



BRIEF

To the House of Commons
Standing Committee on Official Languages

On the Topic of

**Bill C-13, An Act to Amend the
Official Languages Act, to Enact the
Use of French in Federally Regulated
Private Businesses Act and to Make
Related Amendments to Other Acts**

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Introduction

The short title of Bill C-13 is *An Act for the Substantive Equality of Canada's Official Languages*. Its long title indicates its three purposes. The Bill:

- 1 Amends the *Official Languages Act* (OLA);
- 2 Enacts the *Use of French in Federally Regulated Private Businesses Act*; and
- 3 Makes related amendments to other Acts.

The present brief focuses on the first purpose, Bill C-13 amendments to the OLA. This is the topic on which I in my role as research associate at the Quebec English-Speaking Communities Research Network (QUESCREN) have developed the most knowledge.¹

Part 1 of the brief discusses territorialization in the modified OLA and makes two recommendations. They reiterate ones that the Quebec Community Groups Network (QCGN) convincingly put forth in its own Bill C-13 brief, and that QUESCREN's own research leads me to support. I recommend that 1) all references to the *Charter of the French Language* be removed from Bill C-13; and 2) that interpretive language be added to specify that nothing in the revised OLA diminishes the constitutional or statutory rights and entitlements of linguistic minority communities in each province.

Part 2 looks at the key sectors of heritage and research. I recommend that Bill C-13 require the federal government to support the heritage and research sectors in addition to other sectors already listed in the Bill.

1 See the Introduction and articles in Éric Forgues, Patrick Donovan, Érik Labelle Eastaugh and Lorraine O'Donnell, guest eds. "50 ans de mise en oeuvre de la *Loi sur les langues officielles* : bilan et perspectives / 50 Years of Implementing the Official Languages Act: Review and Prospects," *Minorités linguistiques et société/Linguistic Minorities and Society*, no. 17 (2021). <https://www.erudit.org/en/journals/minling/2021-n17-minling06632/>.

About QUESCREN

Housed at Concordia University in Montreal, QUESCREN was launched in 2009. It is a collaborative network of researchers, stakeholders, and educational and other institutions that improves understanding of Quebec's English-speaking communities and promotes their vitality.

Its mission is to provide opportunities to promote the understanding and vitality of Quebec's English-language minority communities through research, knowledge mobilization, training, networking, and outreach.

Two Concordia University faculty members, Drs. Chedly Belkhodja and Brian Lewis, direct QUESCREN. The unit currently has two full-time and four part-time staff members, including three Research Associates (Dr. Lorraine O'Donnell, Dr. Patrick Donovan, and Lina Shoumarova, MA).

QUESCREN's activities include:

- Mobilizing knowledge: events, bibliography, newsletter, event videos, social media;
- Researching and publishing;
- Networking the English-language education sector through our Inter-Level Educational Table;
- Developing and supporting our network of 66 researcher-members from colleges, universities, and other entities in Quebec, Canada, and beyond;
- Managing multi-partner community-based research and development projects; and
- Training students.

Territorialization: Discussion and Recommendations

Bill C-13 singles out for recognition only one provincial statute, Quebec's *Charter of the French Language*.² This occurs right in the Preamble of the proposed modified OLA:

AND WHEREAS the Government of Canada recognizes the diversity of the provincial and territorial language regimes that contribute to the advancement of the equality of status and use of English and French in Canadian society, including that ... Quebec's *Charter of the French language* provides that French is the official language of Quebec.³

As QCGN points out in a brief, Bill C-13 does not specifically refer to other provincial or territorial language laws. In singling out Quebec's language charter, Bill C-13 "seems to confer a federal recognition of the *Charter of the French Language* as being equivalent to ... other constitutionally enshrined language rights, thereby conflating a provincial statute and the Constitution of Canada."⁴

The Charter of the French Language promotes French in Quebec and in important ways limits the use of English. Its goals are not the same as those of the OLA, which promotes the equality of French and English in Canada. As currently constructed, Bill C-13 "creates a regime for language rights in one official language only, and on a territorial basis."⁵

QUESCREN-led research shows that, **while *The Charter of the French Language*, as adopted in 1977, served to bring about social justice to the French-speaking majority of Quebec through increasing opportunities to work and live in French, it also detrimentally affected the English-speaking communities.** For instance, it led to sharply reduced enrolment in English-language schools, leading to weakened institutions and job loss, and it was a contributing factor in the massive outmigration of the province's English speakers in the 1970s and 1980s, with the result that families were scattered, potential natural caregivers moved to other provinces than parents who stayed, and the whole community lost members.⁶

2 Quebec Community Groups Network (QCGN). "Brief to House of Commons Standing Committee on Official Languages: Bill C-13, An Act for the Substantive Equality of Canada's Official Languages," May 2022, p. 25. <https://ckol.quescren.ca/en/lib/WM6JNQJZ>.

3 *Bill C-13, An Act to amend the Official Languages Act, to enact the Use of French in Federally Regulated Private Businesses Act and to make related amendments to other Acts*, 1st Sess, 44th Parl, 2022, s 2(3) (first reading 1 March 2022).

4 QCGN, Brief on Bill C-13, p. 26.

5 QCGN, Brief on Bill C-13, p. 3.

6 See the Introduction and Conclusion in Lorraine O'Donnell, Patrick Donovan, and Brian Lewis, eds., *La Charte : La Loi 101 et Les Québécois d'expression Anglaise / The Charter : Bill 101 and English-Speaking Quebec* (Quebec: Presses de l'Université Laval, 2021).

On the basis of this research, I am concerned about the possible ramifications of singling out Quebec's language charter in Bill C-13. I support and reiterate the following recommendation by QCGN:

RECOMMENDATION 1:

As recommended by the Quebec Community Groups Network in its May 2022 brief on Bill C-13: **Remove the references to the Charter of the French Language in the preamble and in s. 45.1.**⁷

Bill C-13 also sidelines Quebec's English-speaking minority through a disproportionate focus on the respective vitality of languages that minimizes other community vitality issues. For instance, the proposed modified OLA calls to:

advance the equality of status and use of the English and French languages within Canadian society, taking into account that French is in a minority situation in Canada and North America due to the predominant use of English.⁸

QCGN, in its Bill C-13 brief, indicates potential negative consequences for Quebec's OLMC: "It places the two official languages on a different legislative plane. . . . This may have disastrous consequences for Quebec's English-speaking minority: it might lead to a narrower interpretation of our language rights."⁹ This goes against the spirit of Canada's obligation to promote equality of status of the two official language minority communities.¹⁰

My QUESCREN colleagues and I recognize that the English language is strong in Quebec, Canada, and beyond. We note however that the Government of Canada is committed to enhancing the vitality of the English and French linguistic minority communities in Canada and supporting and assisting their development. There are many elements to a vital community. Research and activities undertaken by QUESCREN staff have revealed **many ways that the English-speaking community, as opposed to the English language, is disadvantaged and, in certain areas, fragile.** This includes:

7 QCGN, Brief on Bill C-13, Recommendation 3.

8 Bill C-13 (first reading 1 March 2022) at s 3 (b. 1).

9 QCGN, Brief on Bill C-13, p.21.

10 QCGN, Brief on Bill C-13, p. 11.

- A relatively underdeveloped university research ecosystem;¹¹
- A shortage of resources to support regional tourism development;¹²
- Misrepresentation of English-speaking Quebec in Quebec's national history narrative;¹³
- An outdated label of being the best-treated minority in the world;¹⁴
- Many challenges in the education sector including:¹⁵
 - declining school enrolment;
 - under-representation in Quebec's education ministry and curriculum;
 - challenges with school resources and services, including to special-needs students;
 - poverty and outmigration;
- Underemployment in the Quebec public service;¹⁶ and
- Challenges for workers in the creative economy.¹⁷

In my view, **both English-speaking and French-speaking OLMCs are vulnerable, although in different ways. The vulnerabilities of both OLMCs require recognition and protection. Bill C-13 should recognize and provide for the protection of both OLMCs.** Consequently, I support and reiterate the following recommendation:

RECOMMENDATION 2:

As recommended by the Quebec Community Groups Network in its May 2022 brief on Bill C-13: **In section 3.1, add interpretive language to specify that nothing in the OLA diminishes the constitutional or statutory rights and entitlements of linguistic minority communities in each province.**¹⁸

- 11 Lorraine O'Donnell, "QUESCREN Brief: The Importance of the University Research Ecosystem for Quebec's English-Speaking Official Language Minority Community," Quebec English-speaking Communities Research Network (QUESCREN), August 2022. https://www.concordia.ca/content/dam/artsci/scpa/quescren/docs/QUESCREN_brief_for_Action_Plan_OL.pdf.
- 12 Patrick Donovan and Lorraine O'Donnell, "The Tourist Offer of the Whiteley Museum and Its Surrounding Area on the Lower North Shore: A Quality Improvement Report" (Montreal: Concordia University - Quebec English-Speaking Communities Research Network), March 2022. https://www.concordia.ca/content/dam/artsci/scpa/quescren/docs/QUESCREN_LNS_Tourism_Report_Whiteley.pdf.
- 13 Lorraine O'Donnell, "People's History of English-Speaking Quebec: A Community-Based History Project for the Vitality of an Official Language Minority" [QUESCREN Working Paper no. 6], Quebec English-Speaking Communities Research Network (QUESCREN), 2022. https://www.concordia.ca/content/dam/artsci/scpa/quescren/docs/Working_Paper_6_ODonnell.pdf.
- 14 Patrick Donovan, "The Best-Treated Minority in the World: Historical and Discursive Analysis of a Cliché" [Working Paper no 5], Quebec English-Speaking Communities Research Network (QUESCREN), 2022. https://www.concordia.ca/content/dam/artsci/scpa/quescren/docs/QUESCREN_Working_Paper_5_Donovan.pdf.
- 15 Nadine Ciamarra and Patricia Lamarre, with Patrick Donovan, Lorraine O'Donnell, Debbie Horrocks, Emma Legault, and Angelica Maria Restrepo, QUESCREN Education Research Briefs and Reference Lists series. Quebec English-Speaking Communities Research Network (QUESCREN), 2021. https://www.concordia.ca/artsci/scpa/quescren/resources/research_education.html.
- 16 Celine Cooper, Patrick Donovan, and Lorraine O'Donnell, "Employment of English Speakers in Quebec's Public Service" [Working Paper No. 1], Quebec English-Speaking Communities Research Network (QUESCREN), 2019. http://www.concordia.ca/content/dam/artsci/scpa/quescren/docs/Quescresn_QPSRPTEnglish.pdf.
- 17 Tracy Y. Zhang, with Aurelia Roman for Industry Canada, in collaboration with the Quebec English-Speaking Communities Research Network. "The Creative Economy and the English Speaking Communities in Quebec." Last modified March 2012. http://www.ic.gc.ca/eic/site/com-com.nsf/eng/h_01260.html.
- 18 QCGN, Brief on Bill C-13, Recommendation 2.

The Heritage and Research Sectors: Discussion and Recommendations

Discussion: The Heritage Sector

As it stands, the OLA states a federal government commitment that is crucial to OLMCs 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; ...¹⁹

Bill C-13 proposes to modify this part of the OLA as follows (new wording is underlined):

- 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, taking into account their uniqueness, diversity and historical and cultural contributions to Canadian society.²⁰

This is an important change. It recognizes not only the distinctive nature of the OLMCs and their cultures, but also their historical contributions, a topic on which QUESCREEN staff have developed expertise. In its preamble, Quebec's *Charter of the French Language* recognizes this contribution. Various research initiatives have explored the fascinating, nuanced histories of English-speaking Quebec.

These histories are intrinsically interesting and valuable. What is more, discovering and sharing them helps address a problem: in Quebec, English-speaking Quebec tends to be left out of narratives of the province's past, such as those found in the official school history program, and this is detrimental to the OLMC's vitality.²¹

19 *Official Languages Act* (R.S.C., 1985, c. 31 (4th Supp.)), s. 41(1).

20 Bill C-13 (first reading 1 March 2022) at s 21 (proposed revision to s 41-42); new wording proposed in Bill C-13 is underlined.

21 See Paul Zanzanian, "Teaching History for Narrative Space and Vitality: Historical Consciousness, Templates, and English-Speaking Quebec," in Henrik Åström Elmersjö, Anna Clark, and Monika Vinterek, eds., *International Perspectives on Teaching Rival Histories: Pedagogical Responses to Contested Narratives and the History Wars* (London: Palgrave Macmillan UK, 2017), p. 107-131, and L. O'Donnell, "People's History of English-Speaking Quebec."

Supported with this insight, my QUESCREN staff colleague Dr. Patrick Donovan and I are undertaking a research project called “People’s History of English-Speaking Quebec.”²² In aiming to document the lives of ordinary English-speaking Quebecers active in community organizations, it has the twin goals of uncovering the history of English-speaking Quebec, and helping to promote the vitality of this OLMC.²³

In recognizing the need to take OLMC historical contributions into account, Bill C-13 appears to align with a point made by scholar Alain Roy. Roy argues that both vitality literature and vitality policy have neglected history and heritage. To overcome this, he proposes the vitality of memory concept. It “refers to the strength and diversity with which the memory of a community is expressed in a defined real and symbolic space.”²⁴

Discovering, preserving, and sharing OLMC history requires work of individuals and groups. It also relies on institutions such as archival centres, activities like heritage festivals and guided tours, and other elements in what Roy calls a “memorial ecosystem.”²⁵ In my view, a roughly equivalent term we could use, to align with the language of Bill C-13, is the “**heritage sector**.”

This leads me to consider how Bill C-13 delineates the duty of federal institutions to take positive measures to implement the OLA once revised. These include:

Support sectors that are essential to enhancing the vitality of English and French linguistic minority communities, including the culture, education – from early childhood to post-secondary education – health, justice, employment and immigration sectors, and protect and promote the presence of strong institutions serving those communities.²⁶

In my view, **Bill C-13 should also recognize and support the heritage sector, another key component of OLMC vitality.** This is captured in our third recommendation, below.

22 L. O'Donnell, “People’s History of English-Speaking Quebec.”

23 L. O'Donnell, “People’s History of English-Speaking Quebec.”

24 Alain Roy, “From Vitality to Vitality of Memory: Conceptual Foundations of the Role of Memory and Heritage in the Vitality of Official Language Minority Communities” [Concept Paper] (Ottawa: Library and Archives Canada, 2021), https://archivesclosm-olmc.ca/wp-content/uploads/2021/02/Vitality-of-Memory_Concept-paper_final.pdf, p. 6.

25 Roy, “From Vitality to Vitality of Memory,” p. 38.

26 Bill C-13 (first reading 1 March 2022) at s 21 (proposed revision to s 41-42).

Discussion: The Research Sector

Bill C-13 proposes to insert the following new text in the revised OLA section 41:

Potential to take positive measures and negative impacts

- (7) In carrying out its mandate, every federal institution shall, on the basis of analyses that the federal institution considers appropriate,
- (a) consider whether positive measures could potentially be taken under subsection (5); and
 - (b) take into account the direct negative impacts that its structuring decisions may have on the commitments under subsections (1) to (3) in order to consider the possibilities for mitigating those negative impacts.

Dialogue and consultation activities, research and evidence-based findings

- (8) The analyses referred to in subsection (7) shall be founded, to the extent possible, on the results of dialogue and consultation activities, on **research and on evidence-based findings**.²⁷

Through these paragraphs, the Bill recognizes the role of research and evidence-based findings in supporting federal institutions implementing the OLA.

I would like to further point out that, beyond supporting the work of government, access to research is essential to OLMCs themselves. As noted in a brief that I recently submitted to Canadian Heritage regarding the new Action Plan on official languages,

The Office of the Commissioner of Official Languages recognized this in its 2006 report *A Sharper View*: “The vitality of a community emerges from the assumption that it takes charge of its own development. Must not this empowerment on the part of OLMCs be based on better knowledge of themselves, in light of the realities of their situation (diagnosis) and the challenges they face (strategic planning)?”²⁸

27 Bill C-13 (first reading 1 March 2022) at s 21 (proposed revision to s 41-42).

28 Canada, Office of the Commissioner of Official Languages, *A Sharper View: Evaluating the Vitality of Official Language Minority Communities* (Ottawa: Office of the Commissioner of Official Languages, 2006), p. 6, http://www.ocol-clo.gc.ca/html/stu_etu_052006_e.php. Canada, cited in L. O'Donnell, “QUESCREEN Brief,” p. 2.

Research is not produced in a vacuum. Like historical and heritage knowledge as discussed above, research is produced within “ecosystems.”²⁹ For example, university research ecosystems include people (faculty, research associates, graduate students); institutions (universities, governments, institutes); networks, including collaborative partnerships between university and community stakeholders on research projects; and structured spaces for research production and dissemination (research centres, research chairs, and institutes).³⁰

Once again, to use the language of Bill C-13, we could substitute the word “sector” for “ecosystem.” **There is a sector for the production and mobilization of research, including for research on OLMCs. This sector produces crucial quantitative and qualitative research bringing to light realities, and challenges the OLMCs’ experience.**³¹

In my view, **Bill C-13 should also recognize and support the research sector, which, like heritage as discussed above, is another key component of OLMC vitality.** This is also captured in our third recommendation, below.

Recommendation Regarding the Heritage and Research Sectors

In light of the points made above, I recommend that the heritage and research sectors be explicitly recognized and supported in the revised OLA as follows:

RECOMMENDATION 3:

That s. 21 (proposed revision to s. 41-42 of the *Official Languages Act*) be expanded to include the following underlined words:

Support sectors that are essential to enhancing the vitality of English and French linguistic minority communities, including the culture, heritage, education – from early childhood to post-secondary education – research, health, justice, employment and immigration sectors, and protect and promote the presence of strong institutions serving those communities.

29 L. O'Donnell, “QUESCREN Brief.”

30 L. O'Donnell, “QUESCREN Brief.”

31 For instance, see the research listed in Brendan O'Donnell's *Bibliography on English-Speaking Quebec*, produced with support from QUESCREN, online at <https://quescren.concordia.ca/en/search>, and the bibliographic database the Canadian Institute for Research on Linguistic Minorities produces, online at <https://icrml.ca/en/research-and-publications/references>.

Conclusion

QUESCREN is committed to supporting the vitality of English-speaking Quebec through research, knowledge mobilization, training, networking, and outreach.

Research conducted by QUESCREN secretariat colleagues and me has led us to become aware of many challenges that Quebec's OLMCs face. Some are related to Quebec's *Charter of the French Language*, as our research on that topic enabled us to discover.³² This knowledge leads me to recommend to the federal government that references to the *Charter of the French Language* be removed from Bill C-13 (Recommendation 1). Concerns that Bill C-13 will minimize challenges experienced by the English-speaking OLMC lead me to recommend that Bill C-13 be altered so that nothing in the OLA diminishes the rights and entitlements of linguistic minority communities in each province (Recommendation 2). Finally, on the basis of QUESCREN staff expertise in the heritage and research sectors, I recommend that these sectors be explicitly named in the modified OLA as essential to enhancing OLMC vitality, and that the federal government support them along with other essential sectors (Recommendation 3).

32 L. O'Donnell, Donovan, and Lewis, eds., *La Charte*.

Appendix: List of Recommendations

RECOMMENDATION 1:

As recommended by the Quebec Community Groups Network in its May 2022 brief on Bill C-13:
Remove the references to the *Charter of the French Language* in the preamble and in s. 45.1.³³

RECOMMENDATION 2:

As recommended by the Quebec Community Groups Network in its May 2022 brief on Bill C-13:
In section 3.1, add interpretive language to specify that nothing in the OLA diminishes the constitutional or statutory rights and entitlements of linguistic minority communities in each province.³⁴

RECOMMENDATION 3:

That s. 21 (proposed revision to s. 41-42 of the *Official Languages Act*) be expanded to include the following underlined words:

Support sectors that are essential to enhancing the vitality of English and French linguistic minority communities, including the culture, heritage, education – from early childhood to post-secondary education – research, health, justice, employment and immigration sectors, and protect and promote the presence of strong institutions serving those communities.

33 QCGN, Brief on Bill C-13, Recommendation 3.

34 QCGN, Brief on Bill C-13, Recommendation 2.

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