

# Public Rights and Private Schools

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The institutions of all modern societies are continually constructed by the actions of many social groups. The comparatively high tolerance of cultural diversity in Canada is not just the expression of some permanently engrained principle or ethos. Rather, the principles of tolerance evident in Canadian legal and political institutions themselves express the ongoing negotiation of linguistic, race and ethnic, religious, regional and class and gender-based differences and disputes through liberal democratic state agencies in one of the most ethnically heterogeneous countries in the world. The *Charter of Rights and Freedoms*, as well as the recent Meech Lake constitutional accord, have led to political and legal challenges on principles ranging from individual equality rights to collective rights of distinct societies.

In this context, all public rights and benefits—whether established by constitution, legislation or regulation—remain vulnerable to renegotiation and renewed compromise. The status of private schools is so vulnerable. As the Commission on Private Schools in Ontario (1985, p. 1; cf. Shapiro, 1986) recently observed:

In Ontario and in Canada, both characterized by a heterogeneous population and an official ideology that is multi-ethnic in nature, no arrangement is likely to be a permanent one. Such a society will possess—to some extent—pluralistic social structures with differentiated institutions, and the degree to which different groups will interact in common settings will vary over time. Any existing arrangement can be expected to alter as change also occurs in the variable factors affecting the current policy compromise.

Much as Professor Jefferson and others may wish it, the philosophical and ideological dispute whether to support a dual system of public and private schools remains far from settled. In the absence of explicit constitutional guarantees, the provinces have sought to resolve the issue of private schooling through legislation and regulation (see Magsino, 1986). Only five provinces (Alberta, British Columbia, Manitoba, Quebec and Saskatchewan) provide some measure of public funding, and the principle of public funding for private schools has again become a major issue in Ontario in the wake of the extension of full funding to Catholic secondary schools. Disagreements among various persons who have divergent philosophical orientations and educational values, and who prefer different organizational and

TABLE 1

*"What schools do you think should be given government funding, provided that they meet province-wide standards?" (Ontario)*

|      | <i>Public<br/>only<br/>%</i> | <i>Public<br/>and<br/>Catholic<br/>to<br/>Grade 10<br/>%</i> | <i>Public<br/>and<br/>full<br/>Catholic<br/>%</i> | <i>Public<br/>Catholic<br/>and<br/>religious<br/>private<br/>%</i> | <i>Public<br/>Catholic<br/>and<br/>all<br/>private<br/>%</i> | <i>Don't<br/>know<br/>%</i> | <i>N</i> |
|------|------------------------------|--------------------------------------------------------------|---------------------------------------------------|--------------------------------------------------------------------|--------------------------------------------------------------|-----------------------------|----------|
| 1984 | 21                           | 12                                                           | 39                                                | 9                                                                  | 17                                                           | 2                           | 1046     |
| 1986 | 28                           | 9                                                            | 31                                                | 7                                                                  | 23                                                           | 2                           | 1042     |

financial forms of public and private education may, if anything, be becoming sharper and more complicated (e.g. Holmes, 1985).

There is little recent indication of popular consensus in Ontario. As Table 1 summarizes, the last two OISE Surveys of Educational Issues (Livingstone, Hart, & Davie, 1985, 1987) suggest continuing division and growing polarization in public attitudes about funding for private schools. The Supreme Court decision of 1987 June has now specified the prior constitutional right of Catholic schools to full funding, and judged it to be immune from review under the *Charter of Rights and Freedoms*. The decision also cited the provinces' exclusive jurisdiction over education as a basis for saying nothing about the funding of private schools.<sup>1</sup> This judgment has provoked political debate whether to demand the extension of grants to private schools or to preserve the public school system against any further extension of funding. In short, "firm financial recognition of private schools" is at best partial in Canada. Professor Jefferson's plea to "sideline the philosophical arguments" and pragmatically to assist students by funding the defined costs of public and private programs, thus appears as a politically impractical mixture of simple economic means to simplistic educational ends.<sup>2</sup>

Of course, the impact of current economic realities should not be ignored. First, the economic slump in Canada since the early 1970s and the associated fiscal limits on governments' ability to pay for established public programs (e.g., health and unemployment benefits, access to education) have provoked the public reassertion by business and government leaders of market liberalist ideology, complete with calls for privatization in many spheres including education (see Livingstone, 1985). Such educational appeals, usually clothed in a rhetoric of "excellence" and "international competitiveness," have their greatest potential appeal in professional and managerial families. Such parents worry increasingly about the contraction of career opportunities for their offspring and are most predisposed to ensure their children's educational success through personal support. The emergent

problem here is a deepening of the educational division between children from affluent and poor families. The growing tendency of affluent families to self-select schools with affluent student bodies would probably be exacerbated by most proposals for extending public funding to the private schools, which themselves have historically excluded most students from poor families in this country (e.g. Lawton, 1985, p. 175). This division is the sub-text of school officials' oft-expressed fears about "fragmentation" of the public system.

Secondly, as Professor Jefferson rightly notes, the diminishing pool of public funds has fundamentally limited the extent of support that can be given to both public and private schools. However, in contrast to the minority support for the funding of independent private schools, Canadian opinion surveys have found strong support for increased funding of the public school system in general, as well as for sharing resources between the public and Catholic schools (see Livingstone, Hart, & Davie, 1987, pp. 2–4). Herein lies the political opportunity to expand the diversity of alternative programs *within* the public system in order to respond to student learning needs. A pluralist educational democracy would be well served if we increased open access to options ranging from Catholic schools to a wide array of alternative programs within the public system (Commission on Private Schools in Ontario, 1985, pp. 244–262). Those who opted for a private school for either religious or status reasons would then do so in spite of viable *educational* options within the public system, and could, in most instances, be expected to pay for it considering that it would be above and beyond justifiable public entitlements. It would no doubt be difficult to bring in such a policy, but is surely more feasible than proposals that deny current ideological and political realities, and that envisage resolution of the private school funding issue on narrowly economic grounds.

#### NOTES

<sup>1</sup> The distinction between religious schools with historically established state provisions and other religious and secular private schools without such guarantees is of general legal and political significance. In her comparative account, Professor Jefferson neglects to point out that over three-quarters of Australia's private schools are Catholic (see Lawrie, 1985, p. 8).

<sup>2</sup> Professor Jefferson's perspective is actually quite in accord with academic research on the topic to date. As Levy (1986, p. 9) notes: "much of the work on private education and public policy has focused overwhelmingly on finance."

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