

Je Ne Speak Pas French: RCMP Faces Tougher Language Obligations in New Brunswick

Marie-Claire Paulin was issued a speeding ticket in April 26, 2000 by a unilingual RCMP officer in the Woodstock, New Brunswick.[1] While she paid the fine that day, Paulin later started a lawsuit against the Crown stating her right to receive police services in her native tongue of French were denied, breaching section 20(2) of the Canadian Charter of Rights and Freedoms [2]. Her action was joined by the Société des Acadiens et Acadiennes du Nouveau Brunswick (SAANB) at the Federal Court level. The SAANB's motive stems from a report recommending that the RCMP's that the requirement to speak in French should be reduced in the region.[3] If sections 16.1, 16(2) and 20(2) of the Charter apply in the case at hand, the report could not be implemented as is.

An earlier ruling by the Federal Court held that since the RCMP was serving as a provincial police in New Brunswick, making it a provincial institution for the purposes of section 20(2) of the Charter, the officers are required to provide police services in both French and English.[4] The government's argument was that the RCMP is a federal institution, not a provincial body, and is therefore not subject to section 20 (2), which only applies to New Brunswick institutions. The debated section of the Charter reads as follows:

20. (1) 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 English or French, and has the same right with respect to any other office of any such institution where

- a) there is significant demand for communications with and services from that office in such language; or
- b) due to the nature of the office, it is reasonable that communications with and services from that office be available in both English and French.

(2) Any member of the public in New Brunswick has the right to communicate with, and to receive available services from, any office of an institution of the legislature or government of New Brunswick in English or French.[5]

The decision was set aside by the Federal Court of Appeal, rejecting the argument that the RCMP is akin to a New Brunswick institution for the purposes of section 20 (2).[6] Chief Justice Richard was clear in his statement that the RCMP cannot assume New Brunswick's constitutional language obligations, that only the

province was responsible to discharge this obligation. Both the Federal Court and the Federal Court of Appeal were in agreement that the RCMP is “at all times subject to the minimum obligations imposed on it by section 20 (1) of the Charter and by federal official languages legislation, regardless of whether it is acting as the federal police force or as a provincial or municipal force under an agreement.”[7]

The legal issue was whether RCMP officers are required to follow the language obligations of section 20(2) of the Charter imposed on provincial institutions, or simply the federal language obligations in the first subsection.[8] While the RCMP is a federal institution, created by section 20 of the Royal Canadian Mounted Police Act[9], it has been in a contract with the province 1992, to act as its police force. Under section 2 (2) of the New Brunswick Police Act[10], each RCMP member has the “attributes of a provincial peace officer and is authorized by that province to administer justice there, he or she performs the role of an ‘institution of the legislature or government’.”[11]

The province’s argument concentrated on the principle of constitutional accountability of governments- New Brunswick is constitutionally responsible for administering justice and is also accountable for the action of its enforcement.[12] *Eldridge v. British Columbia (Attorney General)*[13] was relied on to try and prove that the RCMP cannot be both a federal and provincial institution at the same time. The province was saying that the only legal recourse in this case for Ms. Paulin was a lawsuit for breach of contract where she would have to prove that she had suffered economic damages (as opposed to hurt feelings), and not the type of lawsuit she had started - which would require that the Province provide bilingual police officers if she won the case.[14]

The unanimous verdict, penned by Justice Bastarache allowed the appeal and declared that RCMP members, acting as police officers in New Brunswick, are bound by section 20(2) of the Charter. He relied on a rule from *Slaight Communications Inc. v. Davidson*[15], where imprecise discretions could not be seen as a *carte blanche* to make an order that would infringe the Charter. The court clearly stated that the Charter would apply to people enforcing the law. The SCC agreed with Gauthier J’s reasoning that when the RCMP officer handed Marie-Claire Paulin a ticket that day, he was performing a function of the Government of New Brunswick.[16] As a resident of Canada’s only officially bilingual province, Mrs. Paulin had a constitutional right to receive police services in French.

[1] [Société des Acadiens et Acadiennes du Nouveau-Brunswick Inc. v. Canada,](#)

2008 SCC 15 (CanLII).

[2] Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (U.K.), 1982, c. 11.

[3] Supra note 1 at para.4.

[4] [Société des Acadiens et Acadiennes du Nouveau-Brunswick Inc. v. Canada](#), 2005 FC 1172 (CanLII)

[5] Supra note 3.

[6] [Société des Acadiens et Acadiennes du Nouveau-Brunswick Inc. v. Canada](#), 2006 FCA 196 (CanLII)

[7] Supra note 1 at para.7.

[8] Ibid.

[9] Royal Canadian Mounted Police Act, R.S.C. 1985, c. R-10.

[10] Police Act, S.N.B. 1977, c. P-9.2, s.2.

[11] Supra note 1.

[12] Ibid. at para.10.

[13] [Eldridge v. British Columbia \(Attorney General\)](#), [1997] 3 S.C.R. 624 (CanLII)

[14] Supra note 13.

[15] [Slaight Communications Inc. v. Davidson](#), [1989] 1 S.C.R. 1038 at para.87 (CanLII)

[16] Supra note 1 at para.22.