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Principles of Minority Language Education

1. Right of Canadian citizens to have their children receive their primary and secondary school instruction in the minority language, whether English or French, of the province in which they reside if
 - (a) the first language learned and still understood of one of the parents is that of the English or French linguistic minority population of the province in which they reside

or

 - (b) one of the parents has received his or her primary (or secondary?) school instruction in Canada in the minority language, whether English or French, of the province in which they reside

andthey reside in an area of the province in which the number of children of such citizens is sufficient to warrant the provision out of public funds of minority language educational facilities in that area.
2. Right of Canadian citizens who, at the time of coming into force of the Charter, have one or more of their children receiving his or her primary or secondary school instruction in either English or French, to have any or all of their children receive their primary or secondary school instruction in that same language if the number of children of citizens resident in the area of the province who have the right to educational instruction in that language is sufficient to warrant the provision out of public funds of minority language educational facilities in that area.
3. Right of a Canadian citizen who changes residence from one province to another and, prior to the change, has any child receiving primary or secondary school instruction in either English or French, to have any or all of his or her children receive their primary and secondary school instruction in the same language if the number of children of citizens resident in the area of the province to which the citizen has moved, who have a right to educational instruction in that language is sufficient to warrant the provision out of public funds of minority language educational facilities in that area.

Comments

The first principle would expand the right under section 23(1) to include citizens whose mother tongue was neither English or French but who had received their education in Canada in one of those languages. Thus it would enable the Italian mother tongue parents living in Quebec one of whom had received his or her education in English to send their children to English schools. It would also permit French mother tongue parents in Quebec

to send their children to English schools where one of the parents had been educated in English. This could also happen now under section 73(a) of Bill 101 where one of the parents was educated in English in Quebec. However, if it were extended to the "Canada clause" one could have French speaking parents educated in English outside Quebec and now residing in that province sending their children to English schools. To some extent, this establishes a double-standard for some francophones, enabling those with an English education to choose the language of education for their children.

Outside Quebec, the problem would be less acute since it is not likely that there would be many parents educated in the minority (French) language who did not have French as their mother tongue. It would, however, benefit the Haitian parents living in Toronto whose mother tongue was creole but who had been educated in French in Quebec. This would, however, be a rare case.

The second principle would provide for the transitional situation where children are already enrolled in school when the Charter comes into force. Those that are already enrolled in the minority language schools would be able to continue there even though their parents would not be able to qualify under the rules of principle one. This would cover the situation where a child of Polish mother tongue parents neither of whom had been educated in English in Canada was nevertheless enrolled in an English school in Quebec. It would parallel the provisions of section 73(c) and (d) of Bill 101 although it must be noted that under those provisions it is only those who were "lawfully" enrolled that are entitled to this benefit.

The third principle is simply a repeat of section 23(2) which provides for continuity of minority language instruction in cases where families move from province to province when they have children in school.