

## **Catholic Dimension - Legally Speaking - Spring 2003**

**Kevin P. Feehan**  
**Dentons Canada LLP**

### **Reconstitutionalizing the St. Paul Mosaic**

The St. Paul area boasts one of the most interesting mosaics of people. It blends First Nations, Metis and Caucasians; Francophones and Anglophones; Catholics, Orthodox, Hutterites, Mennonites; and others, into a rich living mosaic. The challenge for Catholic electors in the area is to participate fully in this eclectic tapestry and yet maintain the permeation of Catholic doctrine and faith in all aspects of their educational system.

#### **A Short History**

The history of the St. Paul school district is complex, but is important in understanding the process of reconstitutionalizing the districts.

The St. Paul School District No. 2228, a Catholic public school district, was established on July 9, 1910 and the Glen Avon Protestant Separate School District No. 5 was established on October 1, 1955. In 1966, the St. Paul Regional High School District No. 1 was formed by an agreement between the County of St. Paul No. 19 and the two school districts with a joint board of trustees appointed by each of the three parties. It also established a joint high school facility with students directed to the high school from each of the three parties. However, all students remained resident students of the parties. The joint board was given jurisdiction to provide for both religious and French language instruction and to take into account religion in the appointment of staff to the high school.

On June 10, 1994 the St. Paul Regional Division No. 1 was established to replace all of the previous entities with a joint board of seven trustees. On October 13, 1994 it was replaced with the Greater St. Paul Regional Division (RD) No. 1 with three wards comprising the jurisdictions of the St. Paul School District No. 2228, the County of St. Paul No. 19 and the County of Two Hills No. 21. On January 3, 1995 the Board of Trustees of Greater St. Paul RD No. 1 entered into a regional agreement with the Board of Trustees of Glen Avon Protestant Separate School District No. 5 to form the Greater St. Paul RD No. 1.

In 1995 a further evolution occurred to form the St. Paul Education Regional Division (ERD) No. 1 serving 16 schools including dual track French/English Catholic schools, a single track Protestant elementary school, a four-track Protestant/French, Protestant/English, Catholic/ French, Catholic/English high school, eight county schools, two Hutterite and one Mennonite school.

The St. Paul ERD No. 1 was a member of both the Alberta Catholic School Trustees' Association and the Public School Boards Association of Alberta.

#### **The Constitutional Concern**

At ACSTA annual general meetings in 2000 and 2001 significant issues were raised as to whether the St. Paul ERD No. 1 structure appropriately protected Separate Protestant constitutional rights

pursuant to section 93(1) of the Constitution Act, 1867 and both Protestant Separate and Public Catholic constitutional rights pursuant to section 17(1) and (2) of the Alberta Act, 1905.

Concerns were expressed as to whether Catholic religious instruction, the permeation of Catholic doctrine and values in the schools, the authority of the local Catholic bishop, preferential hiring practices for Catholic principals and teachers, the celebration of Church sacraments and holidays, and the existence of Church symbols and icons in the schools might be challengeable pursuant to sections 2(a) and 15 of the Charter Rights and Freedoms.

As a result of these concerns, ACSTA commissioned a comprehensive study on the status and relationship of the St. Paul ERD No. 1 to the Association and appointed a subcommittee of the board to conduct the study and make recommendations.

### **The Reconstitutionalization Proposal**

The joint subcommittee of ACSTA and the St. Paul board created a plan to address the concerns inherent in the structural form of the St. Paul ERD No. 1 based upon 10 principles:

1. St. Paul ERD No. 1 will request that the Minister of Learning utilize the provisions of section 239 of the School Act to add lands to both the St. Paul School District No. 2228 and the Glen Avon Protestant Separate School District No. 5, extending the boundaries of those school districts to cover the approximately 68 4 x 4's outside St. Paul, effectively "filling up the hole" in the Separate School Regions map;
2. St. Paul ERD No. 1 will petition the Minister to recognize the constitutional rights guaranteed to separate school electors vested in the electors of the Glen Avon Protestant Separate School District No. 5 and request the granting of equivalent supra-constitutional rights to the historical Catholic public majority within the St. Paul Catholic Public School District No. 2228;
3. The St. Paul Catholic public board and the Glen Avon Protestant separate board enter into a co-operation agreement whereby the two boards reconstitute the over-arching education region, the St. Paul Education Regional Division No. 1, on the basis of a co-operation agreement and voluntary regionalization;
4. ACSTA will grant full membership to the St. Paul Catholic Public School District No. 2228, subject to the Code of Canon Law and the authority and direction of the local bishop. The St. Paul ERD No. 1 will be a member of the ASBA, but the Glen Avon Separate Protestant School District No. 5 will not be a member of the Public School Boards' Association of Alberta;
5. All schools in the greater St. Paul area will be designated as Catholic or non-Catholic, with the Catholic schools falling under the direct supervision of the Catholic public trustees and the non-Catholic schools falling under the supervision of the Protestant separate trustees;
6. Voting by Catholic electors will be for the trustees of the St. Paul Catholic Public School District No. 2228 and by non-Catholic electors for the trustees of the Glen Avon Protestant Separate School District No. 5. All trustees will meet as the St. Paul ERD No. 1 for matters not affecting the rights and privileges of separate school electors guaranteed under the Constitution of Canada;
7. Both boards will be entitled to preferential hiring practices for principals, vice-principals, teachers, teaching assistants and office staff. The chief administrative officer of the St. Paul Catholic Public School District No. 222 will always be of the Catholic faith;

8. The Catholic Public board will have the right to have the Catholic religion permeate all aspects of school life in the Catholic schools;
9. Identification of all denominational matters will be made on an issue-by-issue basis to be identified and addressed by the St. Paul Catholic Public School District No. 2228; and
10. A formal mediation mechanism will be established to settle controversies arising between the two boards of trustees, to be voluntary and non-binding.

Bylaws to be passed by the Board of Trustees of St. Paul ERD No. 1, St. Paul Catholic Public School District No. 2228 and Glen Avon Protestant School District No. 5 have been drafted, as has a Cooperation and Voluntary Regionalization Agreement. Once the bylaws and agreement have been approved, they will be executed and forwarded to the Minister with a request that he prepare an Order to carry into effect this reconstitutionalization of the St. Paul area.

It is hoped that these changes to the delivery of education in St. Paul will continue the vibrant interrelated tapestry of people that marks and defines the St. Paul area of the province, while recognizing constitutionally preferable structures and regularizing the delivery of Catholic Education, permeation and Church involvement for the Catholic students in the St. Paul area.