
The Early Years of Legislative Translation in Québec

by Michael McKenzie

Last year marked the 400th anniversary of the founding of Québec City. For more than half that time – since 1760 – legislative translation has been practiced on a wide scale, through all kinds of constitutional, political and cultural changes in Québec. The National Assembly has a separate department for translation within its administrative structure. Inaugurated in 2002, the Legislative Translation and Publishing Directorate celebrated its sixth anniversary in 2008.

The history of legislative translation in Québec begins on the Plains of Abraham. The Conquest ushered in an era of legislative translation which has continued in one form or another right up to the present day. Since few inhabitants of New France knew English, and since the outnumbered British could hardly expect the *Canadiens* to abide by laws written in a language they did not understand, the need for translation asserted itself almost as a matter of course.

From the very outset of military rule, which lasted from 1760 to 1764, the governors of Québec City, Trois-Rivières and Montréal each employed a military secretary who, in addition to other duties, acted as translator. Though born and bred in Britain, all three of these men were the sons of French Huguenots whose families had come to Britain seeking refuge from religious persecution in their home country. Their names: Cramahé, Bruyères, and Maturin! The extent to which they wrote directly in French, translated into that language, or merely directed the work of translation cannot always be stated with precision. In the chaos of military rule, many of the earliest proclamations were written in French and not translated at all, the goal being to get an urgent message out to the French-speaking population as quickly as possible. A case in point: the 1760 proclamation warning the *Canadiens* against hiding members of the French army. In such cases it is easy to see why speedy publication in French was everything and an English version superfluous. Other proclamations exist in both a French and an English version. The most important

piece of legislation during this period was the *Royal Proclamation of 1763*, enacted by the British Parliament; this quasi-constitutional document imposed British civil and criminal law on the new colony, and was translated into French in more than one version shortly after being published in English.

With the advent of civil government in 1764, James Murray became governor of the newly minted “Province of Quebec”. Systematic law-making could now begin in earnest, and the need for translation was no less pressing than under military rule. In fact, it was during this period of administrative upheaval and reorganization that translation really became a prominent feature of the legislative landscape in Québec. Most of the Acts and ordinances issued under Murray and his successors were drafted in English and translated into French.¹

It was also during this period that Québec got its first official translator. On February 24, 1768, Lieutenant-Governor Guy Carleton (later Lord Dorchester) appointed Québec-born François-Joseph Cugnet to the position of “French secretary and translator to the governor and Council”. For the next 21 years, until his death in 1789, when he was succeeded by his son, Cugnet translated or oversaw the translation of the bulk of Acts and ordinances by which Québec was governed. Cugnet was fairly “literal” in his approach to translation, and how one judges his work will depend partly on where one places oneself, philosophically, on the scale between relatively free and relatively literal translation. This goes a long way toward explaining the diversity of opinion regarding Cugnet’s translations, which have been called everything from excellent to decidedly undistinguished. One commentator, Pierre

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Daviault, more moderately characterizes Cugnet as “a solid, workmanlike translator”.²

Of the many translations bearing Cugnet’s signature, the most important historically is undoubtedly the *Québec Act*, enacted by the British Parliament in 1774. Under this legislation British criminal law was maintained for Québec, but the civil law of the former French régime was reinstated. This had one important result for the practice of translation: since it was desirable to preserve terminological consistency within each category of legislation, it was eventually (in 1792) decided that legislation would be drafted in French for bills relating to civil law, and in English for bills relating to criminal law, with subsequent translation into the “other” language. The year before, in 1791, the *Constitution Act* had divided British North America into a mainly English-speaking Upper Canada and a mainly French-speaking Lower Canada, each with an elected house of assembly whose decisions nonetheless required the approval of the Governor. Language immediately became an issue in Lower Canada, with the majority francophone Members voting in a bloc to have French recognized as an *official* language for legislation. This matter was never resolved by any rule, whether of law or parliamentary procedure; but in practical terms the debate had little impact on translation, which continued to be seen as necessary under what now was beginning to resemble a genuinely parliamentary system of government.

With the passage of the *Union Act* in 1840, Upper and Lower Canada were merged into a single “province of Canada”, effectively creating a political entity in which francophones were a minority. The *Union Act* imposed English as the sole official language of legislation and parliamentary debate, a state of affairs which would last until 1849. But since the use of French was not specifically prohibited by the Act, practical necessity once again dictated the course of events. Parliamentary debate continued to be bilingual, and legislation continued to be translated. Still, it need hardly be said that the *Union Act* was unpopular among francophone Members. On the linguistic front, one of their responses came in September 1841, when the Member for Saguenay, Étienne Parent, a former legislative translator himself, introduced the first and only bill in the history of Québec ever to have translation as its main subject. And while it is true the *Act to provide for the translation into the French Language of the Laws of this Province, and for other purposes connected therewith* appears to have been passed without controversy, there can be no doubt that, in light of the constitutional enshrinement of English as the official language and the imposition of minority status in the

new Parliament, the need for such a bill was keenly felt by francophones.

Bilingual legislation did not become a constitutional obligation until the passing of the *Constitution Act, 1867*, which states that “the Acts of Parliament of Canada and the Legislature of Québec shall be printed and published in both French and English”. But while the Act makes bilingual legislation obligatory, it does not lay down rules as to the direction of translation. Today, when all legislation in Québec is drafted in French and translated, we tend to forget that for much of Québec’s history the norm was English-to-French translation. Exactly when this process was reversed remains something of a mystery. In a colloquium paper delivered in 1977, former director of the National Assembly Library, J. C. Bonenfant, makes the following statement: “It may surprise you, and I cannot provide you with formal historical proof on the matter, but I am fairly certain that the majority of Québec’s laws, in all fields, were drafted in English until approximately 1920 ...”³.

Bonenfant gives two reasons for his belief: first, the legislative drafters were largely of Irish descent and spoke English as their mother tongue; and secondly, Québec’s laws often relied heavily for their content on the laws of other provinces or of American states, in which case even an “original” French version could be counted a translation. Later writers have presented Bonenfant’s view as fact, sometimes neglecting to mention the lack of “formal historical proof.”

Even if this view is correct, as it may well be, this is surely an area where more research needs to be done. After all, the “formal historical proof” may exist right under our noses, in the administrative archives of the National Assembly. In any case, the precise process by which English-to-French translation gradually gave way to its opposite, and the political and cultural conditions that made this change possible, are subjects rich in possibility for future historians. With translation now a specialized field of study in many universities, and more and more theses being written on the history of translation in particular contexts, we may be justified in hoping to see such work undertaken in the years ahead.

Notes

1. Most, but perhaps not all. Ordinances from the 1760s were recently uncovered in the National Archives in Ottawa for which no French version is known to exist.
2. Pierre Daviault, “Traducteurs et traduction au Canada”, *Mémoires de la Société royale du Canada*, v. 38, 1944, p. 83.
3. J. C. Bonenfant, “Perspective historique de la rédaction des lois au Québec”, *Les Cahiers de droit*, n°. 20, 1979, p. 391.