

Synopsis of the Language Rights Support Program Impact Study Entitled,

“Reflections on the Impact of the Decision *R. v. Rémillard (R.) et al.*, 2009 MBCA 112”

This study seeks to determine the impact of the *R. v. Rémillard* decision on Section 23 of the *Manitoba Act, 1870*, which states that either the English or the French language may be used by any person in any Court of Canada or of the Province, and in any resulting pleading or process. In addition, this Section specifies that Manitoba must print and publish its laws in both official languages.

The facts of the case occurred in the City of Winnipeg. Several citizens residing in the Riel District received one or more speeding violation notices in the City of Winnipeg, obtained by image capture. They contested the validity of these violation notices by invoking that the City of Winnipeg must draft and send notices in both official languages to Riel District residents. The pre-printed form was bilingual, but the specific information relating to the violation was only in English because the City uses a computer database containing English-only data.

Mr. Rémillard and five other citizens disputed the validity of violation notices before the Provincial Court which concluded that the violation notices were invalid. The annulment of the notices led to dismissal of the proceedings against the citizens due to failure of proof. The Crown brought the judge's decision before the Manitoba Court of Appeal.

The Court of Appeal determined that most of the technical elements on violation notices obtained by image capture which were analysed by the Provincial Court judge were issues of fact which the Crown could not appeal.

The Court of Appeal rejected the Crown's appeal, citing principles of language rights interpretation. In addition, it adjudicated that the appropriate remedy was not a correction by the trial judge of flaws to the notices, but the withdrawal of these notices according to the principle of reparation in Subsection 24 (2) of the *Canadian Charter of Rights and Freedoms*. When evidence is obtained under conditions which infringe upon the rights or liberties guaranteed by the *Charter*, including constitutional language rights, Subsection 24(2) stipulates that this evidence must be dismissed.

The authors of the impact study, Mark Power and Daniel Wirz, gave a detailed analysis of the appropriate interpretation of language rights and possible redress for the City of Winnipeg's language obligations. They gave an overview of the next areas of intervention in language rights for the City of Winnipeg, including police services. The authors concluded by stating that the protective supervision of language rights of the City of Winnipeg is an important element for the cultural development and vitality of its Francophone community.