

**Access to justice in English  
in the District of Montreal**

**Standing Committee  
Status Report**



**(Translation)  
To the  
Bar of Montreal**

**FEBRUARY 2007**

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## ○ **Introduction**

The present Report has been prepared by members of the "Standing Committee on Access to Justice in the English Language of the Bar of Montreal" (the "Standing Committee"). Its purpose is to present a finding as to the status of services offered in the English language in the Judicial District of Montreal, being the territory of the Bar of Montreal.

A history of the Bar of Montreal's approach on this subject is presented first. This is followed by a determination of the status of the situation relative to judicial services and the Courts of Justice, cooperation with the Quebec Board of Notaries and the role of the Bar of Montreal.

The Standing Committee sincerely thanks all those who assisted and actively collaborated in the review and revision of this Report, and, more particularly, the permanent staff of the Bar of Montreal.

## ○ **History of this Committee of the Bar of Montreal**

The Standing Committee of the Bar of Montreal, whose task has been to inquire into the linguistic situation in the administration and access to justice in the English language developed in three stages.

### i. Ad Hoc Committee on Access to Justice in English in the District of Montreal

On January 10, 1994, at a Special Meeting of the Council of the Bar of Montreal, (hereinafter the "Council"), under the chairmanship of bâtonnier, Casper M. Bloom, Q.C., a Resolution was adopted to create an Ad Hoc Committee on Access to Justice in English in the District of Montreal. This Committee consisted of the following persons: the Honourable Alan B. Gold, President, Mes Bernard Amyot, J. Arclen Blakely, Q.C., Paul P. Carrière and Pierrette Rayle.

It was agreed that the administration and access to justice in both the English and French languages has always been guaranteed in the District of Montreal. The mandate of the Standing Committee consisted of four elements:

- A. To study the problems of access to justice in relation to the insufficiency or lack of services in the English language and report on this question;
- B. To describe the particular problems relative to the insufficiency or absence of services in the English language;
- C. To evaluate the gravity of the impact of these problems on the judicial system and the administration of justice in the District of Montreal;
- D. To propose remedies or reforms, if necessary.

On March 31, 1995, the Committee submitted its Report to bâtonnier Jean-Jacques Gagnon. Forty-four (44) recommendations were formulated in this document, referred to as the "Gold Report", named after the President of the Ad Hoc Committee.

ii. Follow-up Committee on Access to Justice in the English Language

Upon recommendation of the Special Committee of the Council mandated to study the recommendations of the Gold Report, and after consultation with different liaison committees, at its September 18, 1996, meeting, under the chairmanship of bâtonnier Richard J. McConomy, the Council adopted a Resolution inviting the appropriate bodies to implement thirty-seven (37) of the forty-four (44) recommendations of the Gold Report. (These recommendations are annexed hereto as Schedule A)

During the January 15, 1997, meeting of Council, it was resolved to create a follow-up committee on Access to Justice in the English Language, (hereinafter referred to as the "Follow-up Committee"), which would follow up on the thirty-seven (37) recommendations of the Gold Report accepted by Council of the Bar of Montreal on September 18, 1996.

At its March 19, 1997, meeting, Council formed the Follow-up Committee and designated the following persons as members: Bâtonnier Pierre Sébastien, Q.C., Chairperson, Mes Catherine Duff-Caron, Allan R. Hilton, Michel A. Pinsonnault and Alan M. Stein. The Committee took into consideration, among others, reports produced in reply to the Gold Report, namely, the October 10, 1995, report of the Committee on Access to Justice in the English Language of the Superior Court of Quebec, the report presented to the Administrative Committee of the Bar of Quebec, January 23, 1997, entitled, " Supply and Demand of Services in the English Language at the Bar of Quebec or the Respect of Linguistic Rights at the Bar of Quebec", and gathered and commented on any relevant information, as necessary.

On May 15, 1998, the Follow-Up Committee delivered its report to Bâtonnier Ronald Montcalm, Q.C., (hereinafter referred to as the, "Follow-up Committee Report"). (The recommendations of this Follow-up Committee are annexed hereto as Schedule B).

During the July 16, 1998, meeting, the Council's Special Committee on Access to Justice in the English Language, chaired by Me Lynne Kassie, after having studied the Follow-Up Committee Report, recommended that the Council create and form a Standing Committee on Access to Justice in the English language.

iii. Standing Committee on Access to Justice in the English Language

On the recommendation of this Special Committee, the Council, at its October 28, 1998, meeting, created the Standing Committee on Access to Justice in the English Language, (hereinafter referred to as the, "Standing Committee").

On February 24, 1999, Council named the Honourable Lawrence A. Poitras, Q.C. Chairperson and Me Casper M. Bloom, Q.C. members of the Standing Committee.

At its April 21, 1999, meeting, on the recommendation of the Honourable Lawrence A. Poitras, Q.C., the Council appointed the other members of the Standing Committee for 1999-2000, in addition to the Hon. Lawrence A. Poitras, Q.C. and Me Casper M. Bloom, Q.C., already named at the February 24, 1999, meeting. The 2006-2007 members are:

Mes Casper M. Bloom, Q.C. and Gérald R. Tremblay, C.M., O.Q., Q.C, (Co-Chairpersons), Nancy Boillat, Leslie B. Erdle, Barry Landy, Doris Lévesque, Zavier Levine, Michael D. Levinson, Anne-Marie Morel, the Honourable Lawrence A. Poitras, Q.C., Isabel J. Schurman, Cathie St-Germain, the Honourable Antonio Discepola, Judge, Montreal Municipal Court, the Honourable Robert Mongeon, J.S.C., J.J. Michel Robert, C.J.C.A. the Honourable Joel Silcoff, J.S.C., Juanita Westmoreland-Traoré, J.C.Q. and Madame le bâtonnier, Me Julie Latour.

The first meeting of the Standing Committee, under the Chair of the Honourable Lawrence A. Poitras, Q.C. , was held on September 15, 1999.

Basically, the mission of the Standing Committee is to ensure access to Justice in the English language for all persons who have such right before all judicial, quasi judicial or administrative bodies that hold hearings in the territory served by the Bar of Montreal. In fact, the Standing Committee expanded its jurisdiction to all situations which could prejudice access to justice in the English language, regardless of whether or not they were contemplated in the recommendations of the Follow-up Committee or the previous Gold Report.

In this respect, the Standing Committee was directed to examine all of the factual and legal situations which could affect or promote such access so as to preserve the rights of individuals and ensure the cultural enrichment of the entire Quebec population, through the maintenance of an efficient bilingual legal system at all applicable levels.

During 2002-2003, the Committee produced an overview of the steps taken since its creation so as to identify the existing problems and to make the necessary representations to the Minister of Justice of Quebec. A Report was produced and delivered to the Minister in February 2004.

Things have evolved since 2004, but there is still work to be done. For this reason, in 2006-2007, the Standing Committee decided to update the February, 2004, Report to continue its discussions with the Minister of Justice of Quebec and to inform those who have been inquiring for the past several years on the status of the situation with respect to access to justice in the English language in the Judicial District of Montreal.

#### ○ **Status of the Situation**

In March 2003, a first Status Report was prepared by making a synthesis based essentially on the Reports of the Standing Committee describing the factual situation of administrative and procedural steps relative to access to justice in the English language in the District of Montreal since April 8, 2002. These documents summarize meetings with the Directors of the Judicial Services and the Members of the Bench responsible for the different Judicial, Municipal and Administrative Courts. The relationships with the Quebec Board of Notaries and the role of the Bar of Montreal were also discussed.

The 2003 Report was delivered to the various courts and bodies mentioned therein for their comments, so as to ensure that the information contained therein was correct. The comments obtained permitted an updating of the Report.

In November 2006, the Report addressing the status of the situation as of February 2004 was submitted again to the various courts and the bodies mentioned therein for their comments, and to verify the accuracy of the information contained in the Report.

## **1. Judicial Services**

### **1.1 Municipal Court of the City of Montréal<sup>1</sup>**

The Municipal Court of the City of Montréal has undergone important changes since the merger of cities on the island of Montreal (Bill 170), and the re-constitution of certain municipalities (Bill 75). A new Court emerged from the re-grouping of the twenty-three (23) old Municipal Courts on January 1, 2002. The re-organisation took place during 2002 and the structure adopted by the Municipal Administration was put in place on January 1, 2003. The Municipal Court of the City of Montréal now has six (6) service centers in addition to its headquarters to serve Montreal's population. At the time of the merger, the Municipal Court was subject to *An Act respecting municipal courts* and, in judicial matters, to the authority of the Assistant Chief Justice of the Court of Quebec responsible for Municipal Courts, the Honourable Gilles Charest, and of the Chief Justice of the Municipal Court of the City of Montréal, the Honourable Pierre Mondor. As of January 1, 2006, following the re-constitution of 15 municipalities on the Island of Montreal, the Municipal Court is under the jurisdiction of the Agglomeration for which the City of Montreal is responsible. The Court exercises its jurisdiction in penal, criminal and civil matters for all of the municipalities of the Montreal Agglomeration.

#### **1.1.1 Client Service**

Insofar as the management of penal and criminal services is concerned, there is no doubt that citizens are served in both languages. Citizens receive services in English or in French from customer services located at the service counters at Court as well as at call centers. In fact, several employees are of different ethnic origins and, frequently, citizens receive services in Créole, Vietnamese, Spanish, etc., in addition to the two official languages.

Certain factors have contributed to the re-balancing of the linguistic strengths and weaknesses of the client services at the Municipal Court, notably, the integration of employees of the old Municipal Courts (suburbs of the Island of Montreal), as well as the increasing importance of knowledge of spoken and written English in the job description of agents in customer service. Candidates who have experience in English and French are preferred at the time of hiring.

At the option of an individual, telephone service and information are offered in both languages.

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<sup>1</sup> Updated from information contained in an October 2, 2003, letter from Me Suzanne Jalbert, Director of Legal Services of the City of Montreal addressed to Me Casper M. Bloom, Q.C. and updated by Me Yves Briand, Director of Penal and Criminal Affairs in January, 2007.

### **1.1.2 Courtroom Clerks and Deposition of Witnesses**

During its first verifications, the Standing Committee learned that the courtroom clerks at trials were, for the most part, unilingual French. Some of them were able to work in the English language and agreed to speak English when necessary to properly serve Defendants who wanted their trials to be conducted in English. The City advised that it could not require competence in the English language as a condition of employment under the *Charter of the French language*.

Over the past few years, courtroom clerks have offered English-speaking witnesses the right to take a solemn affirmation and to testify in English. However, the minutes of the hearings of the Municipal Court are generally drafted in French.

At the hiring of some twenty new trial clerks in 2003, based on equal ability, the employer granted preference to candidates possessing a knowledge of the English language. The level of bilingualism in this service has accordingly increased considerably, thereby permitting it to respond to clients' requests. Moreover, in the January 2007 hiring process for 10 new courtroom clerk positions, the candidates hired were required to pass an exam to demonstrate their general knowledge of the English language.

The Municipal Court complies with its constitutional obligations in ensuring the presence of qualified interpreters at all levels of the judicial process when required. A French-English interpreter is permanently present at the chief-place of the Court and always available for the hearings.

### **1.1.3 Prosecution**

Attorneys acting as prosecutors in the Municipal Court of Montreal have a sufficient knowledge of the English language to accomplish their tasks adequately. Conscious of the changing demographics of Montreal society, Municipal Court management has made efforts to reflect these changes in the hiring of new attorneys. Thus, each candidate's knowledge of the English language is verified and taken into consideration in the selection process. This process is followed for each hiring and is presently reflected in the level of bilingualism in the team of prosecutors.

Prosecutors have access to a refresher course allowing them to obtain a financial contribution from the Ville de Montreal for the payment of school fees for various courses related to their employment. Learning English is included in this program.

### **1.1.4 Documentation**

All Municipal Court forms for Defendants and/or alleged violators in penal and criminal matters are bilingual. These forms also include copies of Motions in Revocation of Judgment and for Reduction of Court Costs, as well as necessary documents for the conclusion of payment agreements by way of installments and for doing compensatory work.

Correspondence is sent in French or in English according to the language used by citizens when communicating with the Court.

For the territory of Montreal infraction notices used for parking purposes are bilingual. However those used for traffic infractions include an English copy.

All official Municipal Court communications, such as information folders, are updated annually and are distributed in both languages. The official website of the City of Montreal contains a heading for the Municipal Court and this site is accessible in both languages. The Municipal Court now has two entirely bilingual sites, namely, a site for payment of infractions and a site for obtaining dates for penal hearings.

## **1.2 Judicial Services in the Metropolitan Region<sup>2</sup>**

### **1.2.1 Client Services**

In each of the Civil Services (Judgments, Commercial Division, Special Clerks, Small Claims, Civil Records, Rolls, Judicial Archives), there is English-speaking personnel able to reply at the counter or on the telephone.

The employees of the Clerk's Office of the Court of Appeal, for their part, are able to give information in both languages.

At Small Claims Court, if the Plaintiff wants to have his procedure in English the technician will ask him, if he isn't bilingual, to write down the details which he will re-transcribe afterwards. Email of the Small Claims Division is available in English and in French.

In family matters and in non-contentious proceedings by default, judgments are rendered in the language of the file (that is to say the language of the introductory motion). Notwithstanding the statements of representatives of Judicial Services, the Standing Committee has been informed that the judgments in proceedings by default in civil matters are rendered in the language of the draftsman, even if the draft of the judgment was submitted in the English language.

Notices of Hearing are only in French. In the Small Claims Division, if a request is made to the Master of the Rolls, the Notice will be sent in English. It is possible that unilingual French notices have been sent to the United States (in the same manner as procedures received from the United States or other provinces are generally unilingual English). At the Youth Court, the Notices of Hearing are available in French and in English for delinquency, protection and statutory matters.

### **1.2.2 Court Personnel**

#### **1.2.2.1 Superior Court Judges' Secretaries**

Over the past several years, newly-appointed judges have worked in both languages and required bilingual secretaries. According to the Department of Justice, approximately 65% of Quebec Superior Court judges' secretaries are bilingual. Members of the Standing Committee question this statement as it conflicts with daily experience. In a

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<sup>2</sup> Updated from information contained in a document transmitted on April 26, 2006 by e-mail from Me Veronique Hivon to Me Casper M. Bloom, Q.C.

November 14, 2006, letter addressed to the Co-Chairmen of the Standing Committee, the Chief Justice of the Superior Court, the Honourable François Rolland expressed the same reservations. He wrote: "In paragraph 1.2.2 of the Report, we would be surprised if 65% of the secretaries have a sufficient knowledge of spoken and written English. In this sense, they cannot be considered bilingual."

A protocol between the Superior Court and the Minister of Justice requires the presence of judges' secretaries in court as trial courtroom clerks. As one can see from the information contained in the preceding paragraph, the information concerning the level of bilingualism of secretaries is contradictory. Thus, problems surrounding the unilingualism of the clerks are now accentuated. It is necessary that relevant authorities be informed that, given that judges' secretaries are now acting as courtroom clerks, it is important that they be bilingual. Members of the Standing Committee are of the opinion that a trial cannot be properly conducted in English if the clerk does not understand the language. It is necessary that this problem be brought to the attention of the Minister of Justice.

The official hiring policies can be derogated from in the hiring of judges' secretaries by not applying official aptitude requirements. However, this could have the effect of favouring secretaries who master English.

Moreover, the management of Judicial Services submits that there is no budget linked exclusively to linguistic training, but, instead, a portion of its overall budget for training of Human Resources may be utilized to offer courses in English to Judges' secretaries. The amounts invested to this end will vary according to the various training needs discovered, whether in computerization, management or other matters.

#### **1.2.2.2 Court of Quebec Judges' Secretaries**

At the Court of Quebec, bilingualism is considered an asset rather than an obligation.

The majority of newly-appointed judges are bilingual. However, few judgments are rendered in English.

Secretaries who have been with the Court for a long time are familiar with legal terms. The English language is especially necessary in Small Claims files because secretaries must swear in the parties and witnesses, who often speak English.

According to the Minister of Justice, approximately 50% of the secretaries of the Court of Quebec, Civil Division, are bilingual. The Standing Committee has serious reservations as to this statement.

In the Criminal Division, judges require bilingualism where a secretary is replaced. However, in this Division, while few judgments are drafted, judges may communicate orally with English-speaking persons.

We add that the above noted derogation with respect to the hiring of Superior Court judges' secretaries, as well as the availability of English language courses also exists for Court of Quebec judges' secretaries.

### **1.2.2.3 Courtroom Bailiffs of the Superior Court**

In autumn 2005, courtroom bailiffs received specific and general training on the use of different forms in both English and French, in the context of their courtroom functions. Even if a few among them experience difficulties with their English pronunciation, they may refer to the Superior Court Bailiff's Manual which contains adequate forms in both languages, including what to do, if necessary, in addressing English language witnesses.

Bilingualism, or at the very least, the possibility of expressing themselves adequately in English, is one of the criteria taken into account in recruiting new courtroom bailiffs. When they begin working, courtroom bailiffs receive a Courtroom Bailiff Manual as well as English and French forms for use in hearing rooms. A scenario for welcoming the witnesses in both languages is also set out. During the recruiting process, candidates have to reply to questions put in English, so as to verify their English pronunciation. At Superior Court, judges often require bailiffs to be perfectly bilingual or at least to understand witnesses when they express themselves in English. Bilingual bailiffs will be provided where required.

### **1.2.2.4 Courtroom Bailiffs of the Court of Quebec**

Some courtroom bailiffs are bilingual. However, to date, no judge of the Court of Quebec has required that a courtroom bailiff be bilingual. In fact, bilingualism is not a hiring criterion. In autumn 2005, all the bailiffs received the same training as those of the Superior Court, adapted, however, to the needs of the Court of Quebec.

## **1.2.3 Courtroom Clerks and Judicial Secretaries at the Hearing and deposition of witnesses (Civil Division)**

### **1.2.3.1 Swearing in of Witnesses**

A trial clerk or judicial secretary asks the witness if he or she wishes to be sworn in English or French and swears the witness in according to the expressed preference. The clerk then asks the witness to identify himself or herself: name, age and address and then addresses the person in English if this has been the choice.

Training courses are given systematically every year to all new clerks.

### **1.2.3.2 Minutes**

In general, the minutes of a hearing before the Superior Court are drafted in French unless the Judge gives special instructions to do so in English.

The parties to the proceeding and the title of the proceeding are written in the minutes in English, if the proceeding is already drafted in English. Verbal amendments and admissions are noted in English in the minutes if dictated in English. The clerk requests attorneys to verify the dictated text and to affix their initials

If the trial is in English the identification of exhibits is in English, where the attorney has so identified the exhibits.

When a judgment is rendered from the bench in English, the Clerk writes the judgment in English and the judge re-reads it and signs it, in the same manner as if rendered in French.

#### **1.2.4 Courtroom Clerks and Deposition of Witnesses (Criminal Division)**

Management of Metropolitan Region Services has not hired permanent clerks for some time. Taking into account departures due to retirement, it is fair to predict that within the next few years the trial support service at the Montreal Courthouse will consist solely of temporary personnel.

In the Criminal Division of the Court of Quebec, knowledge of English is verified at the time of hiring of temporary clerks in light of the clientele that they will be serving. The employer, however, picks from a pool of candidates and sometimes the urgency of the situation and the procurement process has an impact on the employer's selection.

Generally, the majority of the current personnel manage in English and the services are offered in both languages as well as can be expected.

As to the assertion that the clerk informs the witness of his or her right to testify in English or in French, such practice is not applied in criminal matters. When witnesses are summoned by the Crown the latter specifies if the witness will testify in English or in French, with the assistance of an interpreter, if necessary.

In criminal matters, the costs of interpreters are borne by the Minister of Justice. In civil matters, it is the party who requires them who bears the cost.

##### **1.2.4.1 The Minutes**

All minutes are drafted in French. Copies of the originals may be sent to the United States. The computerized minutes are also drafted in French. When a person must transmit information to another country, he must request the translation of the document.

In the Youth Division of the Court of Quebec, in Montreal, counter personnel are able to respond in English to customers as are courtroom clerks. A good knowledge of English is an added advantage for the clerks at the time of hiring, although it is not a requirement that they be bilingual.

Members of the Standing Committee are of the opinion that trial minutes should be available in English for English-speaking individuals. It appears that if the Judge so orders, a translation will be made at the government's expense. In criminal matters, English-speaking individuals have a right to obtain the translation of all relevant documents.

#### **1.2.5 Language of Work**

Generally, the courtroom clerk only communicates with the parties or the witnesses at the swearing in, identification and indemnification of witnesses and respecting questions of accessibility to the minutes following judgments rendered from the bench.

The present personnel hired as judicial secretaries or courtroom clerks are sufficiently functional in the English language to fulfill the different tasks related to their office.

More particularly, four (4) of the judicial secretaries are perfectly bilingual. On the other hand, of a total of fifty temporary courtroom clerks, the majority can get along in both languages and only a few experience certain difficulties in drafting in English. In these cases, the coordinator of the Service affords them a more supportive supervision.

On the other hand, when a trial proceeds only in English and there is a request for a perfectly bilingual clerk, the coordinator makes a change in personnel, where necessary.

Generally the understanding of the second language and the capacity to draft in English are verified without constituting a hiring requirement. On the other hand, certain situations may exist, in English or in French, where, due to the complexity of the trial, it is necessary to have more experienced personnel. In such cases, personnel are chosen accordingly.

In the context of the training and development of its personnel, Judicial Services management of the Metropolitan area has an annual budget for English language training courses for its clerks as well as for its management staff.

#### **1.2.6 Documentation**

Certain forms are available in English: *Safeguard Order*, *Consent to Psychosocial Evaluation*, *Order for Psychosocial Evaluation*, *Order of Communication of Records*, as well as computerized divorce and separation judgments. Since 2004, certificates of divorce are automatically drafted in the language of the judgment. Until 2004, such certificates were only drafted in English by request. With respect to a subpoena, it is the responsibility of the attorney or the party who sends it.

#### **1.3 Personnel of the Court of Appeal**

Court of Appeal personnel have access to English language courses and several have taken advantage of this opportunity, which is, however, on a voluntary basis. As he has the management of his budget, the Chief Justice of Quebec has made English language training a priority of the Court.

#### **1.4 Register of personal and movable real rights**

There does not seem to have been any follow-up on the January 1998 request by the Follow-Up Committee for the translation of forms as well as the development of a guide for the utilization of forms relative to the Register of Personal and Movable Real Rights (“RDPRM”). Moreover, the information contained on the internet site of the RDPRM as well as the consultation procedure are not available in English. The RDPRM does offer, however, the possibility of downloading the English version of information documents which answer most-frequently-asked questions and invites citizens to call the Client Services Department for service in English.

## **2. The Courts of Justice**

### **2.1 Quebec Court of Appeal <sup>3</sup>**

All Court of Appeal judges are bilingual. Attorneys before the Court of Appeal are generally invited to express themselves in the language of their choice. Judgments are rendered in the language chosen by the judges. Nevertheless, a party can obtain a translation within a short delay and without cost.

The Court Rules are bilingual. Notices from the Chief Justice are also bilingual. Roles are in French, but they are easily understandable given the information therein.

Notwithstanding the Chief Justice's intentions in this regard, the Court of Appeal does not yet have a permanent translation service. Translation mandates must therefore be given to SOQUIJ (Société québécoise d'information juridique) to translate decisions of national importance or to other translators with a view to making the Court of Appeal website bilingual. Nevertheless, to avoid inconsistencies, the review of translations of Court decisions is required. Certain judges of the Court of Appeal are actually doing this work in addition to carrying their normal work load. It is important for the Court of Appeal to have an additional budget for hiring legal translators where necessary.

### **2.2 Superior Court of Quebec**

The Superior Court judges practising in the Appeal Division of Montreal are bilingual and have no difficulty hearing cases whether they are in French or in English.

It is this Court's custom to render judgments in the language of the losing party where possible. At the beginning of 2000, the Honourable Lyse Lemieux, when she was Chief Justice, implemented a system of assistants. English and French speaking judges are made available to assist their colleagues in the drafting of judgments in the other language. In this manner, parties have a better understanding of decisions susceptible of affecting them. Moreover, English courses are offered by the National Judicial Institute to judges named by the Federal Government.

Notices and directives emanating from the office of the Chief Justice or Associate Chief Justice are bilingual.

There is no problem of access to justice in the English language in the Commercial Division of the Superior Court. In fact, judges and, generally, the clerks and employees of the Clerk's office, are bilingual.

### **2.3 Court of Quebec**

It appears that a good number of the attorneys appointed judges to the Court of Quebec (and this includes judges of the Civil, Criminal and Penal and Youth Divisions), are bilingual. On the other hand, the majority of judgments rendered in civil matters are

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<sup>3</sup> Updated from information contained in the December 19, 2006 letter of the Honourable J.J. Michel Robert, Chief Justice of Quebec, addressed to Me Casper M. Bloom, Q.C. and Me Gerald R. Tremblay, C.M., O.Q., Q.C.

drafted in French. In effect, few judges render their judgments in the language of the losing party where that party is English-speaking. The situation is different in the Criminal Division where the judges very often render their judgments orally in English if that is the language of the accused. In certain cases, they have recourse to the services of interpreters.

Contrary to judges appointed by the Federal Government, the Government of Quebec does not pay for English-language courses for the judges that it appoints. On the other hand, up until very recently, the judges have had access to English-language courses offered through the Office of the Commissioner for Federal Judicial Affairs, financed, in part, by the Québec Judicial Council and the Federal Government. This practise however could come to an end on March 31, 2007, if the Federal Government does not provide adequate financing for this purpose.

A good number of secretaries can carry out their work in English, if required. Moreover, notices coming from the Associate Coordinating Judge of the Civil Division of Montreal are drafted in both languages.

Moreover, notices of postings calling for applications for the position of Judge are now published in both official languages.

Equally, in certain regions, such as Greater Montreal, the posted notice for candidates, specifies that attorneys seeking the posts must be proficient in both languages.

Moreover, the Court of Quebec has concluded an agreement with SOQUIJ concerning the translation of certain judgments of interest rendered by judges of the Court. Under this agreement, SOQUIJ has undertaken to translate a certain number of judgments rendered in civil, youth and criminal matters each year. These texts are available in English throughout Quebec, Canada and elsewhere in the world via the internet. Since the signature of the agreement, twelve judgments of particular interest have been translated and rendered accessible, while nine are actually in the process of translation.

A document, entitled *Being a Judge in the Court of Quebec*, has been prepared for English-language citizens.

### **2.3.1 Small Claims Division**

With respect to the Small Claims Division, the Legal Consultation service, offered by the Young Bar Association of Montreal and the Bar of Montreal provides a source of information on the use of language before the Court. In fact, the language of the procedure is that of the person who initiates the judicial process. This situation can, however, lead to Defendants being condemned by default. On the other hand, motions are drafted in English by Clerk's Office employees and so presented to the Judge.

## **2.4 Municipal Court of Montreal**

The great majority of its judges are at ease in both languages. In practice, the knowledge of English is a condition precedent to the appointment of a Municipal Court judge. Moreover, judges who request it are encouraged to participate in language courses given under the auspices of the National Judicial Institute. Although the use of the English

language is not always perfect, judges of this Court make it their duty to render judgments in the language of the Defendants.

## **2.5 Federal Court**

There is no problem of access to Justice in the English language. On the contrary, some judges cannot preside over a trial in French.

## **3. Administrative Courts**

### **3.1 Administrative Tribunal of Quebec (TAQ)**

#### **3.1.1 Its Origins**

The Administrative Tribunal of Quebec (TAQ) was created by *An Act respecting administrative Justice* enacted by the National Assembly on December 13, 1996, and has been functioning since April 1, 1998.

At the outset, the TAQ integrated five administrative courts. It replaced the Commission des affaires sociales, the Commission d'examen des troubles mentaux), the Bureau de revision en immigration, the Bureau de revision de l'évaluation foncière as well as the Tribunal d'appel en matière de protection du territoire agricole. It also assumed certain jurisdictions previously in the jurisdiction of the Court of Quebec.

It also exercises a host of new jurisdictions divided between different sections of the Court, and, in particular, with respect to economic matters.

#### **3.1.2 Its mission and function**

The TAQ's function, in matters within its jurisdiction as set out in *An Act respecting administrative Justice*, is to rule on recourses against decisions rendered by the Public Administration (Ministries, Boards, Commissions, Municipalities) and to set indemnities in expropriation cases. It also acts as a review board for the Commission d'examen des troubles mentaux. More precisely, it is the forum where the citizen will exercise his or her rights against any decision made by the Public Administration or where his or her freedom is restricted as a result of a mental health problem.

#### **3.1.3 Its Organisation**

The TAQ is a unique institution in the realm of administrative justice. In effect, more than one hundred types of administrative decisions are susceptible of forming the object of a recourse before this tribunal, to such a degree that the examination of these recourses is assigned by the Act to the specialized divisions of the Court, that is, the social affairs section, the immovable property section, the territory and environment section and the economic affairs section.

The TAQ has more than one hundred members named at the pleasure of the government. They exercise their functions as administrative judges. They hold hearings and render reasoned decisions.

They also act as conciliators and, as such, when the parties have reached an agreement which has been signed by one of the members, the agreement becomes executory as a Decision of the TAQ.

In support of its members, the TAQ has a Secretarial service with an office in Quebec and another in Montreal, as well as an operational and administrative support service grouped into five sectors under the authority of the President.

### **3.1.4 The Linguistic Policy**

The TAQ has adopted a policy to implement the application of the *Charter of the French language* in its activities, taking into account its mission and its particular characteristics. In several aspects, this policy reflects the rules already in effect at the TAQ in this matter.

#### **3.1.4.1 The Language utilized in recourses and proceedings**

Every person before the TAQ may use French or English in all proceedings.

The TAQ makes available to all citizens an English version of the form “*Motion Introductive of Suit*”. Where this Motion is completed in the English language, procedures have been put in place at the Secretariat so that all correspondence from the TAQ will be accompanied by an English translation. This is the case for notices of hearings, the back side of which also contain information related to the unfolding of the hearing.

A second form, *Subpoena* is available to the clientele in English and French.

At any stage of the proceedings, a party may ask that written communications be made in English.

During the hearing, a party or a witness before the TAQ may express himself or herself in English or in French. Most of the members can hold a hearing in English. However, it is up to the members assigned to hear a matter to evaluate, when they receive a given file, if their knowledge of English is sufficient to hear the matter. If this is not the case, they can request the Vice-Chairperson to replace them by members who have no difficulty holding hearings in English.

If parties cannot follow the proceedings because they do not understand or speak the language used, they are entitled to an interpreter at their cost. If this is the case, the hearing will be postponed and the parties re-convened at a new date. For files within the jurisdiction of the Commission d'examen des troubles mentaux such costs are borne by the TAQ.

All decisions rendered by the TAQ can be drafted in English or in French. Generally these are done in French. A decision may be translated at the request of a party, in which case the TAQ bears the costs.

### **3.1.4.2 The Language of Communication with the Public**

#### **3.1.4.2.1 Verbal Communications**

At its Montreal office, the TAQ provides the services of three information clerks to respond to requests either by telephone or at the counter for information or for assistance in drafting proceedings. Their knowledge of English is excellent.

The same situation exists for the two employees who greet parties and witnesses in the hearing rooms and for the three courtroom clerks acting during the hearings.

#### **3.1.4.2.2 Written Communications**

All automatically generated correspondence (ex: letters of acknowledgment, letters accompanying Decisions of the TAQ etc.) is available in English.

All brochures are available in English (there are currently seven) and are transmitted with an acknowledgment of receipt, (in English if the petitioner has filed a motion in English or has so requested).

The TAQ internet site contains an English version of its brochures.

### **3.1.4.3 Rules of Procedure, Directives and Communications**

The TAQ Rules of Procedure became effective January 1, 2000. They are available, on request, in English or French. Communications and directives sent by its Chairperson are in French.

### **3.1.4.4 Other Considerations**

Members of the Bar can assist the TAQ in identifying the needs of parties and witnesses:

- by indicating on the motion that the language utilized in the procedure and at the hearing will be English;
- by informing the Chairperson at the preparatory conference or the management conference that the language to be utilized at the hearing will be English;
- by informing the Chairperson of the hearing that the decision has to be translated in English if it is rendered in French.

## **3.2 Commission des lésions professionnelles (CLP)<sup>4</sup>**

### **3.2.1 Its Mission**

Under Article 369 of the *Industrial accidents and occupational diseases Act*, L.R.Q. c. A-3.001 (LATMP), the CLP has exclusive jurisdiction to examine and dispose of contestations of decisions rendered by the Commission de la santé et de la sécurité du travail (CSST) following administrative revisions. The CLP currently deals with more than 20,000 contestations per annum.

Given the large number of files which it is called upon to deal with and considering the importance of the interests at stake, the CLP is doubtless one of the most important administrative tribunals in Québec.

The CLP's mission takes into account the objectives and spirit of the LATMP:

- To offer its clientele, employees and employers, the possibility of exercising their rights before an independent, equitable and accessible body;
- To hear the parties, reconcile their interests and, as the case may be, to dispose of their recourses with diligence and within the framework of their fundamental rights.

### **3.2.2 Its Management**

The CLP President heads the administration and management of the CLP. She can delegate all or part of her attributed jurisdiction to the Vice-Presidents or to a Commissioner responsible for the administration of a Regional Office (coordinating Commissioner). The designation of a Coordinating Commissioner is made by the President.

### **3.2.3 Linguistic Policy**

#### **3.2.3.1 Generalities**

Since its creation on April 1, 1998, the CLP applies the linguistic policy of the Politique linguistique de la Commission d'appel en matière de lésions professionnelles. This policy was entirely reviewed in 2002. Since November 5, 2002, the CLP has a language policy which makes known to its members and its personnel the manner in which the *Charter of the French language* applies to its activities. The CLP President is responsible for the application of the Policy. To this end, she is counseled by a committee of four persons.

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<sup>4</sup> The text of this Chapter has been prepared by the Politique linguistique de la Commission d'appel en matière de lésions professionnelles (CLP) at the request of the Standing Committee. It was transmitted to the Director General of the Bar of Montreal, Me Doris Larivée on June 27, 2003, by Me Micheline Bélanger, President of the CLP. Me Bélanger completed the information by November 8, 2006, letter addressed to the Director General.

This Policy has four major points:

1. The language used in the affairs of which the CLP is seized and in the procedures that flow therefrom;
2. The language of the administration;
3. The language of work;
4. The quality of the language.

Only the first two require a few comments for purposes of this Report.

### **3.2.3.2 The language used in the affairs of which the CLP is seized and in the procedures that flow therefrom.**

The relevant provisions of the Policy can be summarized as follows:

- A physical person may use French or English while participating in a hearing before the tribunal, or in drafting the proceedings required for his file.
- A physical person has the right to obtain an English version of the available CLP standard forms. The following forms are available in English: Certificate of Non-Contestation, Summons to Appear, Confirmation of Attendance and how to request the Postponement of a Hearing. All the standard forms will eventually have an English version.
- All CLP decisions, even those which include a Conciliation Agreement, are drafted in French or in English, according to the choice of the decision's author.
- When a party requires it, the CLP provides at its cost an English or French translation of the decision rendered.
- The translation is made by the translation service of the Centre de services partagés du Québec of the ministère des services gouvernementaux. The delay required for translation varies with the urgency of the request and the length of the document to be translated. The average time for a translation is between two days and two weeks.

### **3.2.3.3 The Language of the administration**

The provisions relating to the language of the administration apply to written as well as to verbal communications. These provisions apply to communications other than those relating to proceedings.

The most important element to mention here is that the person who addresses the CLP in English will receive a reply in English. More than 80 standard letters emanating from the CLP exist in French and English. All standard letters will eventually have an English version.

The second element to note is that the CLP brochures are available in English and are given to anybody who requests them.

### **3.2.4 Documents of a Regulatory Nature**

#### **3.2.4.1 Rules of evidence, procedure and practice**

Pursuant to article 429.21 of the LATMP, the CLP, by way of regulation, has enacted rules of evidence, procedure and practice. In accordance with article 7 (2) of *the Charter of the French language*, these rules have been adopted, printed and published in both French and English.

#### **3.2.4.2 Code of Ethics of Assessors and Conciliators**

As permitted by article 426 of the LATMP, the President of the CLP has enacted a *Code of ethics applicable to assessors and conciliators*. This Code has been enacted, printed and published in French and English.

#### **3.2.4.3 Decrees for Nomination of Members**

The CLP has Commissioners as members and members coming from employers' associations and union associations. The Commissioner-members, alone, render the decisions. The association-members act as counsel to the former. All the members are appointed by the government. The decrees nominating these members come from the government and not from the CLP. These decrees exist only in French

### **3.2.5 Commissioners and Personnel Knowledge of English**

Many of the 117 CLP Commissioner-members have a knowledge of English which allows them to hold hearings in English. As soon as they are informed that a party wishes to be heard in English, the CLP takes the necessary steps to give effect to this request.

CLP personnel who are required to communicate with persons who request communication in English have a knowledge of English which permits them to respond.

The *Politique de développement des ressources humaines*, (Human Resource Development Policy) in force since September 1, 1993, allows Commissioners and CLP personnel to take English language improvement courses, subject to certain conditions.

Ten new Commissioners were recently appointed to the CLP. They were all chosen from a list of 35 eligible names, 80% of whom declared they were bilingual (one is quadrilingual).

Furthermore, last year, the CLP offered Commissioners of the Montreal Region the possibility of taking an English course. The training was offered to those who already had a good knowledge of English and who wanted to perfect it so as to be more at ease at hearings. Given by the group Formation Linguistique Circuit, this training allowed four Commissioners to achieve this goal. The experience has been a success and will be offered during the coming months to Commissioners of other regions. The CLP has a similar project for conciliators and for its counter clerks in the regions.

### 3.2.6 Complaints

Since its creation the CLP has never received a complaint concerning the use of English.

### 3.2.7 Decisions of Interest in Matters of Language

Several decisions rendered by the CLP testify to the fact that an English speaking individual's rights will not be prejudiced due to an insufficient knowledge of French.

The CLP has already decided that the delay to file a contestation to the CLP only starts to run from the notice of the English version of the decision contested by the worker.<sup>5</sup>

In other cases, the CLP has indicated that a real difficulty for the worker to understand a CSST decision drafted in French constitutes a reasonable ground to relieve the party of its failure to act within the delay to contest.<sup>6</sup>

### 3.3 The Other Courts

On an organizational level, the Bar of Montreal has a committee of the administrative courts which deals with different questions relating to provincial or federal administrative tribunals. At the November 14, 2001, meeting of the Standing Committee, at which the President of the committee on administrative tribunals was present, it was suggested that a committee composed of members of both these committees be formed to study and review the practices and procedures relating to access to Justice in the English language to formulate recommendations on this subject.

Various methods were proposed to prepare a report on the situation:

- To meet the Chairpersons of the tribunals;
- To publish a notice in the *Journal du Barreau du Québec* inviting members of the Bar who practise before these tribunals to share their experiences;
- To request a journalist of the *Journal du Barreau du Québec* to do a survey among attorneys to report on various incidents which have occurred in relation to access to Justice in the English language and to write a "shock" article;

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<sup>5</sup> *Cornut et Gestion André & Paquerette Ltée*, 157139-63-0103, 2001-08-13, Rose-Marie Pelletier, AZ-01303079, *Bubar et Hatley P'tie maison bleue Inc.*, 157559-05-0103, 2001-08-06, Lise Collin, AZ-01302743, *Madew et Jay Gur import Inc.*, 114924-73-9904-R, 2002-12-18, Micheline Bélanger, AZ-00304805.

<sup>6</sup> *Cameron et Industries James Maclaren Inc.*, 185936-07-0206, 2002-10-07, Simon Lemire, AZ-02303757, *Hare et Sérigraphie Richford*, 158917-72-0104, 2002-02-07, Diane Taillon, AZ-01306614, *Staveris et Restaurant Murray*, 109137-71-9901, 1999-11-12, Carmen Racine, AZ-99303196, *Jones et Pratt & Whitney Canada Inc.*, 102217-62-9806, 1999-07-14, Margaret Cuddihy [1999] C.L.P. 455, *Harfinder et Paga Commerce Universel Canada*, 105793-71-9810, 1999-03-16, Luce Boudreault, AZ-98303398.

- To make inquiries with those who work for the administrative tribunals;
- To discuss with the attorneys and decision-makers who work in these tribunals.

This investigative method would allow a more complete and realistic view of the situation.

A research of jurisprudence has been made to identify cases relating to language which have been pleaded before the TAQ, the CLP and the Court of Quebec, but has not yet been submitted to the Standing Committee.

The information obtained will be analyzed by the Standing Committee which will decide what to do with it. Essentially, the Standing Committee will try to put together enough concrete cases to justify that the Quebec Government modify its linguistic policy. We believe this is a long term process.

#### **4. Quebec Board of Notaries<sup>7</sup>**

After having met members of the Standing Committee in April 2000, the Québec Board of Notaries created a working group on accessibility to Justice in the English language. The Board of Notaries was requested among other things to translate all of the forms and notices that it issues. It was agreed that the Bar of Montreal and the Board in the context of their respective undertakings inform the people they deal with that they support each other and have the same objectives in the present matter.

At the end of 2001 the Board agreed to communicate and to offer more services in English to its English members, for example, by offering courses in English on new legislation. More specifically, the Fonds d'assurance responsabilité professionnelle of the Board of Notaries sends its English notaries its information bulletins in English, which are translated internally.

The Board of Notaries has not received any complaints concerning the accessibility of service in English in the Registry Offices. Notaries have noted that Registry Office employees are courteous and generally speak English. If unable to speak English, they refer the client to a bilingual colleague. The computerized system provides information in French and English. They accept to register documents in French or English. However, the Registry Offices only publish notices in French. We believe that they should be bilingual, even though, in general, the professionals who use the services do not criticize the practise. The Standing Committee has asked the Board of Notaries to assist the Bar of Montreal in influencing the Registrars to publish bilingual notices.

We emphasize that the principal problems that notaries face in real estate law stem from the fact that all notices published by the Government are in French; for example, notices to the public in matters of cadastral renovation. These notices are important but very

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<sup>7</sup> Updated from information contained in an August 25, 2003, letter from Me Denis Marsolais, President of the Board of Notaries of Québec, addressed to Me Casper M. Bloom, Q.C. This information was confirmed in a December 11, 2006, telephone conversation with a representative of the office of the President.

technical and not necessarily easy to understand. We believe that it is necessary to draw the problem to the attention of the government.

In an August 25, 2003, letter addressed to Me Casper Bloom, Q.C., Me Denis Marsolais, President of the Board of Notaries of Quebec advised that the Board of Notaries translates the forms that it publishes, but the notices and communications published by the Board are not necessarily translated. Me Marsolais did not indicate whether representations had been made to the Government of Quebec on the availability of English versions of notices transmitted to officers of the court and administrators.

## **5. Bar of Montreal**

The Standing Committee has requested that the Bar of Montreal inform parties involved before the courts that English versions of forms are available. Moreover, it looks to the Bar of Montreal to increase the awareness of individuals that under article 9 of *the Charter of the French language*, all judgments rendered by a court and decisions rendered by a body exercising quasi-judicial functions are to be translated into English or French, at the request of the parties, as the case may be, and that the Administration is required to bear the necessary costs.

### **o Conclusion**

We have noted that the members of the committees of the Bar of Montreal have undertaken numerous steps in order to determine the multiplicity of services offered in judicial matters and to ensure that English-speaking citizens on the Island of Montreal have access thereto in English.

Since the creation of the Standing Committee, the volume of information available in English on the Internet (websites of the Quebec Ministry of Justice, Publications Quebec, Revenue Québec, etc.) has increased considerably, thereby allowing English-speaking citizens to be better informed. Nevertheless, we have determined that the exercise of rights in English at the courthouse and before the courts requires improvement.

The Standing Committee must continue to be vigilant. Certain gaps still exist and it is necessary to keep the Minister of Justice aware of the importance of access to justice in English. As mentioned in the September 18, 1996, Resolution adopted by the Council of the Bar of Montreal, the higher interest of justice requires that individuals have access to judicial services in both languages to ensure their better understanding of the judicial system.

### **o Importance of the Issue**

If Montreal wishes to claim its status as a metropolitan area, that is to say a “global city”, it is essential to ensure that there be access to justice in English, the language of international commerce, in addition to the standard service in French.

## SCHEDULE A

### TRANSLATION OF AN EXTRACT OF THE MINUTES OF A MEETING

HELD ON SEPTEMBER 18, 1996

"...

**CONSIDERING** the report of the Ad Hoc Committee on Access to Justice in the English Language in the District of Montreal, dated March 31, 1995;

**CONSIDERING** that in the interest of justice everyone should have access to judicial services in the two languages to ensure a better understanding of the judicial system;

**CONSIDERING** that it is also in the interest of justice that the cost of access to justice be reduced to the extent possible in order that it be accessible to the greatest number of people;

**CONSIDERING** that the Bar of Montreal has, by its nature and vocation, the obligation to bring to the attention of the competent authorities any measures which it considers favour the aforementioned interests;

**WHEREFORE**, on the recommendation of the Special Committee of the Council charged with studying the recommendations of the Ad Hoc Committee on Access to Justice in the English Language in the District of Montreal and after consultation with the various liaison committees, **IT IS RESOLVED**, on a motion by Mtre. Pierre A. Fournier seconded unanimously, that the Bar of Montreal invite the appropriate authorities to give effect to the following recommendations:

1. that the existing custom continue whereby judges assigned to trials of long duration and to highly technical trials have appropriate language skills;
2. that the judges appointed to the Superior Court for the District of Montreal be functionally bilingual in both French and English and that bilingual judges be made available for all districts when necessary;
3. that language training for judges be provided on a continuing basis;
4. that the Superior Court consider the adoption of a modified Rule 15 in order to include a declaration by the parties of the language or languages in which the evidence will be given;

5. that the judges of the Court of Quebec for the District of Montreal be functionally bilingual in both French and English;
6. that the Court of Quebec identify before the time of any hearing, the language of the parties involved in the action and determine on that basis the assignment of the judge to preside the case;
7. that a Liaison Committee be established, comprising representatives of administrative tribunals, the Ministère de la Justice and the Barreau du Québec in order to review, study and make recommendations for practice and procedure concerning access in the English language before the administrative tribunals of Quebec;
8. that a sufficient number of persons named to administrative tribunals in Quebec in the District of Montreal be functionally bilingual in both French and English;
9. that the administrative tribunals in the Province establish a statistical basis for the delivery of their services in French and English, at least in the Judicial District of Montreal. The purpose of such a statistical analysis would be to determine, with greater reliability, the need for English-language services and what specific areas of the District have the greatest need for these services. The objective is to remove guesswork from the business of understanding the demographics of the judicial system;
10. that all material directed to the public explaining the services and the procedure involved in making a complaint to an administrative tribunal be readily available in English and in French, in the interest of improving the element of transparency in this area of the justice system. The Council realises that in the case of certain tribunals this step has already been taken. The Council's recommendation is directed at making it a uniform and standard practice throughout the network of administrative tribunals that such information always be available in both French and English;
11. that administrative tribunals, in cases where they have not already done so, provide for adequate English-language services to the public. Whether this is achieved by designating a certain number of positions as bilingual positions, or whether bilingual persons are simply assigned to serve on a rotation basis in the offices of the tribunal in question or whether some other mechanism is chosen to achieve the same end, is a matter for the Government and the administrative tribunals to determine for themselves;
12. that continuous, effective language training be offered to staff and that such staff be encouraged to participate in language courses; that similar training be offered to those appointed to sit as members of any administrative tribunal in the District of Montreal;

13. that administrative tribunals identify before the time of any hearing the language of the parties involved and determine on that basis the assignment of a panel or a Commissioner to preside the case;
14. that all parties appearing before administrative tribunals be advised of the availability of translations of decisions in accordance with section 9 of the French Language Charter;
15.
  - i) that all writs of summons, subpoenas and all similar documents issued under the authority of any court, tribunal, or quasi-judicial body should be in bilingual form;
  - ii) that until such time as the foregoing recommendation has been implemented, the Bar of Montreal, in association with the Ministère de la Justice, should ensure that the said documents are always and readily available in both French and English;
  - iii) that the Bar of Montreal, in association with the Ministère de la Justice, publicise widely the existence of the English version of these documents;
16. that notices and practice directions in the Courthouse be published in both languages;
17. that all documents issued by the Ministère de la Justice which contain plain language explanations of the law be placed in highly visible and accessible areas throughout the Montreal Courthouse;
18. that counsel adhere to the practice of drafting affidavits in the language chosen by the witness, where that language is English or French;
19. that translation of judgements be made available to a requesting party, to the extent possible, before the delays for appeal have expired. Their general quality should also be the subject of review, with a view to improvement;
20. that all those involved in the Court process be made conscious of and respect the absolute right of witnesses to give evidence in the language of their choice;
21. that where counsel considers it necessary for the examination of witnesses in either French or English, counsel retain the services of an interpreter or engage co-counsel who can complete that aspect of the examination;
22. that when witnesses are called to testify before a court, tribunal, or other quasi-judicial body, the Clerk should advise them of their right to testify in either French or English. The Clerk's statement should be made in the following or similar terms: «Vous avez le droit de témoigner en français ou en anglais. Dans

- quelle langue préférez-vous le faire?» ("You have the right to give your evidence either in French or in English. In which language do you wish to give your evidence?");
23. that Rule 15, modified as we have suggested, be applied so as to ensure the assignment of bilingual Court clerks to hearings where they are needed;
  24.
    - i) that services be available in English from all administrative offices dealing with the public in the Courthouse;
    - ii) that the public be made aware through the use of clearly marked signs that they may obtain services in French or English;
    - iii) that Courthouse staff should be chosen and trained to ensure that at least one person in each administrative service can deal, when requested, with the public in English;
  25.
    - i) that all information directed to the public regarding the registration of immovables and the registration of personal and movable real rights be made available in English, as well as in French;
    - ii) that with respect to the Register of Personal and Movable Real Rights, all statutory forms and other documentation be made available in English, as well as in French;
    - iii) that printed translations and explanations of the computer menus be available in English for English-speaking users of the system;
  26. that in disciplinary proceedings, the formal complaint be drawn up in either French or English, depending upon the language chosen by the lawyer who is the subject of the hearing;
  27. that of the personnel working in the Office of the Syndic and serving the public there be a sufficient number who are functionally bilingual;
  28. that for the District of Montreal, there be a convention, if not a rule, to ensure that all lawyers who serve on an arbitration committee are bilingual;
  29. that every communication from the Barreau du Québec to its individual members be made in the language of the member's choice, whether French or English;
  30. that the Barreau du Québec publish the brochures that are intended for the general public in English, as well as in French;
  31. that the Barreau du Québec, according to demand:

- i) establish specialised second-language training for its members, in English and French, with an emphasis upon the technical terminology of legal practice;
  - ii) offer regular courses and annual workshops and conferences on drafting language, in both French and English;
  - iii) implement measures to establish sections of its continuing education courses in English, where numbers warrant;
  - iv) sponsor the preparation and publication of reliable precedents in both French and English, or at least in English;
32. that the Barreau du Québec establish a Standing Committee on Legislative Drafting and Style for the purpose of making recommendations on the drafting formulation and style of legislation and other legislative instruments of any kind, with particular emphasis on the drafting of the English version of statutes and other legislative instruments;
  33. that such Standing Committee, once established, take as one of its primary objectives, the reform of the English version of the Quebec Civil Code;
  34. that such Standing Committee undertake the preparation and publication of reliable procedural drafting precedents in English for use before the various courts;
  35. that such Standing Committee be authorised to accept such mandates relating to the language of drafting and style as the Barreau du Québec from time to time may confer upon it;
  36. that such Standing Committee prepare a collection of current, approved drafting materials in English, for all the students of the École du Barreau, to be distributed to them along with the French materials which are presently made available;
  37. that the correction of examinations written in English be assigned to correctors who are perfectly bilingual.

..."

## SCHEDULE B

### CONCLUSIONS AND SUMMARY OF THE RECOMMENDATIONS OF THE FOLLOW-UP COMMITTEE

**(Extracts of the Report of May 15, 1998)**

In conclusion, the Committee considers that there is still room for improvement in the District of Montreal with respect to access to justice in the English language.

With this in mind, the Committee recommends:

1. That only bilingual judges, capable of adequately hearing a case, be appointed in the District of Montreal, and, while this seems to presently be the case, that such appointments should continuously be monitored.
2. That the Council of the Bar of Montreal (the “Council”) give detailed mandates to the Permanent Committees on the Administration of Justice in civil and criminal matters to ensure that the situation we have now in the civil and criminal courts in the District of Montreal with respect to the use of the English language does not deteriorate.
3. That the Permanent Committee on Administrative Courts, especially with respect to its implementation role of the new Administrative Justice Act and in light of the positions taken by the Bar of Montreal on this subject, be mandated by the Council to oversee the issue of English language citizens having access to hearings in their language.
4. That necessary pressure be applied to maintain language training budgets for judges and lobby various levels of government to return to pre-budget cuts levels of financing for same.
5. That within 3 years of the deposit of this Report, the Council review the issues which are the subject of this Committee’s Mandate, and, that, after consultation with the Permanent Committees mandated to look into the linguistic situation in the administration of justice in Montreal, determine if it is necessary to form a new Ad Hoc Follow Up Committee to again examine the situation.
6. That with respect to the new simplified procedure, that the Bar of Montreal, through its own services or otherwise, make its members aware of the existence and necessity of utilizing the box entitled, “ Considérations spéciales” , contained on the Inscription forms for placing a case on the roll of the Court of Quebec so as to alert the Court that English is the language of the parties and that of their witnesses.

7. That translation of court forms into English presently being undertaken, including subpoenas, be carried out as soon as possible.
8. That the Bar of Montreal advise its members of the availability of English court forms as soon as they become available and work together with the Minister of Justice to disseminate this information to the public without delay.
9. That the Notices from the Chief and Associate Chief Justices of the Court of Quebec be drafted and posted in French and in English.
10. That Public Notices and Court Rolls be bilingual and that representations in this sense be made to the Minister of Justice relative to future policy applicable under the "*Politique gouvernementale relative à l'emploi et à la qualité de la langue française dans l'administration*".
11. That the Bâtonnier of Montreal officially request and strongly recommend that a bilingual presentation counter informing the public of the services that they can expect to obtain in either language be placed in the courthouse and Municipal Court.
12. That another presentation counter, of the type presently in place in the "Salle des pas perdus" on the 3rd floor of the Court House, be installed in the St. Antoine street lobby of the courthouse, and that the Bâtonnier of Montreal officially make such request.
13. That the Bar of Montreal and the competent authorities do what is necessary through adequate publicity to members of the Bar and the public to sensitize them to the existence of a judgment translation service at the courthouse within the appeal delay period.
14. That witnesses appearing before a judicial court , administrative tribunal or any other quasi judicial organism be questioned by the clerk, at least in the French language, regarding their right to testify in French or in English,.
15. While awaiting the new policy from the Minister of Justice, the Bar of Montreal should exercise pressure on the Minister of Justice to insist on bilingual signs at the courthouse and the Municipal Court advising the public that they can obtain services in French and English.
16. That at least one employee of each department at the courthouse or Municipal Court serving the public be capable of replying in English if necessary.
17. That the translation of forms of the Register of personal and movable real rights as well as the guide for the use of the Registry Office computers be done as soon as possible.

18. That the instruction booklet for filling out forms of Register of personal and movable real rights be translated as soon as possible and made available to the public.