

CC: publish at OEFTA
CC: Bernice Rambert at OEFTA
CC: Patricia Richards at OEFTA
CC: Theresa Robertson at OEFTA
CC: Joe Ryan at OEFTA
CC: Horst Schweinbenz at OEFTA
CC: Norm Stanley at OEFTA
CC: Ruth Stanley at OEFTA
CC: Kathryn Stansfield at OEFTA
CC: Allison Stevens at OEFTA
CC: Carolyn Stevens at OEFTA
CC: Delia Tavares at OEFTA
CC: Susan Weaver at OEFTA
CC: Susan Williams at OEFTA
CC: Deanna Wolff at OEFTA
Subject: Court of Appeal

Barb Mair
11/13/98

----- Message Contents -----

The following press release was sent to Canada News Wire today. It's the one that you saw at the recent Council of Presidents.

Appeal will uphold Cumming ruling
that Bill 160 is unconstitutional, OEFTA says

The Ontario English Catholic Teachers' Association (OEFTA) is confident that its arguments will withstand the Ontario government's appeal of a court decision which found parts of Bill 160 to be unconstitutional.

In a decision released in July on the Bill 160 Constitutional reference by OEFTA, Mr. Justice Peter Cumming of the Ontario Court ruled that the Harris government could not take away separate school boards' right to tax, because separate school supporters are guaranteed this right and power to tax for school purposes under Section 93 of the Constitution Act. The government appeal is scheduled to begin November 16.

"This government was told that it may not arbitrarily change a system that's been in existence for 150 years," says OEFTA president Marshall Jarvis. "We believe that the separate school system must above all be separate and distinct, managed and governed by its elected trustees and that these rights are protected by the Constitution. Bill 160 clearly violates the rights of separate school supporters."

Justice Cumming based his decision on "five certainties":

1. Roman Catholics in Ontario have a denominational right to a separate school system;
2. There must be adequate funding (for a separate school system);
3. (A separate school board's) right to tax locally;
4. The language of s. 93(1) that protects rights and privileges is repealed by Bill 160;
5. Constitutional rights are constitutional rights.

"In the absence of a constitutional amendment, the province cannot lawfully impinge upon such rights," Justice Cumming concluded.

During the hearings, the Ontario Catholic School Trustees' Association (OCSTA) argued that control of the separate school system could be transferred to the provincial government, a position which alarmed OEFTA and surprised Justice Cumming. "While the government's intention may be benevolent in regard to the Roman Catholic education community, that cannot change the fact that the taxation power is constitutionally guaranteed," he said.

November 13, 1998

-30-

Here are the details for Monday, November 16:

10 a.m. in Courtroom 1 of the Ontario Court of Appeal, Osgoode Hall

Check the board on Monday to see that it's still in that courtroom.