

SUBMISSION TO THE
SPECIAL JOINT COMMITTEE OF THE SENATE
AND THE HOUSE OF COMMONS
ON THE
CONSTITUTION OF CANADA

BY THE
ASSOCIATION CULTURELLE FRANCO-CANADIENNE
DE LA SASKATCHEWAN

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INTRODUCTION

We requested permission to be heard by this committee because we have reason to believe that the situation of Francophones in Saskatchewan is little known and poorly understood. We feel that those called upon to make decisions regarding the constitution should have all the information they need for a complete assessment of the effects of the constitutional proposals.

What we wish to convey here are the facts of our experience, as opposed to superficial or distorted interpretations by the media or political leaders. We wish to speak for ourselves and on behalf of the Franco-Saskatchewanian population we consulted during a tour which took us to many Francophone regions in the province. Everywhere we went, we met with people who were very concerned about the consequences of the constitutional proposals; they were anxious to express these concerns to those in charge.

There are three parts to our brief. The first presents the relevant facts: language rights in Saskatchewan; the scattered population; the difficult educational situation; the lack of services in French; the status of French in the province and the complex socio-ethnic situation.

In the second part of our brief we seek to explain how, in this context, the present constitutional proposals will affect Franco-Saskatchewanians and what benefits they are likely to derive.

In conclusion, we present our recommendations for constitutional reform.

I THE SITUATION OF FRANCOPHONES IN SASKATCHEWAN

1. The systematic abolition of educational and legal language rights

When the Northwest became part of Canada, education was provided in French, English or Cree. Section 93 of the BNA Act guaranteed minority groups the right to denominational schools, which meant French schools for Catholic Francophones. These guarantees were first eradicated by ordinances of the Northwest Territories Legislative Assembly. When the province of Saskatchewan was created in 1905, education was a controversial issue. In 1918, Bill 31 established English as the only language of instruction, except for Grade 1 and the teaching of French as an academic subject. In 1931, the Anderson government abolished even these meagre rights; they were restored only partially in 1934, with the daily hour of French, which nevertheless had to be taught in English!

French and English were at one time used in the administration of the Northwest Territories and they were recognized as the government's two official languages by the Northwest Territories Act of 1887. However, in 1892, the Northwest Territories Legislative Assembly issued an ordinance abolishing French as a language of the courts.

In 1980, Franco-Saskatchewanians still have no educational language rights under the law and the official status of French remains a controversial issue.

2. A very scattered population

There are approximately 30,000 Francophones in Saskatchewan; they constitute about three per cent of the

province's total population.* This group is scattered across the whole province and more than half live in rural areas. Francophone communities are located in regions to the north of Saskatoon and to the south of Regina, leaving a large area without any Francophone representation between Saskatoon and Regina. Franco-Saskatchewanians are not concentrated around a particular urban centre; many of them live on farms or in villages with just a hundred or a few dozen people.

After the war, a strong movement toward centralization and regionalization affected the province's educational and administrative structures. This led to a loss of autonomy and control by Francophone communities; they were still minority groups at the regional level, because they were so scattered.

3. A gloomy educational picture

Legislation on Education

Until 1968 in Saskatchewan, French could legally be taught in schools for only one hour per day. For many years, the ACFC assumed total responsibility for this program.

From 1968 on, the law permitted education in French, but set limits on the amount of time during which French could be used. This was the beginning of "designated" programs.

* The 1976 Statistics Canada census gives a figure of 2.9%. The 1971 census indicates that approximately 56,200 people are of French origin, while 31,605 have French as their mother tongue and 15,935 usually speak French at home.

In 1978, the law guaranteed access to a designated program.

The following year, new regulations clarified this right, which may be requested by any group of parents representing at least fifteen students per instructional division (three years of schooling). In addition, these regulations make a distinction between type A and type B designated programs. Both are immersion programs and are usually given in English schools. Type A is the system closest to a French school, in terms of both the percentage of courses given in French and other criteria such as the language of administration, the homogeneous character of the school and so on. However, these criteria are merely suggested to the school boards, which are not required by law to apply them in order to benefit from the grants which accompany these programs.

In addition to the great difficulty in applying these regulations, there are other considerable shortcomings: they make no distinction between the needs of Francophones and Anglophones; they totally confuse the very different requirements of teaching French as a first language and as a second language and they fail to identify the clients for whom the two types of designated programs are intended.

The law does not provide Francophones with any means of controlling French schools or programs. With a very few exceptions, Anglophones control and manage the institutions attended by Franco-Saskatchewanians. Many principals of designated schools do not speak French. The large school boards which administer designated schools are at best indifferent, if not outright hostile, to this system.

Under the current School Act, English is still the only official language of instruction. Designated programs tend to be considered exceptions; they are left to the discretion of the Minister of Education, who renews his authorization each year.

It is easy to understand why the Minister of Education, who is an elected official, would not wish to use his discretionary power against the wishes of school boards. Consequently, Franco-Saskatchewanians are at the mercy of school administrators controlled by the majority. In two quite recent educational disputes, the courts were not able to follow up on requests by parent groups, since they felt they had no authority over the discretionary power of the Minister.

The first case involved a group of parents from Prince Albert for whom the courts ordered that the Catholic school board convey to the Minister their request for a type A program, as provided for by the regulations, although this did not mean their request would be granted.

The other group, from the Prud'homme, St-Denis and Vonda region, found themselves denied access to a partially French program in the 10th, 11th and 12th grades at a neighbouring village when classes opened. The Court of Queen's Bench refused to force the Saskatoon East School Board to provide a designated 10th-grade program at Vonda. The case is being appealed and, in the meantime, students in Division IV are receiving no instruction in French.

People fear that constitutional proposals which are too lax in the area of educational rights will bring them up against this type of exhausting, expensive and futile exercise.

Educational Institutions

When our Premier talks about a network of schools using French as language of instruction, he is referring to the designated programs, which, as has been shown, are in most cases given in English schools.

Such programs offer a percentage of courses in French: this can be as much as 100 per cent at the kindergarten level and varies between 50 and 80 per cent at the primary and secondary levels. The system is essentially intended to provide instruction in a second language, not in a first language.

There are twenty-two of these immersion programs in the province; most are offered at the primary level.

There are no French-language public schools in Saskatchewan, that is, all-French schools managed by Franco-Saskatchewanians which adequately meet their needs.

The only secondary school is the Collège Mathieu at Gravelbourg, which offers a type A program. This is a private school subsidized by the governments through the federal Bilingualism in Education program; it requires substantial contributions from parents.

Saskatchewan has no bilingual or French postsecondary institutions. The Centre d'études bilingues at the University of Regina offers a few courses in French which can be used toward a BA in education with bilingual mention. The Bilingual Education Centre which has just been set up in Saskatoon is intended to offer some continuing education services.

Students who wish to pursue postsecondary education in French are obliged to leave the province; often they do not return to Saskatchewan, to the great detriment of the Franco-Saskatchewanian group.

Program Structure

Teachers who provide instruction in French receive no professional support. They must manage as best they can to find educational material and to put together their own programs. In August 1980, following numerous representations by the ACFC, the Department of Education set up an official language minority office, responsible for all aspects of instruction of French and in French in the province: programs, educational material, training of instructors and so on. This office consists of a director, two educational advisers and one secretary, and may have recourse to outside consultants.

4. Lack of services in French

Franco-Saskatchewanians have access to at least six radio stations in English on average, compared with just one in French and for even that one, reception is bad or non-existent in some areas. Television resources consist of three English stations (there are numerous other choices in English on cable), as opposed to one in French, which, again, not all Francophones can receive. The French television station does not offer any Franco-Saskatchewanian content and the radio offers only a little.

5. French an official language in the Saskatchewan government?

French is not used in provincial courts or in the legislative assembly, nor has it been for quite some time. However, according to studies and certain experts, French has

official status in these areas under certain constitutional provisions, specifically, the Northwest Territories Act.*

6. A complex socio-ethnic situation

After Saskatchewan was discovered and inhabited by the French Canadian voyageurs and the Métis, it was opened up for colonization by Ontarians and Europeans. It is home to large ethnic groups, such as Ukrainians and Germans, of recent stock. These immigrants, who had to abandon their cultural and linguistic ties to move to Canada and who came to believe they had to speak English to be good Canadians, have, for the most part, confined their cultural links to the preservation of their folklore. They do not understand why French Canadians are not satisfied with a similar arrangement or why we refuse to be assimilated.

Furthermore, a kind of competition inevitably springs up between "ethnic groups" and French Canadians. Ethnic groups, relegated to the rank of second-class citizens in relation to English-speaking Canadians, still fear that French Canadians will move into second place, leaving them at the bottom of the ladder. They feel threatened by any right accorded to French Canadians, even when it can benefit them as well, as in the case of education. They continue to view French Canadians as an immigrant group of French origin, which is obviously unacceptable and very unsettling to Franco-Saskatchewanians.

The concept of multiculturalism promoted in the last few years has further complicated an already difficult situation.

*cf C A Sheppard, The law of languages in Canada, research report for the Royal Commission on Bilingualism and Biculturalism, (Ottawa: Information Canada, 1971).

II THE CONSEQUENCES OF THE CONSTITUTIONAL PROPOSALS

The people we represent are very concerned that the constitutional proposals may be about to be accepted in their present form, because the package would offer us few real benefits and could even jeopardize our position. As they now stand, the provisions on language will not achieve their intended purpose of protecting official minorities or ensuring equality and mutual respect for the two language groups.

Educational Rights

The question we feel most strongly about is that of educational rights. Section 23(1) certainly looks promising; it acknowledges our right to instruction in French for our children. We are most concerned, however, about the wording of the section; certain terms are ambiguous and, more important, we find it difficult to imagine how we could exercise this right in Saskatchewan, given the restrictions mentioned in the section.

It should be pointed out that there are no French schools in Saskatchewan and there are certainly no French school boards. A minimum number of students would be required to justify the establishment of the necessary educational facilities. This minimum number will probably be high and difficult to reach for a scattered population faced with misunderstanding and hostility from the majority and forced to bear the psychological and financial burden involved in exercising its rights.

Furthermore, even if we do exercise our rights, we have no guarantees. If the courts had to make a final decision on what constituted a sufficient number of students for a given region, with no guidelines other than those provided in section 23, it is more than likely they would consult government and school

authorities, which amounts to relying on the decision of the majority.

The principle of access to education in French might thus go unheeded; it would be doubly humiliating for Franco-Saskatchewanians to know that such a right was entrenched in their country's constitution, but that it guaranteed them nothing, while other groups such as English-speaking Quebecers and some categories of immigrants could exercise this right fully and have access to minority-language schools, under the same section of the same constitution in the same country!

We are also concerned about some definitions. What does the vague concept of "educational facilities" actually mean? Are these school boards, or French-language schools? Could it not be claimed that immersion programs offered in English schools amount to "educational facilities in the French language"? Need we reiterate, along with the Fédération des francophones hors Québec and other provincial Francophone groups and with the official languages commissioners and a great many educators, that all-French schools run by Francophones are an absolute minimum for our people? Well intentioned though they may be, package solutions actually run counter to our objectives and contribute to our assimilation.

With further reference to section 23(1), the definition of the type of parent who will have access to French-language schools seems to us to be very difficult to apply and it would discriminate against the Franco-Saskatchewan population. Who will decide which parents understand the language sufficiently? What criteria will be used? Under such a system, Franco-Saskatchewanians would be penalized for having been the victims of a deliberate assimilation campaign which they are still trying to combat.

The second part of section 23 provides another example of the inequalities which will arise. Franco-Saskatchewanians are in a position to realize that while Anglophones from predominantly English provinces will now have access to English schools in Quebec, as in all provinces, Quebec Francophones will not have access to French education in Saskatchewan, since there are no French schools there. Franco-Saskatchewanians will have access to French schools in Quebec and perhaps in Manitoba.

This fundamental inequality in the consequences section 23 will have for English--++56=70J buebecers on the one hand and Franco-Saskatchewanians (and other Francophones outside Quebec) on the other seems particularly injurious to those of us who already have so few rights as far as education is concerned. It is totally unacceptable in a document which aims to set out basic rights for all Canadians. Clearly, in a socio-linguistic situation as complex as that in Canada we must strive for equality in practice and not equality in principle, which is the only way we can ensure equal rights for all, as opposed to a universal principle which will be applied differently.

Federal Services

Section 20 of the constitutional proposal actually undoes progress in this area. It could affect the access Franco-Saskatchewanians have to services in French.

To begin with, the very idea of making access to federal services dependent upon narrow and poorly defined circumstances limits the rights of Francophones to services in their language throughout the country; it threatens the image the government has promoted so fervently lately of a Canada in which French Canadians can feel at home anywhere.

Here in Saskatchewan, the way regions in which there are sufficient numbers of Francophones will be defined remains a

controversial issue.

Legal Status of French

Section 21 of the proposal stipulates that nothing in the official languages provisions abrogates or derogates from any right, privilege or obligation that exists or is continued by virtue of any other provision of the Constitution of Canada. In Schedule I, however, where legal provisions included in the Constitution of Canada are listed, no mention is made of the 1877 Northwest Territories Act, on which much of the official status of French in Saskatchewan is based.

Consequently, if French was ever confirmed as an official language in Saskatchewan, the provincial legislature could abolish this status because the provisions in question would no longer be part of the Constitution of Canada, but part of the provincial constitution.

Provincial Responsibility

The sections of the constitutional proposal which deal with language (sections 16 to 23 inclusive) do no more than acknowledge some bilingualism at the federal level and educational rights which, in practice, are of limited value. Clearly, the survival and natural development of Francophone communities involves much more. As the proposal stands, it fails to provide for many situations affecting people profoundly in their daily lives. One example is services which come under provincial authority, for which there are no provisions. It is as though the Constitution of Canada were a federal government document, rather than a document of national stature defining the relationships between all governments in Canada and guaranteeing protection to citizens in every field.

This is a very serious shortcoming and it is easy to see what effects it will have, since the governments of Anglophone provinces have never shown a tendency to respect the rights and needs of their French-speaking populations.

The present Constitution provides for bilingualism in some areas (in acts, in the legislatures and in the courts) for three of the thirteen governments in Canada: Quebec, Manitoba and the federal government. Only historical circumstances can explain this situation, which, from a modern standpoint, appears inconsistent and anachronistic. It is surprising and distressing to find that a proposal for constitutional reform drawn up in 1980 with the specific intention of responding to the situation in Canada today and of protecting the rights of minority-language groups actually maintains the status quo by ignoring the needs of the eight provinces where approximately ninety-four per cent of Francophones outside Quebec live.

History has clearly shown that it is not English Quebecers who have been the subject of discrimination and deliberate and effective assimilation measures; it is Franco-Saskatchewanians and many other French-speaking groups outside Quebec. It is toward these people, then, that the Constitution's linguistic provisions should be directed, so that they may exercise their rights. If such provisions cannot be applied in Quebec, where the situation is radically different (it is again the Francophones who need protection, because, while they are in the majority in Quebec, they remain a minority group in Canada and in North America), if we cannot extend to Quebec's Anglophones provisions designed to protect Francophones outside Quebec, then we should draw up different rights for the Quebec minority. This would not be more inconsistent than the lopsided bilingualism of the present Constitution, which the new proposal merely reinforces, and it would at least offer the advantage of responding to a real situation.

What emerges from this quite clearly is that we do not consider Quebec's position injurious to Francophones outside Quebec. In effect, the present proposal, rejected by Quebec, provides Franco-Saskatchewanians with little more than symbolic rights, which would be difficult to exercise in Saskatchewan. It would be possible to formulate provisions giving Franco-Saskatchewanians true rights, and yet not threaten the autonomy Quebec needs to protect its French-speaking population. If necessary, we could draw up different provisions for Quebec and for Anglophone provinces, just as the present constitution and the latest proposal provide special measures for three governments (Canada, Quebec and Manitoba), measures based solely on historical circumstances.

III CONCLUSION

1. Incorporating in the Constitution of Canada the principle of equal status for French and English in Parliament and in federal acts and courts ensures a real right for Canadians. Affirming the status of French in the Constitution certainly has an important symbolic value.

It must be said, however, for this is a matter of great concern to us, that the proposed charter of rights does not even come close to meeting the most fundamental needs of Franco-Saskatchewanians. We are painfully aware that these few sections of the proposed resolution will have a decisive and irreversible effect on the history of French-speaking minorities in Canada.

2. We would like to emphasize that in no way do we support the strategy of blackmail whereby Quebec is to be held responsible for the misfortunes of Francophones outside Quebec because of its position on repatriation. As the only government in North America representing a Francophone majority, Quebec must protect its Francophone population and we have an interest in seeing French Quebec remain strong and dynamic.

In spite of the intention of section 23, the legal scope of the right of education in the minority language has no real significance for Franco-Saskatchewanians. We feel we would lose out if, to obtain this right, we had to see Quebec lose the means it has acquired to ensure its survival as a French-speaking entity. It is, without exception, the premiers of the Anglophone provinces who are responsible for the flimsy rights to be granted to us under the Constitution. We refer specifically to our own Premier, who has failed to take a stand, although we have made our position clear to him.

In its official position on constitutional reform, our government completely ignores its responsibility to the Francophone population of Saskatchewan. Our leaders give the impression that this question does not concern them.

3. We would make the following recommendations on subjects we consider essential in the Constitution:

- (a) Clear and unequivocal recognition of the Canadian duality and of the two founding peoples. This is a fact of our history which has shaped our country irreversibly. In no way does it contradict other aspects of the Canadian mosaic, such as the presence of Native peoples or the contribution of other ethnic groups.

We share the interpretation of this concept and its consequences outlined by the Laurendeau-Dunton Commission:

. . . the two dominant cultures in Canada are embodied in distinct societies,

. . . this equality should be the equal partnership not only of the two peoples which founded Confederation but also of each of their respective languages and cultures. What we are aiming for, then, is the equal partnership of all who speak either language and participate in either culture, whatever their ethnic origin. For us the principle of equal partnership takes priority over all historical and legal considerations, . . .

With respect to the other dimension of equality between the two communities, the political dimension, the Commission went on to say, "This covers the possibilities for each society to choose its own institutions or, at least, two have the opportunity to participate fully in making political decisions within a framework shared with the

other community."

(Extracts from the Report of the Royal Commission on Bilingualism and Biculturalism, Book I, The Official Languages, pp xxxiii, xxxix and xliv-xlv, Ottawa, 1967.)

- (b) Recognition of the responsibility of provincial governments as well as the federal government to ensure equal status for the Francophone population and to encourage the development of Francophone communities through appropriate legislation and policies.
- (c) Recognition of the right of the minority to education in the minority official language, without respect to numbers of students.

Recognition of the principle of control and management of French schools by Francophones.

A definition of the term "educational facilities in the French language" as meaning all-French schools.

A clear definition of the respective responsibilities of the federal and provincial governments with respect to schools for the official minority.

- (d) A much broader and more specific definition of access to federal services in the minority language. Such access, which should not depend on a decision by Parliament with respect to numbers, should be guaranteed at least in all urban centres in Canada and in all regions where Francophone communities of any size are found.

(e) Recognition of the legal status of French in Saskatchewan
before the courts and in the provincial legislature, as
provided for under certain provisions of the Northwest
Territories Act. At the very least, these provisions and
the Act itself should remain in effect.