptive bilingualism.</i></p>	<ul style="list-style-type: none"> • Encourage public servants to acquire a good understanding of their second official language so that they can easily work in a bilingual environment. Senior officials should also have active knowledge of their second official language.

Senior public service: Leading by example?

Given the changes the public service must undergo if linguistic duality is to form an integral part of its organizational culture, OCOL carried out a study on the essential characteristics of Canada's senior public service.³⁰ These characteristics are: balanced representation of both language groups; a high level of language proficiency; and sound information on the objectives and underlying values of the Act as well as an enhanced system of accountability for senior public servants (this system is described on p. 66).

Balance between the language groups: A remarkable improvement

The study showed that there is now more balanced participation by Anglophones and Francophones in the senior public service. Just over 30% of Deputy Ministers are Francophone, in comparison with fewer than 16% in 2000. As well, among Assistant Deputy Ministers, Francophones account for 25% and Anglophones for 75%. These figures are a real success story for the government, and the Commissioner encourages it to continue its efforts in this regard.



Bilingualism among Deputy Ministers and Assistant Deputy Ministers: Considerably less remarkable

One figure which gives reason for concern is the fact that 20% of Assistant Deputy Ministers have not yet achieved the level of second language proficiency required by their position, when the deadline set for executives to achieve the C-B-C level is March 2003. The Commissioner has clearly indicated that this deadline should not be extended again.

As well, there are no language requirements for persons in Deputy Minister or Associate Deputy Minister positions, and these persons' knowledge of their second language has not been formally evaluated. Although the government considers that most of these senior officials are bilingual, this situation constitutes a significant anomaly. Since these persons occupy the highest positions in the public service and are highly influential in creating a work environment conducive to the use of both official languages, they must have a good command of both languages and their language proficiency must be formally evaluated. Paradoxically, the government demands that its executives (members of the EX group), but not its topmost officials, be bilingual.

³⁰ OCOL, *A Senior Public Service that Reflects Canada's Linguistic Duality*, 2002.

Making senior officials aware of their role in promoting linguistic duality

The OCOL study indicated that the Privy Council Office does not hold any official meetings to inform new Deputy Ministers, Associate Deputy Ministers, or other heads of institutions about their responsibilities concerning linguistic duality and official languages. Yet, these matters are of considerable importance.

Action must be taken in order to better inform new senior officials, as soon as they take office, of the requirements and values of the Act and the importance of leadership by senior management in making these values an integral part of a federal institution's organizational culture. This is especially important in the case of the many heads of institutions who are Order-in-Council appointments from outside the public service and who are unaware of the public service culture and their official language obligations.

Language of work

Part V of the Act requires federal institutions located in regions designated bilingual to create a work environment conducive to the use of both official languages.³¹ The purpose of this provision is to allow all Canadians, both English-speaking and French-speaking, to participate actively in the administration of their country, a fundamental aspect of democracy.

Current situation

Where language of work is concerned, progress is slow: Canada's public service is still far from being a genuinely bilingual organization. While the main work tools and human resources services are now usually provided in both official languages, there is still a strong trend for everyday communications between co-workers or with superiors to be conducted in only one language. This situation is particularly problematic in light of new practices, such as horizontal management and widespread use of e-mail, that are transforming public servants' work environment and leading to an increased number of informal meetings and discussions.

Over the past year, OCOL has carried out numerous consultations and analyses in order to set directions for increasing the use of both official languages in the public service. Of course, two conditions remain indispensable to achieving this objective:

- ensuring that there is a critical mass of public servants in both language groups in all work categories in regions designated bilingual for the purposes of language of work. According to TBS data, this critical mass exists in all regions of Canada designated

³¹ Federal public servants have the right to work in the official language of their choice in New Brunswick, the National Capital Region, and certain other areas of Ontario and Quebec. See maps, Appendix B.

bilingual, except those located in Quebec, where Anglophones are largely underrepresented in the federal public service; and

- ensuring that supervisors are bilingual in all regions designated bilingual: the level of bilingualism among supervisors is far from satisfactory. For example, over 30% of managers in regions designated bilingual have not achieved the C-B-C level of second language proficiency required for their positions.

As well, however, the following points should be noted:

- for both employees and managers, the choice of using one official language or another in everyday activities is based on various additional, and often complex, factors. Although some of these factors are personal, many institutional factors have contributed to the stagnation observed, especially: lack of sustained leadership in a great many institutions; highly codified policies leading to the widespread perception that Canada's official languages are a burden; the large number of employees and managers with little or no knowledge of their rights and obligations regarding language of work; and, lastly, the prevalence of a set of tacit attitudes and conventions that hinder the free choice of using one language or the other;
- furthermore, training programs for middle managers should propose best practices that promote greater use of both official languages in everyday work situations. In this regard, the CCMD has set up a round table discussion group on language of work.³² Participants in this group are developing concrete tools that managers, particularly middle managers, can use to create a work environment more conducive to the use of both official languages. The results of the group's work will be made public during the upcoming year.

A far-reaching complaint: Canadian Coast Guard College regains bilingual status

The Canadian Coast Guard College, located in Sydney, Nova Scotia, is an eloquent example of how lodging a complaint can sometimes bring about significant, concrete changes regarding language of work. The presence of responsible managers who are prepared to exercise leadership in promoting linguistic duality creates a work environment conducive to the use of the official language of each employee's choice.

³² This group is one of the CCMD's action research round table discussion groups. The groups are made up of managers and experts who meet in round table groups to discuss selected topics and produce practical tools to support managers' work.

ISSUE

The Canadian Coast Guard College is a national training centre. This institution was designated bilingual for the purposes of language of work until 1995, when responsibility for it was transferred from Transport Canada to Fisheries and Oceans Canada. The latter department applied the Treasury Board policy to the Sydney area, designating it as “unilingual English.”



ACTION

In 1999-2000, the Commissioner investigated a complaint that student officers and employees at the College were no longer able to work in French. The Commissioner found that Francophones were indeed subject to numerous instances of inequality, which were described on p. 109 of her 2000-2001 Annual Report. She made 17 recommendations for remedying the situation.



RESULT

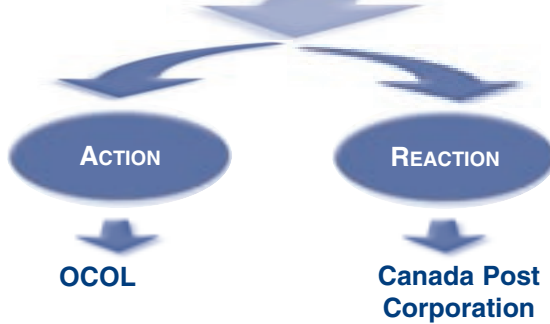
In 2001, Fisheries and Oceans Canada agreed to implement all the recommendations, including the recommendation that the College regain its bilingual status. This Department drew up an action plan to allow student officers and employees to receive training and to work in the official language of their choice.

Canada Post Corporation: Two regions, two different approaches

English-speaking Canada Post Corporation employees in Montreal lodged complaints regarding language of work, equitable participation, and the identification of language requirements of positions. This phenomenon is not new: OCOL has received numerous similar complaints since 1994. At the same time, French-speaking employees at Canada Post Corporation’s Postal Operations Division in Moncton complained that the work environment was not conducive to the use of their language.

ISSUE

Canada Post Corporation has an obligation to ensure that its work environment is conducive to the use of both official languages, that its employees have equal opportunities for advancement, and that the language requirements of positions are set in an objective manner.



Montreal

The investigations carried out in Montreal by OCOL in 1999 and 2000 showed three systemic problems:

- English-speaking employees were not able to work in English in the Montreal area;
- the language requirements of positions were not set in an objective manner; and
- Anglophones were markedly underrepresented among employees in Quebec.

After the final investigation report was produced in October 2001, additional complaints were received. These complaints also criticized the language requirements set for certain positions and the underrepresentation of English-speaking employees at one office in the Montreal area. The complainants also alleged that they were being discriminated against for having lodged complaints with OCOL. These complaints are being investigated.



In the summer of 2001, Canada Post Corporation had begun to review the language requirements for certain positions and took some steps to increase Anglophone representation among its employees, but had not begun to implement the other recommendations.

EXPECTED RESULT

That Canada Post Corporation revise the language requirements of all positions in the Montreal area, to take effective action to make the workplace more conducive to the use of English, to provide employees and managers with training about their language rights and obligations, and to draw up an action plan for hiring more Anglophones. Implementing these recommendations should create a work environment conducive to the use of both official languages.



OCOL has undertaken an official follow-up on implementation of the recommendations contained in the September 2001 investigation report.

Moncton

In Moncton, the investigation was completed in 2001 and showed that the work environment was not conducive to the use of French.

RESULT

Local management unhesitatingly agreed to take the recommended action.

Although this complaint involved a single corporate employer, the way in which problems were solved varied depending on the commitment and determination of local management. Recurring complaints lodged by Canada Post Corporation employees over a number of years make it clear that Canada Post Corporation managers in Montreal did not exercise due diligence in effectively solving language problems in their area. They now appear to be aware of the importance of remedying the situation. The action these managers take in the upcoming year will demonstrate how serious their commitment is: a tree is known by its fruit. It would nevertheless have been easy for Canada Post managers in Montreal to follow the example set by their colleagues in New Brunswick: Moncton local managers exercised leadership, making a personal commitment to promoting increased use of French in the workplace and taking it upon themselves to meet personally with all Postal Operations Division employees in order to talk about employees' right to work in the official language of their choice and the institution's language obligations.

Equitable participation by both language groups

In Part VI of the Act, the government makes a commitment to ensuring that Anglophones and Francophones have equal opportunities for advancement in federal institutions, and that the composition of these institutions' work forces reflects the presence of Canada's two official language communities. Although Part VI is applicable in all parts of Canada, in regions designated bilingual its application is interrelated with that of Part V of the Act, on language of work, since ensuring that the work environment is conducive to the use of both official languages necessarily depends on equitable participation by both language groups.

Current situation

Anglophones account for 72%, and Francophones for 27%, of employees of institutions subject to the Act. Considering these institutions' various mandates and geographic locations, both language groups are well represented in most sectors of activity.

The same cannot be said for the federal public service in Quebec, where under-representation of Anglophones continues to be of concern to the Commissioner. Although representation of Anglophones in the federal public service in Quebec (not counting the Quebec portion of the National Capital Region) edged upward from the previous year, on March 31, 2001 it sat at only 8%. As well, while the situation varies depending on the institutions, Anglophone

representation is twice as high overall in Crown corporations which are subject to the Act but for which the Treasury Board is not the employer. The Commissioner will closely monitor the action undertaken by federal institutions and the Quebec Federal Council to increase Anglophone representation in the federal public service there. Addressing this issue, which is crucial to the development of Quebec's English-speaking community, must be given high priority.

Department of National Defence Bilingual Officer Corps Policy

The Commissioner received two complaints concerning the Canadian Forces' Bilingual Officer Corps Policy, which makes bilingualism a basic requirement for officers of all ranks.

The first complaint alleged that the process of promotion to a higher rank under the Policy discriminated against unilingual members of the Canadian Forces. According to the Policy, which applies to all officers across the board, knowledge of the second official language may be worth as much as 5% of the final mark awarded by a Canadian Forces Merit Board in evaluating officer candidates for promotion.

The second complaint alleged that the Canadian Forces do not offer Anglophones enough second language training and retention programs.



Promotion process

In her December 2001 investigation report, the Commissioner concluded that:

- it is acceptable, in evaluating candidates for promotion, to consider knowledge of the second official language as a criterion, since bilingualism is tangible evidence of leadership; and
- in evaluating candidates for promotion, the proportion of marks awarded for bilingualism should vary with rank.



The Canadian Forces set up a working group to consider ways of awarding a different proportion of marks for bilingualism according to rank. An action plan with schedules will be submitted to the Commissioner.



That, by September 2003, the Canadian Forces begin a full review of the requirements for officer positions, including language requirements that are objectively necessary in each instance.

Access to language training

OCOL's investigation found that:

- the Bilingual Officer Corps Policy requires knowledge of both official languages even for unilingual duties;
- the Policy allows officers to be assigned to bilingual positions even if they do not have the required level of language proficiency, provided they take second language training; and



That, by September 2003, the Department of National Defence identify the positions requiring immediate use of both official languages, and ensure that these positions are filled by officers who are already bilingual at the time they are appointed to the positions.

- English-speaking officers do not always have the opportunity to acquire or maintain the high level of proficiency in French required for promotion to the higher ranks, since they are often assigned to locations where their second language is rarely used.



The Bilingual Officer Corps Policy was amended in May 2001. The new version acknowledges that language training must be made an operational priority and must be more effectively provided.

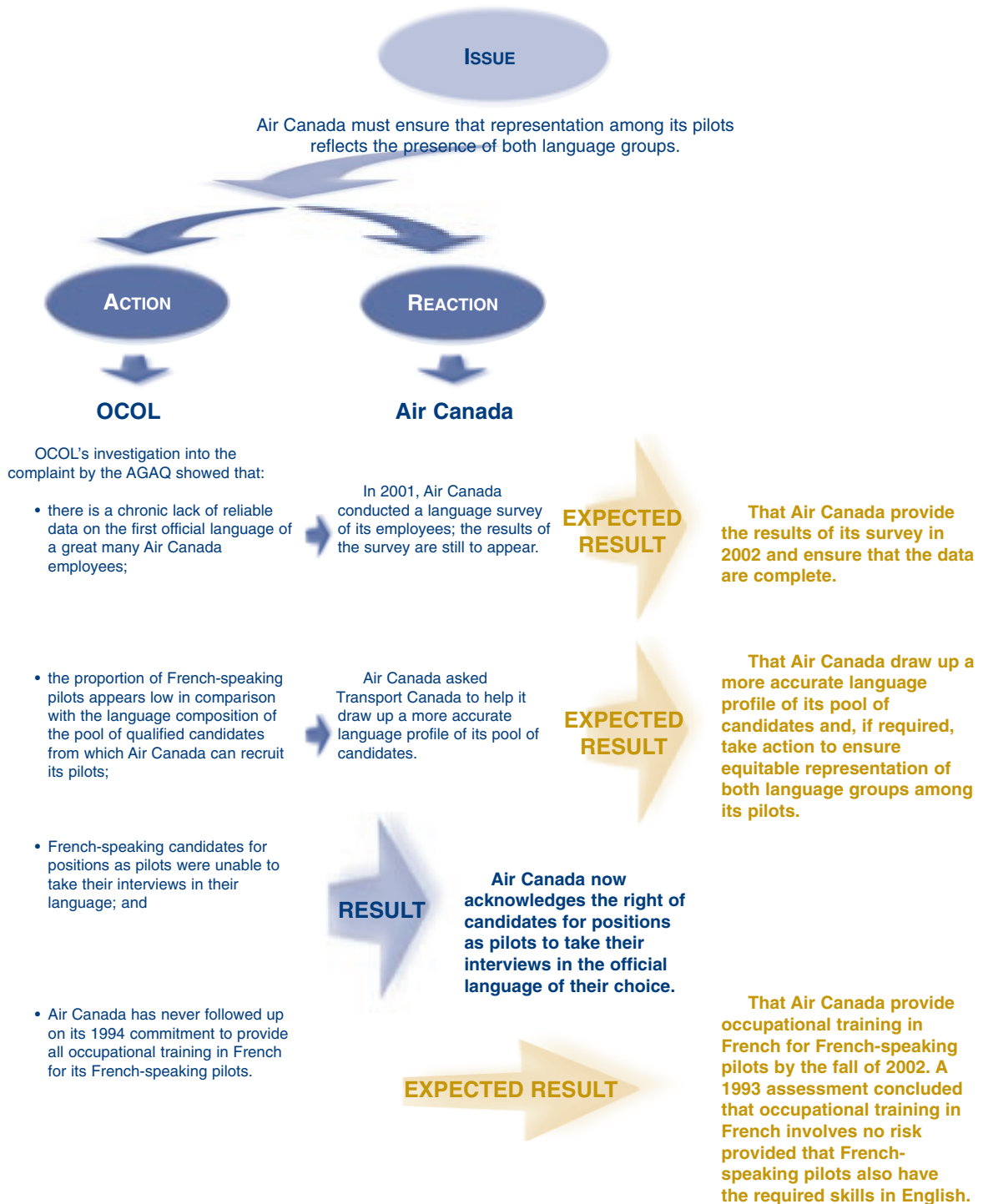


That, in a timely manner, the Department of National Defence provide effective second language acquisition and maintenance training that takes into account the characteristics of work in the Canadian Forces.

The Canadian Forces have taken positive steps to correct possible inequalities under the Bilingual Officer Corps Policy. During the upcoming year, OCOL will evaluate the results of these steps, in order to ensure that the commendable objectives of this Policy do not unfairly jeopardize the opportunities for advancement of Canadian Forces members in either language group.

Representation of Francophones among Air Canada pilots

According to a complaint lodged in January 2000 by the Association des gens de l'air du Québec (AGAQ), Francophones are underrepresented among Air Canada pilots. Air Canada estimates that, before its merger with Canadian Airlines International, Francophones accounted for 12.5% of its pilots. Air Canada also acknowledges that following its restructuring this level has certainly dropped.



Although Air Canada has begun to take action to ensure more equitable representation of both language groups among its pilots, it must actively pursue its efforts to this end.

VIA Rail: Language requirements of certain positions and hiring policy

In the spring of 2000, OCOL began investigating some 40 complaints from VIA Rail employees working on train routes in western Canada.

Most of these complaints alleged that the language requirements of certain onboard positions on these routes unfairly jeopardized the opportunities for employment and advancement of unilingual employees.

Three of the positions for which the language requirements were questioned were aboard transcontinental trains. The investigation found that VIA Rail's language obligations to passengers justified imperative staffing of two of these positions designated bilingual, including the position of service director. Given the high level of bilingualism among employees assigned to transcontinental trains, OCOL concluded that it was not necessary to limit all assignments to the third position designated bilingual—the position of assistant service co-ordinator—to employees who already meet the language requirements of the position. VIA Rail expressed some concern about this recommendation. In following up, the Commissioner will monitor implementation of this recommendation.

Another issue regarding language requirements of positions was that of imperative staffing of bilingual positions on train routes that are not designated bilingual. The investigation found that this staffing mode, which requires candidates to be bilingual as of their starting date, unfairly jeopardized the opportunities for employment and advancement of unilingual employees. VIA Rail considers that imperative staffing of these positions is justified for reasons of passenger safety, especially since there are generally only two or three crew members serving the public aboard these trains. Even where the Act does not require VIA Rail to offer bilingual service, VIA Rail does have the right to designate positions bilingual if doing so is necessary for reasons of passenger safety. In these situations, however, VIA Rail must offer second language training to unilingual employees who wish to apply for these positions and are otherwise qualified. As well, VIA Rail has approached the TBS to have some of these routes designated bilingual.

There were also complaints regarding VIA Rail's policy of hiring only bilingual persons to fill front-line positions in western Canada. Since 1986, VIA Rail considers it essential that it hires persons speaking both languages and thereby achieves adequate bilingual capacity so that its employees are able to communicate with passengers in both official languages at all times.

OCOL applauds efforts taken by VIA Rail to increase its bilingual capacity on the Western Transcontinental. These efforts have been productive. OCOL investigators estimated that, during the high season, an average of 72% of onboard employees on transcontinental trains were bilingual. During the off season, VIA Rail considers that this level drops to 33%, although data gathered during the investigation indicate that the level is closer to 53%.

While the Commissioner acknowledges that the need to ensure passenger safety is crucial, she would like VIA Rail to establish more clearly the bilingual capacity required to meet this need. In doing so, she would like VIA Rail to consider the possibility of assigning bilingual employees among train crews as judiciously as possible. VIA Rail has pointed out that the collective agreement with its employees prevents it from assigning onboard employees as it would like. Since VIA Rail and its employees are preparing for an upcoming round of negotiations, VIA Rail could take this opportunity to state its need for flexibility in assigning employees in order to meet the requirements of the Act.

In conclusion, the Commissioner would like VIA Rail to undertake a more thorough analysis of the level of bilingualism it requires to meet its obligations to the travelling public, including, most definitely, its obligations as regards the public's safety, by carefully assigning its bilingual resources. Otherwise, forming an objective judgement on the transporter's hiring policy proves difficult. VIA Rail has indicated that it is carefully examining the Commissioner's recommendations and that it has begun to address most of them. We will conduct a follow-up on the recommendations in 2003.

Conclusion

Modernizing human resources management in the federal public service is not easy, particularly when official languages must be better integrated into this undertaking as well. The main objective is to encourage deeper commitment among public servants to linguistic duality by highlighting the advantages of the presence of both languages and cultures in their institutions. Respecting federal employees' language rights is part of the work ethic that is central to a responsible federal public service. Fundamental changes are called for: greater accountability; better reporting; genuinely valuing bilingualism as a basic skill; better-targeted training; and greater development of receptive bilingualism.

Where language of work is concerned, managers must demonstrate more leadership and be willing to take risks. Supervisors (whose level of bilingualism often still leaves something to be desired) must, at the same time, receive better training and language habits and attitudes must change.

Where equitable participation by both language groups is concerned, the situation is good overall. That said, the imbalance in the representation of Anglophones among federal public servants in Quebec is still cause for concern, particularly since it has been very slow to change.



CHAPTER 6:

PROMOTION OF LINGUISTIC DUALITY

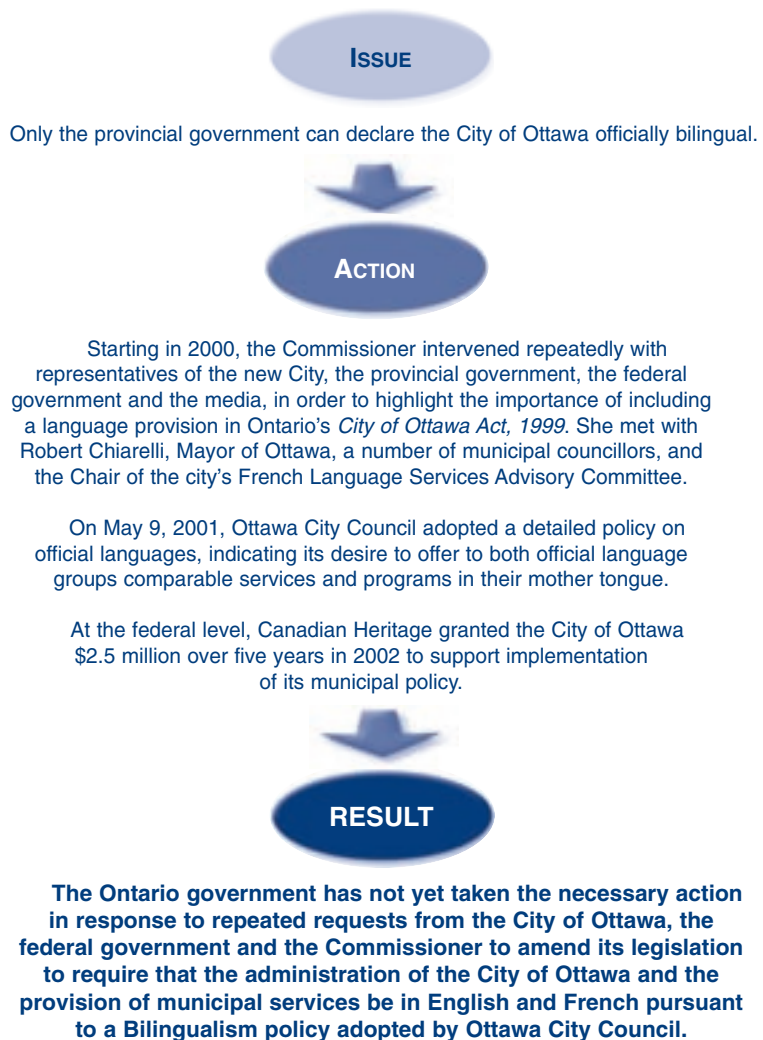
CHAPTER 6:

PROMOTION OF LINGUISTIC DUALITY

The promotion of Canada's linguistic duality takes place on many fronts—with varying degrees of success. This chapter highlights advances made this year in areas such as the Canadian sport system and immigration. In other areas, such as the presence of French on the Internet or official bilingualism in the nation's capital, progress has been slower.

Bilingual status for the National Capital

Ottawa is the national capital of a bilingual country, and it is high time for Canada's linguistic duality, which is enshrined in the Constitution, to be reflected officially at the municipal level. Not only does Ottawa welcome millions of visitors each year, nearly one-fifth of its residents are French-speaking. The restructuring of the City of Ottawa in 1999 was an ideal opportunity to remedy the situation. Since Ontario municipalities do not have the right to declare themselves bilingual, the City of Ottawa requires the co-operation of the Ontario provincial government. It needs to include in its *City of Ottawa Act, 1999* a provision on the equality of English and French at Ottawa City Hall.



Official languages on the Internet

Follow-up to special study on French on the Internet

ISSUE

Increasingly, the digital revolution influences how the federal government does business. By 2005, the main government services will be provided to Canadians directly on the Internet. The repercussions of these developments on the implementation of the Act are considerable, since they directly affect service delivery, language of work in the federal public service, and the recognition and use of English and French in Canadian society.

ACTION

In 1999, the Commissioner recommended that the federal government set up the policy and funding framework necessary to enhance the presence of French on the Internet.³³ In March 2002, she published a follow-up study on implementation of the 12 recommendations she had made three years earlier.³⁴ The study's findings were disappointing: fewer than half of the recommendations had been implemented.

EXPECTED RESULTS

A clear policy statement, a comprehensive vision, and an integrated strategy have still not materialized. The government must take the action required to ensure that there is a critical mass of French-language content on the Internet, support the language industries, and promote Canada's linguistic duality on the Internet internationally.

Some projects have, nonetheless, been carried out to help provide Canadians with easier access to certain cultural resources. Canadian Heritage announced that it would invest over \$150 million to make federal collections of cultural interest available on the Internet in both official languages. As well, the federal government introduced the Canadian Digital Content Strategy, providing for production of on-line reference tools, digitization of certain collections, and expansion of Industry Canada's *Francommunautés* program.

³³ OCOL, *The Government of Canada and French on the Internet*, 1999.

³⁴ OCOL, *French on the Internet: Key to the Canadian Identity and the Knowledge Economy*, 2002.

Internet sites of Canadian embassies, foreign diplomatic missions, and international organizations

Following her special study on French on the Internet, the Commissioner turned her attention to the presence of Canada's two official languages on the Internet sites of Canadian embassies abroad, foreign diplomatic missions in Canada, and certain major international organizations. This special study was published in the spring of 2002.³⁵

While Canadian embassies usually respect the equality of status and use of English and French on their Internet sites, the same cannot be said for foreign embassies in Canada. More than half of the approximately 40 sites reviewed did not use French, and most of the other sites were predominantly in English. This indicates that foreign embassies tend to perceive Canada as a unilingual English-speaking country. As for the approximately 30 Internet sites of international organizations where English and French are official or working languages, the overwhelming majority did not use English and French in equal measure.

Foreign Affairs and International Trade Canada has made a commitment to intervene with foreign embassies to request that they give appropriate visibility to both of Canada's official languages on their Internet sites. As well, the Commissioner recommended that the federal government encourage the international organizations of which Canada is a member to make greater use of French, particularly on their Internet sites. Canada's foreign policy must promote Canada's two official languages in all sectors of activity, including the Internet.

Official languages in the Canadian sport system

The status of the French language in the Canadian sport system has for a long time not equalled that of the English language. A study carried out for the minister responsible for sport in the early 1990s showed that Francophones were disadvantaged in the Canadian sport system. Another study carried out in 1998 by the parliamentary Sub-Committee on the Study of Sport in Canada confirmed that French-speaking athletes had difficulty obtaining services in their language. Lastly, a study published by the Commissioner in 2000 showed that Francophones are underrepresented among top athletes and that most national sports organizations are unable to provide adequate services, particularly coaching, to Francophones.³⁶

³⁵ OCOL, *Official Languages on the Internet: Web Sites of Diplomatic Missions and International Organizations*, 2002.

³⁶ OCOL, *Official Languages in the Canadian Sports System*, 2000.

ISSUE

In the various disciplines, there must be equitable representation of athletes from both language groups, who must also enjoy the benefit of services provided to them in their language. The Canadian sport system must reflect linguistic duality.



ACTION

Over the past year, Sport Canada requested the Commissioner's assistance in two important areas, in order to ensure that the new Canadian Sport Policy and the new official language standards for elite coaching centres respect the letter and the spirit of the Act.



RESULT

The Canadian Sport Policy and the official language standards for coaching centres now take into account a number of important factors related to official languages.



Canadian Sport Policy

- Under the Policy, linguistic duality is one of the essential values of the sport system. It must be possible for everyone to participate regardless of language or culture. Achievement of this objective will be measured by equitable representation of athletes from both language groups.
- The purpose of the Policy is to eliminate language barriers to French-speaking athletes by providing them with essential services, particularly coaching, in their language.



Official language standards for elite coaching centres³⁷

- Important technical papers such as coaching plans must be bilingual.
- At least one coach of the team and one administrative staff member of the centre must be bilingual.
- It must be possible, for example, for athletes to communicate with physicians in their own language.
- When selecting centres, the athletes' access to postsecondary education in their own language must be considered.

³⁷ http://www.pch.gc.ca/progs/sc/pol/pcc-csp/index_e.cfm. The Policy, adopted in the spring of 2002, is the result of broad consultations with the sports community as well as the provincial and territorial governments which, jointly with the federal government, have developed action plans for implementing the Policy in their respective regions.

The Commissioner is very pleased to have contributed to the development of the new Canadian Sport Policy as well as the new official language standards for coaching centres. She favours proactive consultation to identify shortcomings before they cause problems and lead to complaints. Regrettably, Sport Canada did not consult the Commissioner in the drafting of the new bill to promote physical activity and sport. The bill was being developed as this Annual Report was being prepared.

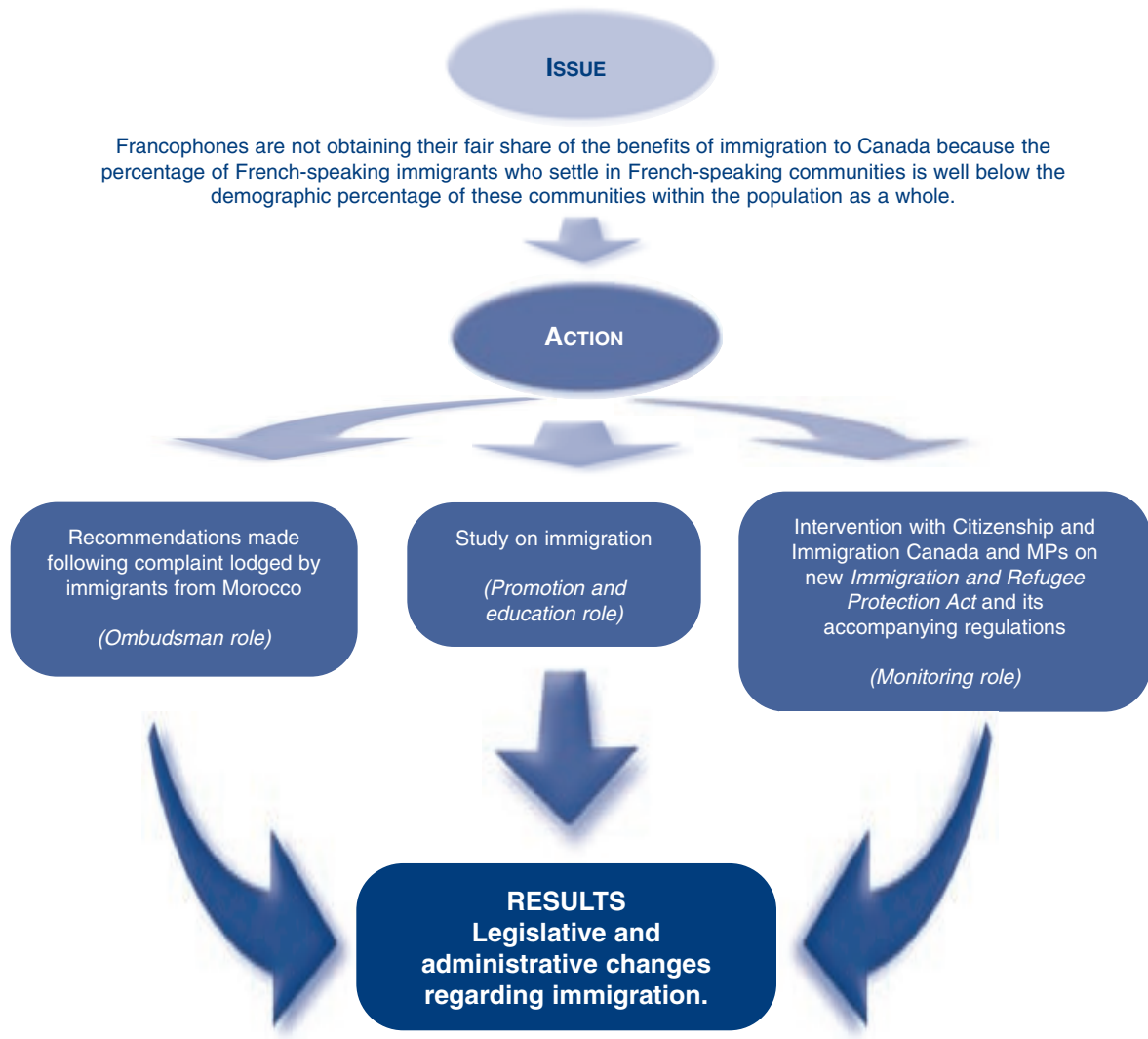
Since sport can be a significant factor in a society's cohesiveness, and since respect for both language groups is a crucial factor in that cohesiveness, in the summer of 2002 the Commissioner will follow up on implementation of all the recommendations contained in her 2000 special study.

Immigration

*B*irthrates [...] have fallen, and this drop has not yet been offset by high levels of immigration. The major movements in western society (such as the women's movement and the environmental movement) and, in some communities, the presence of Francophones who are recent immigrants, are now helping to redefine the contours of a community that is increasingly pluralist. In short, the modernization of these communities has upset the balance of yesteryear and has replaced it with a space that is more open, more diversified and more malleable. [translation]

Thériault, J. Yvon, 1999. *Francophonies minoritaires au Canada : l'état des lieux*. Édition d'Acadie, Moncton, N.-B., p. 14

The Commissioner has taken an interest in immigration since the beginning of her mandate. Statistics from the 2001 census very clearly show that Canada's population depends on immigration: over the past five years, immigrants have contributed to more than half the increase in Canada's population. However, this increase has not benefited Canada's French-speaking communities.



In 2000-2001, the applications of two prospective French-speaking immigrants headed for Saint-Boniface in Manitoba were rejected on the grounds that these persons had an inadequate command of English. The Commissioner investigated the complaint and made recommendations. The following figure shows the actions taken and the results obtained.

Complaint
The immigration officer evaluated knowledge of English as part of the personal suitability factor.



Investigation
An investigation by the Commissioner found a number of shortcomings.



Recommendations

Language knowledge should be evaluated exclusively under the language factor; and more objective evaluation of linguistic abilities is required.



Immigrants can now have their abilities evaluated objectively by a professional language institution.

Immigration officers should be better informed about the current conditions in minority French-speaking communities, so that they can provide better information to prospective immigrants.



A component in the training scheme for immigration officers now covers official language minority communities.

Citizenship and Immigration Canada should do more to promote official language minority communities abroad to attract more immigration to these communities.



Citizenship and Immigration Canada co-operates with French-speaking minority communities as part of a steering committee to develop promotion, recruitment and integration strategies.

Citizenship and Immigration Canada established a steering committee in March 2002 in order to increase the number of immigrants who settle into French-speaking communities. Its members are mostly representatives of these communities and senior Citizenship and Immigration Canada officials; the Commissioner has observer status.

According to the Commissioner's special study on immigration and its impact on Canada's linguistic duality,³⁸ Canada's French-speaking communities have not benefited as much from immigration as have its English-speaking communities. The study showed that the federal government has taken hardly any concrete action to help these communities recruit and integrate French-speaking immigrants. The study also examined the repercussions of immigration on Quebec's English-speaking community. In Quebec as in other provinces, immigration is an urban phenomenon: only 18% of English-speaking immigrants to Quebec settle outside of Montreal. In addition, Quebec's retention rate of English-speaking immigrants gives reason for concern: one-quarter of immigrants to Quebec eventually move to another province.

Amendments concerning official languages in the new *Immigration and Refugee Protection Act...*

In the winter of 2001, the Commissioner intervened with Citizenship and Immigration Canada, the Standing Committee on Citizenship and Immigration, and the Prime Minister. Her efforts were productive: the new *Immigration and Refugee Protection Act* now specifies that immigration must support the development of Canada's two linguistic communities, including those in minority contexts. Also, Canada's immigration policy is to further the principle of the equality of English and French as the official languages of Canada.

... and in the new immigration regulations

The conditions of application and the procedural details of the new *Immigration and Refugee Protection Act* are set out in its accompanying regulations. The draft regulations published in the winter of 2002 weighted factors in a way that did not reflect the importance of bilingualism in Canada. The Commissioner pointed out to Citizenship and Immigration Canada that insufficient weight had been given to knowledge of the second language, and recommended that this factor be given more weight. This recommendation was reiterated by the Standing Committee on Citizenship and Immigration in its own recommendations to this Department.

³⁸ OCOL, *Immigration and the Vitality of Canada's Linguistic Communities: Policy, Demography and Identity*, 2002.

The Commissioner notes increasing openness by Citizenship and Immigration Canada. Immigration policy must not be based on economic criteria alone, but must also help genuinely strengthen Canada's social and linguistic fabric by promoting linguistic duality. The new *Immigration and Refugee Protection Act* and its amended regulations are a first reflection of this openness. The Commissioner expects the activities of the above-mentioned steering committee to pursue this direction. It is essential that we significantly increase the number of French-speaking immigrants so that immigration contributes to the development of the French-speaking communities outside Quebec. As well, we must ensure that these immigrants are successfully integrated so that they can make a real contribution to these communities' vitality.

RECOMMENDATION 7

The Commissioner recommends that Citizenship and Immigration Canada develop support programs to implement the language provisions of the new *Immigration and Refugee Protection Act*. By means of concrete, verifiable action, these programs must promote official language minority communities abroad and help them to improve their ability to receive immigrants.

Estates-General on the status and future of the French language in Quebec

After holding public hearings in all parts of Quebec, the commission organizing the Estates-General on the status and future of the French language in Quebec (États généraux sur la situation et l'avenir de la langue française au Québec) published its final report in May 2001. This report proposes a series of measures to promote and to enhance the status of the French language, particularly to provide a better framework for the teaching of French. It also proposes to make the approach to teaching English as a second language more effective, and to encourage the learning of Spanish or a third language. As observers, the Commissioner and her staff attended a number of events in this broad public consultation exercise. The Commissioner noted that the transparency of the proceedings resulted in a series of open discussions and debates.

Representatives of Quebec's English-speaking minority community reacted favourably to most of the report's recommendations for French language promotion and second language learning, since these recommendations are based on incentives, not regulations. However, a number of Anglophones are apprehensive that some of these recommendations may result in fewer health care services in English.

Translation Prize

Once again, the Commissioner worked in partnership with the Quebec Writers' Federation by sponsoring its Translation Prize. In alternate years, this award is given to a translation into English of a book written in French, and to a translation into French of a book written in English. OCOL is especially pleased to be associated with an award that highlights excellence in translation into Canada's two official languages, an art that makes accessible to members of each language community the best literary works the other has to offer, thus helping to bridge gaps and further enhancing mutual understanding between them.

The 2001 Translation Prize was awarded to Phyllis Aronoff and Howard Scott for their work entitled *The Great Peace of Montreal of 1701: French-Native Diplomacy in the Seventeenth Century*, a translation of Gilles Havard's book *La Grande Paix de Montréal de 1701 : Les voies de la diplomatie franco-amérindienne*.

Conclusion

Language equality in Canada is a work in progress, in which the provinces and territories each move forward at their own speed; what is important is that they do move forward. Unfortunately, this year the Ontario government missed a golden opportunity to take another step in the right direction. It skirted the issue of official bilingualism for Canada's National Capital, in spite of the fact that Ottawa City Council had adopted a bilingualism policy.

If the Internet is to consolidate Canada's image as a bilingual country, the federal government must act nationally and internationally to enhance the presence of French on the Internet, thus taking advantage of a unique opportunity to affirm Canada's identity and to develop the knowledge-based economy.

In a special study published in 2002, the Commissioner emphasized how important it is for French-speaking communities in all parts of Canada to enjoy the benefits of immigration. Elsewhere, the Commissioner stressed the importance of official languages in the Canadian sport system.

In all instances, the Commissioner's goal has been to create conditions that are as favourable as possible to the use of our two official languages and full participation by our two language communities, bearing in mind that equality has to happen on the ground.



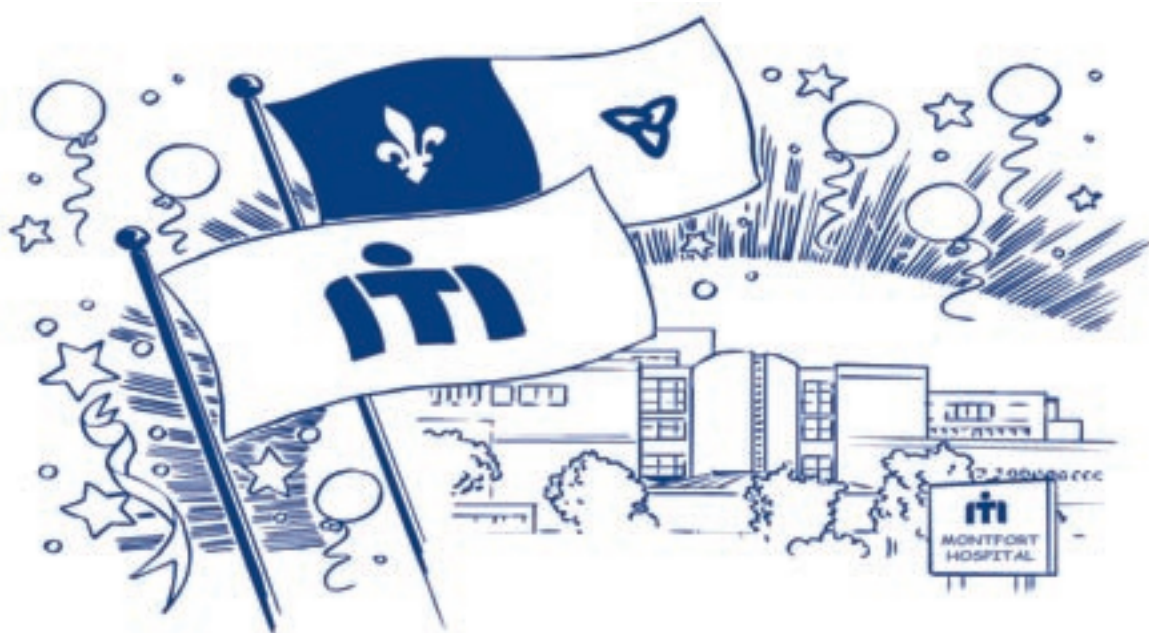
CHAPTER 7:

**VITALITY OF
OFFICIAL LANGUAGE
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COMMUNITIES**

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VITALITY OF OFFICIAL LANGUAGE MINORITY COMMUNITIES

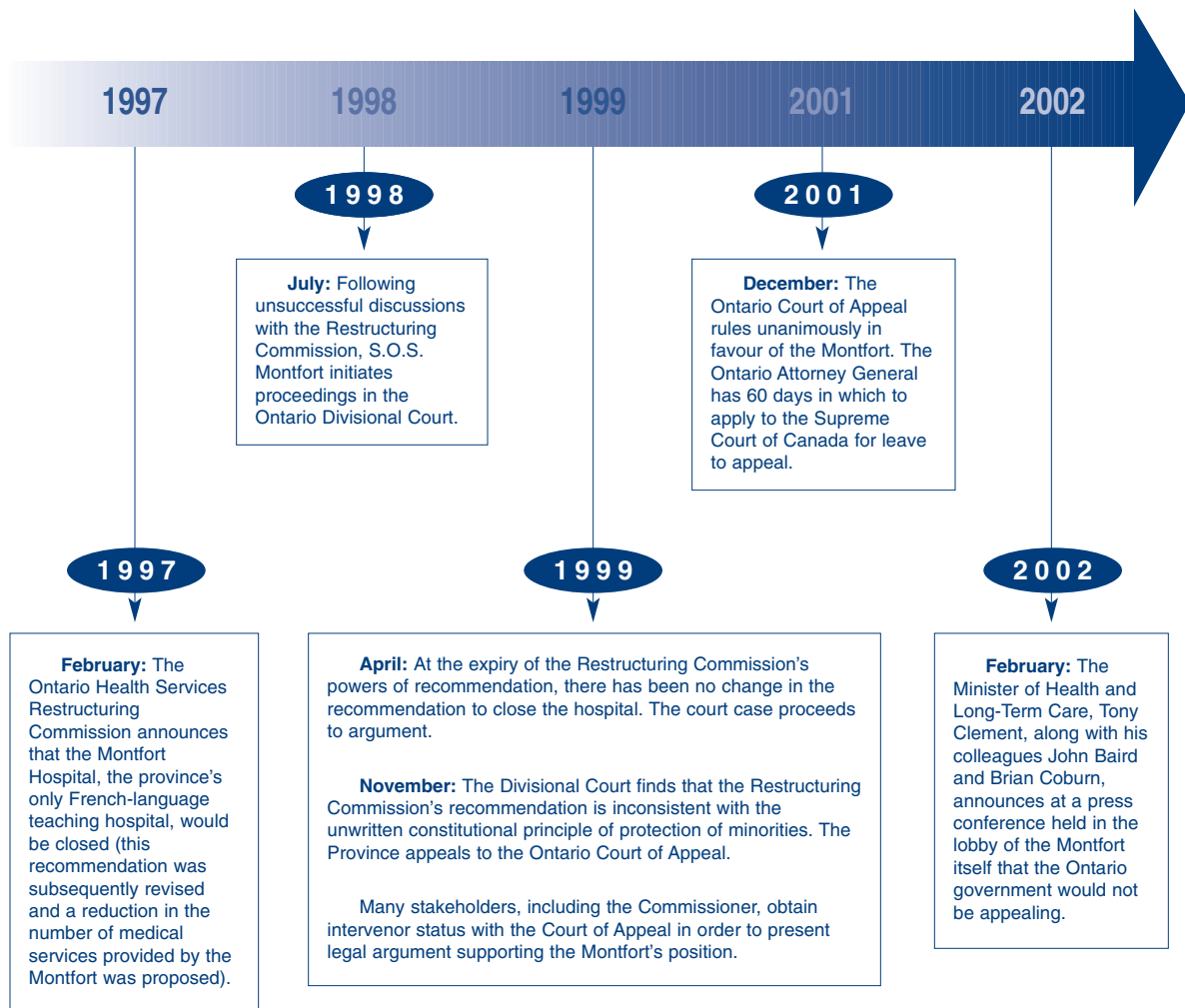
Healthy communities depend, not least of all, on the health care they receive and this was a central theme in the Commissioner's activities in support of official language minority communities this year. The Commissioner also focused on education, the impact of municipal mergers and broadcasting, to ensure that Canada's minority English-speaking and French-speaking communities stay healthy.



The Montfort Hospital saga: Epilogue

The phenomenal mobilization of the Franco-Ontarian community to block cuts to the health care services provided by the province's only French-language hospital had the desired result: on December 7, 2001, the Ontario Court of Appeal recognized that the Montfort was an institution vital to the community's survival and therefore ruled that massive cuts to the services this hospital provided would run counter to the unwritten constitutional principle of respect for and protection of minorities.³⁹ The Commissioner spoke publicly on repeated occasions in favour of saving this institution, and participated in the Court of Appeal hearings as the hospital battled for survival.

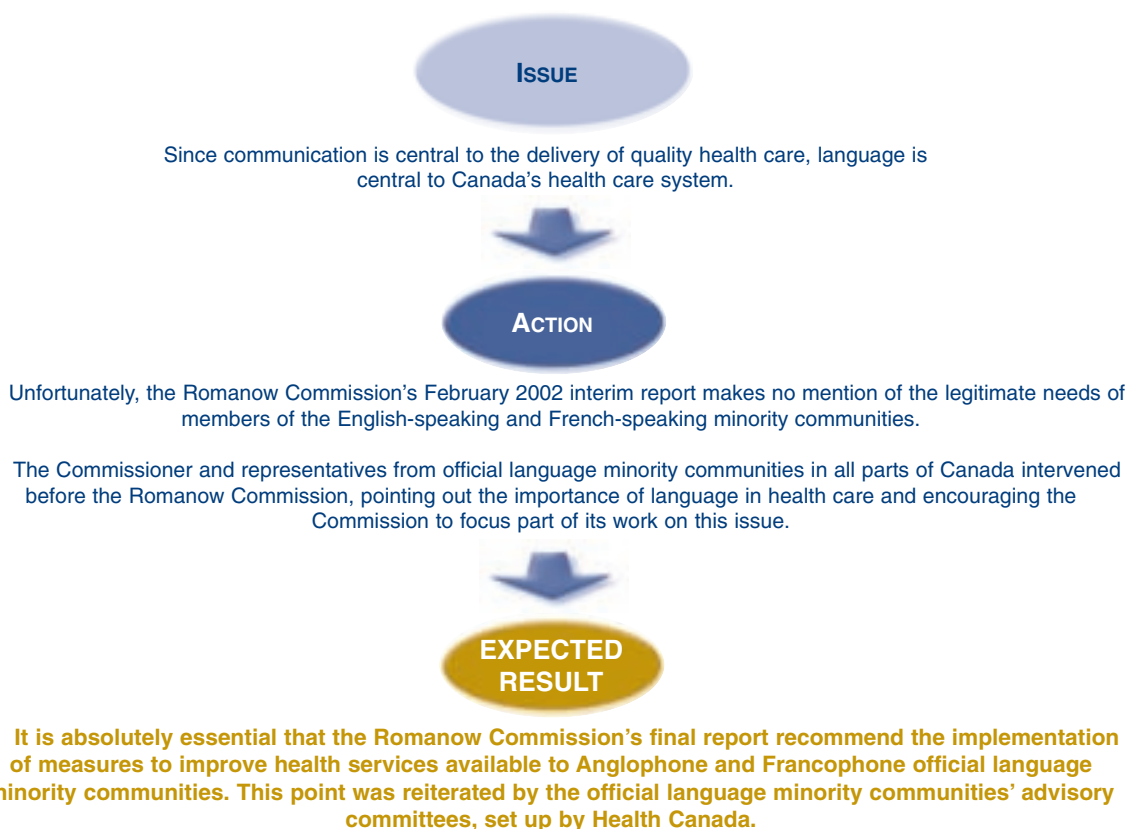
³⁹ *Lalonde v. Ontario (Commission de restructuration des services de santé)* (2001), 56 O.R. (3d) 505.



The impact of this decisive collective victory will be felt beyond the province's borders. While it is still too early for a complete assessment, the Montfort Hospital case is undeniably a page in history. The court-established connection between the public interest and the constitutional principle of protection of minorities can be expected to prevent provinces and territories from adopting measures which clearly undermine the vitality and development of their respective official language minority communities. During any type of restructuring, the provinces and territories will need to take into account the needs of official language minority communities.

Romanow Commission on the Future of Health Care in Canada: Is the best yet to come?

The Romanow Commission on the Future of Health Care in Canada is to make recommendations to the federal government in order to ensure that Canada's health care system is viable and reflects Canadian values of the 21st century. The purpose of the Commission's work and recommendations is to reduce discrepancies in the health and well-being of the various groups that make up Canadian society, including official language minority communities.



The conflict between the Montfort Hospital and the Ontario government highlighted the importance of being able “to be born, to be cared for, and to die in one's own language.” The Commissioner intends to make this point once again by presenting a brief at the Romanow Commission's spring 2002 hearings, emphasizing the importance of upholding two inseparable Canadian values: health care and linguistic duality.

Access to English-language health services in Quebec

Quebec's *Act respecting health services and social services* (Bill 142) guarantees access to health services in the English language throughout Quebec. In November 2001, Quebec's Minister of Health and Social Services announced that the departmental policy on these services would be reviewed and the media reported that the changes being considered included fewer bilingual positions in the health care network. This news led all members of the provincial advisory committee on English-language health services to resign immediately.

The Commissioner wrote to the Quebec Minister of Health and Social Services and the Quebec Premier. She informed them of the English-speaking community's concerns and asked them to give high priority to providing English-language health and social services. Quebec's *Act respecting health services and social services* is not incompatible with Quebec's *Charter of the French language*, and the Commissioner encouraged the Quebec government to find solutions that will protect the rights of Quebec's minority and majority linguistic communities.

Quebec's new Minister of Health and Social Services, appointed in the winter of 2002, stated that the departmental policy would not be changed: available health services in English would be maintained. He hoped to reconvene the provincial advisory committee that had resigned to hear its views on implementing Quebec's *Act respecting health services and social services*.

Municipal mergers in Quebec

Many Quebec residents, both English-speaking and French-speaking, expressed opposition to municipal mergers. In February 2001, some 20 municipalities applied to the Quebec Superior Court for an injunction to halt implementation of the newly-enacted municipal mergers legislation (Bill 170). Some also contested accompanying amendments to the *Charter of the French language* (Bill 171). Those amendments limited the availability of bilingual status for new boroughs and municipalities. Municipal entities that do not already have bilingual status can no longer obtain that status unless English is the mother tongue of a majority of residents; the old threshold required only that a majority of residents speak a language other than French.

The Commissioner obtained intervenor status to challenge the constitutional validity of the criterion for granting bilingual status. The Commissioner took the position that the new criterion was an unconstitutional reduction of the language rights of English speakers. The Commissioner's

argument was based on the principle of advancement set out in section 16(3) of the Charter⁴⁰ and on the constitutional rule that language rights are subject to a broad and purposive interpretation. The Commissioner argued that section 16(3)'s commitment by both levels of government to advance the equality of status and use of English and French means that they not diminish the existing language rights of official language minority communities without justification.

Both the Quebec Superior Court and the Quebec Court of Appeal rejected the arguments made by the municipalities.⁴¹ The trial judge held that the Commissioner's arguments were only hypothetical since all existing bilingual municipalities became bilingual boroughs of the new city of Montreal. The judge nevertheless acknowledged the possibility of a future violation of section 16 of the Charter should a municipality be refused bilingual status when it could have obtained that status under the pre-amendment criterion.

Distance education project for English-speaking communities in Quebec

A number of Quebec's English-speaking communities are located in outlying regions with few resources to meet educational needs. With financial support from Quebec's Ministère de l'Éducation and Canadian Heritage, three English-language Quebec school boards have launched a project that will provide these isolated communities with access to quality training and a much broader range of courses than are available locally. The Distance Education and Community Network (DECN) offers interactive training. Participants can learn independently according to their needs. If required, they can consult teachers in major centres who are familiar with the technology being used.

In March 2001, the Commissioner met with members of Quebec's Advisory Board on English Education to offer her support to the project. She also asked Canadian Heritage to ensure that the next Canada-Quebec Agreement provides the necessary funding to operate and expand the project, so that all of Quebec's English-speaking community may enjoy its benefits.

⁴⁰ *Supra*, note 6.

⁴¹ *Baie d'Urfé (Ville) c. Québec (Procureur général)*, [2001] J.Q. no. 2954 (C.S.), [2001] J.Q. no. 4821 (C.A.), and [2001] J.Q. no. 4916 (C.A.).

Institut français: A French-language space at the University of Regina

Set up under the 1988 Canada-Saskatchewan Agreement, the Language Institute at University of Regina meets French-speaking Saskatchewan residents' needs for postsecondary studies in French while French-as-a-second-language and other languages are also being taught. A study of the Language Institute's structure and programs was carried out and an interim report presented in December 2001. It was much criticized by French-speaking residents of Saskatchewan (see opposite).

OCOL prize for children's learning activities

In 2002 for the first time, OCOL awarded the Prix du Commissariat aux langues officielles pour la petite enfance, as part of the Prix de la Francophonie awarded by the Association canadienne d'éducation de langue française (ACELF). The purpose of this prize is to recognize educational projects that stimulate pre-school children's interest in the French language.

In this first year of the contest, four prizes with a value of \$1,000 each were awarded to winners from the four contest regions: Atlantic, Quebec, Ontario, and Western and Northern Canada. The national prize went to Ontario. Toronto's French-language daycare centre, Le Petit Chaperon Rouge, aims to make parents of young children aware of the importance of reading as a family activity through its project "Un livre par mois."

ISSUE

December 2001: Many French-speaking residents of Saskatchewan are concerned that the proposed structure will depart from the Language Institute's initial mandate, and that the Institute will not have full academic status or adequate resources to support French-language identity and culture.



ACTION

Winter 2002: The Commissioner intervened with the President of the University of Regina, the Saskatchewan Minister Responsible for Francophone Affairs, and the Deputy Minister of Canadian Heritage, reminding them of the importance of the Language Institute for Saskatchewan's French-speaking community, and proposing that the parties set up a round table discussion group before proceeding with any restructuring.



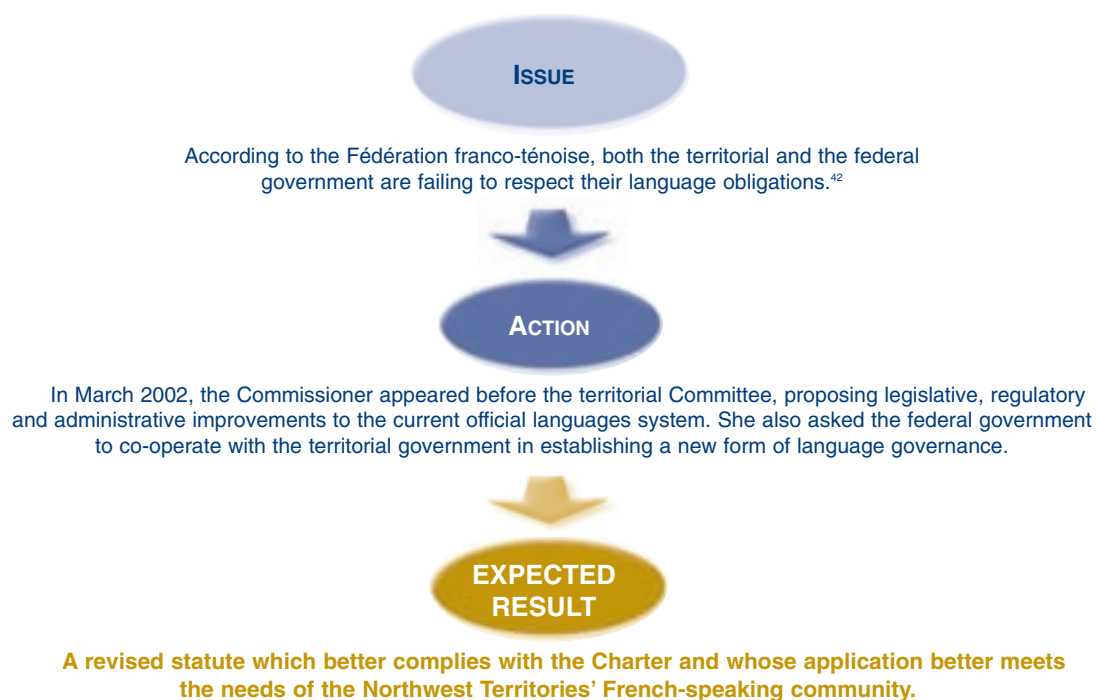
RESULTS

Spring 2002: The President of the University of Regina took into account a number of the concerns expressed by Saskatchewan's French-speaking community and by the Commissioner. The Language Institute will become the Institut français, which is to open officially in the fall of 2002. Essentially, it will retain its original mandate; and most programs will continue to be offered.

Representatives of Saskatchewan's French-speaking community sit on a working committee responsible for establishing the administrative rules of the new Institut français.

Review of the Northwest Territories' *Official Languages Act*

In the fall of 2001, the government of the Northwest Territories created the Special Committee on the Review of the Official Languages Act. This parliamentary committee is responsible for making recommendations to the territorial government on the review of this 1984 statute, which provides for review every 10 years. The current application of this statute is problematic in several ways.



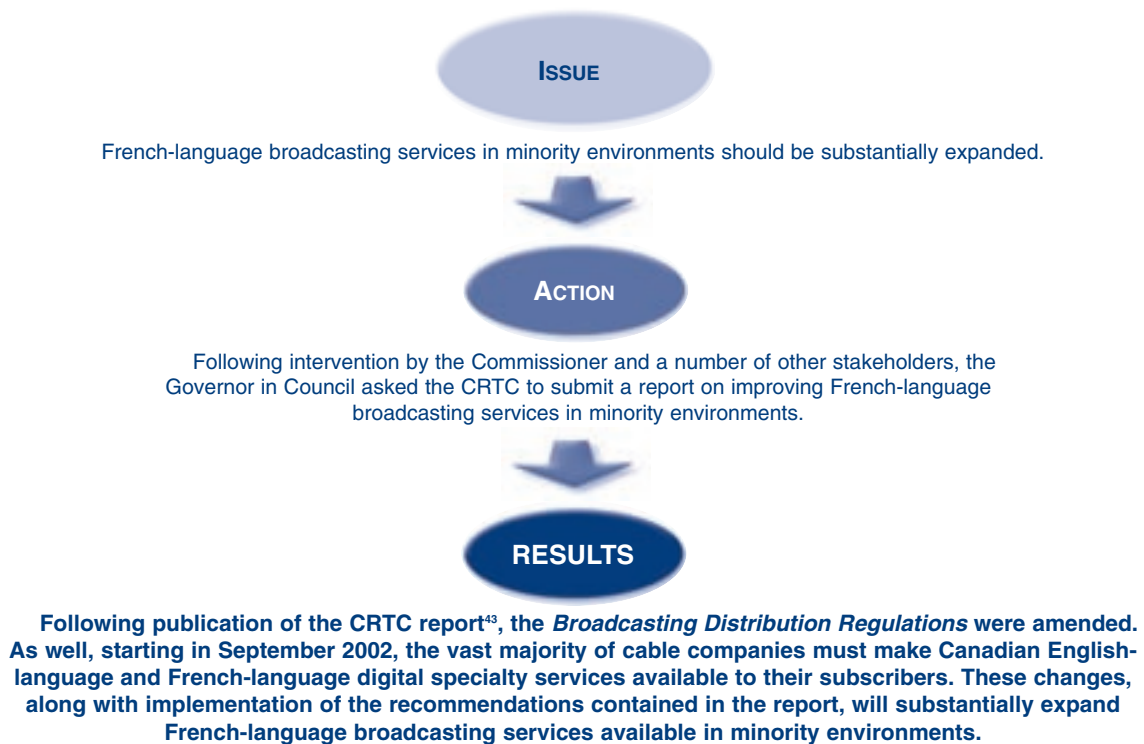
⁴² The Fédération franco-ténoise is a party to legal proceedings in this regard. In a July 2001 decision (*Fédération Franco-Ténoise v. Canada*, [2001] 3 F.C. 641(C.A.)), the Federal Court of Appeal ruled that it did not have jurisdiction to hear the case. The plaintiffs have instituted new proceedings before the Supreme Court of the Northwest Territories.

Broadcasting: Expanded programming in both official languages for all Canadians

Review of the *Broadcasting Act*

Broadcasting continues to be a special tool for the advancement of English and French in Canadian society. The digital revolution requires changes in the *Broadcasting Act* and the government is holding public hearings on this issue. In the spring of 2002, the Commissioner appeared before the Standing Committee on Canadian Heritage, and presented a brief recommending that the revised legislation take into account the importance of adequate funding for the national public broadcaster as well as community broadcasters, and that the revised legislation set up a national French-language educational television network. She asked how young Canadians could become accustomed to French programming when most Canadian provinces did not provide French-language educational television programs.

Achieving a better balance



⁴³ CRTC, *Achieving a Better Balance: Report on French-Language Broadcasting Services in a Minority Environment*, February 2001.

Radio-Canada: Towards the availability of the Francophone Arts & Culture station across Canada

Radio-Canada applied to the CRTC to expand the broadcast area of its second radio station, the Chaîne culturelle, across Canada.



The national networks are a special way for Canadians to stay connected. We need to ensure that the national networks are available in all parts of Canada as they help promote our linguistic duality and strengthen our national identity.



The Commissioner wrote to the CRTC, highlighting the importance of making the Chaîne culturelle accessible to all Canadians.



In the spring of 2002, the CRTC issued 19 licences to Radio-Canada, thus enabling it to broadcast the Chaîne culturelle across Canada.



These two examples from the communications sector illustrate the Commissioner's role as a catalyst for change.

Conclusion

This chapter has described the ups and downs the Commissioner experiences as she attempts to support institutions and tries to strengthen the identity and development of official language minority communities. Two major lessons emerge.

Firstly and unfortunately, regardless of jurisdiction, concern for protecting official language minority rights has not yet become an automatic reflex. This shows that both leadership and planning are lacking.

Secondly and more positively, regardless of obstacles, progress is possible. Lack of awareness by authorities is very rarely an expression of hostility. Often, once governing bodies understand the concerns of official language minority communities, they are themselves prepared to return to the drawing board to determine what arrangements should be made to accommodate the minorities.

In her role as guardian of Canada's official languages, the Commissioner will continue to sound the alarm every time the vitality of the official language communities is threatened by ill-advised administrative decisions and policies.



CONCLUSION

CONCLUSION

Signs of a large-scale mobilization in the area of official languages are becoming increasingly evident. The Minister of Intergovernmental Affairs and President of the Privy Council is laying the tracks, but work must now speed up if the train is ever to gather speed in moving towards language equality.

The reason that the Commissioner is increasingly impatient is that the issues are important and urgent. Certainly, the federal government has shown proof of its commitment, and has initiated commendable isolated initiatives. Implementing an action plan, however, means affirming a comprehensive vision that includes objectives, schedules, and performance evaluations. Without a holistic approach, implementation of the Act may, once again, become a succession of incoherent mini-reforms without a clear end goal. As more and more Canadians embrace bilingualism, they certainly deserve better.

Linguistic duality is a fundamental Canadian value. Facts of this equality are straightforward: 82% of Canadians are in favour of the policy of bilingualism; and 86% consider it important for their children to learn a second language (75% of Anglophones choose French as their children's second language, while 90% of Francophones choose English).⁴⁴ The federal government and some provinces have shown imagination and courage in their determination to better protect and promote the development of our two official language communities. It is time to bring this undertaking to completion. It is time that all Canadians were given an equal opportunity to make their contribution to Canadian society in the official language of their choice.

It is also time for the federal government to listen carefully to Canadians, to exercise genuine leadership and to honour the language rights of individuals, both as citizens and employees, both for reasons of professionalism and respect.

Canada has the determination and the ability to create a harmonious language environment if it articulates a vision for Canadian society in which the equality of English and French are genuine. In summary, it is time for the federal government to put linguistic duality squarely back on track and to deliver the goods.

⁴⁴ CRIC, January 2002 (www.ccu-cuc.ca).



SUCCESS STORIES

OFFICIAL LANGUAGES IN ACTION: A SHOWCASE OF SUCCESS STORIES

In official language matters, leadership takes many forms. This section highlights initiatives taken to achieve the objectives of the Act over the past few years by Statistics Canada, and also presents a number of accomplishments by other institutions in promoting linguistic duality.

STATISTICS CANADA



The OCOL Leadership Award for 2001-2002 goes to the Chief Statistician of Canada, Ivan P. Fellegi. With this award, the Commissioner pays tribute to Statistics Canada, which has distinguished itself by its excellent service to the public, a workplace that is conducive to the use of both official languages, its implementation of Part VII of the Act, and its management of the Official Languages Program overall.

Where service to the public is concerned, Statistics Canada gives a high priority to providing bilingual service at all its offices. All audits have confirmed that this institution provides excellent service in both official languages. Although Statistics Canada is not completely exempt from complaints under the Act, overall it has been diligent in solving problems that have been brought to its attention. For example, a number of complaints were lodged related to 2001 census activities. In order to quickly remedy any shortcomings, the Commissioner and the institution established an information exchange mechanism that considerably accelerated processing of complaints related to the census.

Where language of work is concerned, most Statistics Canada managers are bilingual: 91% of persons in the EX group who work in regions designated bilingual for the purposes of language of work have achieved the C-B-C level of second language proficiency. Middle management positions are also filled at the C-B-C level. A number of projects have been carried out to ensure that the workplace is conducive to the use of both official languages including a hands-on workshop on language of work, a language training centre and a terminology bank to support good writing in English and in French. As well, a network of facilitators is responsible for promoting bilingualism in the workplace. OCOL warmly congratulates Statistics Canada on these initiatives.

Where implementation of Part VII of the Act is concerned, Statistics Canada pays special attention to gathering data on official language minority communities. Statistics Canada has produced a CD-ROM profiling these communities and distributed it free of charge to associations

within these communities across Canada. Recently, Statistics Canada added two questions to the census form in order to identify languages most often spoken at home and those used at work.

Statistics Canada has set up an effective organizational structure for administering the Official Languages Program, provided adequate resources for it, and developed ways to evaluate its performance. This institution's Official Languages Program Management Committee, established in 1976, runs an effective and visible Program. The Committee has set up a network of Divisional Co-ordinators and Sub-Committees to encourage discussion and consultation on official language matters.



CANADIAN HERITAGE

Canadian Heritage drew up an action plan regarding language of work that includes a number of tools to make the workplace conducive to the use of both official languages. It also developed innovative guidelines, some of which even exceed the Treasury Board policies. Canadian Heritage also ensured that its action plan received visibility as soon as it was introduced; employees can consult all relevant documentation on the institution's Intranet site.



ELECTIONS CANADA

In reforming the boundaries of federal constituencies, Elections Canada adopted a proactive approach inspired by past complaints. An information session for members of the new Electoral Boundaries Commissions was held to inform them of their responsibilities, particularly regarding official languages. At this session, the Commissioner spoke to make members of the Commissions aware of the importance of listening to the public and of respecting the history, regional particularities, and collective interests of communities, including the official languages spoken in these communities.



FARM CREDIT CANADA

Farm Credit Canada launched a campaign to make its managers and business units aware of translation services. This campaign's specific goal was to provide service to internal and external clients simultaneously in both official languages or in the official language of the client's choice.



FISHERIES AND OCEANS CANADA

Fisheries and Oceans Canada developed its own accountability framework to make its managers responsible for implementing the Official Languages Program. This accountability framework includes a status report and a self-evaluation guide. Regional Directors General and Assistant Deputy Ministers must draw up annual action plans for official languages that include measurable activities and schedules. These tools will allow the institution to evaluate the official language situation in each area of responsibility.



INDUSTRY CANADA

On its Intranet site, Industry Canada set up a pilot project to enhance the quality of French among its English-speaking and French-speaking employees. This learning tool, *Le coin linguistique*, allows employees to expand their knowledge of written and spoken French, and provides access to a broad range of online services, explanations, examples, exercises and hyperlinks. The site receives an average of 1,850 visits per day.



NATIONAL RESEARCH COUNCIL

The National Research Council (NRC) added a tool box to its Internet site in order to help employees to communicate better in both official languages. The tool box contains English and French writing guides as well as an analogical lexicon of NRC terminology, and provides links to other helpful sites including those of OCOL, Termium Plus, and the TBS.



SPORT CANADA AND THE CANADIAN OLYMPIC ASSOCIATION

The two official languages played a prominent role throughout the most recent Winter Olympics and at the World Championships in Athletics held in Edmonton in July 2001. The Canadian Olympic Association made sure that most high-ranking positions in Canada's delegation to Salt Lake City were occupied by bilingual delegates. Sport Canada provided a translation service to support the Games Secretariat and, *Journal Canada*, providing daily schedules and latest results, was published simultaneously in English and French during the competitions. All in all, a great improvement over the Nagano Olympics.



MANITOBA GOVERNMENT

In Saint-Boniface, the tripartite Centre de services bilingues opened its doors in the spring of 2002. It is the result of co-operation between the federal and provincial governments and the City of Winnipeg and brings together under one roof some 30 employees from all three levels of government to provide a broad range of services and programs in both official languages. Two additional such centres are to open shortly in other regions of Manitoba.

Wherever feasible, this partnership between the various levels of government and an official language minority community deserves to be replicated in other provinces and territories, in order to improve delivery of service in the minority language.



SASKATCHEWAN JUSTICE DEPARTMENT

In 2002, in response to recommendations made by the Association des juristes d'expression française de la Saskatchewan (AJEFS), Saskatchewan's Justice Department appointed an additional bilingual judge to the Saskatchewan Provincial Court. Also, the Department announced that it was prepared to consider AJEFS' recommendation that a bilingual circuit court be created.



CITY OF WINNIPEG

Some 30,000 residents of Winnipeg are French-speaking and 11% of the city's residents are bilingual. In 2001, the City decided to enhance its language policy by introducing a program to offer municipal services actively in English and French in three neighbourhoods: Saint-Boniface, Saint-Vital and Saint-Norbert. Certain positions were identified as bilingual, and one municipal councillor was given responsibility for the program. The City also decided to participate in a program to co-ordinate delivery of federal, provincial, and municipal services in both official languages.

Winnipeg's exemplary leadership should inspire all cities wishing to offer services in the language of their official language minority community.



BELL CANADA

In the spring of 2002, Bell Canada agreed to a request by the Toronto chapter of the Association canadienne-française de l'Ontario and the Commissioner to re-establish directory assistance (411) service in French in the Toronto area; this service had previously only been offered on a trial basis. This corporate decision is particularly noteworthy since Bell Canada went even further, extending this service across Ontario.

APPENDICES

APPENDIX A - LIST OF RECOMMENDATIONS

RECOMMENDATION 1

The Commissioner recommends that the government draw up its action plan on official languages without further delay and allocate the funding required to implement measures set out therein.

RECOMMENDATION 2

The Commissioner recommends that the Prime Minister give the Ministerial Reference Group on Official Languages the status of a permanent committee, in order to stimulate leadership at the highest levels and to support implementation of the action plan on official languages.

RECOMMENDATION 3

The Commissioner recommends that the government clarify the legal scope of the commitment set out in section 41 of the *Official Languages Act* and take the necessary action to effectively carry out its responsibilities under this provision.

RECOMMENDATION 4

The Commissioner recommends that the Clerk of the Privy Council maintain official languages as one of the federal administration's strategic priorities for a further three-year period, and make this a compulsory priority for all Deputy Ministers who have exhibited delays in implementing the Official Languages Program in their institutions.

RECOMMENDATION 5

The Commissioner recommends that the federal government allocate adequate resources to ensure that the Treasury Board Secretariat can fully exercise its role in supervising and evaluating federal institutions.

RECOMMENDATION 6

The Commissioner recommends that the government ensure that legislation and policies adopted as a result of the human resources management modernization exercise help achieve the objectives of the *Official Languages Act*.

RECOMMENDATION 7

The Commissioner recommends that Citizenship and Immigration Canada develop support programs to implement the language provisions of the new *Immigration and Refugee Protection Act*. By means of concrete, verifiable action, these programs must promote official language minority communities abroad and help them to improve their ability to receive immigrants.

APPENDIX B - REGIONS DESIGNATED BILINGUAL FOR THE PURPOSES OF LANGUAGE OF WORK IN ONTARIO AND QUEBEC

Federal public servants have the right to work in the official language of their choice **in all regions of New Brunswick**, as well as in certain areas of Ontario and Quebec. The Treasury Board Secretariat maps opposite show specifically which areas of Ontario and Quebec are designated bilingual for the purposes of language of work.

(NCR = National Capital Region)



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