F. R. SCOTT AND HIS FIGHT FOR THE ENGLISH MINORITY IN QUEBEC

Graham Fraser is a Senior Fellow at the Graduate School of Public and International Affairs at the University of Ottawa. He is editing the diary that F. R. Scott kept during the years of the Royal Commission on Bilingualism and Biculturalism.

In March 1964, F. R. Scott attended a public hearing of the Royal Commission on Bilingualism and Biculturalism in Sherbrooke. It was a familiar part of the province for him; he had attended Bishop's College, as it was then called, and was part owner of a summer cottage in North Hatley, not far away.

"One young separatist said that he cared not in the slightest for any of the French speaking minorities in other Provinces, since they were lost anyway, and there was only one minority in the country that mattered at all: this was the English-speaking minority in Quebec. As for it, the sooner it moved west the better," Scott wrote in his journal.

"*J'y suis, j'y reste*," retorted Scott. I am here and I am staying. It is a phrase that was attributed to the French General Mac Mahon during the siege of Sebastopol during the Crimean War, and it was also the name of a play that was performed in Paris in 1953 when Scott visited Paris.

It was a characteristic quip by Scott: quick-witted, erudite, and profoundly true. Unlike many of his generation of English Quebecers – he was born in 1899 – he was bilingual and involved in the political life of Quebec. When he was named to the Royal Commission in 1963, he discovered that he was on a first-name basis with all of the Quebec members of the Commission (co-chair André Laurendeau, labour leader Jean Marchand, journalist Jean-Louis Gagnon) – and with the exception of the other co-chair, Davidson Dunton, who was originally from Montreal, he knew none of the members from the rest of the country.

> "The right to one's language in all personal and private relations is a human right. It is as inherent in man as his freedom of speech or of conscience."
>
> – F. R. Scott

It was not surprising that he should be named to the Royal Commission. He was Dean of Law at McGill, one of the founders of the Co-operative Commonwealth Federation (CCF), a poet, translator, constitutionalist and human rights activist who had been at Oxford at the same time as Lester Pearson, the Prime Minister who named him. As early as 1947, he had argued that section 133 of the British North America Act, which required that federal laws be passed in English and French and that both languages have equal status in the Parliament of Canada and the legislature of Quebec, meant that every province was, in fact bilingual.

In an article in the Queen's Quarterly in 1947, Scott argued that as a result of Section 133, "Canada is a bilingual country, and British Columbia can truthfully be called a bilingual province."

His view was that Quebec was historically, culturally, constitutionally and legally a bilingual province, and that this bilingualism should be extended to the rest of the country. André Laurendeau, in contrast, felt that Quebec was the home of a French-speaking society and that this was under threat; that

the protection of the French language and culture in Quebec was the first priority, followed by the protection of minority language communities outside Quebec. When Laurendeau died in 1968, his position was defended by Paul Lacoste.

A few months before the Sherbrooke meeting, in October 1963, Scott had lunch with Michael Pitfield, one of his former students who would go on the be Pierre Trudeau's Clerk of the Privy Council. Pitfield expressed concern that the Lesage government was removing English Quebecers from board positions which they had previously held, citing a museum board which previously had three Anglophones out of the dozen board members and then had none.

Scott's first reaction was to reflect that this might actually be helpful in getting bilingualism accepted in the rest of the country.

"This I must look into carefully, since Quebec is officially a bilingual province and the degree to which other provinces will accept official bilingualism may largely depend upon the degree to which they think they have to apply it strictly," he wrote in his journal. "The less Quebec applies it, the easier it is for them to adopt it."

But as the pressure for French unilingualism in Quebec increased over the subsequent years, Scott's view changed.

He was a strong voice in favour of bilingualism, and the institutions of the English minority in Quebec – and dissented from the Commission's recommendation that French should become the working language in Quebec.

In August 1967, in a comment objecting to two paragraphs in a draft of the first volume of the report, Scott explicitly laid out his view of language as a human right. It is an eloquent defence of language as a right, and of the English-speaking minority.

"The right to one's language in all personal and private relations is a human right. It is as inherent in man as his freedom of speech or of conscience," he wrote. "It starts with mother and child; it continues into wider social groupings. It is not granted by the State or by Constitutions. Laws may protect it and may prescribe conditions under which it may be reasonably exercised, particularly in dealing with state authorities."

He went on to dismiss the idea of establishing more than two official languages, to stress the importance of the English language in Quebec, the English-speaking community – then 800,000 strong and the largest language minority in Canada – and to underline the importance of the existing 1867 constitution.

"Their linguistic relations with the French – a good example of equal partnership – have been developed over 200 years, and provide a model which is a powerful influence for changes in other provinces which have been slow to grant French similar rights where they are justified even by their much smaller French minorities," he wrote. "The economic development in Quebec creates difficult problems for the French majority that we are going to speak about in another volume, and to which an answer must be found. I am not suggesting that the linguistic status quo in Quebec is to remain as at present; far from it. But section 133 of the B.N.A. Act is not an obstacle, but a great help, and it makes for an equal partnership within Quebec and is based on human rights which even the independence of Quebec would not call into question."

> "[i]f human rights and harmonious relations between cultures are forms of the beautiful, then the state is a work of art that is never finished."
>
> – F. R. Scott

Scott, who had prided himself on his positive relations with many Quebec nationalist poets, became isolated when he supported the introduction of the War Measures Act in 1970. A further breach occurred with the introduction of Bill 22 by the Bourassa government in 1974, which declared French to be the official language of Quebec. The bill galvanized Scott into defence of the English minority. Scott went through the bill clause by clause, declaring them to be "misleading," "clearly unconstitutional," "discriminatory," "undemocratic," and "coercive and oppressive." In one marginal note he wrote "Building contracts for McGill must be in French" and in another "Minority has no right to its language from Hydro!"

He maintained, as he always had, that, for all federal undertakings, English as well as French was an official language in Quebec. "So, when the bill says French is THE official language, it suggests it is the only official language, and this is quite false," Scott told *The Montreal Star*, listing off points where the bill was unconstitutional, undemocratic and coercive.

The interview, while passionate and detailed, had little impact: on July 31, 1974, the bill was adopted, becoming the Quebec Official Language Act. Scott joined a legal team challenging the constitutionality of the legislation on behalf of the Protestant School Board of Greater Montreal, but the appeal from the initial rejection by the Quebec Court of Appeal failed.

A few months later, his tone shifted to rage and frustration at the language situation in Quebec in a letter to his old friend and CCF-NDP colleague George Cadbury in January 1977.

"A dumber and more frightened crowd than the English minority in Quebec it would be hard to find," he fumed. "Business won't lift a finger; it will conform, or move out leaving a skeleton

staff behind fed instructions by computer from Toronto. McGill is frozen with fright; its money, even the large amount coming from Ottawa, is channelled through Quebec. The only active fighters are the tiny little Protestant school boards and the Italians. We don't deserve to survive as we have no collective will to live."

But by the time it reached the Court of Appeal, the Quebec Official Language Act no longer existed. The Parti Québécois had been elected in 1976 and in 1977 it replaced the Official Language Act with Bill 101, which became the even more stringent *Charter of the French Language*.

SCOTT'S WORST FEARS HAD COME TO PASS

Scott's worst fears of Quebec unilingualism had come to pass. His friends remarked on his bitterness. "You know for years I've spoken French whenever I've had the opportunity," he said to Eugene Forsey during a discussion on Bill 22. "Now I'm damned if I'll speak French."

He became equally bitter that Trudeau, despite strong urging from his former mentor, did not use the federal government's power of disallowance to strike down the Quebec language legislation.

In January 1985, Scott died. Near the end of his life, he wondered if he had been a failure, if he should have focused on poetry instead of politics.

It is true that his vision for Quebec and Canada did not survive. Canada's language regime is characterized by remarkable asymmetry, with Quebec being unilingual French, New Brunswick being officially bilingual, the territory of Nunavut being officially trilingual, and other provinces having a wide range of minority-language policies from substantial to almost non-existent. It is a regime built on a series of compromises, and Scott hated compromises, above all on questions that he saw as fundamental: minority-language rights and the powers of the federal government.

In the years that followed, the Supreme Court corrected some of the elements in Quebec's language legislation that so outraged Scott. The Blaikie decision by the Supreme Court re-established that laws must be enacted in English and French in Quebec, and that regulations must be in English and in French. It made clear that the rights of "persons" to use English and French in the courts. Then, in 1988, three years after Scott's death, the Supreme Court ruled in the Ford case that while it was permissible for Quebec to insist on having French on signs, it was unconstitutional to forbid the use of a language.

Since Sandra Djwa's biography, published IN 1987, darker references to Scott have circulated. He has been described as "paternalist and condescending [...] Victorian and aristocratic;" "a cultivated, well-intentioned, and polite gentleman-poet who was slightly out of synch with the community he wanted to join;" and a "poet reformer domestic tyrant."

However, 35 years after his death, it is also easier to see the magnitude of his achievements. His influence on Pierre Trudeau, while not as great as he had hoped, was huge, as it was on several generations of lawyers and legal scholars. His contribution to the Royal Commission on Bilingualism and Biculturalism was enormous. His thinking was an inspiration for the debates that led to the *Charter of Rights and Freedoms*. His clarity of thought defining language rights as human rights laid the groundwork for an edifice of jurisprudence on language. And his insistence on the rule of law presaged the critical role the Courts have played in defining language rights. The ground-breaking Supreme Court decision on the secession of Quebec, with its definition of minority rights as one of the central elements of Canadian democracy, stands on the foundation that he helped build. F. R. Scott laid out clearly, before the courts established the principle in law and jurisprudence, that language rights are human rights.

As he so eloquently put it, "[i]f human rights and harmonious relations between cultures are forms of the beautiful, then the state is a work of art that is never finished."

And the English community, with which Scott had such a deep and complicated relationship, has endured and transformed itself, becoming more bilingual than ever before. Now, 56 years after he made the quip, 900,000 members of the English-speaking community can say, as Scott did, "*J'y suis, j'y reste*."