Constitutional Obligation of Alberta to Publish Laws in French: R v Caron and Boutet

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This paper outlines the decisions of the Courts in the cases of *Gilles Caron* and *Pierre Boutet* [*Caron*][1] as well as the basic arguments advanced by the parties at the Supreme Court of Canada. The central issue in the case is whether there is a constitutional obligation on the Province of Alberta to publish its laws in French.

This is not intended to be an exhaustive analysis of the myriad of issues that were argued by Mr. Caron and Mr. Boutet in defence of their traffic tickets. Rather, the objective is to give an overview of the essentials of each of the decisions and the basic arguments advanced. This paper will also not address the matter of funding at trial, an issue in this case which also went to the Supreme Court of Canada.[2]

Background

On the 4th of December 2003, Mr. Caron received a ticket under the *Traffic Safety Act* for making an unsafe left turn in contravention of the *Use of Highways and Rules of the Road Regulations*. At trial he pled not guilty and an agreed statement of facts was entered with the Court in which Mr. Caron conceded the facts of the offence. He argued that his charge should be dismissed however because of his constitutional challenge, in which he sought:[3]

1. A declaration pursuant to section 52 if the *Constitution Act, 1982* (schedule B of the *Canada Act 1982* (UK), 1982, c 11), that the said *Languages Act* of Alberta, to the extent that it abolishes or reduces the linguistic rights that were in force in Alberta before its adoption, pursuant to section 110 of the *North-West Territories Act, 1875*, as amended, is incompatible with the Constitution of Canada and is inoperative.

2. An order pursuant to subsection 24(1) of the *Charter* that the charge against the accused, Gilles Caron, be struck out.

3. A declaration pursuant to section 52 that the Legislature of the Province of Alberta must adopt in French and have all Acts and Regulations of the Province of Alberta assented to beginning with those required by Gilles Caron for this trial: *Traffic Safety Act; Use of Highways and Rules of the Road Regulations; Provincial Court Act; Constitutional Notice Regulation A.R. 102/99.*

4. A declaration pursuant to section 52 that everyone has a guaranteed constitutional right to proceedings in French or English in both criminal and civil matters before all courts of the Province of Alberta, including the right to file all documents and forms in French and to be heard and understood by the courts without interpreters.

As the trial commenced, Mr. Boutet, who also received a ticket under the *Traffic Safety Act* for breach of the *Use of Highways and Rules of the Road Regulations*, raised the same constitutional challenge and the trial judge agreed to hear them together.

Following some preliminary appearances, the trial commenced on March 1, 2006 and took 89 days spread over several time periods, concluding with final argument in in June 2008. Mr. Caron testified as did three other individual citizens on his behalf,[4] each giving evidence about their experienced difficulties living in French in Alberta. Two defence experts were called and gave evidence on socio-linguistic issues of French in Alberta.[5] In addition, three further defence experts were called to give evidence of the history of the French in Western Canada.[6]

Alberta called three experts in response — two who were responsive to the sociolinguistic evidence,[7] and one historian.[8]

The trial was conducted entirely in French with the use of simultaneous translation when unilingual English witnesses testified. The trial transcript exceeded 9000 pages and 93 exhibits were filed. The decision of the Provincial Court Judge was delivered in French,[9] while subsequent court decisions of the Court of Queen's Bench and the Court of Appeal were released in both French and English.

Historical Evidence

In May 1670, King Charles II granted a charter to the Governor and Company of Adventurers of England trading into Hudson's Bay (the Hudson's Bay Company). The Hudson's Bay Company was granted the sole trade and commerce of all those territories watered by rivers flowing into Hudson's Bay in Canada. As a practice, French was often used by the Company and starting in about 1845, the Legislative Ordinances of the Council of Assiniboia were published in French and English.[10]

In anticipation of the transfer of lands from the Hudson's Bay Company to Canada, section 146 of the *Constitution Act, 1867* provided that Her Majesty the Queen was authorized to admit Rupert's Land and the North-western Territory, or either of them, into Confederation "on Address from the Houses of the Parliament of Canada" and according to the "Terms and Conditions in each Case as are in the Addresses expressed and as the Queen thinks fit to approve." There were two addresses relevant to section 146.

The *first address* was presented in December 1867 by the Parliament of Canada to Her Majesty the Queen, asking her to "unite Rupert's Land and the North Western Territory with this Dominion" and communicated Canada's undertaking (English version) "to provide that the legal rights (*droits acquis* in the French version) of any Corporation, Company, or individual within the same shall be respected, and placed under the protection of Courts of competent jurisdiction."[11]

On July 31, 1868, the British Parliament passed the *Rupert's Land Act, 1868*, which authorized the HBC to surrender, and Her Majesty to accept surrender of the HBC over Rupert's Land in accordance with the s. 146 annexation process.

The *second address*, in May 1869, presented the terms of negotiations in 1868-1869 between the HBC, Canada and the Imperial Cabinet and had the express purpose of providing for the commercial terms of the surrender of Rupert's Land. The second address states that "we [the Senate and Commons of the Dominion of Canada in Parliament] authorize and empower the Governor in Council to arrange any details that may be necessary to carry out the terms and conditions of the above agreement."[12]

In June 1869, anticipating the transfer of Rupert's Land and the North-West, the Parliament of Canada passed an *Act for the Temporary Government of Rupert's Land and the North-Western Territory when United with Canada, 1869*.[13]

Over the next year, meetings were held by the inhabitants of the Red River Colony to discuss their common interests within Canada and subsequently chosen delegates met with delegates from Canada and Britain. The Anglophone and Francophone Red River delegates brought for-

ward Lists of Rights, each of which claimed legislative and judicial bilingualism.[14] On December 6, 1869, a Royal Proclamation was issued referring to the North-Western Territories. The fifth paragraph of the Proclamation, which reads:

> By Her Majesty's authority I do therefore assure you, that on the Union with Canada all your civil and religious rights and privileges will be respected, your property secured to you and that your Country will be governed, as in the past, under British laws and in the spirit of British justice. …[15]

On July 15, 1870, a June 23, 1870 Order of Her Majesty in Council admitting Rupert's Land and the North-Western Territory into the Union (the *1870 Order*)[16] came into force ordering that Rupert's Land and the North-West Territory be admitted into the Dominion of Canada, upon the terms and conditions set out in the first and second Addresses of the Canadian Houses of Parliament. "This Order stipulated, amongst other things, that the annexation would take place in accordance with the conditions set out in the Addresses, and that once the annexation came into effect, Parliament would have the authority to legislate for the future welfare and good government of the annexed territories. This authority was reaffirmed in the *Constitution Act, 1871*."[17]

The same day, on July 15, 1870, federal statute *Manitoba Act, 1870* came into force establishing the constitution for the new province of Manitoba. Amongst many things, the *Manitoba Act*, *1870* recognized, in section 23, that either English or French might be used by any person in debates in the Provincial Legislature, as well as in the courts, and that all acts of the Legislature were to be published in both languages.

In 1875, the Parliament of Canada passed the *1875 NWT Act*,[18] creating the Legislative Assembly of the NWT. In 1905, the provinces of Alberta and Saskatchewan were created out of the NWT.[19]

The *Mercure* decision of the Supreme Court of Canada in 1988[20] determined that when Saskatchewan (and Alberta) were formed, pre-existing laws continued unless inconsistent with the *Saskatchewan Act*. One of those laws was section 110 of *The North-West Territories Act*[21] which provided, in part, that "Either the English or the French language may be used by any person . … in the proceedings before the courts; …. and all ordinances made under this Act shall be printed in both those languages." As there had been no repeal of this statutory guarantee, section 110 continued in effect. Following *Mercure*, and in accord with the ruling of the Court, both Alberta and Saskatchewan passed legislation to repeal this statutory obligation to publish laws in French.[22]

Trial Decision (July 2, 2008)

His Honour Provincial Court Judge L. Wenden concluded that the Proclamation of 1869, which referred to the North-West Territory, applied throughout both Rupert's Land and the North-Western Territory, and that it provided a promise that civil rights of the inhabitants of annexed territories would be respected. He further concluded that the Proclamation's assurance that rights would be respected was a guarantee,[23] and that the reference to respecting rights and privileges included respect for the existing language rights.[24]

Judge Wenden noted that the second address of the houses of Canada's Parliament, which formed part of the *1870 Order*, empowered the Governor General to take whatever steps were necessary to ensure that the transfer of the territories was successful.[25] Troubles in the Red River could become an obstacle preventing the transfer of land and the 1869 Proclamation (authorized by condition 15 of the second address) was necessary to overcome the obstacle of Métis resistance.[26] It was necessary that the 1869 Proclamation be constitutional to appease the Métis.

In short, Judge Wenden concluded that by virtue of condition 15 of the second address incorporated into the *1870 Order* the Governor General in Council was empowered to take all necessary measures to implement the transfer agreement, and that the promise of respect for the civil rights of the Métis contained in the Proclamation became more than a political

promise; it became a constitutional promise that included the protection of linguistic rights.[27] This constitutional promise thus finds itself as part of Canada's Constitution.

Judge Wenden ruled that Section 3 of the *Languages Act* violated the language rights of both Mr. Caron and Mr. Boutet as both are Francophone and have French as their primary language. He found that the relevant provisions of the *Use of Highways and Rules of the Road Regulations* were inoperative in relation to both and acquitted them of the charges.

Court of Queen's Bench (December 12, 2009)

The Summary Conviction Appeal was heard by Madam Justice K. Eidsvik who first heard, and allowed, intervention by the Association canadienne-française de l'Alberta ("ACFA") and the Assemblée communautaire fransaskoise Inc. ("ACF"). The appeal was heard over 7 days in January 2009. Ultimately, Justice Eidsvik overturned the lower Court decision and determined that Alberta has no constitutional obligation to publish laws in French. Mr. Caron and Mr. Boutet were found guilty and ordered to reappear for sentencing.

Justice Eidsvik found that although there was a statutory right in Rupert's Land and the North-Western Territories to have local ordinances published in English and French, there were no obligations beyond the ordinances.[28] She determined that *Mercure* did not decide the issue before the Court and went on to consider whether the 1869 Proclamation or the *1870 Order* and the annexed addresses entrenched the right to bilingual legislation. She concluded that the 1869 Proclamation did not entrench rights on its own because (1) it was not passed into law by the British Parliament, and (2) it did not reflect an exercise of the Queen's prerogative constituent power.[29] In her view, the Proclamation was simply a political promise with no legal consequences, and she consequently found it unnecessary to interpret the expression "civil and religious rights and privileges."[30] She rejected the trial judge's conclusion that the Proclamation was authorized by clause 15 in the 1870 Order, and concluded that the Proclamation was not incorporated into the 1870 Order.[31]

Justice Eidsvik went on to conclude that the *1870 Order* did not constitutionally entrench a right to local legislation in both French and English. The English versions of the addresses were the ones that acquired force of law as part of the *1870 Order.*[32] The expression "legal rights" in the *1870 Order* did not include language rights, which were always treated separately.[33] Furthermore, the Canadian Parliament had no constitutional obligation when it created Alberta in 1905 to impose a constitutional obligation on Alberta to enact legislation in both English and French.[34]

Court of Appeal (February 21, 2014)

An appeal to the Court of Appeal was heard April 22-23, 2013. The Court unanimously dismissed the appeal but in two distinct sets of reasons.

Madam Justice Rowbotham, with Justice O'Brien concurring, essentially rejected the appellants' arguments that the Proclamation of 1869 issued in Red River by Canada's Governor General, or the Queen's 1870 Order annexing Rupert's Land and the North-Western Territory to Canada entrenched French language rights in Alberta.

The majority of the Court accepted the findings of the lower courts that there was a statutory right to have local ordinances published in both English and French in the District of Assiniboia but not a constitutional right. In agreement with the reasons of the summary conviction appeal Judge and the reasons of Slatter J.A., the notion that the Proclamation of 1869 entrenched French language rights in Alberta was rejected. Justice Rowbotham viewed the Proclamation, as did the summary conviction appeal Judge, as "a political document which served to diffuse the conflict in face of the annexation."[35] In relation to the Queen's *1870 Order* annexing Rupert's Land and the North-Western Territory to Canada, the reference to legal rights or *droits acquis* in the *1870 Order* applied to both Rupert's Land and

the North-Western Territory, but the absence of explicit language in the *1870 Order* entrenching language rights was an insurmountable barrier to their continued existence as a constitutional right.[36]

Rowbotham J.A. disposed of the argument of the ACFA that Alberta is bound by a fiduciary obligation to Alberta's French speaking population by noting that the test applies to private law interests and not rights like language rights. There can be no fiduciary obligation to create a law that gives the particular benefit sought.[37] She declined to decide the issue of the applicability of the *Mercure* decision.[38]

Justice F. Slatter, in separate concurring reasons, concluded that the *Mercure* decision is binding and determinative of the issues.[39] He was of the view that the appellants did not show that there was "a significant change in the evidence" from that considered in *Mercure*,[40] or that the case addressed a new legal issue.[41] Consequently, there is no constitutional requirement in Alberta to enact laws in both English and French, and the *Languages Act* is valid.

Notwithstanding his dismissal of the appeal based on *Mercure*, Justice Slatter determined that the history of the case necessitated discussion of several principles and topics. This discussion is, strictly speaking, *obiter*, but many of his comments were the subject of further appeal to the Supreme Court of Canada. As background to his discussion, he noted:[42]

(1) The concept of Parliamentary supremacy;

(2) The inability of colonial settlers to impose a list of rights on Parliament;

(3) The absence of a constitutional document that expressly entrenches French language rights;

(4) The ineffectiveness of the fiduciary argument to advance the claim to French language rights; and

(5) The fact that Aboriginal rights are transnational while language rights are constitutionally protected only in specific jurisdictions within Canada. The rights at issue in this case were neither Aboriginal nor Métis rights.

Justice Slatter then considered and dismissed various arguments advanced by the appellants:

- Evidence of the use of French in Rupert's Land does not establish that use was mandatory and entrenched;[43]
- The Addresses of 1867 and of 1869 do not entrench French language rights;[44]
- There was no indication that the rights in the list of rights prepared by the inhabitants of the Red River Colony were to be entrenched in the Constitution and made unalterable by the local legislature;[45]
- The Proclamation of 1869 was, in part, a warning without legal effect, and its proclamation marked the beginning of negotiations not the end.[46] Whatever it may have said about language rights could "not prevail in the face of subsequent enactments" of the Parliaments of either the United Kingdom or Canada.[47] He makes the further point that the Proclamation's reference to rights being "respected" could not mean that they could never be changed;[48]
- Even if there was an obligation to enact ordinances in French before annexation, the obligation did not extend beyond the Red River Colony;[49]
- The *1870 Order* did not entrench French language rights,[50] and the common administration of Manitoba and the Northwest Territories following annexation did not result in the entrenchment of French in the Northwest Territories.[51]

Supreme Court of Canada (November 20, 2015)

The appeal to the Supreme Court of Canada was argued on February 13, 2015. In addition to the main parties and the two intervenors in the Courts below (the ACFA and the ACF), the following intervened in the appeal:

- Alberta Catholic School Trustees' Association, Conseil scolaire Centre-Nord No. 2 and Denis Lefebvre
- The Official Languages Commissioner of Canada/ Commissaire aux langues officielles du Canada
- Fédération des associations de juristes d'expression française de common law inc.
- Attorney General of Canada
- Attorney General of Saskatchewan

Most, if not all, of the arguments advanced in the Courts below were made by the Appellants and supporting intervenors at the Supreme Court. At the risk of minimizing the positions taken with the Court by the Appellants, the following basic arguments were presented:[52]

(1) English and French were official languages within the institutions of the Hudson's Bay Company in Rupert's Land and Francophone rights within those institutions extended beyond the District of Assiniboia. These were "*acquired rights*" and therefore *are captured by the first address* (1867). The first address refers to legal rights in the English version but can be interpreted to include language rights as acquired rights, the phrase used in the French version.

(2) The *second address* (1869) provided the Governor in Council with the power to take the necessary steps to implement the annexation of Rupert's Land and this empowered the Governor to take the necessary steps to respond to the Métis claims, including the claim of acquired language rights.

(3) The purpose of the *Proclamation of 1869* was to calm the Métis resistance and guarantee the civil and religious rights claimed by the Métis. The Proclamation was a response to the claims of the Métis expressed in the Provisional government's first list of rights and was issued under the authority of a May 28 resolution, reaffirmed by the second address. It has constitutional status.

(4) The context of negotiations and promises made by representatives of the Crown and the governments helps inform the interpretation of the *1870 Order* and its constitutional protection of legislative bilingualism in the annexed territories.

(5) Métis resistance obliged Canada and the Queen to negotiate the addition of new conditions for annexation required by the Francophone metis majority in the Red River Colony. The Métis provisional government negotiated for the inhabitants of both Rupert's Land and the Northwest Territories (not just the Red River Colony) and constitutional promises were made in relation to all Métis living in the area. Legislative bilingualism was a consistent element in all three List of Rights and this historical compromise was entrenched in the *1870 Order*.

(6) The fact that the Proclamation is not listed in the schedule to the *Constitution Act, 1982,* as part of the Constitution is not an obstacle to its inclusion as a constitutional instrument. A purposive interpretation requires that the Proclamation and the *1870 Order* be interpreted in a generous manner. The Supreme Court has on numerous occasions recognized the existence of constitutional rights in the absence of express constitutional provisions.

(7) The evidence shows that neither the Crown nor the government of Canada was opposed to protecting language rights for all the annexed territory.

Parliamentarians knew that section 133 of the *Constitution Act, 1867*, would apply to all the annexed territory that was not made into a province. Section 23 of the *Manitoba Act* was required to do in Manitoba what section 133 would do for the rest of the annexed territories. It was therefore unnecessary to include an express provision for language rights for the annexed territories, and it is therefore false to say that language rights were not guaranteed for the rest of the annexed territories. It is presumed that the Crown and government of Canada negotiated in good faith and would not break their promises.

(8) Applicable interpretive and unwritten constitutional principles (protection of minorities and the flourishing of language rights) mean that the government of Canada was obliged to respect the historical compromise negotiated. The Court of Appeal erred in looking for an express provision that entrenched language rights in the province.

(9) The *Mercure* case is not binding because no historical expert evidence was presented in that case. Rather, the Court took judicial notice of historical facts based on three superficial historical texts. The *Caron* case provides a complete evidentiary foundation to establish a direct and precise link. In addition, the legal issues raised in this matter are different from those considered in *Mercure*.

On November 20, 2015, the Supreme Court of Canada released its decision in this case. The Court dismissed the appeal and upheld the decision of the Alberta Court of Appeal that there is no constitutional obligation on Alberta to publish laws in French.[53]

The Court was split in its reasons 6:3 with Justices Cromwell and Karakatsanis writing for the majority. The Majority of the Court rejected each of the arguments advanced by the Appellants and accepted, in total, the position advanced by Alberta. The majority decision recognized that although constitutional documents should be interpreted in a large and liberal manner and that language rights must be interpreted purposively and remedially, these principles do *not* undermine the primacy of the written text of the Constitution.[54]

The majority determined that the position of the appellants is "inconsistent with the text, context, and purpose of the documents on which they rely and must be rejected "for the following reasons":[55]

1. Never in Canada's constitutional history have the words "legal rights" been taken to confer linguistic rights;

2. Legislative bilingualism is expressly provided for in the *Manitoba Act, 1870*, but it is not mentioned in either the *1867 Address* or the *1870 Order*. "It is inconceivable that such an important right, if it were granted, would not have been granted in explicit language";

3. Neither Canada nor the representatives of the territories ever considered that the promise to respect "legal rights" in the *1867 Address* referred to linguistic rights; and

4. Federal legislation plus debates on formation of the new North-West Territories in 1875 & 1877 and the formation of Alberta and Saskatchewan in 1905 show that no one involved thought that there had been any guarantee of legislative bilingualism in 1870.

The three dissenting Justices (Abella, Wagner, and Côté, JJ) essentially agreed with the Appellants that an agreement between the Canadian government and the inhabitants of Rupert's Land and the North-Western Territories to protect legislative bilingualism was constitutionally entrenched by virtue of the *1867 Address*.[56]

Conclusion

Contrary to our expectation that the Court might comment on factors broader than the precise issue before them, they did not.

Given the nature and the wide range of legal arguments advanced in this matter and the appellants' insistence on the importance of the historical context for the establishment of the constitutional rights at issue in this case, one might have expected the court to provide additional guidance about relevant interpretive principles and their application to the interpretation of Canada's Constitution. In this regard, the Court might have commented on matters such as Parliamentary supremacy, the proper manner and place for the application of unwritten constitutional principles, and the natural limits of those principles, particularly as informed by evidence of a historical context.

In addition, the assertion that the Proclamation of 1869 provided for a binding constitutional right might have invited the Court to provide some clarification on the comprehensiveness and characteristics of the list of instruments in the schedule of included constitutional instruments under section 52 of the *Constitution Act, 1982*.

Finally, the spectre of *stare decisis* hung over this matter in light of the different sets of reasons provided by Alberta's Court of Appeal regarding the implications of the *Mercure* decision. It was expected that the Court would once again address the nature and scope of *stare decisis* in constitutional matters and provide further guidance to lower Courts to help avoid the expense and potential confusion resulting from unnecessarily re-litigating matters, particularly those matters that have already been resolved by the Supreme Court of Canada.

The Court clearly is reluctant to infer constitutional obligations which are not expressly set out in constitutional documents and historical record. Any significant discussion of other matters such as unwritten principles, the scope of the schedule of included constitutional instruments under section 52 of the *Constitution Act, 1982* and *stare decisis* is noticeably absent.

Endnotes

* Director, Constitutional Law, Minister of Justice and Solicitor General of Alberta. Acknowledgement is gratefully given to Randy Steele (Justice and Solicitor General of Alberta) for his extensive work in preparation of this paper. The opinions expressed in this paper are solely those of the author and, other than the legal positions taken, do not reflect those of the Government of Alberta.

1 All *Caron* references are to the following decisions:

Provincial Court (PC): *R c Caron*, 2008 ABPC 232 [*Caron* PC].

Queen's Bench (QB): *R v Caron*, 2009 ABQB 745 [*Caron* QB].

Court of Appeal (CA): *R v Caron*, 2010 ABCA 343, [*Caron* CA].

2 *R v Caron*, 2011 SCC 5, [2011] 1 SCR 78.

3 Translated by counsel for Alberta. For the original French version, see *Caron* PC, *supra* note 1 at para 4.

4 Mr. Perreaux, Mr. Bergeron and Mr. Piquette.

5 "Professor Denis testified on the social role of the law and legislative and judicial institutions with regards to Francophone minorities in Canada. … Professor Landry testified as an expert in ethnolinguistic vitality and cultural and linguistic socialization." [*Caron* QB, *supra* note 1 at paras 16-17].

6 "Professor Aunger testified on language governance in Canada and western Canada, on language law, and on official languages policy and its impact on the vitality of minorities. He addressed, amongst other things, the issue of language rights in the Northwest and Alberta. He also described the attempts to take away those rights. Professor Aunger also gave rebuttal testimony regarding the events surrounding the Royal Proclamation of 1869 and those leading to the creation of the North-West Territories and the Province of Manitoba. Professor Huel, a historian, testified on the history of western Canada, the history of the Métis, Louis Riel and French-Canadian history. Professor Champagne, also a historian, testified on a number of subjects, including the history of French Canadians in western Canada, the fur trade and the language of work in the Hudson's Bay Company." [*Caron* QB, *supra* note 1 at paras 14-15].

7 Professor Fishman, a sociolinguist and Professor Stebbins, a sociologist.

8 Professor Munro (University of Alberta).

9 There is no official translation of the Provincial Court decision — any errors in translation in preparation of this paper belong solely to the author.
10 *Caron* QB, *supra* note 1 at paras 46-50.
11 Schedule A to the Rupert's Land and North-western Territory Order, Item 3 of Schedule to the *Constitution Act, 1982* (the *1870 Order*), online: <www.justice.gc.ca/eng/rp-pr/csj-sjc/constitution/lawreg-loireg/p1t32.html>.
12 Schedule B to the Rupert's Land and North-western Territory Order, Item 3 of Schedule to the *Constitution Act, 1982* (the *1870 Order*), online: <www.justice.gc.ca/eng/rp-pr/csj-sjc/constitution/lawreg-loireg/p1t33.html>.
13 32 & 33 Vict, c 3, reprinted in RSC 1985, Appendix II, No 7.
14 First list of Rights — December 1, 1869 — sections 10 & 11 [*Caron* PC, *supra* note 1 at paras 176-80, *Caron* QB, *supra* note 1 at para 67]; Second List of Rights — sections 12 & 13 [*Caron* PC, *supra* note 1 at para 183, *Caron* QB, *supra* note 1 at para 75]; Third List of Rights — March 23, 1870 — sections 16-18 [*Caron* PC, *supra* note 1 at paras 211-12, 226, 272, *Caron* QB, *supra* note 1 at paras 81-82].
15 Royal Proclamation 1869, Correspondence and Papers Connected with Recent Occurrences in the North-West Territories, Sessional Papers, vol 5, 3rd Sess, 1st Parl, 1870 (Printed by Order of Parliament).
16 *Rupert's Land and North-Western Territory Order*, Item 3 of Schedule to the *Constitution Act, 1982,* reprinted in RSC 1985, Appendix II, No 9.
17 *Caron* QB, *supra* note 1 at para 196.
18 SC 1875, c 49.
19 *Alberta Act*, SC 1905, c 3; *Saskatchewan Act*, SC 1905, c 42.
20 *R v Mercure*, [1988] 1 SCR 243.
21 RSC 1886, c 50.
22 *Languages Act*, RSA 2000, c L-6, s 7; *The Language Act*, SS 1988-89, c L-6.1, s 13.
23 *Caron* PC, *supra* note 1 at para 445.
24 *Ibid* at para 454.
25 *Ibid* at paras 526, 548, 551.
26 *Ibid* at paras 530, 551, 553.
27 *Ibid* at para 561.
28 *Caron* QB, *supra* note 1 at para 131.
29 *Ibid* at para 167.
30 *Ibid* at para 187.
31 *Ibid* at para 200.
32 *Ibid* at para 222.
33 *Ibid* at para 246.
34 *Ibid* at para 262.
35 *Caron* CA, *supra* note 1 at para 34.
36 *Ibid* at paras 51-52.
37 *Ibid* at paras 54-57.
38 *Ibid* at para 58.
39 *Ibid* at para 92.
40 *Ibid* at para 86.
41 *Ibid* at para 77.
42 *Ibid* at paras 103-07.
43 *Ibid* at paras 108-14.
44 *Ibid* at paras 120-26.
45 *Ibid* at paras 127-38.
46 *Ibid* at para 134.
47 *Ibid* at para 143.
48 *Ibid* at paras 139-45.
49 *Ibid* at paras 146-53.
50 *Ibid* at paras 154-58.
51 *Ibid* at paras 159-61
52 *Caron v Alberta*, 2015 SCC 56 at paras 27-32, [2015] 3 SCR 511.
53 *Ibid* at para 108.
54 *Ibid* at paras 102-03.
55 *Ibid* at para 4 (i)-(vi).
56 *Ibid* at paras 242, 244.