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INTERCANTONAL CO-OPERATION IN SCHOOLING

The following exposé was delivered at the June meeting of the Nouvelle Société Helvétique by Dr. Philippe Garraux, a lawyer from Berne and a member of the Commission for the Swiss Abroad. It reveals the unsuspected implications of the federalism applied to Swiss education.

Had I known the troublesome and tearful turn that the efforts to co-ordinate schooling in Switzerland would take, I might have perhaps chosen another, more humorous subject to please my audience. Queer situations do not only happen on the stage or on the cinema screen: They happen in real life often enough.

The choreography of the present school-ballet the Cantons are presently performing reminds one of Gottfried Keller, who knew what he was talking about when he wrote "die Leute von Selwylas"

But to explain the present crisis and what it fundamentally means for Switzerland, let us start at the beginning. We must first delimit our subject. I shall not be talking of the problem of the universities and their relations to the Cantons and the Confederation. I shall not be referring to the "Right to Education" actually under discussion in Switzerland. Finally, I will not touch on the problems of secondary schools. These topics are vital, but as far as cantonal autonomy is concerned, it is the problem of primary schooling which is the most important.

Let me remind you what the Federal Constitution says about primary education. Article 27-2 states that the "organisation, management and supervision of primary schools shall remain a cantonal concern". The fourth paragraph of Article 27-4 stresses that the "autonomy of the Cantons in the field of education shall always be upheld".

The birth of Co-ordination

I think we can say, in agreement with Professor Egger, Secretary for school co-ordination, that the Swiss Confederation would not have been possible without leaving the Cantons their own responsibility in schooling.

However, it was feared as early as 1898 that this autonomy might foster particularism and deepen the gulf between the French, German and Italian speaking parts of the country. It was felt irrational to publish 25 different kinds of school textbooks for 25 individual cantonal school systems. In that very year 1898, the Conference of the 25 cantonal school directors held its first sitting and was very active for the first 20 years of its existence. Who isn't active in his youth?

The school atlas most of you may have used and still keep at home was one of the useful realisations of this first period.

But this initial momentum was eventually lost. You should not forget

that in some Cantons, the head of the school department may at the same time be director of the military, industrial, or some other department and have, apart from these official and partly political functions, a private bread and butter job. He may be a school teacher, a lawyer, a shop keeper, a doctor, and what have you. No wonder that these men didn't have time to devote their life to school co-ordination.

It was only in 1966 that this Conference created its first important standing commission, which was called "Commission for International Co-operation in Schooling". Under the chairmanship of State Councillor Eigenmann of St. Gall, it had the task of prospecting the possibilities of improvement in co-operation and to make a list of priorities.

But these men who had only begun their work suddenly realised that they they were no longer alone. The 20-year old declaration by a federal councillor, who had claimed that it was "unthinkable and out of question that the Confederation should in any way be concerned with schooling policy" was no longer true.

The young want school harmonisation

In an initiative backed by almost 90,000 citizens, the youth section of the Agrarian Party asked the Confederation to alter the 27th Article of the Constitution on education and to include the following:

a) to unify for the whole territory of Switzerland:

1. The age of entry into school
2. The duration of obligatory schooling
3. The beginning of the school year.

b) That the Confederation should promote:

1. Research in the field of education
2. Co-ordination of cantonal school systems

c) That the Confederation, with the support of the Cantons, should facilitate changes from one school to another which implicitly involved harmonising the various school systems.

The big bad wolf was knocking at the door, threatening cantonal autonomy and casting his ugly shadow, as

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fearful as that of the "Federal School Bailiff", against the classroom wall.

Such an initiative couldn't be ignored by the Conference of Cantonal School Directors whose new commission had just begun drawing its list of educational priorities. It reacted by drafting the lines of an Intercantonal Agreement to which all 25 cantons were invited to become contracting parties. At the third draft, the proposals of Professor Egger, Secretary of the Cantonal School Directors Conference, were accepted. They called for a beginning of schooling at the age of 6; 9 years of obligatory schooling with at least 38 school weeks in a year and the same period of education for boys and girls (one should not forget that until recently there existed cantonal prescriptions prohibiting the admission of girls to secondary schools); a fixed period of 12-13 years between the beginning of primary school and the Maturity Certificate.

In addition, Professor Egger recommended that work should begin on harmonising time-tables and standardising school material.

Furthermore, four commissions were set up for modern mathematics, girl education, secondary school and the teaching of languages. It was obvious that the Cantonal school directors were trying hard to forestall any abdication of cantonal autonomy.

The "Konkordat"

This agreement, known as the "*Interkantonales Konkordat über die Schulkoordination*" was ratified by ten cantons and came into force on 9th June, 1971. Eight further cantons have

ratified it to this day so that its clauses have become cantonal law and govern the education of over two-thirds of the country's primary school children.

It would be appropriate at this stage to illustrate with some examples, the practical issues of intercantonal co-ordination in schooling.

Take the typical case of an eleven year old girl with four years of primary school behind her and who in Spring 1971 had successfully passed the entrance exam to secondary school, which begins in Berne on the 5th year of schooling. Happy and proud she entered Berne's secondary school in May 1971, but for father's professional reasons, the family had to move in August of the same year to a canton where the school year began in Autumn and where secondary school started after six, and not four years of schooling, as in Berne.

What happened to our girl? Due to the fact that the school year began only in Autumn, the girl, who had attended the 5th class in Berne, had to fall back for another two months on the 4th class. Worse than that, she found that all her efforts to pass her exam into secondary school had been in vain. She saw herself suddenly relegated to primary school for another two years, with the impending risk of a new exam after that period. As in her new school the selection between those children deemed intelligent enough to follow secondary school and those who would have to remain in primary school had not yet been made, the level of instruction was necessarily lower than in the Berne secondary school.

You can imagine that parents and child weren't particularly happy.

Sixteen cantons start the school year in Spring, eight cantons start in Autumn and Fribourg has a two-tier system: the school year begins in Autumn in the capital and in the Spring elsewhere.

A few Swiss records

Do you know that all countries on earth start the school year in Autumn with the exception of Japan and eight or nine Swiss cantons?

Do you know that five years ago a federal decree compelled 10 German provinces to postpone the beginning of the school year to Spring to fall in line with the Bavaria, the 11th German *Bundesland*?

Twelve cantons start obligatory schooling at six, 13 at the age of seven.

Six cantons have nine obligatory school years. In Fribourg, this applies only for boys, the girls have eight years of obligatory schooling completed by a year in a house-keeping institution.

15 cantons have eight obligatory school years, but in Appenzell Inner-Rhodes, this applies only to children going to morning schools and who live in rural districts, where they have to work in the home in the afternoon. For the other, obligatory schooling lasts seven years.

Seven cantons have seven obligatory school years.

The number of school weeks per year shows an average of 39-41 but it can vary considerably. In the Grisons it varies from 32 to 40 according to the area and to the amount of work children have to do on their parent's farm.

Another example of a variation which is no longer acceptable is that of teaching in the first foreign language. You know, in this connection, that high German is considered to be difficult, but not a foreign language in the alemanic part of Switzerland.

In the Canton of Vaud, children learn their first foreign language from the fourth year onward. In Berne and Basle-Town they begin in the 5th. In Zurich, central and eastern Switzerland, they begin in the 7th but in some districts of the Valais, and for a trial period, they learn a second language from the very first year of school.

Imagine your child moving from Berne to Zurich after five years at school, i.e. after one year of French. The child has to wait one full year before education in French starts anew. During that year the child will have forgotten most of his French and will be bored and annoyed when compelled to start again.

On the other hand, a child moving from Vaud to one of the trial districts of the Valais at the end of the fourth class will obviously never reach the German level of his schoolmates.

The illogical vote of Zurich

The same can be said of other disciplines. A Swiss child moving from one canton to another will probably be taught twice the geography of Asia but never that of Europe, or twice Greek and Roman history but not modern European history. The time for a reform has obviously come and it is little wonder that the problem is actively being debated in many circles.

Recent developments in Berne and Zurich provide a good example of the Seldwylas choreography that has begun over the co-ordination issue.

Let us examine the case of Zurich. On 6th June, 1971, the citizens of the canton accepted the entrance to the "Konkordat" by a 215,000 to 85,000 majority. The same day, the same citizens had to decide whether to begin the school year in Autumn, as prescribed by the "Konkordat". This they did, but only by a majority of 133 votes.

But in a democracy, it is the majority that decides. However, nobody can prevent the minority from launching a new initiative and calling a new vote. So they did. The "Action 133" (referring to the difference between those who voted for and against the change of the school year) was successful and compelled the cantonal authorities to ask the people whether they would stick to the vote of the previous year or revert to starting the school year in Spring.

Believe it or not, on 4th June the people of Zurich decided with 192,000 YES to 108,000 NO's, a difference of roughly 85,000 to throw the previous year's decision over the board, to ignore the prescriptions of the "Konkordat" to which they still remained a party and begin the school year in Spring.

The legal details of the Zurich situation are particularly complicated. The question whether to start the school year in Spring or Autumn must be settled by a cantonal law. Last year, the people of Zurich accepted by a majority of only 133 votes to shift the beginning of the school year from Spring to Autumn as required by the "Konkordat". It thus became cantonal law. The initiative of "Action 133" could not actually make the government propose a new law to the electorate, but only submit the question: "Do you wish to have a new law?"

Legal intricacies

The citizens of Zurich said "Yes, we would like to have a new law". Thus the government of Zurich is duty bound to submit a new law to the people. This will probably be done in Autumn or next Spring.

Also on 4th June last, the people of Berne were asked whether they agreed to change the beginning of the school year from Spring to Autumn so as to satisfy the requirements of the "Konkordat", to which the Canton hasn't yet adhered.

One of the main supporters of the "keep-to-Spring-and-vote-against-Autumn" campaign was the Agrarian Party, that is the same party whose youth section had sponsored the initiative to regulate school co-ordination by federal authority. As this party has considerable influence in Berne, the people voted accordingly. Berne said "no" to a change in the beginning of the school year and therefore turned down the Intercantonal Agreement.

These results prompted some papers to speak dramatically of the "death of intercantonal co-ordination" and moved them into claiming federal intervention. Maybe the situation was not as dramatic as all that because the beginning of the school year was only one of the many points to co-ordinate. But it was nevertheless a test case. The "Neue Zürcher Zeitung" pointedly wrote on 5th June, just after the vote,

that school co-ordination means something different for everybody. For Zurich it must be "à la zurichoise", for Berne "à la bernoise".

The government's counter-proposals

In its report of 27th September, 1971 on the initiative of the youth section of the Agrarian Party, the Federal Council admitted the necessity of a new article on education and research in the Constitution. But although it was sympathetic to many points in the initiative, it tabled a counter-proposal. The main reasons for rejecting the initiative were:

1) It is impossible to implement a uniform system with nine years obligatory schooling without considerable efforts in training teachers and building larger schools. In financially weak cantons this could not be accomplished at once. It is therefore impossible to simply alter the Constitution and leave Cantons with its practical applications. We need clear guidelines for the transitional period. Under this scheme, the main burden of co-ordination would also fall on the Confederation.

2) It is not wise to fix the age of entrance at school and the period of obligatory schooling in the Constitution. Nowadays, we might agree that six or seven is the right age to start and that nine years of obligatory schooling is sufficient. But this might change with time. It is better to avoid



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Standing at the Piccadilly end of Park Lane, the Inn on the Park was recently named 'Hotel of the Year' by Egon Ronay. The Vintage Room, on its first floor, could equally be said to be deserving of the title 'Restaurant of the Year'. It specializes in presenting succulent steaks and traditional Ribs of Scotch Beef . . . the meat faultless . . . the service impeccable. Its subdued and intimate decor, continuous dancing from

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having to alter the constitution on this matter once again.

3) The initiative goes too far in many respects but only covers the problems of primary and secondary education. It says nothing of pre-school education and university.

The Federal Department of Interior Affairs had already prepared a new draft of Article 27 in 1970. It was submitted to the Conference of the cantonal school director in April 1971 and to the Cantons and political parties.

The original draft of the two new articles were long and detailed. It is impossible to discuss them now. Besides, the draft is not yet in its final version. Restricting ourselves to primary schooling, it can be said that the proposed amendment reflected a new understanding of the separation of competence between Confederation and Cantons. The federal state has now accepted to deal with school policy, contradicting the statement by a Federal councillor twenty years ago.

The draft made the Confederation and the Cantons jointly responsible for education, but tactfully stated that the larger part should remain the concern of the Cantons.

We all know, and the official who wrote it knew as well, that such an expression is a political consolation. Once part of the competence is given to the Confederation, it is a matter of time until the rest follows.

The new draft of Article 27bis in its present form says that: a) education before and during obligatory schooling is a concern of the cantons; b) the cantons have to co-ordinate education; c) the Confederation is entitled to fix the duration of obligatory schooling; and d) to promote cantonal co-ordination of schooling.

Fight for cantonal autonomy

To sum up, we now have on the one hand an initiative by the youth section of the Agrarian Party to renew Article 27 and propaganda in favour of abandoning the "Konkordat" (which seems to correspond to the present mood of the Bernese and the people of Zurich), and on the other hand, we have proposals by the Federal Council to preserve the "Konkordat", to reject the initiative by the Agrarian youth and to accept the Government's draft of Articles 27 and 27bis of the Constitution.

Parliament discussed the situation at the beginning of June. I would like to mention briefly a Pro Juventute report sent to those concerned only a few days ago. It is entitled "Critical remarks on the Federal Council's draft of the Constitutional article on education". One chapter, "Meaning and limits of federalism in education" deals with the co-ordination in schooling,

and says that the Federal Council was favourable to the "Konkordat" under the pressure of the Agrarian initiative. However, according to the report, the Constitution has doubts on the "Konkordat's" efficiency since it smuggled its own guarantees in the 27th Article. Indeed, although the "Konkordat" fixes the duration of obligatory schooling, the Federal draft provides for federal decision on that same matter.

The draft Article also gives the Confederation general competence to promote cantonal school co-ordination. This, says Pro Juventute, empowers the Confederation to issue all necessary decrees and replace the work of the Intercantonal Agreement.

Supporting, as it were, the Federal Council's misgivings, the Pro Juventute Report bluntly states: "To search for co-ordination in schooling by means of an intercantonal treaty

is just not up-to-date. Those who promote such a solution try to preserve a kind of formal federalism which does not protect any value worth keeping".

It is far better to leave the Confederation with the responsibility of external co-ordination of obligatory schooling, age of entry and beginning of the school year. The internal co-ordination in respect of teaching methods, change of schools, recognition of educational certificates could remain a matter of the cantons. But all this would not involve acceptance by the cantons of a federal school bailiff, adds the Report.

This brings us back to the vital issue underlying school co-ordination: Cantonal autonomy. Indeed, the right to organise their schools at their own discretion is one of the last remaining bastions of the autonomy left to the Cantons.

COMMENT

HISTORICAL TURNING POINT

After two years of labourious negotiations and plenty of last minute suspense, Switzerland signed an historic free trade agreement with the European Economic Community on Saturday, 22nd July. That same day, five other non-candidate countries and former EFTA partners signed similar agreements. The gist of the agreement has already been described in these columns. It is a treaty which will progressively lift all tariff barriers between Switzerland and her Common Market trading partners. The Treaty has no political strings attached and was conditioned by the fundamental demands of neutrality, direct democracy and federalism, i.e. the three pillars of the Confederation.

The Treaty covers the following chapters: Tariff reduction and elimination of all import quotas; safety clauses; evolutive clauses; rules of origin; agricultural concessions a foreign labour protocol, and competition rules. Let us resume them briefly:

Custom duties for imports will be reduced by 20 per cent every year, starting on 1st April, 1973 and then on 1st January of each year, so that free trade will have been established by the end of 1977. This part of the agreement is not entirely reciprocated because certain Swiss export products, mainly cheap watches, will not immediately benefit from tariff reductions in the EEC. The contracting parties will furthermore abstain from limiting their mutual imports by quotas and

from giving preferential treatment to home made products.

The unhindered working of competition must be preserved and that is why the Agreement also contains anti-trust provision aimed against companies wielding excessive domination of the European market, and other clauses prohibiting State subsidies liable to upset free competition.

The safety or "escape clause" allows contracting parties to appeal to a Joint Commission planned in the Agreement and in exceptional cases to breach the Agreement unilaterally if that party feels that its partners are not abiding by its rule, such as by resorting to dumping or other practices prejudicial to its own economy. Switzerland fought hard against this clause but the Six, and later the Ten, would not alter their position. The "Evolutive Clause" lends flexibility to the Agreement, which can thus be adapted to the requirements of change after examination by the Joint Swiss-EEC Commission.

The "Rules of Origin" and those manufactured items not submitted to tariff freezes are not explicitly mentioned in the agreement but contained in a number of appended protocols which were not published at the time of writing. It was over these detailed points that the Brussels negotiations were the most tricky. The rules of origin depend on the products to which they apply, but fix the proportion of semi-manufactured imports in Swiss export products. Above a given proportion, these products may no longer be tariff free. Likewise, the Agreement contains no agricultural clauses apart from minor concessions and a pledge to increase mutual agricultural trade. Agricultural products were only in-