

The Law's Language-beyond - Summary

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In bilingual enactments, each legislative text carries within it what might be styled as a “language-beyond”, that is to say the unannounced presence of the other so-called official language which shapes and colours the law and the meaning to be given to it. This “language-beyond” manifests itself differently in the distinct activities of the *drafting* and the *interpretation* of bilingual legislation. In the interpretation of these enactments, the presence of the language-beyond is generally accepted, even if experts often disagree as to its place and influence in their understanding of the legislative “text”. For the drafting of legislation, the language-beyond is recognized as playing a lesser role, especially in respect of the vocabulary of each linguistic “version” which should, according to most experts, be governed by the genius of only one language at a time. When faced with the possibility that the language-beyond will influence the legislative lexicon, experts generally react negatively given the dominant attitude of linguistic purism that characterizes the field of jurilinguistics. The impact of the language-beyond is seen as the root cause of a pathology of linguistic interference (explaining, for example, the sense that anglicisms are to be proscribed from French-language legal vocabulary). In addition, the phenomenon doubles up in the case of bilingual and bijural legislation where the “tradition-beyond” can also have a destabilizing effect on the law.

Another view is, however, possible. Examining first the interpretation of bilingual legislation (PART I) and then the preparation of these enactments (PART II), the idea of the influence of the language-

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beyond as against a paradigm of “métissage” developed by translation theorists and anthropologists can prove useful. Indeed the language-beyond can be seen as inherent in drafting and interpreting bilingual legislation as well as an unavoidable feature of legal vocabulary where in setting where multiples languages and legal traditions are at work. This may be observed without necessarily condemning or celebrating the impact of the other language or tradition as the source of disturbance or enrichment. The influence of the language-beyond may in fact be, especially for officially multilingual or polyjural legal systems, merely the reflection of a legislature with multiple identities and the interpreter of legislation living out his or her multiple selves.