

Transcription of Justice Moreau's ruling  
for information purposes only  
26/09/08  
D/Claw

*Fédération Franco-Ténoise vs. Attorney General of Canada* 2005 NWTSC 106

Date: 20050912

File: S-0001-CV- 2001000345

**SUPREME COURT OF THE NORTHWEST TERRITORIES**

Between:

Fédération Franco-Ténoise, Éditions Franco-Ténoises/L'Aiglon, Fernand  
Denault, Suzanne Houde, Nadia Laquerre, Pierre Ranger and Yvon  
Dominic Cousineau

Plaintiffs

- and -

The Attorney General of Canada, the Attorney General of the Northwest  
Territories, the Commissioner of the Northwest Territories, the Speaker of  
the Legislative Assembly of the Northwest Territories and the Languages  
Commissioner of the Northwest Territories,

Defendants

Commissioner of Official Languages for Canada  
and the Association franco-yukonnaise

Interveners

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**TEXT OF THE HONOURABLE  
JUSTICE M.T. MOREAU'S RULING**

**[Objections to questions related to municipalities]**

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[1] During the examination by the Plaintiffs of the first witness, the Territorial Defendants raised an objection regarding questions related to French-language services offered by the city of Yellowknife. They submitted that municipalities are not mentioned in any way in the amended statement and that they are not the equivalent to the "institutions" of the NWT mentioned therein. The Federal Defender pointed out that after discussions between the attorneys took place about a year ago, the Plaintiffs had refused to amend the statement to include an allegation of breaches at the level of the municipalities.

[2] The Plaintiffs responded that the municipalities are before the Court through the Territorial and Federal Defendants. They noted that the definition of Government "institutions" in Section 3 of the *Official Languages Act of Canada*, R.S.C. [1985] c. 31 (4<sup>th</sup> Supp.) effectively excludes the municipalities of the NWT as institutions of the government of the NWT and that the amended statement contains an allegation that the implementation of the NWT's obligations is unfinished. The Plaintiffs argued that it is the duty of the federal government to establish a system of bilingualism parallel to that which exists at the federal level. If the system that has been set up is not identical to that which exists at the federal level, the exclusion of the NWT and its institutions from the definition renders Section 3 unconstitutional.

[3] The Federal Defendant pointed out that there was no notice of an allegation of unconstitutionality of Section 3.

[4] Maître Loretta Bouwmeester, manager of legal services for the City of Yellowknife, requested a hearing to confirm that the City had received no documents regarding this matter. Consequently, the City has not had the opportunity either to consider the allegations or to prepare a response. The City submits that its interests will be prejudiced if it is not in a position to respond to allegations made against it.

[5] It is necessary to consider the submissions in this case in order to determine the soundness of the above arguments.

[6] The Plaintiffs allege in paragraph 16 of their amended statement that the Canadian Government has supported the linguistic rights guaranteed by the *Charter* by means of the *Official Languages Act of Canada* but that Sections 3 and 7 of that Act specifically exclude from its scope the institutions of the Council or the administration of the NWT. The Plaintiffs allege that the Federal Government has taken no steps to ensure that its delegate, the NWT, respect the *Official Languages Act* R.S.N.W.T. 1988, c.O-1 and Sections 16, 18 and 20 of the *Charter*. The Plaintiffs argue in their amended statement that by abdicating its ultimate responsibility for legislating on behalf of the NWT in the area of language rights without ensuring that the language policy implemented by the NWT respects the requirements of Sections 16-20 of the *Charter*, and by expressly excluding the NWT from the scope of the *Official Languages Act of Canada*, Parliament has breached the obligations contained in paragraph 16(3) of the *Charter*.

[7] The amended statement does not expressly raise as an issue the exclusion of the municipalities of the NWT from the definition of Section 3. Moreover, paragraphs 33 and 35 of the amended statement include neither the municipalities nor the entities that are part of the municipal level in the list of councils, commissions and agencies found therein and the Plaintiffs are seeking no reparations from one or more of the municipalities.

[8] The amended statement contains allegations of breaches on the part of several departments, including the Department of Municipal and Community Affairs. However, the allegations deal with the services offered by the Department, the language of

communicating with the public and the publication of documentation in French. Questions regarding services offered by municipalities are neither raised nor are relevant to these allegations.

[9] Moreover, I find no suggestion in the defences presented that the NWT are arguing that they have been fulfilling their linguistic obligations through municipalities.

[10] I conclude that the questions and arguments regarding services offered by the municipalities are not relevant, not having been the subject of specific allegations in the amended statement and I will not allow them.

[11] I reserve the right to the Defendants to raise arguments regarding the allegations appearing in paragraph 16 of the amended statement relating to the Section 3 of the *Official Languages Act of Canada*. At this stage in the proceedings, the nature and the extent of the reparations being sought by the Plaintiffs are not clear. If the Plaintiffs pursue a statement about the unconstitutionality of Section 3, the Federal Defendant shall have the right submit his argument that that he did not receive notice or adequate notice to prepare a defence against this allegation.

*/signed/*  
M.T. Moreau  
J.S.C.

Heard: September 6 & 7, 2005  
Rendered: September 8, 2005

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Commissioner of Official Languages for Canada

Court file # S-0001-CV-2001000345

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SUPREME COURT OF THE NORTHWEST  
TERRITORIES

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BETWEEN:

FÉDÉRATION FRANCO-TÉNOISE, ÉDITIONS  
FRANCO-TÉNOISES/L'AQUILON, FERNAND  
DENAULT, SUZANNE HOUDE, NADIA LAQUERRE,  
PIERRE RANGER AND YVON DOMINIC COUSINEAU

Plaintiffs

- and -

THE ATTORNEY GENERAL OF CANADA, THE  
ATTORNEY GENERAL OF THE NORTHWEST  
TERRITORIES, THE COMMISSIONER OF THE  
NORTHWEST TERRITORIES, THE SPEAKER OF THE  
LEGISLATIVE ASSEMBLY OF THE NORTHWEST  
TERRITORIES and THE LANGUAGES  
COMMISSIONER OF THE NORTHWEST  
TERRITORIES,

Defendants

- and -

THE COMMISSIONER FOR OFFICIAL LANGUAGES  
FOR CANADA AND THE ASSOCIATION FRANCO-  
YUKONNAISE

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TEXT OF THE RULING OF THE HONOURABLE  
JUSTICE M.T. MOREAU

[Objection to questions relating  
Municipalities]

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