

After 25 years of Charter, most like Supreme Court's course

KIRK MAKIN

FROM FRIDAY'S GLOBE AND MAIL

MONTREAL — A modest majority of Canadians approve of the direction in which the Supreme Court of Canada is moving society, says a poll released yesterday at a McGill University conference to mark the 25th anniversary of the Charter.

The SES Research poll found that 53.9 per cent of 1,000 respondents who were questioned said that the Supreme Court is moving society in the right direction. However, a surprisingly high total of 37 per cent said the court is moving society in the wrong direction, citing too many rights for minorities; decisions that are soft on crime; and a sense that laws are being changed too often.

Nikita Nanos, president of SES Research, said the number of naysayers is cause for concern and should prompt political leaders to give the country "a civics lesson" about the role of courts and the Canadian Charter of Rights and Freedoms.

The survey question about the Supreme Court was a bookend to some questions the polling firm asked several weeks ago involving the direction in which the Charter is moving the country. In the earlier survey, 58 per cent of respondents felt that the Charter was moving Canada "in the right direction," while 26 per cent of respondents expressed the opposite view. (The remaining 16 per cent expressed no opinion.) The support for the Supreme Court echoed the sentiments of many speakers at yesterday's conference. Legal academics and political scientists from both ends of the political spectrum were critical of the Charter for becoming a focal point of power and causing citizens to ignore political discourse in favour of courtroom litigation.

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Former Federal Court of Canada judge Barry Strayer -- a onetime Department of Justice official who was instrumental in crafting the Charter -- said the Supreme Court has gone much further than the Charter's creators ever imagined in deciding social issues. "This was something the framers wished to avoid," he said. "There was certainly never any consensus that the Supreme Court should be deciding political issues of major public interest."

He also noted that the framers of the Charter worried needlessly about whether the courts would take it seriously. "They have; sometimes with more enthusiasm than wisdom," he said. "In the first couple of years, you had the impression that every magistrate wanted to be the first kid on the block to have a Charter decision."

Several speakers decried the fact that Charter litigation saps the energy and resources of activists while offering extremely uncertain results.

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