

SUPREME COURT OF CANADA -- JUDGMENT IN APPEAL

OTTAWA, 6/10/00. THE SUPREME COURT OF CANADA HAS TODAY DEPOSITED WITH THE REGISTRAR JUDGMENT IN THE FOLLOWING APPEAL FROM: SUPREME COURT OF CANADA (613)995-4330

COUR SUPRÊME DU CANADA -- JUGEMENT SUR POURVOI

OTTAWA, 6/10/00. LA COUR SUPRÊME DU CANADA A DÉPOSÉ AUJOURD'HUI AUPRÈS DU REGISTRAIRE LE JUGEMENT DANS L'APPEL SUIVANT. SOURCE: COUR SUPRÊME DU CANADA (613)995-4330

(Reasons for judgment will be available shortly at: / Motifs de jugement disponibles sous peu à:
<http://www.scc-csc.gc.ca>)

26701 **THE PUBLIC SCHOOL BOARDS' ASSOCIATION OF ALBERTA, THE BOARD OF TRUSTEES OF THE EDMONTON SCHOOL DISTRICT No. 7 and CATHRYN STARING PARRISH - v. - THE ATTORNEY GENERAL OF ALBERTA, THE GOVERNMENT OF ALBERTA and THE MINISTER OF EDUCATION - and between - THE PUBLIC SCHOOL BOARDS' ASSOCIATION OF ALBERTA - and - THE BOARD OF TRUSTEES OF CALGARY BOARD OF EDUCATION No. 19 and MARGARET WARD LOUNDS - v. - HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA and THE MINISTER OF EDUCATION - and - THE ALBERTA CATHOLIC SCHOOL TRUSTEES' ASSOCIATION, THE BOARD OF TRUSTEES OF LETHBRIDGE ROMAN CATHOLIC SEPARATE SCHOOL DISTRICT No. 9 and DWAYNE BERLANDO - and - THE ALBERTA SCHOOL BOARDS' ASSOCIATION - and - THE ATTORNEY GENERAL FOR ONTARIO, THE ATTORNEY GENERAL OF QUEBEC, THE ATTORNEY GENERAL FOR NEW BRUNSWICK, THE ATTORNEY GENERAL OF MANITOBA, THE ATTORNEY GENERAL OF BRITISH COLUMBIA, THE ATTORNEY GENERAL FOR SASKATCHEWAN, THE ONTARIO PUBLIC SCHOOL BOARDS' ASSOCIATION, THE ONTARIO ENGLISH CATHOLIC TEACHERS' ASSOCIATION, THE SASKATCHEWAN SCHOOL TRUSTEES ASSOCIATION, THE BRITISH COLUMBIA SCHOOL TRUSTEES ASSOCIATION, THE ONTARIO CATHOLIC SCHOOL TRUSTEES' ASSOCIATION, THE CATHOLIC SECTION OF THE SASKATCHEWAN SCHOOL TRUSTEES ASSOCIATION, ST. PAUL'S ROMAN CATHOLIC SEPARATE SCHOOL DIVISION No. 20, THE BOARDS OF EDUCATION OF THE REGINA SCHOOL DIVISION No. 4, SASKATCHEWAN RIVERS SCHOOL DIVISION No. 119, SWIFT CURRENT SCHOOL DIVISION No. 94, WEYBURN SCHOOL DIVISION No. 97, YORKTON SCHOOL DIVISION No. 93, ESTEVAN SCHOOL DIVISION No. 95, MELFORT SCHOOL DIVISION No. 100, MOOSE JAW SCHOOL DIVISION No. 1, BATTLEFORDS SCHOOL DIVISION No. 118, and SASKATOON SCHOOL DIVISION No. 13** (Alta.) 2000 SCC 45 / 2000 CSC 45

CORAM: The Chief Justice and L'Heureux-Dubé, Gonthier, Iacobucci, Major, Bastarache, Binnie, Arbour and LeBel JJ.

The appeal is dismissed with costs. The constitutional questions are answered as follows:

Question 1: Are ss. 15(c.1), 25(1)(e) and (f), 28(6), 32, 94(1) and (4), 94.1, 155(6), 157.1, 167(2) and (3.1), 181.1, 187, 192 and 237 of the *School Act*, S.A. 1988, c. S-3.1, as amended, unconstitutional to the extent that they violate the principle of reasonable autonomy for municipal institutions, including school boards, as may be contained in the Constitution of Canada, including the preamble or ss. 92(8) or 93 of the *Constitution Act, 1867*, in s. 17 of the *Alberta Act*, or in a constitutional convention?

Answer: No.

Question 2: Do ss. 157.1 or 158 of the *School Act*, S.A. 1988, c. S-3.1 (as amended by the *School Amendment Act, 1994*, S.A. 1994, c. 29) or s. 13 of the *Government Organization Act*, S.A. 1994, c. G-8.5, and the imposition of conditions or restrictions on funding developed under the authority of that legislation, insofar as they provide for “opting-out” from the Alberta School Foundation Fund by Separate but not Public School Boards, contravene s. 17(2) of the *Alberta Act*, which amends s. 93 of the *Constitution Act, 1867*, by discriminating against Public Schools in the appropriation by the Legislature or distribution by the Government of Alberta of any moneys for the support of schools? If so, in what respects do they do so?

Answer: No.

Question 3: Do ss. 157.1(8) or 158 of the *School Act*, S.A. 1988, c. S-3.1 (as amended by the *School Amendment Act, 1994*, S.A. 1994, c. 29) or s. 13 of the *Government Organization Act*, S.A. 1994, c. G-8.5, and the imposition of conditions or restrictions on funding developed under the authority of that legislation, insofar as they provide for “opting-out” from the Alberta School Foundation Fund by Separate but not Public School Boards, contravene s. 17 of the *Alberta Act*, which amends s. 93 of the *Constitution Act, 1867*, by violating an implicit guarantee in s. 17(1) of the equality between Separate and Public Schools? If so, in what respects do they do so?

Answer: No.

Le pourvoi est rejeté avec dépens. Les questions constitutionnelles reçoivent les réponses suivantes:

Question 1: Les dispositions 15(c.1), 25(1)(e) et (f), 28(6), 32, 94(1) et (4), 94.1, 155(6), 157.1, 167(2) et (3.1), 181.1, 187, 192 et 237 de la *School Act*, S.A. 1988, ch. S-3.1 et ses modifications, sont-elles inconstitutionnelles dans la mesure où elles violent le principe de l'autonomie raisonnable des institutions municipales, dont les conseils scolaires, qui peut figurer dans la Constitution du Canada, y compris le préambule ou encore le par. 92(8) ou l'art. 93 de la *Loi constitutionnelle de 1867*, dans l'art. 17 de la *Loi sur l'Alberta* ou dans une convention constitutionnelle?

Réponse: Non.

Question 2: Les articles 157.1 ou 158 de la *School Act*, S.A. 1988, ch. S-3.1 (modifiée par la *School Amendment Act, 1994*, S.A. 1994, ch. 29), ou encore l'art. 13 de la *Government Organization Act*, S.A. 1994, ch. G-8.5, et l'imposition de conditions ou de restrictions au financement établi en vertu de cette loi, dans la mesure où ils prévoient le «retrait» des conseils des écoles séparées mais non celui des conseils des écoles publiques de l'Alberta School Foundation Fund, contreviennent-ils au par. 17(2) de la *Loi sur l'Alberta*, qui modifie l'art. 93 de la *Loi constitutionnelle de 1867*, en traitant de façon discriminatoire les écoles publiques dans l'affectation par la législature ou la distribution par le gouvernement de l'Alberta de deniers pour financer les écoles? Dans l'affirmative, à quels égards?

Réponse: Non.

Question 3: Les dispositions 157.1(8) ou 158 de la *School Act*, S.A. 1988, ch. S-3.1 (modifiée par la *School Amendment Act, 1994*, S.A. 1994, ch. 29), ou encore l'art. 13 de la *Government Organization Act*, S.A. 1994, ch. G-8.5, et l'imposition de conditions ou de restrictions au financement établi en vertu de cette loi, dans la mesure où ils prévoient le «retrait» des conseils des écoles séparées mais non celui des conseils des écoles publiques de l'Alberta School Foundation Fund, contreviennent-ils à l'art. 17 de la *Loi sur l'Alberta*, qui modifie l'art. 93 de la *Loi constitutionnelle de 1867*, en violant une garantie implicite d'égalité des écoles séparées et des écoles publiques contenue au par. 17(1)? Dans l'affirmative, à quels égards?

Réponse: Non.
