



A Precious Legacy Lost: **The Demise of Catholic Schools** **in Newfoundland and Labrador**

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After a long and distinguished history of nearly 200 years of Catholic education in Newfoundland and Labrador, in September 1998, the provincial legislature and the Parliament of Canada acted to remove constitutionally enshrined rights of Roman Catholics to establish and govern Roman Catholic schools and to receive a proportionate share of public funds to operate them. The story of how this came about is a complex one. It is a story of determination, dedication, faith, commitment and leadership on the part of the Catholic people. It is also a story of a government that, assisted by electronic and print media, acted in a way many would describe as unscrupulous, using deception, manipulation, broken promises, personal attacks, intimidation and lies.

Denominational education in Newfoundland and Labrador had been the subject of some criticism and debate during the 1980s; however, a direct assault against it began in 1989 with the election of a new Liberal government led by Clyde Wells. Wells' opposition to denominational schools had been long-standing, going back as early as 1969 when he was a member of the Newfoundland House of Assembly. At that time he called for "a complete public school system" and advocated for a referendum in which "the people...as a whole can decide...the majority rules..." (Hansard Newfoundland House of Assembly, April 15, 1969, Vol. 1).

A Royal Commission in Education

In August 1990, one year after assuming power, Premier Wells established a Royal Commission of Inquiry in Education. He gave, as one of its Terms of Reference, the mandate to review the "rights and privileges" (Term 17: Terms of Union of Newfoundland and Canada, 1949) of certain classes of persons with respect to denominational schools, protected in Term 17 of the Canadian Constitution, and to suggest courses of action for the government. In effect, the Royal Commission was asked to recommend substantive, structural changes to the education system - changes that impinged on the constitutional rights of minorities to their denominational schools.

In 1990 and 1991 the Royal Commission held public hearings throughout the province and received more than 1000 written and oral submissions, 76 per cent of which supported the denominational system. Roman Catholics attended the Commission's hearings in large numbers, presented briefs, and demonstrated their overwhelming support for Catholic schools. While the Commission was conducting its hearings, the people of Newfoundland and Labrador were being bombarded daily

with media accounts of physical and sexual abuse of children by certain Roman Catholic priests and religious. Nightly newscasts often ran stories of abuse back-to-back with accounts of the efforts of Catholics to protect their right to Catholic schools. The two issues became inextricably linked within the consciousness of the Newfoundland people.

In March 1992 the Royal Commission released its final report. In spite of the overwhelming support for denominational schools demonstrated at the public hearings, the Commission's report contained 41 recommendations that directly impinged on denominational rights. Based on incomplete and unsubstantiated research, the Commission report concluded that the denominational system was wasteful, inefficient, and discriminatory, and should be abolished. Government readily accepted the Commission's recommendations and immediately embarked on a political process aimed at implementing them (Royal Commission, Government of Newfoundland and Labrador. *Our Children, Our Future*, St. John's, 1992).

Catholics Respond

The Catholic people of the province immediately organized a major campaign through parish meetings, newsletters, political lobbying and news media interviews, all of which were aimed at preserving their constitutional rights in education. Prior to calling a provincial election, Wells reacted to the campaign by reassuring the people that he would respect their wishes to retain their constitutional rights. On March 12, 1993, he announced in the House of Assembly that the government was not seeking a change to the Constitution to remove minority rights and that such action would be tenable only if there was a consensus among Church leaders and the government for such a move. He then proposed that government and Church leaders begin discussions immediately on a new model of educational governance, one within the province's current constitutional framework. A provincial election followed in May, 1993 and because of Wells' earlier promise of March 12, constitutional rights in education did not become an election issue. Wells won the election and formed a majority government.

Broken Promises

Following his election, Wells' position on constitutional rights changed radically. In the fall of 1993 the government rejected the proposition of a new model of educational governance within the current constitutional framework and brought forth its own

model. In this document, the full extent of Wells' intentions were obvious. The government now advocated that the denominational system be abolished and replaced with a secular system. Church leaders were informed by the government that there would be little room for further discussions.

For the next 18 months, talks between government and Church leaders were sporadic. When held at all, they were largely an exchange of correspondence and a few perfunctory face-to-face meetings between the Premier and church leaders. During this period the Catholic people continued to campaign actively through parish meetings, media conferences, and information bulletins. As well, the Catholic bishops issued pastoral letters, putting forward their position that Catholics were eager to reform the Newfoundland education system and were willing to cooperate with the government and others to achieve it. However, they could not agree to relinquish their constitutional rights.

A Referendum

By the spring of 1995 it became more obvious that Premier Wells had no intention of living up to the commitment he had made two years earlier that constitutional change would be sought only if there was consensual agreement between the government and the Church. On May 31, 1995, Wells called for a referendum to be held on September 5 to seek a consensus to move forward with an amendment to Term 17. His decision to hold the referendum on the first day of the school year was viewed by many as political opportunism at its worst. The summer holidays provided little opportunity for Catholics to mount a well-organized campaign, one that would ordinarily be carried out with the help of their schools and school boards. As another tactic, the government drafted the referendum question without consultation with the religious minorities whose rights were at issue, and without having public debate on the question in the provincial legislature. From the outset, Roman Catholics opposed the referendum as an inappropriate process whereby government would allow the majority to decide on the rights of minorities. The rights of minorities are enshrined in the Constitution of Canada to protect them from such action.

During the summer, the government mounted an intense province-wide media campaign. They also mailed brochures to every household, assuring voters that a proposed amendment to Term 17 would provide for the existence of schools for the separate denominations "where numbers warrant". However, when the proposed amendment was made public, there was not a single word in the Term that allowed for Catholic schools to exist "where numbers warrant". Distortion of facts and political spin by government had become the order of the day. Yet, in spite of this distortion of facts and manipulation of the referendum process, only 51 per cent of eligible voters went to the polls. Fifty-four per cent voted in favour of the government's proposal and 44 per cent

were opposed. Throughout the referendum period, the physical and sexual abuse scandals within the Catholic Church received major attention in daily newscasts.

An Amendment to Term 17

Premier Wells now assumed that he had a mandate from the people to move forward and take away from minorities their constitutionally protected rights without their consent. He acted on that assumption by bringing forth a resolution to amend Term 17. In a vote in the House of Assembly on October 31, 1995, the resolution passed by a narrow majority. Wells now needed the agreement of the Parliament of Canada to change the Constitution.

Throughout that fall and winter, Roman Catholics directed their opposition to the Prime Minister's Office. On four successive occasions, Archbishop James MacDonald of St. John's wrote the prime minister requesting a meeting to discuss the concerns of Roman Catholics regarding the proposed amendment to Term 17 and the process by which it was being pursued. The prime minister did not answer the archbishop's letters. In January 1996 Wells resigned as premier and was replaced by Brian Tobin. Archbishop MacDonald directed several letters to Premier Tobin,

requesting a meeting. Tobin replied to none of them. Such behaviour, on the part of both governments, suggested to many an intent not to give Catholics a fair and just hearing.

Newfoundland's Catholics were saddened and disappointed to learn that the amendment to Term 17 of the Newfoundland Terms of Union had been rapidly passed in the House of Commons on June 3, 1996. The vote followed a mere 12 hours of parliamentary debate that was

influenced by the manipulation and distortion of facts propagated by representatives of the government of Newfoundland. The resolution was then forwarded to the Senate for passage. After conducting parliamentary hearings, the Senate put forward an amendment to the resolution to provide for denominational schools "where numbers warrant". On December 4, 1996 the House of Commons defeated the Senate's amendment and passed the original resolution. The new Term 17 quickly became law. All schools in Newfoundland and Labrador were now subject to this provincial legislation.

School Designation Process

The government soon introduced legislation that declared all the province's schools non-denominational. The legislation did allow, however, for a few Catholic schools to exist if sufficient numbers of Catholic parents requested them, and as long as the existence of these schools did not affect the viability of the non-denominational schools. Further, the legislation abolished all Roman Catholic school boards and declared that no new publicly funded Catholic schools would be established in the future. Also, in a case where



sufficient numbers allowed for a Catholic school, the government's new busing regulation now required that Catholic parents would have to provide their own transportation if the Catholic school was not the nearest one to their homes.

In February 1997, in accordance with the legislation, the new school boards carried out a registration process to determine parental choice. Although the process was seen by many to be confusing and flawed, the parents of over 23,000 children indicated their preferences for Catholic schools.

The government had not expected such a response. Under the government's direction, several school boards refused to honour the Roman Catholic parents' choice and refused to designate some schools as Catholic, even though sufficient numbers existed. In reaction, Catholic parents immediately applied to the Newfoundland Supreme Court for an injunction to halt the school designation process. The Court rendered a decision that stopped the school designation process, on the basis that the process did not conform to the newly amended Term 17.

Another Referendum and Amendment to Term 17

In response to the Court's decision, Premier Tobin swiftly announced a second referendum. His aim was to seek political approval to abolish all denominational schools in the province, once and for all. The referendum was held on September 2, 1997 and Tobin received a majority affirmative vote. What followed was a quick passage of this second amendment to Term 17 in the House of Assembly and the Parliament of Canada. The only recourse for the Catholic people was a further appeal to the courts. A Statement of Claim was soon filed with the Supreme Court of Newfoundland's Trial Division. The Claim was denied. An appeal was then filed with the Court of Appeal. That appeal was also denied. The new Term 17 had now become law.

Catholic Schools Abolished

In accordance with new provincial legislation, the school system of Newfoundland and Labrador was a secular system when school began in September 1998. As well, the legislation expropriated, without compensation, all school property vested in the province's Roman Catholic Episcopal Corporations. As a final act, the Catholic people appealed to the Supreme Court of Canada. After a considerable period of time the Supreme Court announced on November 9, 2001 their refusal to hear the appeal. The struggle was over: Newfoundland's Catholic schools were no more. The provincial government had accomplished what it had set out to do in August 1990 when it established a Royal Commission to reform education. Catholics had now been defeated in their unremitting 11-year struggle to retain that precious legacy - their Catholic schools.

Conclusion

The only remaining Canadian provinces in which Catholics hold constitutional rights in education are Ontario, Saskatchewan and Alberta. What lessons might Catholics in these provinces take

from the story of the loss of Catholic schools in Newfoundland and Labrador? Each person hearing about or reading this story will, upon reflection, draw his or her own conclusions. However, several general comments might serve to focus such reflection:

1. Newfoundland and Labrador did not lose its Catholic schools because of a lack of leadership on the part of Church hierarchy, school trustees and administrators, or through any lack of commitment by the Catholic people. The schools were abolished by a government that subscribed to the notion that education reform could only take place within a secular system.
2. The unsubstantiated conclusions about duplication of services, cost efficiency, and discrimination that were propagated by the government of Newfoundland and Labrador in order to support their position for constitutional change could just as easily be used as a pretext for such change in Alberta, Saskatchewan or Ontario.
3. The process of a referendum that allows the whole population to vote on the rights of a minority is unjust. If a provincial referendum were held in Alberta, Saskatchewan or Ontario to determine the continuation of their Catholic schools, very likely, the results would be the same as they were in Newfoundland and Labrador. When an entire population votes on the rights of a minority, the minority usually loses.
4. Minority rights in education appear to be entrenched in the Canadian Constitution. However, a simple majority vote of a provincial legislature and of the Parliament of Canada can easily amend these rights, or remove them altogether, as happened in Newfoundland and Labrador. The provinces of Ontario, Saskatchewan and Alberta continue to hold educational rights within the Canadian Constitution. In view of the growing dissent against the existence of Catholic schools in these provinces, it is not a question of *if* these rights will be challenged; it is a question of *when*.



*Ed. note: Gerald Fallon was executive director of The Catholic Education Council of Newfoundland and Labrador from 1989 to 1996. This article is based on his **Personal Notes and Papers** and on **Trial, The Loss of Constitutional Rights in Education in Newfoundland and Labrador: The Roman Catholic Story** by Fagan Bonaventure (St. John's, ADDA Press, 2004). Gerald Fallon is now the principal of St. Edward Catholic School, Nipigon, Ontario. Gerald Fallon can be contacted at: stes_p@snedsb.on.ca*