

SECTION 23
Minority Language Educational Rights

Compilation of primary documents to assist in interpreting the public
meaning of Section 23 of the *Constitution Act, 1982*

Second Edition
August, 2025



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The Constitution Act, 1982

Part I. Canadian Charter of Rights and Freedoms Minority Language Educational Rights

Language of instruction

Section 23(1) Citizens of Canada

- (a) whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, or*
- (b) who have received their primary school instruction in Canada in English or French and reside in a province where the language in which they received that instruction is the language of the English or French linguistic minority population of the province,*

have the right to have their children receive primary and secondary school instruction in that language in that province.

Continuity of language instruction

Section 23(2) *Citizens of Canada whom any child has received or is receiving primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school instruction in the same language.*

Application where numbers warrant

Section 23(3) *The right of citizens of Canada under subsections (1) and (2) to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority population of a province*

- (a) applies wherever in the province the number of children of citizens who have such a right is sufficient to warrant the provision to them out of public funds of minority language instruction;*
and

(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.

PART 1:

Drafting History of the Charter of Rights and Freedoms Pertaining to Section 23's Public Meaning

Drafts of the Charter of Rights and Freedoms:

January 22, 1979: Proposed Charter of Rights & Freedoms, Ontario Draft tabled at the Continuing Committee of Ministers on the Constitution (January 22-24, 1979)

October 17, 1979: Rights and Freedoms within the Canadian Federation, Federal Draft, tabled at the Continuing Committee of Ministers on the Constitution (October 22-23, 1979)

November 5, 1979: Rights and Freedoms within the Canadian Federation, Federal Draft, tabled at the Meeting of Officials on the Constitution (November 15-16, 1979)

July 4, 1980: Continuing Committee of Ministers on the Constitution, Rights and Freedoms within the Canadian Federation, Discussion Draft (July 8-11, 1980)

July 4, 1980: Comité Permanent des Ministres sur la Constitution, Droits et Libertés à l'Interieur de la Fédération Canadienne, Document de Travail (July 8-11, 1980)

July 16, 1980: Revised Discussion Draft with Memo re Section 1 (July 18, 1980)

August 5, 1980: Revised Discussion Draft with Memo (August 5, 1980)

August 8, 1980: Formalities to Bill: Joint Resolution (August 8, 1980)

August 13 1980: Draft Memo from Deputy Minister of Justice to Prime Minister re Charter of Rights – Language of Education (August 13, 1980)

August 22, 1980: Discussion Draft (Federal) (August 26-29, 1980)

September 3, 1980: Revised Discussion Draft (September 8-12, 1980)

September 3, 1980 : Conference Fédérale-Provinciale des Premiers Ministres, Document de Travail, Charte Canadienne des Droits et Libertés (September 3, 1980)

September 24, 1980: Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada (September 24, 1980)

October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version1] (October 2, 1980)

October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 2] (October 2, 1980)

October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada

November 7, 1980: Memo from Jean-Claude Malépart incl. Suggestions re Section 23 (November 7, 1980)

November 24, 1980: Annexes to Memorandum to Cabinet from Minister of Justice Dated November 24, 1980 Respecting Possible Amendments to Proposed Resolution on Constitution of Canada (November 24, 1980)

November 24, 1980: Section 23, Standalone Drafts: Copy 1 (November 24, 1980)

November 24, 1980: Section 23, Standalone Drafts: Copy 2 (November 24, 1980)

November 25, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated November 25, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada (November 25, 1980)

December 12, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada (December 12, 1980)

December 12, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated December 12, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada [Version 1] (December 12, 1980)

December 12, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated December 12, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada [Version 2] (December 12, 1980)

December 12, 1980: Draft [No Title]

December 17, 1980: Draft Memorandum to Ministers from Ministers of Justice re Possible Amendments to Proposed Resolution on Constitution of Canada (December 17, 1980)

December 17, 1980: Memorandum to Ministers from Ministers of Justice re Possible Amendments to Proposed Resolution on Constitution of Canada (December 17, 1980)

December 19, 1980: Consolidation of Proposed Amendments to the Proposed Resolution Respecting the Constitution of Canada (December 19, 1980)

December 30, 1980: Regroupement des Modifications Éventuelles à Apporter au Projet de Résolution concernant la Constitution du Canada, Version Provisoire (December 30, 1980)

N.D.: Section 23: Minority Language Education Rights, Alternative Wording Draft

January 9-12, 1981: Briefing Book for Clause by Clause Consideration of the Resolution (January 1981)

January 12, 1981: Version formally presented to Special Joint Committee by Jean Chretien (January 12, 1981)

January 26, 1981: Memo from Deputy Minister of Justice to Minister re Droit à la Minorité à l'Instruction – Article 23 du Projet de la Résolution Constitutionnelle (January 26, 1981)

January 29, 1981: SJC Committee Amendment (January 29, 1981)

February 13, 1981: Special Joint Committee, Final Report Submitted to Parliament (February 13, 1981)

Statutes and International Agreements:

1978: Bill C-60: An Act to amend the Constitution of Canada

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Drafts of the Charter of Rights and Freedoms

January 22, 1979: Proposed Charter of Rights & Freedoms, Ontario Draft tabled at the Continuing Committee of Ministers on the Constitution (January 22-24, 1979)

15. (1) Any person in a province who is a member of an English-speaking or French-speaking minority population of that province has a right to have his or her children receive their educational instruction in their minority language at the primary and secondary school level wherever the number of children of such persons resident in an area of the province is sufficient to warrant the provision of minority language education facilities in that area out of public funds.

(2) In each province, the legislature may enact provisions for the determination of whether or not the number of children of an English-speaking or French-speaking minority population in an area of the province is sufficient to warrant the provision of minority language education facilities in that area.

(Source: Continuing Committee of Ministers on the Constitution, *Proposed Charter of Rights & Freedoms, Ontario Draft*, Doc 830-70/042 (Vancouver: 22-24 January, 1979). Click [HERE](#))

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October 17, 1979: Rights and Freedoms within the Canadian Federation, Federal Draft, tabled at the Continuing Committee of Ministers on the Constitution (October 22-23, 1979)

16. (1) Citizens of Canada in a province who are members of an English-speaking or French-speaking minority population of that province have a right to have their children receive their educational instruction in their minority language at the primary and secondary level wherever the number of children of such citizens resident in an area of the province is sufficient to warrant the provision out of public funds of minority language education facilities in that area.

(2) In each province, the legislature. may enact provisions for determining where the number of children of citizens of Canada who are members of an English-speaking or French-speaking minority population in an area is sufficient to warrant the provision out of public funds of minority language education facilities in that area.

(Source: Continuing Committee of Ministers on the Constitution, *Rights and Freedoms within the Canadian Federation Federal Draft*, [October 17, 1979] (Halifax: 22-23 October, 1979). Click [HERE](#))

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November 5, 1979: Rights and Freedoms within the Canadian Federation, Federal Draft, tabled at the Meeting of Officials on the Constitution (November 15-16, 1979)

16. (1) Citizens of Canada in a province who are members of an English-speaking or French-speaking minority population of that province have a right to have their children receive their educational instruction in their minority language at the primary and secondary level wherever the number of children of such citizens resident in an area of the province is sufficient to warrant the provision out of public funds of minority language education facilities in that area.

(2) In each province, the legislature may enact provisions for determining where the number of children of citizens of Canada who are members of an English-speaking or French-speaking minority population in an area is sufficient to warrant the provision out of public funds of minority language education facilities in that area.

(Source: Meeting of Officials on the Constitution, Rights & Freedoms within Canadian Federation, *Federal Draft*, [November 5, 1979], Doc 840-177/005 (Toronto: 15-16 November, 1979). Click [HERE](#))

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July 4, 1980: Continuing Committee of Ministers on the Constitution, Rights and Freedoms within the Canadian Federation, Discussion Draft

16. (1) Citizens of Canada in a province who are members of an English-speaking or French-speaking minority population of that province have a right to have their children receive their educational instruction in their minority language at the primary and secondary level wherever the number of children of such citizens resident in an area of the province is sufficient to warrant the provision out of public funds of minority language education facilities in that area.

(2) In each province, the legislature may enact provisions for determining where the number of children of citizens of Canada who are members of an English-speaking or French-speaking minority population in an area is sufficient to warrant the provision out of public funds of minority language education facilities in that area.

(Source: Meeting of the Continuing Committee of Ministers on the Constitution, *Rights and Freedoms within the Canadian Federation, Discussion Draft*. Tabled by the Delegation of the Government of Canada, 4 July 1980, Doc 830-81/027 (Montreal: 8-11 July 1980). Click [HERE](#).)

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July 16, 1980: Revised Discussion Draft with Memo re Section 1

16. (1) Citizens of Canada in a province whose primarily spoken language (mother tongue?), whether English or French, is that of the linguistic minority population of that province have a right to have their children receive their education in that language at the primary and secondary school level wherever the number of such children resident in an area of the province is sufficient to warrant the provision out of public funds of minority language education facilities in that area.

(2) In each province the legislature may enact laws to render effective the rights provided in subsection (1).

(Source: Memo from Fred Jordan to Roger Tassé re Charter of Rights – Possible Modifications [with Possible Alternatives to Section 1 of July 4, 1980 Draft & Revised Discussion Draft (16 July 1980)] (18 July 1980). This text is found on p. 2. Click [HERE](#).)

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August 5, 1980: Revised Discussion Draft with Memo

24. (1) Citizens of Canada in a province who are members of an English-speaking or French-speaking minority population of that province have a right to have their children receive their education in their minority language at the primary and secondary school level wherever the number of children of such citizens resident in an area of the province is sufficient to warrant the provision out of public funds of minority language education facilities in that area.

(2) In each province, the legislature may, consistent with the right provided in subsection (1), enact provisions for determining whether the number of children of citizens of Canada who are members of an English-speaking or French-speaking minority population in an area of the province is sufficient to warrant the provision out of public funds of minority language education facilities in that area.

(Source: Memo from Deputy Minister of Justice to Prime Minister, Charter of Rights incl. Discussion Draft, The Canadian Charter of Rights and Freedoms (5 August 1980). Click [HERE](#).)

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August 8, 1980: Formalities to Bill: Joint Resolution

95.31. (1) Citizens of Canada in a province who are members of an English-speaking or French-speaking minority population of that province have a right to have their children receive their education in their minority language at the primary and secondary school level wherever the number of children of such citizens resident in an area of the province is sufficient to warrant the provision out of public funds of minority language education facilities in that area.

(2) In each province, the legislature may, consistent with the right provided in subsection (1), enact provisions for determining whether the number of children of citizens of Canada who are members of an English-speaking or French-speaking minority population in an area of the province is sufficient to warrant the provision out of public funds of minority language education facilities in that area.

(Source: Canada, Formalities to Bill, Draft Joint Resolution, An Act to Amend the Constitution of Canada (8 August 1980). Click [HERE](#).)

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August 13 1980: Draft Memo from Deputy Minister of Justice to Prime Minister re Charter of Rights – Language of Education

24. (1) Parents (resident in a province) whose mother tongue is that of the English or French linguistic minority population of ~~that~~^[a?] province ^[in which they have reside] have a right to have their children receive their primary and secondary school instruction in that minority language whenever the number of such children resident in an area of the province is sufficient to warrant the provision out of public funds of minority language education facilities in that area.

(2) In each province the legislature may enact laws to implement the right provided in subsection (1).

(3) For the purposes of this section “mother tongue” means the first language learned and still understood.

[...]

X. Notwithstanding Section 24, the laws of the province of Quebec respecting the language of educational instruction shall continue to have full force and effect for a period not exceeding (five or ten years) from the date on which this Charter comes into force.

(Source: [Draft] Memo from Deputy Minister of Justice to Prime Minister, Charter of Rights – Language of Education (13 August 1980). Click [HERE](#).)

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August 22, 1980: Discussion Draft (Federal)

24. (1) Citizens of Canada in a province who are members of an English-speaking or French-speaking minority population of that province have a right to have their children receive their education in their minority language at the primary and secondary school level wherever the number of children of such citizens resident in an area of the province is sufficient to warrant the provision out of public funds of minority language education facilities in that area.

(2) In each province, the legislature may, consistent with the right provided in subsection (1), enact provisions for determining whether the number of children of citizens of Canada who are members of an English-speaking or French-speaking minority population in an area of the province is sufficient to warrant the provision out of public funds of minority language education facilities in that area.

(Source: Continuing Committee of Ministers on the Constitution, *The Canadian Charter of Rights and Freedoms, Discussion Draft [Federal]*, (August 22, 1980), Doc 830-84/004 (Ottawa: 26-29 August 1980). Click [HERE](#).)

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September 3, 1980: Revised Discussion Draft

22. (1) Citizens of Canada in a province who are members of an English-speaking or French-speaking minority population of that province have a right to have their children receive their education in their minority language at the primary and secondary school **levels** wherever the number of children of such citizens resident in an area of the province is sufficient to warrant the provision out of public funds of minority language educational facilities in that area.

(2) In each province, the legislature may, consistent with the right provided in subsection (1), enact provisions for determining whether the number of children of citizens of Canada who are members of an English-speaking or French-speaking minority population in an area of the province is sufficient to warrant the provision out of public funds of minority language educational facilities in that area.

(Source: Federal-Provincial First Ministers' Conference, *The Canadian Charter of Rights and Freedoms, Revised Discussion Draft, Federal*, [September 3, 1980] Doc 800-14/064 (Ottawa: 8-12 September 1980). Click [HERE](#).)

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September 24, 1980: Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada

22.(1) Citizens of Canada whose mother tongue is that of the English or French linguistic minority population of the province in which they reside have the right to have their children receive their primary and secondary school instruction in the minority language where they reside in an area in the province in which the number of those children is sufficient to warrant the provision out of public funds of minority language educational facilities in that area.

(2) Where a citizen of Canada changes residence from one province to another and, prior to the change, any child of that citizen has been receiving his or her primary or secondary school instruction in either English or French, that citizen has the right to have any or all of his or her children receive their primary and secondary school instruction in that 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 recognized by this section, is sufficient to warrant the provision out of public funds of minority language educational facilities in that area.

(3) For the purposes of this section, "mother tongue" means the first language learned and still understood.

(Source: Canada, Parliament, DRAFT, "Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada" (24 September 1980). Click [HERE](#).)

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October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version1]

23. (1) Citizens of Canada whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside have the right to have their children receive their primary and secondary school instruction in that minority language if they 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) Where a citizen of Canada changes residence from one province to another and, prior to the change, any child of that citizen has been receiving his or her primary or secondary school instruction in either English or French, that citizen has the right to have any or all of his or her children receive their primary and secondary school instruction in that 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 recognized by this section, is sufficient to warrant the provision out of public funds of minority language educational facilities in that area.

(Source: Canada, Parliament, DRAFT, Proposed Resolution for Joint Address to Her Majesty the Queen Respecting the Constitution of Canada, Version 1 (2 October 1980). Click [HERE](#).)

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October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 2]

23. (1) Citizens of Canada ^{*[and permanent residents]*} whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside have the right to have their children receive their primary and secondary school instruction in that minority language if they 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) Where a citizen of Canada changes residence from one province to another and, prior to the change, any child of that citizen has been receiving his or her primary or secondary school instruction in either English or French, that citizen has the right to have any or all of his or her children receive their primary and secondary school instruction in that 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 recognized by this section, is sufficient to warrant the provision out of public funds of minority language educational facilities in that area.

(Source: Canada, Parliament, DRAFT, Proposed Resolution for Joint Address to Her Majesty the Queen Respecting the Constitution of Canada, Version 2 with Handwritten Notes (2 October 1980). Click [HERE](#).)

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October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada

23. (1) Citizens of Canada whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside have the right to have their children receive their primary and secondary school instruction in that minority language if they 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) Where a citizen of Canada changes residence from one province to another and, prior to the change, any child of that citizen has been receiving his or her primary or secondary school instruction in either English or French, that citizen has the right to have any or all of his or her children receive their primary and secondary school instruction in that 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 recognized by this section, is sufficient to warrant the provision out of public funds of minority language educational facilities in that area.

(Source: Canada, Parliament, "Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada" in *Sessional Papers* (1980). Click [HERE](#).)

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November 24, 1980: Annexes to Memorandum to Cabinet from Minister of Justice Dated November 24, 1980 Respecting Possible Amendments to Proposed Resolution on Constitution of Canada

23. (1) Citizens of Canada, who have received their primary school instruction in English or French in Canada, and who reside in a province in which the language of that instruction is that of the English or French linguistic minority population of that province, have the right to have their children receive primary and secondary school instruction in that province in that language.

(2) Citizens of Canada whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, have the right to have their children receive primary and secondary school instruction in that province in that language.

(3) Citizens of Canada of whom one child has received primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school instruction in that language.

(Source: Annexes du Mémoire au Cabinet du Ministre de la Justice daté du 24 novembre 1980 concernant la possibilité d'apporter des modifications au Projet de résolution concernant la Constitution du Canada (24 novembre 1980). Click [HERE](#).)

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November 24, 1980: Section 23, Standalone Drafts: Copy 1

23. (1) Citizens of Canada, who have received their primary or secondary school instruction in English or French in Canada, and who reside in a province in which their language of instruction is that of the English or French linguistic minority population of that province, have the right to have their children receive primary and secondary school instruction in that province in their language of instruction.

(2) Citizens of Canada who do not meet the language of instruction prerequisite of subsection (1) but whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, have the right to have their children receive primary and secondary school instruction in that language in that province if they can establish that public educational facilities in that language were not available to enable them to receive their public or secondary school education in that language.

(3) Citizens of Canada of whom one child has received primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school instruction in the same language.

(4) The right^[s] of citizens of Canada under this section to have their children receive primary and secondary school instruction in the language of the English or French minority population of a province applies only where the citizens reside in an area of the province in which the number of children of citizens having^[such] ~~that~~^[a] right is sufficient to warrant the provision out of public funds of minority language educational facilities in that area.

(Source: [Department of Justice?], [Loose Section 23 Drafts], (24 November 1980). Click [HERE](#).)

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November 24, 1980: Section 23, Standalone Drafts: Copy 2

23. (1) Citizens of Canada, who have received their primary or secondary school instruction in English or French in Canada, and who reside in a province in which their language of instruction is that of the English or French linguistic minority population of that province, have the right to have their children receive primary and secondary school instruction in that province in their language of instruction.

(2) Citizens of Canada who do not meet the language of instruction prerequisite of subsection (1) but whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, have the right to have their children receive primary and secondary school instruction in that language in that province ~~if they can establish that public educational facilities in that language were not available to enable them to receive their public or secondary school education in that language.~~

(3) Citizens of Canada of whom one child has received primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school instruction in the same language.

(4) The right^[s] of citizens of Canada under this section to have their children receive primary and secondary school instruction in the language of the English or French minority population of a province applies only where the citizens reside in an area of the province in which the number of children of citizens having ^[such] ~~that~~ ^[a] right is sufficient to warrant the provision out of public funds of minority language educational facilities in that area.¹

(Source: [Department of Justice?], [Loose Section 23 Drafts], (24 November 1980). Click [HERE](#).)

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November 25, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated November 25, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada

23. (1) Citizens of Canada, who have received their primary or secondary school instruction in English or French in Canada, and who reside in a province in which their language of instruction is that of the English or French linguistic minority population of that province, have the right to have their children receive primary and secondary school instruction in that province in their language of instruction.

(2) Citizens of Canada who do not meet the language of instruction prerequisite of subsection (1) but whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, have the right to have their children receive primary and secondary school instruction in that language in that province ~~if they can establish that public educational facilities in that language were not available to enable them to receive their public or secondary school education in that language.~~

(3) Citizens of Canada of whom one child has received primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school instruction in the same language.

(4) The right^[s] of citizens of Canada under this section to have their children receive primary and secondary school instruction in the language of the English or French minority population of a province applies only where the citizens reside in an area of the province in which the number of children of citizens having ^[such] ~~that~~ ^[a] right is sufficient to warrant the provision out of public funds of minority language educational facilities in that area.²

(Source: Annexes to Memorandum to Ministers from Minister of Justice dated November 25, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada (25 November 1980). Click [HERE](#).)

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¹ The word "No" is written in column next to subsection (4).

² The word "No" is written in column next to subsection (4).

December 12, 1980: Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada:

“Cabinet agreed that certain changes, proposed in the Memorandum to Ministers, be made in this section respecting the qualifications for entitlement to minority language education, but that the requirement of “where numbers warrant” should be retained to maintain consistency with the 1978 Montreal Agreement of Provincial Premiers.

It is suggested that, to maintain further consistency with the Premiers’ agreement, the revised clause not make reference to provision of “educational facilities”, but only to “the provision out of public funds of minority language instruction”.

(Source: Minister of Justice, Memorandum to Ministers from Minister of Justice re: Possible Amendments to Proposed Resolution on Constitution of Canada (12 December 1980). Click [HERE](#).)

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December 12, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated December 12, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada [Version 1]

23. (1) Citizens of Canada

(a) whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, or

(b) who have received their primary school instruction anywhere in Canada in the language, whether English or French, of the linguistic minority population of the province in which they reside, have the right to have their children receive primary and secondary school instruction in that language in that province.

(2) Citizens of Canada of whom one child has received primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school instruction in the same language.

(3) The right of citizens of Canada under this section to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority population of a province applies where the number of children of citizens who have such a right is sufficient to warrant the provision out of public funds of minority language instruction.

(Source: Annexes to Memorandum to Ministers from Minister of Justice dated December 12, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada [Version 1] (12 December 1980). Click [HERE](#).)

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December 12, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated December 12, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada [Version 2]:

23. (1) Citizens of Canada, who have received their primary school instruction in English or French in Canada, and who reside in a province in which the language of that instruction is that of the English or French linguistic minority population of that province, have the right to have their children receive primary and secondary school instruction in that province in that language."

(2) Citizens of Canada whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, have the right to have their children receive primary and secondary school instruction in that province in that country.

(3) Citizens of Canada of whom one child has received primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school instruction in the same language.

(4) The right of citizens of Canada under this section to have their children receive primary and secondary school instruction in the language of the English or French minority population of a province applies only where the citizens reside in an area of the province in which the number of children of citizens who have such a right is sufficient to warrant the provision out of public funds of minority language instruction in that area.

(Source: Annexes to Memorandum to Cabinet from Minister of Justice Dated December 12, 1980 Respecting Possible Amendments to Proposed Resolution on Constitution of Canada [Version 2] (12 December 1980). Click [HERE](#).)

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December 12, 1980: Draft [No Title]

23. (1) Citizens of Canada

(a) whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, or

(b) who have received their primary school instruction anywhere in Canada in the language, whether English or French, of the linguistic minority population of the province in which they reside, have the right to have their children receive primary and secondary school instruction in that language in that province.

(2) Citizens of Canada of whom one child has received primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school instruction in the same language.

(3) The right of citizens of Canada under this section to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority

population of a province applies where the number of children of citizens who have such a right is sufficient to warrant the provision out of public funds of minority language instruction.

(Source: [Department of Justice?], [DRAFT], Constitution Act, 1980. Click [HERE](#).)

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December 17, 1980: Draft Memorandum to Ministers from Ministers of Justice re Possible Amendments to Proposed Resolution on Constitution of Canada:

23. (1) Citizens of Canada

(a) whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, or

(b) who have received their primary school instruction anywhere in Canada in the language, whether English or French, of the linguistic minority population of the province in which they reside, have the right to have their children receive primary and secondary school instruction in that language in that province.

(2) Citizens of Canada of whom one child has received primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school instruction in the same language.

(3) The right of citizens of Canada under this section to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority population of a province applies where the number of children of citizens who have such a right is sufficient to warrant the provision out of public funds of minority language instruction.

(Source: Draft Memorandum to Ministers from Ministers of Justice re Possible Amendments to Proposed Resolution on Constitution of Canada (17 December 1980). Click [HERE](#).)

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December 17, 1980: Memorandum to Ministers from Ministers of Justice re Possible Amendments to Proposed Resolution on Constitution of Canada:

23. (1) Citizens of Canada

(a) whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, or

(b) who have received their primary school instruction anywhere in Canada in the language, whether English or French, of the linguistic minority population of the province in which they reside, have the right to have their children receive primary and secondary school instruction in that language in that province.

(2) Citizens of Canada of whom one child has received primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school instruction in the same language.

(3) The right of citizens of Canada under this section to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority population of a province applies where the number of children of citizens who have such a right is sufficient to warrant the provision out of public funds of minority language instruction.

(Source: Memorandum to Ministers from Ministers of Justice re Possible Amendments to Proposed Resolution on Constitution of Canada (17 December 1980). Click [HERE](#).)

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December 19, 1980: Consolidation of Proposed Amendments to the Proposed Resolution Respecting the Constitution of Canada

23. (1) Citizens of Canada

(a) whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, or

(b) who have received their primary school instruction anywhere in Canada in ~~the language, whether English or French, of the linguistic minority population of the province in which they reside,~~ have the right to have their children receive primary and secondary school instruction in that language in that^{the³} province ~~(in which they reside)~~.

(2) Citizens of Canada of whom one child has received primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school instruction in the same language.

(3) The right of citizens of Canada under this section to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority population of a province applies where the number of children of citizens who have such a right is sufficient to warrant the provision out of public funds of minority language instruction.

(Source: Consolidation of Proposed Amendments to the Proposed Resolution Respecting the Constitution of Canada (19 December 1980). Click [HERE](#).)

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Section 23: Minority Language Education Rights, Alternative Wording Draft:

23. (1) Citizens of Canada

(a) whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, or

(b) who have received their primary school instruction anywhere in Canada in the language, whether English or French, of the linguistic minority population of the province in which they reside have a right to have their children receive primary and secondary school instruction in that language in that province.

³ Unsure whether “the” is correct here, but it makes the most sense in context with rest of the addition.

(2) Citizens of Canada of whom one child has received primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school instruction in the same language.

(3) The rights of citizens of Canada under this section to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority population of a province applies ~~only~~ where the citizens reside in an area of the province in which the number of children of citizens who have such a right is sufficient to warrant the provision out of public funds of minority language instruction in that area.

(Source: [Department of Justice?], Minority Language Education Rights, Alternate Draft (n.d.) Click [HERE](#).)

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January 9-12, 1981: Briefing Book for Clause by Clause Consideration of the Resolution:

23. (1) Citizens of Canada

(a) whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, or

(b) who have received their primary school instruction in Canada in English or French and reside in a province where the language in which they received that instruction is the language of the English or French linguistic minority population of the province, have the right to have their children receive primary and secondary school instruction in that language in that province.

(2) Citizens of Canada of whom any child has received or is receiving primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school instruction in the same language.

(3) The right of citizens of Canada under this section to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority population of a province applies where they reside in an area of the province in which the number of children of citizens who have such a right is sufficient to warrant the provision out of Public funds of minority language instruction in that area.

(Source: Canada, *Briefing Book for Clause by Clause Consideration of the Resolution* (January 1981). Click [HERE](#).)

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January 12, 1981: Version formally presented to Special Joint Committee by Jean Chretien:

23. (1) Citizens of Canada

- (a) whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, or
 - (b) who have received their primary school instruction in Canada in English or French and reside in a province where the language in which they received that instruction is the language of the English or French linguistic minority population of the province, have the right to have their children receive primary and secondary school instruction in that language in that province.
- (2) Citizens of Canada of whom any child has received or is receiving primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school instruction in the same language.
- (3) The right of citizens of Canada under this section to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority population of a province applies where they reside in an area of the province in which the number of children of citizens who have such a right is sufficient to warrant the provision out of public funds of minority language instruction in that area.

(Source: Canada, Parlement, *Procès-verbaux et témoignages du Comité mixte spécial du Sénat et de la Chambre des communes sur la Constitution du Canada*, 32e parl, 1re sess, n° 36 (12 janvier 1981). Click [HERE](#).)

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January 26, 1981: Memo from Deputy Minister of Justice to Minister re Droit à la Minorité à l'Instruction – Article 23 du Projet de la Résolution Constitutionnelle:

23. (1) Citizens of Canada
- (a) whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, or
 - (b) who have received their primary school instruction in Canada in English or French and reside in a province where the language in which they received that instruction is the language of the English or French linguistic minority population of the province, have the right to have their children receive primary and secondary school instruction in that language in that province.
- (2) Citizens of Canada of whom any child has received or is receiving primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school instruction in the same language.
- (3) The right of citizens of Canada under subsections (1) and (2) to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority population of a province
- (a) applies wherever in the province the number of children of citizens who have such a right is sufficient to warrant the provision to them out of public funds of minority language instruction; and
 - (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.

(Source: Note de Service de Sous-Ministre de la Justice à Ministre de la Justice, Droit à la Minorité à l'Instruction – Article 23 du Projet de la Résolution Constitutionnelle (26 janvier 1981). Click [HERE](#).)

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SJC Committee Amendment:

23. (1) Citizens of Canada

(a) whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, or

(b) who have received their primary school instruction in Canada in English or French and reside in a province where the language in which they received that instruction is the language of the English or French linguistic minority population of the province, have the right to have their children receive primary and secondary school instruction in that language in that province.

(2) Citizens of Canada of whom any child has received or is receiving primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school instruction in the same language.

(3) The right of citizens of Canada under subsections (1) and (2) to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority population of a province

(a) applies wherever in the province the number of children of citizens who have such a right is sufficient to warrant the provision to them out of public funds of minority language instruction; and

(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.

(Source: Canada, Parliament, *Minutes of Proceedings and Evidence of the Special Joint Committee of the Senate and of the House of Commons on the Constitution of Canada*, 32nd Parl, 1st Sess, No 48 (29 January 1981). Click [HERE](#).)

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February 13, 1981: Special Joint Committee, Final Report Submitted to Parliament:

23. (1) Citizens of Canada

(a) whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, or

(b) who have received their primary school instruction in Canada in English or French and reside in a province where the language in which they received that instruction is the language of the English or French linguistic minority population of the province, have the right to have their children receive primary and secondary school instruction in that language in that province.

(2) Citizens of Canada of whom any child has received or is receiving primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school instruction in the same language.

(3) The right of citizens of Canada under subsections (1) and (2) to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority population of a province

(a) applies wherever in the province the number of children of citizens who have such a right is sufficient to warrant the provision to them out of public funds of minority language instruction; and

(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.

(Source: Canada, Parliament, *Minutes of Proceedings and Evidence of the Special Joint Committee of the Senate and of the House of Commons on the Constitution of Canada*, 32nd Parl, 1st Sess, No 57 (13 February 1981).

Click [HERE](#).)

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French:

July 4, 1980: Comité Permanent des Ministres sur la Constitution, Droits et Libertés à l'Interieur de la Fédération Canadienne, Document de Travail

15. (1) Les citoyens canadiens habitant une province et qui font partie de la minorité anglophone ou francophone de la province ont le droit de faire instruire leurs enfants, aux niveaux primaire et secondaire, dans la langue de la minorité lorsque le nombre de ces enfants dans une région de la province justifie que soient mises à leur disposition, au moyen de fonds publics, des installations d'enseignement dans la langue minoritaire dans cette région.

(2) Afin de mettre en œuvre le droit prévu au paragraphe (1), le corps législatif de chaque province peut adopter des mesures relatives à la façon de déterminer si le nombre d'enfants des citoyens canadiens qui font partie de la minorité anglophone ou francophone dans une région de la province justifie que soient mises à leur disposition, au moyen de fonds publics, des installations d'enseignement dans la langue minoritaire dans cette région.

(Source: Comité Permanent des Ministres sur la Constitution, *Droits et Libertés à l'Interieur de la Fédération Canadienne, Document de Travail*, Doc: 830-81/027 (Montréal: 8-11 juillet 1980). Click [HERE](#).)

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September 3, 1980: Conference Fédérale-Provinciale des Premiers Ministres, Document de Travail, Charte Canadienne des Droits et Libertés

22 (1) Les citoyens canadiens qui font partie de la minorité anglophone ou francophone de la province où ils habitent ont le droit de faire instruire leurs enfants, aux niveaux primaire et secondaire, dans la langue de la minorité lorsque le nombre de ces enfants dans une région de la province justifie que soient mises à leur disposition, au moyen de fonds publics des installations d'enseignement dans la langue minoritaire dans cette région.

(2) Les législatures de chaque province peuvent, afin de donner effet au droit qu'accorde le paragraphe (1) adopter des mesures pour déterminer si le nombre d'enfants des citoyens canadiens qui font partie de la minorité anglophone ou francophone dans une région de la province justifie que soient mises à leur dispositions, au moyen de fonds publics, des installations d'enseignement dans la langue minoritaire dans cette région.

(Source: Conference Fédérale-Provinciale des Premiers Ministres, *Document de Travail, Charte Canadienne des Droits et Libertés* (3 septembre 1980). Click [HERE](#).)

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September 24, 1980: Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada

22. (1) Les citoyens canadiens dont la langue maternelle est celle de la minorité francophone ou anglophone de leur province de résidence ont le droit de faire instruire leurs enfants, aux niveaux primaire et secondaire, dans la langue de la minorité dans toute région de la province où le nombre d'enfants de citoyens jouissant d'un droit reconnu au présent article justifie la mise sur pied, au moyen de fonds publics, d'installations d'enseignement dans cette langue.

(2) Le citoyen canadien qui change de résidence d'une province à une autre a le droit de faire instruire ses enfants, aux niveaux primaire et secondaire, dans la langue, française ou anglaise, dans laquelle l'un de ses enfants recevait son instruction dans la province de son ancienne résidence, dans toute région de sa nouvelle province de résidence où le nombre d'enfants de citoyens jouissant d'un droit reconnu au présent article justifié la mise sur pied, au moyen de fonds public, d'installations d'enseignement dans cette langue.

(3) Pour l'application du présent article, on entend par « langue maternelle » la première langue apprise et encore comprise.

(Source: Canada, Parliament, DRAFT, "Resolution for joint address to Her Majesty the Queen respecting the constitution of Canada" (24 September 1980). Click [HERE](#).)

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October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version1]

23. (1) Les citoyens canadiens dont la première langue apprise et encore comprise est celle de la minorité francophone ou anglophone de leur province de résidence ont le droit de faire instruire leurs enfants, aux niveaux primaire et secondaire, dans la langue de la minorité dans toute région de la province ou le nombre des enfants de ces citoyens justifie la mise sur pied, au moyen de fonds publics, d'installations d'enseignement dans cette langue.

(2) Le citoyen canadien qui change de résidence d'une province a une autre a le droit de faire instruire ses enfants, aux niveaux primaire et secondaire, dans la langue, française ou anglaise, dans laquelle l'un de ses enfants recevait son instruction dans la province de son ancienne résidence, dans toute région de sa nouvelle province de résidence ou le nombre d'enfants de citoyens jouissant d'un droit reconnu au présent article justifie la mise sur pied, au moyen de fonds publics, d'installations d'enseignement dans cette langue.

(Source: Canada, Parliament, DRAFT, Proposed Resolution for Joint Address to Her Majesty the Queen Respecting the Constitution of Canada, Version 1 (2 October 1980). Click [HERE](#).)

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October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada with Handwritten Notes [Draft, Version 2]

23. (1) Les citoyens canadiens dont la première langue apprise et encore comprise est celle de la minorité francophone ou anglophone de leur province de résidence ont le droit de faire instruire

leurs enfants, aux niveaux primaire et secondaire, dans la langue de la minorité dans toute région de la province ou le nombre des enfants de ces citoyens justifie la mise sur pied, au moyen de fonds publics, d'installations d'enseignement dans cette langue.

(2) Le citoyen canadien qui change de résidence d'une province à une autre a le droit de faire instruire ses enfants, aux niveaux primaire et secondaire, dans la langue, française ou anglaise, dans laquelle l'un de ses enfants recevait son instruction dans la province de son ancienne résidence, dans toute région de sa nouvelle province de résidence ou le nombre d'enfants de citoyens jouissant d'un droit reconnu au présent article justifie la mise sur pied, au moyen de fonds publics, d'installations d'enseignement dans cette langue.

(Source: Canada, Parliament, DRAFT, Proposed Resolution for Joint Address to Her Majesty the Queen Respecting the Constitution of Canada, Version 2 with Handwritten Notes (2 October 1980). Click [HERE](#).)

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October 2, 1980: Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada

23. (1) Les citoyens canadiens dont la première langue apprise et encore comprise est celle de la minorité francophone ou anglophone de leur province de résidence ont le droit de faire instruire leurs enfants, aux niveaux primaire et secondaire, dans la langue de la minorité dans toute région de la province ou le nombre des enfants de ces citoyens justifie la mise sur pied, au moyen de fonds publics, d'installations d'enseignement dans cette langue.

(2) Le citoyen canadien qui change de résidence d'une province à une autre a le droit de faire instruire ses enfants, aux niveaux primaire et secondaire, dans la langue, française ou anglaise, dans laquelle l'un de ses enfants recevait son instruction dans la province de son ancienne résidence, dans toute région de sa nouvelle province de résidence ou le nombre d'enfants de citoyens jouissant d'un droit reconnu au présent article justifie la mise sur pied, au moyen de fonds publics, d'installations d'enseignement dans cette langue.

(Source: Canada, Parliament, "Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada" in *Sessional Papers* (1980). Click [HERE](#).)

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Memo from Jean-Claude Malépart incl. Suggestions re Section 23:

1. Les citoyens canadiens qui ont reçu au Canada l'enseignement primaire ou secondaire dans la langue de la minorité francophone ou anglophone de leur province de résidence ont le droit de faire instruire leurs enfants, aux niveaux primaire ou secondaire, dans la langue de la minorité dans toute la région de la province où le nombre des enfants de ces citoyens justifie la mise sur pied, au moyen de fonds publics, d'installations d'enseignement dans cette langue.

2. Les citoyens canadiens dont la première langue apprise et encore comprise est celle de la minorité francophone ou anglophone de leur province de résidence et qui n'ont pas pu recevoir

au Canada l'enseignement, primaire ou secondaire, dans la langue française ou anglaise, dû au fait qu'il n'existait pas dans leur province de résidence un système facile d'accès, ont le droit de faire instruire leurs enfants, aux niveaux primaire et secondaire, dans la langue de la minorité dans toute région de la province où le nombre des enfants de ces citoyens justifie la mise sur pied, au moyen de fonds publics, d'installations d'enseignement dans cette langue.

Continuité d'emploi de la langue d'instruction

3. Propositions de l'article 23 (2) – texte intégral

(Source: Lettre de Jean-Claude Malépart, M.P., Suggestions de Modifications de l'Article 23 (7 novembre 1980). Click [HERE](#).)

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November 25, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated November 25, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada

23. (1) Les citoyens canadiens qui ont reçu leur instruction, au niveau primaire, en français ou en anglais au Canada et qui résident dans une province où la langue d'instruction est, à ce niveau, celle de la minorité linguistique française ou anglaise de la province ont le droit d'y faire instruire leurs enfants, aux niveaux primaire et secondaire, dans cette langue.

(2) Les citoyens canadiens dont la première langue apprise et encore comprise est celle de la minorité linguistique française ou anglaise de la province où ils résident ont le droit d'y faire instruire leurs enfants, aux niveaux primaire et secondaire, dans cette langue.

(3) Les citoyens canadiens dont un enfant a reçu ou reçoit son instruction, au niveau primaire ou secondaire, en français ou en anglais au Canada ont le droit de faire instruire tous leurs enfants, aux niveaux primaire et secondaire, dans la langue de cette instruction.

(Source: Annexes to Memorandum to Ministers from Minister of Justice dated November 25, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada (25 November 1980). Click [HERE](#).)

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December 12, 1980: Annexes to Memorandum to Ministers from Minister of Justice dated December 12, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada [Version 1]

23. (1) Les citoyens canadiens

a) dont la première langue apprise et encore comprise est celle de la minorité linguistique française ou anglaise de la province où ils résident,

b) qui ont reçu leur instruction, au niveau primaire, en français ou en anglais au Canada et qui résident dans une province où la langue d'instruction est, à ce niveau, celle de la minorité linguistique française ou anglaise de la province,
ont le droit d'y faire instruire leurs enfants, aux niveaux primaire et secondaire, dans cette langue.

(2) Les citoyens canadiens dont un enfant a reçu ou reçoit son instruction, au niveau primaire ou secondaire, en français ou en anglais au Canada ont le droit de faire instruire tous leurs enfants, aux niveaux primaire et secondaire, dans la langue de cette instruction.

(3) Le droit reconnu aux citoyens canadiens par le présent article de faire instruire leurs enfants, aux niveaux primaire et secondaire, dans la langue de la minorité française ou anglaise d'une province ne s'exerce que là où le nombre d'enfants de citoyens qui ont ce droit est suffisant pour justifier la prestation, sur les fonds publics, de l'instruction dans la langue de la minorité.

(Source: Annexes to Memorandum to Ministers from Minister of Justice dated December 12, 1980 respecting Possible Amendments to Proposed Resolution on Constitution of Canada [Version 1] (12 December 1980). Click [HERE](#).)

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December 30, 1980: Regroupement des Modifications Éventuelles à Apporter au Projet de Résolution concernant la Constitution du Canada, Version Provisoire

23. (1) Les citoyens canadiens

a) dont la première langue apprise et encore comprise est celle de la minorité linguistique française ou anglaise de la province ou ils résident,

b) qui ont reçu leur instruction, au niveau primaire, en français ou en anglais au Canada et qui résident dans une province où la langue ^[dans laquelle ils ont reçu leur] d'instruction est, ~~à ce niveau~~, celle de la minorité linguistique française ou anglaise de la province,
ont le droit d'y faire instruire leurs enfants, aux niveaux primaire et secondaire, dans cette langue.

(2) Les citoyens canadiens dont un enfant a reçu ou reçoit son instruction, au niveau primaire ou secondaire, en français ou en anglais au Canada ont le droit de faire instruire tous leurs enfants, aux niveaux primaire et secondaire, dans la langue de cette instruction.

(3) Le droit reconnu aux citoyens canadiens par le present article de faire instruire leurs enfants, aux niveaux primaire et secondaire, dans la langue de la minorité française ou anglaise d'une province ne s'exerce que là où le nombre d'enfants de citoyens qui ont ce droit est suffisant pour justifier la prestation, sur les fonds publics, de l'instruction dans la langue de la minorité.

(Source: Regroupement des Modifications Éventuelles à Apporter au Projet de Résolution concernant la Constitution du Canada, Version Provisoire (30 décembre 1980). Click [HERE](#).)

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January 9-12, 1981: Briefing Book for Clause by Clause Consideration of the Resolution:

23. (1) Les citoyens canadiens :

a) dont la première langue apprise et encore comprise est celle de la minorité linguistique française ou anglaise de la province où ils résident,
b) qui ont reçu leur instruction, au niveau primaire, en français ou en anglais au Canada et qui résident dans une province où la langue dans laquelle ils ont reçu cette instruction est celle de la minorité linguistique française ou anglaise de la province,
ont, dans l'un ou l'autre cas, le droit d'y faire instruire leurs enfants, aux niveaux primaire et secondaire, dans cette langue.

(2) Les citoyens canadiens dont un enfant a reçu ou reçoit son instruction, au niveau primaire ou secondaire, en français ou en anglais au Canada ont le droit de faire instruire tous leurs enfants, aux niveaux primaire et secondaire, dans la langue de cette instruction.

(3) Le droit reconnu aux citoyens canadiens par le présent article de faire instruire leurs enfants, aux niveaux primaire et secondaire, dans la langue de la minorité française ou anglaise d'une province s'exerce s'ils résident dans une région de la province où le nombre d'enfants de citoyens qui ont ce droit est suffisant pour justifier la prestation dans cette région, sur les fonds publics, de l'instruction dans la langue de la minorité.

(Source: Canada, *Briefing Book for Clause by Clause Consideration of the Resolution* (January 1981). Click [HERE](#).)

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January 26, 1981: Memo from Deputy Minister of Justice to Minister re Droit à la Minorité à l'Instruction – Article 23 du Projet de la Résolution Constitutionnelle:

23.(1) Les citoyens canadiens:

a) dont la première langue apprise et encore comprise est celle de la minorité linguistique française ou anglaise de la province où ils résident
b) qui ont reçu leur instruction, au niveau primaire, en français ou en anglais au Canada et qui résident dans une province où la langue dans laquelle ils ont reçu cette instruction est celle de la minorité linguistique française ou anglaise de la province,
ont, dans l'un ou l'autre cas, le droit d'y faire instruire leurs enfants, aux niveaux primaire et secondaire, dans cette langue.

(2) Les citoyens canadiens dont un enfant a reçu ou reçoit son instruction, au niveau primaire ou secondaire, en français ou en anglais au Canada ont le droit de faire instruire tous leurs enfants, aux niveaux primaire et secondaire, dans la langue de cette instruction.

(3) Le droit reconnu aux citoyens canadiens par les paragraphes (1) et (2) de faire instruire leurs enfants, aux niveaux primaire et secondaire, dans la langue de la minorité francophone ou anglophone d'une province :

- a) s'exerce partout dans la province où le nombre des enfants des citoyens qui ont ce droit est suffisant pour justifier à leur endroit la prestation, sur les fonds publics, de l'instruction dans la langue de la minorité;
- b) comprend, lorsque le nombre de ces enfants le justifie, le droit de les faire instruire dans des établissements d'enseignement de la minorité linguistique, financés sur les fonds publics.

(Source: Note de Service de Sous-Ministre de la Justice à Ministre de la Justice, Droit à la Minorité à l'Instruction – Article 23 du Projet de la Resolution Constitutionnelle (26 janvier 1981). Click [HERE](#).)

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SJC Committee Amendment:

- 23.(1) Les citoyens canadiens:
 - a) dont la première langue apprise et encore comprise est celle de la minorité linguistique française ou anglaise de la province où ils résident
 - b) qui ont reçu leur instruction, au niveau primaire, en français ou en anglais au Canada et qui résident dans une province où la langue dans laquelle ils ont reçu cette instruction est celle de la minorité linguistique française ou anglaise de la province,ont, dans l'un ou l'autre cas, le droit d'y faire instruire leurs enfants, aux niveaux primaire et secondaire, dans cette langue.
- (2) Les citoyens canadiens dont un enfant a reçu ou reçoit son instruction, au niveau primaire ou secondaire, en français ou en anglais au Canada ont le droit de faire instruire tous leurs enfants, aux niveaux primaire et secondaire, dans la langue de cette instruction.
- (3) Le droit reconnu aux citoyens canadiens par les paragraphes (1) et (2) de faire instruire leurs enfants, aux niveaux primaire et secondaire, dans la langue de la minorité francophone ou anglophone d'une province :
 - a) s'exerce partout dans la province où le nombre des enfants des citoyens qui ont ce droit est suffisant pour justifier à leur endroit la prestation, sur les fonds publics, de l'instruction dans la langue de la minorité;
 - b) comprend, lorsque le nombre de ces enfants le justifie, le droit de les faire instruire dans des établissements d'enseignement de la minorité linguistique, financés sur les fonds publics.

(Source: Canada, Parliament, *Minutes of Proceedings and Evidence of the Special Joint Committee of the Senate and of the House of Commons on the Constitution of Canada*, 32nd Parl, 1st Sess, No 48 (29 January 1981). Click [HERE](#).)

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February 13, 1981: Special Joint Committee, Final Report Submitted to Parliament:

- 23 (1) Les citoyens canadiens:
 - a) dont la première langue apprise et encore comprise est celle de la minorité francophone ou anglophone de la province où ils résident,

b) qui ont reçu leur instruction, au niveau primaire, en français ou en anglais au Canada et qui résident dans une province où la langue dans laquelle ils ont reçu cette instruction est celle de la minorité francophone ou anglophone de la province, ont, dans l'un ou l'autre cas, le droit d'y faire instruire leurs enfants, aux niveaux primaire et secondaire, dans cette langue.

(2) Les citoyens canadiens dont un enfant a reçu ou reçoit son instruction, au niveau primaire ou secondaire, en français ou en anglais au Canada ont le droit de faire instruire tous leurs enfants, aux niveaux primaire et secondaire, dans la langue de cette instruction.

(3) Le droit reconnu aux citoyens canadiens par les paragraphes (1) et (2) de faire instruire leurs enfants, aux niveaux primaire et secondaire, dans la langue de la minorité francophone ou anglophone d'une province:

a) s'exerce partout dans la province où le nombre des enfants des citoyens qui ont ce droit est suffisant pour justifier à leur endroit la prestation, sur les fonds publics, de l'instruction dans la langue de la minorité;

b) comprend, lorsque le nombre de ces enfants le justifie, le droit de les faire instruire dans des établissements d'enseignement de la minorité linguistique financés sur les fonds publics.

(Source: Canada, Parliament, *Minutes of Proceedings and Evidence of the Special Joint Committee of the Senate and of the House of Commons on the Constitution of Canada*, 32nd Parl, 1st Sess, No 57 (13 February 1981). Click [HERE](#).)

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Statutes and International Agreements

June 20, 1978: Bill C-60: An Act to amend the Constitution of Canada

21. (1) Where the number of children in any area of a province in respect of whom notice has been given as contemplated by this section, warrants the provision of the facilities required to give effect to the right provided for by this section, any parent who is a citizen of Canada resident within that area and whose primarily spoken language is not that of the numerically larger of the groups comprising those persons resident in that province whose primarily spoken languages are either English or French, has the right to have his or her children receive their schooling in the language of basic instruction that is the primarily spoken language of the numerically smaller of those groups, in or by means of facilities that are provided in that area out of public funds and that are suitable and adequate for that purpose.

(2) The exercise by any parent of the right provided for by this section shall be subject to such reasonable requirements respecting the giving of notice by that parent of his or her intended exercise thereof as may be prescribed by the law of the province in which that parent resides.

(3) Nothing in this section shall be held to limit the authority of the legislature of any province to make such provisions as are reasonable for determining, either generally or in any particular case or classes of cases, whether or not the number of children in any area of that province in respect of whom notice has been given as contemplated by this section, warrants the provision of the facilities required to give effect to the right provided for by this section.

(4) Nothing in this section shall be held to derogate from or diminish any legal or customary right or privilege acquired or enjoyed in any province either before or after the commencement of this Act to have any child receive his or her schooling in the language of basic instruction that is the primarily spoken language of the numerically larger of the groups referred to in subsection (1) within that province, or to limit any authority conferred or obligation imposed either before or after that time by the law of that province to require any child, during any period while that child is receiving his or her schooling in any language of basic instruction that is not that primarily spoken language, to be given instruction in the use of that primarily spoken language as part of his or her schooling in that province.

(5) The expression "parent" in this section includes a person standing in the place of a parent.

(Source: Bill C-60, *An Act to amend the Constitution of Canada with respect to matters coming within the legislative authority of the Parliament of Canada, and to approve and authorize the taking of measures necessary for the amendment of the Constitution with respect to certain other matters*, 3rd Sess, 30th Parl, SC, 1978 (June 20, 1978). Click [HERE](#))

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