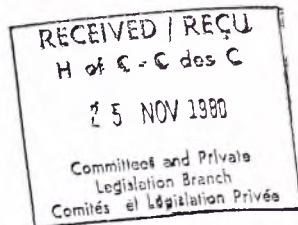




Ontario Separate School Trustees' Association

November 24, 1980.

Joint Clerks,
Special Joint Committee
on the Constitution of Canada,
Postal Box 1044,
South Block,
Parliament Buildings,
Ottawa, Ontario.
K1A 0A7



Members of the Joint Committee
on the Constitution of Canada

Representing that part of Canada where "separate schools" originated, we wish to express concern with regard to the impact of the proposed "new" constitution on Section 93, which entrenches those schools in Canada.

We speak for the citizens, electors, ratepayers, parents, trustees and teachers identified with these schools in Ontario, educating 35% of all elementary pupils and 96% of all francophone elementary pupils. Such a public option is not to be underestimated.

It is our view that:

- (a) Section 93 and the provincial sections implementing it should not be more easily changed under the new Constitution than at present; and that
- (b) the status of denominational schools under the B.N.A. Act should not be prejudicially affected by any new provisions of the Constitution.

We take this position, because in the legitimate concern for individual and "communal" rights, the new Constitution appears to overlook historic, deep-rooted characteristics of the Canadian personality and covenant, which set this country apart from many other nations, especially the United States. There is no indication that the original wisdom of the Fathers of Confederation in facing the problem of educational diversity has lost any of its relevance today.

We recommend two practical methods of insuring the continuation of the present Section:

(a) that any amendment of Section 93 require a privileged procedure, that is, the unanimous consent of the Federal Parliament and of the provincial legislatures. This would follow the pattern adopted in 1949 when Parliament was given the right to amend, except regarding rights and privileges of a class of persons with respect to schools... These were still reserved to the Imperial Parliament. As a parallel authority today, we recommend the principle of "unanimity".

(b) that with regard to any possible conflict between Section 93 and any new rights or provisions introduced into the Constitution, the text include a clause along the following lines:

"The provisions of this Act (the new Constitution) shall not be construed as to prejudicially affect the rights and privileges with respect to denominational schools enjoyed by a class of people, being Roman Catholic or Protestant, under Section 93 of the B.N.A. Act, 1867."

Without this explicit clarification, the introduction of new rights or other amendments may lead to confusion or erosion touching on the special status of denominational schools guaranteed in 1867 and still massively supported by citizens, electors, parents, as expressed in their votes, their taxes and the enrolment of their children.

This "compromise" which is well described as a "compact" of founding peoples, must be preserved intact, with priority over individual and communal rights, of a more abstract origin.

In the light of this same "compact", which might be considered implicit, we feel that a similar Section of the new Constitution should entrench francophone (or anglo-phone) minority rights in education with the highest

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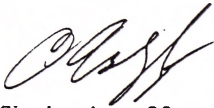
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priority. There is not any doubt that when Section 93 was agreed to, the Founding Fathers intended to solve not only a religious but also a linguistic problem. It is time that this intention be honoured.

If any further information is felt useful, we shall be happy to oblige.

Standing on Guard for Thee,

ONTARIO SEPARATE SCHOOL TRUSTEES'
ASSOCIATION



Chris Asseff,
Executive Director.



Mrs. M. O'Connor,
President.