

**SUPREME COURT OF CANADA -- JUDGMENT TO BE RENDERED IN APPEAL**

OTTAWA, 2/3/01. THE SUPREME COURT OF CANADA ANNOUNCED TODAY THAT JUDGMENT IN THE FOLLOWING APPEAL WILL BE DELIVERED AT 9:45 A.M. ON THURSDAY, MARCH 8, 2001.

FROM: SUPREME COURT OF CANADA (613) 995-4330

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**COUR SUPRÊME DU CANADA -- PROCHAIN JUGEMENT SUR POURVOI**

OTTAWA, 2/3/01. LA COUR SUPRÊME DU CANADA A ANNONCÉ AUJOURD'HUI QUE JUGEMENT SERA RENDU DANS L'APPEL SUIVANT LE JEUDI 8 MARS 2001, À 9 h 45.

SOURCE: COUR SUPRÊME DU CANADA (613) 995-4330

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1. *Ontario English Catholic Teachers' Association, Marshall Jarvis, Claire Ross and Annemarie Ross - v. - Attorney General for Ontario - and between - Ontario Public School Boards' Association, Toronto District School Board,, Ontario Secondary School Teachers' Federation,, Elementary Teachers' Federation of Ontario, Joleene Kemp, David Edwards and Robert Churchill - v. - Attorney General for Ontario (Ont.) (Civil) (27363)*
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27363

**ONTARIO ENGLISH CATHOLIC TEACHERS' ASSOCIATION ET AL v. THE ATTORNEY GENERAL OF ONTARIO and ONTARIO PUBLIC SCHOOL BOARDS' ASSOCIATION ET AL v. THE ATTORNEY GENERAL OF ONTARIO**

**Constitutional Law - Schools - Whether Part IX Division B, Part IX Division F, and, in particular, sections 257.7, 257.12, 257.19 and 257.106 of the *Education Act*, R.S.O. 1990, c. E-2 as amended by the *Education Quality Improvement Act, 1997*, S.O. 1997, c. 31 prejudicially affect rights held under s. 93(1) of the *Constitution Act, 1867* - Whether sections 231, 232 and 234 of the *Education Act*, R.S.O. 1990, c. E-2 as amended by the *Education Quality Improvement Act, 1997*, S.O. 1997, c. 31, and the education Funding Formula enacted pursuant to s. 234 of the *Education Act* and presently embodied in O.Reg. 287/98 and O.Reg. 214/99, prejudicially affect rights held under s. 93(1) of the *Constitution Act, 1867* - Whether Part IX, Division D of the *Education Act*, R.S.O. 1990, c. E-2 as amended by the *Education Quality Improvement Act, 1997*, S.O. 1997, c. 31 prejudicially affects rights held under s. 93(1) of the *Constitution Act, 1867*? - If the answer is in the affirmative with respect to Roman Catholic separate school rights, are those provisions, or any of them, also invalid with respect to public school supporters and public school boards, by virtue of either s. 93 of the *Constitution Act, 1867*, or constitutional convention - Whether section 257.12(1)(b) of the *Education Act*, R.S.O. 1990, c. E-2 as amended by the *Education Quality Improvement Act, 1997*, S.O. 1997, c. 31 contravenes the preamble, s. 53, or s. 54 of the *Constitution Act, 1867*.**

*The Education Quality Improvement Act*, S.O. 1997, c. 31, ("the *EQIA*") was enacted December 1, 1997, and amended the *Education Act*, R.S.O. 1990, c. E.2, by imposing a new funding model on school boards in Ontario, limiting the powers of school boards to control their budgets and expenditures, and fundamentally changing the governance and funding of education in Ontario. Two applications challenging the *EQIA* were initiated in the Ontario Court (General Division) and heard together. One was initiated Ontario English Catholic Teachers' Association group of Appellants. The other was initiated by the Ontario Public School Boards' Association group of Appellants.

Cumming J. of the Ontario Court (General Division) held that the *EQIA* is unconstitutional insofar as it removes or affects the right or privilege to tax from the Roman Catholic Community with respect to their denominational schools and that the *Education Act*, as amended, is of no force insofar as it relates to or affects the separate school system in respect of the right or privilege to tax with respect to denominational schools that is guaranteed by s. 93(1) of the *Constitution Act, 1867*.

The Court of Appeal allowed an appeal by the Attorney General for Ontario from Cumming J.'s decision declaring the *EQIA* and the *Education Act*, as amended, of no force and effect insofar as it removes the right to tax from the Roman Catholic community. It dismissed an appeal by the Ontario English Catholic Teachers' Association from the decision that the *EQIA* and the funding model do not violate s. 93(1) of the *Constitution Act, 1867*. It also dismissed the Ontario Public School Boards' Association's appeal from the decisions that the *EQIA* does not violate the s. 93(1) rights of public schools, that the *EQIA* is not invalidated on the basis of the doctrine of constitutional convention, and that the *EQIA* is not an impermissible delegation of the power to impose school taxes by regulation.

Origin of the case: Ontario

File No.: 27363

Judgment of the Court of Appeal: April 27, 1999

Counsel: Paul JJ. Cavalluzzo and Fay C. Faraday for the Appellants  
English Catholic Teachers' et al  
Janet E. Minor and Robert Charney for the Respondent A.G.  
Brian Kelsey for the Appellants OPSCB  
Michael Hines for the Appellants OPSCB, Toronto District Board and Kemp



l'Association des enseignants catholiques de langue anglaise de l'Ontario, Marshall Jarvis, Claire Ross et Annemarie Ross  
Janet E. Minor, Robert E. Charney et Michel Y. Hélie pour l'intimé le Procureur général de l'Ontario

Michael A. Hines pour les appelantes l'Ontario Public School Boards' Association et Joleene Kemp

Brian A. Kelsey, c.r., pour l'appelante Toronto District Board

Maurice A. Green et Susan M. Ursel pour les appelants l'Ontario Secondary School Teachers' Federation, David Edwards et Robert Churchill

Elizabeth J. Shilton pour les appelants Elementary Teachers' Federation of Ontario

Janet E. Minor, Robert E. Charney et Michel Y. Hélie pour l'intimé le Procureur général de l'Ontario

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