

*M. Yalden*  
CONFIDENTIAL  
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CHARTER OF RIGHTS: LANGUAGE RIGHTS: COMMENTS  
BY MR. MAX YALDEN, COMMISSIONER  
OF OFFICIAL LANGUAGES

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In a meeting with Mr. Roger Tassé on October 9, Mr. Yalden indicated in a general way the position he will likely take on the language rights in the Charter if and when he appears before the Joint Parliamentary Committee on the Proposed Resolution.

Generally his comments will be favourable to the inclusion of language rights in an entrenched Charter as a demonstration of their importance in Canada. However, he will be critical of a number of omissions or limitations on the provisions and of the drafting of at least one provision.

Section 16 - Official Status and Use of English and French

Mr. Yalden is very pleased to see constitutional recognition being given to French and English as official languages and to their equality of use in all federal institutions.

Sections 17-19 & 21 - Institutional Bilingualism (legislatures, Debates and Courts) at Federal Level and in Québec and Manitoba

Mr. Yalden is disappointed that these provisions have not been extended to New Brunswick and Ontario since they have such large minority language populations. He assumes New Brunswick will want to opt in and is critical of Ontario's reluctance to do so.

Section 20 - Language of Services to Public

Mr. Yalden is generally pleased with this provision, although he would like to see more parallelism between it and the provisions of the Official Languages Act. He has two particular concerns about the drafting and intent of the provision. First, he notes that as the latter part of the provision is drafted ("and has the same right with respect to any other office... where that office is located in an area in which it is determined, in such manner as may be prescribed or authorized by Parliament, that a substantial number of persons within the population use that language") it may be difficult to ensure services in both languages to persons living inside a "designated area" where some of the federal offices outside that area provide services to those people. In other words, a regional office in Halifax may serve the entire Maritimes, but if only some area of New Brunswick is made a "designated area", persons living there would not have a right to services in both languages from the Halifax office.

Second, he worries that this same provision gives rise to the concept of "bilingual districts" contained in the Official Languages Act but never implemented. Given the political problems with "bilingual districts" and the government's earlier announced intention not to implement these, he wonders about the wisdom of drafting the provision in this manner. (He will not be raising this latter point before the Committee.)

These are both valid comments and consideration will have to be given to a re-draft of the latter part of section 20, perhaps along the following lines:

"Any member of the public in Canada has the right to communicate with, and to receive available services from, any head or central office of an institution of the Parliament or government of Canada in either official language, and has the same right with respect to any other office of any such institution where it is determined, in such manner as may be prescribed or authorized by Parliament, that there is a significant demand for communications with and services from that office in both official languages."

#### Section 23 - Minority Language Educational Rights

Mr. Yalden continues to be opposed to limiting the right of minority language education to citizens. Ideally, he favours freedom of choice, but accepting the fact that this is to be a minority right, he feels very strongly that no distinction should be drawn between immigrants and citizens. He feels that even if there is a problem today which dictates the exclusion of immigrants, this is a very shortsighted perspective since what is being written into the constitution will become a permanent rule even when it is no longer needed.