



SUBMISSION
TO
NEW BRUNSWICK SELECT COMMITTEE
ON
THE 1987 CONSTITUTIONAL ACCORD

SUBMITTED BY
QUEBEC FEDERATION OF HOME & SCHOOL ASSOCIATIONS
3285 Cavendish Blvd., Suite 562, Montreal, Quebec

OCTOBER 1988

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INTRODUCTION

The Quebec Federation of Home & School Associations (QFHSA) is pleased to have the opportunity to make this submission to the Select Committee on Constitutional Reform regarding the 1987 Constitutional Accord.

The Organization

The membership of QFHSA is composed of approximately 5,000 families distributed within fifty-three local Home & School Associations throughout the Province of Quebec. Associations are active from the Gaspé peninsula to Aylmer in Western Quebec, from Magog in the Eastern Townships to Baie Comeau on the North Shore. As such, our Federation is not so much a separate entity as it is the sum total of its local associations and individual members.

In addition to local Home & School Associations we have 86 Group Affiliates. These are School Committees, School Boards, independent private schools, teachers' associations and other groups interested in children -- their welfare and education.

QFHSA is a constituent member of the Canadian Home & School and Parent-Teacher Federation, the largest voluntary, independent, parental organization in Canada. Home & School has existed in Canada since 1895 when it was founded in Baddeck, Nova Scotia, by Mrs. Alexander Graham Bell.

The Aims of Home & School

While there have been active Home & School Associations in the Province of Quebec since 1919, the Quebec Federation of Home & School Associations was founded in 1944, and eventually was incorporated by Letters Patent issued under the Quebec Companies Act in 1959. Among the Federation's objects and purposes are the following:

- * To assist in the formation of public opinion favourable to reform and advancement of the education of the child.
- * To develop between educators and the general public such united effort as shall secure for every child the highest advantage in physical, mental, moral and spiritual education.
- * To raise the standard of home and national life, and
- * To promote and secure adequate legislation for the care and protection of children and youth.

Approval of the Submission

The Board of Directors of QFHSA, at its meeting May 22, 1987, approved as the basis of our brief the following Motion:

THEREFORE BE IS RESOLVED that the Prime Minister of Canada and the ten provincial premiers agree that Section 59 of the Constitution Act, 1982, be abrogated and thereby the symmetry of constitutional minority official language rights be restored to what was envisaged in the original Provincial Accord of November, 1981, and that this minimum base of equality be the position from which the negotiations begin to encourage provinces to expand official minority language rights in the areas of provincial jurisdiction.

The Motion passed at our May 22nd Board meeting was taken to the Annual Meeting of The Canadian Home & School and Parent-Teacher Federation, held May 24 to May 30, 1987, in Moncton, New Brunswick, and received its full endorsement.

PRELIMINARY REMARKS

Majority/Minority Educational Systems

Before Confederation, parents in the then Province of Canada whether citizens or aliens were recognized as having the right to declare their child's interest in terms of religious faith, and as a Catholic or Protestant minority (dependent upon status in the district) organize the schools and school system which would aid them in their task of educating their children. This right of dissent from the local majority to preserve a freedom of conscience in relation to religion preceded the 'Charter of Rights and Freedoms' by 140 years -- it goes back to the legislation that re-established in 1841 a legal framework for the public school system in what is now Quebec. The original advocates and beneficiaries of that right were Bishop Bourget and his followers. With the extension in the early 1840's of the Catholic parish system to the Eastern Townships -- which at that time was significantly majority English speaking -- the exercise of this right of dissent ensured that French speaking settlers could send their children to schools that reflected their culture, used their language, and were staffed from their community.

A generation later, (as Confederation became imminent), English-speaking residents of Quebec were faced with the prospect of being a linguistic and religious minority in a province that would permanently have a French majority. Alexander Tillock Galt and his followers sought to protect the educational autonomy of the minority community by having the right of dissent in education entrenched in the Constitution of Canada, 1867, as Section 93 of that document.

Since then it has been a fundamental safeguard in education for Protestants and Catholics in Ontario and Quebec, as is illustrated by the Supreme Court ruling upholding the constitutionality of the extension of funding for Catholic School Boards in Ontario and the fact that the Quebec Association of Protestant School Boards was an intervenor in the case in support of the Catholic Boards.

CONSTITUTIONAL AMENDMENTS, 1987 — Article 1(a) and 2

- 2.(1) The Constitution of Canada shall be interpreted in a manner consistent with
 - (a) the recognition that the existence of French-speaking Canadians, centered in Quebec but also present elsewhere in Canada, and English-speaking Canadians, concentrated outside Quebec but also present in Quebec, constitutes a fundamental characteristic of Canada; and
 - (b) the recognition that Quebec constitutes within Canada a distinct society.
- (2) The role of the Parliament of Canada and the provincial legislatures to preserve the fundamental characteristic of Canada referred to in paragraph (1)(a) is affirmed.
- (3) The role of the legislature and Government of Quebec to preserve and promote the distinct identity of Quebec referred to in paragraph (1)(b) is affirmed.
- (4) Nothing in this section derogates from the powers, rights, or privileges of Parliament or the Government of Canada, or of the legislatures or governments of the provinces, including any powers, rights or privileges relating to language.

Section 93 of the Constitution, 1867, premises a bi-religious society, not a multi-religious one. So it does not reflect the plurality of modern society. Moreover, it is silent on the issue of right in the choice of

language of instruction. We contend that in Quebec in law in 1867 such choice resided with the school board (a contention which since 1979 we have been trying under the Court Challenges Program to have heard by the Quebec Superior Court, but have been blocked by the federal bureaucracy).

Educational Official Language Minority Rights

The Charter of Rights and Freedoms, 1982, addressed the matter of language rights in education. Section 23 gives to Canadian citizens -- whose first language learned and still understood is either of the official languages -- the right to have their children educated in that maternal language when it is the minority official language of the province. Thus the principle of minority dissent in education has been extended to include the explicit right of parents to dissent from the use of the language of the official language majority in the province as the language of instruction for their child. But that right is hedged around by requirements of citizenship, maternal language or Canadian schooling, and sufficient numbers, so that the parent does not have unhindered freedom to choose from the official languages for instruction of the child.

Federal Language Policy in Education

Although Section 23 is part of the Charter of Rights and Freedoms, it neither grants parents a free choice nor accommodates the preference of the person. Rather than conferring a freedom of individuals it is a statement of language policy in education in Canada. Implicitly Prime Minister Mulroney recognized this when in his letter to QFHSA of February 6, 1985, he acknowledged that while *"minority language educational rights apply in all provinces, as you note, they are more limited in the case of Quebec."*

He went on to state:

The government of Canada is strongly of the view that provinces must respect the various linguistic and educational rights provided by the Constitution. Those rights constitute a minimum guarantee, not a maximum. The government will encourage provinces to expand minority official language rights in areas of provincial jurisdiction.

Criterion for Educational Rights

The criterion used for the federal government's language policy in education -- "first language learned and still understood" -- is indirect in relation to the beneficiary of educational services, namely, the child, in that it pertains to the child's parents. As defined it means the child's right is dependent upon the language spoken by his/her grandparents during the infancy of his/her parents. The criterion is awkward. It reaches back two generations to establish an observable characteristic, the language spoken by the child. Such contortion did not originate with the federal government's Laurendeau-Dunton Commission. It had recommended a criterion that would classify a person by the language he or she now speaks -- a direct criterion. But those who drafted Section 23 sought an indirect criterion in order to accommodate Quebec's restrictive Law 101.

The origin of the criterion can be traced to a meeting of the Quebec Liberal Party in Montreal on March 2, 1980. One of the workshops at this meeting was required to clarify an ambiguous statement found in the Livre beige of the Party, which read:

...droit de tout individu de langue française ou anglaise et de tout autochtone d'exiger que son enfant reçoive ... l'enseignement primaire ou secondaire dans sa langue maternelle.

The text could be read in two ways: a broad reading that "sa langue maternelle" referred to the mother tongue of the person attending school, or a restrictive reading that it referred to the mother tongue of the parent. The majority of the workshop preferred the second alternative, which would have the effect of minimizing the number of persons eligible to attend English-language schools in Quebec. Those drafting Section 23 (1)(a) used the more restrictive latter definition which thereby excluded from the protection of Section 23(1)(a) those naturalized Canadian citizens and aliens whose mother tongue is neither English nor French. In Quebec in 1976-77, the children of such persons who would have been excluded from the right of choice of official language on the grounds only of maternal language numbered 60,228 and constituted 4.58% of the total student body in Quebec -- a gaping hole in a charter of rights and freedoms.

More Limited Educational Rights in Quebec due to Section 59

The restricted criterion applies equally in all provinces, so it does not explain Prime Minister Mulroney's acknowledgement that minority language rights are more limited in the case of Quebec, the province wherein over half of the official language minorities in Canada reside. Although the criterion of the language policy was molded to accommodate Quebec, when the Provincial Accord was signed by the provinces on November 5, 1981, the then Premier of Quebec abstained. The draft Charter of Rights and Freedoms that was released indicated equality of minority official language rights. In the interval from November 5th to November 18th, back-room negotiations continued to bring Quebec into the Accord. Surreptitiously Section 59 was inserted in the draft. It excludes Quebec from the scope of Section 23(1)(a) until such time as the legislative assembly or the government of

Quebec chooses that it come into force. As a consequence, for minority official language educational rights the Charter of Rights and Freedoms excludes not only naturalized Canadians and aliens whose mother tongue is neither French nor English, it also excludes, in Quebec, naturalized Canadians and aliens whose mother tongue is English.

Canadian Citizenship Act and Section 59

The failure of the Constitutional Accord of June 3, 1987, to deal with the effect of Section 59 is indefensible. Canadians have been lulled into believing that with Section 23 there is now an equality of minority official language rights across Canada. They don't realize that Section 59 paves the way for a provincial inequality of rights in education in violation of the requirements of the Canadian Citizenship Act. Article 22 of that Act reads:

A Canadian citizen other than a natural-born Canadian is, subject to this Act, entitled to all rights, powers and privileges and subject to all obligations, duties and liabilities to which a natural-born Canadian citizen is entitled or subject, and, on and after becoming a Canadian citizen, subject to this Act, has a like status to that of a natural-born Canadian citizen.

Two things about this matter we cannot understand. First, how can one enjoy "like status to that of a natural-born Canadian citizen" and yet be denied like protection in regard to minority official language rights in education? Yet we have not encountered a federal politician who expressed concern. Second, with a Liberal government in Quebec and the prospect of the unanimous accord of June 3, 1987, on constitutional amendments, why has the discriminatory effect of Section 59 been allowed to continue despite the assurances of the Prime Minister?

How Long is Discrimination Justified by Expediency?

When Section 59 was originally inserted the justification was expediency. Twelve members of parliament representing constituencies with significant segments of English-speaking Quebecers issued a joint statement to calm the concerns of their constituents as they belatedly awoke to what had been done. Below is the third paragraph of their House of Commons News Release of December 3, 1981:

It is important to understand why this change was made. Mr. Lévesque has already raised the spectre of Quebec being swamped by naturalized Canadians of English-speaking origin from all parts of the world, from the United States, the Commonwealth countries and elsewhere no matter that this flies in the face of economic and social reality. It is widely believed by federalists in Quebec that the imposition of the mother tongue clause would provide unnecessary ammunition to the separatist movement at this time.

QFHSA has never shared the above propensity of some 'federalists' to trade off the right to equality of the provincial linguistic minority to pacify a vociferous minority within the provincial majority. Indeed, it was not a trade-off but a gratuitous surrender of a right of slumbering linguistic minority, since the government of Quebec neither asked for the concession nor provided a *quid pro quo* in the form of a signature. At our Annual General Meeting in 1985 a resolution was unanimously adopted directed to Prime Minister Brian Mulroney asking him in forthcoming constitutional negotiations to propose rescinding Section 59 of the Constitution Act, 1982. We quoted from his response earlier wherein he acknowledged that educational rights in Quebec are more limited and undertook that his government would encourage "provinces to expand minority official language rights in areas of provincial jurisdiction".

Copies of the resolution were circulated to the provincial premiers and the federal opposition leaders. Premier Grant Devine (Saskatchewan) in his response counselled "that a constitutional amendment designed to delete Section 59 is not a realistic undertaking at the present time".

The federal leader of the Opposition (Hon. John Turner) responded that: "My Party and I strongly urge the Government of Quebec to fully adopt Section 23, and indeed all provisions of the Charter." No one made a defense of or justification for Section 59.

Why then was Section 59 left untouched in the Provincial Accord of June 3, 1987, on constitutional amendments? Its presence in the Constitution contradicts the implicit premise of Article 1 of the Constitutional Amendment, 1987. That article, which provides guidance in the interpretation of the Constitution, recognizes that a fundamental characteristic of Canada is that it is a linguistic dual duality (i.e., double majority/minority):

....French-speaking Canadians, centered in Quebec but also present elsewhere in Canada, and English-speaking Canadians, concentrated outside Quebec but also present in Quebec,....

Paragraph two of the Article affirms the role of the Parliament of Canada and the provincial legislatures to preserve the fundamental characteristic of Canada -- the presence of official language minorities. No direction is given as to how the characteristic should be preserved. But obviously preserve does not mean to circumscribe or deliberately diminish, nor does it mean to suffocate, or drive out of the jurisdiction the minority of the duality -- i.e., the English-speaking in Quebec and the French-speaking in the other provinces. Section 59, by permitting the continued inequality of

educational rights for naturalized Canadians in Quebec whose mother tongue is English, discourages immigration and encourages emigration of English-speaking families and thereby contributes to the slow suffocation of the official language minority in Quebec. Its effect is inconsistent with the implicit premise of balance and nurturing of the dual duality required by Article 1 of the Constitutional Amendments, 1987. Its abrogation is a prerequisite for the fulfillment of the fundamental compromise of Confederation and for the vision of "equality of status and use of the English and French languages within Canadian society" professed by the federal Bill C-72.

FIRST RECOMMENDATION

That Section 59 of the Constitution Act, 1982,
be abrogated and the symmetry of constitutional
minority official language rights be thereby
restored to what was envisaged in the original
Provincial Accord of November 5, 1981.

CONSTITUTIONAL AMENDMENTS, 1987 — Article (1)(b) and (3)

Whereas paragraphs (1)(a) and (2) of the Constitutional Amendments, 1987, pertained to a fundamental characteristic of Canada, paragraphs (1)(b) and (3) relate to the recognition that Quebec constitutes within Canada a distinct society and affirms the role of the legislature and Government of Quebec to preserve and promote the distinct identity of Quebec.

What alarms us is the ambiguity of the terms used and the implications of these innovative amendments.

Quebec is not a society; it is a territorial unit of governance. Within that unit is a society which the amendment states is a distinct society. But it is not clear whether for constitutional interpretation the distinctive feature of Quebec is that it consists of two societies (both reflecting majority/minority characteristics) or that it is one society which speaks French (despite the fact that 18 percent are non-francophone and embody the characteristic referred to in paragraph 1(a) of the presence of English-speaking Canadians in Quebec). This ambiguity, when coupled with an affirmation to preserve and promote the distinct identity of Quebec, will surely disturb the institutional checks and balances that for 120 years have maintained an equilibrium of forces within the constitutional system.

Confederation: A Dual Compact

Over 70 years ago an informed and formidable French-Canadian nationalist wrote of Confederation as a charter of rights and freedoms in regard to language and religion. In 1916, Henri Bourassa wrote:

In the minds of the Fathers of Confederation, the federal pact and the constitution which defines the terms of its approval were to end racial and religious conflict and to assure all, Catholics and Protestants, French and English, complete equality of rights throughout the whole of the Canadian Confederation. The Manitoba Act, passed the Imperial Parliament in 1870, and the Northwest Territories Act, passed by the Ottawa government in 1875, bear the fleeting imprint of the same intelligent and generous thought. Those were our last victories.

(Quoted by Ramsay Cook, in Provincial Autonomy, Minority Rights and the Compact Theory, 1867-1929. Queen's Printer for Canada, 1969, p.57)

Henri Bourassa thought of Confederation as a dual compact -- a dual contract. One was a contract intended to consolidate the scattered colonies of British North America. The other was a cultural contract or compact between the French and English in the old Province of Canada.

There were three minorities in Bourassa's compact. Two minorities were at the local or provincial level: Catholics who wished separate schools in Ontario and Anglo-Protestants in Quebec. One minority was at the general or federal level: French-Canadians, particularly of Quebec. Constitutional rights for all of these minorities flow from the Confederation agreement. French Quebecers were protected by the adoption of a federal form of government wherein jurisdictions were divided up between the federal government and provincial governments and each was sovereign within its sphere. Education, for example, was placed in the exclusive jurisdiction of the provinces with the exception of the provisions contained in Section 93 of the B.N.A. Act.

As a result the French majority in Quebec could establish their own school laws. They thereby were assured of receiving an education in schools of their own design and in their own language, supported by taxes levied by a legislature in which French-speaking Quebecers would be a permanent majority.

Although the French-speaking would be a permanent majority in the Province of Quebec, the English-speaking at the time of Confederation were 25 percent of the province's population. In the largest city, Montreal, they were slightly under 50 percent and in the Ottawa Valley and the Eastern Townships they constituted local majorities. It was recognized there had to be constitutional protection for that provincial minority. An M.P. from the Eastern Townships, Christopher Dunkin, stated why in the Confederation Debates:

They [the French] will find themselves a minority in the General Legislature, and their power in the General Government will depend upon their power within their own province and over their provincial delegations in the Federal Parliament. They will thus be compelled to be practically aggressive, to secure and retain that power. They may not, perhaps, wish to be; they may not, perhaps, be aggressive in the worst sense of the term -- I do not say they certainly will be; but whether they are or not, there will certainly be in this system the very strongest tendencies to make them practically aggressive upon the rights of the minority in language and faith, and at the same time to make the minority [Irish Catholics and British-Protestants] most suspicious and resentful of aggression.

(P.B. Waite, The Confederation Debates in the Province of Canada/1865. McClelland and Stewart, 1963, pp.119-120)

The protection was at the provincial and federal levels. The drafting of the articles in 1865-1867, for example, made Quebec the only province with an upper house -- legislative council. In it the English-speaking Quebecers were to be over-represented so they could block any anti-English legislation coming from the Assembly.

Again, under Section 80 of the 1867 Act, twelve of the then sixty-five provincial electoral districts in Quebec (9 in the Eastern Townships and 3 in the Ottawa Valley) were designated and their boundaries could not be altered by the provincial legislature without the concurrence of the majority of the members representing those electoral districts. The effect of this provision, which no longer has effect, was to prevent the Quebec government from joining part of an overwhelming French riding to a largely English one.

Similarly, at the federal level there were provisions to protect the minority in Quebec. Unlike the provision for other provinces, for example, the senators from Quebec were to be designated as representing specific ridings. This provision was intended to assure the appointment of English-speaking representatives from regions such as the Eastern Townships and the Ottawa Valley. Then, in addition, Section 133 of the 1867 Act protected language rights in Quebec by decreeing parity for English and French in the provincial legislature and in the Courts. Section 93 of that Act constrained the complete control over education by the provinces by protecting and guaranteeing "the rights and privileges which the Protestant or Catholic minority in both Canadas possess as to their denominational schools at the time when the Union came into operation." The section provides for a right of appeal to the Cabinet and authority for federal remedial legislation should it be necessary.

To reinforce the above scheme of protection within the constitutional system were further provisions. The Federal government, for example, had the power of disallowance in relation to provincial legislation. Neither the provincial nor the federal legislatures, however, could alone alter or

change rights or privileges granted with respect to schools or the use of English or French. Such changes had to be approved by the Parliament of the United Kingdom -- a disinterested body. In the words of Abbé Lionel Groulx, "the English Protestant minority in Quebec had received full security."

Patriation of the Constitution removed the function of the Parliament of the United Kingdom regarding the sensitive issues of linguistic and educational rights. Further, nationalists in Quebec are calling for the abolition of Section 93. Should that occur, the way is open for the legislative majority in Quebec to destroy the countervailing checks and balances that were put in place at Confederation to protect religious and linguistic minorities, and do that without losing its own privileged status as a minority group in Confederation. There therefore is a double-barrelled prospective reduction in the security accorded the provincial linguistic minority in Quebec at a time when Christopher Dunkin's predictions are becoming ominously true.

Safeguards for Minorities

The system of checks and balances that originally was intended to protect minorities is now in serious disequilibrium. The protection is being circumscribed and diminished in Quebec, while being built up outside Quebec. Into this setting the Constitutional Amendments, 1987, inject the ambiguity of 'distinct society' and affirm the role of the Government of Quebec to preserve and promote a 'distinct identity'. Insofar as 'distinct society' is interpreted as one which speaks French, the affirmation of the role of the legislature and Government of Quebec to preserve and promote that feature cannot but weaken the constitutional guarantees of Section 15, 23 and 29 of the Constitution Act, 1982, and of Section 93 of the Act of 1867 for individual Quebecers. This is particularly likely since the amendment of Article 16 cites aboriginal rights and multiculturalism specific-

ally to be safeguarded from erosion by constitutional interpretation due to the provisions of Article 1. The omission of minority official language rights in education from that list will mean in the future litigation that those rights will be given a narrow interpretation in the event they constrain the powers of the Quebec legislature.

Quebec's Mission

Presumably the affirmation of the government of Quebec's role to preserve and promote a 'distinct identity' is intended to enhance the power of the legislature in regard to matters of culture and language. Insofar as that identity is interpreted solely as a French-speaking society with a "foreign" element within it that is circumscribed by law and expected to diminish, not only is there a conflict with the basic undertaking of paragraphs (1)(a) and (2), but also over time that society will alter the fundamental characteristic of Canada. If the legislature of Quebec acquires exclusive responsibility for culture and language, then the rights of the provincial official language minority will be dependent solely upon the goodwill of the provincial majority, a majority that because of the federal system's dynamics Christopher Dunkin said would be "practically aggressive upon the rights of the minority [of Quebec] in language and faith".

The Fathers of Confederation designed a federal system to protect against such potential abuse. Georges Etienne Cartier had a vision of how that protection would operation. In ending, it is apropos that we quote him:

It was a benefit rather than otherwise that we had a diversity of races. Of course the difficulty, it would be said, would be to deal fairly by the minority. In Upper Canada the Catholics would find themselves in a minority, in Lower Canada the Protestants would be in a minority, while the lower provinces were divided. Under such circumstances would any one pretend that either the local or general governments would sanction

any injustice? What would be the consequence, even supposing any such thing were attempted by any one of the local governments? It would be censured everywhere. Whether it came from Upper Canada or from Lower Canada, any attempt to deprive the minority of their rights would be at once thwarted.

(K.A. MacKirdy, J.S. Moir, and Y.F. Zoltvany, "Changing Perspectives in Canadian History", Dent and Sons, Don Mills, 1971, p.224)

The Meech Lake Accord does nothing to sanction the whittling of minority language rights of Quebec's Law 101, and the whittling of religious rights by its proposed Bill 107. Indeed, by the Accord's deliberate ambiguities regarding 'distinct society' and 'distinct identity' for Quebec, it encourages further injustices unless there is specific protection for the minority.

SECOND RECOMMENDATION

That Article 16 of the Constitutional Amendments, 1987,

16. Nothing in section 2 of the Constitution Act, 1867 affects section 25 or 27 of the Canadian Charter of Rights and Freedoms, section 35 of the Constitution Act, 1982 or class 24 of section 91 of the Constitution Act, 1867.

be amended by adding section 23 of the Canadian Charter of Rights and Freedoms to those sections safeguarded from erosion due to the constitutional interpretation of section 2 of the Constitution Act, 1867.



CANADA

PRIME MINISTER • PREMIER MINISTRE

Ottawa, K1A 0A2
February 6, 1985

FEB 13 1985

Dear Mrs. Daigle:

In your letter of December 19, 1984, you informed me that the Quebec Federation of Home and School Associations favours national reconciliation, but suggests that a prerequisite for such reconciliation should be a requirement of meticulous respect for linguistic equality and cultural diversity in Quebec.

You will recall that the government's policy respecting language rights and cultural pluralism was clearly articulated in the Throne Speech of November 5, 1984: we are committed to intergovernmental cooperation in supporting official language minorities and in fostering the rich multicultural character of Canada; to ensuring that the equality of the two official languages is respected in fact as it is in law; and to ongoing improvements and vigilance in this indispensable area of our national life.

This policy means that the Government of Canada, in areas of federal jurisdiction, will press for full linguistic equality in practice as well as in law. In discussions with the provinces, the government will encourage them to expand linguistic rights and, where appropriate, to entrench such rights in the Constitution.

Mrs. Marion Daigle,
President,
Quebec Federation of Home and
School Associations,
Suite 212,
2535 Cavendish Boulevard,
Montreal, Quebec.
H4B 2Y5

As you are aware, language and denominational school rights are not identical in all provinces. Only one province - New Brunswick - is presently bound by constitutional provisions declaring English and French to be the official languages of that province, having equality of status and equal rights and privileges as to their use in all the institutions of the legislature and government of the province. More limited constitutional linguistic rights apply to the legislatures and courts of Quebec and Manitoba. Minority language educational rights apply in all provinces, although, as you note, they are more limited in the case of Quebec. The right to denominational schools varies from province to province.

If any province or, indeed the Parliament or Government of Canada, were to infringe upon the constitutionally-protected rights of Canadians, resort could be had to the courts for redress. Furthermore, as you know, the federal government's Court Challenges Program provides assistance to individuals and groups who seek court rulings clarifying linguistic and minority language education rights.

The Government of Canada is strongly of the view that provinces must respect the various linguistic and educational rights provided by the Constitution. Those rights constitute a minimum guarantee, not a maximum. The government will encourage provinces to expand minority official language rights in areas of provincial jurisdiction.

I can assure you, however, that the government will not support any provincial attempts to restrict language rights in law or practice and will oppose any constitutional proposal which would diminish the language rights now in place.

Yours sincerely,

A handwritten signature in dark ink, appearing to read "Jean Charest", written in a cursive style.



AUG 20 1985

August 7, 1985

Mrs. Marion Daigle
President
Quebec Federation of Home
and School Associations
Suite 212
2535 Cavendish Boulevard
Montreal, Quebec
H4B 2Y5

Dear Mrs. Daigle:

Thank you for bringing your concerns with respect to Section 59 of the Canada Act, 1982, to my attention. My officials have examined this issue with great care and, on the basis of their advice, I have concluded that a constitutional amendment designed to delete Section 59 is not a realistic undertaking at the present time.

However, I am pleased to note that the Quebec government has recently indicated a willingness to consider a number of concerns that have been brought to their attention by the anglophone minority with respect to minority language rights. Premier Levesque has proposed to secure the right of anglophones in Quebec to their own cultural and educational institutions, as well as the right to receive health care and social services in English. He has also indicated a willingness to accept the 'Canada' clause with respect to access to the English school system in Quebec. And finally, the Quebec government has pledged itself to support the development of French-speaking minorities outside Quebec, including the provision of an impetus to such groups to take advantage of their rights guaranteed by Section 23 of the Canada Act, 1982. Saskatchewan regards these proposals as a significant attempt to meet some of the criticisms of Quebec's language policies.

...2

Mrs. Marion Daigle
Page 2
August 7, 1985

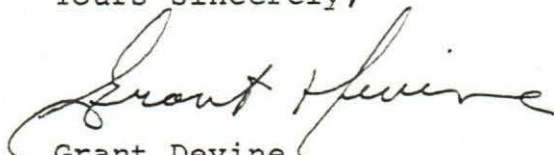
I am aware, though, that these proposals do not address the QFHSA's objections to Section 59, and that the rights mentioned would not, under the present package, be included in the Canada Act, 1982. I regard this situation as unfortunate, but Premier Levesque has indicated to me that he is willing to negotiate the details of his constitutional package. I hope that some movement will occur on the two issues mentioned above.

In closing, I would add that in large measure the Quebec government seems to be proceeding in the spirit of the St. Andrew's meeting of 1977. Essentially this means that if other provincial governments respect the letter and spirit of Section 23 (3) a, b with respect to their minority language groups, then Quebec is prepared to do the same. This does not mean that rights are negotiable commodities. But it is a recognition that regardless of the constitutional status of such rights goodwill is essential if they are to be respected, protected and promoted. If all provinces illustrate continuing goodwill with respect to Section 23 (3) according to their particular circumstances, Quebec will be inclined to do the same.

We in Saskatchewan will do our part in creating a climate of goodwill that may induce the Government of Quebec both to subscribe to the Canada Act and to modify its minority language policies.

Thank you for taking the time to write.

Yours sincerely,


Grant Devine
Premier



SEP - 3 1985

LEADER OF THE OPPOSITION — CHEF DE L'OPPOSITION

Ottawa, Ontario
K1A 0A6

August 26, 1985

Dear Ms Adams:

Thank you for sending me a copy of your circular of June 3, 1985 and enclosing the federation's resolution 85/7 on minority language education rights.

Section 23 of the new Charter of Rights and Freedoms guarantees the right of Canadian citizens to have their children receive primary and secondary school education in English or French where numbers warrant.

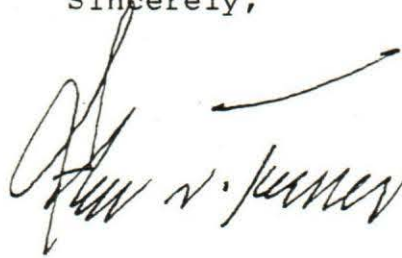
In June, 1983, the Quebec Court of Appeal ruled invalid the education provisions of Bill 101 which restrict access to English schooling (Quebec clause) in view of the conflict with the minority language rights guaranteed by Section 23 of the Charter (Canada clause). This decision was confirmed in July, 1984 by the Supreme Court of Canada.

I deeply regret the fact that Quebec was not a signator of the Constitutional Accord of November, 1981. As one who has lived and been elected in the city of Montreal, I recognize the vitality of Quebec's English-speaking community, and their contribution to the life of that province. I also understand the Government of Quebec's desire to protect the French language and culture in view of the fact that Quebec exists in a sea of English-speaking people. At the same time, my Party and I would strongly urge the Government of Quebec to fully adopt Section 23, and indeed all provisions of the Charter.

The Liberal Party has always recognized that protection of minority language rights is fundamental to the unity of this country.

With best wishes.

Sincerely,

A handwritten signature in black ink, appearing to read "Jean V. Perron". The signature is written in a cursive style with a long, sweeping horizontal stroke at the end.

Ms Sylvia Adams
President
2535 Cavendish Boulevard
Suite 212
Montreal, Quebec
H4B 2Y5