

*Adjournment Debate*

resume negotiations. He made it clear that, failing an early settlement of the dispute, the Government would accept its responsibility, repugnant though it might be, to bring about resumption of vital shipping operations.

**Mr. Deputy Speaker:** I am sorry to interrupt the Hon. Parliamentary Secretary but the time allotted to him has expired.

[*Translation*]

THE CONSTITUTION—GOVERNMENT HELP FOR MINORITIES  
INVOLVED IN COURT ACTIONS

**Mr. Jean-Robert Gauthier (Ottawa-Vanier):** Mr. Speaker, yesterday I directed a question to the Secretary of State (Mr. Joyal) concerning the financial assistance granted by the federal government to official language minorities in cases dealing with clauses 93 to 133 of the British North America Act. Indeed, since February 1978, the federal cabinet has authorized the Department of Justice to give assistance to the plaintiffs in such cases either by providing the services of counsels to help them prepare their legal argument or by granting some funds. I would like to ask the federal government to extend such an assistance to cover clause 23 of the Charter of Rights and Freedoms. As we know, since the Charter has come into effect, constitutional guarantees are given such as the right to education for official language minorities. Before the adoption of the Charter, those constitutional and educational rights and guarantees came under the denominational provisions of clause 93 in the Constitution and were entirely inadequate as far as language protection was concerned. To understand perfectly well that situation, Mr. Speaker, we have to consider the social and historic context in which our Fathers of Confederation lived.

As a matter of fact, in 1867, religion played an essential part. The two cultural communities were separated by the religious issue. Traditionally, Catholics were French-speaking whereas English-speakers were for the most part Protestant. Therefore, when the 1867 Constitution was drawn up, this social reality was the first to be recognized. Language rights were in some way protected through religious differences. This situation remained until 1981, when the Charter of Rights changed all the rules of the game. Education of our children on the basis of religion still remains but in addition, we have a constitutional right to have them educated in minority language educational facilities provided out of public funds. Some people might be surprised by my request, however, if you look back through history, Mr. Speaker, you will easily realize that it has always been very difficult for French-speaking Canadians outside Quebec to have their rights to be educated in their own language recognized. French schools that are now available have all been acquired after years of struggling; moreover they are continuously threatened, either by budgetary cuts, by the alarming rate of assimilation or the ever-decreasing birth rate, or simply by administrative problems created by various provincial levels. Therefore, the minority must not only

struggle to get a new school, but they must fight without respite to operate that school which was given to them through some arm-twisting. We must also go back in time to fully understand the situation. The Constitution of 1867 contained some provisions regarding how majorities should treat their minority groups.

● (2215)

Whether the majorities actually complied and whether they acted responsibly in this respect is another story. In some provinces, these provisions were not observed and in others, these rights were categorically denied. For instance, it took seventy years to remedy the situation in Manitoba, where the provincial government had decided to act against the Constitution. And what about Ontario's infamous Regulation 17, which had the effect of banning the teaching of French in this province. Thus, in theory, the 1867 Constitution provided guarantees, but in practice they were not always observed. Why not? Because quite often, francophone minorities were isolated and purposely weakened by provincial governments which left them to their own resources, and so it was a very slow process to obtain the concessions and advantages they did manage to get.

That is how Franco-Ontarians managed to get a few French schools. Let us not forget that as the present government sees it, these concessions to francophones are not rights that have been granted but privileges which could be taken away at any time.

Faced with this situation and observing the reluctance of provincial governments to treat their minorities in a manner that was fair, generous and just, the federal cabinet set up a program for assistance in cases where provincial laws were challenged in relation to Section 93 and 133 of the British North America Act. That decision has already brought results. I am thinking, for instance, of the Forest case in Manitoba and, more recently, of the case heard by Judge Deschenes in which the constitutionality of Bill 101 was challenged. If we look at the court actions, our minorities have indeed made some progress. As such court proceedings are long lasting, involved and expensive, the Government of Canada should, of necessity, provide assistance to individuals and groups who are fighting for their rights. It should be emphasized that when a French-speaking resident of Ontario wishes to oppose a piece of legislation or a regulation established by the government of his own province, he has to fight against the big machine of the Department of Justice through the Attorney General. Individuals or groups find themselves in a situation where they must face high legal costs while their opponents can use public funds and a team of highly experienced legal advisors.

Mr. Speaker, I should like to conclude by saying that the new Charter of Rights and Freedoms has given new rights and hopes to Canadian minorities. Now, we must provide them