

C. Michael MacMillan

Henri Bourassa on the Defence of Language Rights

Few figures in Canadian political history are so intimately linked with the issue of language rights as is Henri Bourassa. He was a leading actor in the defence of the French language in the Manitoba and Ontario school controversies at the turn of the century. In his various contributions to these controversies, Bourassa articulated a strong commitment to the survival of the French language and its place in the French-Canadian hierarchy of values. In addition, he developed a multi-faceted intellectual justification for French language rights throughout Canada. His arguments were presented with such force that they stimulated the development of French-Canadian nationalism. Ironically, a mere two decades later, he was denounced by his nationalist progeny for his criticisms of their brand of nationalism and their stance on language issues in the New England schools controversy.¹ Despite harsh criticisms of his apparent reversal, Bourassa stoutly maintained that his principles remained unchanged throughout these various disputes.

The language issue was only one of many disputes in which Bourassa was embroiled. Henri Bourassa was one of the most controversial figures to appear on Canadian political scene and ranks among the greatest orators in Canadian political history. Personally, he made a strong impression on all who met him. Journalists of his day described him as keenly intelligent, highly cultured, vital and personally charming.² Our contemporary image of him is formed more by his public actions, either through politics, journalism, or his public correspondence.³ Politically he presented a variety of images depending upon the issue and the extent of one's agreement with his stance. A contemporary historian, examining Bourassa's views on voting rights for women, concludes that, "the man that emerges here is a rather bitter, humourless, rigid, self-righteous person,"⁴ Such an assessment is overly harsh. It reflects a general tendency, noted by Levitt, to construct cameos, rather than portraits of Bourassa.⁵

It is certainly true that Bourassa was constitutionally incapable of compromise. In this regard, he approached political issues more as a prophet than as a politician. Convinced of the moral rectitude of his position, he was inclined to doubt the moral integrity of his opponents. A highly emotional man, he also had a tendency to be carried away by the force of his own orations, lending some validity to the charge that he was "too forceful without sufficient reason."⁶ These tendencies made him appear rather rigid and self-righteous, as he certainly was on the woman question. However, he could also be a voice for moderation, tolerance and flexibility on issues that concerned him very deeply. This was the case with the issue of language rights.

Bourassa's views on language rights are thus important for a number of reasons. They provide a useful corrective to prevailing views of his public personality. They also permit us to assess the importance of language rights in his political thought. Moreover, his efforts to develop a systematic defence of language rights, while ultimately unsuccessful, nevertheless offers important insights to our understanding of the concept. Finally, these reflections offer a basis for challenging certain characterizations of French-Canadian political thought.

Bourassa on Language and Culture

In order to understand Bourassa's justification of language rights, we must first comprehend his view of the relationship among language, religion and culture. Bourassa held a grandiose vision of the role of the French language in the development of human civilization, and accorded an almost sacred role to language in the preservation and growth of culture. He believed that "nations and races possess the gift of speech so that they can express all that is most noble and generous among them; and they have ceased living when they have lost their language."⁷

Bourassa maintained that each race possessed a particular "genius," which was embedded in the culture and most particularly the language of a race. This genius took the form of particular character traits and attitudes which were distinctive of that group. The French race was, in his view, distinguished by a highly developed sense of honour (both individual and national), precision in commercial affairs, intellectuality and economy in private life.⁸ These traits could only be maintained, however, by a careful cultivation of the wellsprings, the language and the culture. Failure in this matter threatened the very foundations of the culture. The dire implications of such developments are suggested in Bourassa's assessment of the French minority in Newfoundland, of which he remarks:

Et encore, je dis 'français' par acquit de conscience. D'après les renseignements qui me sont parvenus de diverses sources, le caractère vraiment français de cette minorité est encore plus altéré que celui des groupes de race et de langue française de nos Provinces Maritimes.⁹

For Bourassa, then, language embodied the very essence of the culture and existence of a group. From this is followed that the preservation of the language was a necessity prerequisite for the preservation of the "spirit, character and temperament" of a race.¹⁰

The necessity was all the more imperative because the language was French. Recalling its past dominance in the realms of culture and diplomacy, Bourassa compared the role of the French language in modern times to that of the Greek language in antiquity. It was, and remains, the language of superior civilization, the medium for the preservation of the best elements of other cultures. Accordingly, he urged closer contact with the intellectual life of France so that the language of French Canadians could "continue to find its nourishment in the homeland where it was formed."¹¹

The survival of the French language was also intimately linked to the survival of the Catholic faith. The French language, in Bourassa's view, bore "the immortal seed of modern Christian civilization."¹² It had a special mission as an agent of the Catholic message in the world at large, and North America in particular. Moreover, the language and the faith were mutually supportive in that the Catholic value system, with its emphasis on piety, simplicity and anti-materialism, expressed the core features of French cultural values. Finally, the French language performed the inestimable service of isolating the faithful from the insidious influences of certain aspects of Anglo-Protestantism, most notably that of agnosticism. As Bourassa pointed out, "English is still to a large extent the language of Protestantism, materialism and especially in the United States the language of the most enthusiastic worshippers of the golden calf."¹³ Language, then, was essential to the survival of the faith, and both played an important role in the survival of the French culture.

In taking this stance, Bourassa was not introducing novel perspectives on French-Canadian life; rather, he was giving eloquent voice to accepted wisdom concerning French-Canadian language, culture and religion. His eloquence was the basis of his impact in French-Canada, for it stimulated pride in the French heritage and mobilized the populace to political action in defence of the French language. Bourassa not only stimulated movements to defend the French language, but also developed an intellectual justification for its defence. The French language was at the centre of the complex of values and institutions which composed the French culture. Yet, in one province after

another, he witnessed direct assaults on the status of the French language. Recognizing this, Bourassa sought to erect a philosophical wall around the French language as a defence against intrusion by the English majority. He endeavoured to remove language from the realm of decision-making by claiming a right to language on philosophical and constitutional grounds.

An assessment of the consistency and validity of Bourassa's justification of language rights must take into account the context which inspired it. The character of Bourassa's discussion must be interpreted in light of his involvement in the political controversies of the day—which is to say that his arguments were frequently tailored to the particular arguments of his political opponents, rather than to the forms which he found most persuasive. The goal of his efforts was to confront challenges to French language rights on their own ground, rather than to advance a broad philosophical argument in support of language rights. In addition, Bourassa was by temperament more a rhetorician than a philosopher. He had an instinctive distrust of abstract speculation. "Pure logic," he averred, "is one of the most deceiving and dangerous guides of public men." It must always be tempered by "the brutal logic of facts."¹⁴ He was therefore disinclined to develop an elaborate philosophical system to undergird his stance. Yet he was keenly interested in moral principles and their realization in political practice. Under the pressure of various assaults on the status of the French language, he attempted to explore the moral basis of language rights.

In this endeavour, he develops three distinct lines of argument which at points interweave. The first and most abstract is the "Language as Divine Right" argument. The second is the "Language as Constitutional Right" argument, which rests on Bourassa's interpretation of the British North America Act. The final element is an historical justification for language rights. Each will be examined in turn to clarify the central features of Bourassa's view of language rights.

Language as Divine Right: A Catholic Perspective

Bourassa's political philosophy was profoundly influenced by Catholicism. All laws and all political authority were ultimately subject to and derived their moral weight from the laws of God. As he put it,

I believe in the laws of permanent justice administered by an all-providing God rather than in the laws of a short-thinking humanity.¹⁵

This intellectual framework formed the basis of his discussion of language rights, which is most fully elaborated in *La Langue, Gardienne de La Foi*.¹⁶ In this work, Bourassa offered two different kinds of

arguments. The first used Biblical texts as the basis for inferring the existence of such rights; the second derived language rights from the observance of Christian duties. In the first, Bourassa cites several events depicted in the Bible as proof that there is a God-given right to language. One example suffices to illustrate this particular approach. The miracle of Pentecost is offered as evidence of a natural right to language. The miracle consists of the fact that, though the Apostles speak their native tongue to the assembled throngs, nevertheless each member of the crowd hears the message in his or her mother tongue. From this, Bourassa concludes that, since God did not impose the language of the majority on the minorities present, this affirms the natural right of each segment of humanity to its language.¹⁷ Such a conclusion, however, is unwarranted. The point of that Biblical passage is to show that the message of the gospel is universal. Thus, it is an inadequate foundation for the argument that language is a God-given natural right.

The other branch of this argument is more complex and sophisticated. In it, Bourassa emphasizes the dual character of language for the group. It is at once a *right* and a *duty* of the French Canadian people. "Le droit à la langue maternelle, à la langue nationale," Bourassa insists, "est l'un des droits naturels les mieux établis, l'une des assises fondamentales des sociétés humaines essentielles: famille, tribu, race, nation."¹⁸ As such, it is clearly ordained by God, who has willed both the ends and means of human society. The first indication of this is the fact that the Roman Catholic Church, the official and infallible interpreter of the voice of God, has consistently supported language rights for all groups.¹⁹

At a more philosophical level, we are to understand that language rights are part of a network of social duties, the content of which is interpreted in light of the divine purpose. The primary principle is as follows:

l'homme appartient à Dieu avant de s'appartenir; il doit servir l'Église avant de servir sa patrie; il doit défendre les droits de Dieu et de l'Église avant ceux de sa nation ou de sa race; il doit 'obeir à Dieu plutôt qu'aux hommes' à l'Église plutôt qu'aux pouvoirs temporels, y compris son propre gouvernement, lorsque celui-ci lui enjoint de violer les lois de Dieu et de l'Église.²⁰

In Bourassa's view, the final end of human society is to lead people to God. All other features of human society are subordinate to this end. Language, as one of the fundamental elements of society, is therefore a natural right, since it serves an essential role in the development of the cultural and personal life of individuals and society.

One not only has a right to live; one also has a duty, since God wills it. In addition, human societies have a right to exist, which in turn imposes duties upon individuals to sustain them. In the case of language, the duty is most clear-cut. Citing the historical association of the French language with Roman Catholic faith, Bourassa asserted that "...[nous] luttons pour la langue afin de mieux garder la foi."²¹ In preserving the language, one performed one's religious duties.

Since both these rights and duties emanated from divine authority, it followed that these rights were subordinate to the rights of God and the Church. Where conflicts arose between the two, Bourassa makes clear that language must be sacrificed to supernatural duty. This cannot happen, however, since "les lois naturelles, voulues de Dieu, établies par Dieu, ne peuvent pas entrer en conflit avec les lois surnaturels."²² Such difficulties arise only through human error in interpreting natural law.

Tensions between ecclesiastical authority and French language rights were the occasion for some of Bourassa's most important public statements. At the twenty-first Eucharistic Congress held in Montreal in September 1910, Mgr. Francis Bourne, archbishop of Westminster, delivered a speech in which he argued that the English language ought to be the proper vehicle for the expression of the faith in North America, that, in effect, some French Canadian people must sacrifice their language rights to enable the Roman Catholic faith to flourish in North America. Bourassa delivered an impassioned refutation of this view, citing the glorious history of the French language in the service of the Catholic faith.²³ His speech, and the tremendous response it evoked, sharply influenced Bourne's views of the issue and also stimulated nationalist sentiment in Quebec.

Nineteen years later, Bourassa once again intervened in a dispute over French language rights and ecclesiastical authority. Much to the dismay of his many nationalist admirers, Bourassa supported the Church hierarchy. Ironically, the events which would produce a rift between Bourassa and the nationalists did not directly concern French-Canadians. During the 1920s, a dispute simmered in the Franco-American parishes of Rhode Island, which had its origins in a fund drive to support Catholic schools. Many Franco-Americans were angered that the money was not to be used to support French Catholic schools, despite the fact that they had made substantial contributions to the fund. Rebuffed in their initial efforts to obtain funds, a group began a public lobby, publishing a newspaper, *la Sentinelle*, to assert their views and taking their case first to ecclesiastical courts, then to civil courts.

Raging over an eight year period, the conflict became increasingly bitter and divisive. The *Sentinelle* was banned by the Roman Catholic Church, and the leaders of the "*sentinelliste*" group excommunicated. The "*sentinellistes*" ultimately called for lay control over parish funds and persisted in their efforts despite ecclesiastical sanction. This dispute deeply divided the Franco-American community throughout New England. It was also closely followed by French-Canadians, many of whom openly sympathized with the *sentinellistes*.²⁴

After repeated urging, Bourassa agreed to write a series of editorials in *Le Devoir* on his view of the issues. Published in a series of five articles in January, 1929, they dealt a severe blow to the *sentinelliste* cause.²⁵ Bourassa cast the issue as one, not about language rights, but about principles of authority. He wrote,

La crise religieuse qui afflige le diocèse de Providence n'a pas débuté par une querelle de langue ou de nationalité, mais, comme il arrive trop souvent, par une dispute d'argent.²⁶

He then proceeded to show that ecclesiastical control over parish funds was firmly established in Catholic doctrine and American state law. Consequently, the *sentinellistes* were utterly wrong in their stance, and their behaviour was explained as the result of a mischievous combination of exaggerated nationalism and poor relations between French and Irish Catholics in New England.

This sweeping condemnation of the *sentinellistes* led some to conclude that Bourassa was no longer the champion of French language rights of old. In fact, Bourassa was reasserting his old beliefs. In principle, he maintained that respect for the Church must be maintained above all. "Mais dans ce temps-là comme aujourd'hui, et en toutes circonstances," he explained to a correspondent, "j'ai toujours placé les droits de Dieu, de l'Eglise et du Saint-Siège au-dessus des revendications nationales, même légitimes."²⁷ At the same time, he remained convinced that the preservation of the French language could never conflict with the rights of the Church. While some French schools had been closed in New England and the special fund was not to aid such schools, there was no evidence of a plan to abolish or undermine French schools, as there had been in Ontario. Thus Bourassa dismissed *sentinelliste* protests as a manifestation of the extreme nationalism of which the Pope had warned him.

Bourassa's analysis of this controversy made dramatically clear that language rights were subordinate to the principle of ecclesiastical authority. It did not illuminate, however, the relationship of language rights to the principles of Catholic social doctrine. On the whole, Bourassa sketched only the broad outlines of such a connection.

Central to his approach, is the fundamental belief that individual life and community life are integrally related and that language rights are fundamental to the development of both the individual personality and community life. This insight forms an important basis upon which the claim for language can be advanced.

While Bourassa sketched only the outlines of a philosophical justification for language rights, he illuminated some of the complexities of its application in his discussion of various linguistic minorities. If there are language rights, we would expect him to claim it for all language groups. His argument, however, contains important qualifications. Bourassa distinguished between immigrants to Canada as opposed to those to the United States. He insisted that "Foreigners settling in Canada preserve the natural right to speak their maternal language and have it taught, concurrently with English or French."²⁸ Yet immigrants to the United States could not claim an equivalent right, because

"l'affluence énorme de populations venues de tous les pays d'Europe justifie dans une certaine mesure le régime scolaire qui tend à les assimiler par l'enseignement d'une langue commune. Aucun groupe de race étrangère ne peut invoquer, en faveur de sa langue, des droits spécifiques."²⁹

The "specific rights" here mentioned are *legal* rights such as those for the French language embedded in the BNA Act. Of course, neither group of immigrants can claim legal rights for the support of their languages. The major difference concerns the sheer mass of immigrants entering the United States. This difference in numbers does not so much negate the language right of the American immigrants, as to introduce additional political values. In this case, Bourassa acknowledges that the goal of national unity takes precedence over language rights.

In both cases, Bourassa maintains that the language rights of immigrants consist of those necessary to *sustain* the language, i.e. the right to education in the traditional language. It is clear that one must assimilate to the national language or languages of the host country. This rather obvious necessity masks an important point about language rights. If language rights are a form of natural right, they are necessarily unconventional ones. As conventionally understood, natural rights are held by individuals against society, and are usually protected and recognized within the public sphere. The right to free speech is a typical example in liberal democracies. In sharp contrast, language rights are preeminently *social*, in that they are only comprehensible in relation to a group of other human beings with whom the language is shared and from which personal and cultural identity is achieved.

It is social also in the sense that its content depends upon the relation of the group to the larger society. A traditional argument against French language and school rights in Canada has been that it logically entails recognition of similar rights to all linguistic groups, with implied chaotic consequences. In response, Bourassa reminded such critics that the French claims rested on positive law and history, a distinction which avoided the necessity of a policy of multi-lingualism. Immigrant groups, he maintained, must assimilate to the English or French language. Thus Bourassa resorts to the existence of a legal right to distinguish the two cases. However, he implicitly suggests that language rights, unlike conventional natural rights are bound to particular social contexts. Indigenous peoples can claim language rights. Immigrants can claim only the right to language education. As a result, the content of language rights varies in different contexts.

Bourassa also noted another significant feature of language rights when, in defending the right to education in the maternal language, he queried:

Or, je vous le demande, comment les générations futures pourront-elles jouir de ces droits et les exercer dans leur plénitude, si les autorités de l'une quelconque des provinces empêchent systématiquement les enfants de la génération actuelle d'acquérir à l'école la connaissance parfaite de leur langue? N'est-ce pas tarir la source même du droit?³⁰

This question emphasizes the partially ephemeral nature of language rights. They are only as important as the language is to the individual. Where the maternal language ceases to be the medium of everyday expression, then its centrality to individual and community life evaporates and with it, the justification for the rights to sustain the language. Again, this reinforces the social and contextual nature of language rights.

These observations offer important insights into the special characteristics of language rights. However, they do not constitute a developed justification for such rights. For that reason, his defence of language rights must rest upon his argument from history and the constitution.

The Constitutional Basis for Language Rights

Bourassa advanced two claims concerning the BNA Act. The first asserted that French language rights held throughout the dominion of Canada. This claim was at least in part based upon the second claim, which was that the confederation of Canada in 1867 was a "double contract." These two claims constituted the basis for Bourassa's defense of the position of the French language and culture in Canada.

The main bulwark of Bourassa's stance on the national rights of the French language was the BNA Act. Section 93 of the Act prohibits provincial governments from interfering with the rights and privileges of denominational schools. This buttressed French language rights since instruction in the French language was a *privilege* appended to the right to separate (i.e. denominational) schools. But this was too narrow a foundation. In his view, French language rights were founded on "a large and more solid base."³¹ Article 133 of the Canadian constitution acknowledged both English and French as the official languages of the country in all matters of government. These rights take precedence over the powers of the provinces, so that French-speaking citizens of Canada everywhere have the right to their language. Accordingly, both languages "have the right to coexist everywhere that the Canadian people leads a public life: at church, at school, in Parliament, in court, and in all public services."³²

He pointed to the Manitoba Act of 1870 as an explicit recognition of that principle by the Canadian Parliament. This Act established English and French as the official languages of the province in the same format as existed at the federal level. In addition, Bourassa noted that both "English and French Canadian citizens provided the money used to acquire what is now the Canadian West. This fact conveyed some rights to the French-speaking citizenry in the form of equality of treatment for their language."³³ Arguments based upon monetary interests, however, could never be the mainstay of so spiritual a temperament as his.

The primary basis of Bourassa's argument was his understanding of the spirit of the Act of Confederation. In essence, it was a "double contract."³⁴ One part was a political union of the British colonies. The other contract was an agreement between the two races of Canada, English and French, that "the basis of confederation is the duality of races, the duality of languages, guaranteed by the equality of rights."³⁵ In support of his interpretation, Bourassa cited the authority of John A. MacDonald, who once described the constitution as one "under which all British subjects are in a position OF ABSOLUTE EQUALITY, HAVING EQUAL RIGHTS OF EVERY KIND, OF LANGUAGE, of religion, of property and of person."³⁶ Bourassa also cited the testimony of Lord Carnarvon, the Secretary of State for the Colonies who, in presenting the BNA Act to the House of Lords in England in 1867, stated of sec. 93 that it was a compact between Upper and Lower Canada to protect the religious minorities of each province so that "no matter what the majority may attempt to do they cannot persecute the minority."³⁷

From such evidence, Bourassa argued that the spirit of confederation embodied a commitment to the preservation of the bi-national and bi-cultural character of Canada that is only superficially expressed in the actual legislation. Time and again he attacked the tendency among many English-Canadians to interpret the constitutional guarantees of the French language as narrowly as possible. As he put it,

These legal pontiffs interpret the British law, written or unwritten, according to the letter that killeth and not according to the spirit that giveth life and will maintain life. They forgot the old maxim that a constitution is made for the people and is supposed to adapt itself to all circumstances in the life of a nation and the people, and is not to be circumscribed within the four corners of a more or less obsolete or inapplicable precedent.³⁸

It was just such a spirit which posed one of the most severe threats to the persistence of Canadian society. Accordingly, Bourassa encouraged Canadian political elites to act in accordance with the spirit of the political union, and not its letter. It was this spirit, properly understood, that provided the civil rights of the French language in Canada.

Bourassa's understanding of the constitution is best captured in Stanley's description of it as "a gentleman's agreement, an understanding based upon mutual consent, with a moral rather than a juridical sanction."³⁹ This was its great flaw. As is well known, the letter of the BNA Act accords only a limited status to the French language, specifically in the political institutions of the federal government and the Quebec provincial government. It says nothing whatsoever about the right of language groups to sustain their native tongue, nor of the status of the French language in provinces other than Quebec. Consequently, it does not support the claim that the constitution embodies a commitment to biculturalism and binationalism. Subsequent judicial decisions in linguistic and educational conflicts amply testify to such limitations.⁴⁰

This was to be expected, since it is the essence of a gentleman's agreement that it is not codified. The evidence, then, must be sought in the behaviour of the parties to the agreement. To this end, Bourassa emphasized the linguistic and cultural guarantees recognized in such documents as the Manitoba Act of 1870 and the Northwest Territories Act of 1875. However, as Bourassa was well aware, Parliament did not always respond with policies like the Manitoba Act. The Autonomy Bills of 1905, which created the provinces of Alberta and Saskatchewan without including language guarantees, certainly did not reflect such a gentleman's agreement. Bourassa insisted that such bills were a deviation from the established principle, rather than evidence against his claim. Such a judgement, however, must rest on a prior under-

standing of the relevant documents, which accordingly requires an independent basis for justification. Ultimately the argument for a cultural compact lacked adequate foundation in both constitutional text and political practice. Bourassa's interpretation of the constitution appeared to be, as Cook suggests, "a case of the wish being father of the thought."⁴¹ Nevertheless, Bourassa was the most eloquent and forceful exponent of this perspective, and his failure to develop an adequate defence of language rights on this basis is more a reflection on the materials he had to work than on his intellectual craftsmanship. Sensitive to these defects in the constitutional argument, Bourassa made frequent reference to history as a final support for language rights.

History as a Source of Right

Bourassa saw in the record of history further support for French language rights in Canada. It consisted of customary rights as expressed in established international practice, and in the particular contributions of French Canadians to the historical development of Canada. In the realm of customary right, he pointed to three bulwarks of French-Canadian language rights:

...les maximes du droit international, telque compris et pratiqué à cette époque, les stipulations de la France en faveur de ses anciens colons, et les principes de liberté de la constitution britannique que s'appliquent à toutes les possessions de l'Angleterre.⁴²

Throughout human history, Bourassa avers, there has been a general recognition of the right even of conquered societies to maintain their language. These norms, he suggests, are reflected in relevant legal documents. The French Canadians were guaranteed "their privileges" in the surrender of Quebec. This was reinforced in the Quebec Act, wherein the British Parliament declared that the French Canadians maintained "their goods with the customs and usages which attach to them and 'all their other civil rights.'" While these acts did not make explicit reference to language rights, Bourassa avers that this is evidence that the legislators *presumed* that it was covered by "civil rights."⁴³

To buttress these customary rights, Bourassa pointed to the history of his people. "Our entire history," Bourassa asserted, "proves beyond the letter of treaties and laws we have definite right to preserve and spread the French language throughout the length and breadth of the Canadian Confederation." When the American rebels invaded the city of Quebec in 1775, the French-Canadian people sprang to the defense of the city and repulsed the attack. They continued their support of the

British government throughout the American War of Independence. "This was," Bourassa suggests, "the first spring of their moral right."⁴⁴ This right received further reinforcement with the important role played by French-Canadians in the defense of the British colonies in the War of 1812 between England and United States. Against those who countered these examples with the Patriote Rebellions of 1837, Bourassa argued that the rebels performed an invaluable service to British democracy by asserting their right as British subjects.

His analysis of customary rights embedded in international law and custom suffers the same defect as his analysis of the BNA Act. Nowhere is there explicit support for the position he wishes to advance; rather, the argument relies upon important assumptions that are presumed, but not shown, to be the basis of such international law. In fact, there is some clear evidence to challenge his interpretation. For example, the use of any language except English in the Courts or records of England was abolished by a statute in 1731.⁴⁵ This directly contradicts the assertion that language rights are well-established in British constitutional history. As a basis for language rights, it will not stand.

The argument from historical experience is as intriguing as it is novel. However, it raises even more questions than it purports to answer. For example, how does French-Canadian loyalty to Britain during the American War of Independence create a "moral right", as Bourassa calls it, to the protection of French-Canadian language rights? More generally, what is it about historical events that creates rights? Neither question can be answered from Bourassa's analysis, since the intervening links in the argument are not explored.

Rather than casting this aspect of his discussion in the vocabulary of rights, it would be more appropriate to consider it under the rubric of political justice. Bourassa's review of the important contributions of French-Canadians to the survival of Canada is best interpreted as a reminder to his English-speaking compatriots that Canada is very much a joint venture of two distinct cultures; that each has made its contribution to the country as it now exists; and that the French-Canadian contribution has been critical to the survival of the country. Consequently, English-Canadians owe certain considerations to French-Canadians; in particular, a commitment to protect the essential bases for the survival of the distinct cultures. Since language is central to culture, this entails a respect for language rights.

Thus Bourassa derives French language rights from the obligations created by the historical contributions of French-Canadians. However, the notion of historical obligation may not be adequate to the task that must be accomplished. Even if one accepts that history creates

obligations, it remains unclear how such obligations are to be fulfilled, and, specifically, that they must translate into a respect for language rights. It is thus an insufficient ground to establish a right to the preservation of one's language.

Bourassa's Contribution

This examination of the components of Bourassa's argument for the existence of language rights indicates that Bourassa has failed to provide adequate grounding for such a right. His failure, however, is an instructive one, for it offers important insights to the analysis of language rights.

In the course of his discussion, Bourassa canvassed the major bases upon which an intellectual defence of language rights can be constructed. As is clear from this analysis, history and the constitution offer little material for the construction of such an argument. Bourassa has fashioned as eloquent and persuasive a case as can be made of such materials, yet the effort results in failure. Recently, the constitutional basis for language rights has been significantly expanded by the entrenchment of the *Canadian Charter of Rights and Freedoms*, which recognizes minority language educational rights for Canadian citizens and rights to public services in one's mother tongue in federal institutions and the province of New Brunswick.⁴⁶ This innovation is more consistent with Bourassa's conception of language rights, though it remains noticeably short of language equality in all public services which Bourassa envisaged. Consequently, a more comprehensive notion of language rights must be founded on principles of human rights.

As we have seen, Bourassa sketches only the broad outlines of such an argument. However, he draws attention to some of the special complexities of language rights. First, language rights are pre-eminently social, in that they are comprehensible only in relation to a group of human beings with whom the language is shared and from which personal and cultural identity is derived. They are also social in the sense that the content of language rights depends upon the relation of the group to the larger society, so that the justification for the right itself is subject to erosion with changing significance of the language to the group. These complexities all indicate that language rights are a hybrid kind of rights in that they possess elements of both individual and collective rights. Bourassa's insights into these problems offer important avenues for further exploration of these issues.

The special character of language rights suggests a comment on one perception of French-Canadian political thought. It has been suggested that the public philosophy of French-Canadians "might be

called Rousseauian: the expression of a 'general will' to survive," as opposed to the Lockean character of English-Canadian political thought.⁴⁷ The distinction between Rousseauian and Lockean political thought here refers to the difference between a political philosophy which elevates community interests over those of the individual versus a philosophy which does the reverse. Similarly, it has been argued that French-Canadians emphasize collective rights while English-Canadians emphasize individual rights.⁴⁸ This analysis of Bourassa, a central figure in French-Canadian intellectual history, suggests the necessity of qualifying such perceptions.

Far from being the basis of Bourassa's political and social thought, Rousseau represented its very antithesis. Rousseau's radical democratic principles and secular orientation contrasted sharply with Bourassa's elitist, anti-democratic proclivities and profoundly Catholic philosophy. This was amply illustrated in his response to an essay from one of his numerous correspondents when he remarked,

You seem to derive your main inspiration from Rousseau's thesis on the Social Contract. I do not believe in it. An old-timer as I am, I believe that the foundation of human rights, whether individual or social, is to be found in natural law, as enacted by God and defined by revelation as well as by social philosophy.⁴⁹

While Bourassa shared with Rousseau a belief that community life is central to individual development, nevertheless, his inspiration stems from the prevailing Catholic philosophy. This is one reason why Bourassa never poses an antagonism between individual rights and collective rights in respect to language. Rather, language rights derive from their importance to individual and community development. Where multiple linguistic communities occupy the same political unit, his answer is to acknowledge language rights for the minority group rather than to insist that the dominant language prevail. This applied to the English minority in Quebec as much as to the French minority in the rest of Canada. Thus, he does not reflect the alleged French-Canadian emphasis on collective rights over individual rights in this area.

Bourassa also poses a challenge to the suggestion that French-Canadian political thought is distinctly at odds with the English political tradition of constitutional liberalism stemming from John Locke. Bourassa's defence of French-Canadian language rights is in significant measure constructed on the basis that they are customary rights acquired by history, by tradition and by constitutional convention. Such arguments could more readily have been penned by John Locke than by Jean-Jacques Rousseau. Thus Bourassa's views are at least

partially based upon the English political tradition. In so far as Bourassa is representative of the mainstream of French-Canadian political thought up to the 1920s, it is quite clear that French-Canadian thought cannot be accurately depicted as "Rousseauian" or as "emphasizing collective rights over individual rights."

Finally, recognition of the essential collective aspects to language rights, suggests that the apparently collectivistic nature of French-Canadian political thought is in significant measure a by-product of their minority situation, and the fact that they have had to assert the existence of language rights against a frequently hostile English majority. Where the situation is reversed, we might discover that English-Canadian justifications of language rights appear likewise inspired by collectivist principles. Recent language controversies in Quebec offer the opportunity for further explorations of this issue. However, these same controversies also indicate the necessity for more systematic reflection on the nature and content of language rights. I would suggest that Bourassa's reflections are a very good place to begin.

NOTES

1. These controversies are extensively discussed in R. Cook, C. Brown and C. Berger (eds.) *Minorities, Schools and Politics* (Toronto: University of Toronto Press, 1969). Useful material is also available in Lovell Clark, *The Manitoba School Question: Majority Rule or Minority Rights?* (Toronto: Copp Clark, 1968); Robert Choquette, *Language and Religion: a history of English-French conflict in Ontario* (Ottawa: University of Ottawa Press, 1975). The history of the New England schools issue is treated in the publication *Histoire de L'Agitation Sentinelliste dans la Nouvelle-Angleterre 1925-1928*, (Woonsocket, R.I.: La Tribune Publishing Co., 1928) and in Robert Rumilly, *Henri Bourassa: La vie publique d'un grand Canadien* (Montréal: Les Editions de L'Homme, 1953).
2. John Boyd, "The Nationalist Movement," *Canadian Magazine* 36 (1911), 260-268, an excerpt of which appears in Joseph Levitt, ed., *Henri Bourassa on Imperialism and Bi-Culturalism 1900-1918* (Toronto: Copp Clark, 1970), pp. 16-20. Mason Wade describes him as representing "the best of the French-Canadian elite" in his *The French Canadians 1760-1967*, revised edition in two volumes (Toronto: MacMillan, Laurentian Library, 1968), 1:497.
3. Cameron Nish has suggested that "the personal correspondence will reveal facets of Bourassa's character which one is unable to discern from the public correspondence." *Calendar of the Public Correspondence of Henri Bourassa 1895-1924*, 8 vols., (unpublished M. A. thesis, University of Montreal, 1959), 1:17.
4. Susan Manr Trofimenkoff, "Henri Bourassa and 'The Woman Question,'" *Journal of Canadian Studies*, 10 (Nov., 1975), 10.
5. "For the most part, the images of Bourassa are drawn up in the form of cameos rather than portraits." Joseph Levitt, "Images of Bourassa," *Journal of Canadian Studies*, 13 (1978), 110.
6. This charge, levied by one of Laurier's supporters, is cited in Casey Murrow, *Henri Bourassa and French Canadian Nationalism* (Montreal: Harvest House, 1968), p. 105.
7. Henri Bourassa "The French Language and the Future of our Race," in R. Cook, ed., *French-Canadian Nationalism* (Toronto: Macmillan, 1969), p. 132.
8. Bourassa, "The French Language and the Future of our Race," p. 125.
9. Letter to M.M.G. Perrot, 24 September 1930.

10. Bourassa, "The French Language and the Future of our Race," p. 133. I used the term "race" here in the same sense as Henri Bourassa and many earlier commentators on French-English relations in Canada, who subscribed to its older definition as "a distinct cultural group." For an extended discussion of the etymology and evolution of the concept of race, and its application in the Canadian setting, see D. Hughes and E. Kallen, *The Anatomy of Racism: Canadian Dimensions* (Montreal: Harvest House, 1974).
11. Bourassa, "The French Language and the Future of our Race," p. 139.
12. Bourassa, "The French Language and the Future of our Race," p. 145.
13. Bourassa, "The French Language and the Future of our Race," p. 140.
14. Henri Bourassa, *Official Report of the Debates of the House of Commons, 1899*, p. 622. (Hereinafter referred to as *Debates*, with appropriate year following.)
15. Bourassa, *Debates*, 1934, p. 109.
16. Henri Bourassa, *La Langue, Gardienne de la Foi*, (Montreal: L'Action Francaise, 1919).
17. Bourassa, *La Langue, Gardienne de la Foi*, pp. 15ff.
18. Bourassa, *La Langue, Gardienne de la Foi*, p. 13.
19. *Ibid.*
20. Bourassa, *La Langue, Gardienne de la Foi*, pp. 11-12.
21. Bourassa, *La Langue, Gardienne de la Foi*, p. 51.
22. Bourassa, *La Langue, Gardienne de la Foi*, p. 12.
23. His remarks were published in pamphlet form as *Religion, Langue, Nationalité* (Montréal: Le Devoir, 1910). A good anecdotal account of these events appears in Robert Rumilly, *Henri Bourassa*, chapter 18.
24. Robert Rumilly, *Henri Bourassa*, pp. 654-656, 704-716, *passim*.
25. They were subsequently published as a booklet, entitled *L'Affaire de Providence*, (Montréal: Le Devoir, 1929). All references are to this booklet.
26. Henri Bourassa, *L'Affaire*, p. 5.
27. Bourassa to M.J.O. Masse, 4 February 1929.
28. Henri Bourassa in Joseph Levitt (ed.), *Henri Bourassa on Imperialism and Biculturalism* (Toronto: Copp Clark, 1970), p. 146.
29. Bourassa, *La Langue Française au Canada* (Montréal: Le Devoir, 1915), p. 34.
30. Bourassa, *La Langue Française au Canada*, p. 30.
31. Bourassa in Levitt, *Henri Bourassa on Imperialism and Biculturalism*, p. 145.
32. Bourassa, "The French Language and the Future of our Race," p. 137.
33. As Bourassa would put it, everyone is equal before the collector of taxes. See his remarks in *Debates*, 1905, p. 3262.
34. Bourassa in Cook, *French-Canadian Nationalism*, p. 121.
35. Bourassa in Levitt, *Henri Bourassa on Imperialism and Biculturalism*, p. 131.
36. John A. Macdonald in *Debates*, 1890, p. 745, as quoted in Henri Bourassa, *La Langue Française au Canada*, p. 28.
37. Quoted by Bourassa in *Debates*, 1905, p. 3256. It is worth emphasizing that, while the protection was extended to religious minorities, this was effectively protection of linguistic minorities also, due to the strong overlap between religious affiliation and language at that time.
38. Bourassa, *Debates*, 1926, p. 78. This criticism rings as true today as it did then. See the *Preliminary Report of the Royal Commission on Bilingualism and Biculturalism* (Ottawa: Queen's Printer, 1965) on this tendency in the present dilemma in Canada.
39. G.F.G. Stanley, "The Federal Bargain: The Contractarian Basis of Confederation," in K. McRae, ed., *Constitutional Democracy* (Toronto: McClelland and Stewart, 1974), p. 276.
40. See Edward McWhinney, *Quebec and the Constitution 1960-78*, (Toronto: University of Toronto Press, 1979), chapter 6. Language rights in Canada are delineated in Section 133 of the British North America Act which reads as follows: "Either the English or the French language may be used by any Person in the Debates of the Houses of the Parliament of Canada and of the Houses of the Legislature of Quebec; and both those Languages shall be used in the respective Records and Journals of those Houses; and either of those Languages may be used by any person or in any Pleading or Process in or issuing from any Court of Canada established under this Act, and in or from all or from all or any of the Courts of Quebec.
The Acts of the Parliament of Canada and of the Legislature of Quebec shall be printed and published in both those Languages."
41. Ramsay Cook, *Provincial Autonomy, Minority Rights and the Compact Theory, 1867-1921*, Studies of the Royal Commission on Bilingualism and Biculturalism, no. 4, (Ottawa: Queen's Printer, 1969), p. 59. The diversity of positions on this matter are well represented

- by Donald G. Creighton, *Towards the Discovery of Canada* (Toronto: Macmillan, 1972), and Stanley Ryerson, *Unequal Union*, second edition, (Toronto: Progress Books, 1973). See also articles by Eugene Forsey "Canada: Two Nations or One?," *Canadian Journal of Economics and Political Science* 28 (4, 1962), 485-501; Hugh Thorburn, "Needed: A New Look at the Two Nations Theory," *Queen's Quarterly* 80 (2, 1973), 557-565. See also the sharply critical response of David Kwavnick, "Quebec and the Two Nations Theory: A Re-examination," *Queen's Quarterly* 81 (3, 1974), 357-376.
42. Bourassa, *La Langue Française au Canada*, p. 10.
 43. Bourassa, *La Langue Française au Canada*, p. 19.
 44. Bourassa in Ramsay Cook, *French-Canadian Nationalism*, pp. 134, 135. He developed a similar argument in support of the language rights of Franco-American in his speeches on his New England tours. See Omer Heroux, "En Pays Franco-Américain," *Le Devoir*, Jeudi, 26 Nov. 1914, pp. 1-2, and "M. Bourassa à Central Falls," *Le Devoir*, Lundi, 30 Nov. 1914, p. 2.
 45. Francis C. Muldoon, "Entrenched Language Rights," *Manitoba Law Journal* 8 (4, 1978), 630.
 46. The Canadian Charter of Rights and Freedoms forms Part 1 of the Constitution Act, 1982, which was passed by the Canadian Parliament in December, 1981, and subsequently passed by the British Parliament in the spring of 1982.
 47. Ramsay Cook, "The Canadian Dilemma," *International Journal*, 2 (Winter, 1964-65), 4. It should be noted that Cook offers this distinction without elaborating on its utility for explaining French-Canadian political thought and behaviour. It is thus not clear that Cook would wish to maintain that French-Canadian political thought is fundamentally Rousseauian in the sense of a dominant ideology or as a main theme in the evolution of French-Canadian thought.
 48. Sheila McLeod Arnopoulos and Dominique Clift, *The English Fact in Quebec* (Montreal: McGill-Queen's University Press, 1980), chapter 3. In their analysis, there is an implicit link between French-Canadian thought and Rousseau, when they assert that "the idea of collective rights has always played a role in French thinking and can be found in French social critics such as Jean-Jacques Rousseau who celebrated the 'volonté générale' or the 'general will' in his *Social Contract* in the eighteenth century," *op.cit.*, p. 215. In a subsequent work, Clift indicates that this is not universally accepted in Quebec, as demonstrated by Claude Ryan's criticisms of the subordination of individual rights. See Dominique Clift, *Quebec Nationalism in Crisis* (Montreal: McGill-Queen's University Press, 1982), p. 114.
 49. Letter to Dr. Arthur S. Thompson, 27 February 1935.