

WSSR

WORKSHOPS ON SOCIAL SCIENCE RESEARCH

Democracy and the Protection

of Language Rights

Graham Fraser

Canada's Former Commissioner of Official Languages

June 1-2, 2017

9:00am – 4:30pm

Workshop Overview

Pierre Elliott Trudeau began his 1958 essay “Some obstacles to Democracy in Quebec with the following summary: “HISTORICALLY, French Canadians have not really believed in democracy for themselves ; and English Canadians have not really wanted it for others. Such are the foundations upon which our two ethnic groups have absurdly pretended to be building democratic forms of government. No wonder the ensuing structure has turned out to be rather flimsy. The purpose of the present essay is to re-examine some of the unstated premises from which much of our political thinking and behaviour is derived, and to suggest that there exists an urgent need for a critical appraisal of democracy in Canada. No amount of intergroup back-slapping or political *bonne-ententisme* will change the fact that democracy will continue to be thwarted in Canada so long as one-third of the people hardly believe in it-and that because to no small extent the remaining two-thirds provide them with ample grounds for distrusting it.”

That was almost 60 years ago. Since then, we have had the emergence of separatist groups in Quebec, a Royal Commission on Bilingualism and Biculturalism, a terrorist crisis, the election of a sovereignist government, three referenda related to Quebec and Canada (1980, 1992 and 1995), a Charter of Rights and Freedoms and a Supreme Court Reference on Quebec Secession that laid out Canada's four unwritten constitutional principles in the following terms: “The Constitution is more than a written text. It embraces the entire global system of rules and principles which govern the exercise of constitutional authority. A superficial reading of selected provisions of the written constitutional enactment, without more, may be misleading. It is necessary to make a more profound investigation of the underlying principles animating the whole of the Constitution, including the principles of federalism, democracy, constitutionalism and the rule of law, and respect for minorities. (Re: Secession of Quebec [1998] 2 SCR 217 headnote)” Since then, a jurisprudence of minority language protection has developed

Graham Fraser will begin by asking some very basic questions.

- * What is democracy?
 - * What is liberal democracy?
 - * What are language rights, and where to they fit into Canada's framework of rights in a liberal democracy?
- After discussing these issues — briefly, since they are sweeping questions — the class will consider some of the conflicting views of language rights in Canada and Quebec, and look at the evolution of Canadian democracy and language rights from pre-confederation to the Royal Commission on Bilingualism and Biculturalism, the Official Languages Act, the Charter of the French Language, the Charter of Rights and Freedoms, and the role of the Supreme Court in articulating the scope and nature of language rights.



Required Readings:

Louis-Hippolyte Lafontaine's address to the electors of Terrebonne:

<http://ycyc-vcvc.ca/the-address-to-the-electors-of-terrebonne/>

On John A. Macdonald's letter to Brown Chamberlin:

<http://www.ocol-clo.gc.ca/en/news/speeches/2011/2011-01-11>

André Laurendeau's "blue pages" — The Report of the Royal Commission on Bilingualism and Biculturalism, Vol I, The key words of the terms of reference, pp xix to li

http://publications.gc.ca/collections/collection_2014/bcp-pco/Z1-1963-1-5-1-1-eng.pdf

Chief Justice Beverly McLachlin on the impact of the Supreme Court on Bilingualism and Biculturalism:

<http://www.scc-csc.ca/court-cour/judges-juges/spe-dis/bm-2008-02-06-eng.aspx>

Sebastien Grammond and Mark Power: Should Supreme Court Judges Be Required to be Bilingual?

<http://www.capitaldocumentation.ca/documents/SCC.pdf>

Supplementary readings:

Sorry, I don't speak French: Confronting the Canadian crisis that won't go away, by Graham Fraser, McClellan and Steward, Toronto, 2006

The Practice of Language Rights in Canada, by C. Michael Macmillan, University of Toronto Press, Toronto 1998