

Should There Be Religious Alternative Schools within the Public School System?

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Denominational instruction within public schools is inadequate for parents whose religious convictions are not satisfied by secular education. Legal cases have established the right of such parents to establish private schools. In certain cases, public funding has been available for a religious alternative, for example, Hebrew or Christian schools. Such public funding is the consequence of political action. The legal and practical limits on such alternatives are based on fear of divisions in society, fear that the curriculum of such schools may be too narrow, and shortages of sufficient pupils and funding.

L'enseignement confessionnel dans les écoles publiques ne convient pas aux parents dont les convictions religieuses ne sont pas satisfaites par l'enseignement laïc. Des procès ont établi le droit pour ces parents de créer des écoles privées. Dans certains cas, on a mis à leur disposition des fonds publics pour une alternative confessionnelle, par exemple des écoles hébraïques et chrétiennes. Un tel financement public est le résultat d'actions politiques. Les limitations juridiques et pratiques de ces alternatives sont fondées sur la peur de divisions éventuelles dans la société, sur la crainte que le curriculum de telles écoles puisse être trop restreint, et sur un manque d'élèves et de fonds suffisants.

THE PROBLEMS

Arguments over possible religious alternative schools within public school systems are typically conducted in a tone of certainty unjustified by the principles and information on which particular conclusions, for or against such placement, are based. The arguments over religious alternative schools are frequently dogmatic in that some participants claim to know or speak as if they know that it is simply wrong to have a religious alternative school within the public school system while others evince equal conviction in maintaining that religious alternative schools can properly be included within public school systems. This paper will show that the argument is most uncertain and that, in spite of our long history of public education and considerable effort to distinguish *religious* from *public* education, it is now more than ever difficult to determine whether to include religious alternative schools within the public system.

By *religious alternative school* I mean a school which exhibits some or all of the following characteristics: it provides an optional program of religious instruction, religious exercises such as prayer or reading from scripture

are regularly conducted but again optional, interest in working in a religiously oriented school and personal religious convictions are considered when assigning staff, and there is an attempt to maintain a religious ethos in the school.

Some of these characteristics may be puzzling. For example, why should religious instruction be optional in a religious alternative school? If such a school is to be included within the public school system it must operate within the provincial regulations (in Canada) governing public schools; in the Province of Alberta, for example, the School Act (s.160) stipulates that "a board may (a) prescribe religious exercises for pupils in its schools and (b) permit religious instruction for pupils in a school." However, the School Act (s.163) also states:

On receipt by a teacher of a written statement signed by a parent requesting that a pupil be excluded from religious or patriotic exercises or instruction, or both, the pupil shall be permitted to leave the classroom or may be permitted to remain without taking part.

This mixture of legislation allowing religious exercises and instruction with exemptions exists in every province of Canada except Quebec and Nova Scotia.¹ What is missing in Quebec and Nova Scotia is the right of the pupil to be exempted from religious exercises or instruction; however, that right has been resolved beyond question by a legal judgement in Quebec in 1975 (*Chabot v. Les Commissaires d'écoles de Lamorandière*, 1957, p. 796). Thus there is no constitutional prohibition of religion in *public* schools in Canada, and legislation allowing religious exercises and instruction would not be subject to challenge under s.7 (Legal Rights) of the *Charter of Rights and Freedoms*. Indeed, s.29 of the *Charter*, consistent with Canadian legislation since 1867, recognizes the paramount rights of Protestant and Catholic minorities in Canada:

Nothing in this Charter abrogates or derogates from any rights or privileges guaranteed by or under the Constitution of Canada in respect of denominational, separate, or dissentient schools.

If religion is permitted in public schools and if the rights of Protestants and Catholics (when they are the minority) to tax-supported denominational schools are widely recognized, is there not discrimination in favour of Catholics and Protestants in respect of religion in public (tax-supported) schools? Further, does not the promulgation of legislation asserting individual rights, particularly the *Charter of Rights and Freedoms*, strengthen the case of non-Christians for recognition of their religious concerns within the public (tax-supported) schools?

As a final twist to the perplexities of religion in public schools, is it possible that a case can be made for the rights of non-Christians *without* equally making a case for the rights of various Protestant denominations?

PROTESTANT, CATHOLIC, AND NON-CHRISTIAN SCHOOLS

It may seem that these questions are pertinent only in jurisdictions which, as in Canada, permit religious exercises or instruction. However, with the growing support for voucher systems and the increasing readiness to allow for cultural distinctiveness of pupils, some jurisdictions which think the issue of religious schools has been laid to rest by such events as the U.S. Supreme Court decision against prayer in schools may find it resurrected in a new guise.

The increasing emphasis on individual rights opens the way to questions about the appropriateness, or even the justice, of maintaining public school programs which are presumed to serve all students irrespective of religious affiliation or lack thereof. In Canada, where publicly supported schools have been identified as Protestant and Catholic since before Confederation and have been protected in legislation since then, the question is: Why should only two classes of persons, identified on the basis of religion, be recognized and provided for in legislation pertaining to schools?

This question was addressed in the case of *Hirsch v. the Protestant School Commission of Montreal* (1928), a case which was carried to the Privy Council, then the highest court of appeal. The Council's judgement on the protection afforded to denominational schools by the British North America Act and subsequent legislation is most significant.

The Statute protects the rights which at the Union belong to the Roman Catholic population as a class, as well as those belonging to the Protestant population as a class; but to treat both members of both denominations, who substantially made up the whole population of the Province at the time of the Union, as forming together a "class of persons" with a right to object to the establishment of any school not under Christian control, would be to give a meaning to the statute which its words will not bear. It appears to their Lordships that it would be possible to frame legislation for establishing separate schools for non-Christians without infringing the rights of the two Christian communities in their denominational schools; and they agree with the Supreme Court that legislation confined within those lines would be valid. (1928, 202, p. 213)

If legislation permitting separate schools for non-Christians would be valid in any jurisdiction which permits Protestant and Catholic (or public and separate) schools, thus allowing non-religious schools, Hindu schools, Moslem schools, and so on, then the possibility of specific Protestant

denominations having religiously distinctive schools may also have to be allowed. Put the case that the public schools (as in Calgary) are nominally secular, that there are no religious exercises nor any religious instruction, and that in their work teachers cannot favour any religious group. Suppose that such a secular school climate is particularly pleasing to the non-religious, agnostic, or atheistic. Could not any and every Protestant then argue that their legal rights as a class of persons to have denominational schools have been infringed, that the public schools, having become non-religious, the creation of a non-Christian school system, as allowed for in the judgements of the Supreme Court and the Privy Council, had in fact been accomplished, and that the purposes of the existing legislation can then only be realized through the creation of a new Protestant school system?

The issue recently arising in Alberta is whether alternative Christian schools may rightfully be established within a public school board in a jurisdiction in which the public schools are *not* Catholic. One legal opinion provided to the Edmonton Public School Board holds that such schools would be "constitutionally unobjectionable" if established so as not to infringe the rights of the Roman Catholic minority to have a separate school system to educate their children and not to infringe the restrictions on religious instruction.

To recapitulate, schools supported by taxes and freely accessible to the public were organized in Canada on a denominational basis, and their existence has been confirmed by statute. For many years, the practice of treating the population as largely Roman Catholic and Protestant and of organizing tax-supported schools on that basis was unquestioned. When questioned, it was held that the educational rights afforded to Protestants and Catholics could properly be afforded to non-Christians. Now that we are more mindful and more respectful of the religious diversity of our society, and with the non-Catholic tax-supported schools accommodating this diversity by becoming more secular, it can be questioned whether Protestants have not effectively lost some of their religious rights in education. Equally, it may be argued that religious groups other than Christian *may* have educational rights which have not been enacted.

SECULAR PUBLIC SCHOOLS

Other questions of religion in education were raised in Alberta in the case of *Regina v. Wiebe*, and, although this case concerned the right of parents to remove their children from the public schools and educate them in private religious schools, the judgement had ramifications for public education. What led Judge Oliver to find in favour of the parent (Wiebe)

was that: "The law of Alberta would, *without first permitting him recourse to the courts*, penalize him for this [removing his child from the public school] on the basis of absolute liability" (*Regina v. Wiebe*, 1978, p. 36). The grounds of judgement are very narrow for, as was pointed out earlier by Judge Oliver, "What is important is the possibility of discrimination inherent in a system where public officials and *not the courts* have the final say." In his ruling, Judge Oliver held that the Department of Education Act, which reserved final decision to public officials, was on that account "rendered inoperative by reason of the Alberta Bill of Rights ... because it denies to the accused, Elmer Wiebe, freedom of religion guaranteed by Section 2 of the Alberta Bill of Rights."

The significance of the judgement is in what followed, namely, the Minister of Education announced in the legislature that the regulations of the Alberta Department of Education would be revised to allow a fourth category of private schools,

... which receive no government funds. Such schools will be required to follow either the Alberta curriculum or a course of studies approved by the Minister, but will not be required to employ certified teachers. High school programs in such schools will not be accredited. (*Communications*, 1978, p. 1.)

Under this regulation there would be no basis for action against Wiebe as his child would have been in a Category 4 private school.

In preparing to approve the programs of schools employing uncertified teachers, the Department of Education seemed to be accepting the position urged by the defence in *Regina v. Wiebe*: namely, "Character and quality is required in teachers as a child will imitate its teachers, and thus parents at home should have the final say concerning the selection of teachers" (testimony of Mr. Hiebert).

The wider significance of the judgement is also indicated in Judge Oliver's comment:

A close study of the citations from Drybones, Robertson and Rosetanni, Adelaide, and Yoder² does however lead me to the conclusion that, where it can be shown in a particular case, that religious beliefs are irrefutably and irrevocably linked to education, a foundation has been laid for the application of the Alberta Bill of Rights where freedom to educate children in conformity with those beliefs is infringed upon.

It is also important to note Judge Oliver's observation:

The accused ... has not refused to send his child to school, only to a particular school where, among other factors that are abhorrent to his religious beliefs, he

says that the teachers are indoctrinated in a liberal value system unacceptable to him or his church.

Should other judges be of like mind, objections to the doctrines of the secular school, related to the argument that secular humanism is a kind of religion, will carry weight when parents argue for the appropriateness of different educational dispensations. Recognition of a parent's right to seek a particular religious emphasis in education, combined with the willingness of the Department of Education to approve schools not employing certified teachers, give the Wiebe case emphasis beyond the question of private schools.

Suppose that the public schools in a district are effectively secular: would it not then be the case that parents wishing a Protestant emphasis in the education of their children could argue that their children are subjected to an abhorrent doctrine? Protestant parents with this view have recently (in Calgary) argued to establish religious alternative schools within the public school system. They established such a school under school board regulations which had originally allowed the establishment of two Jewish alternative schools. As of June, 1984, the school board majority, elected in 1983 on the platform, "Save Public Education," refused to renew the contracts of the three alternative schools operated, thus excluding them from the public school system.

While the public school board has the legal right to refuse to renew these contracts, it is not clear whether legal action could successfully establish that parents have a right to have their religious convictions accommodated by means of special arrangements such as designated alternative schools. Such action might be taken under s.15 (equality rights) of the *Charter of Rights and Freedoms*, which provides "equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, *religion* ..." (emphasis added). The legal force of the *Charter*, in combination with the scope for claims of discrimination may well afford grounds for action.

SEPARATION OF CHURCH AND STATE

What I have tried to demonstrate, to this point, is that in Canada there is considerable ambiguity concerning religious rights in education because of the denominational basis of Canadian systems of tax-supported education. There is also more ambiguity than commonly thought concerning religious rights in education in the United States, and I wish to comment, in particular, on the point that the principle of separation of

church and state (SCS) is not a well-defined principle and its application requires judgement.

So long as church and state exist within the same society, there will be some form and degree of connection between them, and therefore to know what SCS means it is necessary to know in what respects and to what extent the state is deemed to be separate from the church or churches. More specifically, such declarations of principle as that embodied in the First Amendment to the United States Constitution, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof," do not define SCS, for the granting of tax exemptions to churches means that the state encourages churches by giving them advantages not given other organizations. Some sense of religious impartiality is conveyed by the fact that tax exemptions are granted to all churches, but even if no church is favoured more than others or no church is established as a national church, the churches are still not completely separate from the state.

It is important to remember that the point at issue when the idea of SCS is invoked is to determine actions which public legislative bodies may or may not take with respect to churches or to matters respecting religion. A tax exemption is clearly an action. While SCS may be greater now than in the days when the church could invoke the secular arm to enforce ecclesiastical judgements, even a long list of changes in interaction between church and state is not necessarily the same as effecting a complete separation. So long as there is *not* complete separation (and I reiterate that complete separation is not possible in the lived world), then SCS requires definition. This definition can only be in terms of the practices of a particular society, and, once we embark upon such a process of definition, we define the limits of practical action rather than delineate a principle.

Nor will it serve to argue that the differences in access to tax funding for denominational schools mean there is SCS in the United States but not in Canada. If such a claim is advanced, the argument has become circular, for the meaning of SCS is now taken to be the very tax support or lack thereof which the principle of SCS is used to justify.

Whatever SCS means, it must mean something more or something other than that there be no public funding of religious schools. As demonstrated previously, what this something more or other may be is far from clear. To cite a few further examples of the connection of church and state, the use of oaths taken on the Bible in courts of law, the assignment of chaplains to legislative bodies, the recognition of religious ceremonies of marriage as legally binding, and the recognition of clergymen as persons who can attest to declarations on some civil

documents all constitute state recognition of the powers of the church or its representatives with respect to some state functions. Such recognition establishes some relations between church and state.

We might further note that as recently as 1968 the U.S. Supreme Court upheld a New York state law requiring local public school authorities to lend textbooks free of charge to all secondary students whether in private or public schools. The comment in the court opinion that "the line between state neutrality to religion and state support of religion is not easy to locate" (Feldman, 1976, p. 103) is most apt to the present discussion. When we come to separate church and state in the daily affairs of our society, it is manifestly not easy to locate that line of separation.

In the United States, the issue is confused further by the growth of the Christian school movement which, in the main, strenuously resists state regulation of education and hence state funding. However, some fundamentalist groups are more inclined to argue for state aid for religiously oriented schools. The two viewpoints are cited by Reese:

A Baptist minister from Buffalo ... denounced the idea of tax credits. "We feel Christian education should not be subsidized from other people's pocketbooks. Besides, anytime there is a subsidy, it opens the door to interference." ... When the Packwood-Moynihan tuition tax credit proposal was debated in Washington in the late 1970s, *Christianity Today* observed that the bill had various types of supporters, including "many evangelicals who support private schools." Jerry Falwell and other television evangelists, who represented groups that had historically opposed state aid because they believed it violated the First Amendment, had done an "about face" on this policy question. (1985, p. 193)

Should a coalition of Catholics, Lutherans, and traditional parochial school supporters who have long argued for state funding be joined by the fundamentalists and by some supporters of individual rights, there might be sufficient political support to effect change in legislation. Even if such an effort would have to be carried to the level of constitutional amendment, it must be remembered that under democratic processes majority opinion can change any legislated state of affairs such as the denial of public support for religiously distinctive schools. Ultimately, the question of public support for religious education is political, and arguments over SCS or any other issue, such as right of choice, are essentially arguments for or against possible political decisions.

Thus to recognize the role of various issues, including issues of principle, in the political process gives added point to the meaning and weight assigned to the so-called principle of separation of church and state. The discussion, to this point, has shown that SCS is more like the expression of the confused practices of various societies with respect to

the relation of church and state than the expression of a principle which serves to clarify those practices.

PRACTICAL REASONS

Given the difficulty of arguing from the SCS, questions about the propriety of religious alternative schools within public school systems should be settled on practical grounds by considering the possible consequences of establishing such schools. It is, for example, contended that the creation of religiously based schools may result in misunderstanding and intolerance if pupils are hived off into separate schools and associate only with their religious brethren. If we accept that religious toleration is desirable, then a practical question is whether religiously distinctive schools are detrimental to religious toleration. If we cannot demonstrate that religiously distinctive schools result in more intolerance, then this argument against them fails. It is at least suggestive that in Canada, where publicly supported schools identified as Protestant and Catholic have existed since before Confederation, there has never been any problem in electing and accepting a Catholic prime minister, whereas religion was still an issue in the election of John F. Kennedy.

Viability

A practical argument against religiously distinctive schools within the public system is that given the variety of religious groups in large modern societies – particularly, we might say, in North America – we must consider whether the school system could, in practical terms, accommodate all the groups who might wish such schools. No school board could undertake to choose among religious groups. So long as a religious group was within the law and had a sufficient number of adherents (for a school board could specify the minimum number of students needed to establish a school), there would be no reason for the school board to deny that group's request while allowing any other religious group a school. In brief, if any religiously distinctive schools are to be allowed, then they must all be allowed. This argument is fraught with all the dangers of extreme arguments, for it is highly unlikely that each religious group would want its own school. However, school boards must consider the possible consequences of the fact that one religiously distinctive school establishes the precedent which will then justify any other such school.

A further consideration is important to the school board, and this was evident in the Wiebe case cited. The school board resisted declaring that the children, though not in the public school, were under effective

instruction because the viability of the public school was threatened by the loss of the pupils in question. The greater part of public school funding comes from provincial grants paid on a per-pupil basis.

The possible loss of pupils and of grant funding is also an argument for religious alternative schools within the public system for, should such schools be developed privately, any migration of pupils to them will reduce grant funding to the public schools. The viability of individual schools is more dramatically affected by the development of alternative programs. When the first Logos Christian School was opened in Calgary, for example, a public school with declining enrollment, a prime candidate for closure, rapidly became a full school with almost 400 students. People in the community – with prior access to the school as their neighbourhood school and not subscribing to its religious emphasis – were glad to have a viable school in their district. Moreover, the school was able to offer all the program benefits of a large elementary school and attracted families with children into the area.

Public schools losing students to private or independent religious schools may therefore suffer on two accounts: first, the loss of per-pupil grants and, second, the loss of enrolment which make it difficult to maintain programs in specific schools. On this point, it is interesting to consider events consequent on the termination of the alternative school contracts by the public school board in Calgary in the case discussed above. The Jewish and Hebrew alternative schools now operate under the auspices of the Calgary Catholic Board of Education, and a recent report estimates a transfer of \$1.4 million of annual tax revenue to the Catholic system during 1985 (Public board fears, 1986, p. B-1). Thus, there is increased potential for financial pressure when, as in most provinces and territories of Canada, there exists *more than one* tax-supported system of education. For, if either system is then willing to accommodate alternative schools, the transfer of local assessment which may result combined with provincial funding for the number of pupils involved can lead to a significant shift of resources.

Selectivity

A second practical argument concerns the selective nature of any distinctive school. Those parents organizing a distinctive school and facing the possible added cost and effort of getting their children to such a school (for presumably there will not be such a school in every neighbourhood) care about their children's education. They must make an extra commitment, serve on the committees, and support the fund-raising needed to keep a special school in operation. They provide that support

from the home which makes the work of the school go better. By banding together in their own school, they concentrate their supportive influence, and the good effects of their concern for education are lost to other schools in the system.

We must seriously question whether the public school system can provide a sound education for all children if groups of parents who care the most withdraw into distinctive schools or even into alternative schools contained within the public school system. It may be argued, in turn, that alternative schools can result in centres of interest which arouse the support of parents who would otherwise not be committed or so extensively committed to the support of a regular school. Further, it may be argued that parents always support a specific school, that is, the school which their child attends, and that there is little or no parental support for the system as distinct from support for "their" school. Goodlad has recently commented on the specificity of parental attitudes towards schools:

The quality of schools and schooling is not very good, but the school down the street to which our own children go isn't bad – in fact, it's quite good. At least this kind of mixed vision is what is suggested by some Gallup Polls of the late 1970s and supported by the responses of the parents in our sample. (1984, p. 36)

If this is true, does the school system lose because parents support an alternative school? There is no research information to settle such practical questions, and there is at least the possibility that total public involvement in and support for the public schools may increase with a variety of alternative public schools appealing to the interests of various groups.

Religiously distinctive schools may become select schools in another way. A group of parents supporting a distinctive school and joined by adherence to a common faith may be inclined to raise money to provide extras for their school. In this regard, it must be pointed out that fund raising is a part of life for virtually every public school and is carried on through spellathons, bottle drives, sales of chocolate bars, and so on. Short of banning such activities completely, there is no way of setting limits to fund raising, for who can establish what would be a *reasonable* level of fund raising? Can the mothers who operate the school lunch program help it if they earned \$20,000? (This figure was one part of the funds raised in one Calgary public school.) Therefore, if the parents supporting a distinctive school extend themselves to provide funds for books, computers, and science equipment, who is to say they should not?

This requires further elaboration. If alternative schools are allowed, can they be restricted only to religious alternative schools? Consider a

group of parents in an area of a city forming an educational improvement association or some other praiseworthy association and wishing to support the development of an alternative school with an academic emphasis. If religious groups can raise funds to support their preferred schools, who is to say that other parents may not do the same? Such an extension of the alternative school concept seems to strike more directly at the concept of a public school system, for parental input and effort focussed on particular schools can result in some having more resources than others. Such a process would increase the socio-economic differences already existing among various public schools.

I do not use such terms as *selective schools* or *advantaged schools* lightly, and it is clear that alternative schools will be select and advantaged to some degree. It is difficult to determine how much selection and advantage are to be allowed within public education. On the one hand, we do not wish to fall prey to the simplistic dogma that all schools must be equal. On the other, we must be careful not to exacerbate inevitable differences. Creating inequities is *not* the same as failing to achieve equality.

The Common School

Since large public school systems already offer different programs ranging from those for the learning handicapped to those for the gifted, programs differentiated as vocational and academic, and a wide variety of options, it may well be asked why hesitation exists in introducing further variety into the public schools. Are programs which are related to learning needs, career expectations, or individual interests different in principle from programs organized on the basis of religious need or religious interest? I believe they are and insist that, irrespective of pupils' religious backgrounds or interests, a school must try to address their learning needs and, if that requires a different program, such a program then be available for all who may benefit from it without regard to their religious affiliation.

Goodlad is worth noting on this point for it pertains to his defence of the common school. In his chapter, "Access to Knowledge," he argues strenuously for a common curriculum for 70 to 80% of school time and contends

... if the school is to be anything other than a perpetuator of whatever exists in society, states and local school districts must set – if they have a mind to – school policies that to some degree transcend and minimize the role of the classroom as reproducer of the culture. (1984, p. 161)

Thus, to defend the public school as a major common experience for all

students (with particular emphasis on its responsibility to give students, as much as possible, equal opportunity to qualify for employment and advancement) is directly to challenge the arguments for all forms of alternative education or parental choice in education except insofar as those choices are founded upon identified individual differences such as physical disabilities or learning handicaps.

Translating this into the language of individual rights, do parents have absolute rights in choosing education for their children such that the state cannot enforce minimum standards or effect control of the curriculum? While the issue may not often reach this pitch, there are schools, for example, those of the Hutterites in Western Canada, which offer a very limited curriculum and in which few students advance beyond the level of junior high school. Because children in Hutterite colonies can find a place and become respected and productive within the colony on the basis of such education and particularly because they never require social assistance from the larger society, it is easy to overlook the limitations of this education. Nonetheless, the claim to parental choice cannot be absolute and unlimited unless we conclude that children have no rights or that the state is not properly acting in the common good when it regulates education.

I return, finally, to the question of toleration, for surely much of the effort to develop the public schools is motivated by the concern that children of the entire community learn common values and learn to live with and respect each other. Even if this goal is an ideal, the means for achieving it can be assessed in practical terms. Unfortunately, the information is far from decisive, so we cannot prove that children attending schools differentiated on the basis of religion are less tolerant of people of other faiths than those who attend public schools. Can we even demonstrate that racial prejudice has been reduced by the desegregation of schools?

However, research limitations do not make the issue any less practical. If toleration and some community of values are desired, it seems highly likely that such outcomes will be advanced more by some school arrangements than by others. Rather than simply declaring religiously distinctive schools to be a cause of intolerance, we must understand the actual effects of such schools. Should we discover that such schools do foster intolerance, then there is an argument against allowing the schools.

This short excursion through three practical arguments is, I hope, sufficient to indicate a major difficulty. We have little or no evidence with which to settle such arguments. Perhaps that is why we tend to fall back upon dubious arguments of principle. As I have previously argued, the principle of SCS may be most uncertain, but those who embrace it "know"

that religious alternative schools must not be allowed within the public school system. Furthermore, persons who have come to that conclusion need not be troubled by any lack of evidence of the consequences of the existence of such schools.

In a society which gives more prominence to individual rights and in which various interest groups make more diverse claims upon social institutions, particularly the public schools, it will not be easy to demonstrate that the ideal of the common school should be maintained. Perhaps a careful regard for the practical consequences of religious alternative schools within public school systems may inform and moderate the debate and the resultant decisions. The quality of education and the upbringing of youth are far too important to be left as matters of doctrinaire dispute.

NOTES

¹ The variety of accommodations for religion in tax-supported schools in Canada is as follows: British Columbia, single non-denominational public system but with some provision for textbooks, health care, and transportation for independent schools; Nova Scotia, New Brunswick, Prince Edward Island, and Manitoba, informal arrangements for funding denominational schools; Ontario, Saskatchewan, Alberta, Northwest Territories, and Yukon Territories, separate school systems; Quebec, dual confessional system; Newfoundland, denominational system (Wilson, 1981, pp. 102–103).

² The judgements in *Regina v. Drybones* (*Supreme Court Reports*, 1970, p. 282) and *Robertson and Rosetanni v. The Queen* (*Supreme Court Reports*, 1963, p. 651) deal with "particular religious practice" and "discrimination." In 1963, the Supreme Court held that the Lord's Day Act, restricting the operation of businesses on Sundays, did not constitute the imposition of particular religious practices on persons of a differing faith or none. The court held that Sunday closing was a long-established custom marking Sunday as a day of rest rather than a particular religious observance. In 1970, the Supreme Court held that Drybones, an Indian who had been convicted for a liquor violation under the Indian Act, should be acquitted because the Canadian Bill of Rights took precedence over a law which discriminated against a particular group.

The case of *Wisconsin v. Yoder* in 1972 was the instance in which the U.S. Supreme Court upheld the right of the Amish to keep their children from public school and to provide their own schooling, usually terminating at Grade 8. The case involving the Adelaide (Australia) Company of Jehovah's Witnesses centred more on the validity of powers given to the governor-general to act in the interest of national security than on religious rights.

REFERENCES

- Chabot v. Les commissaires d'écoles de Lamorandière*. (1957). *Dominion Law Reports*, 12, 2d.
- Charter of Rights and Freedoms*. (1982). Ottawa: Publications Canada.
- Communications* (Information bulletin, 14). (1978, March 3). Edmonton: Alberta Education.
- Feldman, David (Ed.). (1976). *The supreme court and education* (3rd ed.). New York: Teachers College Press.
- Goodlad, John I. (1984). *A place called school: Prospects for the future*. New York: McGraw-Hill.
- Hirsch v. The Protestant School Commission of Montreal*. (1928). *Appeal Cases, The Law Reports*.

- Public board fears shrinking tax base. (1986, January 23). *The Calgary Herald*. p. B-1.
- Reese, William J. (1985, Spring). Soldiers for Christ in the army of God: The Christian school movement in America. *Educational Theory*, 35(2). 175-194.
- Regina v. Wiebe*. (1978). *Western Weekly Reports* (vol. 3).
- Supreme court reports*. (1963). Ottawa: Registrar of the Court, Supreme Court of Canada.
- Supreme court reports*. (1970). Ottawa: Registrar of the Court, Supreme Court of Canada.
- Wilson, J. Donald. (1981). Religion and education: The other side of pluralism. In J. Donald Wilson (Ed.), *Canadian education in the 1980s* (pp. 102-103). Calgary: Detselig Enterprises.

Einrichtungen für Sektenausbildung innerhalb der Volksschulen sind unzureichend für Eltern, deren religiöse Überzeugungen von Säkularbildung nicht erfüllt werden. Gesetzliche Prozesse haben das Recht solcher Eltern festgesetzt, um Privatschulen einzurichten. In einigen Fällen sind Staatsgelder für eine religiöse Alternative zur Verfügung gestanden, zum Beispiel für hebräische und christliche Schulen. Und solche Staatsgelder stehen gerade zur Verfügung als Folge politischer Handlung. Die gesetzlichen und praktischen Grenzen von solchen Alternativen beruhen darauf: die Angst vor Verteilungen der Gesellschaft, Befürchtung, daß der Lehrplan von solchen Schulen zu eng sein möge, und Mängel an Schülern und Geldmitteln.

Las disposiciones de la enseñanza sectaria en las escuelas públicas no son suficientes para padres cuyas convicciones religiosas exigen mas que educacion secular. Argumentos legales han otorgado a dichos padres el derecho de crear escuelas privadas. En algunos de estos casos, los fondos públicos son el resultado de acciones políticas, y se destinan para alternativas religiosas (por ejemplo escuelas hebreas y cristianas). Los límites prácticos y legales de tales alternativas se fundan en el temor a posibles divisiones en la sociedad, a la reducción del currículo en estas escuelas o a la insuficiencia de alumnos y fondos.

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