

**Two “Official” Languages of Work:
Explaining the Persistence of Inequitable Access to French
as a Language of Work in the Canadian Federal Public Service**

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Abstract

Canada's official languages policy makes English and French the country's official languages in federal institutions. The policy has succeeded in fostering equitable representation of both official languages groups in the federal public service and has improved capacities for the public service to serve the citizenry in its official language of choice. It is a puzzle however, that despite these advances, the Canadian federal public service continues to operate predominantly in English when both official languages on paper are equal languages of work.

To explore this puzzle this dissertation asks: why, despite the promise of the Official Languages Act (OLA) 1969 for choice in language of work and the OLA 1988 that made the choice a claimable right, is there inequitable access to French as a language of work in the federal public service? Framed through a historical institutionalist approach and layering, this project analyzes the implementation of the official languages program in the federal public service from 1967-2013. This thesis argues that the implementation of the official languages program could not challenge the federal public service's path dependency to operate predominantly in English. By analyzing the roles of actors and institutions that influenced the process, this dissertation finds that lack of structural change, inadequate managerial engagement and a false sense that official languages are engrained in the public service, can explain the persistence of English as the dominant language of work.

Key words: Official Languages Act, bilingualism, Canadian federal public service, institutionalism

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Chapter 1: Introduction

In 1969, the Canadian federal government began a veritable revolution in the area of language legislation. For the first time in the country's 102 year history, the government adopted a policy that officially recognized the equality of status of both English and French in federal institutions and required their operation in both official languages to serve citizens. After a history of linguistic tensions and occasional placating¹, the adoption of the Official Languages Act (OLA) (1969) was a critical moment for Canada and its future. Fearing the eminent break-up of the country due to nationalist sentiments exploding in Quebec, then Prime Minister Pierre Elliott Trudeau (himself a Quebecker), took action by committing political and financial resources to the official languages effort. The federal public service² became a central target for language reform at two levels: symbolically as an institution reflective of society and practically in order to provide services to citizens in their official language of choice. This was no small task. At the time, Ottawa was an English-speaking bastion. In the words of a Francophone recruiter:

Parce qu'on sait bien qu'au moment où il arrive à Ottawa, eh bien! en accrochant son chapeau, il accroche sa langue, et il devra pendant tout le temps de la journée parler en anglais, travailler en anglais. La méthode ou la façon de travailler de l'Anglo-Saxon est différente de celle du Francophone. On n'a pas la même façon de voir les problèmes, de les régler, d'en discuter.³

Reflecting a similar experience, Trudeau himself wrote that:

On pouvait à peine parler français une minute par jour. Les notes de service entre collègues Francophones s'envoyaient en anglais. Malgré l'Acte de l'Amérique du Nord britannique, qui précisait que les lois et les débats parlementaires devaient se faire dans les deux langues, tout se faisait en anglais à Ottawa.⁴

¹ See for instance Canada, Royal Commission on Bilingualism and Biculturalism, Book I.

² The terms *public service*, *bureaucracy* and *civil service* are used interchangeably in this project. The term *civil service* is used principally in Chapter 3. Afterward, the terms *public service* and *bureaucracy* are used reflecting the change in terminology used in government documents.

³ Christopher Beattie, Jacques Désy, and Stephen Longstaff, *Bureaucratic Careers: Anglophones and Francophones in the Canadian Public Service*, (Ottawa: Information Canada, Documents of the Royal Commission on Bilingualism and Biculturalism, 1972), 238.

⁴ Pierre E. Trudeau, Ron Graham (ed.), *Trudeau: l'essentiel de sa pensée politique* (Montréal : Le Jour, éditeur, 1998), 141.

The public service and its composition are important for a country characterized by linguistic dualism. As Beattie et al. (1972) explain, the bureaucracy serves two principle integrative functions. First, based on size and scope it is the largest unit in the Canadian economy encompassing Crown Corporations and the Canadian Forces. Second, as a political institution, the bureaucracy ranks behind only the House of Commons and the Cabinet as a power-broker and in symbolic importance.⁵ The bureaucracy is more than another economic unit of the country, because

Its activity has meaning for both Francophone and Anglophone Canadians far beyond mere considerations of what decisions are made or what product is produced. *How* the Public Service does things – who it employs, where it operates, and what language is used – is as important as *what* it does.⁶

In the 1960s, the bureaucracy was staffed predominantly by Anglophones and operated in English. For a country with two major linguistic groups (Table 1), this made the public service unrepresentative of a significant portion of the population and its ideas. In 1961, 28% of the Canadian population declared French as their mother tongue as did 26.86% in 1971.⁷ Relative to their demographic weight, French-speakers were inadequately represented in the public service. The data available on the numbers of English- and French-speakers⁸ in the public service during the 1960s tends to be limited and is based on employment categories. For instance, in the 1960s, approximately 18% of employees in the officer category were Francophones⁹ (although at the time Francophones represented approximately 28% of the total population).

⁵ Beattie et al. 1972, xliiii

⁶ *Ibid*, xliv.

⁷ Statistics Canada, “Mother tongues of the population, census years, 1931 to 1976,” http://www.statcan.gc.ca/pub/11-516-x/sectiona/A185_237-eng.csv, (accessed December 5, 2013).

⁸ NB: The terms English-speaker and French-speaker are used interchangeably with the terms Anglophone and Francophone, respectively.

⁹ Treasury Board, *Revisions to the Official Languages policies in the public service*, (Ottawa: Queen’s Printer, 1977).

Census Year	Mother Tongue	Language Population	Total Population	% of Population
1961	English	10,660,534	18,238,247	58.45
	French	5,123,151		28.09
1971	English	12,973,810	21,568,310	60.15
	French	5,793,650		26.86

Table 1: Census Data (Mother Tongue, 1931-1971), Statistics Canada

This lack of representation of French-speakers in the federal bureaucracy did not always exist. In the 1840s, prior to Confederation in 1867, Francophones were proportionally represented in federal institutions which facilitated the negotiation of the federal union. Reflecting the dualist representation of the time, the dual language operation of federal institutions was largely accepted and the Francophones within them were thought to speak for their constituents in the population.¹⁰ After Confederation however, Francophone representation began to decline as new representation from Western and Eastern provinces was being secured. Geographical representation had increasing significance and the dualism that once characterized the federal bureaucracy was largely disbanded.¹¹ Francophone participation in the Canadian federal public service steadily declined from 21.58% in 1918 to 19.90% in 1936-1937 (data before 1918 is difficult to find especially due to the Parliamentary fire in 1916). Nearly a decade later in 1944-45, Francophone representation was at 12.25% (and at zero for positions in the upper echelons, a drop from 14.28% in 1918).¹² It was only after a hiring effort by the Treasury Board to recruit more French-speakers during the late 1960s that Francophone representation increased to 25% in 1978.¹³ The adoption of the OLA 1969 was the critical juncture that put

¹⁰ Seymour Wilson and Willard Mullins, "Representative bureaucracy: linguistic/ethnic aspects in Canadian public policy." *Canadian Public Administration* 21 (1978): 517.

¹¹ Wilson and Mullins 1978, 518.

¹² *Ibid*, 520.

¹³ Marie-Ève Hudon, *Official Languages in the Public Service From 1973 to the Present* (Ottawa: Library of Parliament, 2009), 16; see also Wilson and Mullins, 1978.

in place implementation efforts in the public service for the representation of both official languages groups, service to the public and language of work.

There was however, no mention in the OLA 1969 of language of work rights for employees, although citizens had legislative language rights (e.g. obtaining services from their federal government in their official language of choice) encapsulated in the legislation. Only in 1973, through the adoption of a Parliamentary Resolution were public servants explicitly conferred the right to work in their official language of choice. In 1988, a new OLA was developed in order to bring the legislation in line with the constitutionally entrenched Canadian Charter of Rights and Freedoms (which declared the equality of status of both English and French in federal institutions). The OLA 1988 clearly defined language rights and these rights extended through Part V to public servants. The important advancement in 1988 was not only the clear statement of the right to work in the official language of choice in Part V but the ability to claim the right in federal court.¹⁴ Prior to 1988, public servants could raise their language grievances with their supervisor and the Office of the Commissioner of Official Languages (OCOL) (like any other citizen).

It is through the implementation of official languages legislation and its ensuing measures that Canada has altered the composition of its federal bureaucracy and in principle, its practices surrounding choice in language of work. Quotas in the upper echelons of the bureaucracy were never implemented as was the case in Belgium. Rather than legislatively defining the means through which the state would alter the composition of its federal public service, particularly in the case of the OLA 1988, the means were left to the bureaucracy. It was the Treasury Board Secretariat that played a central role in the institutional implementation of the legislation (as it relates to public servants and their work environment). Challenging its efforts at times were the staff unions who acted as veto players seeking to maintain the status quo. The Department of the Secretary of State (and eventually Canadian Heritage that replaced it) was central in implementing the program in Canadian society. It was actors in these departments along with prime ministers and their key advisors that helped to shape and manage the official languages program.

¹⁴ Various cases on Part V have gone to Federal Court, see for instance *Lavigne v. Canada* [1997]; *Schreiber v. Canada* [1999].

From a representational perspective, the official languages legislation and its implementation have benefitted Francophones. Today, Francophones are slightly overrepresented in the public service based on their demographic weight. The latest census data from 2011 indicated that 23.2% of the population declared French as their spoken official language and 22.0% declared French to be their mother tongue (see Table 2).¹⁵

Census Year	Mother Tongue	Language Population	Total Population	% of Population
2006	English	18,055,685	31,241,030	57.8
	French	6,892,230		22.1
	Other	6,293,110		20.1
2011	English	19,137,520	33,121,175	57.8
	French	7,172,560		21.7
	Other	6,81,095		20.6

Table 2: “Population by reported mother tongues, Canada, 2006 and 2011” (Statistics Canada, Census Data)

Within the public service in 2012, 71.7% of public servants declared their first official language to be English and 28.9% declared it to be French. In the executive cadres, 30.2% of employees declared their mother tongue to be French and 69.8% declared it to be English.¹⁶ Of all of the positions in the public service, 42.5% were designated as bilingual (an increase of 2.5% from 2009). The majority of these positions are found in the National Capital Region (NCR) (66.3%), in Quebec (66.8%) and in New-Brunswick (53.8%).¹⁷ Within these bilingual posts, 95.1% of incumbents meet the linguistic requirements of their positions.¹⁸ Looking to the data alone, based on the “overrepresentation” of Francophones (based on their demographic weight) in the executive cadres, the increase in positions designated as bilingual and the high language competency rates of incumbents, the federal

¹⁵ Statistics Canada, “French and the *francophonie* in Canada,” May 12, 2013, http://www12.statcan.gc.ca/census-recensement/2011/as-sa/98-314-x/98-314-x2011003_1-eng.cfm (accessed June 27, 2013).

¹⁶ Treasury Board of Canada Secretariat, Office of the Chief Human Resources Officer, “Demographic Snapshot of the Federal Public Service, 2012,” May 2, 2013, <http://www.tbs-sct.gc.ca/res/stats/demo12-eng.asp#toc322> (accessed December 5, 2013).

¹⁷ Marie-Ève Hudon, *In Brief: Official Languages in the Federal Public Service* (Ottawa: Library of Parliament, 2013), 2.

¹⁸ Treasury Board of Canada Secretariat, *Annual Report on Official Languages 2011-2012*, April 29, 2013, <http://www.tbs-sct.gc.ca/reports-rapports/ol-lo/11-12/arol-ralo/arol-ralo06-eng.asp#sec6> (accessed December 6, 2013).

public service should foster an environment conducive to working in the official language of choice. This however, is not the case.

English remains the dominant language of work in the bureaucracy and it is even used inter-regionally (e.g. between Quebec's largely French-speaking offices and the centre).¹⁹ A 2011 study by the OCOL indicated that a top-down approach was necessary to engrain the value of bilingualism and the common use of both official languages within the federal public service. The behaviour and actions of high ranking public servants, managers and the value doctrine promoted by the Government and other federal institutions also have a significant impact on the operational bilingualism of employees.²⁰ Given the distribution of positions in the executive cadres, it is plausible to expect an increase in the use of French as a language of work with Francophones setting the example for those they manage.

Yet, French was not and still is not readily used as a language of work. A 1974 Treasury Board survey indicated that at the time, 75% of employees used English as their language of work, 12% used French and 9% used both. For incumbents in positions designated as bilingual, 57% used English, 11% used French and 28% used both languages as language(s) of work. These statistics indicate that designating a position as bilingual does not guarantee that both official languages will be used.²¹

A 2002 TBS study showed a similar result, indicating that “even today, Francophones do not feel completely at ease in using French at meetings, in writing documents or in communicating with their colleagues or supervisors.”²² For instance, Anglophones in bilingual environments spend 14% of their time speaking French, whereas Francophones working in bilingual environments spend 43% of their time speaking English. Most documents even in bilingual regions continue to be prepared in English 72% of the time (even though Francophones represent a substantial proportion of the workforce, e.g. 42% in the NCR and 41% in New Brunswick). Why, despite the increase in the number of French-speaking public servants, the OLA 1988 that made choice of language of work a claimable

¹⁹ Office of the Commissioner of Official Languages (OCOL), *Beyond Bilingual Meetings: Leadership Behaviours for Managers* (Ottawa: Minister of Public Works and Government Services Canada, 2011), 2.

²⁰ *Ibid.*

²¹ Hudon 2009, 22.

²² *Ibid.*, 23.

right and an increase in the number of positions designated bilingual, does the public service continue to operate predominantly in English?

One could easily respond rhetorically by asking why the public service should be concerned with operating in both official languages, given that Francophone employees tend to be more bilingual than their Anglophone counterparts.²³ The linguistic capacities of Francophone employees in the public service are beyond the point. The purpose of the official languages legislation – particularly as it relates to language of work – is to foster an environment conducive to the use and development of both equally official languages to improve productivity, service to the public and to reflect the Canadian reality that the majority of citizens operate in and use one or both official languages in their daily lives.

A public service that reflects the society it serves is crucial, especially in countries like Canada where language and identity have been at the heart of national unity debates. Not only have Canada's official languages become a marker of Canadian identity, but French is the only official language of the province of Quebec. As the Commissioner of Official Languages Graham Fraser has noted, there are four million unilingual Francophones in Quebec²⁴ and we must ask ourselves how do you make those four million unilingual Francophones feel that they want to live in Canada? With a federal public service that represents both linguistic groups and can operate in both official languages, it can serve to strengthen Quebec's confidence in the Canadian union.

Historically, a Francophone's inability to work in their mother tongue was a deterrent to employment in the federal public service. Prior to the 1960s, a Francophone (unlike their Anglophone counterparts) had to consider their

capacity to contribute to the work of the organization, because cultural qualities carried by one language may be very difficult to put across in another. It [language capacity] also defines his career prospects: language problems may, in personnel

²³ For instance, Canadians who declared their mother tongue to be French had an English-French bilingualism rate of 42.4% according to 2006 Census data. (See Statistics Canada, <http://www12.statcan.gc.ca/census-recensement/2006/as-sa/97-555/figures/c4-eng.cfm> (accessed July 17, 2013)). In contrast, Anglophones had bilingualism rates of 9.4% and Allophones (mother tongue is neither English nor French) rates of 12.1% according to 2006 Census data (see Statistics Canada, <http://www12.statcan.gc.ca/census-recensement/2006/as-sa/97-555/table/t17-eng.cfm> (accessed December 10, 2013)).

²⁴ Graham Fraser, *Sorry I don't speak French* (Toronto: McClelland and Stewart, 2006), 266.

assessment, obscure an individual's true ability and prevent him from feeling accepted and at ease in the work community.²⁵

Beyond matters of personnel equity, official languages and their reflection in political institutions can have a significant impact on feelings of attachment and belonging particularly in minority situations. As Raymond Breton explains:

Indeed, in a powerful way, the language used in public affairs and institutions signifies to individuals and groups 'that the society is indeed *their* society,' and the institutions, their institutions. Language is perhaps the most effective symbolic medium for assuring a mutual reflection of the public world of institutions and the private world of individuals.²⁶

Although parts of the official languages program have succeeded by improving the representation of Francophones and service to the public in their official language of choice, progress on language of work continues to lag. This thesis argues that the "virtual" failure of language of work²⁷ is a function of the implementation of the official languages program that could not challenge the federal public service's path dependency to operate predominantly in English. By analyzing the roles of actors and institutions that influenced the process, this dissertation finds that lack of structural change, inadequate managerial engagement and a false sense that official languages are engrained in the public service, can explain the persistence of English as the dominant language of work.

To draw these conclusions, this project undertook a historical analysis of official languages efforts in the federal public service in the NCR from 1967-2013. The one hundred year period from 1867-1967 was also reviewed to explain the institutional foundations upon which implementation efforts are built. In order to make sense of the findings, this project adopted a theoretical framework rooted in historical institutionalism and layering. The time-based analysis and path dependency that characterize the historical institutionalist approach are useful for tracking the implementation of the official languages policy over time and for explaining the persistence of English as the dominant language of work. Since historical

²⁵ Royal Commission on Bilingualism and Biculturalism (B&B), *Book III: The Work World, Volume 3A* (Ottawa: Queen's Printer, 1969), §302 (referring to work by E. Jacques Brazeau, "Language Differences and Occupational Experience," *Canadian Journal of Economics and Political Science*, XXIV, No. 4 (Toronto, 1958), 532-40)).

²⁶ André Breton, "The production and allocation of symbolic resources: an analysis of the linguistic and ethnocultural fields in Canada," *Canadian Review of Sociology and Anthropology* 21(2) (1984): 126.

²⁷ Mark Goldenberg, interview by author, October 17, 2012.

institutionalism can only theorize major change, layering is a useful complement that can explain the results (or lack thereof) of gradual change. Process tracing is used as the project's methodology to link observations and to explain their particular outcome. The remainder of the thesis is divided into six chapters: the theoretical framework, four chapters on the story of the implementation process of the OLA in the public service and the conclusion. Each of these chapters will be discussed briefly below.

Project Plan

In Chapter 2, the theoretical framework is defined. This chapter grounds the project in the literatures on the politics of language and representative bureaucracy. After reviewing the limits of existing theoretical approaches, the project's theoretical framework is established. Its operationalization is described through the research design and data collection methods are discussed in the methodology section. Even though this project proceeds inductively, the theoretical framework is crucial for making sense of the data and organizing findings. The four following chapters are organized based on critical junctures in an effort to underline the sequence of events and the interim layering in the implementation process. Each chapter can be thought of as an explanatory link in the broader process of the official languages story that can explain the persistence of English as the dominant language of work.

In Chapter 3, we review the period from 1867-1967 and discuss the foundations upon which future official languages efforts are built. This chapter argues that gradual changes in representation and conceptions of efficiency led to a public service that went from bilingual and bicultural to predominantly English-speaking and dominated by Anglophone employees. The introduction of the merit principle propelled this shift as it inadvertently favoured Anglophones. What resulted was a bureaucracy that worked predominantly in English in the name of efficiency and squeezed out Francophones by virtue of the merit principle. It is not until the late 1960s and the rise of Quebec nationalism that the federal government began to realize that a public service unrepresentative of nearly 30% of the Canadian population that was French-speaking was unsustainable. Only then would it begin to take action on language reform.

In Chapter 4, we focus on the period from 1968-1972 and namely, the critical juncture that was the adoption of the OLA 1969. The OLA 1969 unleashed a language

revolution for the public service through a series of reforms intended to increase the representation of Francophones, provide service to the public in their official language of choice and make the public service conducive to the use of both official languages as regular languages of work. This chapter finds however, that the existing merit principle and federalism limited the implementation of extensive reforms, namely in the area of language of work. In order to change over 100 years of operation in English, structural reforms like the defunct French Language Units (FLUs) were required. Such reforms however, could not take hold. The limits of the expedient but deficient implementation would contribute to the persistence of English as the dominant language of work. Further complicating matters, there was no clearly defined right in the OLA 1969 that enabled public servants to work in their official language of choice.

With the limited results of the OLA 1969 in the area of language of work, the government decided to take action through a series of gradual reforms from 1973-1981, which are addressed in Chapter 5. Beginning with the 1973 Parliamentary Resolution on Official Languages, public servants were given a clear right to work in their official language of choice. In an attempt to reinforce departmental action on official languages, the management of the program was decentralized in 1977. Finally, in 1981, changes to the managerial structure and the language competencies of managers were introduced. Despite their common goal of improving language of work practices, these three layered changes did not significantly improve the use of French as a regular language of work. Their collective result, despite their common intent was more “haphazard.”²⁸ Instead of impacting language of work, these changes focused on the role of managers in the implementation of the official languages program, and namely, language of work efforts. This tendency would persist with the adoption of the OLA 1988.

In Chapter 6, the entrenchment of the Canadian Charter of Rights and Freedoms in 1982 required the existing OLA 1969 to be repealed and replaced with the new OLA 1988. This new OLA would extensively define the language of work rights of federal public servants through Part V. Despite the explicit legislation and the ability of public servants to claim their language rights in federal court, French still lagged as a language of work. This

²⁸ Eric Schickler, “Congressional History: New Branches on Mature Trees History,” *Legislative Studies Section Newsletter* 24(2) (2001a). Available at <http://www.apsanet.org/~lss/Newsletter/july01/schickler.html> (accessed December 9, 2013).

chapter argues that the OLA 1988 was limited in advancing the use of French as a language of work because of its implementation that depended on the behaviour of individual managers. In the OLA 1988, the government put into law the rights and responsibilities that already existed from the layered changes. If the layered changes in the 1970s and early 1980s did not bring about improvement in language of work practices, why would they expect results any different through Part V? The government, just like those before it, neglected to make the structural changes required to alter the path dependency of the federal public service.

To conclude, Chapter 7 analyzes the implementation process at the levels of institutions and actors to explain why English persists as the dominant language of work. The ideas underpinning language legislation and their lack of influence are also assessed. This project finds that the implementation of the official languages program was limited by the path dependency of institutions. The failure to make structural reforms limited the ability of public servants to exercise their right to choice in official language of work. Further, the dependence on managers to give meaning to language of work rights is inconsequential when the evaluative and institutional structures do not exist to compel their action. Simply put, all of the rights on paper have little meaning without an institutional structure to give those rights importance and an administration that can uphold them.

Having introduced this project's topic and its content, we now turn to a discussion of the theoretical framework to equip us with the necessary theoretical tools for analysis.

Chapter 2: Theoretical Framework

This project is specifically interested in why English persists as the dominant language of work in the National Capital Region (NCR) and as such, defines its dependent variable as language of work. Defining the dependent variable as language of work does not mean solely focusing on statistics of public servants that work in their official language of choice. Rather, this project looks at the implementation process and seeks to uncover how the institutions and actors involved contributed to the persistence of English as the dominant language of work.

There are two components of official languages legislation that are particularly relevant for the public service and language of work. The first component is the requirement that both of Canada's official languages groups be adequately represented in the federal public service (although no quotas were introduced). The second component is the right to work in the official language of choice. What is curious about these two components is that efforts related to increasing the representation of Francophones in the public service were largely successful but language of work was not. If numerically Francophones are represented, legislatively they have the right to work in their official language of choice and administratively, various regulations and practices exist to support choice (e.g. linguistic designation of positions, bilingual capacities managers etc.), why does English persist as the dominant language of work?

More specifically, this project seeks to answer the following questions: why, despite the promise of the Official Languages Act (OLA) 1969 for choice in language of work and the OLA 1988 that made the choice a claimable right, is there inequitable access to French as a language of work in the federal public service? Central to answering this question is uncovering how the policy was implemented. In order to answer the primary research question, this project will ask a second question: how was official languages legislation implemented in the federal public service since 1969?

To answer these questions, this project constructed the narrative of the implementation of official languages in legislation in the federal public service and inductively drew conclusions to explain the persistence of English as the dominant language of work. In order to make sense of the findings, a theoretical approach that engages

historical institutionalism complemented by layering was adopted. Consequently, this thesis argues that the path dependent tendency of the public service to operate in English could not be undone by the implementation of the official languages program.

This chapter proceeds first, by contextualizing the project in the literatures on the politics of language and representative bureaucracy. Second, the limits of existing theoretical approaches are reviewed. Third, the theoretical framework rooted in historical institutionalism and the literature on institutional layering is discussed. With the theoretical framework established, fourth, the project's variables will be defined. Finally, the research design and methodology will be reviewed.

Part I: Literature Review

The Politics of Language

Language as a salient political issue in Canadian politics is well established.¹ When it comes specifically to the study of the politics of language in Canada, what is debated in the literature is the capacity of official languages policy to solve issues of national unity;² the conflicts between the federal and Québécois language regimes (individual v. territorial);³ and the capacity to address the needs of official language minority communities (OLMCs) (namely minority Francophone communities) across the country.⁴ A significant portion of

¹ See for instance, Royal Commission on Bilingualism and Biculturalism, *Preliminary Report*; Joseph E. Magnet, *Official Languages of Canada: perspectives from law, policy and the future* (Cowansville, QC: Éditions Y. Blais, 1995); Michael Macmillan, *The Practice of Language Rights in Canada* (Toronto: University of Toronto Press, 1998); Richard J. Joy, *Languages in Conflict* (Toronto: McClelland and Stewart Limited, 1972).

² See for instance Kenneth McRoberts, *Misconceiving Canada: The Struggle for National Unity* (New York: Oxford University Press, 1997); Linda Cardinal, "The Limits of Bilingualism in Canada," *Nationalism and Ethnic Politics* 10 (2004): 79-103; Joseph E. Magnet, *Language Rights Theory in Canadian Perspective*, *Language and Politics in the United States and Canada: Myths and Realities*, eds. Thomas Ricento and Barbara Burnaby, (Mahwah, N.J.: Lawrence Erlbaum Associates, Publishers, 1998).

³ See for instance Linda Cardinal, *Les enjeux de la diversité linguistique au Canada et au Québec*, *Diversité et identités au Québec et dans les régions d'Europe*, eds. J. Palard, A.G. Gagnon and B. Gagnon (Québec: Les presses de l'Université Laval, 2006); Linda Cardinal et Anne-Andrée Denault, *Les lois linguistiques du Canada et du Québec à l'ère de la mondialisation: pour un changement de paradigme*, *Le fédéralisme asymétrique et les minorités nationales et linguistiques*, ed. Linda Cardinal (Sudbury, Prise de parole, 2008); Kenneth McRoberts, *Struggling Against Territory: Language Policy in Canada*, *Language, Nation and State: Identity Politics in a Multilingual Age*, eds. Tony Judt and Denis Lacorne (New York: Palgrave Macmillan, 2004).

⁴ See for instance Kenneth D. McRae, "Bilingual Language Districts in Finland and Canada: Adventures in the Transplanting of an Institution," *Canadian Public Policy* (1978): 331-351; Colin H. Williams, *Linguistic Minorities in Democratic Context* (New York: Palgrave Macmillan, 2008); Pierre Foucher, *Le carré redevenu*

Canadian literature on language chronicles the changes and adaptations of language policies to the socio-political climate of the current era,⁵ but does not explain the forces behind the emergence of the policies and their implementation, unlike the well documented trajectory and factors behind the implementation of language laws in Québec.⁶

The perceived failures of federal language policies in connection to national unity and OLMCs are well documented. For instance, McRoberts (1997) argues that Trudeau's national unity strategy that incorporated official bilingualism through the principle of individuality failed to foster unity and even contributed to the country's disunity because it required Francophone Canadians (namely Québécois) to identify with a nation-building project that was unrepresentative of their ideas.⁷ Federal language policies are also perceived to have failed OLMCs—the very communities the legislation was meant to protect, by not adequately responding to their claims and supporting their development.⁸

Despite the general malaise in the literature when it comes to the success of current policies and practices related to language in the country, public support for bilingualism has generally increased. Support for bilingualism has increased from 51% in 1977 to 56% in 2003 (after a dip in support during the national unity and economic crises of the 1990s).⁹ Three years later, when asked if they were personally in favour of bilingualism for all of Canada, a 2006 Decima Research poll for the OCOL reported a significant increase with

cercle? Fédéralisme, droits linguistiques et égalité dans l'interprétation de la constitution canadienne, Le fédéralisme asymétrique et les minorités linguistiques et nationales, ed. Linda Cardinal (Sudbury : Prise de Parole, 2008); Anne Gilbert, "Le français au Canada, entre droits et géographie," *Le géographe canadien* 45 (2001): 173-179.

⁵ See for instance Joy 1972; Wilson and Mullins 1978; Cardinal 2004; Hudon, 2009.

⁶ See for instance Jean-Claude Corbeil, *L'embaras des langues : origine, conception et évolution de la politique linguistique québécoise* (Montréal : Québec Amérique, 2007); Richard Y. Bourhis, *Introduction, Conflict and Language Planning in Quebec*, ed. Richard Y. Bourhis (Clevedon, Avon : Multilingual Matters Lts., 1984) 1984; Leigh Oakes and Jane Warren, *Language, Citizenship and Identity in Quebec* (New York: Palgrave MacMillan, 2007). While they also document the history of language politics in Quebec, Marcel Martel and Martin Pâquet simultaneously document Canada's in *Langue et politique au Canada et au Québec* (Montreal: Boréal, 2010).

⁷ See McRoberts 1997.

⁸ See for instance Cardinal 2004; Gilbert 2001; McRae 1978; Leslie A. Pal, "Language, Policy, and Rights in Canada: Pragmatism v. Politics," *Current World Leaders: International Issues* 38 (1995): 38-55.

⁹ Donna Dasko, "Public Attitudes Towards Multiculturalism and Bilingualism in Canada," Conference paper from *Canadian and French Perspectives on Diversity*, October 16, 2003.

72% of Canadians agreeing with this statement and 28% disagreeing.¹⁰ This strong showing of support in favour of bilingualism was largely a result of more favourable attitudes of Anglophones toward bilingualism.

Most recently, Canadians, according to a survey by TNS for Heritage Canada, value linguistic duality as a part of the country's cultural and social fabric.¹¹ However, Statistics Canada reported a slight decline in the proportion of Canadians able to speak French (maintain a conversation in French) from 30.7% in 2006 to 30.1% in 2011.¹² Reflecting this decline in the number of French-speakers, is a 24% decrease in the number of elementary and secondary students exposed to French-language learning outside of Quebec. This although there was a 28% increase in the number of students enrolled in immersion programs outside of Quebec.¹³

Nonetheless, language continues to be a passionate subject for many Canadians, namely Francophones. For instance, Francophones agreed that having two official languages is an important part of being Canadian at a rate of 78% (compared to 57% of Anglophones) and that it was a source of cultural enrichment at a rate of 85% (compared to 57% of Anglophones).¹⁴ There are further differences in perception of official languages between Anglophones and Francophones, with only four in ten Anglophones sharing the view that the French language is threatened in Canada (a perspective held by eight in ten Francophones).¹⁵ The differences in perception of language between Anglophones and Francophones lend credence to the idea that language remains a salient political question in Canada.

¹⁰ Office of the Commissioner of Official Languages, "The Evolution of Public Opinion on Official Languages in Canada," September 2006, http://www.ocol-clo.gc.ca/html/evolution_opinion_e.php (accessed December 9, 2013).

¹¹ Canadian Heritage, "Appréciation et perception des deux langues officielles du Canada," 2012 (TNS for Canadian Heritage, contract C1111-110947/001/CY (for further information contact por-rop@pch.gc.ca)).

¹² Statistics Canada, "Census in Brief: French and the francophonie in Canada," January 5, 2013, http://www12.statcan.gc.ca/census-recensement/2011/as-sa/98-314-x/98-314-x2011003_1-eng.cfm (accessed December 9, 2013).

¹³ Jean-François Lepage and Jean-Pierre Corbeil, Statistics Canada, *The evolution of English-French bilingualism in Canada from 1961-2011* (Ottawa: Minister of Industry, 2013)

¹⁴ TNS for Canadian Heritage 2012.

¹⁵ *Ibid.*

There is an important distinction to make here between official languages and bilingualism. Although the terms are used interchangeably, Canada's language legislation never intended for all citizens to become "bilingual" (i.e. capable of functioning in both official languages). Rather, Canada is a country with two official languages with equal status and privilege. What the OLA intended was to ensure that federal institutions could operate in both languages in order to serve the citizens of Canada whose mother tongues were primarily English and French. As former Commissioner of Official Languages Dr. Victor Goldbloom explained, "It [Canada] simply isn't a bilingual country, it is a country with two official languages that uses them appropriately according to concentrations of populations to communicate with Canadians."¹⁶ As the politics of language and language policy remain sources of political debate and identity in Canada, their underlying *principles* and the *state's role in its formulation* must be explored.

Principles

The underlying principles or reasoning for language policy in Canada is not always well explained or well understood by citizens.¹⁷ However, the literature on the politics of language has actively debated and theorized the premises of language policy. Language policies tend to have normative bases and political implications. In the Canadian literature on official languages, the normative aspects of bilingualism tend to be emphasized.¹⁸ From a normative perspective, language is more than a means for communication but is a symbolic value that transmits and propagates symbols, collective memory and provokes sentiments of shared identity and belonging.¹⁹ Referring to work by Harold Isaacs (1977), Macmillan explains that:

¹⁶ Victor C. Goldbloom, interview by author, May 31, 2012.

¹⁷ See for instance Magnet 1998; Macmillan 1998.

¹⁸ See Alan Patten, "Survey Article: The Justification of Minority Language Rights," *The Journal of Political Philosophy* 17(1) (2009): 102-128.

¹⁹ See for instance, Jean-William Lapierre, *Le pouvoir politique et les langues* (Presses Universitaires de France, 1988); Pierre Coulombe, *Federalist language policies: the cases of Canada and Spain*, Multinational Democracies, eds. A.-G. Gagnon and J. Tully (New York: Cambridge University Press, 2001); Colin H. Williams, ed., *Linguistic Minorities Society and Territory* (Philadelphia: Multilingual Matters Ltd., 1991).

Language is surrounded by an emotional intensity and an irreducible quality that signify its status as one of the ‘primordial bonds’ of group identity. Language is critical in defining individual identity, culture, and community membership.²⁰

Literature defining Canada as a multination state uses language as a primary marker of identity. Language is used to distinguish between English-speaking and French-speaking Canada (based in Quebec) in a three-nation perspective of the country with Canada’s Aboriginal peoples.²¹ Characterizing language policy normatively means recognizing the historic claim that French-speaking Canadians (namely Quebecois) have in the country and valuing language as an essential component of identity. Official languages legislation is at times thought to be a concession to Québec or tacit recognition of Québec’s distinctness, but with official languages, Trudeau intended to “nullify Québec’s claim to distinctiveness on the basis of language by making all of Canada like Québec.”²² The goal of official bilingualism was to incorporate Québec into the rest of Canada, not reify its distinctness through mechanisms to reflect its multinational character.

Language’s normative characteristics can underlie a language and/or a language group’s claim to power. For instance, in the case of Quebec, the province represents a nation defined by a common language. As an officially unilingual province that houses the Quebecois nation, the province of Quebec is an important political actor federally in Canada. During federal-provincial negotiations, Quebec may seek alternate or special agreements with the federal government by virtue of its internal nation. In essence, Quebec’s claims to political power stem from its unique territorially concentrated national identity defined by the French language. Its status can have important repercussions for federal-provincial relations. For instance, Quebec developed its own pension plan instead of opting into the federal version. Quebec is also the only non-signatory of the 1982 Canadian Constitution because it felt the content and negotiation process betrayed the province’s interests. When it comes to federal elections with Canada’s first-past-the-post electoral system, territorially

²⁰ Macmillan 1998, 17.

²¹ See for instance Will Kymlicka, *Finding Our Way: Rethinking Ethnocultural Relations in Canada* (Toronto: Oxford University Press, 1998); Alain-G. Gagnon and Raffaele Iacovino, *Federalism, Citizenship and Quebec: Debating Multinationalism* (Toronto: University of Toronto Press, 2007).

²² Kenneth McRoberts, *English Canada and Québec: Avoiding the Issue*, Sixth Annual Robarts Lecture, York University, Toronto, Ontario, 1991.

concentrated interests, such as those of the Quebecois nation, can have important federal repercussions. The ‘orange wave’ or sweep of seats in Quebec by the New Democratic Party in the 2011 federal election is an example of the power of territorially concentrated interests that won the party its status as official opposition.

The demographic weight or size of the language group is a significant contributor to its political power. Emphasizing the numeric importance of Canada’s French-speaking population (both within Quebec and among Canada’s official language minority communities), Prime Minister Trudeau adopted a political approach to develop and justify language policy in Canada. Although Trudeau recognized the founding roles of Canada’s two largest linguistic groups, it was by virtue of the sheer number of speakers of English and French that they were to become Canada’s official languages. If any language other than French had greater dominance, it would have been the other official language. In a book on his political thinking, Trudeau explains this perspective:

Les origines historiques du pays sont moins importantes qu’on ne le pense généralement, et la preuve c’est que ni l’inuit ni aucun dialecte indien n’ont de position privilégiée. Par contre, si six millions de personnes dont la langue maternelle est l’ukrainien vivaient au Canada, il est probable que cette langue s’imposerait avec autant de force que le français. En termes de *real politik*, ce qui fait l’égalité de l’anglais et du français au Canada, c’est que chacun des groupes linguistiques a le pouvoir réel de défaire le pays.²³

Language is a normative marker of identity that can have important political consequences, especially when the language group is territorially concentrated and/or demographically significant. In Canada, although the importance of language as a marker of identity is recognized, official languages policy intentionally does not define language as a marker of a particular nation (i.e. the Quebecois). Leaning more on political justifications for language policy was a means to make language accessible to all citizens transcending geography and ethnic backgrounds.

There is a struggle over different visions of the language regime in Canada. The federal model focuses on two language communities, allowing the individual to select the community into which they wish to integrate. When Ottawa assigned language rights to individuals, they were symmetrical in conception and focused on linguistic minorities

²³ Trudeau 1998, s. 212.

throughout the country (including the English in Québec). In contrast, the Québec model was grounded in the territorial principle and was focused on the flourishing of a particular collective group.²⁴ Federal and Québec language policies were fundamentally at odds because Ottawa's policy was focused on institutional bilingualism whereas Québec's language policies focused on the territorial principle.²⁵

Indeed, Québec's presence encouraged the adoption of official languages legislation, but the OLA was not adopted and implemented solely in recognition of the province's distinct language and nationhood. The policy was intended to recognize that citizens were entitled to receive services in their official language of choice from their federal government across the country. In particular, the legislation was meant to support OLMCs and to ensure them certain rights beyond service (e.g. the right to schooling in their official language where numbers warrant (including the Anglophone minority in Québec)).

This project seeks to move beyond debating the principles of language policy in Canada by analyzing the effects of official languages policy in the federal bureaucracy. Language policy and its implementation in the federal bureaucracy have attracted much less attention in the Canadian literature than other aspects of language policy and politics. As a regulator, the bureaucracy was responsible for interpreting and implementing the OLA in order to fulfill the public's rights. Also subject to the policy, the internal operation of the bureaucracy was required to adapt to official languages legislation. This dual responsibility presents a worthy yet understudied case. By better understanding the implementation process, we increase our understanding of the actors and institutions that influenced official languages policy in Canada and subsequently, the persistence of English as the dominant language of work.

To understand the repercussions of the implementation process, we must move the study of language policy from solely a question of identity and reassess it as a state led initiative. Policy is indicative of the state's substantive commitment to implement change and language policy is no exception. Canadian literature on language, much like the literature in other countries, tends not to assess the implementation and evaluation of specific

²⁴ McRoberts 2004; see also Cardinal 2006.

²⁵ McRoberts 2004.

language policies. Some works such as those by Grin (2003) and most recently Cardinal and Sonntag (forthcoming) in their edited volume *State Traditions and Language Regimes*, have contributed to filling the void in the literature on the politics of language by framing language policy as a state-managed tool to achieve particular ends.²⁶ Beyond state action in the area of language, Shohamy (2006) explains that “language policies are mostly manifestations of intentions while less attention is given to the implementation of policy in practice.”²⁷ This indicates that we must also look to the implementation of state efforts in language policy in order to truly understand their consequences.²⁸ Grin (2003) echoes this view on the lack of evaluative measures when dealing with languages by stating that governments, when dealing with language, tend to be in largely uncharted territory. Shohamy (2006) and Grin (2003) are right to point out that the instruments used for language planning require greater attention because they reflect a state’s (in)action in fulfilling substantive commitments to implement change through language policy.

Language policy according to Grin is “a systematic, rational, theory-based effort at the societal level to modify the linguistic environment with a view to increasing aggregate welfare. It is typically conducted by official bodies or their surrogates and aimed at part or all of the population living under their jurisdiction.”²⁹ Adopting Grin’s definition of language policy, Canada’s OLA (1969 and 1988) are conceptualized as fundamental pieces of language policy that indicate the Canadian state’s commitment to shaping the linguistic tendencies of institutions and offering spaces in which individuals can exercise their language choice. Both OLAs were proposed for specific ends: 1969 to foster national unity and political compromise; 1988 to bring the legislation in line with the Charter.

Language policy merits attention from a state-centric perspective. This means studying language policy by considering the role of the state and its institutions in

²⁶ François Grin, *Language Policy Evaluation and the European Charter for Regional or Minority Languages* (New York: Palgrave Macmillan, 2003); Cardinal and Sonntag (forthcoming).

²⁷ Elana Shohamy, *Language Policy: Hidden agendas and new approaches* (New York: Routledge, 2006), 51.

²⁸ *Ibid*, 54.

²⁹ Grin 2003, 30.

determining language policy choices.³⁰ The context in which a state makes its policy decisions is not a blank slate—its decisions and choices are informed by the existing institutional and social context. The traditions, institutions and state-society relations that influence language policy choices, make up the country’s language regime.³¹ This regime influences the way a state manages the politics of language.

The Role of the State

It is necessary to study the role of the state in language policy because the state does not operate independently of its institutions, traditions and state-society relations, but is informed by them. Although the symbolic value of language and its use is a function of individual choice, more importantly, it is also the result of social practices and institutions that profoundly influence incentives and opportunities. Some of the most influential institutions are state regulated—these institutions are not maintained by individual choices in civil society, but by public policy.³²

Canada’s federal system is premised on the uniting of two language communities as set out in section 133 of the Canadian Constitution, which guarantees the use of French and English in Parliament and in federal courts. It was not until the adoption of the Official Languages Act (1969) that English and French were declared as Canada’s official languages enjoying legal equality of status and recognition throughout the country and in its federal institutions. The actions taken to adopt and implement the OLA were more a function of political necessity than the application of a theory of language rights or civil or political rights.³³ When Pearson introduced bilingualism to the public service through a declaration in the House of Commons in April 1966, he treated language as “instrumental to the broader end of national unity”.³⁴ Trudeau also invoked the case for national unity and volatility of the Canadian federation at the time when he defended language rights seeking to extend

³⁰ Cardinal and Sonntag, *Introduction*, State Traditions and Language Regimes, (forthcoming).

³¹ *Ibid.*

³² Patten 2009.

³³ Macmillan, 1998.

³⁴ *Ibid*, 73.

them from coast to coast. In 1969, the state used official languages rights as a tool for political compromise. With nationalist tensions simmering in Quebec and national unity under threat, adopting an official languages policy was a means through which to recognize the role of the French language in Canada's development and existence (without fuelling the perceived nationalist threat).

The OLA 1969 was the principle tool through which this was achieved. What the OLA 1969 guaranteed was legislative language rights, which meant that they could be changed based on the will of Parliament. Come 1982 however, language rights were constitutionally protected through the Charter and could be claimed in court.³⁵ In order to bring the OLA in-line with the entrenched Charter, the OLA 1969 had to be replaced with a new OLA in 1988. In essence, the OLA 1988 defined language as a right in Canada within a human rights framework. Many advancements and changes were made but the inclusion of Part V is particularly relevant to the project. Part V granted public servants the right (with limits) to work in their official language of choice. This shift toward a rights-based conception of language in Canada within a human rights framework could have arguably revolutionized the country's federal institutions. Interestingly, on the institutional front, the OLA 1988 did little to advance the use of both official languages as languages of work in the federal public service, with English persisting as the dominant language of work.

Federal language policies also have important implications for OLMCs, particularly minority Francophone communities (MFCs). MFCs throughout Canada share a common commitment and attachment to official bilingualism.³⁶ Federal language laws, however, have not reduced rates of assimilation to English.³⁷ Lacking adequate concessions through federal legislation and with limited political and electoral clout due to their geographic dispersion, MFCs have turned to the Canadian Charter of Rights and Freedoms to advance

³⁵ Macmillan 1998, 73.

³⁶ Yves Frenette, *L'évolution des francophonies canadiennes: éléments d'une problématique*, Aspects de la nouvelle francophonie canadienne, eds. S. Langlois and J. Létourneau (Sainte-Foy, QC : Presses de l'Université Laval, 2004); Linda Cardinal and Luc Juillet, *Les minorités Francophones hors Québec et la gouvernance des langues officielles au Canada*, La gouvernance linguistique : le Canada en perspective, ed. Jean-Pierre Wallot (Ottawa: Les Presses de l'Université d'Ottawa, 2005).

³⁷ Cardinal 2006.

their rights in the judicial realm.³⁸ Through the courts, language rights have advanced with views of justice through differentiated treatment. Judicial interpretation has helped to advance the rights of MFCs far more than language policy alone in Canada.³⁹ Decisions related to education for instance, forced reluctant provincial governments to act in favour of the MFCs (such cases include *Mahé v. Alberta* [1990], *Arsenault-Cameron v. Prince Edward Island* [2000]). Although MFCs were considered in the crafting of federal language policy, their right to French-language services in key service areas like health and education were bolstered by the Charter and judicial interpretation. Rights advancements through the Charter, however, may be reaching their limit. Richez (2012) for instance, argues that OLMCs have exhausted judicial tools through the Charter for their advancement, leaving it up to political action through regional and federal governments to promote vitality.⁴⁰

The federal state in Canada has constructed an official languages regime premised on institutional bilingualism and support to OLMCs. The federal public service as an institution has been both subject to the OLA and the regulator of official languages policy and programs. With a central role in the official languages file, a better understanding of how the official languages policy has been implemented in the institution is required. By understanding the implementation process, we can better assess its results. The public service was a first target for reform because of its symbolic value as a reflection of society as well as its practical role as a service provider. In order to reach citizens in their official language of choice, the public service had to be able to function in both official languages. Turning now to the literature on representative bureaucracy, we draw out key ideas about the institution as a space for representation at the very centre of a state with salient language issues.

³⁸ See for instance Marcel Martel, *Le débat autour de l'existence et de la disparition du Canada français: état des lieux*, Aspects de la nouvelle francophonie canadienne, eds. S. Langlois and J. Létourneau (Québec: Presses de l'Université Laval, 2004).

³⁹ Foucher 2008.

⁴⁰ Emmanuelle Richez, "Francophone Minority Communities: The Last Constitutional Standard-Bearers of Trudeau's Language Regime," *International Journal of Canadian Studies* 45-46 (2012): 35-53.

Representative Bureaucracy

The concept of representative bureaucracy originated in Donald J. Kingsley's seminal work, *Representative Bureaucracy*, originally published in 1944. According to Kingsley, a representative bureaucracy, one that reflected the society it served, would be better suited to know the needs of its citizens and would enjoy increased levels of confidence and validity from them.⁴¹ The representation of minority groups in the institutions of a country like Canada can have important implications for its stability and democracy. Representation can be used to quell conflict of internal nations by ensuring they view themselves as contributors to the policy; and it can also demonstrate attempts to reflect societal diversity.⁴²

As Sutherland and Doern explain, when it came to rectifying the inequality of women, language and visible minorities in the 1970s, reform had to start somewhere in Canada and

In each case, the answer to the "somewhere" was the public service. [...] In a sense, the bureaucracy assumed a burden for the whole of society, policies on employment in public service jobs substituting for basic social, economic and education policy."⁴³

Specifically in the case of linguistic representation in Canada, the federal bureaucracy has been used since the 1960s as a tool to manage the country's linguistic diversity. Francophone representation was encouraged within the body⁴⁴ in an attempt to create a representative bureaucracy and nation-build. The literature on representation in the Canadian bureaucracy has tended to focus on costs and benefits of measures used to achieve the adequate representation of linguistic groups or the normative arguments underlying these measures and their emergence.⁴⁵

⁴¹ See *Representative Bureaucracy: Classic Readings and Continuing Controversies*. Edited by Julie Dolan and David H. Rosenbloom. New York: M.E. Sharpe, 2003.

⁴² Sandra Groeneveld and Steven Van de Walle, "A contingency approach to representative bureaucracy: power, equal opportunities and diversity, *International Review of Administrative Sciences* 76 (2010): 239-258; Alain-G. Gagnon, Luc Turgeon et Olivier de Champlain, "La bureaucratie représentative au sein des états multinationaux," *Revue française d'administration publique* 118 (2006): 291-306.

⁴³ Sharon L. Sutherland and G. Bruce Doern, *Bureaucracy in Canada: Control and Reform*. (Toronto: University of Toronto Press, 1985), 144.

⁴⁴ Wilson and Mullins 1978.

⁴⁵ Gagnon, Turgeon and de Champlain 2006; See also C. Beattie and B.G. Spencer, "Career Attainment in Canadian Bureaucracies: Unscrambling the Effects of Age, Seniority, Education, and Ethnolinguistic Factors on Salary," *The American Journal of Sociology* (1971): 472-490. 1971; J.J. Carson, "Bilingualism in the Public

The bureaucracy is at times used to manage a country's diversity or respond to immediate political or social concerns. For instance, this may be done by fostering representation of an underrepresented or minority group, linguistic group or implementing hiring quotas etc. Studying these uses, scientific research on bilingualism in the bureaucracy has tended to be quantitative, focusing on the bureaucracy's numeric composition. In the Canadian context, such studies typically seek to quantify the number of Anglophones and Francophones in the public service and the retention of French-language training among Anglophones.⁴⁶

Although a representative bureaucracy can be a mechanism to foster stability and reflect social diversity within states, Groeneveld and Van de Walle (2010) conclude that modern diversity management approaches alone may not contribute to nation-building. The authors argue that policy debates on representative bureaucracy mingle three different dimensions: power, equal opportunities and diversity. These dimensions not only reflect a particular view on the role of the state and the relation between the state and citizens, they also diverge in the motives for making the bureaucracy representative.⁴⁷

Recent work by Turgeon and Gagnon (2013) has recognized that studies on representative bureaucracy tend to neglect why and/or how the administration was transformed to meet representational needs in the first place. In an attempt to correct this weakness, the authors have undertaken a comparative study of Belgium, Canada and Switzerland. They insist that the representations of internal diversity, the institutions in which actors operate and the coalitions they build explain the mechanisms used to achieve bureaucratic representation.⁴⁸ Work such as that by Turgeon and Gagnon that studies the

Service," *Canadian Public Administration* (1972): 190-193; Wilson and Mullins 1978; Guillaume Gentil et al., "Le maintien du français chez les fonctionnaires fédéraux anglophones: Impact d'un programme de formation linguistique," *The Canadian Modern Language Review* 65(5) (2009): 841-867.

⁴⁶ Carson 1972; Gentil et al. 2009; G. Edwards, "Second-Language Retention in the Canadian Public Service," *Canadian Modern Language Review* 32 (1976): 305-308; G.A. Blackburn "A Bilingual and Bicultural Public Service," *Canadian Public Administration* 12 (1969): 36-44; Sandford F. Borins, "Language use in the federal public service: some recent survey results," *Canadian Public Administration* 27 (1984): 262-268.

⁴⁷ Groeneveld and Van de Walle 2010.

⁴⁸ Luc Turgeon and Alain-G. Gagnon, "The Politics of Representative Bureaucracy in Multilingual States: A Comparison of Belgium, Canada and Switzerland," *Regional and Federal Studies*, (2013): 1-19.

bureaucracy as an object of analysis rather than only as a space for representation is crucial because it enhances our understanding of the institutional dynamics that contributed to a particular form of representation or diversity management. While Turgeon and Gagnon explore the role of coalitions in the adoption of specific policy, they do not explore how such policy was implemented.

This project seeks to build on this work by engaging in the study of the bureaucracy as an object of analysis rather than solely as a regulator or implementer of public policy. The Canadian literature on representative bureaucracy is limited because it does not explore how policies related to representation are implemented within the institution, especially on matters of language. The public service merits closer attention as the institution is both subject to the OLA and is responsible for its implementation.

In contrast, the American literature abounds with discussion of the effectiveness of representation in a bureaucracy.⁴⁹ Although it tends to focus on ethnic- and gender-based representation, the American literature is rich in assessments and evaluations of the representational policies. For instance, Mosher questions whether the social backgrounds of civil servants really impact their decision making.⁵⁰ By contrast, Krislov emphasizes the personality of individual bureaucrats and the importance their differing perspectives bring to the administration. Krislov maintains that “A major task of governance is to gain support for policies. [...] And one of the oldest methods of securing such support is to draw a wide segment of society into the government to convey and to merchandise a policy.”⁵¹

Assessing the effectiveness of societal representation in the bureaucracy, Dolan (2000) demonstrates that women in executive positions are more likely to develop and encourage female-friendly policies when they work in departments or agencies devoted to women.⁵² In a similar vein, Meier’s 1993 study of Latino representation among street-level

⁴⁹ See *Representative Bureaucracy: Classic Readings and Continuing Controversies*. Edited by Julie Dolan and David H. Rosenbloom. New York: M.E. Sharpe, 2003.

⁵⁰ Frederick C. Mosher, *Democracy and the Public Service* (New York: Oxford University Press, 1982).

⁵¹ Samuel Krislov, *Representation Bureaucracy*, *Representative Bureaucracy: Classic Readings and Continuing Controversies*, eds. Julie Dolan and David H. Rosembloom (New York: M.E. Sharpe, 2003).

⁵² Julie Dolan, “The Senior Executive Service: Gender, Attitudes, and Representative Bureaucracy,” *Journal of Public Administration Research and Theory* 3 (2000): 513-529.

bureaucrats in Florida, found that street-level bureaucrats were more likely to represent minority interests. A critical mass of the minority group in the bureaucracy was necessary before administrators could be expected to represent the interests of the group in decision making.⁵³ These studies reflect the richness of the American literature on representative bureaucracy by studying the bureaucracy not only as a space for representation but by assessing the repercussions of representation policies.

This project builds on a premise of the representative bureaucracy literature by recognizing the importance of a federal public service that reflects the diversity of the population (namely its linguistic diversity) for the stability and overall justice of a country. Yet in order to understand how these representative policies are implemented and actualized within the institution, the bureaucracy must be studied as an object of policy. The literature on representative bureaucracy in Canada however, is limited in this regard.

As Turgeon and Gagnon explain, the literature on representative bureaucracy does not offer the tools required to explore the implementation of policy, or theorize the sources of those changes.⁵⁴ When it comes to understanding the implementation of the official languages policy in the federal public service, we have to go beyond the study of the bureaucracy as a symbolic space for representation. How can we gain a more thorough understanding of the institutionalization of bilingualism in the federal bureaucracy? As will be demonstrated in this project, the bureaucracy should be considered to be more than a symbolic space or a tool to foster representation or integration. The Canadian federal bureaucracy should be understood as an object of policy. Studying the bureaucracy as a case in which policy is implemented will allow the researcher to isolate explanatory factors in the implementation of official languages legislation and better understand why English persists as the dominant language of work.

Part II: The Limits of Existing Theoretical Approaches

The continued dominance of English as a language of work in the public service requires explanation. Despite the enactment and implementation of policies making the choice of language of work a right, English continues to dominate (even between the

⁵³ Kenneth J. Meier, "Latinos and Representative Bureaucracy Testing the Thompson and Henderson Hypotheses," *Journal of Public Administration Research and Theory* 4 (1993): 393-414.

⁵⁴ Turgeon and Gagnon 2013.

National Capital Region and mainly French-speaking regions). To explain this state of affairs, a theoretical approach that can account for this persistence despite policy changes is required. Social learning, organization studies (organizational culture and path dependency) as well as sociological approaches (sociological institutionalism and congruence theory) are reviewed. None of these approaches get to the core of what this project's subsequent analysis revealed: the importance of institutions in shaping the decisions and actions of actors, which ultimately leads to the persistence of English as the dominant language of work.

Social Learning

Social learning emphasizes the political power of ideas by asking why some ideas are adopted over others. From this perspective, the policymaking process can be structured by a set of ideas just as it can be structured by a set of institutions.⁵⁵ Social Learning, according to Hall (1993) is “[...] a deliberate attempt to adjust the goals or techniques of policy in response to past experience and new information. Learning is indicated when policy changes as the result of such a process.”⁵⁶

Innovation that encourages paradigmatic change happens during moments of crisis where the existing policy breaks down. When this happens, there is an opening for new ideas. These ideas emerge from different locations that can be grouped into two principle sites of action⁵⁷: state-centred⁵⁸ and society-centred.⁵⁹ State-centred perspectives emphasize that change occurs through bureaucratic managers and policy experts to influence politicians. In their formulation of social learning, the state is understood to be autonomous from societal pressure. In this case, the learning process is pushed by experts working for the state or advising it from privileged positions.⁶⁰

⁵⁵ Peter A. Hall, “Policy Paradigms, Social Learning and the State: The Case of Economic Policymaking in Britain,” *Comparative Politics* 25(3) (1993): 275-296.

⁵⁶ *Ibid*, 278.

⁵⁷ Neil Bradford, *Commissioning Ideas: Canadian National Policy Innovation in Comparative Perspective* (Toronto: Oxford University Press, 1998).

⁵⁸ See for instance, Hugh Hecllo, *Modern Politics in Britain and Sweden* (New Haven: Yale University Press, 1974).

⁵⁹ See for instance, Samuel Beer, *Modern British Politics* (London: Faber and Faber, 1982).

⁶⁰ Hall 1993, 277-278; see also Bradford 1998.

Society-centred approaches emphasize the power of social movements or political interests influencing the policy process. In these situations, pressure groups, the media, popular opinion etc. may be engaged in proposing and selling ideas, ultimately influencing state action. The approaches are not mutually exclusive and no single approach prevails.⁶¹ The interplay between state and societal components and their historical context can explain national policy change.⁶² National policy change on the official languages front could be well explained by social learning. In the case of the OLA 1969 for instance, it was a combination of elite political will and social unrest (namely in Quebec) that fuelled its development and adoption.

Theorizing path-breaking change only at moments of paradigmatic change, however, is limiting because social learning does not account for gradual change. Particularly in the case of official languages legislation in the public service, the policy was implemented through a series of gradual and layered regulations. The gradual changes to the implementation procedure and repercussions for public servants did not only happen when the OLA was introduced. Rather, through interpretations of the policy, new regulations, changes in responsibility between central agencies, etc. the implementation process was altered. These changes ultimately impacted the end results of the policy. Granted, there are important critical junctures in the implementation of official languages legislation (namely the introduction of the OLA 1969 and 1988), but explaining why the ideas contained in those policies prevailed over others does not help us analyze and explain the persistence of English as the dominant language of work.

Fleckenstein (2013) attempts to correct for social learning's inability to theorize gradual change by engaging ideas as a source of destabilization (instead of exogenous shock). Learning from this approach is "perceived as a mechanism that might destabilize the ideational foundations of institutional settings and their reproduction, thereby opening up room for path-departing institutional change."⁶³ Ideas can reinforce existing tendencies but

⁶¹ Denis St-Martin (2002) for instance, indicates that both endogenous and exogenous learning were influential in the development of child-welfare policies in Canada and Great-Britain.

⁶² Peter A. Hall, *The Political Power of Economic Ideas: Keynesianism Across Nations* (Princeton, N.J.: Princeton University Press, 1989); see also Hall 1993; Bradford 1998.

⁶³ Timo Fleckenstein "Learning to Depart from a Policy Path: Institutional Change and the Reform of German Labour Market Policy." *Government and Opposition* 48(1) (2013): 61.

can also aggravate change. Fleckenstein does note that even though ideas can facilitate change, policy legacies remain powerful—the importance of the institutional structure cannot be discounted or overlooked. In brief, an institutional structure of a policy provides both constraints and opportunities for policy learning.⁶⁴

Even accepting Fleckenstein’s argument that ideas (and not only critical junctures) can foster change, the sources of regulations and policies that were layered in the implementation of official languages legislation would not help us understand why English persists as the language of work. Social learning whether premised on critical junctures or gradual change, identifies the sources of policy ideas. Identifying why particular ideas were adopted in a particular context over others does not explain why, despite major moments of change and the layering of policies and regulations for implementation that the public service continues to operate predominantly in English. As an approach, social learning does not have the tools required to explain why the adoption of certain ideas over others (which it can explain) led to a particular outcome. The missing piece to the puzzle from a social learning perspective is the outcome of choices.

Organizational Approaches: Organizational Culture and Path Dependency

Organization theory is the study of the design, operation and repercussions of actions (for members, shareholders) of an organization. Organization theorists are interested in “the range of organizational designs; their governance, capabilities (e.g., the ability to innovate, learn, and adapt), processes (e.g., decision making), and consequences (and for whom); and how new organizational designs arise and become established.”⁶⁵ Organizations in the business and public sectors tend to be the focus of analysis, but they require different approaches.

In the public sector, an organization has different shareholders, operating procedures, purpose and goals. Public organizations are ultimately accountable to the citizenry through their political heads which make them part of the governing system.⁶⁶ Because of their place

⁶⁴ Fleckstein 2013, 63.

⁶⁵ Royston Greenwood and Bob Hinings, “Organization Theory,” Oxford Bibliographies Online 2013, <http://www.oxfordbibliographies.com.proxy.bib.uottawa.ca/view/document/obo-9780199846740/obo-9780199846740-0024.xml> (accessed December 9, 2013).

⁶⁶ Tom Christensen et al., *Organization Theory and the Public Sector* (New York: Routledge, 2007), 6.

in the state apparatus, public organizations must mediate considerations from a variety of sources (e.g. constitutional, linguistic, etc.) and not only those related to its deliverables or area of expertise, unlike private organizations.⁶⁷ Finally, public organizations are sometimes required to solve problems or reach goals that would be unprofitable for the private sector.⁶⁸ Adopting an organization theory approach to the public sector, “assumes that it is impossible to understand the content of public policy and public decision-making without analysing the way political-administrative systems are organized and their modes of operation.”⁶⁹ Of particular interest to this project would be the mode of operation as defined through organizational culture.

Organizational culture can be used to explain decision making or behaviour within an organization. For instance, Alvesson (1990) notes a surge in interest for organizational culture studies in the 1980s.⁷⁰ One of several contributing factors was the belief that Japan’s economic success at the time was connected to the distinct culture within its organizations. Seeking to replicate or better understand successful business models, studies on management practices, organizational forms and their repercussions emerged.

An essentially contested concept, no single definition of organizational culture exists.⁷¹ Assessing the ‘grey area’ of cultural change, Gagliardi (1986) proposes that culture is defined as common set of assumptions and values that distinguishes one group from another and is unalterable.⁷² According to Christensen et al. (2007), the dominant

⁶⁷ Christensen et al. 2007, 7.

⁶⁸ *Ibid*, 8.

⁶⁹ *Ibid*, 1.

⁷⁰ Mats Alvesson, “On the Popularity of Organizational Culture,” *Acta Sociologica* 33(1) (1990): 31-49.

⁷¹ See for instance, Linda Smircich, “Concepts of Culture and Organizational Analysis,” *Administrative Sciences Quarterly* 28 (1983): 339-358; Tobia Jung, “Instruments for Exploring Organizational Culture: A Review of the Literature.” *Public Administration Review* November | December (2009): 1087-1096; Pasquale Gagliardi, “The Creation and Change of Organizational Cultures: A Conceptual Framework,” *Organization Studies* 7 (2) (1986): 117-134.

⁷² Gagliardi 1986.

conception of organizational culture is one that conceives of culture as “something an institution is.”⁷³ According to Schein (1991), a foremost expert in the field, culture is:

A pattern of shared basic assumptions, invented, discovered, or developed by a given group, as it learns to cope with its problems of external adaptation and internal integration, that has worked well enough to be considered valid, and, therefore, is to be taught to new members of the group as the correct way to perceive, think, and feel in relation to those problems.⁷⁴

The various definitions return recurring themes, which include: commonly held values, the importance of the leader’s role, continuity/persistence of culture once established and the influence of culture on behaviour and decision making.

The path dependent tendencies of organizational culture are of particular interest here. The historical context, norms and values present when an organization was established affect its development and evolution.⁷⁵ When a particular course of action is introduced, it becomes ‘path dependent’ and nearly impossible to reverse.⁷⁶ Path dependency is characterized by extensive periods of stability, punctuated by “formative moments” or turbulent events that alter the established course.⁷⁷ Path dependency can make it easy for civil servants to determine appropriate behaviour; however path dependency can also make an organization inflexible, limiting its ability for swift change.⁷⁸ The persistence of the Anglophone culture of the federal public service offers a compelling explanation for the dominant use of English as language of work (a discussion to which we return to below).

Because of the continuity of organizational culture, understanding how values and ideologies emerge and are consolidated is crucial for developing a conceptual framework for theorizing cultural change.⁷⁹ Schein (1991) attributes the initial development of a culture to

⁷³ Christensen et al. 2007, 43.

⁷⁴ Edgar H. Schein, *What Is Culture?*, Reframing Organizational Culture, eds. Peter J. Frost et al. (Newbury Park, CA: Sage Publications Inc., 1991), 247).

⁷⁵ Christensen et al. 2007, 45.

⁷⁶ Paul Pierson “Increasing Returns, Path Dependence, and the Study of Politics,” *The American Political Science Review* 94(2) (2000): 251.

⁷⁷ B. Guy Peters et al., “The Politics of Path Dependency: Political Conflict in Historical Institutionalism,” *The Journal of Politics* 67(4) (2005): 1276.

⁷⁸ Christensen et al 2007.

⁷⁹ Gagliardi 1986, 121.

the organization's leader. In establishing a new organization, the leader will define its goals, structure and values. Through a dynamic learning process, if these elements return positive results, members of the organization will internalize them such that they are no longer conscious of them. The process begins with predictions about how things are (beliefs) and statements about how things ought to be (values). As these are validated by the group, what were values and beliefs become assumptions that no longer need to be tested.⁸⁰

Christensen et al. (2007) identify internal and external pressures as influencers of organizational culture. Internal pressure is a source of institutional characteristics that individual members bring to the organization or characteristics that are task related.⁸¹ A public organization's culture can also be informed by external pressures because actors that the organization interacts with for different reasons, e.g. resources, influence its institutional characteristics. What those external actors do can be critical for the organization.⁸² For instance, in the case of official languages legislation, the federal public service was required to adapt its values to include both official languages when legislation was introduced in the political realm. The external actions of politicians informed the characteristics of the public service. One intention of the policy was to increase the number of French-speaking public servants and it was successful. The hypothesis at the time was that an increased number of French-speaking employees would encourage the use of French as a language of work. If this had been the case, this would have been an example of internal pressure causing organizational culture change through the characteristics of individual members. Even though the increased representation did not result in an increased use of French as a language of work, an organization is influenced by its environment and the dynamic and reciprocal relations within it which developed as part of the wider political system.

When it comes to the persistence of English as the dominant language of work in the public service, organizational culture and path dependency offer an explanation. From this perspective, one could explain that the public service continues to operate predominantly in English because it was part of its culture prior to the introduction of official languages

⁸⁰ Schein 1991, 249-250.

⁸¹ Christensen et al. 2007, 44.

⁸² *Ibid.*

legislation. The administrative principle of merit, for instance inadvertently supported this. Paired with the fact that after World War I the public service operated almost exclusively in English, it is no surprise that the English language continues to dominate, since organizational culture is persistent and exhibits path dependent tendencies making it difficult to change.

In analyzing the history of the public service however, there is evidence of large-scale change especially in the areas of representation and language of work. Prior to Confederation, the federal public service operated in a bicultural and bilingual fashion. In fact, representation between English- and French-speakers was equivalent to their respective demographic weights. If at one time the public service exhibited a series of values and operating procedures that accommodated the representation and use of both official languages in its regular operation, why would it not be able to do it again, especially when backed up by legislation?

Even accepting the path-dependency argument that critical junctures or moments of major turbulence are required for the culture to deviate from its set path, two such instances were offered through the introduction of official languages legislation but did not change the culture. Following the introduction of the official languages legislation first in 1969 and the right in 1988, the public service underwent major reforms. The legislation was premised on representation and language of work but interestingly, efforts to encourage the representation of Francophones were successful whereas initiatives encouraging the use of both official languages as languages of work were not. How can we explain this bifurcation of results through organizational culture?

The path dependency of organizational culture only offers a limited explanation for the persistence of English as a language of work. If the organizational culture of the public service could accommodate a change in representation, how could the change not influence the language of work? An increased number of Francophones would presumably have fostered an increased use of French within the organization. Since this was not the case, how can it be explained? Organizational culture and path dependency offer limited insight as to why despite critical junctures in language policy and changes to its composition that the organization's behaviour in language of work has not changed significantly. Further, the approach does not account for incremental changes within the organization that can build up

and impact change over the long term. Depending solely on moments of critical change to explain reforms to organizational culture limits our understanding of how an organization like the public service grapples with change.

Further, it is nearly impossible to define a single ‘organizational culture’ for the entire federal public service.⁸³ It is a massive organization with various departments and agencies that exhibit their own values and tendencies. Subcultures within large organizations commonly develop. This may create problems for political and administrative leaders but it can also increase flexibility.⁸⁴ These subcultures account for the distinct tasks or responsibilities that characterize its units. In the case of the public service, there are certain departments and agencies such as Canadian Heritage and the Public Service Commission that have tended to operate more effectively in both official languages when compared to other departments. In contrast, department like Finance and the Treasury Board Secretariat have historically been known as English-speaking bastions where the use of French was much less common. This project’s macro perspective of the public service does not account for the tendencies of individual departments or agencies. Beyond a general theorizing as to why language of work legislation failed relative to the representational elements of official languages policy, an analysis of individual departments would have to be undertaken—which would have been too demanding for a single thesis.

The organizational culture and path dependency approach offers indications about why values present at the birth of an organization or at critical moments of its history persist, but it does not explain how these values are transferred within an organization or why an organization might hold certain values on paper which are not translated into practice (as is the case with official languages in the public service). Based on legislation, regulations and value statements, the public service has incorporated official languages into its organizational culture on paper. But explaining through organizational culture and path dependency why this has not altered the persistence of English as the dominant language of work is insufficient. There were critical junctures that required the organization’s culture to change and historically, the culture has undergone various changes.

⁸³ O.P. Dwivedi and J.I. Gow, *From Bureaucracy to Public Management* (Toronto: The Institute of Public Administration of Canada and Broadview Press, 1990).

⁸⁴ Christensen et al. 2007, 42.

The problem with organizational culture and path dependency for the project is that it does not explain enough. It leaves a gap in our ability to theorize why English persists as the dominant language of work because on paper, the public service's organizational culture is depicted as one that endorses it and should also encourage it.

Sociological Approaches

Sociological institutionalism and congruence theory emphasize the impact of society on institutions. Although sociological institutionalism also developed its own subfields of organizational studies, it is addressed in this section with congruence theory because both approaches underscore the connection between environment and institution. This is distinct from the organizational culture approach discussed above where culture is something that can be formed or manipulated by leaders or officials to achieve particular ends (this does not preclude the impact of environmental/social forces on an organization's culture, but they are not as imminently linked as they are from a sociological perspective). From a sociological perspective, the existing societal culture is reflected in institutions.

Sociological Institutionalism

Seeking a cultural explanation for the adoption of particular institutional forms, sociology and organization studies developed subfields of sociological institutionalism.⁸⁵ Institutions, from this perspective are more fluidly defined than in a formal material definition. The definition of institution is broadened to include not only formal procedures, rules and norms, but symbols, cognitive scripts and moral templates that provide frames of meaning that guide human action. The definition breaks down the conceptual divide between institutions and culture.⁸⁶

Institutions will seek social legitimacy by reflecting socially constituted values. This is central because from the sociological institutionalist approach, "organizations embrace specific institutional forms or practices because the latter are widely valued within a broader cultural environment."⁸⁷ Institutions will find ways of adapting to changes in their

⁸⁵ Peter Hall and Rosemary Taylor, "Political Science and the Three New Institutionalisms," *Political Studies* XLIV (1996): 936-957; see also B. Guy Peters, *Institutionalist Theory in Political Science, 3rd Edition* (New York: Continuum, 2012).

⁸⁶ Hall and Taylor 1996, 947.

⁸⁷ *Ibid*, 950.

environment to ensure their survival and legitimacy.⁸⁸ However, defining sources of cultural appropriateness (cultural authority) is unclear in this approach. Precisely who or what defines what is a social value worthy of being reproduced?⁸⁹

If as sociological institutionalism theorizes that institutions find ways of adapting to their environments,⁹⁰ one can hypothesize that the federal public service would have altered its operation in the area of language of work in response to the increase in French-speaking public servants beginning in the 1970s. The change in environment through the influx in French-speakers could have engendered a response, but this was not the case as English persists as the dominant language of work. Despite changes to its environment which included an increase in French-speakers and the legislative power of the OLA, the public service's practices did not change, but sociological institutionalism cannot explain why.

A key problem explanatory limitation of sociological institutionalism is that it misses the clash for power between actors during the creation or reform of institutions. Power struggles ensue among actors at these moments as they vie for power but sociological institutionalism does not account for this.⁹¹ This limits analysis and understanding of the role of actors at these moments and how their struggles for power impacted the change. When the OLA was being introduced in the public service, the institutional change left various players such as staff unions, the provinces and departments jockeying to attempt to ensure their perspective and position was favoured in the implementation of the policy. These struggles for power informed by existing institutions influenced the implementation of official languages legislation and ultimately its results. Sociological institutionalism does not theorize this struggle. By contrast, historical institutionalism helps us to understand why some actors gained power over others during struggles for power (because the approach posits that state institutions reproduce competition between actors and favour some actors

⁸⁸ John W. Meyer and Brian Rowan, "Institutionalized Organizations: Formal Structures as Myth and Ceremony," *American Journal of Sociology* 83(2) (1977): 340-363. It must be noted that there is also a strand of organization theory that argues that institutions attempt to mould their environments (Peters 2012, 139).

⁸⁹ See for instance Hall and Taylor 1996.

⁹⁰ Meyers and Rowan 1977; Peters 2012.

⁹¹ Hall and Taylor 1996.

over others). Historical institutionalism's process tracing and formal definition of institutions can better identify processes and influences that contributed to a particular outcome.⁹²

Sociological institutionalism with its failure to theorize struggle, inconclusively defined sources of culture, and lack of emphasis on the fashioning power of existing institutions, does not offer the theoretical tools required to explain the persistence of English as the dominant language of work.

Congruence Theory

Congruence theory offers another sociological approach to understanding how institutions interact with their societies. According to Harry Eckstein, the originator of theory, "[...] high governmental performance [...] requires a high degree of congruence among governmental authority patterns, on one hand, and specified nongovernmental authority matters on the other."⁹³ In essence, the theory posits that stability within a state is promoted by the congruence of social and political relations. Norms that are created in the family, the work world and social associations, are then carried into the political world, creating agreement between society and the authority pattern of the state which ensures stability.⁹⁴ This congruence of norms and values emphasizes society's influence on the politics of the state.

Jan Erk takes up this idea of congruence and pairs it with a sociological perspective of federalism in his book *Explaining Federalism: State, society and congruence in Austria, Belgium, Canada, Germany and Switzerland*.⁹⁵ The book's principle argument is that state structures change in order to become congruent with society. The institutions in Erk's case studies (Austria, Belgium, Canada, Germany and Switzerland), have all changed to accommodate ethno-linguistic structures within the states (rather than the ethno-linguistic

⁹² Hall and Taylor 1996, 954.

⁹³ Harry Eckstein, *The Natural History of Congruence Theory* (Denver, CO: Monograph Series in World Affairs, University of Denver, 1980), 1.

⁹⁴ For a complete discussion of congruence theory, see Eckstein's 1965 seminal work, *Division and Cohesion* on congruence in Norway (Princeton University Press).

⁹⁵ Jan Erk, *Explaining Federalism: State, society and congruence in Austria, Belgium, Canada, Germany and Switzerland* (New York: Routledge, 2008).

groups modifying their modes of action to accommodate the system).⁹⁶ Erk attempts to demonstrate through his study that societal forces influence the workings of federalism.⁹⁷ Although he admits that institutional structures influence policy, he maintains that the broad choices made by political actors emanate from the social structure.⁹⁸

Societal forces enable and constrain state actors with pressures for the congruence of public policy by the social collectivity for which the policies are made. When the nation is smaller than the unit defined by the political institutions, devolution is sought from the unitary institutions; when the nation is bigger than the unit marked off by political institutions, the tendency will be towards centralization.⁹⁹ Although they do not engage the concept of congruence, Meyers and Rowan (1977), similarly argue that formal structures of organizations in post-industrial societies reflect the myths of their institutional environment instead of the demands of their work activities. Organizations that incorporate socially legitimated rationalized elements into their formal structures maximize legitimacy and increase resources and survival capabilities.¹⁰⁰

Engaging with a congruence approach for this project, the theory can explain the initial adoption of the OLA 1969 reasonably well. With the rise of Quebec nationalism in the 1960s and 1970s that unsettled Canadian politics, we can posit that political actors sought to meet English-speaking Canada's desire for national unity by attempting to quell Quebec's assertion of nationhood. Part of Quebec's elite, which included the likes of Pierre E. Trudeau, Gérard Pelletier and Jean Marchand, were proponents of national unity and worked federally to achieve their goals. To attain the aims of national unity and recognition of the French language's place in the country, the OLA 1969 was adopted. With this legislation, Trudeau intended to nullify Quebec's claim to distinctness,¹⁰¹ support official language minority communities across the country and essentially, make Canada's official languages a

⁹⁶ Erk 2008, 1-2.

⁹⁷ *Ibid*, 5.

⁹⁸ *Ibid*, 9.

⁹⁹ *Ibid*, 10.

¹⁰⁰ Meyers and Rowan 1977.

¹⁰¹ See McRoberts 1991.

national value and national responsibility. Theorizing the adoption of the OLA from the perspective of the majority of English-speaking Canada, congruence with society was achieved with the policy by contributing to the goal of national unity. Barring the theorization of the adoption of the policy from the perspective of national unity, congruence offers little in the way of explaining the implementation and the result of the adopted policy.

The limitedness of congruence theory for this project is that it cannot theorize the implementation procedure of the official languages program in the federal public service. From Erk's perspective, institutions become congruent with the societies they serve. That explanation is fine to theorize the initial adoption of a policy but not enough to explain how the policy was implemented nor to assess its result. What happened within the public service, i.e. the power struggles between actors and the influence of existing institutional dynamics are of particular interest to this project because it is the story inside the public service that can help us understand the result of the official languages policy. In order to understand how the official languages require a more nuanced set of theoretical tools.

If we invoked congruence theory in this project, we would argue that since the public service already operated in English (which reflected the ethno-linguistic majority of Canadian society), the official languages program was doomed to fail. The institution already mirrored the society it serves and according to congruence theory, state institutions seek to resemble the society they serve. This possible explanation is reductionist. Congruence theory does not adequately theorize the internal dynamics of the public service, especially because parts of the official languages program were successful. For instance, the equitable representation of both official languages groups has been achieved and there have been significant improvements to service to the public in their official language of choice. Congruence theory would have difficulty explaining why those components of the policy (that favoured the minority group) succeeded while language of work failed.

Just like sociological institutionalism, congruence theory cannot theorize contests for power within institutions. In the case of the official languages legislation, veto players such as the staff unions acted to limit the pervasiveness of the policy's implementation to protect its membership. The struggles for power between actors are crucial to understanding the implementation process and the result. If it was not from the will of political elites to adopt and implement the policy in the first place and the work of unions to limit its application, the

state of official languages in the federal public service would be quite different today. Further, the power of existing institutional arrangements informed the behaviour of actors. Congruence theory fails to recognize the influence of existing institutions, such as the merit principle in the public service or the federal-provincial division of powers, which affected the implementation of the official languages policy and contributed to its limited success for language of work.

Existing theoretical approaches are limited in explaining the persistence of inequitable access to the use of French as a language of work for various reasons. In the case of social learning, the approach is limited by explaining why certain ideas were adopted over others. This begs the question of how to explain the results of the adopted policy ideas. This project's research methodology and the collected data precluded the use of an organizational culture and path dependency approach. Organizational culture is further limited due to its inability to theorize gradual change. The approach offers little in terms of explanation as to why English persists as the dominant language of work despite changes in regulation and the working environment of the public service. Finally, when it comes to sociological approaches, sociological institutionalism does not theorize the struggle between actors for power and leaves undefined who or what constitute the authorities of cultural tendencies. Congruence theory could not theorize the dichotomized outcomes of the representational and language of work components of the policy. Further, the approach offers no explanation of the persistence of English as the language of work.

What this project needs is an approach that can theorize major change and gradual change while accounting for the influence of existing and new formal institutions on the actions and decisions of elite actors. Through historical institutionalism and layering, this project can grapple with the implementation process that led to the persistence of English as the dominant language of work.

Part III: Theoretical Framework

Historical Institutionalism and Layering

This project proceeds inductively to study how the official languages policy was implemented and who influenced the process (institutions and actors), in order to explain the persistence of English as the dominant language of work. It is a puzzle that despite the more extensive rights based official languages legislation that the bureaucracy continues to operate

predominantly in English. Although the puzzle is being studied inductively, a theoretical framework is required to provide a way to understand the collected data. Not all information is fair game. This theoretical framework provides a lens through which to determine the relevance of data and to assess its relation to the project.

Initial research results indicated the centrality of the state and its institutions as the guiding forces behind the implementation of the official languages program. These findings required an approach that recognized the influence of the existing institutional context and could track the evolution of the policy over time within the institutions. Accounting for these factors, historical institutionalism and layering were adopted as theoretical approaches for the project.

This study requires analysis of a policy over time that can account for moments of major change and gradual change, that may not be as dramatic but that over time may or may not (as in the case of official languages) have significant impact. In historical institutionalism and layering we find the tools required to undertake the longitudinal study and account for moments of major and minor change that have led to the current state of language of work in the federal public service today.

To explain the development and implementation of the OLA in the federal public service since 1969, historical institutionalism will serve as the project's theoretical frame. The purpose of the chronology is to develop a skeleton of the OLA that can be fleshed out by uncovering the factors responsible for the trajectory of the OLA and its implementation. The theory's emphasis on path dependency promotes an understanding of the persistence and continuity of institutions that favour and reproduce power arrangements that perpetuate their existence. The very essence of the historical institutionalist approach is that of 'path dependency,' "meaning that when a government program or organization embarks upon a path there is an inertial tendency for those initial policy choices to persist."¹⁰² For this project, historical institutionalism will be instrumental in explaining the path dependency of the bureaucracy, particularly the continued dominance of English as the language of work. Historical institutionalism's emphasis on continuity is useful to assess the implementation of

¹⁰² Guy B. Peters 2012, *Institutionalist Theory in Political Science, 3rd Edition* (New York: Continuum, 2012), 70.

the OLA over time by highlighting how the choices made when the policy was formed affected the policy's future development.

Canadian political science has a strong tradition of engaging with institutionalist approaches. What began as a descriptive study of formal-legal institutions, transformed into an analytic approach with explicatory capacity.¹⁰³ Institutional approaches were never rejected in Canada as they were in the United States during the “behavioural turn”¹⁰⁴ in the study of political science. When “new institutionalism” emerged bringing the state back in to the study of politics as the central unit of analysis, it brought an analytically robust version of institutionalism with three main variants, historical, rational choice and sociological (although some authors such as Peters argue that there are as many as seven). As many were reintegrating the state into their study of politics, in Canada, the state never left.¹⁰⁵

This project's focus on the state and its institutions as primary areas of analysis requires that elite action be analyzed in order to explain the implementation of the official languages legislation. There are limits to proceeding with an institutional, bureaucratic and elite political focus as citizen perspectives are not being pursued here nor are the roles of external interest groups. Recognizing the Marxist critique that the assumed neutrality of institutions in fact perpetuates the dominance of the elite's perspective, this intentional limitation is not meant to negate the role or presence of citizens and interest groups, but the focus of this project is on the internal institutional dynamics and the elite actors that influenced the language legislation in the country. The research findings indicated that although societal groups (such as the OLMCs) contributed to the official languages debate, as actors, they were not instrumental in implementing the policy within the public service.

A significant weakness of the historical institutionalist approach is its inability to account for change.¹⁰⁶ Major change however, is theorized (albeit after the fact) and is

¹⁰³ See Miriam Smith, *Institutionalism in the Study of Canadian Politics: The English-Canadian Tradition*, *New Institutionalism: Theory and Analysis*, ed. André Lecours (Toronto: UTP, 2005).

¹⁰⁴ Behaviouralism emphasized the study of groups and individuals that could generate generalizable theories. Institutionalism at the time, was rejected for its descriptive tendencies that were perceived to lack explanatory power.

¹⁰⁵ See André Lecours, *New Institutionalism: Issues and Questions*, *New Institutionalism: Theory and Analysis*, ed. André Lecours (Toronto: UTP, 2005).

¹⁰⁶ See for instance Peters 2012; Hall and Taylor 1996; Lecours 2005.

explained as a moment of exogenous shock where the path dependency of the institution is upset by external factors. At these moments, there is a rise in tensions and a struggle for power, allowing for major institutional change.¹⁰⁷ These ‘critical junctures,’ are moments where significant change occurs altering the path dependent course of the institution. When it comes to official languages in the federal public service, the introduction of the OLA 1969 as well as the OLA 1988 can be considered critical junctures that altered the operation of the bureaucracy. The introduction of these policies required that the public service adapt its operation to meet the requirements of the legislation both as a regulator and as subject to the laws.

Historical institutionalism tends to over-estimate levels of continuity during periods of stability or change brought upon by critical junctures. Thus, the approach has difficulty theorizing a policy’s typical tendency to develop and change incrementally. It is now well established that incremental or gradual change, when taken over the long term can have important consequences and merits attention.¹⁰⁸ Since institutional approaches lack the necessary tools to explain the gradual evolution of institutions once they have been established, Mahoney and Thelen (2010) and Streeck and Thelen (2005) have developed approaches to correct this deficiency.

Streeck and Thelen begin with the premise that dichotomizing institutional change and stability is an exaggeration.¹⁰⁹ Rather than characterizing adaptive/reproductive change as minor and major change as exogenous, Streeck and Thelen suggest distinguishing between *processes* of change (incremental or abrupt) and *results* of change (continuity or discontinuity). Through a study of the liberalization of advanced political economies (rejecting the idea that all countries are moving toward a single capitalist model), the authors demonstrate that incremental change can have transformative results. In essence, Streeck

¹⁰⁷ Hall and Taylor 1996.

¹⁰⁸ James Mahoney and Kathleen Thelen, *A Theory of Gradual Institutional Change*, Explaining Institutional change: Ambiguity, Agency, and Power, eds. James Mahoney and Kathleen Thelen (New York: Cambridge University Press, 2010); Wolfgang Streeck and Kathleen Thelen, *Introduction: Institutional Change in Advanced Political Economies*, Beyond Continuity: Institutional Change in Advanced Political Economies, eds. Wolfgang Streeck and Kathleen Thelen (New York: Oxford University Press, 2005); Jeroen van der Heijden, “Institutional Layering: A Review of the Use of the Concept,” *Politics* 31(1) (2011): 9-18.

¹⁰⁹ Streeck and Thelen 2005.

and Thelen argue that the institutionalists' analytic frame must be readjusted in order to account for transformative gradual change by not limiting analysis to major exogenous change.¹¹⁰

The authors propose five ways through which institutions change gradually. Mahoney and Thelen (2010)¹¹¹ take up the first four models in this list in their book. Combining Streeck and Thelen's and Mahoney and Thelen's works, the models can be defined as follows: *displacement* (where new models emerge calling into question existing ones by removing existing rules and introducing new ones); *layering* (where the path of an institution is altered by growth through the introduction of new rules on top of or alongside existing ones); *drift* (where slow and gradual changes occur due to shifts in the environment altering the impacts of existing rules even though they may appear stable on the surface); *conversion* (where institutions are redirected to new goals, functions and purposes through the changed enactment of existing rules or their strategic redeployment); and *exhaustion* (where behaviours of actors undermine existing rules).¹¹²

Layering is particularly useful for this project because it accounts for the incremental change of policy by attaching new rules to existing ones, which as some argue, changes the way in which original rules structure behaviour. Layered changes were made to the OLA 1969. In 1973, a Parliamentary Resolution was adopted altering the parameters of the implementation of the official languages legislation by conferring the right of public servants to work in their official language of choice. Regulations on the language competencies of managers were subsequently introduced and increased recruitment efforts for Francophones were undertaken. A wholly new institution was not introduced, but the additions created change in the management and operation of the official languages program, but fostered little change in language of work practices.

This is precisely the limitation of Streeck and Thelen and Mahoney and Thelen's definitions of layering. These authors theorize that layered changes can lead to significant change over time. This did not happen in the case of official languages in the federal bureaucracy. Changes were layered onto the existing policy but there was no significant

¹¹⁰ Streeck and Thelen 2005.

¹¹¹ Mahoney and Thelen 2010.

¹¹² Mahoney and Thelen 2010, 15-18; and Streeck and Thelen 2005, 18-30.

change in the practice of language of work overtime. Rather, despite the many changes, English continues to persist as the dominant language used in the institution. Although the layering literature helps us focus on the importance of additions to an existing institution in the form of regulations, instruments etc., layering as theorized by Mahoney and Thelen and Streeck and Thelen does not address why the change that resulted from layering had limited success. Put simply, there was no major change over time that resulted from layering.

For this project, what is useful about layering is its theorization of incremental change through the addition of policies and regulations to existing legislation. This is exactly what happened in the case of the OLA in the public service. However, to improve layering's explicatory capacity in the case of official languages in the public service, we have to nuance our understanding of the end result of layering. Eric Schickler's work on institutionalism is useful in this regard. As explained by van der Heijden, Schickler in fact inspired much of Thelen's approach to layering.¹¹³ What Schickler demonstrates is that although layering occurs through the addition of instruments, the result is not necessarily part of some broader plan. As Schickler explains,

while each individual change is consciously designed to serve specific goals, the layering of successive innovations results in institutions that appear more haphazard than the product of some overarching master plan.¹¹⁴

Schickler's perspective is particularly helpful because he points to the fact that a series of layered changes may not in fact lead to cohesive major change. This is precisely the case of language legislation in the public service. There were a series of layered changes surrounding the implementation of the policy but the result did not significantly improve language of work practices.

In his book *Disjointed Pluralism* (2001b), Schickler discusses layering (although he does not refer to it as such). What Schickler refers to as disjointed pluralism, shares some similarities with the layering described by Mahoney and Thelen and Streeck and Thelen in their works. Disjointed pluralism to Schickler, means

¹¹³ van der Heijden 2011.

¹¹⁴ Eric Schickler, "Congressional History: New Branches on Mature Trees History," *Legislative Studies Section Newsletter* 24(2) (2001a). Available at <http://www.apsanet.org/~lss/Newsletter/july01/schickler.html> (accessed December 9, 2013).

that processes of change derive from the interactions and tensions among multiple member interests, including electoral, partisan, policy, and power base motivations. [...] specific institutions develop through an accumulation of innovations inspired by competing motives, which engenders a tense layering of new arrangements on top of pre-existing structures.¹¹⁵

In essence, Schickler describes a process not unlike the layering defined above, where changes occur through the addition of new practices and rules. The crucial difference however, is that Schickler does not argue that the layering leads to significant change over time. This nuance is important for the project. Engaging with Schickler's perspective of layering and using it to nuance Mahoney and Thelen and Streeck and Thelen's approach to layering, we create an analytic tool to theorize the implementation of the official languages program in the public service. The result is thus an understanding that layering alters an existing institution through the addition or layering of new rules and regulations. Yet instead of positing that layering results in significant change over time, we attenuate the perspective by maintaining that despite the fact that the innovations were consciously constructed to serve a particular purpose, the result is more 'haphazard,' as Schickler explains.

In order to develop an explanation of why layering was not successful in fostering significant change on the official languages file we must look beyond the layered additions themselves. It is necessary, as Mahoney and Thelen (2010) explain, to link the political context, change agents and the ways context and institutions shape change agents in order to identify the mode of gradual change in specific contexts.¹¹⁶ The characteristics of these elements can influence the mode of change (drift, layering, conversion, displacement) that can take place. The first link, political context, matters because it determines veto possibilities of defenders of the status quo. When actors have strong veto possibilities, layering and drift are possible because no change to the existing institution is required. Displacement and conversion are unlikely in such scenarios because the strong veto possibilities would block the removal of existing rules or changes to their enactment (characteristic of displacement and conversion).¹¹⁷

¹¹⁵ Shickler 2001a.

¹¹⁶ Mahoney and Thelen 2010, 15.

¹¹⁷ *Ibid*, 28.

When considering the implementation of the OLA in the public service, the concept of veto players defending the status quo matters especially because the institution continues to operate predominantly in English. Strong veto players such as staffing unions acted at times to limit or resist the implementation of the policy in the public service whether to protect the interests of their employees (evidenced by the unions' resistance to FLUs). The veto possibilities of actors interested in protecting the status quo (i.e. a public service that operates predominantly in English) affected the implementation of official languages legislation in the Canadian administration and merit closer attention as influencers in the process.

Also important to the political context is determining if the actors have discretion in the implementation or enforcement of rules. Since the public service is responsible for determining how policy will be implemented, the public service, through its administrative capacity, has reasonable discretion in the implementation and enforcement of rules – but with the politically defined core of the legislation remaining intact. This means that although the public service is responsible for putting ‘flesh on the bones’ of skeletal policy adopted by elected officials, the institution cannot at will alter the core ideas of the legislation. With such administrative capacity, conversion and drift are possible as are layering and displacement (since the latter two do not require a shift in interpretation or enforcement of rules because the core rules remain intact).

Looking more closely at the institution, we can identify key actors such as departments/organizations, elite political and administrative officials etc. that influenced the direction of the policy and its implementation. Given the discretion that some bureaucratic actors have with respect to the implementation and enforcement of rules, we can ascertain that the context of the bureaucracy requires that public servants exercise discretion and influence policy.

The second link, the type of change agent, gives rise to likely modes of institutional change depending on their context. Mahoney and Thelen seek to go beyond the dichotomy of winners and losers and ask: i) does the actor seek to preserve the existing institutional rules? ii) Does the actor abide by institutional rules? Mahoney and Thelen define different types of actors who manipulate the rules, try to work around them or use them to their advantage in

order to advance their agenda.¹¹⁸ This particular component of their framework is not of particular interest to the project and will not be discussed further. Rather than theorizing how the actors engaged to implement the policy, this project seeks to identify the actors responsible and the institutions and interests that guided their behaviour. It is assumed that the actors in the public service abided by the broad terms of the OLA in order to fulfill the requests of political officials. Their approach and interpretation of the legislation to achieve its implementation is what concerns us and not whether they attempted to usurp the policy (we assume this is not the case since the OLA still exists today).

Finally, when it comes to how context and institutions shape agents, Mahoney and Thelen note that environments affect agents' ability to thrive. The particular institutional context in which an actor operates, the tools at their disposal and the interpretation of the rules will inevitably influence their work. Agents do not act alone; they often create coalitions with other institutional actors in order to create change.¹¹⁹ As was found with the research, the implementation of the OLA and the current state of language policy in the federal bureaucracy today is not the function of the work of a single actor. The linkages between particular actors and struggles for power impacted the management and implementation of the policy.

Part IV: Research Design

The theoretical framework presented above served to make sense of the data collected. Using a historical institutionalist approach as well as layering, the research design focuses specifically on state institutions and elite actors in the implementation of the official languages policy. As previously stated, this project seeks to answer two questions: why, despite the promise of the Official Languages Act (OLA) 1969 for choice in language of work and the OLA 1988 that made the choice a claimable right, is there inequitable access to French as a language of work in the federal public service? And how was official languages legislation implemented in the federal public service?

Using historical institutionalism, the trajectory of the official languages policy is tracked over time and major moments of change are explained. There are two critical

¹¹⁸ The types of actors defined by Mahoney and Thelen include: insurrectionaries, symbionts, subversives and opportunists (Mahoney and Thelen 2010, p. 27).

¹¹⁹ Mahoney and Thelen 2010, 29.

junctures in the trajectory of language policy: the adoption of the OLA 1969 and the OLA 1988. Further, historical institutionalism explains the path dependent tendencies of the public service as an institution, particularly its persistent operation predominantly in English which reflects the markings of its past.

The critical junctures were crucial for sparking changes without totally destroying the base of existing institutional tendencies relative to language use in the federal public service. The critical junctures do not suffice to explain away the base upon which official languages legislation was introduced (e.g. Pearson's 1966 declaration in the House of Commons, and the merit principle defining the public service). Nor can it explain the legislation enacted afterward (e.g. 1973 Parliamentary Resolution, entrenchment of the Charter etc.) that altered the implementation process by adding new policies to existing ones and adding new practices to those already in place.

Layering is central in compensating for this theoretical gap in explaining gradual changes to the official languages policy. Different rules and regulations were added to existing policies in an organization premised on the merit principle. Prior to the enactment of the OLA 1969, then Prime Minister Pearson made a statement in the House of Commons on April 6, 1966. In his statement on the importance of bilingualizing the public service, Pearson guaranteed that no unilingual public servant (the majority of whom were Anglophones), would lose their job for a lack of linguistic skill. Thus, if we consider the institutional context of the federal public service prior to 1969, it was premised on the merit principle which privileged an individual's competencies over the advancement of a group and second, guaranteed that any changes to the linguistic profile of the public service would not impede the career prospects of unilinguals. This base could not be completely eliminated in 1969.

In the case of merit, it had been in place for nearly 50 years and was the very premise of employment in the public service. Conceptions of merit rooted in the individual clashed with initial instruments used to attempt reform and implement the policy. When it came to Pearson's announcement, the unions acting as veto players seeking to maintain the status quo for their membership, latched on to the unrealistic promise that job prospects would not be impeded. The merit principle and the guarantee that public servants would not lose their jobs could not be undone through critical junctures or layering. Put simply, the official languages

program builds on foundations that are unfavourable to the type of structural and organizational change necessary to alter language of work practices.

Shifting focus to the implementation process, there are various elements that require consideration, namely institutions and actors. Implementation is policy being translated into practice;¹²⁰ policy becoming action;¹²¹ or the carrying out of a policy decision defined usually by statute but also by executive or court order.¹²² However defined, implementation crucially influences policy because “policy does not implement itself”¹²³ and because implementation “always makes or changes policy in some degree.”¹²⁴ It is difficult to draw clear lessons from the implementation literature because it is case dependent and not easily replicated. Typically treated on a case by case basis, “the motto of implementation researchers might be described as “it all depends” because so many of the studies emphasize the importance of the context or the environment in which implementation is being attempted.”¹²⁵ Based on the particular context of the federal public service, institutions are defined formally and actors are politically or administratively engaged. The analysis of these elements can identify repercussions for our dependent variable (language of work) to explain the persistence of the use of English.

Institutions are defined from a formal material perspective in this project. Broadly, institutions are structural features of a polity that are stable over time and that constrain and enable the behaviour of individuals. Every variant of institutionalism defines institutions differently. For instance, rational choice institutionalism defines its institutions as the ‘rules of the game’ or the rules that govern the body in which individual actors vie for personal gain. Sociological institutionalism on the other hand, views institutions as symbols or traditions shared by a community. For its part, historical institutionalism defines institutions

¹²⁰ Paul G. Thomas, “From Good Intentions to Successful Implementation: The Case of Patient Safety in Canada,” *Canadian Public Administration* 49(4) (2006): 438.

¹²¹ Jill Schofield, “A Model of Learned Implementation,” *Public Administration* 82(2) (2004): 288.

¹²² Paul Sabatier and Daniel Mazmanian, “The Implementation of Public Policy: A Framework of Analysis,” *Policy Studies Journal* 8(4) (1980): 540.

¹²³ Schofield 2004, 284 (citing Barrett and Fudge 1981).

¹²⁴ Charles Lindblom, *The Policy-Making Process Second Edition* (Englewood Cliffs, New Jersey: Prentice-Hall, Inc.1980), 65.

¹²⁵ Thomas 2006, 423.

from a formal or material perspective. Common among all variants is the idea that institutions constrain and structure the behaviour of actors.

Streeck and Thelen (2005) refine the definition of material institution by noting that although institutions constrain behaviour, they are themselves subject to interpretation and adaptation based on their environment and the actors within them.¹²⁶ Crucially, they must also be enforceable by third parties. As they explain: “What an institution *is* is defined by continuous interaction between rule makers and rule takers during which ever new interpretations of the rule will be discovered, invented, suggested, rejected, or for the time being, adopted.”¹²⁷ They continue by noting that “[...] *the practical enactment of an institution is as much part of its reality as its formal structure.*”¹²⁸

This material definition of institutions that takes into account their institutional environment is important to the project. Even though the critical junctures in 1969 and 1988 when the first and second OLAs were introduced are central to understanding the orientation of official languages policy in Canada, the environment in which they were adopted and subsequently implemented coloured their content. The interpretation and interests of actors were mediated by the institutions (e.g. the merit principle, the Charter) that constrained and enabled their behaviour. Defining institutions in a way that allows for the ‘play’ of actors and encourages us to look at how changes to the everyday implementation of the policy’s rules based on the interpretation of actors can build up and create significant change over time. The material definition of institutions is also useful in focusing our attention on elite actors within the state apparatus by focusing squarely on formal institutions.

Actors are defined as individuals or organizations that influenced the operation of the public service (see Annexe 1 for a description of federal agencies that played a key role in the official languages program). Whether they were elite public servants or politicians, these individuals played an instrumental role in shaping the implementation of the policy. Their different positions as Prime Minister, Minister, Secretary of the Treasury Board, or deputy minister of the Secretary of State Department (or Canadian Heritage), Commissioner of

¹²⁶ Streeck and Thelen 2005.

¹²⁷ *Ibid*, 16.

¹²⁸ *Ibid*, 18.

Official Languages etc. afforded them particular access to the official languages file. The organizations that they represented can also be considered actors that were vying to promote their own strategic interests on the official languages file.

Tension and disagreement often coloured the interactions between actors and it is these struggles for power – mediated by their institutional context – that contributed to the implementation of the OLA. Historical institutionalism is useful in theorizing these struggles for power. For instance, the staffing unions often clashed with the Treasury Board Secretariat during employee-employer negotiations over official languages requirements for employees. The unions representing their members often challenged reforms or worked to ensure the maximum exemption of their members from language requirements in an effort to secure their employees' jobs and benefits. The Treasury Board Secretariat for its part was responsible for upholding the wishes of the government (which tended to err in favour of advancing the official languages file through administrative practices).

By accounting for the influence of existing institutions on actors, historical institutionalism enables the project to track the changes in the policy over time. Where historical institutionalism is limited however, is when change is gradual. By theorizing the application of rules and regulations on existing institutions and the struggles that ensue, layering compensates for historical institutionalism's limitedness in explaining gradual change. Thus, when it comes to struggles for power, historical institutionalism and layering help us to theorize the struggles between actors, account for the influence of existing institutions and trace their influence on the broader implementation process.

Taken together, institutions and actors are this project's key areas of analysis. Their interactions and outcomes are studied in the subsequent chapters to explain why English continues to dominate as a language of work. To fully appreciate the context for action on official languages, it is important to also recognize the idea underpinning official languages policy. The idea is not an explanatory variable, but a means of contextualizing official languages efforts.

A central idea that informed official languages policy was the difference between the OLA 1969 and the OLA 1988. In 1969, language rights were informed by political compromise. Come 1988, language rights were informed by a human rights framework. This particular conceptualization of language brought the OLA in line with the Charter that

conferred individual rights to citizens. On paper, this shift was significant. In practice, its effects were less substantial. The change from language rights as a tool for political compromise to language as a right in a human rights framework had no significant impact on language of work. Although the idea underpinning language policy in Canada is not useful as an explanatory variable, it is important to account for it in our analysis because it reflects policy makers' view of language in society.

Referencing Jane Jenson's (1989) work on the influence of "representations, meaning and identity" in fostering change¹²⁹, Turgeon and Gagnon explain "More precisely, it is not only cognitive ideas about the best policy solutions to a given problem that drives policy-makers, but representation of the foundational characteristics of the country."¹³⁰ The way language was encapsulated in legislation is reflective of its perceived place and role in society in relation to the country and its institutions. Even though the idea behind language policy did not impact language of work practices, it did change the way public servants could claim their Part V rights. More importantly however, it provides a frame through which to understand official languages efforts.

Part V: Methodology

To understand the persistent dominance of English as a language of work, this project traced the implementation of the official languages policy in the federal public service since 1967. In order to reconstruct the narrative, process tracing was adopted as the project's methodology. As a methodology, process tracing has the researcher link a series of observations in order to explain a particular outcome. Thus, by reconstructing the narrative of the implementation of the official languages act, this project can analyse the links between particular occurrences that led to the present state of affairs. According to George and Bennett, "The process-tracing method attempts to identify the intervening causal process—the causal chain and causal mechanism—between an independent variable (or variables) and the outcome of the dependent variable."¹³¹ This project seeks to explain the outcome of

¹²⁹ Turgeon and Gagnon 2013, 5.

¹³⁰ *Ibid*, 6.

¹³¹ Alexander L. George and Andrew Bennett, *Case Studies and Theory Development in the Social Sciences* (Cambridge, MA: MIT Press, 2004), 206.

language of work policy in the federal public service. By defining the dependent variable as the capacity to work in the official language of choice, this project can link observations to explain why the public service continues to operate predominantly in English. The observations in the case “must be linked in particular ways to constitute an explanation of the case. It is the very lack of independence among these observations that makes them a powerful tool for inference.”¹³²

In order to uncover the observations, a researcher engaging in process tracing “examines histories, archival documents, interview transcripts, and other sources to see whether the causal process a theory hypothesizes or implies in a case is in fact evident in the sequence and values of the intervening variables in that case.”¹³³ This project constructs a detailed narrative (a variety of process-tracing) while also using hypotheses and generalizations (a more analytic form of process-tracing). Process tracing is different than historical explanation. A historical account would assert or imply a sequence but process tracing goes beyond that. For instance, a political scientist would use the casual sequence with theoretical variables to offer an analytic explanation of an outcome. When analysing the narrative, case-specific hypotheses were developed (namely the path dependency of institutions). In the case of this project, various observations related to the implementation of official languages legislation are linked in order to analyse them and explain the persistence of English as the dominant language of work in the federal public service. This project does not develop a general theory about policy implementation, but rather proceeds inductively and links observations to explain the outcome of a specific case by testing the validity of explanations through institutional theory.

George and Bennett identify two main limits to the method.¹³⁴ First, process tracing is limited to providing a strong basis to causal inference to situations where an uninterrupted path of causes can be linked to an event, at the appropriate levels of analysis specified by the theory being tested. Since this project engages institutional and layering theories while adopting a formal definition of institutions, the analysis of observations and the casual links

¹³² George and Bennett 2004, 207.

¹³³ *Ibid*, 6-7.

¹³⁴ *Ibid*, 222.

between them are limited to the elite levels of state institutions. This could limit possibly influential observations from societal-level actors. However, research demonstrated that the influence of societal-level actors on the process was not significant for language of work.

The other problem is that more than one hypothesized causal mechanism can be consistent with process tracing evidence. It is then up to the researcher to determine if the explanations are both complementary, one is spurious and the other causal etc.¹³⁵

Researchers should also avoid focusing too closely on the process tracing evidence on the hypothesis that they favour which risks creating confirmation bias and an overstating of causal weight.¹³⁶ This weakness is accounted for by reviewing and assessing a variety of other theories to explain the outcome of language of work policy in the federal public service. Social learning, organization studies and sociological approaches were reviewed and deemed inadequate to explain the causal process and its linkages. We can then infer that the explanation derived from the historical institutionalist and layering approaches are acceptable.

This project engages archival research and semi-structured interviews in order to gather and analyse data. Sources of information include Library and Archives Canada (LAC), laws and other government reports (e.g. OLA 1969 and 1988, Charter, Royal Commission on Bilingualism and Biculturalism, etc.), and information drawn from interviews with former and current public servants as well as politicians.

Archives

LAC was the principle source of government documentation used to construct an understanding of the implementation trajectory of official languages in the federal public service. Documents included memorandums to cabinet, letters between actors (e.g. Commissioner of Official Languages and minister), implementation guidelines etc. The content of these documents was used to develop a timeline of events related to official languages in the public service.

Over three hundred files were analysed between September 2011 and February 2013. The files were mainly from the Treasury Board Secretariat fonds, the Privy Council Office fonds (for memorandums to cabinet up to 1976), prime ministerial fonds, Secretary of State

¹³⁵ George and Bennett 2004, 222.

¹³⁶ *Ibid*, 217.

Department fonds and other fonds related to the Public Service Commission, staffing unions and bilingualism/official languages generally.

Prior to beginning the research, the researcher met with LAC archivists and librarians to identify best practices for archival research. Using the LAC's search engine, various keyword combinations were used to identify potentially interesting files. Such combinations included: Treasury Board Secretariat AND biling*; official langu*; official languages act; prime minister's name AND official langu*; langu* officiel* etc. The snow ball technique was used to identify relevant sources of archival information. If a particular record group number, year or department was particularly useful, more in-depth research was undertaken to determine if other files were available.

Memorandums to Cabinet, as well as internal departmental memorandums (e.g. within the Treasury Board Secretariat, the Secretary of State Department) were particularly useful in reconstructing the implementation process by gaining insight into the options considered, the actors involved and their struggles for power. Although useful, materials from archival sources must be considered in the context of their production. The reader often considered the purpose or mandate behind the document, the perspective it communicates and its intended audience. Considering such dimensions may have helped to identify potential biases or underlying perspectives in the documents. Further, when depending on archival sources, it is not always clear why the document was kept and why it was made available to the public. The selection and retention process may be ridden with underlying values that are unclear or unknown to the researcher which may influence their research.

For all documents not yet made public, either because they had not met the thirty year release date or if they had not been vetted by ATIP officers, informal access to information requests were submitted initially through LAC. Informal requests were first submitted to expedite the review process. This was not always the case and various formal requests for information were submitted: to the Treasury Board Secretariat (namely for documents relating to the development and implementation of the OLA 1988), to the Privy Council Office (for memorandums to cabinet from the 1980s) and to Heritage Canada (for details on the 2006 transfer of the Official Languages Secretariat from the Privy Council Office to Heritage Canada). Based on correspondence and conversations with various ATIP advisors,

requesting cabinet information that was not yet thirty years old was a fruitless and useless exercise.

The archives at the Centre de recherche en civilisation canadienne-française were also referenced. There was not much content related to the implementation of official languages policy, but some files provided context on the situation of Francophones in Quebec and elsewhere in Canada in the early 1900s.

Reports and Legislation

Various policy and reports were analysed. The OLA 1969 and 1988 as well as the 1973 Parliamentary Resolution were crucial to understanding the content and development of official languages policy.

The Royal Commission on Bilingualism and Biculturalism was central to understanding the initial phases of Canada's official languages policy and programme. The Commission's reports were the source of important information on official languages and their state in the federal public service. Further, certain recommendations made in the final reports were adopted by government for the implementation of official languages legislation in the 1970s.

Finally, annual reports by the Commissioner of Official Languages annual reports and the Treasury Board Secretariat were central to tracking the progress of the policy and its implementation over time. The Commissioners' reports as well as those from the Treasury Board Secretariat provided statistical information, progress reports and updates on new procedures and guidelines related to official languages legislation and its state in the federal public service.

Interviews

There were 16 semi-structured interviews undertaken with former and current public servants, all living past (and the current) Commissioner of Official Languages, current politicians who critique the official languages file from the Liberal and New Democratic Parties.¹³⁷ Heritage Canada was contacted for an interview with then Minister James Moore or a representative, but no requests for an interview were returned.

¹³⁷ No sitting or former member of the Conservative Party was available to be interviewed, despite requests for their participation.

The interviews began with some open questions to enable participants to reconstruct their experiences and involvement with official languages in the federal government. The semi-directed approach was selected because it enabled the researcher to develop initial guiding questions but allowed the interview to take on a more natural flow, with the researcher developing and adjusting questions as required. There were various opportunities to follow-up on interesting ideas or comments made by the participants, and the semi-structured format allowed for it. Participants were encouraged to draw on their vast knowledge and experiences when answering a question to provide as much context as possible (see Annexe 2 for sample interview questions).

The interviews were recorded but were not transcribed. Notes of the proceedings were taken but transcription was deemed unnecessary because there was no intent of undertaking discursive analysis or to reproduce large amounts of text from the interviews. The purpose of the interviews was to foster a better contextual understanding of major players and key moments that led to the implementation of the OLA so they could be followed-up through archival research.

The initial selection of participants was done based on the content of archival documents or the nature of their office (e.g. Commissioners of Official Languages). From these initial contacts, the snowball method was used to reach out to other potential participants based on the networks and suggestions of interviewees. Given the nature of the project and the importance of reconstructing the implementation process, non-probability sampling provided the best approach to selecting interview candidates. With this approach, the researcher was able to ensure that the most important players that could be accessed were interviewed, maintaining control over the selection process. This does leave the researcher at risk for selection bias and does not allow the researcher to generalize findings, but these are not the goals of the project. It was necessary that particular candidates be selected in order to check the content of archival documents and to gain greater insights into the undocumented process.¹³⁸

¹³⁸ Osin Tansey, "Process Tracing and Elite Interviewing: A Case for Non-probability Sampling," *PS: Political Science and Politics* 40(4) (2007): 765-772.

A main methodological issue with interviews is their reliance on the memories of participants asked to recall the past. As such, discussion of past decisions in the present may almost surely be coloured by the current state of affairs (or bilingualism in the case of this project) in the country. This virtually uncontrollable fact of interviewing may result in an interpretation of what the individual actually thought at the time or what happened at the time. In a modest attempt to limit the effects of memory, participants were asked to *reconstruct* instead of recall the past. This was meant to limit their reliance on their memories, as Seidman (1998) explains: “Reconstruction is based partially on memory and partially on what the participant now senses is important about the past event.”¹³⁹ By encouraging the participant to reconstruct past events, the researcher is asking the participant to add their own interpretation or layer of reflexivity to their account. When analysing the information gathered from interviews, elements of the interviewee’s professional life in the public service, e.g. positions in the public service, their current role (if any), partisan affiliation etc. will be assessed as possible influences in their interpretation. Facts raised during interviews were checked against documents (if they existed) or during subsequent interviews with other participants (without revealing the identity of the information giver).¹⁴⁰

Conclusion

The theoretical framework for this project helps us to make sense of the processes that contributed to the development of the state of official languages in the public service today. By zeroing in on formal institutions and elite actors and their struggles for power, historical institutionalism and layering enable us to theorize major moments of change, what happened between them and their end results.

This project does the following:

1. Argues that the implementation of the official languages program could not challenge the path dependency of the federal public service to operate in English.

¹³⁹ Irving Seidman, *Interviewing as Qualitative Research, Second Edition* (New York: Teachers College Press, 1998), 74.

¹⁴⁰ Since the interviews involved interaction with human subjects, an ethics application was submitted to the University of Ottawa’s Office of Research Ethics and Integrity. Ethics approval was granted in December 2011 and interviews commenced in February 2012. The ethics approval was renewed annually for the duration of the project from December 2011-October 2013 (see Annexe 3).

2. Tracks the implementation of the official languages program in the public service from 1967-2013.
3. Studies language as public policy, i.e. policy developed in response to a social problem and interpreted and implemented by the bureaucracy.
4. Focuses on the federal public service as an object of policy. This body is understudied when it comes to language policy in Canada and merits our attention.

Having established the theoretical tools and grounded the project in its relevant academic literatures, the project proceeds in a chronological review of four periods of implementation of the official languages program in the federal public service.

Chapter 3: 1867-1967

Hang your language with your hat upon entering

Introduction

The purpose of this chapter is to outline a succinct pre-OLA history of language in the civil service. The state is not a blank slate but is subject to institutional legacies and state-society relations,¹ which means that it is crucial to understand the foundations upon which the OLA was implemented in the bureaucracy in order to track changes and results. This chapter will explain the basis of the pre-OLA civil service and its repercussions for the eventual adoption and implementation of the OLA. To explain the history of language in the civil service, the chapter will be divided into four periods. Each period discusses the institutional tendencies, actors and events that informed the linguistic operation of the civil service. This chapter will argue that a series of gradual changes transformed the dualist pre-Confederation civil service into one that was dominantly English-speaking, beginning in the post-Confederation era. It is upon a dominantly English-speaking civil service, informed by administrative principles such as merit, that the OLA was implemented.

Conceptions of efficiency and merit that were introduced in the early 1900s served to strengthen the English-speaking tendency of the civil service while at some times undermining or attempting to eliminate the use of French. Entrance exams and hiring processes were premised on Anglo-Saxon learning styles and subjects which were different than the Francophone emphasis on classical training. With inadequate success on the entrance exam, the number of French-speaking hires was limited (particularly with the end of patronage practices). Taken together, these practices and regulations contributed to the dominance of English as a language of work in the early civil service.

There were some actors that worked to improve the situation for French-speakers but their efforts did not bring about major change. Prime Minister Lester B. Pearson and the Secretary of the Privy Council Office Maurice Lamontagne acted to encourage change on the language front but not until the 1960s. Earlier on, Ernest Lapointe was an ardent defender of the country's French-speaking minority and represented their causes to the Mackenzie King

¹ Linda Cardinal and Selma K. Sonntag, *Introduction*, *State Traditions and Language Regimes*, eds. Linda Cardinal and Selma K. Sonntag, (forthcoming).

government. Often acting alone, there was only so much change he could foster. His efforts to meet the representational and service needs of French-speakers were met with institutional resistance and resistance from other actors (e.g. Minister C.D. Howe). Institutionally engrained regulations and practices discriminated against Francophones.²

In essence, early on, the civil service was set on a course that favoured its operation in English. Various gradual changes served to reinforce this tendency and ultimately led to a civil service that operated nearly exclusively in English. It was not until exogenous factors like the rise of Quebec nationalism that politicians and administrative elites began to work to change the situation. An important response was Prime Minister Pearson's 1966 declaration in the House of Commons on bilingualizing the public service. His guarantee that unilingual public servants would not be negatively affected by language efforts would eventually constrain the capacity of future governments to initiate reform.

The Dominance of Dualism: The Pre-Confederation Civil Service (1840-1867)

In its early days, prior to Confederation, the civil service was defined by dualism and patronage. Dualism refers to the tacit recognition of the existence of two founding nations through the representation and operation of state structures. At this time, virtually the entire political system was governed by dualism including party leadership and the administration. Perhaps the most striking recognition of this dualism was the rotating capital. Originally in Kingston from 1841 until 1844, it moved to Montreal in 1849. After that time, the capital would rotate between Toronto and Quebec City every four years.³

Within the civil service, the representation of both language groups and linguistically defined working departments were evidence of the era's dualism. The separate working departments were a function of the fact that Canada East and Canada West already had their own bureaucratic structures. With two thirds of the pre-Confederation civil service's 2700 employees stationed in the provinces, the structure and linguistic tendencies were territorially influenced.⁴

² Harold Innis, *Bilingualism and Biculturalism* (Toronto: McClelland and Stewart Limited in co-operation with the Secretary of State Department and Information Canada, 1973), 94.

³ J.E. Hodgetts, *Pioneer Public Service* (Toronto: University of Toronto Press, 1955), 59.

⁴ *Ibid*, 55.

With the public service divided between Canada East (French) and Canada West (English) and with corresponding officials on each side, competition and mistrust was often fostered between them.⁵ As Hodgetts (1955) explains, “There was often great rivalry between the administrative units representing the separate sections of Canada. Sometimes it was far from healthy, erupting into bitter invective which revealed the deep-seated animosities dividing the two communities.”⁶ Some departments, such as the Provincial Secretary’s Department and the Surveyor’s Branch in the Crown Lands Department, were “split right down the middle” from political head to the subdivision of branches—one side for Canada East and one for Canada West, with the two sections often located in the same building.⁷ Competition for personnel, supplies and new offices were common between the two communities.⁸

Dualistic operation did not however, imply equality. Within the civil service, positions of status and power were not evenly held by the two language groups. Although both languages may have been used in the civil service of the era, Anglophones constituted the majority of civil servants. Anglophones were also better paid and held more permanent positions than their Francophone counterparts. Managerial positions and the ‘working departments’ were dominated by Anglophones while Francophones were mostly in patronage departments.⁹ This differential in status and pay would continue post-Confederation. Although 36% of the federal administration was Francophone in the years following Confederation, the group received only 20% of total payouts.¹⁰ The French-

⁵ Judith Heward, *History of Bilingualism and Biculturalism in the Canadian Public Service* (Ottawa: Internal Research Project of the Royal Commission on Bilingualism and Biculturalism, no. 34, 1966), 6.

⁶ Hodgetts, 56.

⁷ *Ibid*, 55.

⁸ J.E. Hodgetts, et al., *The Biography of an Institution* (Montreal: McGill-Queen’s University Press, 1972), 57.

⁹ Heward 1966, 6.

¹⁰ Canada, Royal Commission on Bilingualism and Biculturalism (B&B), *Book III: The Work World, Volume 3A* (Ottawa: Queen’s Printer, 1969), §250, footnote 2 (citing Hodgetts, 1955, 57).

speaking group had a “standard complaint” that English speakers dominated the civil service and tended to gravitate towards key managerial posts.¹¹

The Act of Union 1840 did not improve matters. The precursor to the Act of Union was a 1939 report by Lord Durham to the British House of Commons. In 1938, Lord Durham was sent by Britain to assess relations between English- and French-speakers in Canada. Reporting back in 1939, one of Durham’s fundamental proposals was the long-term assimilation of French-Canadians. The purpose of the assimilation was to eliminate problems arising – as Durham famously noted – from “the two races warring within the bosom of a single state.”¹² To achieve the intended assimilation, Durham suggested that the two provinces of Canada be unified. The Act of Union 1840 effectuated the change. Section 41 of the Act stated that both legislatures would operate unilingually in English (the courts were unaffected). To counteract the negative implications of the measure, the Legislature of Canada adopted legislation ensuring that laws were translated into French, that bilingual copies of legislative journals were made available to members and that motions were read in both English and French by the Speaker before being voted upon.¹³ In 1848, after intense campaigning by French-speakers of the Canadian Parliament, the British Parliament repealed section 41. With the section repealed, then Governor General Lord Elgin symbolically read the 1849 Throne speech in both English and French to mark the amendment to the Canadian Constitution—a tradition that continues today.¹⁴

Also included in Durham’s report was a review of the civil service. Durham described the civil service as incompetent since it was incapable of acting or providing services efficiently throughout the province of Canada. The weaknesses of the service were attributed to a lack of administrative leadership at the top of departments. Administrative leadership was said to be lacking and was said to be “feeble, unco-ordinated [*sic*] or non-existent” within the service.¹⁵ Without clear management at the head of a department, no

¹¹ Hodgetts 1955, 57.

¹² *Ibid.*, 10.

¹³ Claude-Armand Sheppard, *The Law of Languages in Canada* (Ottawa: Information Canada, Studies of the Royal Commission on Bilingualism and Biculturalism, no. 10, 1971), 68.

¹⁴ *Ibid.*, 59.

¹⁵ Hodgetts 1955, 22-23.

person could take responsibility for the provision of services and the operation of the administration.

At the operational level, the early civil service operated through self-sustaining departments. This meant that until Confederation, many services were maintained by the contributions of the interests concerned, e.g. fishing licenses and fees paid for the Fisheries Branch of the Crown Lands Department. This approach assumed that an industrial or business model was suitable to the public sector. This largely ignored the fact that some services derived from the departments could benefit the public as a whole and not only the group paying for the services, which made them worthy of public funds, e.g. steamboat inspection, immigration promotion etc.¹⁶

Lord Sydenham is credited with establishing the departmental system of public administration in 1840 that remained virtually intact at Confederation in 1867. Sydenham implemented a unified command and coordination system that made each political department head responsible to the Governor, rationalizing the administration.¹⁷ These organizational changes were necessary because the early service, as Durham's report indicated, was not very well organized.

The small size of the public service lent itself to the influence of individual personalities, particularly when it came to patronage as connections influenced the determining of departmental and inter-departmental relations. In 1857, lip service was paid to the idea of merit with the introduction of a British style examination board and exam. The process was largely a sham because anyone meant to obtain a position through patronage did obtain one¹⁸ since patronage largely governed these appointments.

Even though "dualism was undoubtedly the major environmental influence in the shaping of the early civil service,"¹⁹ the concept of bilingualism did not figure at all as part of discussions on merit or organisation within the administration. The tradition of dualism recognized that there were two founding nations in the Provinces of Canada, but no

¹⁶ Hodgetts 1955, 71-72.

¹⁷ *Ibid*, 34.

¹⁸ *Ibid*, 53-54.

¹⁹ *Ibid*, 62.

protections were offered for the French language administratively or otherwise. As was demonstrated with the 1840 Act of Union, language rights were largely based on the will of Parliament. Typically used as a tool for political compromise, language rights at the time were continually renegotiated in Parliament. Evidenced through repercussions of the Act of Union 1840, there were no codified protections for language use in the country (beyond its use in the houses of Parliament, the courts and the printing of legislation in both languages). Whatever was the political will on language became the law. The inexistence of laws governing language in the country would prove to be detrimental to French-speaking Canadians in the civil service. Eventually, in the name of efficiency, the civil service would do away with dualist practices and without any legally binding protections, French-speakers would find themselves at a disadvantage.

Confederation and the Introduction of Merit and Efficiency (1868-1918)

In the dash to divide powers between the central and provincial governments at Confederation, the civil service, its composition and organization were not actively discussed. At that time, the pre-existing administrations in Canada East and Canada West were left largely unchanged by the federal government.²⁰ Provincial functions were easily managed by these structures and could respond to population needs.

The lack of discussion surrounding equal representation of the founding nations in the civil service and the provision of service to citizens may have been a function of the pre-existing tendencies of duality in the operations of the early civil service. After all, conventions in the British legal tradition have the force of law. Duality however, would prove not to have the force of convention. Gradually eroded by practices and regulations that favoured the use of English, the duality that once characterized the institution would be no more than a relic of the past. Gradual changes would occur that would alter the course of the civil service in favour of English-speakers.

At Confederation, there were language rights included in the Constitution, but only for the political realm. Section 133 of the British North America Act (BNA)²¹ did guarantee

²⁰ Hodgetts 1955, 274-275.

²¹ The use of the English and French languages in the BNA 1867, was defined in s. 133 as follows: "Either the English or the French Language may be used by any Person in the Debates of the Houses of the Parliament of Canada and the Houses of the Legislature of Quebec; and both those Languages shall be used in the

the use of both languages in the Houses of Parliament of Canada and in the courts.²² Prior to the enactment of the BNA, the use of the French language was “always subject to change according to the whim of the majority.”²³ Despite the legal assurances through section 133 that French would be used politically, there were severe shortcomings. Language rights in the conduct of the public administration were not addressed, which meant that there was no mention of rights of citizens communicating with the state or to whom the state addresses notices or official communications.²⁴ Although section 133 may have provided language rights for politicians, there were no guarantees for citizens of the French language group to interact with their government or receive communications from it in French. If citizens were not guaranteed the ability to interact with their federal administration in either English or French, why should the representation and language of work of the language groups within the service be of concern?

After Confederation 1867, due to changes in representation practices and the separation of powers between the newly established federal and provincial governments, the federal civil service was set on a path to operating predominantly in English.²⁵ From the dominance of Anglophones in key managerial posts, to the belief during the First World War that administrative efficiency required unilingualism, the civil service was on a course to virtually eliminating the use of French as a language of work within the administration.

The first Canadian law related to the federal administration was the Civil Service Act, 1868. The law made no provisions for representation of the two founding nations and relied heavily on patronage. As the Royal Commission on Bilingualism and Biculturalism decried: “Clearly, the architects of the new dominion’s Public Service failed to plan for

respective Records and Journals of those Houses; and either of those Languages may be used by any Person or in any Pleading or Process in or issuing from any Court of Canada established under this Act, and in or from all or any of the Courts of Quebec” (Justice Canada, 2013, “Constitution Acts 1867 to 1982”).

²² Canada, Department of Justice, “Constitution Acts 1867 to 1982.” November 22, 2013. <http://laws-lois.justice.gc.ca/eng/const/page-7.html> (accessed December 3, 2013).

²³ Sheppard 1971, 68.

²⁴ *Ibid*, 100.

²⁵ Seymour Wilson and Willard Mullins, “Representative bureaucracy: linguistic/ethnic aspects in Canadian public policy.” *Canadian Public Administration* 21 (1978): 518-519.

administrative arrangements appropriate to a bilingual federal state.”²⁶ There were however, certain factors immediately after Confederation that eased the lack of representation at the federal level. At the time, the state was fairly decentralized and the national government had little direct impact on the lives of citizens. This allowed existing structures (from the former provinces) to presumably serve citizens in the majority language of the territory.

After the implementation of the 1868 Act, appointments to the public administration were made from lists of ministers’ nominees who successfully passed an exam set by deputy ministers. The process virtually guaranteed that political connections or service to the governing party led to jobs²⁷ because political figures were still the ones making appointments. Patronage, therefore, was still part of the appointment process. For French-speakers in particular, patronage appointments provided some guarantee that there would be Francophones in the civil service.

New legislation to amend the Civil Service Act was introduced in 1882. Changes were made in response to the recommendations of the Royal Commission to Inquire into the Organization of the Civil Service Commission (the Campbell Commission). The Campbell Commission had recommended that a board of examiners create lists of eligible candidates (from which ministers would make their appointments) based on the completion of an exam written in English, French or in both languages, at the preference of the candidate. This legislation marked the first break (albeit barely noticeable) with patronage practices by introducing ideas of merit and efficiency into the public service through the board of examiners.²⁸

Notably absent from the Act was the Campbell Commission’s recommendation that public officials serving in Quebec be able to speak both French and English in order to conduct their business.²⁹ This demonstrates that “in essence, parliamentary interest in the Act [the Civil Service Act] centred on the question of political patronage, and hardly at all on

²⁶ B&B Book III (3A), § 251.

²⁷ *Ibid*, § 251.

²⁸ *Ibid*, § 253.

²⁹ H. Steiner, “Historical Background,” part of L. Stanford, *Recruiting in the Federal Public Service*. Division IV, Report 16a, Report Presented to the Royal Commission on Bilingualism and Biculturalism (no date), 4.

the matter of language in the civil service.”³⁰ Politicians did not seem to pay attention to the fact that patronage appointments were crucial for the representation of French-speakers. This seemingly minor change in hiring practices with the introduction of the exam and examination board propelled the tendency of the public service to operate in English. Little consideration was given to the implications of not considering language requirements for the representation of French-speakers and for service to the French-speaking public.

In 1888, there was a moment of recognition of the use of both English and French in the civil service. Revisions to the Civil Service Act introduced in 1888, provided a \$50 bonus for civil servants able to compose in both English and French. The amendment also eliminated the need to write the entrance exam for any graduate of a Canadian university or of the Royal Military College. Entrance exams would now take place once a year and could only be written in English or French, no longer both.³¹

More changes to the organization and staffing of the civil service would come from the recommendations of the Royal Commission on the Civil Service (the Courtney Commission). Reporting in 1908, a fundamental recommendation was the establishment of a Civil Service Commission. Such a body would have power of appointment and would use the merit principle for staffing in an effort to professionalize the civil service. In 1908, Canada’s Civil Service Commission (CSC) (the precursor to today’s Public Service Commission (PSC)) was established. As Juillet and Rasmussen (2008) explain, the CSC had to uphold a “complex balancing act” to manage the intents of the policy which included merit-based staffing and professionalization. In their words,

The CSC had to balance a desire for a more professional and managerially effective public service, the need to ensure greater fairness in staffing to account for geographical and linguistic differences and the wish to protect the constitutional conventions of neutrality and anonymity, which had been weakly observed by politicians in the past.³²

³⁰ Steiner (no date), 4.

³¹ B&B Book III 3A, §254.

³² Luc Juillet and Ken Rasmussen, *Defending a Contested Ideal: Merit and the PSC of Canada 1908-2008* (Ottawa: University of Ottawa Press, 2008), 19.

Managing these components would require flexibility and ambiguity on the part of the CSC. The CSC would have the ability to examine and appoint recruits and manage personnel but in a restricted fashion. It could hire inside Ottawa but the capacity for regional appointments was still patronage based and was left to individual departments.³³

By no means was the establishment of the CSC a wholesale transfer to a merit-based system but it did mark an important attempt to break with the patronage system.³⁴ However, by reducing dependence on patronage, the federal administration also began to remove a mechanism that helped to ensure Francophone representation. With the onset of World War I, Ottawa offloaded recruitment and hiring efforts entirely to the CSC in an effort to promote efficiency and merit during the War. This decision would gradually erode Francophone representation within the civil service.

An important contributor to the gradual decline in Francophone representation was an amendment to the Civil Service Act in 1918. With the 1918 amendment, the powers of the CSC were significantly expanded and the institution was now at the centre of an effort to lead the rationalization of the civil service. Chief among these changes was a more extensive discussion of merit. The definition of merit was broadened to reflect the interests of the political elites at the time and the needs of the nation.³⁵ Merit was used as a means to develop a professional and expert public service free from the patronage linkages of the past. Employment and promotion would be based on the individual competencies of public servants and measured through established regulations and exams. These practices were meant to ensure both fairness and that the most desirable candidate (and not the one with political connections) would be hired. Merit and efficiency became the dominant forces of organizational rationale after this period.³⁶

It is interesting to note that neither of the Acts of 1908 or 1918, which were significant pieces of reform legislation for the public service “sought to alter, materially,

³³ Steiner (no date), 5.

³⁴ B&B Book III 3A, §255.

³⁵ Juillet and Rasmussen 2008, 57.

³⁶ Christopher Beattie, Jacques Désy, and Stephen Longstaff, *Bureaucratic Careers: Anglophones and Francophones in the Canadian Public Service*, (Ottawa: Information Canada, Documents of the Royal Commission on Bilingualism and Biculturalism, 1972), 5.

existing practices pertaining to language requirements in recruitment and government business, or to codify them in any explicit way.”³⁷ It was assumed that the new processes, such as testing were neutral and therefore that merit would suffice to ensure the representation of both groups.³⁸ Data suggests that these changes likely contributed to an erosion of Francophone representation in the civil service. In 1918, Francophones made up 22% of the service, by 1946, their representation had dropped to 13%.³⁹

The institutional practices and regulations of the federal civil service appeared to increasingly favour English-speakers. With the Civil Service Act of 1918, the civil service grew towards a “more rationalized ideal of the bureaucracy where the technical competence of personnel was to be the prime consideration for obtaining the goal of efficiency.”⁴⁰ The advent of merit and efficiency as rationalized operating principles of the civil service reinforced the institution’s tendencies to operate in English. With the declining presence of Francophone civil servants and the emphasis on operational efficiency there would be less space for language concerns within the civil service.

Unilingualism, Synonymous with Efficiency (1919-1945)

With the introduction of merit in the 1918 Civil Service Act, rationality and efficiency became synonymous to unilingualism in the federal civil service. It was a common belief within the bureaucratic establishment that the use of both French and English would weaken efficiency.⁴¹ With efficiency as a fundamental principle of organization, any factors that potentially reduced it were immediately omitted even if it meant alienating a significant portion of the population. Language issues did not appear to be on the minds of governments: since the bilingualism bonus of 1888, no measures related to language in the civil service were introduced. Equating unilingualism to efficiency significantly affected the role of Francophones and their representation in the federal administration by tacitly

³⁷ Steiner (no date), 6; see also B&B Book III 3A, §257.

³⁸ Beattie et al. 1972, 5.

³⁹ B&B Book III 3A, §260.

⁴⁰ Heward 1966, 8.

⁴¹ Innis 1973, 94.

discriminating the group by not accommodating for the French language, differences in culture and in the language groups' differing educational systems.

Recruitment practices for instance, were centred on English Canada's educational practices. English-speaking Canadians were trained in technical and commercial skills which served as the basis of the test. In contrast, French-speaking Canadians had classical training, rooted in philosophy and literature, which made it more difficult for them to reach the upper echelons of the bureaucracy by performing well on the tests.⁴² The underrepresentation of Francophones in the civil service leading up to the 1960s was cyclically reinforced by lower motivation among younger Francophones to join the civil service because of its cultural ends or the political ends it served or both.⁴³

Language and its cultural component were very real issues affecting the lack of Francophone representation, since English was the dominant language of work. When young Francophones saw that older Francophones did not fare well in the public service due to resistance in certain organizations or a lack of promotion, it turned them off from joining. These realities created "barriers posed by the use of English and occupational and organizational choices of Francophones [that] reinforce each other" which ultimately resulted in the absence of Francophones from various sectors of government.⁴⁴ The situation of Francophones at the time and calls for change "were viewed as unfortunate grievances which in no way challenged the guiding principles of the Service."⁴⁵

The CSC's emphasis on efficiency was narrow and did not reflect the linguistic realities of the country. Opportunities for hire and advancement of Francophones were significantly reduced since the use of both languages in the administration was not perceived as efficient. This was a curious perspective (with future ramifications) as it "scarcely occurred to the senior officials of the day that providing unilingual service to a country with two major language groups was grossly inefficient, not to mention inequitable."⁴⁶

⁴² Beattie et al. 1972, 5; Heward 1966, 76.

⁴³ Beattie et al. 1972, 120.

⁴⁴ *Ibid*, 121.

⁴⁵ Innis 1973, 94.

⁴⁶ B&B Book III 3A, §262.

Anglophone domination was considered natural order. The group did not see their dominance as problematic or as a source of disruption of harmony between the two language groups. On the one hand, it was path dependent. The changes in practice, regulation and conceptions of efficiency served to gradually lock in the dominance of English-speakers. On the other hand, Francophones could be appeased with symbolic appointments to honorary posts and patronage (since it was not completely eliminated even with the 1918 amendment). Without significant pushback from French-speakers, the Anglophone domination of the civil service continued on its increasingly exclusionary (even if unintentional) path. In the *Biography of an Institution* Hodgetts et al. explain that:

Anglophones enjoyed the benefits of a unilingual Public Service, but generally did so unconsciously, for consciousness implies some element of choice, and no alternatives were seriously debated. [...] The Anglophones did not see that such one-sidedness corroded Anglo-French harmony and the continued existence of Canada; the Francophones were lulled into quiescence by patronage and honorific positions. All in all, the history of the Public Service from the two standpoints of language use and Francophone participation represents a tragic failure of Canadian political imagination.⁴⁷

There were glimmers of hope – however small – for recognition. Although not directly related to bilingualism, there was some evidence of recognition of biculturalism through the protection of Catholic holidays codified in the Civil Service Act during the 1920s. The debate on the scheduled holidays “evoked considerable discussion in the House between the Prime Minister, Sir Robert Borden and several Quebec Opposition members,”⁴⁸ but Borden maintained that “though not specifically enumerated, Catholic holidays would be protected in the Civil Service by the custom of the past fifty years.”⁴⁹ Francophones at the time largely identified as Catholic, thus by recognizing the holidays, the government was tacitly recognizing the group and its practices. Beyond affirming the presence of Francophones through the recognition of holidays, there were no significant changes in the status or representation of Francophones within the federal public service.

⁴⁷ Hodgetts et al. 1972, 481.

⁴⁸ Steiner (no date), 7.

⁴⁹ *Ibid.*

Vital reforms to alter the imbalance of representation and institutional recognition of language within the civil service were not pressed for in the 1930s because of the Depression, in the 1940s because of the War, and at other times “because they felt the intensity of the Anglophones’ spontaneous resistance would prevent any gains from being secured.”⁵⁰ Any pleas on behalf of French Canadians were viewed as attempts to gain special privileges and Members of Parliament (MP) from Quebec and ministers did not help dispel the idea that the end of patronage was at the root of French Canadian discontent.⁵¹

During this period, there were three principal factors considered responsible for the lack of Francophone representation. First, post-World War II, there was the “Veteran’s preference” where lower ranking jobs typically filled by French Canadians were given to soldiers returning from war. The situation was further amplified because there were a lower number of French-speaking veterans because they did not conscript in the same number as did their Anglophone counterparts. Second, there was virtually no recognition of the public’s language needs, particularly for French-language services. In turn, there was no active need for French-speaking civil servants to provide those services. Third, the CSC’s examination system was biased. The public service entrance exam could be written in French, but the exam was translated from English reflecting the cultural tendencies of the dominant group and further limited French-speakers due to the differing educational backgrounds of the two groups.⁵² The civil service’s historic operation and treatment of French Canadians would be considered discriminatory today.

Above all the institutionally engrained limitations, the connection made between efficiency and unilingualism in the CSC would prove to be powerfully significant. Conceptions of the country’s duality and the necessity of public servants to serve the public in both official languages as well as to have top civil servants function in both languages was not considered relevant until well after 1918. Apart from improvements in the 1960s, “the

⁵⁰ Innis 1973, 94-95.

⁵¹ Beattie et al. 1972, 7.

⁵² Hodgetts et al.1972, 475.

tendency has been for the representatives of English-speaking Canada to drive out, smother, or assimilate those from French Canada” in the federal bureaucracy.⁵³

The imbalance between English- and French-speaking Canadians was clear in 1932 when not a single Francophone was part of the delegation of upper-ranked civil servants representing Canada at the Imperial Economic Conference. Dr. O.D. Skelton, the Under Secretary of State for External Affairs and the chief advisor for the aforementioned conference, was particularly struck by the situation. He undertook significant efforts to increase the hiring and representation of Francophones in External Affairs.⁵⁴ This trend continued into the future with relatively more Francophones in the department than elsewhere in the service.⁵⁵

According to Book III of B&B, Francophone protests of the imbalanced representation caused tension with Anglophone ministers.⁵⁶ Prime Minister Bennett wanted to do whatever required for quieting the Anglophones. Eventually, Francophone ministers and MPs contented themselves with the old system of patronage instead of finding ways the public service should adapt to the talents and needs of Francophones in an organization premised on efficiency and rationality.

Bennett criticized his Francophone ministers for their reversion to patronage, charging that they were “too inclined to view the Public Service as a patronage system; and it was for this reason that there was insufficient Francophone talent in the senior ranks of the federal administration.”⁵⁷ The statement had some currency since Francophone ministers and MPs showed little interest in staffing changes by the CSC. They tended to revert to patronage rather than seek to change conceptions of efficiency or rationality. One can only imagine the reasons why Francophone MPs at the time were not keen on changing the system. Whether they thought it impractical, difficult or inconvenient, their inaction had consequences for Canada’s French-speaking population.

⁵³ Beattie et al. 1972, 14.

⁵⁴ B&B Book III 3A, §264-268; Beattie 1972; Hodgetts, et al., 1972.

⁵⁵ Beattie et al.1972, 7.

⁵⁶ B&B Book III 3A, §264-268.

⁵⁷ Beattie et al. 1972, 7.

The Trois-Rivières strike in 1935 underscores the consequences, the inefficiency and the injustice of an increasingly unilingual civil service very clearly. During the strike, three federal arbitrators were sent to manage the situation – they were all English speaking. This caused immense frustrations for the Francophone strikers and the arbiters were largely useless. English was historically the language of business and industry, but the situation demonstrated that efforts had to be made to provide services in the language of citizens. In this situation, even the minister of labour Norman McLeod Rogers, called it a matter of justice in the House of Commons.⁵⁸ The difficulty of the situation at Trois-Rivières promulgated the 1938 adoption of the Lacroix Amendment that was meant to establish provisions for the language competencies of public servants.⁵⁹

Liberal Member of Parliament for Quebec Montmorency, Wilfrid Lacroix, succeeded in amending the Civil Service Act in 1938. What came to be known as the Lacroix Amendment, required candidates to know and use the language of the majority of the people they would serve as bureaucrats.⁶⁰ Unfortunately, the amendment was largely ignored. The appointment of a unilingual Anglophone to the position of Clerk Appraiser, Postal Parcels and Express, in Montreal, evidenced this. In protest of the blatant disregard for his amendment, Lacroix appealed the appointment to Prime Minister King in 1944. When pressed by Lacroix, then Chairman of the CSC Charles Bland, denied that knowledge of French was required for the position.⁶¹ The appointment of a unilingual clerk appraiser in a French-speaking environment is just one example of the way the Lacroix amendment was ignored in practice.

Acting to uphold the amendment would have been costly administratively since it would challenge the status-quo. Without the commitment of actors in the field like the Chairman of the CSC and even the Prime Minister, the changes that the Lacroix Amendment promised could not be delivered. The amendment itself did not have the power to upset the civil service's tendency to operate in English. Rather, the Lacroix Amendment was an

⁵⁸ B&B Book III 3A, §270.

⁵⁹ *Ibid*, §271-273.

⁶⁰ Hodgetts et al. 1972, 476.

⁶¹ *Ibid*.

opportunity for action that was ignored in favour of existing institutional tendencies and practices.

It was precisely such injustices that the secret organization l'Ordre de Jacques Cartier sought to rectify for all French-Canadians. Founded in 1926, the Order's mission was to protect and nurture French Canadian culture and religion.⁶² The secret operations were carried out through the influence of individual members in order to foster change. Initiatives targeted various elements of state and society including the economy, education and politics. Specifically related to matters of bilingualism and the public service, the Order developed and distributed pamphlets to better prepare French-Canadian recruits for the public service exam.

The Order also drew attention to federal bilingualism through two of its members who were federal parliamentarians. For instance, after a meeting with the "Grand Chancelier" in February 1956, it was decided that two projects related to bilingualism would be promoted in the House of Commons.⁶³ First, on March 6, 1956, MP Raoul Poulin representing Beauce Quebec put forth an amendment to the Financial Administration Act (FAA) for the issuance of bilingual cheques. In his address, Poulin appealed to the benefits of duality and the significant Francophone element of the population.⁶⁴ The second project was raised by MP Fernand Girard of Lapointe Quebec. Girard appealed in favour of language education for federal employees and an end to pay discrepancies between language groups.⁶⁵

Acting through its members with influence in institutions across the country, the Order attempted to improve the state of affairs for Francophones. Particularly committed to a bilingual and bicultural idea for Canada, the Order attempted to influence key political appointments. For instance, the Order worked to have chairman Bourdreau of the CSC appointed as president. Instead, A.D.P. Heeney (the author of the Heeney Report) was

⁶² Archives du Centre de recherche en civilisation canadienne française (CRCCF), C3/1/1 COJC, C3A1,1, « Historique de l'Ordre Jacques-Cartier, allocution du grand Chancelier, 1941 » (Discours d'Esdras Terrien).

⁶³ CRCCF, "Réunions du conseil de la chancellerie, 17 février 1956, rapport n. 850, Conseil de la CX," C3/2/8. C3A2.1, 11, 3-4.

⁶⁴ Canada, House of Commons, *Debates*, March 6 1956, vol. II, 1859-1861.

⁶⁵ *Ibid.*, July 4, 1956 vol. VI, 5650-5651, 5654.

appointed to the position. The lack of alternation between the two linguistic groups in such a key post reflected the lack of recognition and representation of Francophones within the public service for the Order.⁶⁶

There was a minority – despite the dominance of the English language and its administrative traditions – that fought for the representation of Francophones in the civil service. Chief among the instigators for the advancement of Francophone representation and rights in Canada was Ernest Lapointe. Identified by the Royal Commission on Bilingualism and Biculturalism as the central representative for Francophones during the era of the Mackenzie King Government, Lapointe was a quiet driving force for reform.⁶⁷ Hailing from rural Quebec and trained as a lawyer, Lapointe held the post of Justice Minister in the King cabinet and served as his Quebec Lieutenant. It is said that had it not been from Lapointe, King would have not returned to power with Quebec's support. Betcherman goes as far as to argue that “Ernest Lapointe warrants recognition as a forerunner of the pan-Canadian bilingual and bicultural politics of the modern federal Liberal party.”⁶⁸

Lapointe received grievances not only from Quebec but from across French-speaking Canada on language related matters. He became the point person for all French Canadian grievances while also acting as Quebec Lieutenant during the King era.⁶⁹ From written requests for translations to letters of congratulations when the simultaneous translation and publication of documents were achieved, Lapointe was a giant of Francophone affairs in Canada. A letter from la Société St-Jean Baptiste of Montreal, dated March 24, 1936, conveyed the centrality and importance of his position well: “Nous savons que vous ne laissez passer aucune occasion d'affirmer le principe du bilinguisme officiel au gouvernement fédéral.”⁷⁰

⁶⁶ CRCCF, “Commission du Service Civil Fédéral,” Ottawa, 7 décembre 1954, C3/21/3. C3A1D.2, 6.

⁶⁷ B&B Book III 3A, §269.

⁶⁸ Lita-Rose Betcherman, *Ernest Lapointe: Mackenzie King's Great Quebec Lieutenant* (Toronto: University of Toronto Press, 2002), 352.

⁶⁹ Beattie et al. 1972, 7.

⁷⁰ Heward 1966, 12-13.

Lapointe often framed the language problem through the idea of service, arguing that both groups served by the administration should have service of equal quality in their own language.⁷¹ The context in which he worked was challenging since Lapointe was promoting bilingualism in government at a time when Canada outside of Quebec was English-speaking. Despite him challenging institutional tendencies, he was not anti-English. According to Betcherman, “His objective was ‘the unity of the races.’ True to his actions, Lapointe said of himself in one of his last speeches that: ‘I have worked all my life for national unity.’”⁷²

The two extremes of Lapointe’s position and that of resistant Anglophone ministers are no better demonstrated than through a comparison with C.D. Howe. As the Minister of Munitions and Supplies during World War II, Howe was a very powerful individual. Leading the domestic war effort, Howe had a view of efficiency rooted in 19th Century Protestantism. Work had to be done quickly and efficiently “even at the expense of the feeling of the French people, and at the expense also, in the last case, of the French language.”⁷³ Representation was not an important element of an efficient public service according to Howe and nor were feelings of unity among the country’s founding peoples. Needless to say, Howe’s and Lapointe’s views on hiring and efficiency were diametrically opposed.

Lapointe’s views were rooted in a dualist view of the country which required that the dualist fact be reflected in the country’s institutions, including its public service. According to Lapointe, “it was not efficient to offend a virtual 30% of the population” by not being able to serve them in their mother tongue.⁷⁴ This meant ensuring that Francophones were part of the public service and that citizens were able to communicate with their administration in either English or French. Lapointe was committed to a bilingual and bicultural public service and his interest showed through his investigations of many situations and departments that failed to provide even basic services in French. For Lapointe “merit [...]

⁷¹ Heward 1966, 16.

⁷² Betcherman 2002, 348.

⁷³ Heward 1966, 29.

⁷⁴ *Ibid.*

within the context of a country composed of two language groups, involved bilingualism, and responsiveness to the needs of both cultures.”⁷⁵

Lapointe was working in an environment that largely resisted the use of the French language as a language of work and service. For instance, it took over a year for cabinet and the public service to publish bilingual internal phone books in Quebec (instead of only having them in English). Harold Innis attributes the difficulties experienced by reformers like Lapointe to “[...] the prevailing climate during World War II, bad tactics, or poor propaganda.”⁷⁶ Grievances and demands for change by French-speaking Canada could be dismissed or ignored since they “could always be interpreted as a “political” appeal to return to the bad old days of patronage and, therefore, to inefficiency if not corruption.”⁷⁷ The gradual dominance of efficiency and merit in the civil service also heralded the rise of the dominance of English. With these changes, Francophones gradually saw themselves shut out of the system.

A row between Howe and Lapointe in 1940 over unilingual hiring in a Quebec office aptly demonstrates the necessity of having the commitment of elite figures to foster change. In an exchange of letters, the two men offer a sketch of what the federal civil service was like in the 1940s. In the Montreal office of the Department of Munitions and Supplies (a very important office given Canada was at war) a buyer had to be hired. As head of the department Howe was responsible and he hired an Anglophone. When Lapointe found out, he questioned why Howe did not find a suitable Francophone candidate, concerned about “la trop petite part faite aux Canadien-français dans l’organisation du ministère”.⁷⁸ According to Howe, there was no Francophone in Quebec that had the competencies necessary to be hired as a buyer. Since there were three million Francophones in Quebec at the time, Lapointe was convinced surely one would qualify.⁷⁹ Good will, from Lapointe’s perspective was the first step in solving the problem of underrepresentation of Francophones and Howe was not

⁷⁵ Heward 1966, 10.

⁷⁶ Innis 1973, 94.

⁷⁷ *Ibid.*

⁷⁸ Heward 1966, 15.

⁷⁹ B&B Book III 3A, §278-279.

prepared to do it. A fundamental obstacle for bilingual appointments was that departments were responsible for field appointments—the Civil Service Commission only had authority to make appointments in Ottawa.⁸⁰

Any of Lapointe's advances tended to be largely symbolic, e.g. the inclusion of the word "poste" on stamps appeared in 1927. There was a general vehement aversion to bilingualism during the 1930s outside of Quebec. Debates on bilingual currency for instance, were the source of intense debate. So much so that as opposition leader, R.B. Bennett feared bilingual paper money bills would threaten the country's harmony and unity. A Francophone MP astutely and rhetorically questioned such unity and harmony pondering "la valeur d'une harmonie qui serait ébranlée par l'émission du papier monnaie bilingue."⁸¹ With the Lacroix amendment largely a dead letter and War efforts that expanded the civil service but largely by employing Anglophones,⁸² the mid-1900s were bulwarks against language reform.

Although Lapointe never resorted to rebellious tactics such as threatening to resign or rallying his fellow Quebec caucus members to encourage change⁸³ his ideals and commitment were made clear though a series of essays he penned often referred to as the "Lapointe Papers". Written around 1940, these essays contain recommendations on improving the representation within the civil service to make it bilingual and bicultural. Lapointe's recommendations included the creation of a government sub-committee to study language needs across the country. The committee, with at least one French-Canadian, was meant to recommend a classification by region of the language(s) needed to serve the public, i.e. bilingual, unilingual English or French.⁸⁴ Interestingly, the B&B made a similar recommendation with its suggested bilingual districts nearly thirty years later.

Lapointe also recommended that the French section of the civil service's examination board be reinstated. Specializations for positions he argued, should be omitted and should

⁸⁰ Steiner (no date), 5.

⁸¹ B&B Book III 3A, §285.

⁸² *Ibid*, §280-282.

⁸³ See Innis 1973, 94.

⁸⁴ Heward 1966, 74-77.

instead favour as did the United States, the hiring of competent individuals who can specialize within the organization over time (a reference to the broad rejection of French Canadian classical training in the public service). Also, Lapointe believed that three technical experts should be appointed to the Treasury Board to ensure the proper enforcement of the Civil Service Act, as it relates to hiring. At least one should be a French Canadian and the three would have the power to undo injustices made by managers. None of Lapointe's recommendations were implemented in his lifetime.⁸⁵

It was not until after Lapointe's untimely death in November 1941 that Liberal Caucus MPs began to organize formally and work to advance the rights of French-speakers. In 1946-1947, a group of Quebec MPs united to form a group known as "Little Chicago" or the "Jean Committee" (named for their cabinet liaison, then solicitor-general, Joseph Jean). The members were Roch Pinard (chairman), Bona Arsenault, René Beaudoin, Gleason Belzile, and Wilfrid Lacroix.⁸⁶ They met not only to protest the insufficient representation of French Canadians in public posts but also to promote Quebec's interests "in general."⁸⁷

Prime Minister Mackenzie King, in an attempt to quiet the group gave it official status in 1947, by asking the solicitor general Joseph Jean to act as liaison between the group and Cabinet. A total of six reports from the group were sent to cabinet. A formal recommendation on July 3, 1947 was made by the group to appoint three new Deputy Ministers and an additional four French Canadian deputies. Other reports advised on the appointment of dual deputies in at least four departments: agriculture, mines and resources, justice and trade and commerce.⁸⁸ After 1947, no record of the committee's activities can be found. The main difficulty in understanding and assessing the group's work is the missing paper trail. How much the Jean Committee's recommendations enhanced the status of French-speakers in the public service remains to be known.⁸⁹ The committee was dissolved

⁸⁵ Heward 1966, 42.

⁸⁶ *Ibid*, 44-45.

⁸⁷ *Ibid*, 45.

⁸⁸ *Ibid*, 47.

⁸⁹ *Ibid*, 48.

in 1948 when Jean was appointed as a judge.⁹⁰ The Committee serves as evidence of the discontent among Francophones at the time and the institutional resistance that they faced in attempting to foster change.

The predominantly English-speaking administration operated on the principles of efficiency (the increased utilization of resources) and merit (expertise) “at the expense of other values, even when these stood for the promotion of national unity.”⁹¹ The national unity cause could no longer be ignored with the advent of Quebecois nationalism. This final section conveys a deep and significant shift in thinking on bilingualism and the important symbolic and representative roles that language can play in the Canadian federal administration.

Breaking Point (1946-1966)

If something is a government priority, a department can divert resources towards it. In the case of bilingualism and biculturalism from the late 1940s to early 1960s, they did not command high government priority.⁹² Officials were unwilling to establish priorities and programmes to address both issues in their individual departments. Until the government was willing to bear the extra costs of bilingualism and biculturalism, no changes would be made.⁹³ Governments of this period tended to focus on the organization, operation and efficiency of the civil service instead.

These foci were reflected in the Heeney Report and the Glassco Royal Commission, two important studies of the era for the civil service. Neither one of these studies gave much attention to the issue of bilingualism. Heeney attributed a few paragraphs to the topic and Glassco went as far to say that it was beyond the realm of the Commission’s mandate to address such matters. Interestingly, just as the results of these studies were being published in the late 1950s and early 1960s, there were changes being undertaken by the Pearson government (elected in 1963) to attempt to give importance to bilingualism and biculturalism in federal institutions. The contents of the Heeney Report and Glassco Commission offer

⁹⁰ B&B Book III 3A, §289-291.

⁹¹ Heward 1966, 73.

⁹² Michel Chevalier and James R. Taylor, *Dynamics of Adaptation in the Federal Public Service* (Ottawa: Information Canada, Studies of the Royal Commission on Bilingualism and Biculturalism, 1971), 40.

⁹³ *Ibid.*

insight into the institutional context of the era that continued to emphasize operational efficiency with little to no consideration for representation of and service to French-speaking citizens.

The Heeney Report (1958) was a review of personnel administration in the civil service. A.D.P. Heeney the author of the report was the former Secretary to the Privy Council and was appointed President of the CSC in 1957. Most of his report focuses on the organization of the civil service and its personnel. In the few paragraphs that address language issues, the report recommended that provisions be made so Canadians could receive services from their government in either English or French. To achieve this, it was suggested that bilingual staff be used in offices serving both official language groups. This approach would replace the practice described in section 19 of the Civil Service Act (the Lacroix amendment) which required civil servants to have knowledge of and use the language of the majority in their location. Finally, Heeney also recommended that the Civil Service Commission should “determine the minimum language qualifications which civil servants should possess in any given position” (after review of information provided by deputy heads of departments), just as it determines qualifications for entry into the Service.⁹⁴ Beyond Heeney’s recommendations for service and staff, there was little established for altering the representation of Francophones in the public service and changing practices surrounding language of work. Variants of the recommendations were adopted in the new Civil Service Act (1961).

Shortly after the publication of the report, as president of the CSC, Heeney was a key figure in the development of the new Civil Service Act (1961). Heeney sought a new balance of power in personnel management in Canada.⁹⁵ With the coming into effect of the Act, the CSC would no longer be involved in the organization of the civil service but “would retain its responsibility for classification and the control of appointments and promotions.”⁹⁶ For Heeney, the central tension at the core of the CSC was balancing executive action and

⁹⁴ A.D.P. Heeney, *Personnel administration in the public service: a review of civil service legislation* (Ottawa: Queen’s Printer, 1959), §53-54.

⁹⁵ Juillet and Rasmussen 2008, 84.

⁹⁶ Canada, Public Service Commission, *The 100 Years of the Public Service Commission of Canada 1908-2008* (Ottawa: Queen’s Printer, 2008), 15.

the demands of democratic responsibility. In fact, Heeney favoured the decentralization of certain powers to department heads⁹⁷ to attain the balance.

Beyond the organizational changes, the passage of the Civil Service Act in 1961 marked a change in the way language was to be managed in the civil service. The essential language-related change of the 1961 Act comes from Section 47. This section gives consideration to the fact that the public service serves the public in both English and French not only in local areas but at the national level as well. Further, it recognized that both languages and not only the language of the majority were necessary for effective service to the public.⁹⁸ The CSC was vested with the responsibility for determining the linguistic requirements of positions; determining the language of notices of competition (English, French or both); and the Act reaffirmed that exams could be taken in English, French or both languages at the preference of the candidate.⁹⁹

Vesting the CSC with the power to designate the language requirements of positions was a view maintained by Chairman Alexandre Boudreau of the CSC nearly ten years before the publication of the Heeney Report and the eventual amendment to the Civil Service Act. In an August 1950 memorandum, Boudreau declared his opposition to the departments' sole authority in declaring language requirements of positions. He believed that the CSC should manage this to ensure some uniformity throughout the service when it came to language matters.¹⁰⁰

Despite the incremental changes on the language front in favour of bilingualism, opposition parties complained about the Civil Service Act. For instance, MP George McIlraith (Liberal, Ottawa West) charged that the amendments allowed ethnic origin to be a criterion in the selection process.¹⁰¹ His comment was in response to MP Louis-Joseph Pigeon (Progressive Conservative, Joliette—l'Assomption—Montcalm) from the government side who, speaking in favour of the new legislation stated that "...apartheid is not

⁹⁷ Juillet and Rasmussen 2008, 84.

⁹⁸ Steiner (no date), 13.

⁹⁹ *Ibid.*

¹⁰⁰ *Ibid.*, 11.

¹⁰¹ House of Commons Debates, Debates, 1960-61, vol. VII, 7967-7983.

confined to South Africa; it is also found in the civil service generally” (referring to the unequal status of French-speaking Canadians).¹⁰² Although the politics of language were not the driving force for the amendments, the Civil Service Act (1961) established some recognition that both official languages were actively spoken in the country and consequently must be represented in its civil service. The legislative changes did not induce a linguistic revolution in the public service but they did represent gradual change that would eventually be propelled forward by Quebec’s nationalism.

The efficiency of staffing and financial management in the civil service was still a central preoccupation of government in the 1960s and further study was believed to be required.¹⁰³ To fulfill this need, the Royal Commission on Government Organization (Glassco Commission) was appointed in 1960. Named for its chair J. Grant Glassco, the Commission was launched after cabinet expressed concerns about losing control over the growing bureaucratic apparatus and the rationality of the institution. The purpose of the Glassco Commission was to “inquire into and report upon the organization and methods of the departments and agencies of the Government of Canada and to recommend ... changes ... [which] would best *promote efficiency, economy and improved service in the dispatch of public business...*”¹⁰⁴ Juillet and Rasmussen (2008) explain that Glassco was a crucial source for reform, stating that:

The Glassco Commission proved to be one of the most influential inquiries into the role of the public service in Canadian history. It accomplished what many reformers within the public service had been asking for since the establishment of the CSC in 1908: a greater centralization of administrative power over personnel in the Treasury Board, a reduction in the influence of the CSC, an intellectual division of labour between managers and non-managers and a decentralized system of financial and personnel management centred squarely on operating departments and agencies—in short, a stronger executive leadership focused on a strong senior civil service, with oversight from a new, powerful central agency.¹⁰⁵

¹⁰² House of Commons Debates, Debates, 1960-61, vol. VII, 7714.

¹⁰³ Public Service Commission 2008, 15.

¹⁰⁴ J. Grant Glassco, *The Royal Commission on Government Organization, vol. 1* (Ottawa: Queen’s Printer, 1962), 8.

¹⁰⁵ Juillet and Rasmussen 2008, 87.

The changes stemming from the Glassco Commission altered the balance of power within the civil service. In essence, the recommendations modified the organization of the civil service with implications for personnel and program management. This change would be significant for language of work issues within the public service, since the TBS (after the adoption of the OLA 1969) would take the eventual lead on all internal matters related to official languages.

On the language question, the Glassco Commission decided in a July 1961 meeting that bilingualism should be treated as a matter of efficiency and not as a problem of justice. For Glassco, it was clear that bilingualism and representation had no relation to a study of efficiency in administration. This is an interesting development since the Glassco Commission had originally established a bilingualism committee. It appears that traditional conceptions of efficiency outweighed representation and all that it implied for service to the public and even national unity. According to Glassco, bilingualism in the public service was beyond the realm of the Commission's mandate since the government did not mention bilingualism or biculturalism in its request. Despite the Civil Service Act's recognition of the place of language in the civil service, Glassco did not consider the connection between efficiency, justice and language that the Royal Commission on Bilingualism and Biculturalism would eventually raise. Despite these efforts, there was only a very general recommendation in the final report.

The shelving of language issues led Commissioner Eugène Therrien to write a ten page dissenting report on the problems of bilingualism in the public service.¹⁰⁶ In the unpublished dissent, Therrien notes that the under representation of Francophones in the public service is problematic and is rooted in the numerical and cultural dominance of Anglophones within the institution. Bilingualism, Therrien mentions, was never wholly addressed in Canada – it was treated with half-hearted efforts and measures rooted in sympathy or in reaction to events. This is problematic for Therrien who ascribed to a dualist understanding of the country that preceded Confederation and he felt, should be valued and preserved by all Canadians. Therrien's conclusion was that:

¹⁰⁶ Heward 1966, 43.

L'existence de toute fédération ou confédération repose sur le respect mutuel du pacte et sur un juste équilibre qui ne peut être rompu sans causer des perturbations profondes. L'administration fédérale du Canada en matière de bilinguisme n'a pas été jusqu'à ce jour conforme au pacte confédératif dans l'esprit et dans la lettre, ni efficace, au plein sens du mot.¹⁰⁷

The lack of Francophone representation and bilingualism in the federal public service was a failure of a historic pact for Therrien—the historic pact at the root of the country's existence. Therrien's dissent was prescient. There certainly was a dualist conception of the country held by its Francophone citizens and increasingly those living in Quebec. Just as Therrien's dissent was published, the Quiet Revolution was underway with gusto in Quebec affirming the existence of a territorially defined French-speaking nation in Canada.

The national community and Quebec's territory became inseparable with the Quiet Revolution that started in the 1960s. Historically, it was the Catholic Church that was responsible for social policy and propagated its agrarian, linguistic and religious ideals for years in the province. Once considered an inward looking nation that depended on the Catholic Church for the majority of its social programs, the Quebec state began to take responsibility for its own social programs in areas such as health and education with the onset of the Quiet Revolution.¹⁰⁸

During the Quiet Revolution, French Canadians vigorously asserted and demanded focus on language-based inequalities they had suffered in the past. Most importantly, language became a public good that had to be cared for by the Quebec Government.¹⁰⁹ State intervention, the hallmark of the Quiet Revolution, replaced dependence on religious and patriotic institutions.¹¹⁰ Through the promotion and defense of the French language, the government attempted to uphold the political, social and economic interests of the

¹⁰⁷ Glassco 1962, 82.

¹⁰⁸ Alain-G. Gagnon and Richard Simeon, *Canada, Diversity and Unity in Federal Countries*, ed. Luis J. Moreno and César Colino (Montreal & Kingston: McGill-Queen's University Press, 2010).

¹⁰⁹ Conseil supérieur de la langue française, *The French Language in Québec: 400 Years of History and Life – Introduction* (Québec, 2008), 8.

¹¹⁰ Pierre E. Laporte, "Status language planning in Québec: An evaluation," in *Conflict and Language Planning in Québec*, ed. Richard Y. Bourhis (Clevedon, Avon: Multilingual Matters Ltd., 1984), 54.

Francophones in Quebec.¹¹¹ It became increasingly clear that Quebec was asserting its nationhood within Canada and calls for separation became louder somewhat forcing the government into action. Realizing that Quebec had to be accommodated within the federal system, the 1960s became a time of important change for federal pronouncements on language and Francophone representation within its institutions.

Legislators typically reacted to matters concerning language instead of taking action. This was problematic given the increasingly tense situation in Quebec. For instance, it was only during times of significant nationalist tension in Quebec during the 1930s and 1940s and then again during the Quiet Revolution that legislative changes related to language occurred,¹¹² e.g. the adoption of bilingual stamps, bilingual money bills. For the public service in particular, there was little legislation governing language use. At the top levels of the bureaucracy, concern for bilingualism was expressed, but the commitment to language did not always filter down effectively to the working levels of the civil service.

Changes meant to ensue from legislation were slow to develop results in all echelons of the apparatus. The CSC was more concerned with bilingual positions to serve the public than with the language of work of individual public servants. This orientation was the result of the 1961 Civil Service Act, which gave the Commission the authority to identify the language requirements of positions. Designation of bilingual positions was slow. In 1965 only 9% of required posts were designated as bilingual and only one eighth of those positions were in fact staffed by bilinguals.¹¹³ The reactionary and piecemeal changes did not account for the working conditions of French-speaking public servants.

In May 1963, Secretary of the Privy Council Office, Maurice Lamontagne, established objectives to achieve a functionally bilingual civil service. To coordinate these efforts, the Special Secretariat for Bilingualism was established and housed in the PCO. This office was meant to oversee the implementation of language initiatives across the government apparatus by working closely with the CSC, the TBS and various deputy

¹¹¹ Denise Daoust, "A Decade of Language Planning in Québec: A Sociopolitical Overview," in *Language Policy and Political Development*, ed. Brian Weinstein (Norwood, NJ: Ablex Publishing Corporation, 1990), 109.

¹¹² B&B Book III 3A, §315-318.

¹¹³ *Ibid*, §322-323.

ministers and heads of agencies.¹¹⁴ At the same time the Special Secretariat for Bilingualism was established, an inter-ministerial consultative committee was created and chaired by Lamontagne. The establishment of the Interdepartmental Committee on Bilingualism in the Federal Service was authorized by Cabinet with the intention to advise on how to promote bilingualism in the federal service in accordance with government policy and to formulate a four year programme of bilingualism (1963-1967). Composed of high ranking civil servants, deputy ministers and heads of agencies, the committee was meant to advise the Prime Minister and cabinet on language policy matters and establish language learning mechanisms.¹¹⁵

A primary objective for the civil service was the equality of English and French as languages of service and work. Citizens would define their linguistic preference when interacting with federal institutions to obtain services. A similar system for civil servants was also to be established so that written communication and instruction manuals would be available in the official language of choice. Memorandums and manuals would be published in both official languages from this point onwards.¹¹⁶ A deadline of 1975 (twelve years from Lamontagne's announcement) was established, since reforms were not immediately attainable.¹¹⁷

The inter-ministerial committee recommended that the government establish a language training school through the CSC.¹¹⁸ This would enable the agency to develop a language learning program and factor in language competencies when recruiting. Cabinet approved that the CSC train language instructors and provide English and French language training facilities in 1963. Set to begin operation on January 1, 1964, the pilot project had an estimated cost of up to \$75,000.¹¹⁹ These instructors and facilities would be used for the

¹¹⁴ Task Force on Bilingualism, *Module 8: Aperçu du rôle joué par la direction des programmes du bilinguisme au Secrétariat d'État* (Ottawa : Queen's Printer, 1972).

¹¹⁵ B&B Book III 3A, §311-312; §455.

¹¹⁶ *Ibid*, §309-310.

¹¹⁷ *Ibid*.

¹¹⁸ Task Force on Bilingualism 1972, Module 8; B&B Book III 3A, §311.

¹¹⁹ Library and Archives Canada (LAC), RG55, vol. 1149, file 4500-2, pt. 1, "Memorandum to the Cabinet Committee on Cultural and Related Matters. DRAFT: "Bilingualism in the Federal Service,"" March 8, 1965.

language school established in 1964. The school was meant to provide public servants with the capacity for expression in their second language (typically French) in order to fulfill their position requirements. Fostering language competencies among public servants was central to achieving the representation and service goals established by Lamontagne and the Interdepartmental Committee on Bilingualism.

There were also some departments and agencies that provided their own language training programmes in the early 1960s. The Bank of Canada, the Dominion Bureau of Statistics, the National Film Board, Northern Affairs and National Resources, are examples of government entities that experimented with language training. In some cases, the training was led by staff who volunteered as instructors. This meant that the method of instruction and results were inconsistent which could be problematic for ensuring common standards of competency later on.¹²⁰ Despite the inconsistencies, the departmental programs were perceived to have been useful in the promotion of bilingualism in the civil service. These efforts at language training and learning demonstrated that there was no single universal formula that could be applied for language learning in the civil service. The programme had to offer different courses for different levels of students and meet different departmental needs. If certain departments wanted to continue to offer their own language training, they should receive professional guidance from the CSC's Language Training Centre to ensure sufficient competency to meet the service needs of the public.¹²¹

Along with the Translation Bureau, these two programs were the basis of the government's approach to OLs management in the federal bureaucracy.¹²² The persistent tendencies of the institution to operate in English had to be altered in order for change to occur. To kick start the change, some unilingual Anglophone public servants would learn French and unilingual Francophones would learn English – both at public expense. In 1965, the CSC alluded to language as criteria of merit by requiring that the language requirements

¹²⁰ LAC, RG55, vol. 1149, file 4500-2, pt. 1. Memorandum to the Cabinet Committee on Cultural and Related Matters. DRAFT: "Bilingualism in the Federal Service." March 8, 1965.

¹²¹ *Ibid.*

¹²² B&B Book III 3A, §433.

of positions be mentioned in all competition announcements.¹²³ Giving credence to the permanence and importance of language matters for the civil service, the position of official languages advisor was introduced to ministries in 1967.¹²⁴ The principal role of the advisors would be to encourage awareness and use of both English and French throughout all levels of the ministry.¹²⁵ The results achieved by the advisor position were considered limited in the 1970s because of their undefined status and unclear role.¹²⁶ Nonetheless, variants of this position exist today through official languages directors and official languages champions in every federal agency.

Importantly, as these changes were being implemented the Royal Commission on Bilingualism and Biculturalism (1963-1969) was launched in response to the mounting nationalism of the Quebecois and the growing unrest of French-Canadians. The Commission was mandated to study the state of French-English relations and their statuses in Canada. Recommendations from the Commission were released in six books, addressing the official languages, education, the world of work (including the public service and the military), the cultural contributions of other ethnic groups, the federal capital and voluntary associations. The launch of the B&B was an important first step in the establishment of a Canadian linguistic regime and pan-Canadian identity.

The preliminary report of the B&B was released in 1965 and asserted that Canada was facing the greatest crisis in its history.¹²⁷ In response, then Prime Minister Lester B. Pearson made a declaration in the House of Commons on April 6, 1966, announcing for the first time in the country's history, an official position of a federal government on official languages.¹²⁸ Prior to 1966, language was subject to the will of Parliament. Whatever

¹²³ B&B Book III 3A, §311-312.

¹²⁴ Task Force on Bilingualism, *Module 4: La fonction conseiller en bilinguisme : mécanisme d'implantation du bilinguisme* (Ottawa : Queen's Printer, 1972), 5.

¹²⁵ LAC, RG2, vol. 6345, Cab Doc 348-69. "Mémoire au Cabinet: "La Politique du gouvernement sur le bilinguisme."" April 2, 1969.

¹²⁶ Task Force on Bilingualism, *Module 4*, 54.

¹²⁷ Canada, *A Preliminary report of the Royal Commission on Bilingualism and Biculturalism* (Ottawa: Queen's Printer, 1965), 13.

¹²⁸ Jacques Robichaud, "Le bilinguisme dans l'administration fédérale du Canada (1969-1982)," *Les Cahiers de Droit* 24(1) (1983).

Parliament decided informed the country's approach and management of language matters. That is why Pearson's 1966 statement on official languages in the House of Commons was so significant. For the first time in the country's nearly 100 year history, a government had taken an official stance on language. In his speech, Pearson emphasized the importance of federal institutions with bilingual capacities as a precursor to national unity. The composition of the civil service had shaped its operation and through its persistence and path dependency limited the accessibility of the institution to Francophones. The civil service's operation virtually all in English excluded a crucial portion of the population.

Adding to the difficulties were the miscommunications and misunderstandings of the government's intentions and goals when it came to bilingualism in the federal public service. This created, mostly in Anglophone circles, resentment and concern about official languages in the administration.¹²⁹ The intent of the government was not to create a fully bilingual public service but to give individuals the option of working in the language of their choice and to provide services to the public in the official language of their choice. Difficulties learning French were expressed by older public servants and those in the sciences; those who thought they would have no difficulty learning French expressed the realisation that they "were up against a brick wall in trying to practise this skill".¹³⁰ Overall hostile perceptions of bilingualism and biculturalism were reported among Anglophones who connected them to personal fears about their future careers. The threat of bilingualism, which they felt was unnecessary, was going to give an unfair advantage to Francophones.¹³¹

As the sentiments of the public servants described above demonstrate, not all were pleased with Pearson's 1966 declaration and the changes of the early 1960s. Even if there was support in the upper echelons of the public service for such changes (e.g. Lamontagne and his committee) and recognition of the importance of matters of language and identity, this concern did not always filter down to the lower levels of the civil service.¹³² Pearson's declaration in 1966 was also somewhat naive in promising unequivocally job security for all

¹²⁹ Beattie et al. 1972, see Chapter XIX.

¹³⁰ *Ibid*, 493.

¹³¹ *Ibid*, 513.

¹³² See Heward 1966.

civil servants. How was it expected that drastic change be encouraged without challenging the status quo?

Pearson's address created a paradox of government policy. On the one hand, he established the goal of achieving a bilingual public service. At the same time, he gave a "guarantee" to public servants that their careers would not be prejudicially affected by measures to achieve the goal.¹³³ What resulted was a policy with antithetical principles and structurally weak procedure. Promising substantial reform while simultaneously committing to fostering continuity limited the potential of future actions for change. To enact this policy statement, the focus was on the bilingualism of individuals. The emphasis on individuals rather than structural reform was found by a 1973 Task Force on Bilingualism to have limited the long-term application of the announcement.¹³⁴

There was potential for Pearson's address to have been interpreted as a call for a bilingual and bicultural public service through personnel and environment, but that did not take hold.¹³⁵ The mechanisms identified to achieve a "climate"¹³⁶ in which members of both language groups could use their language and culture to achieve common goals, focused on the individual public servants, e.g. recruitment and training practices, the option of the author to use either English or French in written communications and the option of the citizen to be served in either of the two languages. Pearson's efforts are rightly lauded as the first attempt post-Confederation to recognize the importance of both language groups at the helm of the country's central institutions, but just as many efforts before, without the necessary elaboration on ideals and enforcement of initiatives, the results were not those originally intended.

Researchers Taylor and Chevalier in a 1971 report for the Royal Commission on Bilingualism and Biculturalism, observed an initial openness to change with regards to

¹³³ LAC, RG55, vol. 1149, file 4500-2, pt. 4, Cab Doc 654-3-52, "Memorandum to Cabinet: "Bilingualizing the Public Service." From the PSC (J.J. Carson, Chairman; and Ruth E. Addison, and Charles A. Lussier, Commissioners)," December 7, 1970, 6.

¹³⁴ Task Force on Bilingualism, *Module 22: Balanced Participation (Integrated Report)* (Ottawa: Queen's Printer, 1973), 28.

¹³⁵ B&B Book III 3A, §314.

¹³⁶ *Ibid*, §313.

language matters in departments. But as language reforms were more closely analyzed, departments were less enthusiastic about taking bold steps. Reasons for this change in attitude included a lower priority placed on bilingualism and biculturalism than on current departmental activities, e.g. day to day government business; sentiments that bilingual and bicultural adjustment should not be forced but should come from the departments voluntarily so as not to create a backlash or affect the morale of employees; and a lack of government direction and the perception that a strong policy statement was needed to encourage improvement in departments.¹³⁷ Interestingly, 62% of Francophones in intermediate positions perceived real changes in the bureaucracy and believed (for the most part) that a more harmonious work environment could transpire in the near future. Nonetheless, a significant minority did not believe that change would actually happen until significant linguistic and cultural transformations occurred altering the work environment and majority-minority relations between the language groups. Failing such changes, the domination of Anglophone culture (which included English as the language of work) would persist in the civil service.¹³⁸

A single positive pressure towards change was the idea that the public service had the responsibility to do something to help national unity (a thought more commonly present in English Canada).¹³⁹ The civil service increasingly came to be seen as a tool for national unity by encouraging Francophone representation within the body. In this way, French-speakers would come to see themselves reflected in the institution, its decisions and overall, the country. The principles of representative bureaucracy that first formalized in the mid-1940s by Kingsley were making their way into Canada. Along with the rise of representative bureaucracy, conceptions of language and its importance in Canada were gradually changing. Historically, language was subject to the will of Parliament and used as a tool for political compromise. Come the 1960s, by promising federal services and working environments in the official language of choice, the government was using language as a political tool to foster national unity.

¹³⁷ Chevalier and Taylor 1971, 35.

¹³⁸ B&B Book II, §307-310.

¹³⁹ Chevalier and Taylor 1971, 36.

Institutional remedies were studied as possible means to bolster national unity by achieving a civil service representative of the country's two official languages. Simplistic solutions like a uniformly bilingual and bicultural bureaucracy were considered impractical because it would lead to assimilation. If everyone could speak both languages then the majority language would come to dominate defeating the entire purpose of the reform. The associate states concept, where there would be two separate administrations for English and French Canada meeting only at the highest political level, were seen as unacceptable to "critical sectors of the country" and a prelude to total separation.¹⁴⁰ The solution perceived to be the most lasting by the political leadership was to make the bureaucracy institutionally bilingual and bicultural. This meant equipping the institution with the capacities required to serve the public and offer civil servants the opportunity to work in their official language of choice. It was no easy task as the approach would require years of sustained effort, coordination and programme development.

Chevalier and Taylor's study indicates that institutional change and elite leadership were required for changes to occur. Piecemeal reforms would not work. The gradual changes that ushered in an English-speaking and Anglophone dominated civil service built up over time and persisted. Attempts at altering the state of affairs in the 1960s proved to be limited. Well orchestrated policy implementation and clearly defined principles were required to change the state of language in the federal civil service.

Conclusion: Foundations Laid

We have argued in this chapter that a series of gradual changes led to the initial dominance of English as the language of work in the civil service. Over time, regulations (e.g. merit) and practices (e.g. unwillingness to appoint Francophones) led to the reinforcement of an institution that operated predominantly in English. Notwithstanding improvements from the 1960s, this period underscores that French-speaking Canadians were mostly excluded from the civil service.¹⁴¹

The evolution of the federal public service from the pre-Confederation era to the mid-1960s led to the development of an institution premised on the ideals of merit and efficiency as it moved away from dualist tendencies and patronage practices. That patronage and

¹⁴⁰ Chevalier and Taylor 1971, 57.

¹⁴¹ Beattie et al. 1972, 14.

dualism went hand-in-hand was detrimental for Francophones. Access to the civil service – an institution rooted premised on the merit principle and operating principally in English – was virtually inaccessible and largely undesirable for many French-speaking citizens. Institutional tendencies and elite actions created a strong path dependency that favoured Anglophones and inhibited Francophones from breaking through the system to achieve representation and the ability to work in their mother tongue.

A fundamentally limiting factor was the connection made between efficiency and unilingualism within the Civil Service Commission. Conceptions of the country's duality and the necessity of public servants to serve the public in both official languages as well as have top civil servants function in both were not considered relevant until long after 1918. Any claims made by Francophones for representation, were considered affronts to the merit principle. Conceptions of merit and efficiency valorized above all else, expeditious execution of administrative tasks with little to no regard for their repercussions on the country's unity or the offense of a significant portion of the population. However, with the rise of Quebec nationalism, federal actors began to appreciate the risk of sustaining a virtually unilingual civil service. An institution unrepresentative and unresponsive to nearly 30% of the population could no longer be accepted.

Pearson attempted to change the operation and composition of the public service with his 1966 address. The promises of bilingualizing the public service while guaranteeing that unilinguals would not be adversely affected were unrealistic. Pearson's statement would in fact come to constrain the reform efforts of the Trudeau government in the 1970s. The persistent strengthening of a path dependent tendency to operate in English could not be reversed with a declaration or the addition of a language training school. As Chevalier and Taylor (1971) explain,

the existing blocks to bilingualism and biculturalism are a product of sustained systemic evolution occurring over many decades. In asking for a reversal of a long-term trend, we will necessarily have to attack the issue first as a planning problem, second as a problem in departmental co-ordination, and third as a system problem.¹⁴²

It would require multifaceted and sustained efforts to reverse a long-term trend of Anglophone dominance. More importantly, a critical juncture was required to replace the existing system in order for real change to occur. This chapter established the foundations on

¹⁴² Chevalier and Taylor 1971, 55.

which the eventual OLA 1969 would be implemented. Characterized by the dominance of English and Anglophones, the public service required more than announcements to change course. The arrival of Pierre Trudeau surrounded by an upper administration willing and ready to implement change would usher in a veritable linguistic revolution in Canadian institutions.

Chapter 4: 1968-1972

No time to ‘cool it fellows’

Introduction

The adoption of the OLA 1969 was a critical juncture for language policy in Canada. It was the first step in fundamentally altering the linguistic character of Canada’s federal institutions. The policy targeted the public service by: seeking the equitable representation of both linguistic groups (namely through the increased representation of Francophones), serving the public in their official language of choice and by encouraging the use of both official languages as regular languages of work. The policy was successful in increasing the representation of Francophones as well as in providing services to the public in their official language of choice. However, the use of both English and French as languages of work had limited success in the early days of implementation and the tendency of the public service to operate predominantly in English persists today.

By looking at the public service as a space where policy implementation occurred, we can see that the public service as an institution had certain institutional constraints that limited the implementation of the official languages policy. This chapter argues that although the OLA 1969 was a critical juncture that altered the course and character of federal institutions, its implementation and subsequent results in the area of language of work were limited because of the constraints of existing institutions. The merit principle and the federal-provincial division of powers are two institutions that weighed substantially on the implementation process. Through an analysis of three principle instruments used to implement the official languages policy, the French language unit (FLU), the bilingual districts and the linguistic designation of positions, we recognize that the public service is not a blank slate and is subject to existing institutions and their constraints.

This chapter traces the adoption of the OLA and the clash of interests that emerge once the implementation of the policy is underway in the bureaucracy. On the one hand, there is the government that is seeking to expeditiously implement the official languages policy. The reason the government wanted quick action and results was because the OLA 1969 was being used as a tool for political compromise. With national unity concerns and Quebec’s rising nationalism and an emerging sovereigntist party in the province, the OLA and its recognition of the country’s two major language groups was meant to ease tensions

and set the country on a new institutionally bilingual course. Prime Minister Trudeau was personally and actively engaged in the file. The TBS and the DSS (represented by their ministers) were also very active in this period through the promotion and implementation of the Act. The TBS was involved in all internal implementation efforts related to the public service and public servants, while the DSS managed the societal components of the program that related to the promotion of official languages, official language minority communities, education in the minority language etc. In the case of the public service, the government focused on implementing the policy by targeting individual public servants. This approach did not address the structural changes that the B&B recommended for the public service in order to increase Francophone representation and make both English and French regular languages of work.

On the other hand, veto players such as the staff unions and the provinces emerge in this period seeking to maintain the status quo. The staff unions were not willing to accept language measures that could impede the career prospects of their majority membership. The provinces were not interested having any real or perceived official languages obligations imposed upon them by the federal government. Framing the clash of interests over the implementation process are existing institutions that constrain and enable the behaviour of actors. The merit principle and the federal-provincial division of powers are the rules the veto players engage to attempt to maintain the status quo. By latching on to these traditions, the veto players empowered by the path dependency of institutions impair the reform prospects of the federal government, namely in the area of language of work.

Adopting the OLA 1969

Prime Minister Pierre Trudeau came to power in 1968 after winning the Liberal Party's leadership contest, replacing Lester B. Pearson. Trudeau was first persuaded to enter federal politics in 1965. That year he was elected as a Member of Parliament from Quebec along with Jean Marchand and Gérard Pelletier. Together, these three 'Wise Men' from Quebec (or 'les trois colombes') had ascended the federal scene seeking to challenge the separatist current running through Quebec by offering a federal alternative. In his memoirs Trudeau writes:

We were thus in an emergency, as far as language was concerned, and the need to find a remedy played an important role for Marchand, Pelletier, and me in our

decision to enter politics. I needed to apply myself immediately to the task of building up French in the institutions of the central government.¹

The federal government wanted to demonstrate to Quebec that it could see itself reflected in the federation and its institutions in an effort to quell the separatist tendencies that were emerging in the province. At the time, French-speakers had difficulty obtaining services from their federal government in French and Francophones were often shut out of the upper echelons of the public service (as discussed in chapter 1). Without the adequate representation of both linguistic groups in the country's largest institution, it would be difficult to foster national unity. When just over a quarter of the country was not adequately represented in federal institutions,² institutional change at the federal level of government was crucial. With Quebec nationalism surging and national unity threatened with the rise of the separatist Parti québécois, there was a palpable sense of urgency among members of the government to foster change.

Then President of the Public Service Commission (PSC), John J. Carson, agreed that change was necessary. As he expressed in a speech in January 1970, there was an awareness that the state of federal institutions had to change in the 1960s. In his words:

[...] what did exist in 1960 was an awareness. An awareness that there was a serious deficiency in a country where five million inhabitants – 28 per cent of the population – were not allowed equality of opportunity either in their dealings with the central administration, or in their career options within the public service; an awareness that the situation could and must change or the resulting frustrations would become calamitous; an awareness that a vast reservoir of intellectual and administrative ability was all but being neglected by the public service. It was this awareness that spawned the changes of the Sixties.³

After being appointed Chairman of the then titled Civil Service Commission (the precursor to the Public Service Commission (PSC)), Carson was responsible for ushering in the transition to the new PSC. He became the public face for the PSC making speeches and statements about the new order and in particular about the

¹ Pierre E. Trudeau, *Memoirs* (Toronto: McClelland and Stewart Inc., 1993) 123.

² Statistics Canada, "Mother tongues of the population, census years, 1931 to 1976," http://www.statcan.gc.ca/pub/11-516-x/sectiona/A185_237-eng.csv, (accessed December 5, 2013).

³ Library and Archives Canada (LAC), RG32, vol. 1007, file CHM-125-4-1 (pt. 1), "Notes for an Address by John J. Carson, Chairman, Public Service Commission of Canada, to the Montreal Chapter of the Federal Institute of Management." Montreal, January 13, 1970.

role of official languages in the staffing of public service positions; the adoption of a selection standard for each occupational group; the setting up of large-scale language training programs; the expansion of service-wide training and career development programs; and a new country-wide appeals system.⁴

This modernization of the PSC and its areas of focus, namely when it came to official languages, were reflective of the genuine concerns for national unity during this period.

Concerns for national unity often pervaded policy decisions. For instance, cabinet documents of the 1960s and 1970s regularly included a section that addressed the repercussions of their proposal or decision on national unity. Despite the fact that Trudeau believed Quebec's form of nationalism in the 1960s was backward and contributed to the creation of an inward-looking nation cut-off from the rest of the country,⁵ he knew it could not be ignored. The tools required for Quebec to flourish as a French-speaking society within a united Canada were available according to Trudeau through the existing federal arrangement. The arrangement simply needed some reform, namely through language policy.

As the federal government was grappling with language matters, Quebec was already undertaking a host of state and societal changes that redefined the province's state system and identity during the Quiet Revolution of the 1960s. As Quebec underwent its transformation, it would no longer accept the status quo of the Canadian federal arrangement which did not recognize the French language or Quebec's unique status within the federation.

With a separatist current running through some elements of the nationalist movement and threatening Canadian national unity, the B&B was struck (as explained in the previous chapter) to investigate this tense moment in Canada's history. A fundamental recommendation was made in Book I of the B&B's multi-volume report released in 1967: it called on the government to adopt a bill on official languages and establish a Commissioner of Official Languages. The report stated: "We recommend: a) that Parliament adopt a law on the official languages; b) that the Governor General in Counsel designate a Commissioner

⁴ Public Service Commission, *The 100 Years of the Public Service Commission of Canada 1908-2008* (Ottawa: Queen's Printer, 2008), 19

⁵ Pierre E. Trudeau, Ron Graham (ed.), *Trudeau: l'essentiel de sa pensée politique* (Montréal : Le Jour, éditeur, 1998), 143.

General of official languages responsible for overseeing respect for the status of French and English in Canada.”⁶

In response to this recommendation, Prime Minister Pierre Trudeau proposed a bill on official languages. The Prime Minister’s swift action in the area of official languages was part of a premeditated vision for Canada. Trudeau had a work group draft the text of the OLA based on guidelines he had developed. Entitled the “Official Languages Act,” Trudeau moved that the House of Commons sit as a Committee of the Whole to study it on October 17, 1968.⁷ The Parliamentary debates on the Official Languages Act (OLA) were passionate and contentious. The legality and constitutionality of the bill were questioned. References were made to Belgium being torn apart by language and the similar fate that awaited Canada.⁸ Even John Turner, a member of Trudeau’s cabinet “was not all that hot on bilingualism” for political reasons, mainly due to the resistance in the West.⁹ Despite the intense debates and the opposition to bilingualism and official languages particularly from Western Canada, the bill passed.

The OLA 1969¹⁰ declared English and French as Canada’s official languages “for all purposes of the Parliament and Government of Canada, and possess enforce equality of status and equal rights and privileges as to their use in all institutions of the Parliament and Government of Canada.”¹¹ Language rights, as reflected in the OLA 1969 were used as a

⁶ Royal Commission on Bilingualism and Biculturalism, *Book I: The Official Languages* (Ottawa: The Queen's Printer, 1967), §439.

⁷ Task Force on Bilingualism, *Module 22: Balanced Participation (Integrated Report)* (Ottawa: Queen’s Printer, 1973), 32.

⁸ Canada, House of Commons, *Debates*, 18 June 1969-22 October 1969, 1st Session, 28th Parliament, Vol. X, p. 10901-10902.

⁹ Maxwell Yalden, interview by author, May 3, 2012.

¹⁰ Beyond declaring English and French as Canada’s official languages, the OLA 1969 also established provisions for the use of both official languages in official written documentation, such as judicial decisions, laws, regulations etc. is provided (ss. 3-4). The legislative right of citizens to access federal services or communicate with the federal government in their official language of choice at offices within the National Capital Region (NCR), the place of the government head office (if not in the NCR), the principle office within a bilingual district (s. 9(1)) or where there is significant demand (s. 9(2)). Services to the travelling public (s. 10(1)) also had to be in both official languages. The appointment of a Commissioner of Official Languages was provided for in s. 19, with their powers and duties described in sections 20-34.

¹¹ Canada, *Official Languages Act, 1969*, s. 2.

tool for political compromise at the time. Its purpose (“le but déclaré”) was to foster national unity.¹² By recognizing the country’s two founding languages, the government attempted to attenuate Quebec nationalism. From the federal perspective, by vesting individuals with language entitlements, it was upholding liberal values that undercut Quebec’s nationalism. What Trudeau intended through official languages legislation was to have the French Canadian nation stretch across Canada so no one could claim to need more power because they spoke on behalf of the French Canadian nation.¹³ According to Trudeau’s strategy, “Québec nationalism, like any other nationalism, cannot and should not be accommodated within political institutions”.¹⁴

To explain why English and French were made Canada’s official languages, Trudeau pointed to their dominant use in society and the capacity of these linguistic groups to destroy the country. Equality of status was given to the English and French languages from a *real politik* perspective. By virtue of sheer numbers and power these languages dominated. According to Trudeau, if there were equal numbers of Ukrainian speakers in Canada, that language would be able to command the same status as does the French language.¹⁵

On a regional level, the fact of the French language in Canada was not always apparent. In the Prairies, for instance, there was resentment towards official bilingualism. Immigration patterns in the late 1800s and early 1900s from countries that were not British or French-speaking, established important populations of Germans and Ukrainians in the region. When official bilingualism was being implemented, the ethnic groups felt resentment and deprivation. Why was the French language made an official language instead of German or Ukrainian? After all, in these areas, the ethnic groups outnumbered Francophones.¹⁶ What many did not know however was that Manitoba was established as a

¹² LAC, RG2, vol. 6345, Cab Doc 348-69. Mémoire au Cabinet: “La Politique du gouvernement sur le bilinguisme,” April 2, 1969.

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ Trudeau 1998, 147 and 149.

¹⁶ LAC, RI2029, vol. 203-3, “Legal text of the Official Languages Act: Chapter O-2. Tab I – Confidential Memorandum to the Steering Committee on Official Languages Policy Review, “Ethnic Diversity, Cultural Pluralism, OLs and Human Rights.”” June 1973-July 1977.

bilingual province in 1870 and had had a series of language-related episodes (e.g. the Manitoba schools crisis). Much in the same way Francophones would eventually resent the 1971 policy of multiculturalism because it relegated the status of French-speaking Canada's nation to that of ethnic cultures, prairie residents resented bilingualism because they felt it was an unjustified imposition on their population. Bilingualism and multiculturalism, however, were thought to be "indissociable [*sic*] because they both spring from the same principles of respect for the person and the person's right to self-expression and self-assertion".¹⁷

Misconceptions about the reach and intention of the official languages policy were present among citizens and public servants. To address these false impressions, Prime Minister Trudeau would address them publicly, stating that:

Our policy on bilingualism has been widely misunderstood. It does not mean that every English-speaking Canadian must learn to speak French any more than it means that every French-speaking Canadian must learn to speak English. It means that every Canadian will have access to public education in either official language, and will be free to use either language in dealing with the federal government and other public bodies in all areas of the country where the size of the minority justifies it.¹⁸

With a central role in providing those services in both official languages, public servants communicated anxiety about bilingualism and its effect on their careers. There was a misunderstanding circulating among public servants that after 1975, proficiency in both official languages would be necessary for entry into the public service and for advancement. This was not the case. In fact, there were many generous accommodations included throughout the implementation process for unilingual public servants (who tended to be Anglophone). It had to be reiterated to public servants that

bilingualism [...] is not a matter of imposing arbitrary requirements or deadlines on public servants. It is a programme designed to achieve the widest possible measure of competence in the two official languages whilst at the same time taking full account of the need to maintain efficiency and good morale in the Service.¹⁹

¹⁷ LAC, RI2029, vol. 203-3, "Legal text of the Official Languages Act: Chapter O-2. Tab I – Confidential Memorandum to the Steering Committee on Official Languages Policy Review, "Ethnic Diversity, Cultural Pluralism, OLs and Human Rights." June 1973-July 1977.

¹⁸ LAC, RG55, vol. 1149, file 4500-2, pt. 4, "Bilingualism in the Public Service," No date; circa 1970.

¹⁹ *Ibid.*

The entire public service was not meant to be bilingual. If the entire service was bilingual, the majority language would takeover, which was not the intention of the policy.²⁰ The purpose of the policy was to give public servants the ability to work in their official language of choice (restricted to designated bilingual regions), to be supervised in it and serve the public in their official language of choice.

The intentions of the language reform from the government's perspective were simple. Give two founding peoples recognition of their place in the development of the country. At the same time, emphasize the importance of individual rights by leaving the choice of official language to the citizen when communicating and obtaining services from the federal government. The goals were reasonable and clear given that 26.86% of the Canadian population declared French as their mother tongue in 1971.²¹ When just over a quarter of the population had difficulty communicating and receiving services from their federal government in their mother tongue and had little representation within the public service, something had to be done.

This was not a Liberal Government's first attempt at legislating in the area of official languages. At the 1968 Constitutional Conference, then Prime Minister Pearson attempted to have English and French declared as official languages, and was prepared to amend section 133 of the British North America Act to enshrine their equality. However, certain provinces were uncomfortable with constitutionally entrenched language rights and the move failed.²² It would take until 1982 for language rights to be constitutionally entrenched in the Canadian Charter of Rights and Freedoms for citizens. Public servants would wait until 1988 to have the right to choose their official language of work recognized in law.

The federal public service would play a central role in fulfilling the OLA by providing services to the public. Focusing on service provision would encourage sentiments of national unity because citizens would be able to interact with their federal government in their official language of choice. If (mainly) French-speaking citizens could communicate

²⁰ For a discussion of the intentions and effects of language policy in the public service, see LAC, RG 55, vol. 1403, file 4500-2-1, pt. 11, "Memorandum to the Ad Hoc Cabinet Committee on Official Languages, "Discussion Paper on Official Languages Policy,"" April 15, 1977.

²¹ Statistics Canada, "Mother Tongue, 1931-1971."

²² Task Force on Bilingualism, Module 22, 1973, 32.

with their federal government in their official language of choice, this would encourage feelings of belonging or attachment to the state that may have seemed unrepresentative of their community in the past.²³

The significant emphasis placed on the public results of the program made sense relative to the national unity crisis the country was facing. However, the public service was also responsible for implementing the OLA within its own organization. Turning our attention to the internal dynamics of the implementation process, a silo-like management of the OLA materializes. In its initial phases, the internal and external implementation of the OLA was managed separately. The DSS was responsible for all external elements of the program, while the TBS managed the internal components. This separation was initially administratively useful because the implementation of the policy was to be carried out institutionally and within Canadian society (through various initiatives and programs). Managing the financial and human resources involved in the implementation would have been too much for any single department to manage.

Start-up costs for the official languages program for all involved departments and agencies (let alone grand spending totals for the program) for 1969-1970 do not exist because they were not accounted for in the budget. Little was done initially to measure the results and costs of various projects related to official languages.²⁴ Some spending on official languages from the DSS is available because it absorbed structures and responsibilities such as the Special Secretariat for Official Languages from the PCO. In 1969-1970, the DSS had a budget of \$4,155,000 divided between administrative operations (\$675,000), funding and support for official languages (\$3,420,000) and acquisition and construction costs (\$60,000). Spending was expected to increase as the DSS implemented the recommendations from Book II of the B&B's report which are not accounted for therein.²⁵ The PSC's Language Bureau, which preceded the adoption of the OLA, had a pre-

²³ See for instance the literature on representative bureaucracy, e.g Kingsley 1944; Dolan and Rosenbloom 2003 etc.

²⁴ LAC, RG55, vol. 1149, file 4500-2, pt.3, "Memorandum to Cabinet "The Government's Policy on Bilingualism,"" April 2, 1969.

²⁵ LAC, RG2, vol. 6345, Cab Doc 348-69. Mémoire au Cabinet: "La Politique du gouvernement sur le bilinguisme," April 2, 1969.

established estimated budget of \$5,777,000 and the Translation Bureau (under the purview at the time of the DSS) was estimated to spend \$5,497,000.²⁶

Although the costs of the programme were undefined for other departments and agencies, a 1969 memorandum to cabinet was clear that spending would only increase as the programme was implemented.²⁷ Three principal spending categories were anticipated: the cost of applying the new law's provisions and implementing the program; the increase in language training for public servants; and the costs incurred by certain departments or agencies that have their own programs with linguistic or cultural goals (e.g. Radio-Canada, the National Film Board etc.).²⁸ Sector specific estimates of the cost of the official languages program begin to appear in the 1970s. There was however, no clearly defined method for calculating the costs of the official languages program within the public service. To this day, departments absorb a variety of costs related to the official languages program (such as personnel language training expenses, costs incurred for replacements, departmental specific translation costs etc.). This makes it difficult to siphon out with any precision the costs of the official languages program.

Beyond the monetary costs, the implementation of the OLA required the concerted efforts of departments and agencies and a variety of support structures. Chief among the actors were the DSS and the TBS, along with the PSC and the Office of the Commissioner of Official Languages (OCOL). At different points throughout the history of language politics in Canada, these organizations influenced the implementation of the policy, acted as watchdog and developed and created regulations (for a more detailed discussion of these actors and their roles, see Annexe 1).

In terms of support structures, while there were remnants of a pre-OLA structure for some official languages matters (e.g. the PSC's language training school, the Special Secretariat for Bilingualism (transferred to DSS from PCO), the government was faced with crucial decisions on how it would implement the components of the OLA. The B&B had in

²⁶ LAC, RG2, vol. 6345, Cab Doc 348-69. Mémoire au Cabinet: "La Politique du gouvernement sur le bilinguisme," April 2, 1969.

²⁷ *Ibid.*

²⁸ *Ibid.*

fact recommended a series of institutional changes and policy instruments in its Book III for matters related to the internal implementation of the program.

There were 24 recommendations proposed by the B&B that specifically targeted the bureaucracy, its structure and operation. The French language unit (FLU) was a fundamental and extensively discussed recommendation. Other recommendations touched on reforming the language regime of the public service by fostering the active use of French as a language of written and oral communication²⁹ while encouraging the use of French as a language of composition (instead of translating from English)³⁰ as well as the translation and future bilingual publication of manuals, regulations, directives etc.³¹ When it came to staffing the public service, the B&B recommended greater collaboration with universities for teaching and research in public administration³² as well as involving Francophone universities more closely in the recruitment of Francophone employees.³³

Structural reform was considered necessary by the B&B to move the public service from adapting to the use of both official languages to an equal partnership between them. Two structural changes were proposed by the B&B in an effort to contribute to the reform of the linguistic environment and operation of the public service. First, the establishment of a “Public Service Language Authority” was recommended. This recommended body would coordinate, support and oversee the official languages effort within the public service. Whether it was attached to the PCO or made an independent agency like the PSC, this institution would replace the existing Special Secretariat on Bilingualism.³⁴ Along with the new authority, language bureaux would be established in every government department.³⁵ The bureau would report directly to the department’s deputy minister and would be

²⁹ Royal Commission on Bilingualism and Biculturalism (B&B), *Book III: The Work World, Volume 3A* (Ottawa: Queen’s Printer, 1969), §795.

³⁰ *Ibid*, §817.

³¹ *Ibid*, §800.

³² *Ibid*, §821.

³³ *Ibid*, §825.

³⁴ *Ibid*, §§835-836.

³⁵ *Ibid*, §839.

responsible for planning, implementing and maintaining institutional bilingualism and the performance criteria established by the Public Service Language Authority for the department.

Taken together, these two recommendations for structural reform of the public service would have significantly altered the attention paid and operation of the institution on language matters. By equipping each department with a bureau directly linked to the deputy minister, the B&B sent a signal about the effort and commitment necessary from the top officials in each department to make a transformation of the public service a possibility. Suggesting the establishment of a new authority for language matters within the public service, the B&B signalled that the public service would have to reform not only its practices but its structure in order to achieve significant change.

Despite the B&B's recommendations for structural changes to implement bilingualism in the public service, the government "paid less attention to structural reforms."³⁶ There were some reforms such as the FLUs or the bilingual districts that were attempted, but none of these survived past the 1970s. Over the long term however, the decision not to structurally alter the public service was perceived to have had a detrimental effect on the success of the program.

A proponent of this perspective was the Task Force on Bilingualism. The Task Force was a research effort undertaken by the Bilingualism Division in the Treasury Board's Personnel Policy Branch in the early 1970s. Under the direction of Pierre Coulombe, the Task Force researched and assessed various issues related to official languages in the public service. A series of modules were released on topics related to the implementation and administration of the official languages policy. Examples include Module 15/18 "Identification and Evaluation of Bilingual Positions and Employees," Module 2/10 "A Review of the General Framework of Laws and Regulations Pertaining to Bilingualism in the Public Service." Module 22 entitled "Balanced Participation," released in February 1973, served as the Task Force's final report integrating the various modules. According to the final report, the neglect of structural reforms when the policy was being introduced in favour

³⁶ Task Force on Bilingualism, Module 22, 1973, 267.

of those that would offer expeditious results had “extremely important” consequences for the public service.³⁷

In essence, the government preferred not to engage with the structural reforms proposed by the B&B. It preferred to work within the bureaucracy’s existing institutional structure by vesting the TBS and the DSS with the necessary powers for implementing bilingualism and allowing each department to manage their own linguistic affairs. A senior committee composed of the under-Secretary of State, the Clerk of the PCO, the Secretary of the TBS and the Chairman of the PSC would have the responsibility of advising the Secretary of State’s department on the implementation of certain more complex aspects of the bilingualism policy within the federal administration.³⁸ Prime Minister Trudeau outlined the government’s approach to the implementation of the official languages program in the public service in a June 1970 statement in the House of Commons. The policy paper which served as the basis of the 1970 announcement stated that:

the Government considers that each department and agency should be responsible for the progress of bilingualism within its own organization and that for this purpose each department and agency should designate an officer at a senior level to be responsible for the implementation of bilingualism policies.³⁹

It was implied that the official languages policy was meant to become part of the regular operating procedure of each federal department and agency. The suggestion in recommendation 23 of the B&B that a language bureau be established with each federal department, Crown Corporation or agency, was not rejected according to the government but unnecessary, since most departments have an already functioning bilingualism advisor. The government wished to leave it up to the individual departments in cooperation with TBS and Secretary of State to determine the requirements for the implementation of bilingualism and the administrative structures needed for this purpose.⁴⁰

³⁷ Task Force on Bilingualism, Module 22, 1973, 267.

³⁸ LAC, RG55, vol. 1405, file 4500-15, “Statement by the Prime Minister in the House of Commons, Book III of the Royal Commission Report on Bilingualism & Biculturalism,” June 23, 1970.

³⁹ LAC, RG32, vol. 1005, file CHM-125-2-49 (pt.1) “Allocation of the Responsibilities for Bilingualism in the Public Service Among the Public Service Commission, the Treasury Board, the Department of the Secretary of State.” November 20, 1970. See also LAC, RG55, vol. 1405, file 4500-15. “Statement by the Prime Minister in the House of Commons, Book III of the Royal Commission Report on Bilingualism & Biculturalism,” June 23, 1970.

When the OLA came into effect, departments were immediately responsible for providing services to the public in both languages. Exemptions for up to 60 months were possible but government directives discouraged seeking an extension.⁴¹ Only two departments applied and both were issued exemptions: Canadian National Railways for limited services to the travelling public and the Department of National Revenue (Customs and Excise) for services to the public at 12 locations.⁴² Many complaints were made that departments were not “meeting their responsibilities” with respect to the OLA. The threat of an OCOL investigation contributed to the sense of necessary and immediate compliance with the provision of services to the public in both official languages. Departments sought to minimize the number of complaints filed against them which led to a sense of urgency in developing bilingual services.⁴³

The OLA provided no clear basis for the language rights of public servants. Nonetheless, the implementation of the policy and the resulting structures were intended to impact their capacity to work in their official language of choice. Book III of the Royal Commission on B&B’s report explicitly mentions the importance of institutional and individual change to achieve a more representative and equitable public service. According to the report, both institutional and individual bilingualism were required to achieve a truly bilingual and bicultural public service. Individual bilingualism alone—which stemmed mainly from Francophones who tended to be bilingual⁴⁴—was insufficient because English and French were not equal languages of work in the public service.⁴⁵ Without the employees’

⁴⁰ LAC, RG55, vol 1405, file 4500-15. “Statement by the Prime Minister in the House of Commons, Book III of the Royal Commission Report on Bilingualism & Biculturalism,” June 23, 1970.

⁴¹ LAC, RG2, vol. 6372, Cab Doc #654-3-52 (file 1388-70), “Bilingualizing the Public Service,” December 7, 1970.

⁴² LAC, RG55, vol. 1449, file 48358, pt. 3, “Memorandum for Cabinet: Progress Achieved in Implementation of the Government’s Policy on Bilingualism,” January 12, 1970.

⁴³ LAC, RG2, vol. 6372, Cab Doc #654-3-52 (file 1388-70), “Bilingualizing the Public Service,” December 7, 1970.

⁴⁴ Task Force on Bilingualism, Module 22, 1973, 25.

⁴⁵ B&B Book III, §764.

ability to apply their choice of language within the body's institutional structures, their individual bilingualism had little meaning.⁴⁶

Implementing the OLA

The adoption of the OLA 1969 was a critical juncture in Canada's political and linguistic history. Major change resulted from the Act within federal institutions and Canadian society by transforming Canadian identity discourse to include bilingualism and to ensure federal institutions reflected this legally affirmed linguistic dualism. In 1971, a Treasury Board Circular established goals related to the percentages of bilingual employees in each employment category to be met by 1975: Executive 60%; Administrative and Foreign Service 50%; Administrative Support 35%; Scientific and Professional 15%; Technical 15%; Operational 15%.⁴⁷ In 1970, it was estimated by the PSC that 30% of executives in the NCR had bilingual competencies, attributed in part to language training since 1964.⁴⁸

Framing their official languages efforts as a matter of service and necessary change, the Government established a variety of procedures meant to achieve the goal of an institutionally bilingual public service. The procedures were to "serve a dual purpose." First, they were "mechanics of administration for a complex program" and second, they were meant to "guide human behaviour in the undertaking of a program which is essentially one of change."⁴⁹ Just like any other program, the official languages program was subject to the institutional and administrative constraints of the public service. The following discussion of the introduction and attempted implementation of three instruments to achieve the program's goals, demonstrates that program implementation is easier when it conforms to existing

⁴⁶ B&B Book III, §765.

⁴⁷ LAC, RG 55, vol. 22042, file Treasury Board Circular Letters 1971, v. 1. Circular n° 1971-21. "To: Deputy Heads of Departments and Heads of Agencies. Subject: Management Objectives for Bilingualism." March 9, 1971.

⁴⁸ LAC, RG55, vol. 1449, file 48358, pt. 3, "Memorandum for Cabinet: Progress Achieved in Implementation of the Government's Policy on Bilingualism," January 12, 1970. See also, LAC, RG 55, vol. 22043, file Treasury Board Circular Letters (1971) v. 3, Circular n° 1971-131, "To: Deputy Heads of Departments and Heads of Agencies. Subject: Language Training for Public Service Executives," August 18, 1971.

⁴⁹ LAC, ACC1999-01222-4, Box 1, file LEB5000-002-001, vol. 1. "Public Report on Implementation of Official Languages Policies in the Public Service." No date.

institutions. The instruments targeted language of work practices, the representation of both linguistic groups (FLUs and the linguistic designation of positions) as well as service to the public (bilingual districts). In the bureaucracy, the merit principle and the federal-provincial division of powers influenced the success of the instruments.

The three instruments that the government was using were referenced in or proposed by the B&B in Book III. John J. Carson, the President of the PSC during the reform years of the 1960s and 1970s, referred to the recommendations in Book III as a potential “blueprint for the seventies” to encourage the continued evolution of the public service.⁵⁰ As discussed above, the federal government avoided structural reforms and opted instead to use various instruments such as the three mentioned above to expedite reform. Interestingly, our analysis of these instruments reveals that only those centred on the principles of individualism and federalism could survive. What does this say about path dependency in the federal public service? What does it mean for language of work dynamics and the persistence of English as the dominant language of work?

The attempted implementation of the instruments reveals the constraining affects of the administrative principle of merit and the federal arrangement. The merit principle that initially inadvertently blocked the representation of Francophones in the public service after its introduction in 1918, would limit the implementation of the FLU. By emphasizing individual over collective rights and advancement, the merit principle blocked the implementation of the collectivist FLUs. Further evidence of the power of this tendency, is that the only instrument to survive was the linguistic designation of positions. This instrument was acceptable to the merit principle (and consequently upheld) because it made the individual public servant accountable for their linguistic competencies.

Federalism as an institution affected the implementation of the bilingual districts. There was active consideration and concern for provincial engagement during the implementation of the official languages program. In cabinet documents, concerns over provincial agreement and support for various official languages initiatives are often mentioned. When it came to establishing the bilingual districts, the provinces voiced concerns. They feared federal encroachment in their jurisdictions. Despite twelve sections

⁵⁰ LAC, RG32, vol. 1007, file CHM-125-4-1 (pt. 1) “Notes for an Address by John J. Carson, Chairman, Public Service Commission of Canada, to the Montreal Chapter of the Federal Institute of Management.” Montreal, January 13, 1970.

of the OLA being dedicated to the development of an advisory board and the establishment of the districts, the bilingual districts never materialized. The constraining power of federalism limited the government's ability to proclaim the districts. Interestingly, in place of the districts, the government adopted the 'where numbers warrant' principle. This more flexible approach allowed the aggregation of individual demand to dictate the provision of service in both official languages.

Even though certain institutional tendencies blocked the implementation of two of the three instruments, it does not in any way change the fact that the OLA 1969 was a critical juncture for language policy in Canada. The importance of the OLA 1969 was that it required the public service to adapt to language change. This meant increasing the representation of Francophones and attempting to make both official languages regular languages of work. What is curious about the significant change brought upon by the OLA 1969 was that only part of its policy intentions fully succeeded. Francophones in the public service today are over represented based on their demographic weight, but English continues to persist as the dominant language of work. The OLA 1969 changed the course of the bureaucracy's operation by altering its composition, modifying its merit criteria to include language and laid the foundations for a greater sensitization of the institution to language matters over time. Since the adoption of the OLA 1969 was responsible for setting the bureaucracy on a course of change, it was a critical juncture. The failure to make both official languages regular languages of work is the puzzle this project attempts to address.

Looking at the initial implementation of the OLA, we recognize that certain choices (such as that to focus reforms on individuals instead of the structure of the bureaucracy), as well as the constraints of existing institutions, impacted the success of language of work over the long term. Through an analysis of the FLUs, the bilingual districts and the linguistic designation of positions, we can appreciate the constraints of institutions and their effects on the success of the official languages program.

French-Language Units (FLUs)

The FLU was a fundamental recommendation of B&B meant to equalize Francophone and Anglophone participation in the public service by developing units in every

department and agency which would operate in French.⁵¹ A Cabinet decision on July 29, 1971, authorized the establishment of experimental FLUs in various federal departments and agencies based on the B&B's recommendation. By 1971, it was the TBS that was leading the implementation of the program within the federal public service. As the lead on the official languages program for institutional matters, the TBS announced through its President, C.M. Drury, that 457 FLUs involving approximately 29,000 employees would be established. The majority, 330 of the 457 (with 85.5% of all FLU personnel), would be in Quebec, 100 units would be in the National Capital Region (NCR) and the remaining would be outside of these areas, including eight units abroad. These units were meant to improve service to the public, recruit unilingual or bilingual Francophones with greater ease, encourage the development of French as an equal language of work, and help Anglophones improve their French.⁵² After a year, departments and agencies involved in the pilot project would report and make suggestions, then permitting the government to "assess how far French-language units encourage bilingualism in the public service and complement the Government's policy of providing service to the public in the two official languages".⁵³

In a 1970 speech to the Montreal Chapter of the Federal Institute of Management, J.J. Carson, the President of the PSC came out in favour of FLUs, namely as a way to encourage more balanced representation of the official languages groups and the use of French as a language of work. Carson stated that he was

convinced that it is the most effective way of ensuring, and ensuring quickly, that Francophones can enjoy equal partnership in the federal administration. Even though bilingualism is now an accepted factor of merit [...] Without the French language unit concept, the Francophone is still subject to functioning in an English language and cultural milieu.⁵⁴

⁵¹ B&B Book III, §766.

⁵² LAC, RG55, vol. 1165-15, pt. 1, "Announcement of Creation of French-Language Units in the PS by Honourable C.M. Drury, President of Treasury Board," August 17, 1971.

⁵³ *Ibid.*

⁵⁴ LAC, RG32, vol. 1007, file CHM-125-4-1 (pt. 1) "Notes for an Address by John J. Carson, Chairman, Public Service Commission of Canada, to the Montreal Chapter of the Federal Institute of Management." Montreal, January 13, 1970.

Although in favour, Carson was not naive about implementation limitations of FLUs namely in Western Canada and in the natural sciences units, but he believed they would eventually be established.⁵⁵

In contrast to Carson's position, the staff unions were not keen on the concept of FLUs. Officials at the TBS classified the resistance of the staff unions – the Public Service Association of Canada (PSAC) and the Professional Institute of the Public Service (PIPS)⁵⁶ – to the FLUs as distressing.⁵⁷ Representatives of the staff unions were also displeased that from their perspective, they were not consulted “early enough or in a realistic way in the case of French-language units.”⁵⁸ The staff unions were not convinced of the merits of the FLUs and wanted assurances that no one would be laid off for not being able to serve in a FLU.⁵⁹

The TBS needed the unions to cooperate. The unions' negativity toward FLUs could influence their membership and could make the implementation process difficult. It was deemed appropriate by the TBS to “arrange for a greater degree of consultation with them [the staff unions] in the hope of lessening this resistance and obtaining their cooperation.”⁶⁰ Staff unions used their influence and acted as veto players during the implementation of the FLU by seeking to maintain the status quo in an effort to protect the interests of their membership.

During the experimental phase of FLU implementation, every effort was taken to assuage unilingual (usually Anglophone) employees. Anyone assigned to a newly declared FLU that did not have the required knowledge of French would be relocated without fear of

⁵⁵ LAC, RG32, vol. 1007, file CHM-125-4-1 (pt. 1) “Notes for an Address by John J. Carson, Chairman, Public Service Commission of Canada, to the Montreal Chapter of the Federal Institute of Management.” Montreal, January 13, 1970.

⁵⁶ See Annex 1, “Staff Unions.”

⁵⁷ LAC, RG 55, vol. 1387, File 4560-13 pt. 1, “Draft Letter to Mr. Léger from Mr. Johnson,” September 17, 1970.

⁵⁸ LAC, RG 55, vol. 1387, File 4560-13 pt. 1, “Memorandum: Public Service Commission Meeting with the Staff Associations,” August 27, 1970.

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*

losing their job.⁶¹ Most employees in addition to the unions representing them were not pleased about the FLUs. Anglophones feared they would lose job prospects if they could not serve in one.⁶² Despite the presumed language of work benefits, a survey undertaken among employees indicated that Francophones, especially those in lower levels of the public service were not fully in favour of FLUs. However, the majority of Francophones in higher levels (e.g. Officer and Executive) were in favour. Slightly more than 50% of Anglophones across both lower and upper levels did not endorse the units.⁶³

Although FLUs were doing well in Quebec (as many of the units already operated in French before their designation as FLUs), the NCR was different. The FLU experiment did not have the force it warranted in the NCR “because departments were not prepared to make the necessary structural changes, even on an experimental basis.”⁶⁴ Further, there were too many positions within FLUs designated as bilingual. It appears that in some cases, the designation of bilingual positions in FLUs was a way to meet 1975 target percentages of bilingual employees. Some believed that the FLU was “a perfect existing structure in which to concentrate bilingual positions.”⁶⁵ This was problematic because it undermined the very purpose of FLUs—to work in French. If the number of bilingual positions was not reduced (keeping those only required for services to the public or to process communications incoming in English), the FLU program would become inoperable⁶⁶ because English, the majority language spoken by all bilingual members, would dominate.

⁶¹ LAC, RG55, vol. 1165-15, pt. 1, “Facts About French-Language Units,” No date, circa end of April-beginning of May 1971. See also LAC, RG 55, vol. 1387, File 4560-13 pt. 1, “Memorandum: Public Service Commission Meeting with the Staff Associations,” August 27, 1970.

⁶² LAC, RG55, vol. 1149, file 4500-2, pt. 4, Cab Doc 654-3-52, “Bilingualizing the Public Service,” December 7, 1970.

⁶³ LAC, RG32, vol. 1007, file CHM-125-4-1 (pt. 1). ““Note A l’Attention de M. J.J. Carson” de Yves René Tournois, Président du comité sur la mise en œuvre des recommandations de la B&B,” January 9, 1970.

⁶⁴ Task Force on Bilingualism, Module 22, 1973, 242.

⁶⁵ *Ibid*, 244.

⁶⁶ *Ibid*.

It must be noted that linguistically defined units (unilingual and bilingual) have existed over the years in the Canadian Forces.⁶⁷ For instance, HMCS Montcalm founded in 1923, was the first French-speaking unit in the Canadian Navy. The Royal 22^e Régiment is a French-speaking military unit, also known as the Van Doos, with nearly a one hundred year history of service.⁶⁸ Within the public service outside of the military, the FLU concept presented serious organizational problems and was unrealistic administratively. Many people were unhappy with FLUs and they essentially phased themselves out.⁶⁹

The FLU was a group-oriented instrument which sought the representation and advancement of the Francophone collective in the public service (as well as to act as a work environment in which desiring Anglophones could improve their French-language skills). This instrument was problematic from the perspective of Francophones because they feared ghettoization in these units without opportunity for advancement.⁷⁰ The staff unions, dominated by Anglophone members, viewed the FLUs as disadvantageous and potentially threatening to the majority of their membership. By raising concerns about the job security of their members, the staff unions acted as veto players by resisting the idea of the FLU.

The staff unions wanted to maintain the status quo (i.e. a public service without rigid linguistically defined units) to protect their membership (that was mainly English-speaking). Accommodations were made for mainly Anglophone public servants who were unable to serve in FLUs. Anyone assigned to a FLU who did not have the required knowledge of French would be relocated without losing their job.⁷¹ In contrast to the unions' perspective

⁶⁷ Michelle Daveluy, "Communicating among linguistic communities onboard a Canadian Navy ship," Paper presented at the ALPA Conference, Saint-Mary's University, Halifax, Nova Scotia, 2006, <http://www.ualberta.ca/~mdaveluy/> (accessed June 12, 2012).

⁶⁸ Veterans Affairs, "Le ministre Blaney rend hommage aux soldats canadiens disparus et participe à l'avant-première du film Le 22e Régiment en Afghanistan," 8 November, 2011, <http://www.veterans.gc.ca/fra/ministere/presse/communiqu/1273> (accessed December 9, 2013).

⁶⁹ Maxwell Yalden, interview by author, May 3, 2012.

After 1974, there are no references to FLUs in archived documents. According to the former Commissioner of Official Languages Maxwell Yalden, the FLUs essentially eliminated themselves. There is no paper trail to confirm precisely when or if the FLUs were formally eliminated.

⁷⁰ Edgar Gallant, interview by author, March 7, 2012; Maxwell Yalden, interview by author, May 3, 2012.

⁷¹ LAC, RG55, vol. 1165-15, pt. 1, "Facts About French-Language Units," No date, circa end of April-beginning of May 1971.

of the instrument, the government believed that by engaging the FLU, the merit principle would be more fairly applied by equalizing opportunities for unilingual Francophones by fostering the use of French as a language of work⁷²—a benefit English-speakers have enjoyed in the public service since its establishment. Despite the government’s intentions, the FLU could not survive in the public service.

Beyond its administrative complications, the FLU in fact challenged the merit principle in the public service. In 1918, the Civil Service Act was amended and included merit as the fundamental hiring principle. Merit was introduced as a means to develop a professional and expert public service free from the patronage linkages of the past. Employment and promotion would be based on the individual competencies of public servants measured through established regulations and exams to ensure fairness and that the most desirable candidate (and not the one with political connections) would be employed. The individual as employee was at the heart of the merit principle and the FLU instrument challenged this fundamental idea. By presumably privileging the advancement of a group (French-speakers), the FLU challenged the basis of the public service’s foremost hiring criteria, merit rooted in individual competency. Since the FLU could not be equitably accessed by the majority of public servants through regular experience and training (unless the unilingual Anglophone learned French), it was considered exclusionary and contradicted the premise of the merit principle, whereby a qualified individual that met the criteria of a position could succeed in attaining higher levels of public service. Individual language competencies were viewed as part of the merit criteria required to fill a position but only on an individual basis.

In an institution that had a path dependent tradition of operating based on the expertise and competencies of individuals, how could FLUs be established to promote the inclusion or working environment of one group over another? Focusing on the advancement of a specific linguistic group challenged the merit principle that originally benefitted Anglophones. The majority – in this case Anglophone public servants represented by the unions – would not accept challenges to the established institutional structure that favoured their promotion. Even Francophone public servants did not endorse the FLU instrument

⁷² LAC, RG55, vol. 1165-15, pt. 1, “Facts About French-Language Units,” No date, circa end of April-beginning of May 1971.

because they felt it hampered their opportunities for success in the public service. The failure of the FLU instrument demonstrates the path dependent power of the public service's tendency to operate predominantly in English. Further, it reflects the persistence of merit as a central administrative principle that could not be reconceptualised to include the promotion of French-speakers. The FLU challenged the persistent characteristics of the institution by seeking to upset its tendency to operate predominantly in English and organize itself based on the *presumably* globally accessible criteria of merit.

Just as the FLUs were unacceptable for their group focus and contravention of the merit principle, the bilingual districts would find a similar fate because they clashed with the federal-provincial division of powers.

Bilingual Districts

A cornerstone of the B&B's approach to language planning was the idea of bilingual districts, inspired by the Finnish model. The bilingual districts were meant to be areas where official language minority communities could be served by their federal government in their official language of choice. In its report, the B&B had called for the declaration of bilingual districts where the federal, provincial and municipal levels of government would coordinate efforts in order to provide services in both official languages.⁷³ According to the B&B, these bilingual districts would foster feelings of acceptance and inclusion for the official language minority communities, while also providing access to services in their official language of choice (especially important for unilingual members of the minority population) and would balance services across the country (i.e. ensuring the same services for the Francophone minority of Ontario that the Anglophone minority of Quebec already enjoyed).⁷⁴ When adopting the idea, only the federal government was responsible for providing their services in both official languages in the designated districts, unlike the B&B's ideal where all three levels of government would participate.

It was decided that bilingual districts were to be established in regions where the official language minority population reached 10% or more. After each decennial census, the bilingual districts would be reviewed—as was the case in Finland—to adjust their

⁷³ B&B Book I, §253-354.

⁷⁴ *Ibid*, §370.

boundaries based on population changes.⁷⁵ Such a formula was suitable for the Finns, whose territory was divided into communes, but in Canada, the process would prove to be more complicated. Jurisdictional boundaries with the provinces and the negotiated agreements between the federal and provincial governments required when the federal government sought to align their districts with existing districts in some provinces, proved to be problematic.

There were seven sections of the OLA (1969) (s. 12-18)⁷⁶ dedicated to the establishment and functioning of bilingual districts and a significant amount of work was done within the Department of the Secretary of State and through two advisory committees in an effort to establish them. The funds and time spent on this language planning instrument reflected the serious consideration and efforts attributed to this particular recommendation, although it was never adopted.⁷⁷

The first advisory board to study the location of bilingual districts was struck in 1970 and used 1961 census data to make its recommendations. The Duhamel Report, named after the committee's chair, reported in 1971 and suggested that 37 bilingual districts be established immediately with maybe 24 others after the 1971 census. While the districts were under study, then Secretary of State Gérard Pelletier noted the urgency in proclaiming bilingual districts in order to "avoid uncertainty about the government's intentions" since the OLA came into effect in September 1969.⁷⁸ Pelletier proposed that bilingual districts be

⁷⁵ Kenneth D. McRae, *Official bilingualism: from the 1960s to the 1990s*, Language in Canada, ed. John Edwards (Cambridge: Cambridge University Press, 1998), 63.

⁷⁶ Section 12 provides for the establishment of bilingual districts. Section 13 describes their delineation, the rules governing the establishment of the districts, alteration to limits, the necessity of the recommendations of the bilingual districts advisory board prior to the establishment of the districts. In section 14, the Bilingual Districts Advisory Board, formed by appointment must be convened as soon as the decennial census is completed. Section 15 refers to the of the Bilingual Districts Advisory Board's report on the placement of the districts and states that bilingual districts should align with existing provincial districts wherever practical. The Advisory Board is to be supported by the Dominion Statistician, the Director of Surveys and the Mapping Branch of the Department of Energy, Mines and Resources in section 16. Section 17 indicates that Cabinet (the Governor in Council) must submit the report from the Bilingual Districts Advisory Board no more than 15 days after its receipt. Finally, in section 18, the Director of Surveys and the Mapping Branch of the Department of Energy, Mines and Resources are required to prepare and print maps related to the bilingual districts and their changes.

⁷⁷ Daniel Bourgeois, *The Canadian Bilingual Districts* (Montreal and Kingston: McGill-Queen's University Press, 2006).

⁷⁸ LAC, RG2, vol. 6396, Cab Doc 60-72, "Memorandum to Cabinet: "Recommendations for Proclamation of Federal Bilingual Districts." January 24, 1972.

proclaimed before the release of the 1971 census data in spring 1972 in order to assert the government's commitment to Official languages and to avoid confusion with the establishment of a new bilingual district advisory board.⁷⁹ However, the first advisory board's recommendations were not adopted and a second committee was established in 1972 under Paul Fox, in order to use the new 1971 census data to make recommendations. The Fox Report was not released until 1975, delayed principally by serious opposition to bilingual districts from the Quebec government that viewed federal language legislation as an infringement of provincial jurisdiction.⁸⁰ In the end, neither Duhamel nor Fox's recommendations were adopted.

While the second advisory board was drafting its report, the Commissioner of Official Languages, Keith Spicer, released his 1971-1972 annual report and noted that the districts may not be required after all. Official language minority communities, from the Commissioner's perspective, had their interests relatively well protected and were generally being served in their official language of choice in the two years since the adoption of the Act without the districts.⁸¹ Further, various negative repercussions of establishing districts were raised by the Commissioner. The confining of bilingual services, the difficulties in drawing boundaries around districts, and the "ghetto mentality"⁸² that might emerge for minorities who did not meet the 10% population threshold requirement for services, were examples according to the Commissioner, of negative outcomes of the districts that were potentially harmful to official languages efforts.

The entire issue of bilingual districts was politically charged, particularly in relation to the provinces. There was the perception that the federal government was encroaching in provincial affairs. No province wanted to be held directly accountable to provide services in both official languages unless it was on their own terms. Whether or not there was any

⁷⁹ LAC, RG2, vol. 6396, Cab Doc 60-72, "Memorandum to Cabinet: "Recommendations for Proclamation of Federal Bilingual Districts." January 24, 1972.

⁸⁰ *Ibid.*

⁸¹ Office of the Commissioner of Official Languages, *Annual Report 1971-1972* (Ottawa: Information Canada, 1973), 29-31.

⁸² *Ibid.*, 29.

logical or legal connection between the provinces' concerns about the consequences of the bilingual districts for their administrations and the service responsibilities and expenditures they may incur,⁸³ the tensions were what ultimately eliminated the instrument.⁸⁴ Even before the OLA was proclaimed, there were concerns, namely from the Western provinces about looming obligations from bilingual districts especially for the provision of justice.⁸⁵ The failure to implement the districts reflects the importance of Canada's federal arrangement.

When proposing the bilingual districts, the B&B believed that: Without forcing the majority to adopt a system which would quickly become unbearable, the institution of bilingual districts can provide a just, flexible, and realistic system which does not impose rigid rules and unjustified obligations on anyone."⁸⁶ Bourgeois (2006) argues that it was bureaucratic deviance within the TBS and their failure to account for the symbolic importance of the bilingual districts that ultimately led to their demise. The districts, however, could not take hold because they challenged the federal principle.

Through the federal principle, the provinces had their own powers and were not constitutionally required to offer provincial services in both official languages (unless provincial legislation required it). When the districts were initially being discussed, there were concerns about the symbolic power of the bilingual districts and the fear that the federal government would use it to publicly shame the provinces into offering the services. The bilingual districts could not be implemented because the provinces, advocating a province-building approach at the time, rejected any potential federal intrusion in their affairs.⁸⁷ The idea of federalism as a contractual agreement to give constituent units the powers to manage their own internal affairs (namely in the case of Quebec) was a key reason for the rejection of the districts.

⁸³ LAC, RG2, vol. 6396, Cab Doc 60-72, "Memorandum to Cabinet: Recommendations for Proclamation of Federal Bilingual Districts." January 24, 1972.

⁸⁴ Maxwell Yalden, interview by author, May 3, 2012.

⁸⁵ LAC, RG55, ACC 1981-82/031, File 4720-0-2, Box 155, Cabinet Document 454/69, "Memorandum to Cabinet re: Official Languages Bill. May 6, 1969.

⁸⁶ B&B, Book I, §366.

⁸⁷ Simeon 2002.

The bilingual districts were replaced with the principle of significant demand. Through this principle, the federal government would take on obligation in federal areas of jurisdiction to offer services in both official languages, where numbers warranted. A more supple arrangement, the principle still required that the federal government meet service needs in both official languages, but without the rigid requirements and process established for the bilingual districts in the OLA 1969 which included advisory boards, studies and negotiations with the provinces. Significant demand also aligned with federalism by not imposing any symbolic or real obligations on the provinces to provide services in both official languages within their territories (unless they decided to do so).

By not declaring the districts, the federal government eliminated the symbolic recognition of group rights (or as Bourgeois (2006) argues, recognition of official language minority homelands) for the official language minority communities and liberated the provinces of any feared potential service constraints.⁸⁸ The failure of the bilingual districts and the adoption of the principle of significant demand underscore the necessity of maintaining an individual-based and federal language regime in Canada to make it acceptable to the majority.

The linguistic designation of positions was accepted by the majority of public servants and was the only instrument to survive. It aligned with merit and could easily be inserted into the regular operation of the public service.

Linguistic Designation of Positions

The linguistic designation of positions as unilingual English, unilingual French, bilingual or ambivalent (meaning either language was acceptable) was introduced to increase the use of both official languages in the public service. The B&B recommended that all positions in federal departments and agencies be classified based on language requirements. Further, it recommended that any employees – not just stenographers and secretaries⁸⁹ – that make use of both official languages, be compensated accordingly through the bilingualism

⁸⁸ Bourgeois 2006, 128.

⁸⁹ Revisions to the Civil Service Act introduced in 1888, provided a \$50 bonus for civil servants able to compose in both English and French.

bonus.⁹⁰ Trudeau did not believe in compensation as recommended by the B&B because he considered bilingualism a national asset something that should be the individual goal of public servants. The Trudeau government's original plan was to phase out the bonus over time⁹¹ but it still exists today.⁹²

In March 1970, the Public Service Commission (PSC) started a language identification program to determine the proficiency levels required for positions where both official languages were needed. It was the Treasury Board that would determine the location of bilingual positions, but it was the PSC that would assign language criteria to the position. A test to assess the language capabilities of employees claiming to know both official languages was developed. However, according to the Task Force on Bilingualism, the designation of bilingual positions as a means for implementing official languages policies and programs was not efficient or effective. The designation process was not well thought out since communication patterns between unilingual English and French positions with the bilingual ones were not considered. The result was that some employees in designated bilingual positions were unable to use their skills.⁹³

In 1971, only 8.3% of posts of the 66,675 filled in the public service were designated as unilingual French (compared to 80% that were designated English). This made the use of French as a language of work in the public service extremely difficult.⁹⁴ How could French be encouraged as a language of work without posts requiring that it be actively used? Some departments were hesitant to designate positions as bilingual because they felt it would create inflexibility in language capabilities for work units creating a (short-term) decrease in operational efficiency.⁹⁵ With no clear division of responsibility for the linguistic

⁹⁰ B&B Book III, §807.

⁹¹ LAC, RG 55, vol. 1403, file 4500-2-1, pt. 14, "Secret Document Draft, "Official Languages Policy."” September 2, 1977.

⁹² The bilingualism bonus has an annual value of \$800 paid out to public servants in a bilingual position with the Second Language Evaluation results that confirm they meet the language requirements of their position. Members of the EX (executive and managerial categories) are exempt from the bonus.

⁹³ Task Force on Bilingualism, Module 22, 1973, 262.

⁹⁴ Office of the Commissioner of Official Languages, *Annual Report 1971-1972* (Ottawa: Information Canada, 1973), 21.

⁹⁵ Task Force on Bilingualism, Module 22, 1973, 263.

designation of positions between departments and the PSC, there were no concerted efforts to develop a definitive framework to identify language requirements of positions.

With the decentralization of responsibility in the area of official languages in 1977, managers became involved in the designation of language requirements of positions in the reading, writing and comprehension categories based on standards produced by the PSC. Imperative staffing, meaning that anyone entering a position had to meet its language qualifications upon appointment, was to be applied to certain positions to be determined by deputy ministers and the PSC. However, employees 55 and older could remain in their positions as unilinguals, except where a bilingual imperative had been defined.⁹⁶

Even if the designation process was imperfect, it was the only instrument to survive. When compared to the FLUs and the bilingual districts, the linguistic designation of positions aligns with the merit principle within the public service and has no relation to federalism. The definition of language requirements of positions was described as “the hub” of the official languages program into the 1980s.⁹⁷

With the linguistic designation of positions, it was the responsibility of the individual public servant to meet the criteria of the post (including its language requirements) in order to obtain or maintain it. The emphasis on the competency of an individual public servant paired well with the merit principle engrained in the federal public service. Attaching the language requirement of a position to an individual did not necessarily serve the interests or favour one linguistic group over another (even though Francophones tended to be more bilingual than their Anglophone counterparts) because every individual in the public service that did not meet the linguistic requirements of their position had recourse for language training at public expense. Vesting the individual with the responsibility to meet the competencies of their position and offering the tools (through language training) to do so, was acceptable to the public service because it aligned with the institution’s fundamental staffing principle: merit.

By complying with the merit principle, the linguistic designation of positions was tolerable for two reasons. First, public servants that no longer met the linguistic

⁹⁶ Treasury Board. *Revisions to the Official Languages policies in the public service*. Ottawa: 1977.

⁹⁷ LAC, RG55, ACC1995-96/064, Box #5, file LEB5097-004, “Discussion paper: “The Current Canadian Context and the Future of the Official Languages Program.”” September, 1982.

requirements of their positions had ample opportunities to be transferred into similar positions. Second, those that wanted to remain in their position had the tools available to achieve the level of bilingualism required for their post. Combined with the accommodations for long-serving employees, the linguistic designation of positions was tolerable for the majority by not holding them accountable for accommodating language requirements (unless they were in a managerial post) or giving the perception of favouring one group over another. This instrument contributed to the broader goal of increasing Francophone representation within the public service but upheld the merit principle and provided tolerable tools to accommodate the majority through language training and transfers.

A lot of effort, but limited results

As demonstrated by the attempted implementation of the three instruments discussed above, the public service had certain institutions and veto players that limited the implementation of the instruments and restricted changes namely in the area of language of work. Although there was little improvement in making the French language a regularly used language of work in this period, the representation of Francophone public servants did increase. By focusing so intensely on the bilingualization of individual employees and service to the public in their official language of choice, the structural changes that were required to foster a change in language of work were not undertaken. The desire for quick and visible results limited the impact of language of work policy. This split state of affairs was explained differently by the OCOL, the PSC and the TBS.

From the perspective of the OCOL, a principle obstacle to the implementation of bilingualism was the lack of coordination among the responsible agencies (e.g. TBS, DSS, PSC). The divided authority led to the alienation between those “conceptualizing policy and those executing it [...] with executants, rather too often, were left to inspired improvisation.”⁹⁸ For public servants, the divided authority and the compartmentalization of responsibilities appeared to be a rivalry between agencies including the OCOL.⁹⁹ The Task Force on Bilingualism found that an overall plan was required to solve the irregularities in

⁹⁸ Office of the Commissioner of Official Languages, *Annual Report 1970-1971* (Ottawa: Information Canada, 1971), 87.

⁹⁹ *Ibid.*

implementation, the lack of Francophone presence and the failure to foster a working environment conducive to the use of both official languages.¹⁰⁰

The PSC in its turn in 1970, explained the slow bilingualization process as the result of various government decisions. According to the PSC, prior to the adoption of the OLA, there was not much attention being paid to the ‘bilingualization’ of the public service. Before 1969, any official languages efforts stemmed from Pearson’s 1966 statement and were gradually implemented and went largely unnoticed. However, with the OLA, the government’s decision to introduce FLUs and the PSC’s revisions to its language requirements led to increased media coverage of the bilingualization of the public service.¹⁰¹

There was a lot of focus in the coverage on Pearson’s 1966. The statement presented constraints that did not exist in the Civil Service Acts of 1918 (amended in 1938) and 1961 when it came to the PSC’s staffing procedures. The guarantee that unilingual public servants would not have their opportunities impaired by official languages legislation hampered the implementation process.¹⁰² In essence, the Government’s policy on official languages in the public service

became a paradox because it established a bilingual public service as the goal to be achieved within a reasonable period of time and at the same time gave a “guarantee” to those public servants on whom rested the success in achieving the goal that their careers would not be prejudicially affected by measures to establish a bilingual public service.¹⁰³

It was virtually impossible to promise a linguistic revolution within the public service without expecting flexibility from public servants. There was no way to absolutely guarantee advancement in all circumstances for unilinguals, it was unrealistic.

Reporting in 1972, the TBS attributed the disappointing progress on the government’s goals for achieving a bilingual public service to three principal factors. First,

¹⁰⁰ Task Force on Bilingualism, Module 22, 1973, 284.

¹⁰¹ LAC, RG2, vol. 6372, Cab Doc #654-3-52 (file 1388-70), “Bilingualizing the Public Service,” December 7, 1970.

¹⁰² *Ibid.*

¹⁰³ LAC, RG2, vol. 6372, Cab Doc #654-3-52 (file 1388-70), “Bilingualizing the Public Service,” December 7, 1970.

there was an absence of a plan to determine which posts should be designated bilingual.¹⁰⁴ Even though the PSC began developing language criteria since the 1970s for positions, the Treasury Board believed that more had to be done to identify which positions had to be immediately occupied by bilingual incumbents. The second problem was the absence of specific criteria for departments to help them in identifying bilingual positions. Finally, how public servants who had devoted many years of service to the organization would not have their careers jeopardized by the new policies had to be clarified.¹⁰⁵ The Treasury Board came up with nine principles in a future memorandum to Cabinet that laid out how these three obstacles would be overcome. Those nine principles would eventually be encapsulated in a Parliamentary Resolution on Official Languages in an effort to improve the state of affairs.¹⁰⁶

As central command for the internal implementation process of the official languages program, the Treasury Board was able to dictate how the government would go about to improve the unsatisfactory results. Considering the perspectives of the three key players especially to explain the limited improvement on language of work, three problems emerge. First, an overall plan to guide implementation and track results was lacking. Second, Pearson's 1966 promises to unilingual employees were unrealistic and limiting without clear guidelines on how they would be upheld. Third, the mechanism for the linguistic designation of positions needed improvement—especially to ensure bilinguals were immediately staffing them where an imperative was defined. In order to work toward solutions to these challenges, the government had to clarify its approach and its guidelines for the program. The 1973 Parliamentary Resolution on Official Languages was central in defining such a plan.

Conclusion

This chapter traced the adoption and implementation of the OLA 1969. What analysis of the process revealed is the path dependent power of existing institutional traditions that limited progress on language of work.

¹⁰⁴ LAC, RG2, vol. 6408, Cab Doc 1027-72. "Memorandum to the Cabinet: "Designation of Bilingual Positions in the Public Service of Canada,"" November 20, 1972.

¹⁰⁵ *Ibid.*

¹⁰⁶ *Ibid.*

Without adequate structural changes such as the defunct FLUs, making English and French regular languages of work would prove to be an uphill battle. How could you encourage an employee to use French as a language of work if the bureaucracy's structure could not accommodate it? If superiors could not communicate with their team in their official language of choice, recognize or evaluate their work, why would a public servant choose to work in that language? Making French a regular language of work required institutional change. The public service had to be able to administratively accommodate both official languages and have a structure that reflected this reorientation.

The federal government however, did not appear to have thought through its implementation plan. An administrative structure that existed in a nearly unilingual English-speaking public service could not be expected to accommodate the regular use of both English and French as languages of work with the introduction of a policy. In order for the individual official language choice of employees to have any meaning, their choice had to be supported through the public service's rules and structure. The government's crucial setback for language of work was that it did not change the rules by which the institution played.

The analysis of the three principal instruments introduced by the government to implement the OLA 1969 demonstrates that an institution is not a blank slate but is informed by its past. Introducing the OLA to the public service successfully altered its composition and improved service to the public in their official language of choice but did not change language of work practices. Of the three principal instruments introduced by the government to implement the OLA 1969, only one, the linguistic designation of positions persists today. The FLUs and the bilingual districts did not survive because they challenged the existing merit principle and the federal-provincial division of powers, respectively. The importance of analyzing the results of all three instruments was to demonstrate the constraints of existing institutions on the implementation process.

The merit principle and the division of powers as institutional traditions had currency because the staff unions and the provinces acting as veto players employed the rules to maintain the status quo. The staff unions were unwilling to accept new structural arrangements like the FLUs that could negatively affect their employees. For the provinces, they refused to risk having official languages obligations imposed in their jurisdictions (even if this threat was imagined).

Had the government undertaken the implementation of the OLA without being fixated on swift results in the name of national unity, the outcome for language of work practices may have been different. It was not until 1973 that the government awoke to the fact that structural reforms were required to try to improve progress on language of work. Through a series of three layered changes to the official languages program that altered the role and structure of the management cadre, the government tried to correct the state of affairs.

Chapter 5: 1973-1981

If at first you don't succeed, layer, layer and then layer again

Introduction

In the early 1970s, it was clear for the government and its language watchdog that there remained a lack of progress on language of work in the public service. The Commissioner of Official Language's 1970-1971 report was telling:

Whatever the reasons behind the Federal Government's failure to spread more quickly the use of French for work, it is plain that if Ottawa does not soon make a visible breakthrough in this area, the Official Languages Act will have lost a vital part of its meaning.¹

The problem with the initial implementation was that it focused on individual public servants instead of the structure of the system in which they worked. To encourage progress, the government would introduce three rounds of layered changes which included the 1973 Parliamentary Resolution on Official Languages, the 1977 decentralization of program management and the 1981 changes to middle management's language competencies. Each of these additions in the form of regulations or policy statements was applied to the existing OLA 1969 and its implementation process.

When layering, new rules are attached to existing rules (in this case the OLA 1969) which change the way the rules structure behaviour. As was discussed in the theoretical framework, authors such as Mahoney and Thelen (2010) and Streeck and Thelen (2005) posit that overtime, layered changes can create significant change. However, in the case of the three layered additions to the OLA, there was no significant change. Eric Schickler's work can help us understand this result. As Schickler (2001a) notes, although each layered change is meant to achieve a specific goal, the cumulative results of the layered changes "appear more haphazard."² Put simply, despite the fact that each of the layered changes was meant to improve progress on language of work (directly or indirectly), their cumulative impact over time on the issue was limited.

¹ Office of the Commissioner of Official Languages, *Annual Report 1971-1972*, (Ottawa: Information Canada, 1973), 22.

² Eric Schickler, "Congressional History: New Branches on Mature Trees History," *Legislative Studies Section Newsletter* 24(2)2001a, <http://www.apsanet.org/~lss/Newsletter/july01/schickler.html>

Thus, this chapter following Schickler's work argues that the changes that resulted from the three layered regulations were insufficient in fostering significant change on language of work over the long term. We recognize that there were improvements in the period this chapter covers but language of work continues to be a component of the official languages program in need of improvement today.³

With exception to the 1973 Resolution which confirmed the right of public servants to work in their official language of choice, both the 1977 and 1981 changes targeted managers and the management structure.⁴ Managers were emphasized as key vehicles through which to channel progress on the language of work front and for the official languages program more generally. Their proximity to public servants gives managers the capacity to directly influence language practices in their work units. The TBS and the President of the Treasury Board played lead roles in crafting and implementing the layered changes. In the process, the staff unions were often consulted. Again in this chapter, the unions emerge as veto players. Whenever there is a threat to the maintenance or maximization of existing benefits for their members, the unions take to action to maintain the status quo.

The *Gens de l'Air* crisis would raise serious national unity concerns and split the country along linguistic lines. From strikes to court cases, language was at the very heart of the crisis. As language rights were still treated as a tool for political compromise in this period, the government cited its official languages efforts as part of its approach to maintaining national unity. The severity of the events and the election of a separatist Parti québécois government in 1976 had the government seriously considering reopening the OLA. Clarifications on the reach of the Act and the right to choice in language of work were some of the proposed amendments but in the end, the Act would not be changed.

³ In the National Capital Region there are significantly fewer Francophones than Anglophones that are comfortable using their official language of choice in writing and during meetings. The most recent data available on language of work comes from a 2011 TBS survey. 63% of French-speaking public servants feel comfortable using French in their written work in comparison to 93% of English-speakers feeling comfortable using English; 70% of French-speakers feel comfortable using French during meetings in comparison to 94% of English-speakers feeling comfortable using English (Office of the Commissioner of Official Languages, *Annual Report 2012-2013* (Ottawa: Minister of Public Works and Government Services Canada, 2013), 33).

⁴ Managers in this chapter, unless otherwise specified, include supervisors, senior managers (members of the EX (executive) category) and deputy ministers.

1973 Parliamentary Resolution on Official Languages

It was necessary for the government to clarify precisely how it would achieve its goals with the official languages program since progress was slow in the 1970s, especially with respect to language of work. Instead of adopting new legislation or amending the existing OLA, the government would make a statement about its approach to official languages by reaffirming its commitment and spelling out guidelines for matters such as language of work. It was C.M. Drury, the President of the Treasury Board that led the efforts to develop the eventual 1973 Parliamentary Resolution on Official Languages.

A parliamentary resolution is different than legislation, in that it does not require action to be taken. A resolution is “a motion adopted by the House in order to make a declaration of opinion or purpose”⁵ and its declaratory nature is less imposing in principle than legislation. However, with the 1973 Resolution, the government issued directives to the relevant departments and agencies in the public service so that the content of the Resolution would be enacted. The Resolution introduced new rules for the public service on top of those that already existed in the OLA. A form of institutional layering, the Resolution required that the public service encourage the participation of English- and French-speaking Canadians and declared English and French as equal languages of work in the public service. By adding a layer of rules and regulations to the existing OLA, the Resolution did not change the original legislation or introduce wholly new legislation. Rather, the way in which the official languages program would be implemented was altered by the new rules. The Resolution was meant to clarify the government’s official languages commitments and the intentions of the OLA 1969 for the public service. The original legislation was sparse in detail, especially on how the legislation would be implemented in the public service.

In 1972, Drury had proposed nine principles to improve the implementation of the official languages program in the public service. These principles were discussed and circulated among departments and the staff unions and were to serve as the basis for the government’s Resolution.⁶ Drury believed that the Resolution could benefit from the support

⁵ Procedural Services of the House of Commons, *Glossary of Parliamentary Procedure*, September 2011, <http://www.parl.gc.ca/About/House/Glossary/glossary-e.html#r> (accessed December 13, 2013).

⁶ See Library and Archives Canada (LAC), RG2 vol. 6409, Cab Doc 1109-72, “Memorandum to the Cabinet: “Designation of Bilingual Positions in the Public Service of Canada.”” December 6, 1972.

of the PIPS and the PSAC, the two major staff unions. If the unions endorsed the Resolution, they could promote it to their members and to the public at large through the media.⁷ Recognizing that they could hamper or make the implementation of the new rules difficult, Drury paid particular attention to the staff unions.

Initially, the PSAC and the PIPS favoured the inclusion of certain principles and guidelines into legislation (and not a resolution as the government proposed). In particular, they wanted job security for unilinguals written into law. Their codification would protect the employees and ensure that the PSC could not modify these terms later on. The unions were worried about the job security of unilinguals in bilingual positions, the entitlements of unilinguals willing and able to become bilingual to compete for bilingual positions, and the entitlements of long-service employees to compete for positions identified for future designation as bilingual but have not yet been designated.⁸ Supervisory positions were a specific area of concern. There were fears that nearly every supervisory position would be designated bilingual, blocking career opportunities for unilinguals, especially those willing to become bilingual but that could not.⁹ In order to give effect to the choice of language of work policy (that would be reaffirmed in the Resolution), most supervisory positions would have to be designated bilingual in areas where both official languages are commonly used. These areas included government offices in the NCR, Montreal, certain parts of Quebec, parts of Northern and Eastern Ontario and parts of Northern and Eastern New-Brunswick.¹⁰

During consultations, the heads of the staff unions Claude Edwards (PSAC) and Leslie Barnes (PIPS) agreed that legislation would not be required (i.e. a resolution would be acceptable) if the five demands they advanced in this meeting were addressed.¹¹ The first

⁷ LAC, RG2 vol. 6423, Cab Doc 129-73, "Memorandum to the Cabinet: "Resolution Seeking House of Commons Confirmation on the Government's Principles on Bilingualism in the Public Service,"" February 12, 1973.

⁸ LAC, RG2, vol. 6423, Cab Doc #87-73, "Memorandum to the Cabinet: "Resolution Seeking House of Commons Confirmation on the Government's Principles on Bilingualism in the Public Service,"" January 29, 1973.

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ LAC, RG2, vol. 6423, Cab Doc #129-73. "Memorandum to the Cabinet: "Resolution Seeking House of Commons Confirmation on the Government's Principles on Bilingualism in the Public Service,"" (February 12, 1973).

four demands were already part of the government's framework. These included: i) expressions of firm commitment to the principles of the Resolution by the Government and opposition and ii) commitment to implement the principles as announced, iii) as well as the establishment of a committee of the National Joint Council (NJC)¹² to consult on matters related to bilingualism and iv) a guarantee that the PSC would amend the Public Service Employment Regulation to include the elements of the Resolution that come under its jurisdiction. The fifth demand, however, could not be met directly. The PIPS was insisting on the right of the bargaining agent to present appeals related to language requirements of positions. Under the Public Service Employment Act (PSEA) and the grievance procedure, grievances could only be made by employees and not unions in their own right. The principle behind this was that individuals should be responsible for themselves and not replaced or controlled by a union's collective will.¹³ The PSAC, in contrast, did not want the right to present appeals because of the sensitive language issue that may force it into presenting cases to which it did not subscribe. For these reasons, it was decided on the government side that bargaining agents should not be given the right to enter appeals in their own right against the identification or designation of the language requirements of positions. Further debate on this matter could be avoided, according to the memorandum, by setting up

The five demands were:

- (1) The Resolution would be worded so as to provide clear confirmation and commitment of support of the Principles by both Government and opposition parties.
- (2) The Government, as part of the Speech introducing the Resolution would be prepared to express its firm and continuing commitment to implement the Principles as announced.
- (3) A Committee of the National Joint Council would be established to provide a forum for continuing consultation on matters relating to bilingualism.
- (4) The PSC would amend the Public Service Employment Regulation to incorporate those Principles coming under its jurisdiction.
- (5) Incumbents of positions would be given the right of appeal against application of the criteria used in identifying or designating of positions as bilingual or the level of language proficiency required at the time that the identification or the designation takes place. In addition, this right would be given to those who now occupy positions that have already been designated as bilingual. (The right of appeal now exists only when a position is vacant and an appointment is to be made pursuant to the Public Service Employment Act.)

¹² See Annex 1, "Staff Unions."

¹³ LAC, RG2, vol. 6423, Cab Doc #129-73. Memorandum to the Cabinet (from TB President C.M. Drury), "Resolution Seeking House of Commons Confirmation on the Government's Principles on Bilingualism in the Public Service," (February 12, 1973).

a procedure to deal with appeals by incumbents and subordinates on the identification of language requirements of positions.¹⁴

From the government's perspective, the main argument against legislation (and consequently in favour of a resolution) was reduced administrative flexibility in managing the implementation of the official languages program. Drury did not believe that this reasoning was strong enough, especially if the opposition pressed for legislative action. The government, from Drury's perspective, should take credit and initiative and include the three above mentioned principles related to job security, the right of unilinguals to enter bilingual competition and the entitlements to be given to long-service employees, in the PSEA.¹⁵ In this way, the Government would be seen as protecting the unilingual majority while still ensuring advances for the bilingualization of the public service while maintaining administrative flexibility in implementing the program. In fact, no legislative changes would be required and the government would continue with its plan to table a resolution.

After all of the consultations, the 1973 *Parliamentary Resolution on Official languages in the Public Service*, passed unanimously in the House of Commons. The Resolution reaffirmed the Government's commitment to the principles of the OLA 1969, confirmed the right of public servants to work in their official language of choice (with certain constraints) and offered "generous accommodations" for unilingual Anglophone employees.¹⁶ The implementation of the Resolution was left to the Treasury Board and the PSC. While the Treasury Board administered the official languages policy in the public service, the PSC would be responsible for recruitment, staffing and training. In essence, they continued to work in their designated areas of responsibility.

French as a language of work in the public service would mainly be encouraged by the linguistic designation of positions, increased recruitment efforts of French-speakers, and

¹⁴ LAC, RG2, vol. 6423, Cab Doc #129-73. Memorandum to the Cabinet (from TB President C.M. Drury), "Resolution Seeking House of Commons Confirmation on the Government's Principles on Bilingualism in the Public Service," (February 12, 1973).

¹⁵ LAC, RG2, vol. 6423, Cab Doc #87-73, "Memorandum to the Cabinet: "Resolution Seeking House of Commons Confirmation on the Government's Principles on Bilingualism in the Public Service,"" January 29, 1973.

¹⁶ Marie-Ève Hudon, *Official Languages in the Public Service from 1973 to the Present* (Ottawa: Library of Parliament), 2.

language training and other programs meant to foster bilingualism in the NCR.¹⁷ Accommodations for unilingual (mainly Anglophone) employees included language training at public expense for unilingual incumbents of bilingual positions, the option to be transferred horizontally if they did not want to take language training, those employees aged 55 and older could be appointed to a bilingual position without meeting its language requirements and those employees with ten or more years of service beginning on or before April 6, 1966 and continuously employed by the public service since that time were also privy to the exclusions.¹⁸ These accommodations were largely a function of Pearson's statement that guaranteed job security for unilingual employees.

In the 1970s and particularly after the 1973 Resolution, there was an increased focus on the internal organization of the public service with an increase in resources allocated for official languages in departments and agencies. For instance, the Official Languages Branch of the TBS was established at this time. The Branch was responsible for producing general guidelines and providing overall direction to departments and agencies on official languages matters. It would also monitor public service-wide progress on official languages and report as needed to the government.¹⁹ However, the increased focus on official languages was no panacea. It was reported that "the rapid growth of the sector, early improvisation as to the demarcation of lines of responsibility, and the way the administrative mode has developed in the program from 1973, have combined to produce major problems".²⁰ These problems included excessive central control of the program by the TBS, reactionary policy development by the PSC and increasingly hostile relations between unions and the Treasury Board as employer.²¹

The TBS's responsibilities related to official languages included organization, administration and personnel management within the public service. It was not its

¹⁷ Marie-Ève Hudon, *Official Languages in the Public Service from 1973 to the Present* (Ottawa: Library of Parliament), 1.

¹⁸ *Ibid.*, 2.

¹⁹ LAC, ACC1996-97/173, box #1, file OLB5000-1, pt. 3, "OLB Input," October 2, 1980.

²⁰ LAC, RG55, vol. 1149, file 4500-2, pt. 1. "Administration of OLs Programs." No author or date.

²¹ *Ibid.*

responsibilities but the way in which it implemented its duties that became problematic for the TBS. For instance, the TBS was responsible for identifying and designating language requirements for positions in the public service. This was carried out in conjunction with departments who would fill out a survey about the positions. The initial results were positive with the departments able to carry out the exercise efficiently and in a short time frame. However, the program's approach was eventually "handicapped by this initially successful approach," because the different needs of each department were not adequately accounted for.²² Beyond the administrative complications, it was also assumed that the Treasury Board was responsible for most aspects of language policy when in fact, the PSC was responsible for important areas such as recruitment and staffing.²³

The PSC's responsibilities related to the official languages program implementation included: developing policy to permit 'conditional appointments' of unilinguals to bilingual positions; the individual approval of language proficiency standards identified by departments of bilingual positions; direct administration of continuous language training courses; and ongoing efforts to increase recruitment of Francophones to the public service. After 1973, it appeared that the PSC was acting in a reactionary fashion to TBS's directives. For instance, language training was the PSC's responsibility, but the TBS established the priority of public servants that could take the training, with conditional appointments taking precedence. To further complicate matters, the departments were responsible for staffing issues (e.g. releasing staff for language training and finding temporary replacements). This created problems for departmental organization. Since departments did not control the training, they may not release required personnel previously scheduled to enter training because their department may not be able to handle it. This left the PSC constrained. It was subject to the priorities of the TBS and had to balance departmental availability when trying to fulfill its responsibilities.²⁴

As evidenced by the discussion of administrative complications above, the 1973 Resolution was no cure-all for the lack of accuracy of the OLA when it came to official

²² LAC, RG55, vol. 1149, file 4500-2, pt. 1. "Administration of OLs Programs." No author or date.

²³ *Ibid.*

²⁴ *Ibid.*

languages in the public service or the inconsistencies in the implementation of the legislation in the public service. There was a lack of departmental initiative in rectifying weaknesses in official languages programmes and implementation – a dissatisfaction noted in particular by the OCOL.²⁵ Departments had virtually no decision-making authority in the area of official languages and were largely required to carry-out tasks assigned by the central agencies. With minimal departmental responsibility, few talented and ambitious personnel perceived official languages as an interesting or an important field of work. With the increased hostility of the unions on official languages matters and the perception that they speak for their constituents, the government was combating negative public perceptions and attempting to manage program implementation. Official languages were viewed as a central agency issue, not one that mattered to departments.²⁶

The situation at the time seemed to be one of frustration and miscommunication. Initially, the implementation of the OLA 1969 lacked coordination and sufficient authority, particularly when under the control of the Department of the Secretary of State. However, with Treasury Board's takeover of the program in 1971, the pendulum swung in the opposite direction. There was heightened consistency of the implementation process coordinated through the central agency. This resulted in a lack of implication, understanding and commitment by managers to the program. Without any direct means for influencing the implementation of the program based on the specific needs of their departments and employees, the managers, with a limited role in the program, appear to have felt unable or maybe even unwilling to fully implement the measures. According to an April 1977 confidential memorandum to the Ad Hoc Cabinet Committee on Official Languages,

managers have no active involvement or responsibility in the program, they do not feel obliged to explain or justify it to their staff. [...] Managers' alienation from, and lack of responsibility and accountability for, official languages programs have certainly been a factor in limiting progress in these crucial areas.²⁷

²⁵ LAC, RG55, vol. 1149, file 4500-2, pt. 1. "Administration of OLs Programs." No author or date.

²⁶ LAC, RG 55, vol. 1403, file 4500-2-1, pt. 14, "Secret Document Draft: "Official Languages Policy,"" September 2, 1977.

²⁷ LAC, RG 55, vol. 1403, file 4500-2-1, pt. 11, "Discussion Paper on Official Languages Policy," April 15, 1977.

Without managerial commitment and understanding of the program, how could they be expected to channel their enthusiasm for the program or its importance to their staff?

Bargaining agents, just like managers can form employees' attitudes on official languages. Unions raised serious questions regarding program implementation. This questioning could be interpreted by public servants and the media as negative reactions to the official languages objectives generally.²⁸ Their position was not a direct representation of that of their constituents but was rather shaped by adversarial employer-employee relations in the public service. Because of this, "The attitude of bargaining agents, therefore, often assumes an importance out of proportion to their actual influence, or to their ability to represent their constituents' attitudes in the first instance".²⁹ Since a strong information component did not exist for the federal government, the bargaining agents were often the principle source of information for the public, the media and public servants, which inflated their sense of influence.³⁰

Relations between the staff unions and the Treasury Board in the NJC were becoming increasingly hostile beginning in 1973. There was distrust of the Treasury Board among union representatives and resentment toward the limited role for departmental representatives in the consultation process.³¹ Changes demanded by agents seriously weakened the successful implementation of the policies.³² This was problematic not only because it made the implementation process difficult but because it affected employee and public attitudes on official languages.³³ Recognizing the limited program success without the commitment of the managers, the Treasury Board would eventually undertake a decentralization of the official languages program. The result was an increased role for and accountability of managers.

²⁸ LAC, RG55, vol. 1149, file 4500-2, pt. 1, "Major Factors Affecting Implementation of Official Languages Policies and Programs," No date.

²⁹ *Ibid.*

³⁰ LAC, RG55, vol. 1149, file 4500-2, pt. 1, "Major Factors Affecting Implementation of Official Languages Policies and Programs," No date.

³¹ LAC, RG55, vol. 1149, file 4500-2, pt. 1. No author or date. "Administration of OLs Programs."

³² *Ibid.*

³³ *Ibid.*

Central goals of the 1973 Parliamentary Resolution – beyond clarifying the government’s commitment to official languages and their implementation measures – included serving the public in both official languages and enabling public servants to work in their official language of choice (while respecting the public’s language needs for service). There were strong feelings in Quebec about the need to strengthen and reinforce the use of French as a language of work. Despite the OLA and the 1973 Parliamentary Resolution, English continued to dominate as the language of communication and work even between the NCR and Quebec.³⁴ Since it was (and continues to be) more likely that Francophone public servants are bilingual, in 1974, cabinet approved language of work principles for Quebec. It established French as the language of work in Quebec (while respecting the public’s needs) and English as the language of work in other provinces.³⁵ There were concerns within the government that more had to be done to achieve a functionally bilingual public service due to the “changing climate, particularly in Quebec.”³⁶ National unity was still a preoccupation and achieving federal institutions that operated and served the public in both official languages was crucial for the government’s optics.

There was a broad dislike at this time of official languages among public servants. In December 1975, employees in general did not yet see official languages as positive, they largely perceived them as a personal inconvenience or a threat instead of seeing them as a professional or corporate asset. Negative attitudes were attributed in part to the inflexibility of the program to meet individual needs.³⁷ For Anglophones, the operation of the official languages program was not clear. This had several questioning the utility of the entire program viewing it as ramming French down their throats. Further, they feared that their lack of ability in their second language would affect their career development. Anglophones in the NCR felt personally threatened by official languages policies because they were

³⁴ LAC, RG 55, vol. 1449, file 4835-8, pt. 3, “Memorandum to the Cabinet Committee on Priorities and Planning: Report to Cabinet on Current Problems Arising out of the Implementation of the Official Languages Policy,” March 19, 1975.

³⁵ *Ibid.*

³⁶ *Ibid.*

³⁷ LAC, RG55, vol. 1149, file 4500-2, pt. 1, “Major Factors Affecting Implementation of Official Languages Policies and Programs,” No date.

concerned that they could not become bilingual to meet the requirements of the increasing number of positions being designated as bilingual.³⁸

Francophones paradoxically shared in their feelings of resentment but for different reasons. For them, the second language training (which tended to be undertaken by Anglophones in French) focused on quantity instead of quality of language learning. The result was an unequal quality in the bilingualism of individuals.³⁹ Francophone employees viewed the measures as being insufficient to attain full participation of both linguistic groups and considered progress on language of work to be slow. Some of them felt that certain measures prevented them from acquiring English skills, upon which they felt their career development depended.⁴⁰

Managers felt that efficiency and effectiveness in their area of responsibility was reduced with the implementation of the OLA and the Resolution.⁴¹ At the time, they had little immediate impact on the departmental management and implementation of the program. Further to the limited involvement of managers in the program, there were no ready means of sanction for employees who could not perform or that refused to perform their bilingual duties since

most language requirements were not included in job duties, nor were they, at a more general level, included in the terms and conditions of employment established by the employer, and agreed to by bargaining agents. An employee who is linguistically incompetent to perform bilingual duties cannot be retrained or transferred unless he consents.⁴²

Despite the disillusion and discontentedness surrounding official languages among managers and employees, the Treasury Board by 1977, reported that progress had been made through increased services to the public in their official language of choice and an increase in

³⁸ LAC, RG55, vol. 1149, file 4500-2, pt. 1, "Major Factors Affecting Implementation of Official Languages Policies and Programs," No date.

³⁹ LAC, RG 55, vol. 1403, file 4500-2-1, pt. 11, "Memorandum to the Ad Hoc Cabinet Committee on Official Languages: "Discussion Paper on Official Languages Policy," April 15, 1977.

⁴⁰ LAC, RG55, vol. 1149, file 4500-2, pt. 1, "Major Factors Affecting Implementation of Official Languages Policies and Programs," No date.

⁴¹ RG 55, vol. 1403, file 4500-2-1, pt. 11, "Memorandum to the Ad Hoc Cabinet Committee on Official Languages "Discussion Paper on OLs Policy,"" April 15, 1977.

⁴² *Ibid.*

the number of employees working in their language of choice.⁴³ A 1977 survey of all federal employees in bilingual regions indicated that 47.3% of employees declared French as their preferred official language of work. Of them, 46.4% worked “principally” in French (which combined the responses “mostly” and “always”).⁴⁴ A briefing note to Prime Minister Trudeau in March 1979, indicated that English-speakers used English 91% of the time while working, in comparison to only 58% of French-speakers who were using French.⁴⁵ Slow and incremental progress was said to be made in the choice of language of work for public servants. These figures represent important advancements in a public service that was an English-speaking bastion only a decade earlier. The linguistic revolution that the Trudeau government introduced to the public service did produce results, although imperfect.

By July 1977, overall Francophone participation in the public service increased to 27.6%⁴⁶ (although this conflicts with a Treasury Board document which pegged Francophone participation at 25.4% in 1977⁴⁷ and also challenges a briefing document to Prime Minister Trudeau which states that Francophones held 26.5% (or 70,924 of 267,448) of occupied posts⁴⁸). Participation of Francophones in the officer category reached 19% in 1977 (up from 18% in the 1960s). Of the Francophones in the officer category, only 13.4% claimed French as their preferred language of work.⁴⁹ Although a significant improvement from 1960s numbers, some ministries such as Environment, Energy, Mines and Resources as well as in certain employment categories (such as the Executive, Scientific and Professional) Francophones remained underrepresented.

⁴³ Treasury Board, *Revisions to the Official Languages policies in the public service* (Ottawa: Queen’s Printer, 1977).

⁴⁴ LAC, ACC 1999-01222-4, Box 1, File LEB 5000-002-001, vol. 1, “Public Report on Linguistic Reform in Federal Institutions. Minister’s Message,” February 2, 1979.

⁴⁵ LAC, ACC 1999-01222-4, Box 1, File LEB 5000-002-001, vol. 1, “Memorandum: Subject: PM Briefing Note,” March 13, 1979.

⁴⁶ Treasury Board, 1977.

⁴⁷ LAC, RG 55, ACC 1997-98/630, box 17, file 5475-01, pt. 6, “The Implementation of the Official Languages Program in Federal Institutions,” 1984.

⁴⁸ LAC, RG55, vol. 1405, file 4500-15, “Briefing note prepared by Chris Gill and Louis Noël-de-Tilly for Prime Minister,” No date.

⁴⁹ Treasury Board, 1977.

The uniform approach to the implementation of the official languages programs could no longer work post-1973. Initially, centralized control was viewed as an advantage and a means through which to achieve decisive and effective change. As time passed, departmental diversity and different needs made the implementation of the official languages programme more complicated. The centralized, one-shot process that was once an advantage, came to be viewed as a disadvantage and evidence of an inflexible administration. The necessity for reform was clear: administrators and managers in departments had problems with the system in place. The central control over all aspects of implementation may have been the price of swift and consistent application of the official languages program, but the consequences of the approach were serious.⁵⁰ The TBS would study the situation and propose decentralizing reforms in 1977.

The 1977 Decentralization of the Management of the Official Languages Program

After a series of criticisms on the implementation of the Official languages program in the public service from Members of Parliament, the Commissioner of Official Languages, staff unions and public servants, the Government struck a committee to study the situation. The committee was composed of senior public servants and then chair of the PSC, Edgar Gallant. In the summer of 1976, the Committee met to consider the criticisms and to make recommendations on policy adjustments and methods of implementation for official languages. What emerged, based on the committee's assessments, was a 1977 Treasury Board report entitled "Revisions to the Official languages policies in the public service."⁵¹

The report described twelve areas where major conclusions or policy changes occurred. In essence, 1977 marked a significant decentralization in the management of the official languages program. All of the reforms were meant to provide greater administrative flexibility. This meant greater sharing of decision making responsibilities between departments and central agencies which consequently required more accountability and responsibility of deputy ministers and heads of agencies to control and monitor evaluations. Instead of global measures being uniformly applied across departments, the implementation

⁵⁰ LAC, RG55, vol. 1405, file 4500-15, "Briefing note prepared by Chris Gill and Louis Noël-de-Tilly for Prime Minister," No date; LAC, RG 55, vol. 1403, file 4500-2-1, pt. 11, "Memorandum to the Ad Hoc Cabinet Committee on OLs, "Discussion Paper on Official Languages Policy,"" April 15, 1977.

⁵¹ Treasury Board, 1977.

of official languages programs and policies post-1977 was meant to focus on the differentiated application of the program to meet the needs of particular situations.⁵² Flexibility in application and increased participation of heads of departments and agencies were meant to better integrate the Act in their regular operation.

Also contributing to this revamping in the program's management was the Bibeau study. Officially titled "The Report of the Independent Study on Language Training in the Federal Public Service," the study was commissioned in November 1974 in response to concerns about the cost-effectiveness of language training programs. The study was meant to identify best practices, areas for improvement and cost-efficient mechanisms for the language training of public servants. Beyond the organization of language training, the cost of the language training program was a favoured area of criticism among the public and elected officials. Since 1968, 50,000 employees had gone on language training at government expense at an estimated cost of \$550 million but only 17% of those employees were estimated to occupy bilingual posts.⁵³ As per the recommendations of the Bibeau study, language training should be made more specific to job requirements and should vary in intensity and duration based on individual needs.⁵⁴ Just as there were calls to decentralize the overall management of the official languages program, the same was being said of language training. Blanket approaches that treated everyone and all departments in the same way were not effective at meeting the goals of the program or the needs of individual public servants.

In an effort to actively meet the language requirements of positions, imperative staffing was introduced in 1977. This meant that anyone entering a position must meet its language qualifications upon appointment. Managers became involved in the designation of language requirements of positions in the reading, writing and comprehension categories based on standards produced by the PSC.⁵⁵ Employees 55 and older as of October 31, 1977

⁵² LAC, RG55, vol. 1449, file 48358, pt. 3, "Statement by The Honourable Robert Andras," November 17, 1978.

⁵³ *Ibid*, RG55, vol. 1405, file 4500-15, "Briefing note prepared by Chris Gill and Louis Noël-de-Tilly for Prime Minister," no date.

⁵⁴ *Ibid*, RI2069, vol. 203-8, "Treasury Board Response to the Bibeau Study's Report," November 1979-April 1980.

⁵⁵ Treasury Board 1977.

could remain in their positions as unilinguals, except where a bilingual imperative had been defined. With this decision, the proportion of bilingual incumbents increased from 40% in May 1974 to 80% in September 1977.⁵⁶ The plan was that imperative staffing would eventually become the standard staffing procedure.

Conditional appointments, where the incumbent had up to two years to meet the language requirements of their position (through language training at public expense) was to be phased out by 1983. The Treasury Board document also mentions measures meant to foster bilingual competencies among employees such as the Bilingualism Bonus Plan (that allotted a flat rate of \$800 to employees who met the language requirements of their bilingual position) and universal language training at public expense were also to be eliminated by 1983. These three measures were meant to be temporary from the government's perspective, because "In a bilingual country this skill [bilingualism] should be considered as a personal and professional asset."⁵⁷ These proposed changes were of significant concern to the staff unions who were interested in maximizing benefits and job security for their members.⁵⁸ The government had a very different perspective of the means for implementation and the value of official languages (as an organizational value) than did the staff unions interested in maintaining the status quo.

The aversion to the planned elimination of the bonus was notably demonstrated in Montreal. When the government announced it was eliminating the bilingualism bonus, employees in federal offices in Montreal went on strike. The Montreal Regional Council of the PSAC was responsible for various work-to-rule and other campaigns in an effort to secure a bilingualism bonus from the federal government. Due to the paralysis this caused the government, they reversed their position on the issue and reinstated the bonus.⁵⁹ The Montreal Council of the PSAC believed in the right of citizens to be served in their official language of choice, but maintained that bilingual positions in Quebec should be kept to a

⁵⁶ Treasury Board 1977.

⁵⁷ *Ibid.*

⁵⁸ LAC, RG 55, vol. 1403, file 4500-2-1, pt. 14, "Official Languages Policy," September 2, 1977.

⁵⁹ *Ibid.*, RG55, ACC A-2009-05-H, Box #23375, Fol 5 V, File OLLO 2000-002-003, "Memorandum to the President. Subject: Information for Cabinet Meeting on Official Languages Program," July 22, 1981.

minimum with permanent compensation for those in bilingual posts. The Canadian Air Traffic Control Association (CATCA) (the union that represented air traffic controllers), also indicated that it was against termination of the policies of conditional appointments, language training, and compensation.⁶⁰

In March of 1983, the NJC made the bilingualism bonus policy an integral part of the collective agreements. This ensured that employees who had been certified bilingual based on their Language Knowledge Examination (LKE) and who continued to meet these requirements at the time of their annual appraisals were able to receive the 800\$ bilingualism bonus.⁶¹ Exclusions included the Executive Group of the management category, employees in the Translation Group, persons appointed by the governor-in-council, those working outside of Canada, those who work less than one-third of regular hours and those under professional or personal contracts. Unions had been forceful in working to guarantee the bonus because of increased complexity of work in both official languages and threats by Quebec based public servants not to use English without the bonus. The bonus was a continued source of criticism from different actors. For instance, Commissioners of Official Languages since the late 1990s wanted the bonus eliminated because they believed official languages should be a value, just like any other that value that goes unpaid in the public service. Other critics viewed the bonus as an unnecessary expense. Especially since there were perceptions that some not sufficiently qualified still received the bonus.⁶²

The unions' desire to maintain compensation for language skills did not align with the government's perspective on official languages. According to the government, the goal was to make the official languages program part of regular departmental operation to be accounted for within its existing budgetary constraints. Special funding for the program was enjoyed when it was first introduced, but now funding was being withdrawn because the program should have been fully implemented into departmental plans. President of the Treasury Board Robert Andras stated in a November 17, 1978 news release that he had to

⁶⁰ LAC, RG 55, vol. 1403, file 4500-2-1, pt. 14, "Official Languages Policy." September 2, 1977.

⁶¹ LAC, ACC1999-01252-6, file 2602-1, pt. 2, "Treasury Board Circular 1983-19," April 14, 1983.

⁶² LAC, RG55, ACC1995-96/064, file OLB5000-01, pt. 6v, "Memorandum from Secretary of the Treasury Board to President of the Treasury Board," September 30, 1982.

dispel once more the myth that a program is not important unless it is heavily subsidized with special funding. We do not give special funding for sound financial management. Yet financial management is priority with managers. The Official Languages program should, and will, be viewed in a like manner.⁶³

Despite the government's attempt to institutionalize the program by gradually eliminating special funding, its efforts would not materialize. The OCOL criticized the government in its 1977 annual report for seeking to eliminate the bilingualism bonus and language training (contrasting the perspectives of his eventual successors).⁶⁴ The bilingualism bonus persists at its annual flat rate of \$800 today and language training continued to be provided by the state until it was privatized in 2011. As demonstrated by the Montreal strike, the government's particular conception of official languages as a value in and of themselves was not enough for public servants.

The delegation of authority and accountability of departments and agencies meant that deputy heads post-1977 were responsible for

developing departmental objectives and goals for meeting the Official languages objectives, for approving the identification of the language requirements of positions, (including the linguistic profile of bilingual positions), for scheduling language training for employees, and for aligning the implementation of some policy statements with the spirit and intent of the policy framework.⁶⁵

Their increased accountability would be monitored through an Official Languages Plan to be submitted to the Treasury Board for review and approval.

Departments' annual Official Languages Plans, first submitted in 1978-79 would allow the Treasury Board to ensure accountability in the implementation of the program. Any plan would be made available to the public upon request. The intention of the plans were to assist the Treasury Board in its monitoring, evaluating and auditing functions in order to provide the government with assessments of overall departmental performance on the official languages front. In particular, the plans were meant to have deputy heads and managers realize that the official languages program was "an integral part of their everyday

⁶³ LAC, RG55, vol. 1449, file 48358, pt. 3, "Statement by The Honourable Robert Andras," November 17, 1978.

⁶⁴ LAC, RG55, vol. 1405, file 4500-15, "Briefing note prepared by Chris Gill and Louis Noël-de-Tilly for Prime Minister," no date.

⁶⁵ Treasury Board 1977.

organization and functions” and would encourage them to take charge of the situation.⁶⁶ Crown Corporations and government agencies – as of 1973, were subject to the OLA – and were also required to submit Official Languages Plans to the Treasury Board.

An assessment of 25 ministerial plans indicated cyclical problems with bilingualism, service to the public and language of work. Where service to the public in both official languages was weak, there was a lack of Francophone representation in the office. This lack of representation limited the availability of French language work instruments and the necessary bilingual superiors to supervise the office which made the office less attractive to Francophone employees. French as a language of work was held back due to delays in the production of documentation, a lack of culture that accommodated the bilingual operation of employees, e.g. meetings not held in a bilingual fashion, and acquired second-language competencies were not being exercised and were not encouraging communication in French.⁶⁷ Often, French-speaking employees had to assert their ability to work in their official language of choice and demand accommodations in the forms of working tools etc. in French. This was not always palatable. For many bilinguals (who tended to be Francophones), it was easier not to deal with their newly ‘bilingual’ colleagues (who tended to be unilingual Anglophones who had completed their language training) because it required too much effort and ideas were not effectively or clearly communicated.

At this point, two layers of changes had been applied to the OLA and its implementation process. The 1973 Parliamentary Resolution and the 1977 decentralization of management practices based on the TBS document had been applied. Changes, although gradual and slow to materialize were visible. On paper, the policy’s implementation and the program’s management changed. However, this did not translate into significant differences on the ground. With an upswing in concerns about national unity with the election of the separatist Parti québécois (PQ) in Quebec in 1976, the government would contemplate reopening the OLA. If the layered regulations were slow to work, perhaps a modification to material legislation would achieve the needed change.

⁶⁶ LAC, RG55, vol. 1449, file 48358, pt. 3, “News Release: Statement by the Honourable Robert Andras,” October 5, 1979.

⁶⁷ LAC, RG55 vol. 1398 OLB 5475-01 pt. 1, “Note de Service: Problèmes relevés dans les plans ministériels,” 1 May, 1979.

The layered changes stemming from the 1973 Resolution that asserted choice in language of work for public servants and the decentralized program to better engage management in 1977 did not have the desired results. Progress in language of work continued to lag. Despite the addition of policy and regulations on the official languages front, the path dependent tendency of the public service to work in English persisted. This tendency can be interpreted as a result of the failure to structurally reform the public service by making language a physical part of the public service (through for instance a language office, FLUs etc.). Above all, the latching on to Pearson's 1966 statement and guarantees for unilinguals limited advancement on the file. The government's and public servants' capacities for developing regulations and implementation strategies were limited by always having to account for those guarantees. It was not realistic to attempt to undertake such a significant reorganization of the public service without recognizing that the changes would jeopardize the career prospects of certain public servants.

Reopening the OLA in 1977? *Les Gens de l'Air* crisis and National Unity

Discussions on revising or reopening the OLA were circulating in the government since the mid-1970s. A confidential document entitled "Proposed Amendments to the OLA" destined to the ministers of the Priorities and Planning Committee put forth proposed amendments and a timeframe for tabling amendments. The document carefully accounted for potential implications of the policy change on national unity—the impetus for considering reopening the Act. Concerns about national unity stemmed from the *Gens de l'Air* crisis as well as two related court cases and was exacerbated with the election of the first separatist Parti québécois (PQ) government in Quebec in 1976. At the base of the crisis were demands by French-speaking air traffic controllers in Quebec to use the French language in their operations. English-speaking air-traffic controllers argued that English was the only safe language to use for communication between air traffic controllers and pilots. The conflict shook the fault lines of language and national unity in Canada. English- and French-speaking Canadians were divided on the issue (rallying behind their respective linguistic camps).

Aviation may seem to be a peculiar source of linguistic and national unity tensions for a country. In Canada however, as the OLA and its layered regulations were being rolled out within the public service, air traffic controllers in Quebec (particularly in Montreal) also

sought to assert their right to work in their official language of choice. This was especially because they had been using the French language for air traffic control in Quebec (outside of major metropolitan areas) since the 1960s. It is likely little surprise that after World War II, aviation in Canada was essentially English-speaking world by convention.⁶⁸ Until October 1962, no regulations or guidelines existed to govern language in air traffic control. The Director of Civil Aviation for the Department of Transport, R.W. Goodwin, released a directive, known as the “Goodwin Memorandum.” It stated that English was to be used in regular air/ground communications. However, in exceptional circumstances of emergency or stress, French could be used between controllers and pilots. If ever French was used, enough information had to be broadcast in English to warn other pilots in the airspace and ensure safety.⁶⁹ French was thus permitted, but its use was not encouraged.⁷⁰ The use of French persisted in air traffic control in non-metropolitan areas of the province. Directives were not repeated in English as intended by the Goodwin memo but the bureaucracy and pilots turned a blind eye to the practice.⁷¹ After all, in areas of Quebec communication was often between French-speakers. This practice that was largely ignored became problematic when French-speaking air traffic controllers asserted their right to use French in Montreal.

As radio use became commonplace in the 1960s (replacing signalling), the use of French persisted in smaller airports in Quebec. Montreal was an exception. There was a concentration of senior posts in the city and they were held by unilingual Anglophones who were unwilling to have French used as a language of work among their largely Francophone junior staff. Come 1969, the situation between Francophones and Anglophones in the aviation sector was intensifying. The right to use French in “emergency” situations had been rescinded for safety reasons. This reversal in directives mobilized French-speaking controllers. In protest, they began to use both English and French in air-traffic control.

⁶⁸ Sandford F. Borins, *The Language of the Skies*. (Montreal & Kingston: The Institute of Public Administration of Canada and McGill-Queen’s University Press, 1983), 28.

⁶⁹ Borins 1983, 28; Commission of Inquiry into Bilingual Air Traffic Services in Quebec, *Interim Report* (Ottawa: Minister of Supply and Services Canada, 1977), 29.

⁷⁰ Borins 1983, 28; *Interim Report of Inquiry into Air Traffic Control*, 22.

⁷¹ *Ibid.*

In 1975, the Francophone air traffic controllers in Quebec who were using both French and English in aviation in the province formed a pressure group, *l'Association des Gens de l'Air du Québec*. The use of both English and French in air traffic control that began as an act of protest deteriorated into a crisis in mid-June 1976 when French-speaking airline pilots went on strike to support the controllers. The strike split the country along linguistic lines in which “the English-Canadian public overwhelmingly supported the anglophone aviators, and the French-Canadian public, with equal unanimity, supported the Francophone pilots and controllers.”⁷² The strike was resolved through an agreement between the Minister of Transport and the pilots’ and controllers’ unions. French-speakers viewed the agreement as “a humiliating defeat” according to Sandford Borins⁷³, because the right to use both languages in air traffic control was not guaranteed. Then Minister Jean Marchand resigned in protest of the negotiated result of the strike.⁷⁴

The question of security in bilingual air-traffic control was turned over to a commission of inquiry struck in 1976.⁷⁵ The Commission recommended in its final report in 1979 that bilingual air traffic control could be safely implemented in Canada. Accepting the recommendation, Joseph Clark’s Progressive Conservative government instituted both French and English air traffic control in Quebec in 1979-1980. Beyond the national unity implications of the Gens l’Air crisis, language of work rights were at issue. French-speaking air-traffic controllers were not only challenging long standing ideas about the insecurity of bilingual air-traffic control, but were fighting for their right to work in their official language of choice. This was not easy.

Two particular court cases, adjacent to the crisis, give important insights into the limitations of the existing OLA 1969 on language of work matters. The first was a ruling by Judge Jules Deschênes of Quebec’s superior court. His 1976 ruling in the case *Joyal v. Air Canada*, annulled a section of Air Canada’s flight operations manual that disallowed the use

⁷² Borins 1983, 28; see also *Interim Report of Inquiry into Air Traffic Control*, 26.

⁷³ Borins 1983, 28; see also *Interim Report of Inquiry into Air Traffic Control*, 2.

⁷⁴ Office of the Commissioner of Official Languages, *Annual Report 1976* (Ottawa: Minister of Supply and Services Canada, 1977).

⁷⁵ *Interim Report of Inquiry into Air Traffic Control*, 2.

of French in the cockpit (except for announcements to passengers).⁷⁶ Air Canada was subsequently required to create a French-language lexicon for the use of its pilots.⁷⁷ Deschênes' ruling was based on a broad interpretation of section 2⁷⁸ of the OLA,⁷⁹ which declared the equality and status of both of Canada's official languages. The interpretation of the section was important for language of work. Depending on how it was interpreted, it could be read to uphold the use of both official languages as regular languages of work.

Had the Deschênes decision been upheld, it would have had important implications for language of work.⁸⁰ According to the government's document on proposed amendments to the OLA, Deschênes' interpretation of section 2 could have given government employees the right to unilaterally choose their language of work. This would have been a "serious restriction of the government's prerogative, as employer, for the effective management of the Public Service in the area of language of work."⁸¹ If the ruling was upheld, it was anticipated that employees would be entitled to choose their language of work "without reference to the needs of the public or to other operational requirements, and to demand the provision of any or all work instruments in their chosen official language."⁸² Government concerns about a potential loss in administrative authority over language of work and ultimately language of service to the public could be shelved because Judge Louis Marceau of the Trial Division of the Federal Court of Canada disagreed with Deschênes' interpretation of section 2.

The case of *Gens de l'Air et al. v. The Honourable Otto Lang and the Attorney General of Canada* was brought forward to contest the Minister of Transport's authority to

⁷⁶ Office of the Commissioner of Official Languages, *Annual Report 1977* (Ottawa: Minister of Supply and Services Canada, 1978), 114.

⁷⁷ *Ibid.*

⁷⁸ Section 2 of the OLA 1969 states: "The English and French languages are the official languages of Canada for all purposes of the Parliament and Government of Canada, and possess and enjoy equality of status and equal rights and privileges as to their in all the institutions of the Parliament and Government of Canada."

⁷⁹ LAC, RI2069, vol. 203-2, "Proposed Amendments to the Official Languages Act." No date, between November 1976 and June 1977.

⁸⁰ Office of the Commissioner of Official Languages, *Annual Report 1977*, 114.

⁸¹ LAC, RI2069, vol. 203-2, "Proposed Amendments to the Official Languages Act." No date, between November 1976 and June 1977.

⁸² *Ibid.*

make unilateral regulations under the Aeronautics Act on the language of communication between pilots and air traffic controllers in Quebec.⁸³ Ruling in January 1977, Marceau's opinion was that section 2 was declaratory in nature and that it had to be read in the context of the entire OLA. This ruling disallowed key sections of the Deschênes decision. The Commissioner of Official Languages, Keith Spicer, was concerned about Marceau's limited interpretation of section 2. By treating section 2 as an introduction, it could make it more difficult for managers to uphold the right of public servants to work in French.

The Commissioner believed that Parliament had to clarify the intentions of the Act, in two ways. First, by explaining its interpretation of section 2, was it pervasive or just introductory in nature? Second, a section recognizing language of work rights should be included in the OLA to settle language of work matters. The 1973 Resolution was a good starting point from Spicer's perspective, but directives on how to achieve choice in language of work had to be included in the Act itself.⁸⁴ The government seriously contemplated reopening the OLA out of concern for national unity and the desire to clarify imprecise elements of the Act, but no changes would materialize.⁸⁵

Taken together, the *Gens de l'Air* crisis and the related court proceedings reaffirm Canada's reactionary approach when it comes to managing the politics of language. It was only until national unity was threatened that the government strongly considered reopening the OLA. Beyond its implications for national unity, the *Gens de l'Air* crisis brought to the fore the lack of clarity in the OLA surrounding language of work – even after the 1973 Parliamentary Resolution on Official Languages and the 1977 decentralization.

Instead of reopening the OLA and modifying the legislation, the government proceeded by releasing a White Paper in 1977 that described its position on official languages. Entitled *A National Understanding*, the document reaffirmed the government's official languages goals for the public service including those for government agencies and

⁸³ Office of the Commissioner of Official Languages, *Annual Report 1977*, 114-115.

⁸⁴ *Ibid*, 19.

⁸⁵ RI2069, vol. 203-2. "Proposed Amendments to the Official Languages Act." (Confidential). (Sometime between November 1976 and June 1977).

Crown corporations.⁸⁶ By proceeding with the White Paper instead of a change in legislation, the government did not bind itself to any commitments or rights for employees in the area of language of work. Public servants would wait until 1988 to have a right to choose their language of work codified in legislation.

Reorganizing and Restructuring the Public Service in 1981

In 1981, eleven years after the implementation of the OLA (1969), the official languages program was not yet considered sufficiently integrated with departmental decision making.⁸⁷ There was a tendency towards the “balkanization of languages” where the use of French as a language of work was mostly found in the federal offices housed in Quebec, with English dominating as the language of work in the rest of the country, including the NCR.⁸⁸

In 1981 as in 1978, English was used 68% of the time and French 32% of the time. During these same periods, the use of French by Francophones stagnated at 62% whereas the use of English dropped from 92% in 1978 to 90% in 1981.⁸⁹ Phoney or false bilingualism (where a public servant underwent language training and was designated ‘bilingual’ but did not have the linguistic competencies to effectively function in their second official language) remained a problem for some public servants in bilingual positions. These individuals tended to be Anglophones over 40 years of age in middle- and senior-management, who attempted to acquire second official language skills at mid-points in their careers.⁹⁰

Members of the Official Languages Branch of the Treasury Board Secretariat noted in a memorandum that middle-level managers suffered from the negative influence of a conflict between government priorities and ministerial priorities. A public servant’s first priority was their operational activities and they put up safeguards so as not to overburden themselves with administrative duties, including those related to official languages. In

⁸⁶ Canada, *A National Understanding: The Official Languages of Canada* (Hull, QC: Minister of Supply and Services, 1977), 12.

⁸⁷ LAC, RG55, ACC1995-96/064, Box #4, file LEB5097-003, pt. 5, “Official Languages in the Public Service of Canada,” no date.

⁸⁸ *Ibid.*

⁸⁹ *Ibid.*

⁹⁰ LAC, RG55, ACC A-2009-05-H, Box #23375, Fol 5 V, File OLLO 2000-002-003, “Memorandum to the President. Subject: Information for Cabinet Meeting on Official Languages Program,” July 22, 1981.

certain cases, the administrative resistance was symptomatic of a negative perception of or attitude towards the official languages program.⁹¹ Aware of these language issues and other administrative and service problems in the public service, Cabinet approved various policy changes related to the management category in July 1980.

The chief proponents of the management reorganization and reform resulted from the Royal-Commission on Financial Management and Accountability (known as the Lambert Commission for its chair) and the Special Committee on the Review of Personnel Management and Merit Principle (known as the D'Avignon Committee for its president). In the years leading up to the reports, there had been “a number of expressions of concern about the quality of management in the Public Service.”⁹² Growth in the responsibilities of government was placing unprecedented demands on the public service. The Auditor General's reports at the time were indicating that the country's financial situation was not “adequate to ensure full and certain control over and accountability for public funds required for the expanded responsibilities and programmes” that existed.⁹³ The fiscal dilemma required the government to seriously reorganize its public service in order to be accountable and responsible in the management of public resources.

In response to the reports, a new nine level management category was developed by the Treasury Board and launched in the spring of 1981. The nine levels included: SM (middle managers which tended to be at the highest levels of their individual occupational categories); executive (EX) 1-5 which included directors, executive directors and director generals; deputy ministers (DM) 1-3. According to a government news release on the changes, the consolidation of the senior management category (which included the EX and DM levels) would improve the management of government programs by holding managers to account, utilizing the managers more effectively, developing and training the managers

⁹¹ LAC, RG55, ACC A-2009-05-H, Box #23375, Fol 3 V, File OLLO 2000-002-003, “Note de service, de Jean-Claude Nadon, à Jean-Jacques Noreau,” No date.

⁹² R776, ACC A-2009-05-H, Box #23376, Fol 2, File OLLO 2000-002-005, “News Release: “Management Category in the Federal Public Service,”” April 16, 1981.

⁹³ Royal Commission on Financial Management and Accountability, *Final Report* (Hull, QC: Minister of Supply and Services Canada, 1979), v.

and keeping them motivated.⁹⁴ More specifically, this meant that managers would be held more accountable through a clearer description of responsibilities, performance reviews and evaluations developed for managers.

The new management category had implications for the official languages program. With the changes, members of the EX category serving in bilingual regions would have to have a minimum B⁹⁵ level (or intermediate) competence in their second official language. Further, members of the EX category would no longer be eligible for the bilingualism bonus because their official languages capacity would be accounted for in their merit pay. Only members of the SM group would continue to receive the \$800 bilingualism bonus if they served in a designated bilingual position.⁹⁶

Middle management (the SM group) played a critical role in the implementation and upkeep of the official languages program in the public service. However, middle managers, who had a direct impact on the working culture of their units, did not seem to implement the program or attempt to increase the use of both official languages in their departments.⁹⁷ What was clear in the early 1980s was “the relative non-involvement, sometimes disinterest of many senior and middle managers, on who the successful implementation of many such [official languages] initiatives depends.”⁹⁸ When attempting to resolve the problem of a lack of commitment, Treasury Board officials noted that there may be a perception of overload in bilingualism in relation to other new responsibilities the middle managers may be assuming. Analysis and planning functions absorbed much time and attention in departments at the cost

⁹⁴ LAC, R776, ACC A-2009-05-H, Box #23376, Fol 2, File OLLO 2000-002-005, “News Release: “Management Category in the Federal Public Service,”” April 16, 1981.

⁹⁵ Language requirements for positions were classified by competencies in reading, writing and oral communication. There were three levels: A (basic); B (intermediary); C (advanced). This system is still in place today. In the case of managers in bilingual regions in 1981, they were required to have intermediary competency in the reading, writing and oral communication categories in order to fulfill their position’s language obligations.

⁹⁶ LAC, R776, ACC A-2009-05-H, Box #23376, Fol 2, File OLLO 2000-002-005, “Text from the Management Task Force with information for management category members.” April 16, 1981.

⁹⁷ LAC, RG55, ACC 1995-96/064, box #4, file LEB 5097-003, pt. 5, “Official Languages in the Public Service of Canada,” No date.

⁹⁸ LAC, RG55, ACC A-2009-05-H, Box #23375, Fol 3 V, File OLLO 2000-002-003, “Memorandum to the Treasury Board Senior Advisory Committee: The administrative burden involved in language reform,” November 4, 1980.

of a priority being placed on “acting” on the commitments and plans. Piling on new requirements on managers was considered useless, but by increasing some expectations and decreasing others, a trade off was thought to be possible.⁹⁹ Getting middle-managers to act on official languages was necessary for the success of the official languages program.

1981 Changes to the Official Languages Program

The Trudeau government released a series of policy changes to take effect by April 1, 1981, adding a third layer of reforms to the official languages program. Similarly to the decentralization of 1977, there is a current running through the report announcing the changes that recognizes and insists on the influence and commitment of managers in implementing the program. Whether or not managers are explicitly mentioned in every reform category, they are considered to be the key component to the success of the initiatives. It was clear in the report that the cooperation and support of managers was crucial for “all the policy refinements in the world will be for naught if the essential goodwill and cooperation required to successfully implement language reforms does not exist.”¹⁰⁰

Five broad categories of policy reforms are discussed in the report. First, there would be a review of the language requirements of approximately 4,000 positions. The positions were to be jointly reviewed by the department and central agencies. The purpose of the review was to improve the accuracy of language requirements in order to better suit departmental needs.¹⁰¹ Second, departments were given the capacity to designate the language requirements of positions as imperative to increase efficiency. It was also announced that non-imperative staffing would remain in effect as long as the supply of bilingual candidates was inadequate (even though the government intended to eliminate it by 1983).¹⁰²

Third, the criteria for language training were revised. Basic language training at public expense would continue to be provided but access would become more stringent. In order for an employee to be accepted for training, they had to demonstrate a high probability

⁹⁹ LAC, RG55, ACC A-2009-05-H, Box #23375, Fol 3 V, File OLLO 2000-002-003, “Memorandum to the Treasury Board Senior Advisory Committee: The administrative burden involved in language reform,” November 4, 1980.

¹⁰⁰ LAC, RG55, ACC A-2009-05-H, Box #23375, Fol 3 V, File OLLO 2000-002-003, “Efficiency and Performance in the Official Languages Program: Selective Policy Changes,” January 30, 1981.

¹⁰¹ *Ibid.*

¹⁰² *Ibid.*

of success. They and their manager also had to show that there was a realistic opportunity to use their second language skills at work. Further, individual language plans had to be approved by the employee, their manager and/or the PSC before language training could be undertaken. There were some employees who remained exempt from language training. Any employee within three years of mandatory retirement was ineligible for language training. Those 55 and older were not obliged to take language training and could even be transferred to a position without meeting its language requirements.

Coordination and management efforts of language training focused more heavily on departments. For instance, managers would play a greater role in defining language training needs through an annual review of the bilingual capacities of their unit and its needs. The department's official language director (known previously as "official languages advisor") would now coordinate language training. This would ensure that departmental operations and needs were considered in scheduling the training. Put simply, language training would now be managed as a tool linked closely to the needs of individual departments.

Fourth, a special elite language training program was announced. Employees from any position and any level could apply for one of the 100 spots that would train for full fluency in their second official language. Fifth, a more efficient use of translation services was mandated. It was now expected that bilingual occupants of bilingual positions should use their second official language skills in the production of written materials.¹⁰³

The five above mentioned areas of reform focused on streamlining, rationalizing and clarifying the administration of official languages while holding managers to account for progress. These changes are reflective of the approach to the reorganisation of the management category which emphasized accountability and efficiency. By tightening access to language training and translation, and by more closely regulating the linguistic designation of positions and bolstering the role of managers, the government appeared to be reaffirming its intention to institutionalize the use of both official languages in the federal public service while addressing the reality that the goal of choice in language of work – although progress had been made – had not been achieved.

¹⁰³ LAC, RG55, ACC A-2009-05-H, Box #23375, Fol 3 V, File OLLO 2000-002-003, "Efficiency and Performance in the Official Languages Program: Selective Policy Changes," January 30, 1981.

Conclusion

The layered changes tacked on to the OLA 1969 and its implementation process were attempts by the government to make progress on language of work. By making choice of language of work a right for public servants through the 1973 Resolution, by decentralizing responsibilities toward managers in 1977 and by targeting middle-management's language competencies and roles in 1981, the government sought to shore up the administrative structure to give meaning to employees' choice in language of work.

In making the above-mentioned changes, the government was more cautious in its relations with the unions by actively consulting with them in an effort to gain their support. Despite hostility in the mid-1970s between the Treasury Board and the unions, relations enabled reforms to advance. Where there was disagreement however, was on the bilingualism bonus. The unions emerged in this issue as veto players unwilling to relinquish the compensation for its membership. When the government indicated that it would phase out the bilingualism bonus by 1983, the unions took action. There were serious protests in Montreal organized by the local unions that impaired the functioning of government offices. Due to the unions' resistance to the elimination of the bonus, the government reversed its position on the matter. In the end, the bonus would remain. The unions made sure of it by including it in their collective agreement. Once again, the unions acting as veto players were successful in maintaining the status-quo, even though the persistence of the bonus challenged the very concept of having two official and regular languages of work. Why should an employee be compensated for something that was meant to be a standard organizational value?

Focus on language of work was heightened by the *Gens de l'Air* crisis, in particular because of two related court cases. Both cases addressed section 2 of the OLA 1969 and produced contradictory rulings. This had important consequences for language of work because on the one hand, the right to language of work was read-in to section 2, whereas on the other, it was denied. The courts played an important role in focusing attention on language of work matters and also tacitly indicated the need to clarify the OLA 1969. In reaction, the government quietly considered reform but in the end, abandoned its efforts. The government was unwilling to commit itself to legally defined language of work rights. It was preferable, from the government's perspective to adjust and manage the situation

administratively instead of through legislative changes. Ultimately, this meant treating and still using language rights as a tool for political compromise. This ensured the government a certain measure of flexibility and control on language of work matters.

The more flexible approach invoked in the institutional layering undertaken in 1973, 1977 and 1981 to improve language of work, did not have the desired effects. The results demonstrated that gradual changes over time do not always amount to significant change. To use Schickler's words, the result of the layered reforms was more "haphazard." Instead of increasing the use of both official languages as regular languages of work, the reforms in fact served to zero-in on managers and their roles in the official languages program. This orientation would persist and would eventually be codified in the OLA 1988.

In 1983 there remained far too many public servants in the NCR that were incapable of dealing with regional offices, such as those in Quebec in French.¹⁰⁴ The NCR still lags behind other regions today when it comes to the use of French in written work and during meetings.¹⁰⁵ Nonetheless, there were some improvements. Across all offices, 29% of employees were said to use French in 1983 (up from 27% in 1981). The percentage of Anglophones using French increased from 8% in 1981 to 12% in 1983. The use of English by Francophones also increased from 45% in 1981 to 47% in 1983. French as language of work was increasing in Quebec and New-Brunswick, where significant French-speaking populations lived, but there were signs of significant set-back in Ontario.¹⁰⁶

These mixed results for official languages are further complicated by the fact that the government never established benchmarks against which to measure progress on language of work. Did the government intend that language of work practices would reflect demographics, as was the intention with the "adequate" representation of both language groups? It is nearly impossible to say. What is known is that language of work continues to be a central weakness of the program and is regularly targeted in OCOL annual reports.¹⁰⁷

¹⁰⁴ LAC, RG55, ACC 1997-98/630, box 17, file 5475-01, pt. 6, "The Implementation of the Official Languages Program in Federal Institutions," 1984.

¹⁰⁵ Office of the Commissioner of Official Languages, *Annual Report 2012-2013*.

¹⁰⁶ LAC, RG55, ACC 1997-98/630, box 17, file 5475-01, pt. 6, "The Implementation of the Official Languages Program in Federal Institutions," 1984.

¹⁰⁷ See for instance Office of the Commissioner of Official Languages, *Annual Reports 2012-2013, 2008, 2011, etc.*

The government would eventually be forced to clarify the language of work rights of employees with the entrenchment of the Canadian Charter of Rights and Freedoms. Even though a clear and claimable right would exist, language of work would continue to lag.

Chapter 6: 1982-2013

The OLA 1988 and Part V:

The right to choose your language of work official...but only on paper

Introduction

In this chapter, we discuss the final period of legislative change related to language of work and its repercussions in the public service today. The central focus is the new OLA 1988 developed and adopted by Prime Minister Brian Mulroney's Progressive Conservative government. The OLA 1988 was a critical juncture for language policy in Canada. With the enactment of the legislation, the ideas underlying Canada's language regime would change. The OLA 1988 defined language rights in human rights terms and importantly for this project codified the right of public servants to work in their official language of choice in Part V.

Part V of the new OLA stated that public servants in bilingual regions of the country had the right to work in either English or French. The state was responsible for upholding this right through adequate instruments and an administrative support structure. It would be easy to assume that with Part V both official languages became regular languages of work, especially because public servants could now claim their right in court. The legislation however, did not revolutionize official languages use in the federal public service. On paper, the right encapsulated in Part V appeared expansive; in practice, the legislation's effects were far more limited.

This chapter argues that making the choice of official language of work a right did not significantly advance the use of French as a regular language of work. The limited impact can be explained through the implementation of Part V that was continuous with previous practices which depended on the individual actions of managers. Further, the regulations guiding the enactment treated official languages as a matter of organizational culture that could be implemented through a series of behaviours. Assuming that the environment was conducive to the use of both official languages as languages of work was a mistake. It would take much more than the behaviour of managers to alter the persistence of English as the dominant language of work.

The chosen approach that focuses on managers exhibits a form of path dependency continuous with the approach of the previous period. As discussed in chapter 4, the layered changes brought to the OLA 1969 to give meaning to language of work targeted managers.

This orientation persisted with the OLA 1988 since the changes were based on the foundations established through previous reforms. By adopting the reforms' focus on managers, a limited impact on language of work was also inadvertently adopted. Managers, targeted as the primary vehicles for implementation continue to be cited in follow-up reports as the persistent sources of lag in language of work. The implementation of the new OLA 1988 is central to understanding the legislation's limitations.

This chapter proceeds by discussing the adoption of the OLA 1988, its implementation and closes by providing an assessment of the process and its repercussions for language of work in today's public service.

The Charter and the end of the Liberal Reign

In 1982, Prime Minister Pierre Trudeau – after rounds of negotiations with the provinces – successfully repatriated the Canadian Constitution and entrenched a bill of rights, entitled the Canadian Charter of Rights and Freedoms. The Charter was a liberal document that defined and protected the individual rights of Canadian citizens in a variety of domains (e.g. mobility rights, democratic rights, fundamental freedoms, language rights).¹

The Charter became a symbol of Canadian identity² and fundamentally changed its laws. After the Charter came into effect, a variety of federal and provincial laws had to be reformed in order to bring them in line with the newly entrenched rights—the least of which was the OLA 1969. Some content of the OLA 1969 such as the extensive discussion of bilingual districts was overridden by the Charter's requirement that language of service be based on “significant demand.”³ This administrative change is but an example of the many more pervasive changes that were required to have the legislation reflect the language rights that the Charter protected in human rights terms.

¹ Quebec never signed the Constitution Act 1982 (which includes the Charter). Nonetheless, the Canadian Constitution applies in Quebec as it would anywhere else in the country.

² See for instance Alan C. Cairns, *Charter versus Federalism* (Montreal & Kingston: McGill-Queen's University Press, 1992); Sujit Choudhry, *Bills of Rights as Instruments of Nation Building in Multinational States: The Canadian Charter and Quebec Nationalism*, *Contested Constitutionalism*, (eds.) Christopher Manfredi and James Kelly (Vancouver: UBC Press, 2009).

³ LAC, RG55, ACC1995-96/064, file OLB5000-01, pt. 6v, “Memorandum from Secretary of the Treasury Board to President of the Treasury Board,” September 30, 1982.

Prior to the Charter and the OLA 1969, sections 133 and 93 of the Constitution Act 1867 protected language rights in Canada. During this period of Canadian history, language was a “fundamental right”.⁴ As a fundamental right, guarantees for recognition and protection were largely left to the federal and provincial legislatures to preserve.⁵ Language was thus used as a tool to manage and appease conflict and tensions in the Canadian political system. It was not then legally recognized as integral to an individual’s existence.

This all changed with the enactment of the Charter. Sections 16-23 of the Charter protect official languages rights. English and French are recognized as Canada’s official languages in section 16. Education rights for primary and secondary schooling for OLMCs are guaranteed through section 23 (where there are sufficient numbers of citizens with minority official language education rights to warrant a school). The rights of citizens to access federal services in their official language of choice (where there is significant demand or where the nature of the office warrants it) are protected in section 20.

With the Charter, language rights in Canada became ‘doubly entrenched.’ Not only were they protected in the Constitution, but they were excluded from the notwithstanding clause. Any changes to language provisions for federal institutions (sections 16.1-20) and official language minority education rights (section 23) “cannot be amended constitutionally without consenting resolutions of all ten provincial legislatures and of the House of Commons and Senate (section 41, Constitution Act, 1982).”⁶ Language rights in Canada were now characterized as human rights. The final step in this process was the adoption of the OLA 1988, which culminated the human rights orientation of Canada’s official languages policy. The Charter and the OLA 1988 shifted the discourse of language in Canada from one of political compromise to one of individual rights. Treating language as a human right meant recognizing language as fundamental to a citizen’s life. If their rights were infringed, citizens could seek justice through the courts.

⁴ Warren J. Newman, “Language Rights, the Charter and the New Official Languages Act,” paper presented to the Second Annual Conference of the Department of Justice on Human Rights and the Charter (Ottawa: 1990), 5.

⁵ Newman 1990, 7.

⁶ Newman 1990, 9.

Despite the citizen's clearly defined right to access federal services in their official language of choice, there were no explicit language rights for public servants in the Charter. According to legal expert Warren J. Newman, there was an implicit right to work in both English and French in the public service. This right flowed from section 16(1) of the Charter which guarantees "equality of status and equal rights and privileges" for the official languages "as to their use in all parliamentary and governmental institutions of Canada."⁷ Since federal institutions had to have bilingual capacities to serve the public in their official language of choice, those capacities had to come from somewhere, and that somewhere was presumably its staff.

The question of whether public servants had the right to work in their official language of choice protected through the Charter is another example of why amendments to the OLA 1969 were required post-Charter. Pre-Charter rulings on section 2 of the OLA 1969 during the *Gens de l'Air* crisis also raised questions about language of work rights. The murkiness of the legislation engendered calls from the Commissioner of Official Languages as well as the Special Joint Standing Committee on Official Languages⁸ to amend the OLA 1969, to update it and bring it in-line with the Charter. A variety of recommendations were issued in a 1983 report by the Special Joint Standing Committee. Of particular interest here was the recommendation to codify public servants' right to choose their official language of work (in designated regions).⁹

Within the government however, there was no appetite for legislative reform. The TBS had advised the government that the disadvantages of undertaking a reform of the OLA 1969 outweighed any positive results. As it stood, the government was already perceived to be over committed on the official languages front. If other legislative action was taken, the government risked a difficult political situation. The TBS was concerned that pre-emptive legislative action on language of work rights risked ending up in court to determine if the right was even reasonable. From the TBS's perspective it was clear that there was "no

⁷ Newman 1990, 71.

⁸ The Special Joint Committee on Official Languages was a committee of Parliament composed of members of both the Senate and the House of Commons. First established in 1980, the Special Joint Committee became a Joint Standing Committee and eventually split into two separate committees of official languages in the House of Commons and in the Senate.

⁹ LAC, RI2069, vol. 203-5, "Report of the Senior Officials Review Group on Official Languages, Secret," October 1983.

absolute need to take legislative action in order for forward progress in achieving the Government's objectives to continue to be made" (emphasis in original).¹⁰

Instead of legislative action for official languages, the TBS preferred policy statements. The policy statement approach was more desirable to the Secretariat because it would allow the government to step in only as required to react to Charter rulings by the courts on language matters. Instead of sticking their head under the guillotine and developing expansive rights for language of work policy only to have them tested in court, the government could bide its time and react to rulings instead. Adopting this approach would then leave the government free to pursue its priorities in response to court rulings because consensus in the House of Commons on language of work rights would be unlikely.¹¹ This approach however, would risk allowing the courts to determine the extent of linguistic rights for public servants based on section 16, instead of having the government define them as employer.¹² In the end, the Trudeau government would enact no formal policy post-Charter on language of work rights.

At the time, explanations for the limited use of French as a language of work centred on a lack of commitment from departmental leadership and a work environment that was not conducive to the use of both official languages. Essentially, French-speakers did not find their work situations amenable to using their official language of choice. Managers' language skills were inadequate for communication and evaluation. In 1983 for instance, 30.6% of managers in bilingual positions did not meet their language requirements.¹³ A lack of language skills among managers had a direct impact on the language choices of their employees. When English tended to dominate, it was easier for Francophone public servants who were more likely to be bilingual to use English and facilitate communication with their Anglophone colleagues.¹⁴ Curiously, instead of acting to correct the situation by developing

¹⁰ LAC, ACC1999-01222-4, Box 1, File LEB 5000-002-001, vol. 1, "Issues Related to Possible Legislative Action in the Official Languages Program: Their Scope and Advantages and Disadvantages," no date.

¹¹ *Ibid.*

¹² *Ibid.*

¹³ LAC, RG 55, ACC 1997-98/630, Box 17, file 5475-01, pt. 6, "The Implementation of the Official Languages Program in Federal Institutions," 1984.

¹⁴ See for instance, LAC, RG55, ACC1995-96/064, Box #5, file LEB5097-004, pt., "Discussion paper: "The Current Canadian Context and the Future of the Official Languages Program," September, 1982; LAC, RG55,

language specific work-units¹⁵ (to create clusters of French-speakers) or enhancing language training for managers, the government decided instead to only make recommendations on program integration within departments.

In an effort to encourage the integration of the official languages program into regular departmental operation, the TBS released a document entitled “Organization and Integration of the Official Languages Program in the Public Service of Canada.” The aim was to provide recommendations to senior managers (who were members of the EX and DM categories) of departments on how to integrate official languages into regular departmental operation and planning. The fact that the TBS issued a document containing recommendations and not regulations or a policy statement is revelatory. This demonstrated that the government was essentially leaving program decisions to individual departments—a follow-up to its 1977 decentralization—to ensure they could meet their individual needs. The document made no specific recommendations to foster language of work. It was perhaps implicit that a greater consciousness of the program and its regular integration into departmental planning would foster an environment conducive to the use of both official languages.

The TBS transmits in the document that every department is responsible for ensuring that it actively accounts for official languages matters in its regular operation. The document is clear that the commitment of upper management and departmental executives are the sources of the official languages program’s long term success. There were no implementation dates, deadlines or requirements for action in the document. For this reason, the 1983 “Organization and Integration of the Official Languages Program in the Canadian Federal Public Service” did not change the way the official languages program was implemented or managed. What the document reflected was the Liberal government’s decentralized approach to managing the official languages program based on individual departmental needs. This document came at the end of the Liberal reign. After this document was released, there were no more formal regulations or statements issued on the official languages program in the public service by the Liberal government.

Acc. 1995-96/064, box 5, OLB5097-003, vol. 6. “Mise en œuvre du programme des langues officielles dans les organismes fédéraux,” 1984.

¹⁵ LAC, RG55, ACC1995-96/064, Box #5, file LEB5097-004, pt., “Discussion paper: “The Current Canadian Context and the Future of the Official Languages Program,”” September, 1982.

Enter Mulroney and the Progressive Conservatives

Brian Mulroney's Progressive Conservative (PC) government replaced the Liberals in 1984 with a strong pan-Canadian majority mandate. As an Anglophone from Quebec, it was believed that Mulroney could speak to both sides of the Canadian debates on language and national unity. Before assuming office, the government was committed to presenting its bona fides to Quebec through official languages.¹⁶ Reflecting the government's commitment to grapple with official languages matters, the new Francophone President of the Treasury Board, Robert de Cotret, noted in a speech that "An important goal of the new government will be to broaden and strengthen the national consensus on official languages policy. There is no reason why any Canadian should feel threatened by this federal policy."¹⁷

The PCs were faced with a complex structure of policies, programs and regulations governing official languages. A 1982 discussion paper from the TBS had described the management of the official languages program as a bureaucracy within a bureaucracy which was "painstakingly elaborate, complex, riddled with jargon and contain[ing]s its fair share of ambiguities, anomalies, exceptions and contradictions [...] the program as a whole could benefit now from a simplification and streamlining of polices."¹⁸ The government set out almost immediately after its election in 1984 to gain an understanding of the governance of the official languages program.

Initially, the government's plan was to amend the OLA 1969 to bring it in-line with the Charter. However, as the case of *Duncan Cross MacDonald v. City of Montreal*¹⁹ demonstrated to then Minister of Justice Crosbie, "provisions aimed merely at bringing the Official Languages Act into conformity with the letter of the Charter would leave in place

¹⁶ Mark Goldenberg, interview by author, October 17, 2012.

¹⁷ Treasury Board, "Notes for Speech by the Honourable Robert de Cotret, President of the Treasury Board, at the Opening of the National Symposium on Linguistic Services," October 9, 1984.

¹⁸ LAC, RG55, ACC1995-96/064, Box #5, file LEB5097-004, pt. Discussion paper: "The Current Canadian Context and the Future of the Official Languages Program." September, 1982.

¹⁹ After receiving a court summons for a traffic violation in Montreal only in French, MacDonald appealed all the way to the SCC that his section 133 (which in the 1867 Constitution stated that English and French were the languages of the institutions of the Parliament of Canada and could be used in court) rights had been violated.

legislation that, while advanced for its time, was clearly outmoded by 1985.”²⁰ In 1986, the SCC released its ruling on the case with a restrictive interpretation of section 133 of the Canadian Constitution. Essentially, the court ruled that institutions and not individuals held language rights (so long as they used one of the two languages when communicating with citizens). Writing in dissent, Justice Wilson argued that section 133 rights are conferred on individuals and not governments. It is not the government that has the right to use English or French but the citizen that has the right to receive official documentation in either English or French.²¹

The MacDonald case demonstrated to the government that it would have to be very precise in reforming official languages legislation, leaving no question as to its intentions on the official languages file. Such precision would require in-depth study and planning. In order to clarify the complexity of the existing policy and its accompaniments, an entirely new OLA was necessary. In preparation for revamping the OLA, service to the public, language of work and the representation of both language groups were being carefully reviewed. These components were integral parts of the Canadian approach to official languages and had repercussions for the public service as it was both responsible for and subject to the legislation.

The review of the OLA undertaken by the Department of Justice and the TBS identified three specific goals for reforming the OLA. First, the Act had to be brought into conformity with the official languages provisions of the Charter.²² Language rights were guaranteed in sections 16-23 of the Charter, but not all matters were made explicit in the OLA. Second, amendments to the OLA had to reflect current policy views on official languages matters.²³ This meant clarifying the scope and reach of the law. With the court rulings in the *Gens de l’Air* crisis, the scope of the OLA was weakened. The Act had been interpreted as declaratory rather than executory in nature and lacking in primacy over other

²⁰ LAC, RG55, ACC 1993-94/020, LEA 1180-005, Box 2, Vol. 2PA, “Draft: The New OLA and the Role of the Department of Justice: Notes for a panel discussion on “The Roles of Key Players,” Symposium 88, Deputy Minister of Justice and Attorney General of Canada (Tab 7),” January 24, 1989.

²¹ *MacDonald v. City of Montreal* [1986].

²² LAC, R776, ACC A-2009-05-H, Box #23376, Fol 1, File OLLO 2000-002-006, Treasury Board file number 799015, “Aide-Memoire attached,” July 24, 1985.

²³ *Ibid.*

federal laws.²⁴ The eventual OLA 1988 would clearly define its quasi-constitutional status with its preamble, leaving no question as to its scope, primacy or applicability.

Third, the three main components of language legislation affecting the public service which included service to the public, the equitable participation of both official languages groups and provisions for language of work had to be given legislative expression.²⁵ This final goal reflects the broad-scale change that had to be made to the existing legislation. With the extensive changes to the OLA 1969 that would be required to meet these goals, the Mulroney government determined that the OLA 1969 would have to be repealed and replaced with Bill C-72 (the eventual OLA 1988).

The TBS noted in a 1986 assessment of the official languages program in the public service, that efforts had to focus on language of work. Major efforts had already focused on services to the public and the equitable participation of Francophones and Anglophones. With good progress realized on these fronts, it was deemed crucial to draw attention to the language of work objective.²⁶ An influx of Francophones in the public service did not make progress on the increased use of French, nor was progress expected to be achieved through an influx of bilingual Anglophones. Defining language of work rights in the new OLA, it was thought, would contribute to regularizing the use of French as a language of work.²⁷

Lack of progress on language of work had been a target of government efforts for years. As the previous chapter demonstrated, in 1973, 1977 and 1981, the federal government undertook efforts to bolster the use of French as a language of work. It declared the right of public servants to work in their official language of choice through a parliamentary resolution, targeted the language competencies of managers and decentralized management of the program to departments so they could meet their unique official languages needs. Although these changes achieved some progress, it was still inadequate.

²⁴ Ducharme, Jean Charles. "The Official Languages Act (1988)." Library of Parliament, 1989, 1.

²⁵ LAC, R776, ACC A-2009-05-H, Box #23376, Fol 1, File OLLO 2000-002-006, Treasury Board file number 799015, "Aide-Memoire attached," July 24, 1985.

²⁶ LAC, ACC1997-98/630, box 8, file LEB 5097-013, vol. 4, "Official Languages Within the Federal Public Service," February 12, 1986.

²⁷ *Ibid.*

At this point, the linguistic designation of positions and the language competencies of managers were the two means intended to give meaning to language of work. Even though a position was designated bilingual or French-essential, it did not guarantee that the incumbent would be working in French most of the time. It was confirmed that language of work was heavily influenced by the language competencies of supervisors.

For instance, a 1984 report by the Public Service Commission entitled, “Official Languages New Direction and Initiatives,” emphasized the importance of executive action to overcome the under-utilization of French in bilingual regions and of English as a language of work in Quebec. The report stated that “departmental executives must require managers to discuss the language of work issue specifically with employees [...] Public servants must also be given direct and personal incentives to work in their preferred language and, in some instances, to modify their work habits.”²⁸ Most important however, the report noted that creating a working environment where employees can choose their language of work is essential or else nothing would ever really change.²⁹ Put simply, the report targeted the language competencies and practices of managers as paradoxically the principle setback and source of salvation for language of work.

By 1986, there were improvements in the number of Francophones in the NCR and in Montreal who were able to work in French, but they had nowhere near the capacity of Anglophone employees to work in their official language of choice. Institutional traditions, personal motivation and senior leadership (which included members of the EX and DM managerial categories) heavily influenced language of work practices according to the TBS.³⁰ Again, the inadequate second-language capacities of managers and supervisors were specifically named as impediments to the language of work opportunities for all of their employees.

Dispersion of Francophone and bilingual Anglophone employees also made a critical mass of speakers difficult to attain in a work situation. Without a functional group who

²⁸ LAC, ACC 1997-98/630, file LEB 5000-001, vol. 9, “Official Languages New Directions and Initiatives,” November 1984.

²⁹ *Ibid.*

³⁰ LAC, ACC1997-98/630, box 8, file LEB 5097-013, vol. 4, “Official Languages Within the Federal Public Service,” February 12, 1986.

could work in their second official language, inter-office communications were done largely in English, the poor French-language writing skills of supervisors affected performance evaluations and employees exempt from meeting the language requirements of their positions blocked the use of the other official language for employees.

The lack of progress in choice of language of work was largely attributed to the inadequate language competencies of supervisors and an environment that was not conducive to the use of French as a regular language of work. It appeared to be a cyclical problem: when leadership did not have adequate second language skills to supervise their staff or to run their unit's operations (e.g. meetings, briefing sessions etc.) in both official languages, English persisted as the dominant language of work. These were and continue³¹ to be cited as the practices within federal institutions that block the regular use of French. Despite institutional changes of varying degrees from the introduction of the OLA 1969 to the layering of the 1973 Resolution and other regulations, the Canadian state simply could not make both official languages regular languages of work. Nonetheless, the Mulroney government would try to improve the state of affairs by legislatively defining language of work rights in the OLA 1988.

The Content of the OLA 1988

The OLA 1988 would usher in a new era for official languages in Canada with its societal focus. With the language rights guaranteed in the Charter, the OLA 1988 brought together the institutional and societal components of the official languages program that had previously operated independently of one another. Now, the public service would be responsible for considering the effects of its decisions on the vitality of official languages and OLMCs, through Part VII of the OLA 1988. Attention to society on official languages matters would eventually become central to the way the public service conceptualized its official languages responsibilities, they would however, remain distinct from language of work. Although we recognize the important societal orientation brought forth by the OLA 1988, it will not be further discussed in this project.

³¹ See Office of the Commissioner of Official Languages, *Walking the Talk: Language of Work in the Federal Public Service* (Ottawa: 2004) and *Beyond Bilingual Meetings: Leadership Behaviours for Managers*. (Ottawa: Minister of Public Works and Government Services Canada, 2011).

With 111 sections divided into 14 parts, the OLA 1988 is an extensive piece of legislation. The new OLA was prefaced by a preamble which underscored the importance accorded to the legislation as preambles are rare in public law.³² The preamble is considered to be part of the Act and is an interpretation provision meant to assist in explaining the “purport and object” of the legislation.³³ The new Act was far more explicit than its predecessor providing increased clarity for application and interpretation. The OLA 1988 was a critical legislative advancement for the renewal the government’s commitment to Canada’s official languages and an important step for legislating language rights on paper—the implementation and actualization of the rights did not have the same success. The law received royal assent on July 28, 1988 and was proclaimed September 15, 1988.³⁴

Part V: Official Language of Work

With the enactment of the OLA 1988, public servants had the right to choose their official language of work codified in Part V. In designated bilingual regions which included the NCR, parts of Northern and Eastern Ontario, the Eastern Townships, parts of the Gaspé and Western Quebec, as well as New Brunswick, employees could exercise this right. Part V makes explicit a variety of provisions to make language of work operable but it does not define how it would be actualized or implemented because that would be left to regulation. Every institution in a bilingual region or in the NCR was now required to accommodate the language choice of employees.³⁵ This means ensuring that the employee has staff services and work instruments produced by or on behalf of the federal government in their official language of choice. Further, offices in the designated areas are required to foster a work environment conducive to the “effective” use of both official languages (which includes working under a supervisor with adequate language skills to support their employees’

³² Jean Charles Ducharme, “The Official Languages Act (1988),” (Ottawa: Minister of Supply and Services Canada, 1989), 2.

³³ Ducharme 1989. NB: With exception to clause 95, dealing with the criminal code which would come into effect February 1, 1989; clause 94 dealing with the rights of the accused under the criminal code in provincial courts was to be proclaimed at a later time.

³⁴ Ducharme 1989, 2.

³⁵ OLA 1988, section 35.

choice).³⁶ In regions where one official language dominates, the treatment of the other language as a language of work must be comparable to the treatment in other parts of the country where the other official language predominates.³⁷ Federal institutions that provide services to other federal institutions are responsible for accommodating the official language preferences of the offices and employees they serve.³⁸

If a public servant believes their Part V rights have been violated, they are entitled to seek remedy through the OCOL or in federal court. Prior to filing grievances through those channels, they may first seek an internal solution to the issue. This would mean meeting with their supervisor, manager etc. to attempt to develop a solution. In the case that an internal solution cannot be found, public servants would typically first file a grievance with the OCOL and if a resolution is not found, they may then choose to take the matter to Federal Court.³⁹

Once a public servant files a complaint with the OCOL for a violation of their Part V rights, the complaint is treated in the same way another citizen's complaint would be managed. With the plaintiff's consent, the OCOL will undertake a "facilitated review process." This entails a full investigation of the complaint but allows the issue to be resolved informally and with less stringent requirements. Despite its informality, the "facilitated review process" is meant to obtain lasting results. In the case that the OCOL must determine if the complaint is founded, a "formal investigation process" is undertaken. A formal investigation is a multi-step process that tends to take longer than a facilitated review. The formal investigation process ends in a final report. If the report contains recommendations, it may be necessary to follow-up with a responding report.⁴⁰

Public servants have been able to file language complaints with the OCOL since 1969. The number of complaints varies annually. From 2006-2013, 1072 complaints related

³⁶ OLA 1988, section 36.

³⁷ OLA 1988, section 35.1.

³⁸ OLA 1988, section 37.

³⁹ Treasury Board Secretariat, Office of the Chief Human Resources Officer, "Official Languages: General Questions," 2012, <http://www.tbs-sct.gc.ca/faq/olo-eng.asp> (accessed December 15, 2013).

⁴⁰ Office of the Commissioner of Official Languages, "Filing a Complaint," 2012, http://www.ocol-clo.gc.ca/html/complaint_plainte_e.php#a6 (accessed December 15, 2013).

to language of work were filed which represented 20% of the OCOL’s total admissible complaints for that period (see Table 1 for complaints since 1988).⁴¹ Since 2006, there has been a gradual decline in the number of Part V related complaints filed by public servants with the OCOL (with exception to an increase in 2010-2011). However, the complaints filed about an employees’ ability to use their official language of choice in written communications has tripled over the last two years.⁴² Even though overall complaints have declined, this should not be taken as a sign that choice in language of work is at acceptable levels because data shows significant discrepancies in the capacities of Francophones to work in their official language relative to their Anglophone counterparts.⁴³ According to the OCOL’s 2012-2013 Annual Report, the low number of Part V complaints relative to complaints about other sections of the OLA “can be explained by the fact that federal employees, like all workers, are often reluctant to file a complaint about their working conditions, their colleagues or their supervisors.”⁴⁴

Year	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
Number of Complaints	129	169	171	105	215	225	181	216	172	211	123	119	171

Year	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Number of Complaints	114	132	1113	125	111	112	117	114	69	70	508	82	100

Table 1: Number of Part V complaints to the OCOL 1988-2013 (E-mail correspondence with OCOL 2013)

The federal government has been taken to court on Part V claims on various occasions. In the case of *Schreiber v. Canada* [1999], the federal government was taken to court on language of work issues in air traffic control. When Schreiber’s position in the Ottawa Air Traffic Control Tower was designated bilingual, he was unable to meet the

⁴¹ Office of the Commissioner of Official Languages, *Annual Report 2012-2013* (Ottawa: Minister of Public Works and Government Services Canada, 2013), 42.

⁴² OCOL *Annual Report 2012-2013*, 42

⁴³ *Ibid.*

⁴⁴ *Ibid.*

requirements of his position as a unilingual Anglophone and subsequently, could not maintain his job. The case was dismissed because Schreiber eventually acquired the language competencies required for his position at public expense. In *Lavigne v. Canada* [1997] the government was taken to court after the OCOL found the plaintiff's language of work rights had been violated due to a lack of available work instruments in English in a Montreal office. The court ruled that a formal apology would be issued by Human Resources Development Canada and that damages would be granted.

On paper, Part V appears to provide clear and unequivocal protections for official languages choice among public servants. Not only is the public servant's right to choose their official language of work protected in designated regions, but the law requires that the choice be upheld by supervisors and the administration generally. One would be led to believe that with the importance and legal status of the new legislation that its contents would have significant repercussions for the public service, namely for language of work. To the contrary however, the results were not significant. In the first three years following the enactment of the legislation, there was little done to give meaning to Part V during the implementation of the legislation.

Implementing Part V

In general, the TBS, PSC, OCOL and the DSS maintained their responsibilities with the enactment of the new OLA. The Treasury Board as employer, assisted by the TBS would continue its role in ensuring that the official languages program was implemented in the federal public service (more precisely, in all federal institutions with exception to the Senate, the House of Commons and the Library of Parliament). Specifically, the TBS was responsible for Parts IV (service to the public), V (language of work), and VI (representation of both official languages groups) of the OLA 1988. As per the legislation, the Governor in Council (i.e. the Cabinet acting in the name of the Crown) was required to issue regulations for Parts IV and V to metaphorically "put flesh on the bones" of the legislation or explain how those parts would be actualized or given meaning through their implementation. The regulations required for Parts IV and V were not required for Part VI. It was fairly straightforward in Part VI that the Treasury Board as employer would be required to uphold the equitable representation of both of Canada's official languages groups in its hiring practices.

The PSC maintained its staffing related roles, including accounting for the linguistic requirements of positions and the merit principle, as well as establishing criteria and tests to determine competency of candidates in their second official language.⁴⁵ Language training also remained its responsibility. The OCOL continued its ombudsman role and had its office and responsibilities more explicitly defined in the new legislation in Part IX. The DSS was still responsible for all societal programs, funding initiatives and of course, the OLMCs. Gradually, the DSS (and its eventual successor Canadian Heritage) would take on a coordinating role for all societal matters of the official languages program within the public service by virtue of the new Part VII (which made the federal government responsible for the promotion of Canada's official languages and the vitality of OLMCs).

The implementation and management of the official languages program was to become more "strategy oriented" rather than operations oriented. This meant depending on departmental managers to solve problems creatively to achieve results rather than depending on complex implementation procedures and reporting statistics to the TBS.⁴⁶ A manifestation of this more flexible approach was the decision to leave provisions of the legislation to be defined by regulation namely in the case of Parts IV communications with and services to the public as well as Part V language of work.

The regulatory route was adopted because statutory decisions are difficult to change. Especially on the matter of service to the public, the government wanted flexibility to adjust to demography and other fluctuating factors. Fixed, permanent numeric requirements for service were too rigid and could be tested before the courts and operational flexibility would be lost.⁴⁷ Simply put, the government did not want to be held to specifics in implementing the new OLA. By using regulations to flesh out the content and implementation of the program, the government would maintain a measure of flexibility and act as it saw fit. In a 1990 discussion paper for the Department of Justice, Warren J. Newman explained the

⁴⁵ LAC, RG55, ACC A-2009-05-H, Box #23376, Fol 1, File OLLO 2000-002-008, "Réforme linguistique du gouvernement fédéral: aperçu de la politique des langues officielles" January 1987.

⁴⁶ LAC, R776, ACC A-2009-05-H, Box #23372, Fol 15, File OLLO 2000-001, "Human Resources Management of the Future: An Official Languages Perspective," February 1989.

⁴⁷ LAC, R776, ACC A-2009-05-H, Box #23449, Fol 18PA, File OLLO 3201-002-001. "Renewal of the Official Languages Policy and Programs." February 1, 1988.

government's range of manoeuvrability relative to the regulations for communications and services to the public. According to Newman:

The wide range of elements to which the Government may have regard in determining the significance of demand is important to ensure flexibility and sensitivity of application. If the Act were to have fixed mathematical and geographical tests of entitlement in an arbitrary or immutable fashion it would, as the Minister of Justice indicated upon the third reading of Bill C-72, "demonstrably risk violating the provisions of the Charter. A rigid criterion in the Act would not only be "constitutionally suspect", it would be inconsistent with the purpose of the new Act: to structure federal administrative arrangements in such a way as⁴⁸

to make the constitutional language rights as practical, workable and living reality in the relationships between Canadians and the federal institutions that exist to serve them.⁴⁹

Regulations on the provision of service and communications with the public were necessary because they provided important details on how to determine when, where and how services in both official languages would be established and made available to the public (and to the traveling public) in various offices and facilities.⁵⁰ Similarly, in the case of language of work, without regulations to define how Part V would be enacted, the new right would have no teeth.

To demonstrate the contention caused by the delay in issuing the regulations, it is worth mentioning Commissioner Fortier's active and persistent criticism of the government's inaction. Through repeated reproaches both public, through his annual reports and private, through letters to President of the Treasury Board Robert de Cotret and even to Prime Minister Mulroney. Fortier made clear that "his temper tantrum was necessary and not over."⁵¹ In every annual report from 1988 to 1991, Fortier decried (as did his successor Victor Goldbloom) the government's failure to release regulations. The Commissioner sent a serious warning to the government in 1990 by indicating that "by way of protest," he "would seriously consider the possibility of resigning if appropriate measures are not taken soon by the Government to deal with the inertia of most federal institutions in implementing

⁴⁸ Newman 1990, 65.

⁴⁹ Newman 1990, 66 (citing Honourable Hnatshyn, Debates, House of Commons, July 7, 1988, 17222).

⁵⁰ Canada, *Official Languages (Communications with and Services to the Public) Regulations*, Ottawa: 2007.

⁵¹ LAC, R776, ACC A-2009-05-H, Box #23411, Fol 10V, File OLLO 2210-001, "Memorandum to Lyon Weidman from Rosaline Frith, Subject: COL Consultative Meeting June 12," June 14, 1990.

the new Official Languages Act.”⁵² The delay was serious because it impeded the implementation of the OLA. This does not mean that the public service was inoperable or that services were not being provided to the public, but rather that the OLA had no meaning to institutions without instructions on how to put the legislation in place.

The Regulations on Communications with and Services to the Public were finally released in 1991 (three years after the enactment of the OLA), there were still no regulations on language of work. It was not until 1992 that the TBS announced that it would release language of work regulations within the year.⁵³ In June 1993, three sets of regulations were released for language of work: regulations for bilingual regions (including the NCR), regulations for unilingual regions and regulations for communications with other federal offices.

The regulations for bilingual regions were the most expansive, since it was in these regions that public servants could claim their right to choose their official language of work. Personal services (such as benefit and health services, etc.) as well as central services which included (accounting, material management, legal services, etc.) were explicitly listed in the regulations as services that must be provided in the official language of choice. Work instruments by or made on behalf of the federal government had to be available in both official languages (e.g. instruction manuals, policy documents, etc.). Technical systems and software acquired or produced by or on behalf of the federal government after January 1, 1991 had to be made available in both official languages.⁵⁴ The work instruments were integral to making Part V rights operable. If public servants did not have the tools necessary to do their work in their official language of choice, Part V would have little meaning.

All of these guidelines were directed at the central intention of the regulations in bilingual regions: to create an environment conducive the use of both official languages as regular languages of work. As such, the regulations targeted individuals be they employees,

⁵² LAC, R776, ACC A-2009-05-H, Box #23411, Fol 10V, File OLLO 2210-001, Letter from Fortier to Mulroney (April 10, 1990) attached to a letter from Fortier to de Cotret (April 24, 1990).

⁵³ Office of the Commissioner of Official Languages, *Annual Report 1992* (Ottawa: Minister of Supply and Services Canada, 1993), 48.

⁵⁴ Treasury Board of Canada Secretariat, *Chapter 2-1 Language of Work in “Bilingual” Regions* (Ottawa, 1993), see 1-4.

supervisors or members of the management cadre. In particular, the responsibilities of senior managers were extensively discussed.

According to Appendix A of the regulations, senior managers were instrumental in setting the linguistic environment of their departments. Managers were not only required to interpret and apply policy, but were to inform employees of their official languages rights and encourage them to work in their official language of choice. By improving their own second language competencies and regularly putting them into practice, managers were to set good examples. Practices such as chairing meetings in a bilingual fashion when appropriate and encouraging passive/receptive bilingualism were also listed as practices managers should exhibit.⁵⁵

On paper, the employee's official language choice would dictate the language of supervision. Where that obligation could not be met, the institution had to take the necessary steps to fulfill its obligations for public servants in bilingual regions. Supervisors (which we can think of as middle managers) had fewer but similar responsibilities to managers (members of the EX and DM groups) in that they were required to support the official languages choice of employees, improve their own second language skills and encourage employees to use their official language of choice when possible.⁵⁶ Studies by the OCOL have demonstrated that employees are more likely to use French when their supervisors encourage it.⁵⁷

Employees were called upon to make a habit of using their official language of choice with their supervisor and during bilingual meetings. They were also expected to seek out opportunities to improve and/or maintain their second language skills. When it came to written communications in bilingual regions, employees were encouraged, according to the regulations to produce in their official language of choice. Diffusion of the document would then dictate if it had to be translated or drafted in the other language.⁵⁸ The implementation

⁵⁵ Treasury Board of Canada Secretariat, *Chapter 2-1 Language of Work in "Bilingual" Regions* (Ottawa, 1993), 5-6.

⁵⁶ *Ibid.*, 7.

⁵⁷ OCOL, *Walking the Talk* 2004.

⁵⁸ Treasury Board of Canada Secretariat, *Chapter 2-1 - Language of Work in "Bilingual" Regions* (Ottawa, 1993), 7-8.

of Part V of the program would be monitored by the institution (i.e. the department or agency), the Official Languages and Employment Equity Branch⁵⁹ of the TBS or both; through agreements on official languages with the Treasury Board and annual reports; as well as through follow-up with OCOL studies or reports.

To help achieve these goals, quantitatively, there had to be a “critical mix” of employees of both language groups in every department. This numeric mix – left undefined – was dependent on the size, nature, bilingualism capacities, duties of the work unit as well as its interaction with other groups. The qualitative component meant having both official languages groups maximize their professional contributions in their official language of choice while being open and receptive to others using their official language of choice.⁶⁰ Precisely how a ‘critical mix’ would be achieved was unclear. All qualitative aspects, it appeared would come from the individual efforts of managers, supervisors and employees. The success of the regulations especially in bilingual regions was completely dependent on individual behaviour. Precisely how these regulations after years of lag in language of work would motivate managers and supervisors was unclear.

The regulations almost read like a series of suggestions for positive behaviour. There were no stringent reporting requirements or progress goals to meet. This left the implementation process largely dependent on the will of managers and/or employees actively claiming their language of work rights. In order for the system to work, employees had to claim their rights and supervisors and managers had to act with significant regard for official languages and particularly for the official language rights and choices of their employees. There is no question that even at that time official languages did not command the same attention they did in the 1970s. Why suddenly after years of lag in language of work would employees feel empowered and managers feel responsible with the enactment of Part V? What is most interesting about the legislation is that on paper, Part V is expansive and

⁵⁹ The Official Languages and Employment Equity Branch (OLEEB) of the TBS was divided into its original units (the Official Languages Branch (OLB) and the Employment Equity Branch) in 1999-2000. In 2008, the OLB changed its name to the Official Languages Centre of Excellence (reflected through funding allotments in the 2008 Roadmap for Canada’s Linguistic Duality). Simply put, the OLEEB became the Official Languages Centre of Excellence, housed within the Office of the Chief Human Resources Officer (OCHRO) within the TBS in 2008.

⁶⁰ Treasury Board of Canada Secretariat, *Chapter 2-1 - Language of Work in “Bilingual” Regions* (Ottawa, 1993), 5.

explicit in defining the language rights of public servants. In practice, the law had a very different effect. It is one thing to value official languages on paper, it is another to put that into action on a regular basis.

Outside of bilingual regions, regulations for unilingual regions were rather straightforward. The language of work was generally the language of the majority of the population which meant English everywhere in Canada other than in French unilingual regions of Quebec. In certain circumstances, employees could present their grievances in their official language of choice. Work instruments could be obtained in both official languages when they were required to serve the public or to serve other employees. Monitoring mechanisms in unilingual regions would be the same as those in bilingual regions.⁶¹

The regulations defining communications between offices were equally simple. In essence, it was the bilingual regions, the NCR, central agencies and common services organizations⁶² that had to uphold the official language choice of their interlocutor be they an individual employee or group. The recipient would dictate the language of communication in exchanges with these offices. In the case of unilingual regions, they were only required to communicate in their designated official language (which meant French in the unilingual regions of Quebec and English everywhere else in Canada). When the NCR, central agencies or common services organizations were communicating with bilingual regions, the language choice of the recipient would dictate the language of the exchange.⁶³

The 1993 regulations on language of work emphasized the creation of an environment conducive the use of both official languages. The regulations were first repealed in 2004 and then replaced most recently in 2012 with the “Policy on Official

⁶¹ Treasury Board of Canada Secretariat, *Chapter 2-2 - Language of Work in “Unilingual” Regions* (Ottawa, 1993), 1-4.

⁶² According to the TBS, a common service organization is: “a department or organization, including a special operating agency (SOA), designated as a central supplier of particular services to support the requirements of departments.” These organizations include: Canada School of Public Service, Foreign Affairs and International Trade Canada, Human Resources and Skills Development Canada-Service Canada, Justice Canada, Public Service Commission of Canada, Public Works and Government Services Canada (including Consulting and Audit Canada and the Translation Bureau), Statistics Canada and the Treasury Board of Canada Secretariat (Treasury Board of Canada Secretariat, “Common Services Policy,” October 10, 2006, <http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=12025§ion=text> (accessed December 16, 2013)).

⁶³ *Ibid.*, 1-3.

Languages.”⁶⁴ This policy statement is succinct on language of work and places language of work responsibilities in the hands of the deputy head of the department or agency. The content of the regulations addresses only bilingual regions since in unilingual regions the language of the majority dominates. Deputy heads in bilingual regions have three principal responsibilities. First, they are to ensure that senior management (EX category of managers) exercises *leadership in the work environment* in order to foster a work space conducive to the use of both official languages. Second, senior management activities are to be carried out in both official languages and supervisors are to fulfill their duties in both as well to ensure *communications with employees* contribute to a conducive work environment. Finally, *services and training* should be available in the official language of choice of the employee. This means personal services as well as professional training and development.⁶⁵

Giving Meaning to Part V

As demonstrated by the regulations, application of Part V focuses on culture and behaviour and demands value-rooted compliance in order to be fully effective.⁶⁶ This makes success on language of work difficult to achieve because it is closely linked to leadership. That leadership may be sporadic at times and lack of incentive can make any progress quickly disappear.⁶⁷ On the one hand, it may be considered a success that the official languages program and especially language of work practices are treated as part of the organizational culture or a value because it means they are engrained. On the other hand, in practice the regular use of both official languages as languages of work is superficial. There remains a significant discrepancy in the use of both official languages in bilingual regions and in the NCR.⁶⁸ When asked about the language of work component of the official languages program, a former public servant described it as “virtually, a complete failure.”⁶⁹

⁶⁴ TBS, “Policy on Official Languages,” 2012, <http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=26160§ion=text#sec6.3> (accessed December 15, 2013).

⁶⁵ *Ibid.*

⁶⁶ Patrick Boisvert and Matthieu LeBlanc, *French to Follow? Revitalizing the Official Languages in the Workplace* (Ottawa: Canadian Centre of Management Development, 2003).

⁶⁷ OCOL, *Walking the Talk* 2004.

⁶⁸ Boisvert and LeBlanc 2003, 5.

⁶⁹ Mark Goldenberg, interview by author, October 17, 2012.

Such a failure, he explained, had repercussions not only for service provision but for the development of programs and for the overall presence of French as a vibrant language within the public service.

A 2003 report by the Canadian Centre of Management Development based on a roundtable on language of work, determined that there has not been as much progress in language of work, especially when compared to language of service. Further, the report notes that while there has been important progress that has “undeniably allowed a considerable number of public servants to work in their first official language, it must be acknowledged that systemic barriers persist that prevent individuals from using the official language of their choice in the Public Service.”⁷⁰

The most fundamental obstacle often cited by the OCOL is leadership, particularly from senior management.⁷¹ With their ability to influence the regular operation of departments, it is essential that departmental leaders take action on language of work. Leadership is still cited as a core limiting factor despite the regulations that target managers explicitly. As the OCOL rightly pointed out, despite their defined responsibilities, the lack of routine assessment of their capacity to foster an environment conducive to both official languages may make managers less apt to regularly engage on the official languages file.⁷² Official languages are often viewed as just another obligation to fulfill instead of a value worth pursuing.⁷³ It appears that depending on leadership is not enough for change. Official languages are competing with other obligations and duties that managers must also fulfill. Further, with the lack of external pressure be it political or societal (through for instance the threat of secession), there is less impetus for action.

Compounding the lack of leadership are other practices that limit choice in language of work. For instance, draft documents circulating in only one language (usually English) and meetings conducted largely in English with the token use of French at the beginning and end of the session do not encourage or give place to French as a regular language of work.

⁷⁰ Boisvert and LeBlanc 2003, 6.

⁷¹ See for instance, OCOL *Walking the Talk* (2004); *Making it Real* (2005); *Beyond Bilingual Meetings* (2011); Boisvert and LeBlanc 2003.

⁷² OCOL *Beyond Bilingual Meetings*, 2011.

⁷³ Hilaire Lemoine, interview by author, March 23, 2012.

These tendencies make it more likely for French-speaking public servants to opt to use English instead of French. By using English, they can ensure they are more widely understood and do not appear “obstinate” for insisting on using their official language for work.⁷⁴

English-speakers found it difficult to practice any new language skills at work. Access to language training is also problematic for many because managers must release and schedule employees’ time for training.⁷⁵ According to a 2004 report by the OCOL, there is a “gap in equality of the two official languages. For Francophones, the gap occurs in work tools and professional training. For Anglophones, the gap is in access to language training [...] [which] had a moderate or significant adverse affect on their career advancement” for approximately 20% of respondents.⁷⁶

Recognizing the significant role managers play in fostering an environment conducive to the use of both official languages, the government began raising the language profiles of managers. The House of Commons Standing Committee on Official Languages described senior managers as “role models”⁷⁷ for other employees in their 2005 report. As examples, it is necessary that they have adequate language skills and exercise them, regularly. In 1998, oral interaction and comprehension levels in the second official language were raised to their highest levels for managers (level C). Since March 2003, all senior managers (those in upper EX levels) had to meet the language requirements of their positions. In 2004, imperative staffing for members of the EX-04 and EX-05 levels took effect in bilingual regions. This meant that any manager appointed to a position in a bilingual region at that level had to meet the linguistic requirements of the position in order to assume it. Bilingual positions at the EX-03 level have been staffed imperatively since April 2005 as have EX-02 positions since 2007 in bilingual regions or in unilingual regions where a bilingual incumbent is being supervised.⁷⁸ It is paradoxical that imperative staffing

⁷⁴ Boisvert and LeBlanc 2003, 8.

⁷⁵ *Ibid.*

⁷⁶ OCOL *Walking the Talk* 2004, 27.

⁷⁷ House of Commons Canada, *Bilingualism in Public Service of Canada*, Report of the Standing Committee on Official Languages (Ottawa: Communication Canada – Publishing, 2005), 15.

⁷⁸ *Ibid.*, 14.

for managers is limited to the EX level according to a 2004 report by the OCOL,⁷⁹ because EX equivalents have just as much influence on employees as do members of the EX level. For these reasons, they too should be subject to similarly high language standards.

The Association of Professional Executives of the Public Service (APEX)⁸⁰ was concerned that members of the EX-04 and EX-05 levels in unilingual regions could not maintain their language requirements because they were seldom used. The Committee disagreed with APEX and underlined the important role executives, and especially deputy ministers play in fostering a working environment conducive to the use of both official languages. As stated in the Committee's report:

The Committee is of the view that, given their positions, deputy ministers must have a good knowledge of English and French, at a level of bilingualism that is comparable if not higher than that required of other public service managers (EX-02 and EX-03). We find it difficult to understand how public servants can reach the senior echelons of the public service without an adequate knowledge of their second official language. Furthermore, since executives at the EX-3 level constitute the largest pool of replacement candidates for Assistant Deputy Minister positions, it is of the utmost importance that they learn a second official language.⁸¹

[...]

Learning both official languages must be an objective in the career training plan for federal employees who are preparing for positions at senior levels of the federal public service. The message must be clear. Access to positions at senior levels of the federal public service will be possible only if the candidates have a superior knowledge of the two official languages. Their duties will entail directing employees of both language groups and communicating with other federal employees across the country. Senior managers are role models for employees in other categories.⁸²

⁷⁹ OCOL *Walking the Talk* 2004, 13.

⁸⁰ The Association of Professional Executives of the Public Service (APEX) is a not-for-profit organization for public service executives that seeks to act as a "credible voice" for executive interests in the public service. Established in 1984, APEX describes itself as an organization that "fosters excellence in leadership and is a strong advocate on behalf of executive interests." Any member of the executive can pay a \$95 membership fee to be part of the association. APEX is not a union. (Association of Professional Executives of the Public Service, "About APEX," 2009, <http://www.apex.gc.ca/en/about> (accessed December 15, 2013)).

⁸¹ Report of the Standing Committee on Official Languages 2005, 14.

⁸² *Ibid*, 14-15.

The Committee was clear that those in managerial or executive roles in the public service not only had significant impact on language use in their units but had a broader responsibility for upholding official languages use as a value of the institution.⁸³ What is further important about the Committee's perspective is its unequivocal stance that official languages should be a career goal of those aspiring to top level positions in the public service. In order for Part V (the right to choice in language of work) to have any meaning for public servants, it has to be taken up by public servants, namely those in leadership positions. Directives state this explicitly but they did not seem to adequately impact the behaviour of managers.

As recently as 2011, the OCOL released a study entitled *Beyond Bilingual Meetings: Leadership Behaviours for Managers*. The study maintained that "to achieve full respect for language rights in the workplace, public service leaders must present linguistic duality as a fundamental value and conduct themselves in a way that promotes respect for it."⁸⁴ The results of the study suggest that managers have a direct and daily impact on the use of both official languages within their departments. To work in your official language of choice, you have to know that the manager or executive to whom you report can both understand and evaluate what you are doing. If not, you might resort to the other official language to protect career interests.

The emphasis on leadership is reflective of how the implementation of the official languages program has changed. What was once an administratively centralized program in the 1970s has become decentralized and personnel oriented. It might seem natural that once the program structure was in place its administration would be devolved, however, choice in language of work, an important portion of the program still lags. How can we explain the improvements in language of service but the limited success of choice in language of work? The culture of the public service is often cited as a source of the limited advances in language of work. For instance, the OCOL has cited culture as an important component of fostering language of work practices. In *Beyond Bilingual Meetings*, it is reported that

⁸³ See also Boisvert and LeBlanc's report that emphasizes the importance of leadership in official languages use.

⁸⁴ OCOL *Beyond Bilingual Meetings* 2011, 1.

A change in corporate culture is necessary so that linguistic duality can be seen as a value and so that the language rights of all Canadian citizens, including those who work in the public service, are respected.

Making this type of change is a major challenge that requires action at all levels of the federal government, starting at the most senior levels.⁸⁵

To encourage awareness of senior officials of official languages and to encourage a change in culture, the TBS *requested* that institutions name an official languages champion in 1998.⁸⁶ As of November 2012, based on the TBS's *Policy on Official Languages*, every federal institution is *required* to appoint a champion.⁸⁷ The champions are appointed by the deputy head of their federal institution and are meant to support their institution on official languages matters. This includes promoting the use and development of official languages in their institution and ensuring that senior management take official languages into consideration in their decision making (champions do not receive extra salary or benefits for their role). Although champions are not accountable to any particular authority, they are present to lead by example and to keep their institution updated on official languages developments and best practices. Since champions tend to be members of the executive cadres, they can influence the development and implementation of official languages action plans, provide support to senior officials on Parts IV, V, VI and VII of the OLA and also represent their institution as required on official languages files (for instance, during meetings of the Committee of Assistant Deputy Ministers on Official Languages).⁸⁸ In essence, the champions bring consciousness of official languages to the public service and help to engrain it among colleagues.⁸⁹

Across the public service, there are 227 champions (182 champions and 45 co-champions). Together, these champions form the Network of Official Languages

⁸⁵ OCOL *Beyond Bilingual Meetings* 2011, 6.

⁸⁶ Marie-Ève Hudon, *The Official Languages Act: Understanding Its Principles and Implementation* (Ottawa: Library of Parliament, 2011 (revised 2013), 10-11.

⁸⁷ Treasury Board of Canada Secretariat, "Federal Official Languages Policy," 2012, <http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=26160§ion=text> (accessed December 15, 2013).

⁸⁸ Osez-Dare! "Roles and Responsibilities of the Official Languages Champion," <http://osez-dare.ainc-inac.gc.ca/rr/rrc-eng.asp> (accessed December 15, 2013).

⁸⁹ Hilaire Lemoine, interview by author, March 23, 2012.

Champions. In August 2003, the Network established the Council of the Network of Official Languages Champions.⁹⁰ The Council advises the Committee of Assistant Deputy Ministers on Official Languages, promotes official languages issues at all levels of the public service, promotes communication between champions and the exchange of best practices and supports champions as well as national and regional official languages directors.⁹¹ Recognizing the important role champions play for official languages in their respective institutions, the TBS (through the Centre of Excellence of Official Languages) attends network meetings and consults with the Council. The Council offers a united front through which to encourage action on the official languages file throughout the public service.

According to the Osez-Dare! website (the main portal for the Champions), the Council:

plays a unique role as a leader and innovator. Its objective is to support and mobilize the community of official languages champions with a view to promoting official languages and helping their deputy heads create a unified vision for official languages and consider official languages in their decision making.⁹²

Although the exchange of best practices and ideas among champions is useful, it is difficult to measure the impact of the champions on the overall health of official languages within the public service. In a hierarchy-based institution like the public service, results are better ensured through the commitment and action of high-level public servants at the helm of departments.⁹³ The role of the Champion is largely one of cheerleader and gatekeeper—they have no ‘real’ authority. For instance, administrative responsibilities related to the official languages policy, such as the designation of bilingual positions are left to the official languages director of each federal institution to manage.⁹⁴

⁹⁰ The Council is composed of 23 members (including 14 official languages champions, three regional representatives and four representatives of departments and agencies directly involved in official languages (i.e. TBS, PCO, PCH, DoJ) as well as the Executive Director of the National Managers’ Community and the Chair of the Federal Youth Network.

⁹¹ Osez-Dare! “Vision 2017—Official Languages Strategic Plan.” 2013. <http://osez-dare.aadnc-aandc.gc.ca/2017/index-eng.asp> (accessed November 1, 2013).

⁹² *Ibid.*

⁹³ André Juneau, interview by author, October 22, 2012; Dyane Adam, interview by author, May 23, 2012; Maxwell Yalden, *Transforming Rights* (Toronto: University of Toronto Press, 2009), 60.

⁹⁴ Gérard Finn, interview by author, November 1, 2012.

Official languages directors are also present in every federal institution. The director is responsible for ensuring that Parts IV, V and VI of the OLA (service to the public, language of work and equitable representation of language groups) are implemented and adhered to in their department. These directors are named by their institution and are responsible for all institutional matters related to the OLA and thus are advised by the TBS. Two committees exist to support the directors' efforts: the Departmental Advisory Committee on Official Languages (which includes all federal institutions for which the Treasury Board is employer, e.g. ministries) and the Crown Corporation Advisory Committee on Official Languages (which includes all federal institutions for which the Treasury Board is not employer, e.g. Crown corporation, federal agencies, Air Canada, Nav Canada, etc.).⁹⁵

Along with the official languages directors, there are section 41 coordinators. In 1994, the Chrétien Cabinet decided to declare specific departments responsible for accounting for sections 41 and 42 of Part VII⁹⁶ in their policy planning and development. Roughly 30 federal institutions determined to impact OLMCs were identified, were required to name a section 41 coordinator and would have to consult with OLMCs in their policy planning and development. The key departments focused on economic, human resources

⁹⁵ Official Languages Centre of Excellence, Q&A with author, November 12, 2013.

⁹⁶ Sections 41 and 42 of Part VII of the OLA 1988 read as follows:

- 41.** (1) The Government of Canada is committed to
- (a) enhancing the vitality of the English and French linguistic minority communities in Canada and supporting and assisting their development; and
 - (b) fostering the full recognition and use of both English and French in Canadian society.

(2) Every federal institution has the duty to ensure that positive measures are taken for the implementation of the commitments under subsection (1). For greater certainty, this implementation shall be carried out while respecting the jurisdiction and powers of the provinces.

(3) The Governor in Council may make regulations in respect of federal institutions, other than the Senate, House of Commons, Library of Parliament, office of the Senate Ethics Officer or office of the Conflict of Interest and Ethics Commissioner, prescribing the manner in which any duties of those institutions under this Part are to be carried out.

42. The Minister of Canadian Heritage, in consultation with other ministers of the Crown, shall encourage and promote a coordinated approach to the implementation by federal institutions of the commitments set out in section 41.

and cultural development.⁹⁷ Since the judicialization of Part VII of the OLA in 2005 (meaning the government can be taken to court over its Part VII obligations), all departments are responsible for fulfilling section 41 obligations and each one has a section 41 coordinator. These coordinators are supported by Canadian Heritage as they work in their respective institutions.

To summarize, today each federal ministry has three positions that contribute to official languages efforts. First, there is an official languages director responsible for the institutional components of the program for Parts IV-VI. Second, there is a section 41 coordinator which ensures the department is keeping the interests of and consulting with OLMCs on policies and programs. Finally, there are the official languages champions which seek to encourage and promote official languages in their departments. Each of these positions is staffed by an employee of the department, typically from the executive cadre. Although the positions may receive support and guidance from coordinating agencies such as the TBS or PCH, they are not accountable to anyone other than the hierarchy of their own ministry.

Since it is the deputy head of federal institutions that is ultimately responsible for leading official languages efforts and transmitting their importance to their senior leadership team with the help of the directors, it is curious that deputy ministers do not have any language requirements. According to former Commissioner of Official Languages Maxwell Yalden (who was himself a public servant before assuming the post), deputy ministers “run the show”. If they want a department that works in both languages and rigorously serves the public in both languages, they will do it and these departments were the better performers on language matters. When a deputy minister is committed to language, their subordinates put in the necessary machinery to fulfil their commitment. Since the public service is very hierarchical, Maxwell Yalden explained, when your deputy ministers sets a particular example such as speaking French regularly, that puts an entirely different construction on a department. But when conversations inevitably switch to English, it is noticeable.⁹⁸ There

⁹⁷ Canadian Heritage, “Implementation of Sections 41 and 42 of the Official Languages Act,” 2013, <http://www.pch.gc.ca/eng/1357325332723/1357325469108> (accessed October 31, 2013).

⁹⁸ Maxwell Yalden, interview by author, May 3, 2012; Victor C. Goldbloom (interview by author, May 31, 2012) also affirmed that support from the senior team including the minister and DM was required for official languages efforts to thrive in a department.

are pockets in different departments where French has more of a place as a language of work and creating more of these pockets could have a greater impact on language of work, said Mark Goldenberg, a former public servant.⁹⁹ According to Commissioner Fraser, various deputies have helped their departments succeed on the official languages front. He names for instance, the Deputy Minister of Heritage Canada, Daniel Jean, the Assistant Deputy Minister of Service Canada, Charles Nixon, the Deputy Minister of Public Works, Francois Guillmont and that of the Canadian Border Services Agency, Luc Portenance, as examples of deputies successful in making official languages a regular part of departmental operation.¹⁰⁰

A similar top-down influence exists from the political sphere as well. When a prime minister prioritizes a file like official languages, it is transmitted down to deputy ministers and their departments.¹⁰¹ Granted it is perhaps not possible to sustain the level of commitment that the Trudeau and Mulroney governments demonstrated toward official languages, but political leadership can have an important influence on official languages practices in departments.¹⁰² When ministers themselves request documents in French, that changes the way the department works. For instance, when Lucien Bouchard was the Secretary of State, he worked in French and that impacted the language of production in his department.¹⁰³

One way senior leadership could encourage official languages' awareness and use is to send their employees on language training. Language training can be an important means to equip public servants with language skills and sensitize them to language matters. When the OLA was first introduced in 1969, language training was offered by the state at public expense for public servants. However, due to mounting costs and an inefficient system, the language training program was privatized.¹⁰⁴ The privatization in 2011 is indicative of the

⁹⁹ Mark Goldenberg, interview by author, October 17, 2012.

¹⁰⁰ Graham Fraser, interview by author, March 12, 2012. (NB: positions current at the time of the interview).

¹⁰¹ Robert Giroux, interview by author, May 28, 2012.

¹⁰² Hilaire Lemoine, interview by author, March 23, 2012.

¹⁰³ Mark Goldenberg, interview by author, October 17, 2012.

¹⁰⁴ Marie-Ève Hudon, *Official Languages in the Public Service From 1973 to the Present* (Ottawa: Library of Parliament, 2009), 11.

shift to treating official languages and especially language of work as an organizational value.

The privatized model encourages employees and departments to take on responsibility for language training. The original model, developed in the 1970s was a catch-up model and was unsustainable due to its costs.¹⁰⁵ Sending high salaried employees on language training was already expensive and further costs were incurred to pay for their replacement. What sometimes made matters worse was sending an employee to training at an age and stage when language learning is more difficult which can frustrate the learner's efforts.¹⁰⁶ According to Commissioner Fraser, with departments responsible for the costs of language training, there is an incentive for the unit to build language training into their planning.¹⁰⁷ This means departments would actively consider the language competencies of their employees in their long term plans and seek to regularly maintain an appropriate level of linguistic skill within their team.

Beyond language training, another major area through which Part V would be given meaning is through the objective (emphasis in original document) linguistic designation of positions based on the functions to be fulfilled.¹⁰⁸ The linguistic designation of positions has been in operation since the late 1960s. A position's language profile affects language of work practices because they do not always accurately reflect the tasks that must be undertaken in the incumbent's second official language.¹⁰⁹ Interactions with colleagues and the broader service are not always properly accounted for either in designating the positions. The inaccurate designation has led to implementation that has "almost been artificial or superficial."¹¹⁰ You can designate a position as bilingual, you can hire or train a person to

¹⁰⁵ Graham Fraser, interview by author, March 12, 2012.

¹⁰⁶ *Ibid.*

¹⁰⁷ *Ibid.*

¹⁰⁸ LAC, R776, ACC A-2009-05-H, Box #23372, Fol 15, File OLLO 2000-001. "Human Resources Management of the Future: An Official Languages Perspective," February 1989.

¹⁰⁹ Boisvert and LeBlanc 2003, 7.

¹¹⁰ Mark Goldenberg, interview by author, October 17, 2012.

meet the requirements, but the numbers of people that actually use, have to use or are able to use the other official language is limited compared to the size of the public service.

The implementation of Part V through individual effort at the level of organizational culture and environment is limited and its limitations are no better demonstrated than through the persistence of the bilingualism bonus. An \$800 bonus has been paid annually to every public servant in a bilingual position that meets the language requirements of their position since 1977. The fact that the bonus is still paid out indicates that official languages is an artificial organizational value. If something is a true value, it is not explicitly remunerated, e.g. sound financial management. It is paradoxical that the bonus exists but that we claim that official languages are a value and depend on individuals (and their values) to implement Part V in particular. Expecting change from an organizational culture that has changed but that has not produced real results for language of work is a mirage. In 2005, the bonus was again a source of discussion and debate in the House of Commons' Standing Committee on Official Languages report.

The House Committee re-opened the debate on the bilingualism bonus during its hearings in preparation for the report. APEX wanted to get rid of the bilingualism bonus (noting that the money could be better spent on language training). In 2003-2004 the bonus cost \$63.6 million dollars with an accumulation of continuous increases since 1998-1999. All Commissioners of Official Language since the 1980s have called for the abolition of the bonus. In her 2002-2003 annual report on official languages, then President of the Treasury Board Lucienne Robillard said that it was necessary to rethink the relevance of the bonus.¹¹¹ The House Standing Committee reiterated the perspective that the bonus was unnecessary but instead of eliminating it, suggested replacing it. The Committee recommended in 2005 that the bonus be replaced by a salary top-up (essentially an increase in pay) to recognize the employee's language skills. Language competencies would be confirmed throughout the employee's career by a statement from their immediate supervisor or through a language test.¹¹²

¹¹¹ Report of the Standing Committee on Official Languages 2005, 16 (citing Treasury Board Secretariat, *2002-2003 Annual Report on Official Languages*, 44).

¹¹² Report of the Standing Committee on Official Languages 2005, 16.

Despite the calls and proposals for change, the point was moot. The bilingualism bonus in existence since 1977 would continue to be paid to employees. The PSAC and the PIPS were vehemently opposed to altering in any way the \$800 per year bonus paid to public servants in bilingual positions that met the language criteria of their posts (members of the executive (EX) group are excluded from the bonus).¹¹³ From the unions' perspectives, the bonus was a form of salary that encouraged public servants to learn French. There was no way the unions would be willing to give up such a bonus paid to their employees. For those in favour of abolishing the bonus, paying for something that is considered an organizational value on paper should not be paid a premium. It is not that the unions did not endorse official languages, but that they were reticent to give up any derivable benefit for their members and believed the bonus was a matter of compensation. This was not the first time a government attempted to eliminate the bilingualism bonus. In 1983, the government attempted to eliminate the bonus but was unable to make the change because of major discontent among public servants and their unions.

The bonus however, does not necessarily encourage the use of both official languages as regular languages of work. Just because an increased number of employees are designated bilingual or are in bilingual positions does not mean they will regularly use both languages in their work. Today, Francophones are overrepresented in the public service based on their demographic weight, but English continues to persist as the dominant language of work. Increasing the number of people that can speak French is not a guarantee that the language will be regularly used as a language of work. The original intention of the bonus was to make the official languages program operable. It was assumed that official languages would become part of the public service's regular operation and that the bonus and other means for implementation such as language training would be required much less, if at all.

The continued existence of the bonus is indicative of the limits of managing the official languages program as an organizational value. If employees and supervisors do not view official languages as values that should be regularly sought after without supplementary compensation, then it is questionable whether or not an individual-rooted approach to implementation that depends principally on managers is useful.

¹¹³ TBS, Office of the Chief Human Resources Officer, "Bilingualism Bonus," 2012, <http://www.tbs-sct.gc.ca/faq/bil-eng.asp> (accessed December 15, 2013).

Conclusion

What is unique about language of work is that no matter how hard the state has tried to engrain the use of official languages, the tendency to work in English persists. Even after years of implementation initiatives, as an assistant deputy minister at Heritage Canada said, “we still have to work pretty hard at it.”¹¹⁴

This chapter demonstrated that the language rights in a human rights framework and the right to choice in language of work did not substantially advance the use of French as a regular language of work in the federal public service. On paper, the OLA 1988 was a major moment for language in Canada and for language of work rights through Part V. The expansive rights however, did not translate to major advancements in practice. A variety of factors rooted in departmental operations and practices continue to foster a less than hospitable environment for the use of French as a language of work such as managerial practices that do not engrain the regular use of both official languages in departmental activities, the production of documents principally in English etc.

The regulations governing the implementation of the legislation depended principally on managers giving meaning to employees’ choice in language of work by fostering an environment conducive to the use of both official languages. Depending on the behaviour of individuals to improve language of work practices was limiting. If managers are not regularly assessed on their capacity to foster an environment conducive to the use of both official languages, why would they be compelled to act, especially when they have other responsibilities preoccupying them? The emphasis on managers as the primary vehicles for language of work is continuous with the contents of the 1973, 1977 and 1981 reforms. It should be no surprise then that since the reforms did not offer much improvement on language of work practices when they were introduced, that their codification in legislation would not make much of a difference. If the manager-focused system for language of work was not successful after the three layered reforms, why would making it a right change anything?

The potential of complaint to the OCOL or a federal court case do not appear to threaten managers into action either. As the 2012-2013 OCOL Annual Report explained, employees may not be interested in challenging their supervisors or the administration

¹¹⁴ Hubert Lussier, interview by author, April 23, 2012.

publicly for fear of negative ramifications on their careers. Further demonstrating the limitations of implementing Part V through a culture or individual-action oriented approach is the persistence of the bilingualism bonus. How can an implementation procedure that depends on the assumption that both official languages are upheld as an organizational value be successful when a bonus recognizing employees that work (or are meant to work in both official languages) still exists? Choice in official language of work is a right on paper, not one transmitted in the operation of institutions throughout the public service. In order for Part V to have meaning for individual public servants, its implementation has to depend on more than solely the actions of individuals.

What is important to extract from this discussion is the power of path dependency. The OLA 1988 altered the foundations of the country's language regime basing it on individual rights, rather than political compromise. The legislation in practice however, despite its reach on paper, did not succeed in implementing the change required to alter language of work practices. Foundations established in the 1970s and early 1980s that targeted managers persisted with the enactment of the new legislation and continued to have limited effect.

Chapter 7: Conclusion

Introduction

This project set out to explain the persistence of English as the dominant language of work in the federal public service. The primary research question that guided the inquiry was: why, despite the promise of the Official Languages Act (OLA) 1969 for choice in language of work and the OLA 1988 that made the choice a claimable right, is there inequitable access to French as a language of work in the federal public service? In order to answer the question, this project undertook a historic analysis of the implementation of the official languages program in the Canadian federal public service.

Dividing the project into four periods characterized by key decisions and major change allowed us to isolate the factors influencing the implementation process and ultimately the failure of language of work. Framed with a historical institutionalist approach, each of the periods analyzed presents a link in the process traced to explain the resistance of the public service to using French as a regular language of work. Historical institutionalism helped to focus attention on the state and its institutions as the centre of analysis over time (mainly, 1967-2013).

This conclusion proceeds by analyzing the ideas that underpinned language policy, and the roles of institutions and actors in the implementation process that were identified and discussed throughout the chapters. Each of the three elements is discussed in turn. Through the process tracing, we confirm the power of institutional path dependency in the public service as well as the limited influence of layering because the implementation of the official languages program did not change the dominance of English as the primary language of work. Once the content of the project is reviewed, this conclusion proposes solutions and future areas for research.

Areas of Analysis

Ideas

There have been two principle ideas underpinning the management of language politics in Canada: language rights as a tool for political compromise up until the OLA 1988 and language rights within a human rights framework after 1988. When language rights

were a tool for political compromise, their management was subject to the will of Parliament. The principle of compromise has been useful in certain situations to advance language rights. For instance, it was through the principle of compromise that section 133 was included in the Constitution Act 1867. Further, Ontario's language regime which guarantees service provision in both official languages in certain parts of the province (where numbers warrant), is also based on compromise. Even language rights in the OLA 1969 were used as a tool for political compromise in an effort to quell Quebec nationalism. Just because the legislation was framed as a tool it still significantly impacted the composition and operation of the public service. The OLA 1969 can be credited with unleashing a revolution in the representation of both official languages groups and language of service to the public within the federal public service. Compromise in the Canadian case, has been useful at times in propelling language rights.

In the specific case of language of work however, the principle of compromise has not been as useful. Provisions for language of work rights have tended to develop in a reactionary fashion. The 1973 Resolution was introduced because existing legislation was failing and Part V was included in the OLA 1988 because of the Charter and previous court cases pointing to the lack of clarity on the issue. In the OLA 1988, Part V clearly defined the right of public servants to work in their official language of choice (in specific regions). This right on paper may have appeared expansive, but did little in practice to improve the ability of public servants to work in their official language of choice, especially in French. The fact that language of work rights were now framed in a human rights framework in the OLA 1988 made little difference for public servants.

In the case of language rights in society and for OLMCs in particular, the human rights frame provided exceptional opportunities for advancement through the courts. After the Charter, there was an explosion of language rights cases before the courts, namely in the area of rights to education in the official language of the minority (e.g. *Mahé v. Alberta* [1990], *Arsenault-Cameron v. P.E.I* [2000]). After the OLA 1988, OLMCs would expand the scope of their action to include matters of service through Part IV (e.g. *Desrochers v. Canada (Industry)* [2009]) and after 2005, could take the government to court for not encouraging their development and vitality through Part VII (although this section has yet to be tested in court). The change in idea underpinning Canada's language regime from

compromise to right has typically served to bolster OLMCs. For public servants, even though their Part V rights could be claimed in court, the change had little influence.

We can conclude from our analysis that the idea underlying language policy in Canada is inconsequential for language of work practices. Whether language rights were used as a tool for political compromise as it was in the OLA 1969 or whether they were rights in a human rights framework as in 1988, it had little impact on changing the persistence of English as the dominant language of work. Even though the OLA 1988 unequivocally defined and protected language of work rights, without adequate political and administrative will for implementation, little would change.

Simply put, legislation cannot change the path dependent tendencies of an institution with the stroke of a pen. In 1969, there were significant efforts to implement the legislation due to the Trudeau government's strong political will for change. Nonetheless, the results for language of work were limited due to existing traditions and veto players invoking those traditions and rules. The 1988 legislation was unsuccessful because despite its reach, the implementation of language of work regulations were not only delayed for five years but depended solely on the practices of individuals and treated official languages as part of the regular organizational culture conducive to the use of both official languages—that does not exist. By looking to institutions such as the OLAs and the merit principle, we may better understand what influenced the persistence of English as a language of work.

Institutions

Institutions were defined materially in this project which focused attention on formal state institutions. Formal material institutions are stable over time and enable and constrain the behaviour of actors. There are two lessons we can draw from our analysis about the influence of institutions on language of work practices in the federal public service. First, the persistence of institutions matters. Institutions that existed at time zero (before the OLA 1969) like the merit principle informed the way official languages policies were implemented. Second, the results of layering that targeted language of work had haphazard results. The decentralization and devolution toward managers did not improve language of work practices. Instead, the result of the layering carved a new path for the implementation of language of work policy by inextricably linking it to managers.

Let us first consider the persistence of existing institutions. Existing institutions create the foundation upon which eventual official languages policies would be implemented in the public service. It is crucial to recognize that the public service is not a blank slate. Its foundations matter because they inform the way the public service operates and manages changes. We have to consider the public service as a space for implementation and not a black box that simply responds to government decisions. Its institutions colour the way it grapples with issues.

For instance, the merit principle that existed in the public service prior to the introduction of the OLA 1969 would influence policy implementation in the organization. As Schickler explains: “[...] pre-existing institutions create constituencies for their preservation that typically force reformers with new goals to build upon, rather than dismantle, these structures. The resulting path dependence limits the optimality of reforms.”¹ The appropriation of the merit principle by unions acting as veto players demonstrates the limits of reforms very well. The introduction of the OLA 1969 brought a serious effort to reform the composition of and language use in the public service. When FLUs were introduced to foster the use of French as a regular language of work, the instrument did not survive.

What we demonstrated in chapter 3 was that an existing set of rules (merit) was appropriated by veto players (unions) to limit the implementation of group focused change in the case of the FLU. The FLUs had the capacity to foster the use of French as a regular language of work by creating spaces specifically developed for its use. A counter example that reaffirms the importance of merit as an institution was the continued use of the linguistic designation of positions as an instrument to foster language of work practices. The linguistic designation of positions focused on the individual competencies of public servants and was premised on criteria that could presumably be attained by most public servants (especially through language training at public expense). There was no advancement of group rights and no challenges to the merit principle in this instrument that made it acceptable in the existing institutional structure, unlike the FLUs. The process through which the Trudeau government decided to undertake reform did not adequately account for the existing institutions of the public service and subsequently limited the potential to improve language of work.

¹ Eric Schickler, *Disjointed Pluralism* (Princeton, NJ: Princeton University Press, 2001b), 268.

The second lesson we can draw from the analysis of institutions is the limit of layered reform. In an effort to correct the lag in language of work, the government introduced a series of three layered reforms in 1973, 1977 and 1981. These reforms were to be layered onto the existing OLA 1969 and its implementation process in the public service. Despite the fact that the government attempted to change language of work practices by declaring the right of employees to work in their official language of choice, decentralizing the management of the program to managers and bolstering the language requirements of managers, there was little improvement in the use of French as a language of work. This indicates that the results of layering over time do not necessarily impact significant change. What we learn from the layering in the official languages program is that even though the intention of the layering was to contribute to a particular goal (the improvement of language of work) the result was more “haphazard.” As Schickler explains, “While each individual change is consciously designed to serve specific goals, the layering of successive innovations results in institutions that appear more haphazard than the produce of some overarching master plan.”² What gradual changes did achieve was a focus on managers. The precedent or path set with the layered changes would be taken up in the OLA 1988.

The OLA 1988 is continuous with the previously layered changes as it focuses on the responsibilities of managers and the creation of a work environment conducive to both official languages. When the OLA 1988 was being developed, decisions were informed by previous choices. The OLA 1988 gave public servants the right to choose their language of work which they could claim not only through the OCOL but also in federal court. In essence, the OLA 1988 codified into law the content of the rules and regulations that existed through the layered reforms. There was nothing new about the content of the OLA 1988 except that it declared in law a clear right to work in the official language of choice. What we learn from institutional layering is that although its effects are limited, its content persists. Even though the layered resolution and regulations did little to improve language of work practices, the changes did impact the content of the future OLA.

When we consider both persistent institutions like the merit principle and new institutions like the OLA 1969 and 1988, we recognize their ability to enable and constrain the behaviour of actors and change the operation of the public service. Despite the fact that

² Eric Schickler, *Disjointed Pluralism* (Princeton, NJ: Princeton University Press, 2001b), 15.

both the OLA 1969 and the OLA 1988 were critical junctures, their impacts were limited on language of work. What we learn from the analysis of institutions is that we must consider the environment in which new institutions are implemented which includes existing institutions and the interpretation of actors manipulating or operating within them.

Actors

Individuals and organizations were the actors that influenced the implementation of the official languages legislation in the public service. Whether they developed the institutions or interpreted their rules, actors were instrumental in shaping the implementation process. Three particular categories of actors emerged throughout the process and impacted the content of the policy and/or its implementation. First, there are elite political actors, namely prime ministers that had a direct influence on official languages matters (like they would on any other policy issue). Second, there were the staff unions that acted as veto players by latching on to existing institutions and blocked the implementation of certain instruments. Third, there are the managers. Legislation cites managers as the primary actors responsible for language of work, in reality however, managers continue to be targeted as principle sources of lag in language of work initiatives.

The commitment of Prime Ministers Trudeau and Mulroney on the official languages file is unparalleled. It was through direct orders from their governments that significant change was undertaken on the official languages front. Under Prime Minister Chrétien, there were some efforts on the official languages file but mainly in relation to society and especially, official language minority communities. The prime minister's power to define the course of government policy and capacity to rally the efforts of their strongest ministers and their departments makes them a central source of power for official languages.³ It was the commitment of the prime ministers that propelled the file forward and required the action of various government departments on the issue. When something comes directly from the prime minister, ministers and their departments take heed which is significant in a hierarchy obsessed institution like the federal public service.

Closely connected to the prime minister as central figures on the official languages file, were the President of the Treasury Board acting through the Treasury Board Secretariat.

³ See for instance, Donald J. Savoie, *Power at the Apex: Executive Dominance*, Canadian Politics 4th Edition, eds. James Bickerton and Alain-G. Gagnon, Peterborough, ON: Broadview Press, 2004.

When it came to issuing regulations or evaluating implementation efforts, the TBS was the principle agency responsible for coordinating official languages efforts within the public service (based on Treasury Board decisions). The TBS's action (such as issuing regulations) or inaction (as was the case of the delayed regulations for the implementation of the OLA 1988) can have serious consequences for official languages matters. Just like the prime minister has the ability to compel action, as a central agency, so can the TBS. With regulations or reporting requirements, the TBS has the ability to change departmental priorities and operation. For instance, if managers were more regularly evaluated on fostering a work environment conducive to both official languages as languages of work, then perhaps managers would be more proactive on the matter. The influence of the prime minister and the TBS as the principal actors in the development of rules and regulations governing the official languages legislation and its implementation, make them central to understanding the process and its results for language of work.

Second, there are the staff unions. What is interesting about the role of the unions is their work as veto players to maintain the status quo. Namely the PSAC and the PIPS acted in the 1960s and 1970s to protect the interests of their membership against changes to their work environment and competency profiles through official languages. Their position was enhanced by the residual effects of the merit principle and limited the implementation of FLUs (because they would promote the interests of the minority group). Further, the unions actively fought for exclusions and protections for unilinguals (who tended to be Anglophone employees).

Struggles for power between actors were common, namely between the unions and the TBS as employer. In particular, when the TBS sought to introduce changes, the staff unions challenged their efforts especially when it came to compensation for their membership. The unions emerge against changes that would make or give meaning to language of work such as the FLUs, and most recently, they continued to fight to maintain the bilingualism bonus. The bonus just like language training was meant to be part of a catch-up model that was to be gradually phased out. Although language training at public expense has been eliminated through its privatization, the bonus continues to exist. The bonus is prime evidence that the culture "conducive" to the use of both official languages as languages of work does not exist. The fact that the bonus still has to be paid out contravenes

the idea that both official languages are regular languages of work and not something unique that has to be remunerated.

Finally, there are the managers that have been the primary vehicles for implementation. Managers have been targeted by legislation and in the OCOL's reports as the primary actors for language of work policy. They are not only accountable for its implementation but also responsible in part for the lag. Without their active examples and efforts, Part V has little meaning for employees. It is a cyclical problem and the only way to mediate it is through structural reform in the NCR (e.g. work units (discussed below)). No one wants to force employees to work in a particular official language, but making the choice possible with more than promises dependent on managers' language competencies and personal commitment to official languages is necessary.

Efforts targeting managers were chosen when other means did not appear to be working. What the institutions such as the OLA 1969 and OLA 1988 reveal is that despite them being critical junctures, they were implemented over time as a series of layers onto the public service. The end result was a set of rules and regulations that altered language of work on paper but not in practice. Why? The answer is that the implementation proceeded in the wrong order. What the efforts targeting managers was attempting to retroactively correct was the failure to sufficiently alter the structure of the public service to create work environments suitable for the use of French as a regular language of work. As the 1973 Task Force presciently noted, the lack of structural reforms would have significant consequences for the official languages program in the public service over the long term.⁴ Without a structure in which to operate in French, the individual language capacities of employees would have little meaning.

The way actors interpret and engage institutional rules matters because it affects the way an institution is adopted and implemented. As is the case with managers, their limited engagement with Part V responsibilities continues to promote lags in language of work practices. The commitment of prime ministers to official languages had a significant impact on the program. By looking to actors, we can better understand how institutions are

⁴ Task Force on Bilingualism, *Module 22* 1973, 267.

implemented and interpreted which in turn, elucidates the persistence of English as the dominant language of work.

Key Contributions

This project's key empirical contribution comes from the process tracing undertaken to uncover the implementation of the official languages legislation. The links between each of the analyzed periods help to explain the persistence of English as the dominant language of work. In Chapter 2, we define the largely English-speaking base of the public service and the merit principle that will eventually constrain the implementation of mechanisms meant to foster language of work practices. The importance of accounting for the existing institutional environment when introducing new policy is demonstrated in chapter 3. The focus on individual level instruments at the expense of structural reforms in the public service was informed by the work of veto players who latched onto existing rules. In chapter 4, we see that the layered changes introduced to correct a lack of progress on language of work were largely unsuccessful. What the layered changes did do was establish the precedent of focus on managers to attempt to improve language of work matters. As discussed in chapter 5, when the new OLA was released in 1988, the legislation focused on managers and their responsibilities in the implementation process.

Analysis of these findings indicates at a theoretical level the path dependency of the bureaucracy's tendency to operate predominantly in English and the limits of layering to achieve cohesive major change. Despite the critical junctures of the OLA 1969 and 1988 that altered the public service's integration and management of official languages questions, there was no significant improvement on language of work matters. French-speaking public servants in the NCR are still unable to work in their official language of choice as regularly as their English-speaking counterparts.⁵

The process tracing reveals three lessons to be learned from the implementation of the official languages legislation. First of all, the analysis indicates that structures are required to give meaning to language of work. For instance, a means of establishing structures that foster the use of French as a regular language of work could be achieved

⁵ Office of the Commissioner of Official Languages, *Annual Report 2012-2013* (Ottawa: Minister of Public Works and Government Services Canada, 2013), 42.

through ‘work units,’ which were proposed as early as 1982 but ignored.⁶ Within departments, senior managers would identify units that could operate primarily or entirely in French. Those within the structure would work in French and would interact with each other in French. These work units are different than the originally proposed FLUs. Work units would not be formal structures or rigidly defined through legislation. They would rather be groupings of employees in departments that can exchange and work in French. Fostering these environments within institutions could help sensitize the institution as a whole to the right to work and produce in both official languages in the federal public service.

Introducing work units in an informal way would be a means of achieving the ‘critical mix’ of employees referred to in the 1993 regulations on language of work but never defined.⁷ By providing an informal structure in which employees can exercise their choice, it would give meaning to Part V without requiring major restructuring of the system. In a sense, work units would have a similar structure to the official languages champions. Although the champions have no real authority, their role is to promote awareness of official languages within their departments. In a similar way, the work units would promote awareness of official languages within their departments and would also provide an environment conducive to the use of French as a language of work. Establishing the work units would also be a way to affirm the importance of giving meaning to choosing your official language of work.

The problem of lag in language of work is often attributed to the ‘organizational culture’ of the public service and to the individual practices of managers. This project’s findings demonstrated however, that the lag in language of work is a function of the path dependency of institutional traditions but also the failure to grapple with the issue of language of work from a holistic and sequential perspective. Thus attempting to target ‘organizational culture’ or management practices after the fact is not helpful unless the issues are addressed from a broader perspective. This project indicated based on the implementation process that you cannot change language of work practices without providing both structures and administrative support to give meaning to language of work.

⁶ LAC, RG55, ACC1995-96/064, Box #5, file LEB5097-004, pt. “Discussion paper: “The Current Canadian Context and the Future of the Official Languages Program,”” September, 1982.

⁷ Treasury Board of Canada Secretariat, *Chapter 2-1 - Language of Work in “Bilingual” Regions* (Ottawa, 1993), 5.

In order to make official languages use in the public service more than a value only on paper, it must be treated as one with the structures and administrative practices to support it. This means not only incorporating structural change (like the work units mentioned above) but also making managers regularly accountable for their official languages responsibilities.

Second, the maintenance of the bilingualism bonus contributes to the idea that official languages are superficial or an add-on to the work world. Actualization of official languages rights means more than having equitable numbers of Francophones and Anglophones in the public service, it also means being able to use your official language as a regular language of work. The continued existence of the bonus perpetuates the idea that capacities in both official languages are something to be compensated instead of being the individual goal of a public servant looking to make a career in the public service. Members of the executive (EX) category are excluded from the bonus and that is a start. This leads into the third lesson, the importance of leadership at the managerial and political levels.

From a managerial perspective, especially after 1988 the operation and success of the program was dependent upon the actions of managers. Without making managers accountable and assessing their ability to foster a work environment conducive to the use of both official languages, then the language choice of employees will have little meaning. The examples set by a department' senior leadership in the regular use of both official languages also makes a difference. As the administrative heads of their departments, deputy ministers can play an important role in symbolically and practically reinforcing official languages efforts.

At the symbolic level, official languages competencies should be a requirement for deputy ministers. This would send an important message to employees about the value placed on official languages in the public service and their importance for professional advancement. At a practical level, a deputy minister that is competent in both official languages could transmit bilingual practices to employees. Their example at the highest echelons of the department would trickle down through departmental practices.

Sometimes setting an example requires extra encouragement and political leadership has been instrumental in requiring action on official languages. As was the case with both OLAs, the Prime Minister was the primary spokesperson and advocated on behalf of the legislation. This type of leadership at the centre of power is crucial to advance official

languages efforts. Furthermore, the public service responds to political will and when instructions come directly from the prime minister, the public service takes heed. As history has shown, politicians have not acted on official languages matters without an external force to propel them (e.g. Quebec nationalism, the Charter etc.). With the current economic climate and the general calm in federal-provincial relations (in particular with Quebec), it is difficult to imagine a scenario in the near future that would engender the type of shock required for a government to take action on official languages matters, let alone language of work.

Thus, we can take away three key lessons from the implementation of the official languages program and the continued lag in language of work. First, the public service requires structural accommodations to give meaning to language of work. This means clearly defining work units or spaces in which French will be the primary language of work and communication. Second, the bilingualism bonus should be eliminated. The perpetuation of the bonus gives credence to the idea that official languages are a superficial add-on to the operation of the public service only required at the level of representation. Third, the efforts and actions of managers and politicians have influence. For managers, since they are inextricably linked to language of work matters, they should be regularly evaluated on their capacities to foster a work environment conducive to the use of both official languages as language of work. In the case of political elites, their engagement is crucial to make change happen. Issuing directives from the centre of government can compel action throughout the entire state apparatus, but they have to be willing to act.

Future Research

Future research on language of work in the federal public service should be done at the departmental level. This micro analysis would allow researchers to target best practices among departments successful in making both official languages regular languages of work as well as identifying practices that should be avoided by assessing departments with less desirable records. Precisely what mechanisms or instruments are used to foster an environment conducive to choice in language of work? Does the department have a particular mix of language speakers? How is the department structured? Asking such questions would paint a clearer picture of what works and what does not in fostering choice in language of work.

A clearer regional picture of language of work practices would also be useful. Unilingual French-language offices in Quebec have largely succeeded in working in French. What lessons can be drawn from such offices? Is it a function of numbers of language speakers or territorial language policies? The NCR which was the focus of this project is not only meant to be an example for other offices around the country but also has particular responsibilities toward the country because the majority of head offices are concentrated in the region. Offices in the NCR have to be able to serve the public and other offices in their official language of choice. Its persistent operation primarily in English leaves not only much to be desired symbolically but is a curious puzzle at an institutional level. This project attempted to explain the persistence of English as the dominant language of work and has identified possible avenues to improve the situation. From a macro and historical perspective, the limitations are clear: a lack of structure paired with an environment inhospitable to the regular use of both official languages as languages of work (due in part to the lack of action from managers) is the result of an incoherent policy implementation process and the failure to account for existing institutional traditions when implementing the legislation. The public service is not a blank slate but has its own institutional tendencies. Accounting for them is necessary in order for meaningful change to occur.

Giving meaning to language of work rights matters in Canada. With two major official languages groups, it is necessary for members of both groups to be able to contribute and produce in their official language within state institutions. The official languages program has succeeded in the public service by fostering the more equitable representation of both official languages groups and more actively serving the public in their official language of choice. Such advances will remain superficial however, if language of work practices are not improved. To borrow from the OCOL's 2004 report on language of work, it is time for the federal public service to "walk the talk."

Annexe 1: The Key Players

There was general confusion about administrative powers and boundaries of various departments on the official languages program when it came to the coordinating agencies. Prior to the enactment of the OLA, it was roughly agreed that the Privy Council Office (PCO) and more precisely the Prime Minister's Office (PMO) would establish objectives for official languages for the public service and for other segments of society. A cabinet decision of July 31, 1969 tasked the Secretary of State with assisting the federal administration to implement the OLA.¹ Initially, the DSS was vested with the responsibility of managing both the internal and external components of the official languages program. Eventually, the TBS would take over all internal responsibilities in 1971. The TBS would remain the central player in official languages matters within the public service until Canadian Heritage (formerly the DSS) was tasked with coordinating all of the federal government's official languages efforts in 2006 (with exception to Parts IV, V and VI which remained under the purview of the TBS). Throughout the process, the PSC and the OCOL were present and were actively engaged in the implementation of the policy and the unions acted as veto players by challenging government efforts.

Department of Secretary of State

The Department of the Secretary of State was established at Confederation. It assumed the responsibility for cultural and civic affairs and was the official channel for communication between the British Government and the Dominion of Canada. State and ceremonial occasions were also within its mandate. Throughout the history of the department, it has had various areas of responsibility including, citizenship and naturalization, multiculturalism, education support and of interest to this project, the implementation and coordination of the OLA. The mandate and responsibilities of the DSS were transferred to the Department of Canadian Heritage in 1993.²

¹ LAC, RG55, vol. 1163, dossier/file 4835-8 pt. 1, "Mémoire au Cabinet: Mise en œuvre de la Loi sur les langues officielles," July 7, 1969.

² LAC, "The Canadian State: Secretary of State," 2010, <http://www.collectionscanada.gc.ca/canadian-state/023012-1603-e.html> (accessed December 13, 2013).

After the adoption of the OLA 1969, since all federal departments and organizations were directly or indirectly affected by the Act, it was believed that a single authority was required to apply and interpret the internal and external components of the Act.³ Trudeau confided the implementation of the OLA to his then Secretary of State and friend, Gérard Pelletier. The Department of the Secretary of State was chosen as central command for official languages instead of the TBS because it could extend its mandate to Crown Corporations and other government agencies not under Treasury Board's purview as employer of organizations subject to the Financial Administration Act (FAA). It was also believed that the Department of the Secretary of State was a suitable choice because of its experience dealing with cultural matters. The official languages file would be a natural extension of its existing mandate.⁴

As it undertook its responsibilities, the DSS sought Cabinet's authorization in January 1969 for the creation of an Official Languages Branch within its organization.⁵ The Branch was intended to be central command for government coordination of official languages.⁶ Its responsibilities were broad and included the implementation of the OLA, which entailed establishing bilingual districts, liaising with provinces on official languages and ensuring the adaptation of departments and agencies of government to conform to the requirements of the OLA.⁷

In 1993, the Department of the Secretary of State of Canada was merged with the Department of Communications and the Department of Multiculturalism and Citizenship and was re-named the Department of Canadian Heritage (Canadian Heritage, *New Canadian Perspectives: The Canadian Heritage Approach to Official Languages Support (1970-2003)* (Ottawa: Minister of Public Works and Government Services Canada, 2006), footnote 10, p. 16). The change is described in the *Department of Canadian Heritage Act, 1995*. Responsibilities etc. are described in s. 4(2)(g) related to the advancement of equality of English and French and their development in minority communities.

³ LAC, RG 55, vol. 1163, file 4835-8 pt. 1, "Memorandum to the Cabinet: Official Languages Branch," January 14, 1969.

⁴ LAC, RG 55, vol. 1403, file 4500-2-1, pt. 11, "Government Organizational Structures to Develop and Implement OLs Policies and Programs," April 14, 1977.

⁵ LAC, RG 55, vol. 1163, dossier/file 4835-8 pt. 1, "Memorandum to the Cabinet: Official Languages Branch," January 14, 1969.

⁶ *Ibid.*

⁷ *Ibid.*

In essence, the DSS and its Official Languages Branch were tasked with the roles and responsibilities that the B&B had attributed to its recommended Public Service Language Authority. Instead of creating the authority as the Commission recommended, the government opted to work within the existing bureaucratic structures. As such, the DSS was responsible for planning, coordinating and implementing bilingualism policies within the federal service, while recognizing the roles of the TBS and the PSC on the file.⁸

The Branch would also play an important role in supervising the establishment of the bilingual districts and managing relations with the provinces. There was a noticeable level of concern within the DSS for federal-provincial relations on matters of bilingualism.⁹ A 1969 memorandum to cabinet noted that federal-provincial relations would be and should remain an essential component of the implementation of official languages policy.¹⁰ The attention to federal provincial relations stemmed from concerns that federal funding for official language minorities would be perceived as an encroachment in provincial affairs and also that Quebec would likely be opposed to any federal initiatives in official languages.¹¹

Although it was perceived to be suitable, beyond the broad responsibility for implementation and coordination among government departments and agencies, the Secretary of State's mandate was not well defined. Without authority over departments, the Secretary of State had difficulty with the tasks of implementation and coordination. Everything had to be done through the cooperation of departments and agencies with Cabinet approval because the Secretary of State could not threaten to use corrective or disciplinary measures if departments were not complying with requirements.¹²

⁸ LAC, RG32, vol. 1005, file CHM-125-2-49 (pt.1), "Allocation of the Responsibilities for Bilingualism in the Public Service Among the Public Service Commission, the Treasury Board, the Department of the Secretary of State," November 20, 1970.

⁹ LAC, RG 55, vol. 1163, dossier/file 4835-8 pt. 1, "Memorandum to the Cabinet: Official Languages Branch," January 14, 1969.

¹⁰ LAC, RG2, vol. 6341, Cab Doc 30-69, "Memorandum to Cabinet: "Official Languages Branch," January 14, 1969.

¹¹ LAC, RG2, vol. 6341, Cab Doc 30-69, "Memorandum to Cabinet: "Official Languages Branch," January 14, 1969.

¹² Task Force on Bilingualism, *Module 8: Aperçu du rôle joué par la direction des programmes du bilinguisme au Secrétariat d'État* (Ottawa: Queen's Printer, 1972), 21.

Similar concerns were raised about the influence and mandate of Canadian Heritage (formerly the DSS) in 2006, when the coordination of government efforts on official languages matters was transferred to the department. As of April 2013, the Official Languages Branch (formerly two separate entities: the Official Languages Secretariat and the Official Languages Program Support Branch) within Canadian Heritage manages Part VII responsibilities of the OLA and coordinates federal responses on the official languages file.

Treasury Board Secretariat

The Treasury Board is a Cabinet committee established in 1867, but it is unique in that it has its own administrative branch the Treasury Board of Canada Secretariat (TBS). The TBS is a central agency, meaning that it is at the centre of government decision making and bureaucratic control. Other central agencies include the PCO, the Department of Finance and the PMO (although the PMO is partisan and is not an official bureaucratic organization, it is a politically and administratively influential office). As a department, the TBS is responsible for departmental spending, detailed departmental budgets (it plays a comptroller function in government), labour relations in the public service as well as personnel and human resources matters.

The 1951 Financial Administration Act (FAA) gave the Treasury Board authority to make final decisions on financial and personnel matters as well as the authority to approve contracts. A 1967 amendment to the FAA gave the TBS the responsibility of the public service's personnel management including the determination of terms and conditions of employment.¹³ Prime Minister Stephen Harper added accountability and ethics to the Treasury Board's responsibilities, which already included financial, personnel and administrative management, comptrollership, approving regulations and most Orders-in-Council. In essence, the Treasury Board takes policy and makes it happen by developing regulations for implementation and ensuring the public coffers can pay for it.¹⁴

¹³ TBS, "Milestones to the Millennium," 1997, http://www.tbs-sct.gc.ca/pubs_pol/partners/milemill01-eng.asp#Toc487596284 (accessed December 15, 2013).

¹⁴ See for instance Rand Dyck, *Canadian Politics Critical Approaches 6th Edition* (Toronto: Nelson Education, 2011), 571, 575; see also Treasury Board Secretariat of Canada, "About the Secretariat," 2006, <http://www.tbs-sct.gc.ca/tbs-sct/abu-ans/tbs-sct/abu-ans-eng.asp> (accessed December 15, 2013).

Recalling that it was the DSS that was at the outset principally responsible for the implementation of the OLA 1969, the TBS initially played less of a central role. According to an assessment by B&B, had the Treasury Board wanted a lead role in the implementation of bilingualism and took it seriously, it would have insisted, that as a central agency and with its powers in administration and personnel management, that it should be principally responsible for the implementation of official languages policies and programmes within the public service.¹⁵

Come 1971, the TBS would take on the central coordination and implementation role for all internal official languages matters. Then President of the Treasury Board C.M. Drury tabled a paper entitled “Management Objectives for Bilingualism,” in March 1971. It was no accident according to archival reports that the Treasury Board underscored its position as the central agency responsible for management of the public service. By extension of its management duties, according to Drury’s paper, the TBS should take the lead in managing and coordinating the official languages program throughout the public service.¹⁶ Vesting the TBS with the responsibility of the OLA was a matter of practicality and functionality, for Drury. For instance, Crown Corporations or separate employers report to the Treasury Board on their program forecast or budget submission as is. It would be a natural extension for them to also disclose measures taken to comply with the OLA.¹⁷ Between July and August 1971, an exchange of letters between ministers legitimized the transfer of staff and responsibilities which were to be completed by the year’s end.¹⁸

Then Commissioner of Official languages Keith Spicer supported the transfer of power. Although the dominant Anglophone character of the TBS “may cast some doubt on

¹⁵ Royal Commission on Bilingualism and Biculturalism (B&B), *Book III: The Work World, Volume 3A* (Ottawa: Queen’s Printer, 1969), §427-428.

¹⁶ LAC, RG 55, vol. 1403, file 4500-2-1, pt. 11, “Government Organizational Structures to Develop and Implement OLs Policies and Programs,” April 14, 1977; see also LAC, RG55, vol. 1449, file 48358, pt. 3, “Memorandum to Cabinet: Assignment of Responsibilities for Ensuring the Implementation of the OLA and Other Official Languages Policy and Programs,” May 5, 1974.

¹⁷ LAC, RG55, vol. 1449, file 48358, pt. 3, “Memorandum to Cabinet: Assignment of Responsibilities for Ensuring the Implementation of the OLA and Other Official Languages Policy and Programs,” May 5, 1974.

¹⁸ LAC, RG 55, vol. 1403, file 4500-2-1, pt. 11, “Government Organizational Structures to Develop and Implement OLs Policies and Programs,” April 14, 1977; see also LAC, RG55, vol. 1449, file 48358, pt. 3, “Memorandum to Cabinet: Assignment of Responsibilities for Ensuring the Implementation of the OLA and Other Official Languages Policy and Programs,” May 5, 1974.

the aptness of such a move,” the TBS was expected to take action to redress the imbalances in representation of the linguistic groups within its ranks.¹⁹ Spicer believed that bilingualism had to be given a high status and transferring responsibility to a central agency communicated the importance of the policy within the status-obsessed bureaucracy.

With the transfer, the TBS became responsible for language matters within government (i.e. implementation and coordination of policies and programs within the public service and other government agencies), while the Secretary of State remained responsible for matters outside of government (i.e. minority official languages communities, cultural exchange programs etc.).²⁰ Essentially, all policies and programs related to the implementation of the OLA within the public service were formally assigned to the Treasury Board with exception to those allocated to the Secretary of State by virtue of the Translation Bureau Act and the PSC by virtue of the Public Service Employment Act (PSEA). The TBS would also play a key role in analyzing departmental and agency plans on implementation and spending related to official languages.²¹

The Personnel Policy Branch of the TBS in the 1970s was responsible for developing policies for the public service in the areas of training, manpower utilization, pay and allowances, classification, staff relations and others matters of personnel management. Thus, when it came to the official languages programme in the public service, the Branch assumed responsibilities similar to those it carried out for other Government programs. The Branch would “therefore be involved, together with the Department of the Secretary of State and the Public Service Commission, in policy determination and implementation in the field of bilingualism and each agency should consult as required with the other two.”²² The Branch’s responsibilities included: assessing new policy and policy changes related to

¹⁹ Office of the Commissioner of Official Languages, *Annual Report 1970-71* (Ottawa: Information Canada, 1971), 87.

²⁰ Canadian Heritage, *New Canadian Perspectives: The Canadian Heritage Approach to Official Languages Support (1970-2003)* (Ottawa: Minister of Public Works and Government Services Canada, 2006), 16.

²¹ LAC, RG 55, vol. 1387, file 4560-13, pt. 1, “Responsibilities for Bilingualism in the Public Service,” July 13, 1970.

²² LAC, RG32, vol. 1005, file CHM-125-2-49 (pt.1), “Allocation of the Responsibilities for Bilingualism in the Public Service Among the Public Service Commission, the Treasury Board, the Department of the Secretary of State,” November 20, 1970.

manpower utilization, training and development, pay and allowances, classification, staff relations and other areas of personnel management except for selection. New policies and policy changes to the PSC or the DSS as appropriate, reviews and assessments to implementation schedules and procedural guidelines for public service training and development were also under the purview of the Branch.²³ In brief, the Treasury Board through the Branch “ensures that departments and agencies take into account in their planning and operations the relevant management objectives in the field of development of bilingualism and that they make effective use of the resources available for these purposes.”²⁴

There was tension between the TBS and PSC during the 1970s. The PSC sought decentralization of the management of official languages while the TBS felt it better to apply uniform standards, keeping management centralized. For instance, for the linguistic designation of positions, PSC wanted to leave the task to managers. The TBS by contrast wanted the managers to assign, based on predetermined benchmarks, the positions’ linguistic requirements. The PSC wanted to leave managers ample discretion in managing their positions and staff. Since for instance, a change in linguistic requirements of a position may send valuable staff on language training and that may not be in the immediate best interest of the department from a managerial perspective. Despite their differences, the two organizations would continue to work together and present a united front, namely before the staff unions.²⁵

From the 1970s to the early 2000s, it was a special branch of the TBS (the Official Languages Branch) that managed the coordination and implementation of internal components of the OLA for the public service. The Official Languages Branch was renamed the Official Languages Centre of Excellence in 2008 and continues to coordinate the TBS’s official languages responsibilities. This body coordinates the official languages programs

²³ LAC, RG32, vol. 1005, file CHM-125-2-49 (pt.1), “Allocation of the Responsibilities for Bilingualism in the Public Service Among the Public Service Commission, the Treasury Board, the Department of the Secretary of State,” November 20, 1970.

²⁴ LAC, RG32, vol. 1005, file CHM-125-2-49 (pt.1), “Allocation of the Responsibilities for Bilingualism in the Public Service Among the Public Service Commission, the Treasury Board, the Department of the Secretary of State,” November 20, 1970.

²⁵ LAC, RG55, file 4560-141, pt. 2, vol. 1408, “Confidential letter from William McWhinney to Dr. M. Leclair,” May 30, 1977.

related to Parts IV, V, and VI of the OLA (which relate to communications with and services to the public, language of work and the participation of English- and French-speaking Canadians, respectively) for all federal institutions subject to those parts of the Act.²⁶ As of 2009, the Official Languages Centre of Excellence resides in the Office of the Chief Human Resources Officer (OCHRO) (housed within the TBS). The OCHRO “supports public servants in achieving a high-quality workforce and workplace” through official languages, diversity and employment equity, awards, recognition and special events, public service renewal etc.²⁷

The TBS (namely through the Official Languages Centre of Excellence) continues to be an important player in the implementation and coordination of Parts IV, V and VI of the OLA. The President of the Treasury Board has released annual reports since the enactment of the OLA 1988 on the state of official languages in the public service and continues to do so.²⁸ With its broad mandate that covers personnel, departmental spending and internal regulations, the TBS is a strong central agency. Through its coercive power as a central agency, it is able to ensure compliance on official languages matters. The Treasury Board’s ability to withhold funding, impose sanctions or block other ministerial proposals at the Cabinet table by refusing to approve funding, made its Secretariat and its minister influential figures within the public service.

Vesting the Treasury Board and the TBS the responsibility of managing internal components of the official languages program would have sent a clear directive to line departments about the importance of the file and the necessity for compliance. Compared to the DSS, the TBS has more authority and the ability to demand action. In a status-conscious organization like the public service, when a directive comes from a central agency, deputy ministers in line departments take notice.

²⁶ Marie-Ève Hudon, *The Official Languages Act: Understanding Its Principles and Implementation* (Ottawa: Library of Parliament, 2011 (revised 2013), 4.

²⁷ Treasury Board of Canada Secretariat, “The Office of the Chief Human Resources Officer,” 2013, <http://www.tbs-sct.gc.ca/chro-dprh/index-eng.asp> (accessed December 15, 2013).

²⁸ LAC, RG55, vol. 22341, file OCO8072-T0784-005, pt. PA-1, “Official Languages in Federal Institutions: Annual Report, 1989-1990,” December, 1990.

Public Service Commission

The PSC is an independent agency that reports directly to Parliament. It was established in 1908 through the Civil Service Act and is “mandated through the Public Service Employment Act [PSEA] to safeguard the integrity of the public service staffing system and the political neutrality of the public service.”²⁹ The agency’s structure and formation are allotted for in section 4 of the PSEA. It is the PSC’s exclusive authority to make appointments within the public service and to oversee the sections of the PSEA related to the political activity of public servants.³⁰ In fulfilling its staffing duties, the PSC upholds the merit principle and ensures integrity in the staffing of the public service.³¹ Meeting the official language proficiency required for a position is included in section 30 of the PSEA as a criterion of merit. Employees can file complaints with the PSC for internal appointment processes if they were not assessed in their official language of choice.³²

The PSC played a central role in the official languages file in the early 1960s as official languages efforts were being rolled out on an ad-hoc basis. At that time, the PSC was vested with the responsibility of managing the language training system (a responsibility it assumed at the request of the TBS in 1964), the bicultural exchange program for senior public servants, as well as the linguistic designation of positions (1965).³³ In the early years of official bilingualism, the PSC was the primary actor in implementing government objectives in the public service. Theoretically limited by the PSEA to defining selection standards, the PSC’s involvement in official languages matters went much further in practice.³⁴

²⁹ Public Service Commission, *Emerging Trends Affecting the Public Service Commission and the Public Service Employment Act* (Ottawa: Public Policy Forum, 2009), see “Foreword” (by the PSC).

³⁰ Canada, *Public Service Employment Act 2003* (PSEA), section 11; PSC, *Emerging Trends* 2009, 11.

³¹ PSEA section 30; *Emerging Trends* 2009, see “Foreword” (by the PSC).

³² PSEA section 77(2c).

³³ LAC, RG32, vol. 1005, file CHM-125-2-49 (pt.1), “Allocation of the Responsibilities for Bilingualism in the Public Service Among the Public Service Commission, the Treasury Board, the Department of the Secretary of State,” November 20, 1970.

³⁴ LAC, RG2, vol. 6372, Cab Doc #654-3-52 (file 1388-70), “Bilingualizing the Public Service,” December 7, 1970.

Although the enactment of the OLA did not change the PSC's legislatively defined responsibilities or roles, it would clash with the TBS over jurisdictional boundaries and authority on the official languages file.³⁵ For instance, as the issue of representation of Francophones (as well as women and Aboriginals) "moved up the agenda," the TBS came to challenge the PSC's leadership in the area by taking on issues such as representation.³⁶ Despite occasional differences, the PSC and the TBS were required to work closely together especially on the staffing front.

The PSC was the authority on selection and appointment and this was included in the OLA. Section 40(4) of the OLA recognized the PSC's responsibility in appointments and advancement of personnel for the provision of services to the public. Merit was reaffirmed in section 40(4b) of the Act as the principle of selection criteria as required by the PSEA. It also states that official languages requirements should not detract from this principle.

The PSC's responsibilities related to official languages program implementation included various staff-centric issues. For instance, the PSC developed policy to permit the conditional appointment of unilinguals to bilingual positions. Efforts to increase the recruitment of Francophones were ongoing within the agency as was its responsibility for directing and administering language training courses.³⁷ After close consultation with the Treasury Board as employer and with the Staff Associations, the PSC revised its procedures for identifying and applying language requirements to positions.³⁸ It was up to the PSC to ensure that the qualifications for each position identified language requirements and that each bilingual position identified by departments was approved by the agency.³⁹

³⁵ LAC, RG 55, vol. 1403, file 4500-2-1, pt. 11, "Government Organizational Structures to Develop and Implement OLs Policies and Programs," April 14, 1977.

³⁶ Luc Juillet and Ken Rasmussen, *Defending a Contested Ideal: Merit and the PSC of Canada 1908-2008* (Ottawa: University of Ottawa Press, 2008), 102; see also LAC, RG 55, vol. 1403, file 4500-2-1, pt. 11, "Government Organizational Structures to Develop and Implement OLs Policies and Programs," April 14, 1977.

³⁷ LAC, RG55, vol. 1149, file 4500-2, pt. 1, "Administration of Official Languages Programs," No author or date.

³⁸ LAC, RG2, vol. 6372, Cab Doc #654-3-52 (file 1388-70), "Bilingualizing the Public Service," December 7, 1970.

³⁹ LAC, RG55, vol. 1149, file 4500-2, pt. 1, "Administration of Official Languages Programs," No author or date.

According to the Task Force on Bilingualism, the PSC's method of implementing bilingualism in the public service "involves[d] the quantification of demand for bilingual services, the quantification of the supply of bilingual employees and the possibility of marrying the two by regular staffing procedures".⁴⁰ A language identification program was started in March 1970 to work on language requirements in the staffing procedure. The program determined the proficiency levels required for positions where the knowledge of both official languages was needed. Then, through testing, the language capabilities of employees claiming knowledge of both languages would be tested. According to a cabinet document from the PSC, this helped departments with their bilingual capacity and identifying the need to take immediate steps to establish or expand its capability.⁴¹

With the proclamation of the OLA, the PSC's revised language requirements policy and the Government's decision to establish French language units created "an environment in which bilingualism is [was] the subject of considerable public discussion and in which a sense of urgency prevails[ed] in some departments to expand or develop as quickly as possible an effective bilingual capability throughout all levels of the organization where the need exists."⁴² The government has continuously had to reaffirm its commitment to merit especially with the introduction of bilingualism.⁴³

The PSC remained involved in the official languages file after the enactment of the OLA 1969, but in less of an orchestrating role than it initially played prior to the legislation. Before 1969, the PSC managed crucial components of the government's approach to official languages through the language training school and the linguistic designation of positions. As the public service's role and responsibilities changed due to the OLA, so did the PSC's involvement. With the overall implementation and monitoring of the legislation a primary preoccupation of government, departments headed by ministers with seats at the cabinet table were crucial. The president of the Treasury Board and the Secretary of State were key

⁴⁰ Task Force on Bilingualism, *Module 15/18: Identification and Evaluation of Bilingual Positions and Employees* (Ottawa: Queen's Printer, 1972), 3.

⁴¹ LAC, RG2, vol. 6372, Cab Doc #654-3-52 (file 1388-70), "Bilingualizing the Public Service," December 7, 1970.

⁴² *Ibid.*

⁴³ Task Force on Bilingualism, *Module 2/10: A Review of the General Framework of Laws and Regulations Pertaining to Bilingualism in the Public Service* (Ottawa: Queen's Printer, 1972), 60.

reporting agents to the government. Not only did they keep their cabinet colleagues abreast of developments, they were instrumental (along with key public servants) in guiding the implementation of the program. As such, the PSC's role shifted from one of a more primary orchestrator to a consultative body. This is not to imply that the PSC was suddenly unimportant when it came to official languages. The intention is to demonstrate that the Agency's role changed and that it took up the role of advisor on official languages and at times check/challenger to the government's position. Although it was no longer actively coordinating the approach to official languages, the PSC remained responsible for upholding the crucial staffing component of the linguistic designation of positions.

Office of the Commissioner of Official languages

Part IX of the OLA 1969 declares that a Commissioner of Official languages (COL) will be appointed and describes their duties, mandate, etc. The Commissioner of Official Languages is appointed by commission under the Great Seal, after approval of a resolution passed in both the House of Commons and the Senate. They are appointed for a seven year term, but as is the case with the current Commissioner of Official Languages Graham Fraser who is starting his second term, appointments can be renewed.⁴⁴ It was not until the new OLA 1988 that the role of the Office of the Commissioner of Official Languages (OCOL) was extensively defined in legislation. In the OLA 1988, section 56 describes the role and responsibility of the Commissioner. It states that:

It is the duty of the Commissioner to take all actions and measures within the authority of the Commissioner with a view to ensuring recognition of the status of each of the official languages and compliance with the spirit and intent of this Act in the administration of the affairs of federal institutions, including any of their activities relating to the advancement of English and French in Canadian society.⁴⁵

In essence, the OCOL is a linguistic ombudsman for Canadians. If ever they perceive that their language rights have been violated by a federal institution, agency, they have the right to take the complaint to the Office. The OCOL can also intervene when it deems necessary, on behalf of citizens in court cases. For instance, the OCOL was a co-appellant in

⁴⁴ Office of the Commissioner of Official Languages, "About Us." http://www.ocol-clo.gc.ca/html/mandate_mandat_e.php, 2012, (accessed September 13, 2013).

⁴⁵ Canada, *Official Languages Act, 1988*.

CALDECH [Desrochers v. Canada (Industry)] in 2009 and an intervener in the FCFA's efforts to challenge the elimination of the Court Challenges Program in 2007.⁴⁶

The Commissioner has the power to investigate on their initiative or in pursuit of a complaint to the Office, and to report on their findings and make recommendations as required (Justice, 2012). When complaints are filed against institutions, the COL is required to first notify the department head if they intend to investigate. The institution must be aware that any explanations they provide for their behaviour or improvements to it may be sent to Parliament through the COL's annual reports.

The COL's annual reports are submitted to Parliament and name and shame and sometimes praise the actions of the federal government, federal institutions or agencies on the official languages front. Through their reports, Commissioners can comment on or raise awareness of official languages issues. Often, the reports provide summaries of the year's progresses, short fallings, and suggest areas for improvement for official languages. Individual departments are also assessed in the reports and often given a grade for their efforts of the year. If a department performed particularly well or received an above-average number of complaints, the COL typically does not hesitate to raise awareness in their reports.

The OCOL's role within the public service consists of monitoring and investigating (as required) the adherence of government departments and agencies to the OLA when their (in)actions affect service provision to the public. Public servants can also file complaints with the OCOL if they believe their Part V rights (language of work) had been violated. Interest and discussion surrounding issues of identity and language tend to peak in Canada when threats to national unity are imminent. When the OCOL was first established and the implementation of the OLA 1969 was still being worked out, the COL could demand high levels of political and media attention. After all, official languages were a top priority of the government and often discussed by Canadians since national unity was being tested. Today however, without the looming threat of secession or crisis of national unity, it is unclear if the Commissioner's annual reports, studies and pronouncements carry as much weight as they did in the past.

⁴⁶ See for instance Office of the Commissioner of Official Languages, "The Commissioner of Official Languages," 2011, http://www.ocol-clo.gc.ca/html/commissioner_commissaire_e.php (accessed December 15, 2013).

The OCOL's influence in the service to the public related operations of the federal public service remains untested. There are no coercive measures the OCOL can employ other than the unlikely and extreme threat of a court challenge. More often than not, the COL resorts to quiet diplomacy with departments or government in order to encourage positive change on the official languages front. Exactly how much influence the Office can exert in order to foster behaviour that adheres to the service requirements of the OLA is undetermined.

Staff Unions

There were three staff unions that acted as veto players throughout the implementation of the official languages program. First, there was the Public Service Alliance of Canada (PSAC). Founded in 1966, PSAC is one of Canada's largest unions, representing more than 180,000 people across the country.⁴⁷ The majority of its membership is made up federal employees (including those that work abroad in embassies and consulates). According to its website,

The PSAC strives to enhance its members' quality of life and has been at the front of a variety of significant and successful campaigns for workplace and human rights, including the struggle for equal pay, enhanced workplace health and safety and the rights of same sex spouses.⁴⁸

Particularly active in the 1970s, the PSAC worked to limit the implementation of the official languages program in an effort to benefit its membership. In the 2000s, the union was vocal on official languages issues when it actively decried the intended elimination of the bilingualism bonus and the privatization of language training services for public servants.

The second union is the Professional Institute of the Public Service of Canada (PIPS). Originally founded in 1920 to represent professionals and scientists that were employees of the federal government, the PIPS became a bargaining agent in 1967.⁴⁹ Today it represents 60,000 members across the country that are mainly federal employees but also include

⁴⁷ Public Service Alliance of Canada, "About PSAC," 2013, <http://psacunion.ca/about-psac-0> (accessed December 16, 2013).

⁴⁸ *Ibid.*

⁴⁹ Professional Institute of the Public Service of Canada, "Who We Are," no date, <http://www.pipsc.ca/portal/page/portal/website/aboutinstitute> (accessed December 16, 2013).

provincial and territorial ones.⁵⁰ Similarly to the PSAC, the PIPS was also vocal on official languages issues in the 1970s as well as on the bilingualism bonus and language training.

Third, there was the union for air traffic controllers, the Canadian Air Traffic Controllers Association (CATCA) first organized into a union in 1959 and was official incorporated as a not-for-profit in 1962.⁵¹ CATCA represents nearly 2,000 air traffic controllers across the country and is today part of the Canadian Automotive Workers (CAW) (now Unifor) union.⁵²

Similarly to the staff unions of the federal public service, CATCA acted as a veto player when bilingualization measures were being introduced in air traffic control. In the midst of the *Gens de l'air* crisis in 1973, CATCA elected a new president, Jim Livingston. With the use of French in air traffic control in Quebec and potentially elsewhere in Canada, the new president acted to challenge bilingualism. The president was opposed to any perceived threats to the jobs of his predominantly Anglophone membership, especially when it came to language. For instance, he asked for the names and license numbers of members or pilots whose English was considered inadequate and persistently decried the dangers of bilingual air traffic control.⁵³ In an attempt to maintain the unilingual English status quo for the majority of its unilingual Anglophone membership, CATCA acted similarly to the PSAC and the PIPS in working to protect the majority of its membership – regardless of questions of representation, equity or justice for the dominant language group in the province of Quebec.

These unions meet with the employer (represented through Treasury Board agents) in the National Joint Council (NJC). The NJC was created in 1944 through an order-in-council. Composed of staff associations and members of government agencies, the joint forum

⁵⁰ Professional Institute of the Public Service of Canada, “Who We Are,” no date, <http://www.pipsc.ca/portal/page/portal/website/aboutinstitute> (accessed December 16, 2013).

⁵¹ Canadian Air Traffic Controllers Association, “Our History: CATCA’s History,” 2011, http://www.catca.ca/public/catca_history.cfm (accessed December 16, 2013).

⁵² Canadian Air Traffic Controllers Association, “Who we are: Who is CATCA?,” 2011, http://www.catca.ca/public/who_we_are.cfm (accessed December 16, 2013).

⁵³ Borins, Sanford F. 1983. *The Language of the Skies*. The Institute of Public Administration of Canada and McGill-Queen’s University Press: Montreal & Kingston, p. 28; see also Interim Report of Inquiry into Air Traffic Control, p. 30.

offered a more equitable space in which the parties could discuss and negotiate staffing matters. In 1973, following the Parliamentary Resolution, a separate committee was established within the NJC for matters related to bilingualism.⁵⁴

The unions' actions as veto players had important repercussions for the implementation of the official languages program. Their visibility and large memberships made them vocal actors that were often looked to for information and support, not only from its members but at times, from the public at large. These actors influenced the official languages legislation by seeking to maintain the status quo in benefit of their membership.

The staff unions, the OCOL, the PSC, the TBS and the DSS are key actors present throughout this project's period of analysis from the 1960s-2013. Their roles and responsibilities change throughout the period and alter their involvement and influence in the implementation of the official languages file. Each actor brings a particular perspective and areas of concern based on their mandate, institutional interests and constraints. By accounting for their actions and decisions throughout the implementation process, we gain a clearer understanding of the processes that led to the continued dominance of English as a language of work.

⁵⁴ See RG32, ACC# 1999-01252-6, Box 6, file 0903-3 (1), "A Note on the National Joint Council of the Public Service of Canada," May 17, 1977.

Annexe 2: Sample Interview Questions

When did you start working in the civil service? What department(s) did you work in? What position(s) did you hold?

From your perspective, what were the mechanisms behind the implementation of bilingualism in the bureaucracy? Who was principally responsible? Who supported the mechanisms? Where did resistance to the mechanisms come from?

Were the mechanisms for implementation influenced by factors outside of the institutional sphere of the bureaucracy?

How were the adopted mechanisms to implement the OLA received in your department? Were you or your close colleagues affected by the new policy?

How was the OLA implemented in your department? What were some reactions to the new policy?

Was the bureaucracy a different institution when you left than the one you arrived to? How so?

Is there anything you would like to add? Is there anything you feel should be covered/expanded further?

Might you suggest other potential interview candidates familiar with the subject?

Échantillon de questions d'entretien

Quand avez-vous commencé à travailler comme fonctionnaire dans la fonction publique fédérale? Dans quel(s) département(s) avez-vous travaillé? Quelles positions avez-vous tenues?

Selon vous, quels mécanismes sont responsables pour l'implémentation du bilinguisme dans la bureaucratie? Qui était principalement responsable pour l'effort? Qui a supporté ces mécanismes? Quels étaient les sources de résistance?

Est-ce que les mécanismes d'implémentation ont été influencés par des facteurs extérieurs, alors en dehors de la sphère institutionnelle de la bureaucratie?

Comment est-ce que les mécanismes pour implémenter le bilinguisme ont été reçus dans votre département? Avez-vous ou vos collègues principales été affectés par la nouvelle politique?

Comment est-ce que la LLO a été implémenté dans votre département? Quelles étaient les réactions à la nouvelle politique?

Est-ce que la bureaucratie fédérale était une institution différente quand vous êtes partis en comparaison avec celle à laquelle vous avez entré?

Aimeriez-vous élaborer ou ajouter autres commentaires à la discussion? Est-ce qu'il y a un sujet sur lequel vous aimeriez élaborer ou discuter d'avantage?

Avez-vous des suggestions d'autres candidats potentiels pour d'entretiens sur ce sujet?

Annexe 3: Ethics Approval

File Number: 10-11-01

Date (mm/dd/yyyy): 12/02/2011



Université d'Ottawa **University of Ottawa**
Bureau d'éthique et d'intégrité de la recherche Office of Research Ethics and Integrity

Ethics Approval Notice Social Science and Humanities REB

Principal Investigator / Supervisor / Co-investigator(s) / Student(s)

<u>First Name</u>	<u>Last Name</u>	<u>Affiliation</u>	<u>Role</u>
Linda	Cardinal	Social Sciences / Political Science	Supervisor
Helaina	Gaspard	Social Sciences / Political Science	Student Researcher

File Number: 10-11-01

Type of Project: PhD Thesis

Title: Retracing our Steps: How Bilingualism was Institutionalized in the Canadian Federal Bureaucracy

Approval Date (mm/dd/yyyy)	Expiry Date (mm/dd/yyyy)	Approval Type
12/02/2011	12/01/2012	Ia

(Ia: Approval, Ib: Approval for initial stage only)

Special Conditions / Comments:
N/A



Université d'Ottawa **University of Ottawa**
Bureau d'éthique et d'intégrité de la recherche Office of Research Ethics and Integrity

This is to confirm that the University of Ottawa Research Ethics Board identified above, which operates in accordance with the Tri-Council Policy Statement and other applicable laws and regulations in Ontario, has examined and approved the application for ethical approval for the above named research project as of the Ethics Approval Date indicated for the period above and subject to the conditions listed the section above entitled "Special Conditions / Comments".

During the course of the study the protocol may not be modified without prior written approval from the REB except when necessary to remove subjects from immediate endangerment or when the modification(s) pertain to only administrative or logistical components of the study (e.g. change of telephone number). Investigators must also promptly alert the REB of any changes which increase the risk to participant(s), any changes which considerably affect the conduct of the project, all unanticipated and harmful events that occur, and new information that may negatively affect the conduct of the project and safety of the participant(s). Modifications to the project, information/consent documentation, and/or recruitment documentation, should be submitted to this office for approval using the "Modification to research project" form available at:
http://www.rges.uottawa.ca/ethics/application_dwn.asp

Please submit an annual status report to the Protocol Officer 4 weeks before the above-referenced expiry date to either close the file or request a renewal of ethics approval. This document can be found at:
http://www.rges.uottawa.ca/ethics/application_dwn.asp

If you have any questions, please do not hesitate to contact the Ethics Office at extension 5841 or by e-mail at: ethics@uOttawa.ca.

Signature:

Leslie-Anne Barber
Protocol Officer for Ethics in Research
For Barbara Graves, Chair of the Social Sciences and Humanities REB

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