



3.

ly he may have acquired the use of the English language. If a person were "English-speaking" within the meaning of this bequest merely because he had acquired a fluent use of English, then Mr. Justice Surveyer or Mr. Aimé Geoffrion, or any other French-Canadian who has taken the trouble to learn English, would be eligible, which, of course, is contrary to the spirit and manifest intention of the bequest.

On the other hand, I should consider that a student of English stock that had taken root or had been naturalized in a foreign country, be it in the United States or Bulgaria or China, who had preserved English as their family tongue, would be eligible.

Now turning to the case of Mr. Yelin: Both his parents were born ~~in~~ (and came to Canada from) somewhere in Central Europe, ~~and~~ neither is of English stock. The presumption, therefore, is that their family tongue is not English; the burden of proving the contrary is upon him who claims to be qualified for the scholarship. The appointee, Moses Yelin, was born in Canada and has acquired a knowledge of English here. He may be equally proficient in the French language - probably he is; we did not take the trouble to find out, which I think we should have done and with somewhat the same care as is taken in similar case by the Rhodes Trustees. My conclusion is that, in these circumstances, Mr. Yelin was not eligible for the scholarship, because he had failed to show that he is "English-speaking" within the meaning of the governing clause of the founder's Will and that he is not already proficient in French.

But leaving aside the strict terms of the Will, I cannot bring myself to think that Sir William Macdonald founded these scholarships for students of Mr. Yelin's origin and qualifications. He noticed that the English-speaking students of McGill were generally backward in learning French and he thought that the students in Law, if they were going to be useful members of the Bar and some of them efficient Judges, should know French well, and his intention, expressed in language which seems to me to be precise and unequivocal, in founding the scholarship was to assist such students to that