

I quote Section 23(3)(b):

—includes, where the number of those children so warrants, the right to have them receive that instruction in minority language educational facilities provided out of public funds—

The use of the words “minority language educational facilities” is very important in that Section.

According to *Le petit Robert*, a French dictionary, the words “public facilities” mean a moral administrative person responsible for administering a public service.

That is why the Parliament of Canada, by adopting the Canadian Charter of Rights and Freedoms, gave every individual the right to have his children educated in the minority language in the facilities of that same minority.

In his reply, the Minister continued: “I can only agree with the suggestion of the Hon. Member, that anyone given a right must also have the means to exercise that right. However, the real question is what is a fair means of exercising that right, and that is the question on which the court will rule”.

The Minister was right. But he lost me when he made the following statement to representatives of the news media outside the House:

There can be a range of possibilities. In some cases, it might be necessary for minorities to manage and control their own school boards. But that would not be the case if ‘very few’ students were involved.

Why drag the numbers game into the debate? Why do we continue to hammer away at minorities so that “when your numbers so warrant, we the people will give you certain services.”

The Province of Ontario, where this case is being heard, did away with the numbers game in a paper published in May, 1983. It is entitled: “A Proposal in Response to the Report of the Joint Committee on the Government of French-Language Elementary and Secondary Schools”, and on page 5 it states:

● (1805)

The Government, therefore, intends to recognize the right of every French-speaking pupil to an education in the French language. The proposed legislation will, in effect, remove the condition “where numbers warrant” in the provision of education for minority language pupils in Ontario.

[Translation]

Which means, therefore, that the Minister surely said more than he meant, Mr. Speaker.

[English]

The reasons many Canadians are worried tonight with the Minister of Justice (Mr. MacGuigan) is that the impact of the testimony of the federal Government before the Appeal Court of Ontario will be damaging to the case put by linguistic minorities. It will impact upon the decision of the learned judges. It will have serious consequences for the English-speaking minority in Quebec and the French-speaking minorities outside Quebec.

Adjournment Debate

[Translation]

In conclusion, Mr. Speaker, I can say that I take heart in spite of all that. I remain optimistic that judges and not politicians will be called upon to decide what our Constitution will mean really in the final analysis, judges who hopefully will be both generous and fair.

[English]

Mr. John Evans (Parliamentary Secretary to President of the Privy Council): Mr. Speaker, my remarks are not related to the position taken last week by the Attorney General of Canada before the Ontario Court of Appeal since it would be highly inappropriate to comment upon this case when the court has reserved its opinion. Rather, my comments are related to our interpretation of Section 23 of the Charter, not only in relation to Ontario but to all possible situations.

We believed that Section 23 ought to be interpreted liberally and in a flexible manner consistent with the end sought to be achieved. That end is the education of minority language children in their mother tongue on the basis of equality with the children of the majority. Our position is that in guaranteeing the right to receive minority language instruction in minority language educational facilities, the Charter requires that where numbers warrant minority language children must receive their instruction in facilities which can be objectively considered to appertain to the minority.

In referring to minority language education facilities, the Charter establishes a norm that must be met in all circumstances; that is, that the instruction must be provided in facilities in which the educational ethos will be that of the linguistic minority and that can be considered to appertain to the minority. Various factors can come into play in applying this test, the most important being the rights or powers exercised by the majority in relation to the local school board. Other factors include geography, minority language population, the numbers and qualifications of teachers, the physical facilities made available, the role played by the Ministry of Education, and the involvement of parents, among others. In most cases in our view some decision-making power must be given to the minority to meet the constitutional test. However, it is impossible to state in the abstract the exact measure of decision-making power which may be required in all circumstances to meet that test.

In our view the right to instruction in the minority language and to minority language facilities under Section 23 casts a duty on the legislature and the Ministry of Education to ensure that minority language facilities can be truly considered to be those of the minority.

LABOUR CONDITIONS—EMPLOYMENT OF FOREIGN NATIONALS IN UNIVERSITIES. (B) SYMONS-PAGE REPORT RECOMMENDATIONS

Mr. Jim Hawkes (Calgary West): Mr. Speaker, I rise in the Adjournment Debate tonight to try once again to obtain more complete answers from the Minister of Employment and