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## ROMAN CATHOLIC EDUCATION OF THE SCHOOLS IN CANADA

### THE PHILOSOPHY OF CATHOLIC EDUCATION

The Catholic school has the mandate to proclaim the Good News of salvation and preach the Gospel of Jesus Christ to all nations (Matt. 18, 19). Its mission, as outlined in the Vatican Document *The Catholic School*, is rooted in the saving mission of the Church to spread and deepen the faith and to build up God's Kingdom on earth. In partnership with family and parish, the Catholic school promotes the formation of the whole person. With Christ as the foundation of the whole educational endeavour, the Catholic School promotes the intellectual, physical, spiritual, social, emotional, and moral development of its students. It is a community wherein Catholic Christian values are communicated, where culture is integrated with faith, and where respect for the individual forms the basis of all human relationships.

### THE HISTORICAL DEVELOPMENT OF CATHOLIC SCHOOLS IN CANADA

Catholic education existed in Canada long before 1867 when Confederation brought the country into being as a Nation with the Union of Upper and Lower Canada. Prior to 1867, various members

of religious orders came to Canada from England, Ireland and France to minister to the spiritual and educational needs of the immigrants. The growing increase in population by the influx of immigrants from Europe led Catholic bishops to seek the assistance of various religious orders to provide educational opportunities for the people. Few members of the laity at that time had sufficient education to assist in this ministry.

Prior to Confederation in 1867, Canada consisted of two major regions, namely, Upper Canada (now known as Ontario) and Lower Canada (now known as Quebec). The passing of the School Act in 1841 made permanent state funding available for schools in Upper and Lower Canada. This Act contained a clause that permitted Catholics and other religious groups to establish denominational schools. For the next twenty-five years, however, sectarian unrest accompanied the growth of Catholic schools in Upper Canada because many who opposed Catholic schools advocated a single, public system.

In 1855 the passing of the Tache Act extended the rights of the Catholic minority of Upper Canada to create and manage their own schools. In 1863 the passing of the Scott Act allowed Catholic schools to receive a portion of the Common (Public) School Funds provided by the Canadian Government. The Scott Act further allowed the establishment of Catholic School Trustees with all the rights and privileges enjoyed by their counterparts in public schools.

The British North America Act was signed in 1867, uniting Upper and Lower Canada into one Nation – Canada. This BNA Act created both federal and provincial governments and gave sole responsibility for education to the provinces. For decades prior to this Union, Catholic minorities in Upper Canada had wanted to secure their schools from the hostile Protestant majority, and Catholic bishops and politicians had worked tirelessly to secure the legal right of Catholics to their own schools. With the Terms of Union in 1867, this right was now successfully secured under Section 93 of the BNA Act which stated that all educational rights held by religious minorities at the time of Union were constitutionally guaranteed thereafter.

For Catholic minorities in Ontario, and for Catholic majorities and Protestant minorities in Quebec, Section 93 guaranteed the right

to establish, manage, and control their own schools, and to share proportionally in government funding allotted to education. Section 93 of the BNA Act also guaranteed that no provincial legislation could prejudicially affect any right or privilege, existing in law at the time of Union held by Catholic minorities in Ontario, Catholic majorities and Protestant minorities in Quebec. Section 93 of the BNA Act states:

„In and for each Province the Legislature may exclusively make Laws in relation to Education, subject and according to the following Provisions:

(1) Nothing in any such Law shall prejudicially affect any Right or Privilege with respect to Denominational Schools which any Class of Persons have by Law in the Province at the Union;

(2) All the Powers, Privileges, and Duties at the Union by Law conferred and imposed in Upper Canada on the Separate Schools and School Trustees of the Queen's Roman Catholic Subjects shall be and the same are hereby extended to the Dissident Schools of the Queen's Protestant and Roman Catholic Subjects in Quebec” (British North America Act, 1867).

When Saskatchewan and Alberta joined the Canadian Confederation in 1905, Catholic schools in these provinces also fell under the protection of the BNA Act and were thus guaranteed constitutional protection. Likewise, when Newfoundland joined Confederation in 1949, the province's Catholic schools received constitutional protection in the Terms of Union. When most of the other provinces came into Union with Canada, however, since their Catholic schools did not exist in law at the time of Union, these schools did not fall under the protection of the BNA Act and thus received no constitutional protection. Catholic schools in these provinces existed only at the will of the provincial legislature.

Subsequently, in 1982, Catholic and other denominational schools received further protection with the passing of the Canadian Constitution Act. Section 15 of this Act afforded every individual the right to equal protection and equal benefit of the Law without discrimination based on race, nationality or ethnic origin, colour, religion, sex, age, or mental or physical disability. However, Section 29 of the Act stated:

„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” (Constitution Act, 1982, Part 1, Canadian Charter of Rights and Freedoms).

Therefore, Catholic schools that were constitutionally protected by the BNA Act of 1867 were exempted from the equality rights provision of the Constitution Act of 1982 and thus maintained their legal right to discriminate on the basis of religion.

Today, Catholic schools in Ontario, Saskatchewan and Alberta enjoy full constitutional protection in Law. In the remaining provinces, Catholic schools do not exist constitutionally, and as a result they fall totally under the power of their respective provincial legislatures. This means that Catholic schools in these provinces may be established or abolished by a simple act of their provincial legislatures.

In the provinces of Ontario, Saskatchewan and Alberta, Catholic schools now receive 100 percent funding, equal to that of public schools. Government support for Catholic schools in these provinces is firm, respecting their constitutional rights. Up to the 1990’s, Catholic schools in the provinces of Newfoundland and Quebec also enjoyed constitutional protection, but through amendments to the Constitution brought forward by their provincial legislatures to the Parliament of Canada, the Catholic schools in these provinces were abolished. In the provinces of British Columbia and Manitoba, Catholic schools receive 50% of the operational funding allocated to public schools. In Newfoundland, Nova Scotia, New Brunswick, Prince Edward Island and Quebec, no publicly-funded Catholic schools exist today. However, a few privately-funded Catholic schools do exist in these provinces.

## PROVINCIAL RESPONSIBILITY FOR EDUCATION IN CANADA

Since education in Canada is a provincial responsibility, each provincial legislature makes laws governing all educational issues

within their jurisdictions. All matters dealing with the day-to-day operation of schools are contained in provincial legislation.

In constitutionally-protected schools, that is, in the provinces of Ontario, Saskatchewan and Alberta, Catholic schools are administered by their Catholic district School Boards governed by Catholic Trustees elected by the Catholic people within the geographical boundaries of their respective school districts. These Schools Boards are responsible for the administration of the schools in accordance with provincial legislation. Provincial statutes determine curriculum, administrative structures, funding of operational and capital grants, allocation of staff, collective bargaining, and the certification of teachers and administrators. Religious education courses and faith development, however, are the sole responsibility of the Catholic School Boards in these provinces.

Catholic schools in the remaining provinces receive either partial or no funding. However, these schools are required to follow provincial statutes in all matters pertaining to curriculum and to the certification of teachers and administrators. The provincial statutes do not apply to Religious Education courses and faith development, however, which are the sole responsibility of the Catholic Boards or the administering Diocesan bodies.

#### CERTIFICATION AND HIRING OF TEACHERS IN CATHOLIC SCHOOLS

Catholic School Boards and Diocesan bodies must follow the provincial law in all matters pertaining to the certification of teachers and administrators. Catholic teachers and administrators must be certified by the province before they are allowed to practise. However, Catholic School Boards and Diocesan bodies have the legal right to discriminate in the hiring and termination of teachers on the basis of religion and/or lifestyle. They also have the legal right to accept only Roman Catholics students into their schools.

In the public system, religion and/or lifestyle cannot be used as a factor in the hiring and termination of teachers and administrators. Neither do public schools have the legal right to refuse any students on the basis of religion.

### GROWTH OF CATHOLIC SCHOOLS IN CANADA

In provinces where Catholic schools enjoy constitutional protection, Catholic school enrolments are growing. At the same time, the number of students in public schools is declining. This growth of Catholic schools is due to the benefits of 100% provincial operating and capital funding, as well as competitive salaries for teachers and administrators who are as well trained as those in the public system. The growth of Catholic schools is also due to the fact that many parents see the value of the Catholic school as a well-ordered and caring learning environment that provides for the complete education of their children. Unfortunately, the growth of Catholic schools in Canada is not due primarily to the desire of Catholic parents to educate their children in the faith, as much as it is to their desire to send their children to „good” schools.

In provinces where Catholic schools are not protected constitutionally and which do not receive funding equal to that of public schools, Catholic schools are experiencing little growth. Their existence depends solely on the financial sacrifices of parents and their parish community. Unfortunately, many Catholics are unable to make this necessary financial sacrifice and are thus forced to send their children to public schools.

### CONCLUSION

In matters of administration, Catholic education in Canada varies from province to province. In the provinces of Ontario, Saskatche-

wan and Alberta, Catholic schools enjoy full constitutional protection under the law of Canada. However, the administration of these schools falls under the laws of the provinces.

In the other provinces, Catholic schools exist totally at the will of provincial legislatures. Within the last thirty years, however, Catholic schools in many of these provinces have been abolished by their respective provincial legislatures. The few Catholic schools remaining in these provinces receive either partial funding from their provincial governments, or operate exclusively on the basis of student tuition and through private donations.

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## RZYMSKOKATOLICKIE SZKOLNICTWO W KANADZIE

Celem artykułu jest przedstawienie sytuacji prawnej i faktycznej szkół prowadzonych przez jednostki organizacyjne Kościoła katolickiego na terytorium Kanady. Pierwsza część ukazuje historyczny rozwój szkolnictwa katolickiego w Kanadzie, z uwzględnieniem podstawowych aktów normatywnych decydujących o sytuacji prawnej tych placówek. Dalsze rozważania dotyczą aktualnej sytuacji szkół prowadzonych przez Kościół katolicki. Autorzy skoncentrowali się na ukazaniu różnic istniejących w poszczególnych prowincjach oraz zarysowali obecne kierunki rozwoju szkolnictwa katolickiego w Kanadzie.