



Sir John A. Macdonald (sitting, centre) and the Fathers of Confederation at the Charlottetown Conference in September 1864. The next month at Quebec, and later in London in 1866 and 1867, they negotiated the terms of Confederation, including the division of powers in sections 91 and 92 of the BNA Act, and Section 133, which recognized English and French as languages of Parliament and the Quebec legislature. *Library and Archives Canada photo*

## Canada 150: Happy Fête/ Bonne Birthday!

Graham Fraser

*In an era when Canada's famously fuzzy national identity is suddenly being sharply defined as much by events beyond our borders as by realities within them, the country's relationship to its two official languages seems to have matured and settled. As recently-retired Commissioner of Official Languages Graham Fraser reminds us, things weren't always this way.*

Language rights have walked a long road in the last 150 years in Canada. During the Confederation Debates in 1865, which ratified the articles agreed upon at the Quebec Conference of 1864 and established the terms of Confederation, George Brown marvelled at the what he saw. "...(H)ere sit today the descendants of the victors and the

vanquished in the fight of 1759, with all the differences of language, religion, civil law and social habit, nearly as distinctly marked as they were a century ago," he said.

The beginning of the debates was not auspicious. When Premier Etienne-Pascal Taché finished reading the Quebec Resolutions in the legislature on February 3, 1865, he conclud-

ed that as there were English members who did not understand French at all, while the French members all understood English, it would be best for him to speak English, and he did.

Consequently, this dynamic of Canadian bilingualism, which would continue for a century, was in place from the outset—Francophones had the right to use French in the House of Commons and the Senate, but not to be understood. That principle prevailed in the House until 1959, when simultaneous interpretation was introduced, and before the courts until 1989, when the Supreme Court handed down its decision in the *Beaulac* case.

Near the end of the debates, Antoine-Aimé Dorion raised the question of the guarantee that French could be used in Parliament and the Quebec

legislature, pointing to the danger that this might be eradicated by the English-speaking majority. John A. Macdonald replied that this risk had been identified, and that “the use of the French language should form one of the principles upon which the Confederation should be established, and that its use, as at present, should be guaranteed” by what would be the BNA Act.

Georges-Étienne Cartier immediately got to his feet to say that “it was also necessary to protect the English minorities in Lower Canada with respect to the use of their language, because in the Local Parliament of Lower Canada the majority will be composed of French-Canadians.”

So the idea that French and English should be a key principle of Confederation was established at the outset. But it was limited at best—Section 133 of the British North America Act applied to the federal Parliament, the Quebec Assembly and the federal courts. As Canada expanded west, language rights did not follow—and the century following Confederation was marked by a series of setbacks: the abolition of French-language education in Manitoba and Ontario, the eradication of existing language rights with the creation of Alberta and Saskatchewan, and systematic resistance to the more general application of language rights.

Slowly, almost by stealth, the federal government introduced a French-language regiment (le Royal 22<sup>e</sup>) in 1914, bilingual stamps (1927), bilingual currency (1937), simultaneous interpretation in Parliament (1959), and bilingual family allowance cheques (1962). But it took the political turbulence and the surge of Quebec nationalism in the early 1960s for the federal government to confront the need for change.

Politics was the driving force; Prime Minister John Diefenbaker’s 1958 landslide produced a wave of 50 Tory MPs from Quebec, many of whom spoke no English and needed interpretation; bilingual family allowance

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cheques was a longstanding demand, denounced as too little too late when Diefenbaker finally made the change.

The 1962 election saw the arrival of 26 mainly unilingual Cr ditistes from small-town Quebec who raised the language issue every day. They discovered a Parliament, a government and a city that operated entirely in English, and challenged every unilingual barrier they encountered.

The climax came with the appearance of Donald Gordon, president of Canadian National before the Railway Committee, where he was questioned by Cr ditiste MP Gilles Gr goire about the fact that of 17 vice-presidents, not one was a French-Canadian. Gordon’s reply—that French-Canadians did not have the right education for senior management at CN—and this from a man who left high school after Grade 10—resulted in demonstrations in every French-language university in Quebec, the largest one led by student leader Bernard Landry.

In December 1962, Lester Pearson, then leader of the Opposition, promised that, if he were elected prime minister, he would set up a royal commission and in 1963, shortly after the election, he did. The Royal Commission on Bilingualism and Biculturalism began an eight-year odyssey of diagnosis and prescription co-chaired by Davie Dunton and Andr  Laurendeau.

Shocked by the anger they discovered in Quebec and the ignorance and indifference in the rest of the country, the commissioners issued a preliminary report in 1965, declaring that, without being aware of it, Canada was passing through the greatest crisis in its history. This was

viewed as self-evident in the French media and wild-eyed exaggeration in the English media.

But two years later, in 1967, following a series of FLQ bombings, Charles de Gaulle’s ‘Vive le Qu bec libre’ speech and Ren  L vesque’s departure from the Quebec Liberal Party, English-speaking commentators realized the B&B commissioners were more astute than they had realized. The first volume was greeted with wary respect. As Doug Fisher and Harry Crowe put it in their column in the *Toronto Telegram*: “The Commission was right. The rest of us were wrong.”

The commission recommended that Parliament pass an Official Languages Act that would formally declare the recognition of English and French as Canada’s official languages, their equal status in federal institutions, a guarantee of service to Canadians in either official language, the provision of education in French and in English in every province, the creation of bilingual districts, and the establishment of a Commissioner of Official Languages as a language ombudsman and linguistic conscience, reporting to Parliament on whether the law was being respected.

The legislation was passed and the Official Languages Act became law under Prime Minister Pierre Trudeau in 1969. Keith Spicer started work as the first Commissioner of Official Languages in 1970. This began almost five decades of an ongoing dialogue between Parliament, provincial legislatures, the courts and Canadians on language rights.

In 1976, the Parti Qu b cois was elected, and in 1977, the Quebec National Assembly voted on the Charte de la langue fran aise—known in



André Laurendeau and Davidson Dunton, co-chairs of the landmark Royal Commission on Bilingualism and Biculturalism, appointed by Prime Minister Pearson in 1963. *Library and Archives Canada photo*

English as Bill 101—which declared French to be the official language of Quebec, and the only language of the Assembly and the courts. This challenge to Section 133 of the BNA Act was struck down by the Supreme Court a few years later, as was the prohibition of English on commercial signs. However, the Court recognized the validity of the purpose of the legislation, and permitted the requirement that French always be predominant.

**I**n 1982, following years of constitutional debate and the failed 1980 referendum on sovereign-association in Quebec, the Constitution was brought to Canada by Pierre Trudeau from Britain over Quebec's objections, and amended with the Charter of Rights and Freedoms.

The Charter constitutionalized the provisions of the Official Languages Act, giving it a certainty that other laws do not have. This also set the stage for a series of crucial Supreme Court decisions, clarifying what the language rights laid out in the Charter actually mean.

And they mean quite a lot. The right

to education in a minority language means that provincial governments are required to provide schools within a reasonable distance of where parents live (Arsenault-Cameron, 2000) and those schools must be run by minority community school boards (Mahé, 1990). A person accused of a crime, regardless of the seriousness of the crime, has a right to be tried in his or her Official language of choice. (Beaulac, 1999).

Just as the Official Languages Act laid the groundwork for the language rights enshrined in the Charter, the Charter required a rewriting of the Official Languages Act. And in 1988, under Prime Minister Brian Mulroney the Act was completely revised, spelling out the rights of federal public servants to work in their official language of choice in designated bilingual regions (one of the few places that the Royal Commission's recommendation for bilingual districts survived) and strengthening the ability of the Commissioner to intervene before the courts.

**I**n 2005, the Act was amended again, giving all federal institutions a binding obligation to take

positive measures for the growth and development of minority language communities. Perhaps he most impressive change over the last 50—indeed 150—years has been the change in attitude towards Canada's language policy. What was once seen as a grudging concession to Quebec is now overwhelmingly supported by Canadians as an integral part of Canada's identity. Bilingualism is understood as a critical skill for political leadership. In addition, coming to terms with the fact that there is a French-speaking society that is a central part of Canada has made it easier for English-speaking Canadians to welcome others.

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In that way, the growth and acceptance of Canada's language duality has been a key element in a country that appreciates and encourages cultural diversity. Rather than being contradictory policies, duality and diversity are linked. Both are keys to Canada's future. **P**

*Graham Fraser served as Canada's sixth Commissioner of Official Languages from 2006-2016. A former parliamentary correspondent, he is the author of five books, including *Sorry, I Don't Speak French* (2006), which reviewed the history of official languages and *Playing for Keeps: The Making of the Prime Minister, 1988, the story of the free trade election.* [graham.fraser@sympatico.ca](mailto:graham.fraser@sympatico.ca)*