

**Constitutional Obligation of Alberta to Publish Laws in
French - *Her Majesty the Queen in Right of Alberta v. Gilles
Caron and Pierre Boutet***

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Constitutional Obligation of Alberta to Publish Laws in French

Her Majesty the Queen in Right of Alberta v. Gilles Caron and Pierre Boutet

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This paper outlines the decisions of the Courts in the cases of *Gilles Caron and Pierre Boutet (Caron)*³ as well as the basic arguments advanced by the parties at the Supreme Court of Canada. The central issue in the case is whether there is a constitutional obligation on the Province of Alberta to publish its laws in French. At the time of the writing of this paper, the Supreme Court of Canada is still reserved on the issue, the appeal having been argued before them February 13, 2015.

This is not intended to be an exhaustive analysis of the myriad of issues that were argued by Mr. Caron and Mr. Boutet in defence of their traffic tickets. Rather, the objective is to give an overview of the essentials of each of the decisions and the basic arguments advanced. This paper will also not address the matter of funding at trial, an issue in this case which also went to the Supreme Court of Canada⁴.

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² The opinions expressed in this paper are solely the responsibility of the author and, other than the legal positions taken, do not necessarily reflect those of the Government of Alberta

³ All *Caron* references are to the following decisions:
Provincial Court (PC): 2008 ABPC 232 (CanLII), 450 AR 204
Queen's Bench (QB): 2009 ABQB 745 (CanLII), 476 AR 198
Court of Appeal (CA): 2014 ABCA 71 (CanLII), 569 AR 212

⁴ *R. v. Caron* 2011 SCC 5, [2011] 1 SCR 78

Background

On the 4th of December 2003, Mr. Caron received a ticket under the *Traffic Safety Act* for making an unsafe left turn in contravention of the *Use of Highways and Rules of the Road Regulations*. At trial he pled not guilty and an agreed statement of facts was entered with the Court in which Mr. Caron conceded the facts of the offence. He argued that his charge should be dismissed however because of his constitutional challenge in which he sought (translation):

1. A declaration pursuant to section 52 of the *Constitution Act, 1982* [schedule B of the *Canada Act 1982* (U.K.), 1982, c. 11], that the said *Languages Act* of Alberta, to the extent that it abolishes or reduces the linguistic rights that were in force in Alberta before its adoption, pursuant to section 110 of the *North-West Territories Act, 1875*, as amended, is incompatible with the Constitution of Canada and is inoperative.
2. An order pursuant to subsection 24(1) of the *Charter* that the charge against the accused, Gilles Caron, be struck out.
3. A declaration pursuant to section 52 that the Legislature of the Province of Alberta must adopt in French and have all Acts and Regulations of the Province of Alberta assented to beginning with those required by Gilles Caron for this trial: *Traffic Safety Act; Use of Highways and Rules of the Road Regulations; Provincial Court Act; Constitutional Notice Regulation A.R. 102/99*.
4. A declaration pursuant to section 52 that everyone has a guaranteed constitutional right to proceedings in French or English in both criminal and civil matters before all courts of the Province of Alberta, including the right to file all documents and forms in French and to be heard and understood by the courts without interpreters.

As the trial commenced, Mr. Boutet, who also received a ticket under the *Traffic Safety Act* for breach of the *Use of Highways and Rules of the Road Regulations*, raised the same constitutional challenge and the trial judge agreed to hear them together.

Following some preliminary appearances, the trial commenced on March 1, 2006 and took 89 days spread over several time periods, concluding with final argument in June 2008. Mr. Caron testified as did three other individual citizens on his behalf⁵, each giving evidence about their experienced difficulties living in French in Alberta. Two defence experts were called and gave

⁵ Mr. Perreux, Mr. Bergeron and Mr. Piquette