

Educational Legislation in Nova Scotia and the Catholics

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Any evaluation of the prevailing system of education in Nova Scotia cannot be satisfactory unless it is related to the historical and above all to the religious development of the province. Its earliest historians were cognizant of this fact, and a modern educational survey reiterates the connection, marvelling that in Nova Scotia even the men go to Church.¹ Education in the early days of Nova Scotia was intimately connected with the Churches. The schools of the Acadians founded by the early Catholic missionaries, and the English Protestant schools established after the final cession of Nova Scotia to the English bore the unmistakable stamp of religious influence.² The promotion of the Anglican religion was an important aspect of what little interest the Colonial government did take in education in the mid-eighteenth century.³ A concomitant of this interest was the suppression of rival forces. The introduction of the penal laws into Nova Scotia was the unhappy result. The meagre Catholic population was deprived of priests to administer the rites of their religion and of Catholic schools to educate the growing generation.⁴ Nevertheless through the agency of the priests appointed by the Government as missionaries to the Indians, together with the flow of immigrants into the province, the Catholics managed not only to keep but also to enlarge the number of their adherents.⁵

¹ William S. Learned, *Education in the Maritime Provinces of Canada* (New York, 1922), p. 14.

² John Lenhart, "The Capuchins in Acadia and Northern Maine," *Records of the American Historical Society of Philadelphia* xxvii (1916), pp. 201-204, cited by Patrick Wilfred Thibeau, *Education in Nova Scotia before 1811* (Washington, 1922), pp. 17-25; Omer Le Gresley, *L'Enseignement du français en Acadie, 1604-1926* (Mamers, France, 1926), pp. 26-41; C. F. Pascoe, *Classified Digest of the Records for the Propagation of the Gospel in Foreign Parts, 1701-1892* (4th ed., London, 1894), p. 107; Thomas B. Akins, *A Sketch of the Rise and Progress of the Church of England in British North American Provinces* (Halifax, 1849), pp. 12-13.

³ Breynton to Bearcroft, January 11, 1762; Breynton to Burton, November 22 1762, *Records of the Missionaries of the Society for the Propagation of the Gospel, 1760-1786* (B 25, *Nova Scotia, Public Archives, Halifax, Nova Scotia*), Letters 4, 41.

⁴ *Statutes at Large of the Province of Nova Scotia, 1758-1804* (Halifax, 1805). 1, pp. 7-8 (32 Geo. 2, c. 5, sec. 3, 4, 5, 6, 7); *ibid.*, 1, p. 120 (6 Geo. 3, c. 7 sec. 2).

⁵ *Mémoire sur les missions de la nouvelle écosse, du Cap Breton et de l'Isle du Prince-Edouard, de 1760 à 1820* (Quebec, 1895), p. 46.

All education had its main *raison d'être* in the need for perpetuating a church-state alliance in which ministers and civil magistrates collaborated to preserve intact religious and political orthodoxy.⁶ This became peculiarly so when the American Revolution caused an influx of thousands of Loyalists into the thinly settled province. Among these were many dissenters who opposed the favored position of the Church of England and initiated an upward struggle for freedom of conscience and equal educational privileges.⁷

In 1808 the provincial government inaugurated a bounty system for the encouragement of education, and alarmed, but not instructed, by its failure, passed similar legislation in 1811 for primary and secondary education.⁸ The achievements and weaknesses of these acts have been described in detail elsewhere.⁹ From that study it is evident that the acts proved an abortive attempt to create among the poorer people a demand for education. The Act of 1811 remained in force for fourteen years during which time the idea of the government's responsibility for the general education of its citizens was slowly maturing. The abolition of the penal laws and the ensuing recognition of the civil and legal rights of Catholics introduced a new force in the educational field in Nova Scotia.¹⁰ Bishop Burke, the first Catholic bishop of Nova Scotia, successfully checkmated his Anglican counterpart, Bishop Inglis, and obtained the right to establish Catholic schools in the province.¹¹

⁶ Charles E. Phillips, *The Development of Education in Canada* (Toronto, 1957), pp. 60-61; Wentworth to Hobart, March 22, 1802, *Wentworth Correspondence, Public Archives of Nova Scotia*, v. 53, p. 340.

⁷ *Journal of the Assembly of the Province of Nova Scotia*, 6th Assembly, 3d. session, VII, pp. 247, 259, 262, 280; *ibid.*, IX, p. 20.

⁸ *Statutes at Large*, II, p. 202 (48 Geo. 3, c. 8), The Act appears under the title only in this volume. A copy of the manuscript Act now in the Archives of Nova Scotia appears in D. C. Harvey, "A Forgotten School Act," *Journal of Education*, V (4th series, 1934), pp. 239-243; *ibid.*, II, pp. 68-70 (51 Geo. 3, c. 8, 9).

⁹ *A Documentary Study of Early Educational Policy* (ed., V. McFatrige, *Public Archives of Nova Scotia*, Halifax, 1937); Harvey, "The Grammar Schools of Nova Scotia, 1811-1825," *Journal of Education*, V (4th series, 1934), pp. 94-100; "English Schools in Nova Scotia, 1811-1825," *ibid.*, V, pp. 468-479.

¹⁰ *Statutes at Large*, I, p. 235 (23 Geo. 3, c. 9, sec. 1, 2, 3) repealed the Acts forbidding Papists to hold land and for the suppression of Popery as applied to Roman Catholics; *ibid.*, p. 245 (26 Geo. 3, c. 1, sec. 1, 2, 3, 4) permitted Catholics to establish schools but contained a caveat forbidding the attendance of Protestants under fourteen years of age; *ibid.*, p. 250 (7 Geo. 4, c. 5, sec. 22), granted full liberty of conscience to Catholics and repealed the proviso excluding Protestant children from Catholic schools.

¹¹ Burke to Parr, March 1, 1802, *Public Archives of Nova Scotia*, v. 303. Document 33; Inglis to the Archbishop of Canterbury, February 16, 1804; Inglis to Hobart, February 16, 1804, *Bishop Inglis Letters (Public Archives of Nova Scotia)*, pp. 132, 134, 135; Cornelius O'Brien, *Memoirs of Bishop Burke* (Halifax, 1894), p. 84.

Not until 1819, however, did Bishop Burke open classes for Catholic boys in his Glebe house where they were instructed by the seminarians to whom he was himself teaching theology.¹² In the following year he opened a girls' school, financed by the ladies' sodality of the parish. It was with a measure of relief that the bishop could report that he would soon have all the Catholic children away from the Methodist schools.¹³ He died in November 1820, however, before his plans for the financial independence of his schools had been completely carried out.

Father John Carroll, the administrator of the cathedral parish after the bishop's death, appealed to the legislature for aid for these schools. In 1821 the government granted £200 to the Catholic school in Halifax and a teacher's grant to Mr. McSweeney, a teacher at the boys' school.¹⁴ From this time on, excepting the year 1825 when no common school grants were given, the Catholic school shared with those of other denominations in the provincial grant. When in 1825 an Education Committee of the Assembly advocated the abolition of the bounty system and the introduction of compulsory assessment for education, the government did not implement its recommendations for economic and political reasons.¹⁵ It renewed the former policy, and to appease the assessment agitators, granted fixed sums to the counties for the education of children of the poor. With many minor amendments, the Act of 1825 remained the wavering guide for forty years of wandering in an educational wilderness.

In the years following Catholic emancipation in Nova Scotia it is difficult to trace in official journals the establishment of Catholic schools, since the sums allotted for education in each county were dispensed at the discretion of appointed commissioners. Occasional grants such as that to Bishop Fraser for a school in Antigonish county and to Father Croteau for a school at Arichat are recorded, but the majority of cases must have been similar to that of *Abbé Sigogne*, whose petitions for English schools for the Acadians were referred to the commissioners for his district.¹⁶ The law of 1841 which extended government grants to schools in which Gaelic, German or French was the medium of instruction fostered the growth of schools particularly among the Acadians.¹⁷ It was not until 1856 that the Catholics felt powerful enough to press for separate school legislation; but the attempt to introduce a separate school clause into the education bill of that year

¹² *Ibid.*, p. 118.

¹³ He stresses the Methodist schools because a directive from Rome dated August 5, 1820 warned the bishops of the proselytizing efforts of this group and advised that Catholic children were not to be permitted to attend the Methodist schools. See Phillips, *The Development of Education in Canada*, p. 311.

¹⁴ Petition No. 30, 1821. Halifax City School Papers, 1808-1845, *Public Archives, Halifax, Nova Scotia*.

¹⁵ *A Documentary Study of Early Educational Policy*, pp. 45-49; *Statutes at Large*, III, pp. 247-250 (7 Geo. 4, c. 5).

¹⁶ *Journal of the Assembly*, 1829, 13th Assembly, 3d. session, XV, pp. 366, 416; *Assembly Petitions, 1832-1849 (Public Archives, Halifax, Nova Scotia)*, Petition No. 64.

¹⁷ *Statutes at Large*, V, p. 70 (4 Vic., c. 43, sec. 14).

resulted in the withdrawal of the bill before its being put to a vote.¹⁸ Not until 1865 was the subject of general education once again aired in the Assembly and at this time the Catholics of the Halifax archdiocese were fortunate in having as their shepherd a bishop who devoted every effort to secure the benefit of government supported schools for his flock.

The condition of education in his See city was not a new problem to Archbishop Connolly, for in the years during which he had been secretary to Archbishop Walsh and vicar general of the diocese, he had also served as a member of the Halifax Board of School Commissioners.¹⁹ He had witnessed the arrival of two groups of religious teachers, the Sisters of Charity in May 1849 and the Religious of the Sacred Heart a week later.²⁰ These Sisters of Charity augmented the small group of lay teachers who were teaching in the schools in the cathedral parish; while the Religious of the Sacred Heart, in addition to the work of an academy, conducted some free classes for the poor children of their neighborhood who found it too far to go into town to the schools of the Sisters of Charity. Free schools were still in the future, and a system of graduated fees was the only solution where assessment did not prevail. The children of the poor were not charged, but the government paid a certain allowance for their tuition. These funds administered by the Board of School Commissioners were allocated at their discretion, subject to the later sanction of the government.²¹ By 1858 three Catholic schools participated in the grant, St. Mary's Boys' School, the school of the Sisters of Charity, and the school at St. Patrick's.²²

Judging from these endeavours on behalf of Catholic education, it would seem that education in Halifax in the mid-nineteenth century enjoyed adequate provision. But the figures from the commissioners' reports in 1850 and 1862 present a picture of educational destitution in a city then over a century old.²³ In 1862 there were 5,591 persons between the ages of five and fifteen in Halifax, of whom 2,438 were in school. In this same age group, there were 2,413 persons who could not write and the census of 1861 revealed this inefficiency in the educational system to be province wide.²⁴ The total population was 330,857 of whom 302,471 were above five years of age. Of this number 81,469 were unable to read and 114,877 were unable to write. Moreover of the 84,965 children of school age, only 33,652 were

¹⁸ *The Morning Journal* (Halifax, Nova Scotia), February 11, 1859.

¹⁹ Minutes of the School Board of the City of Halifax, 1850-1864., Halifax, June 12, 1850. The other members at that time were the Venerable Archdeacon Willis, Reverend Edmund Crowley, Reverend Alexander Forrester, John W. Ritchie, William Annand, John Naylor, and John Thompson.

²⁰ Sister Maura, *The Sisters of Charity*, Halifax (Toronto, 1957), pp. 2, 5, 13; Société du Sacré Cœur, *Lettres Annuelles, 1849-64*, Convent of the Sacred Heart, Halifax, Nova Scotia.

²¹ School Board Minutes, August 7, 1850, *Public Archives, Halifax, Nova Scotia*.

²² *Ibid.*, October 3, 1851; November 3, 1858.

²³ *Ibid.*, December 5, 1862.

²⁴ D. Campbell, *Nova Scotia in Its Historical, Mercantile and Industrial Relations* (Halifax, 1873), p. 427; *Morning Chronicle* (Halifax, Nova Scotia), February 27, 1864.

in attendance at school during the year.

This was the situation which confronted the Johnston and Tupper government when it replaced the Liberals in 1863. Dr. Charles Tupper, afterwards Sir Charles, assumed the leadership of the government, and in the Education Bill of 1864, he made a tentative attempt to solve the problem.²⁵ This first measure did not embody the most vital yet unpopular feature of compulsory taxation, but provided free public school education for all children in those sections in which schools were established and assisted by government funds. A bonus of 25% of their portion of the provincial grant was given to those sections which raised their funds by assessment. The Act further provided that in the event of a default in the amount collected compared with the sum voted by the majority at the annual meeting, the balance should be raised by assessment.

The whole system was placed under the Executive Council which thus became the Council of Public Instruction, with the superintendent of Education as secretary.²⁶ Other features of the Act were focused on organization, but without the feature of compulsory assessment no great improvement could be anticipated from such an Act. Such was the opinion of the leader of the opposition and of the press.²⁷

Their severe criticism prompted Dr. Tupper to postpone the coming into operation of the Act until an amendment should embody the principle of compulsory assessment.²⁸ Opposition to the Act expressed itself violently but briefly in the burning of school houses in at least five counties, King's, Annapolis, Pictou, Cumberland and Halifax; and resolutely but protractedly in a policy of non-cooperation, in which the city of Halifax was the outstanding culprit.²⁹

The Halifax city council refused to assess for schools as required by law, since it had not been properly or sufficiently consulted by the government before the provisions in question had become law.³⁰ When the amendments for which Dr. Tupper had withheld the Act were discussed in 1865, Halifax was still recalcitrant and its representative moved that the bill be returned to committee for the purpose of striking out certain clauses relative to Halifax city.³¹ By the act of 1865 the

²⁵ *Revised Statutes of Nova Scotia*, 1864, 3d. Series, c. 58, p. 208.

²⁶ *Ibid.*, c. 58, sec. 1, p. 208. For a defence of this feature of the bill which it was feared would expose education to political opportunism, see D. Campbell, *Nova Scotia in Its Historical Relations*, pp. 426-427.

²⁷ *British Colonist* (Halifax, Nova Scotia), March 22, 1864; *Morning Chronicle* (Halifax, Nova Scotia), February 18, 27, 1864.

²⁸ J. W. Longley, *Sir Charles Tupper* (vol. VIII of *The Makers of Canada Series*, ed., A. G. Doughty, Century ed., Toronto, 1927, pp. 38-39).

²⁹ Harvey, "The Establishment of Free Schools," 1079; *Acadian Recorder* (Halifax, Nova Scotia), June 6, 1864.

³⁰ *Reports Board of School Commissioners for the City of Halifax for the years 1866 and 1867, with extracts from the Laws Relative to Public Education* (Halifax, 1868), p. 17. Hereafter cited as *School Board Reports*. See also *Acadian Recorder* (Halifax, Nova Scotia), June 6, 1864; *Morning Chronicle* (Halifax, Nova Scotia), November 15, 1864.

³¹ *Debates and Proceedings of the Parliament of Nova Scotia* (Halifax, 1865), pp. 220-221. Hereafter called *Assembly Debates*.

government brought the academies and superior schools definitely under the Council of Public Instruction as part of an integrated system of common schools and high schools. The allowance for common schools was greatly increased and compulsory assessment for two-thirds of the provincial grant was applied to the counties but the sections were still allowed to raise their quota by voluntary subscription.³² This concession was removed by the amendment of 1866 which made compulsory assessment the only method of financial support for schools. The Act of 1865 set up a special organization for the City of Halifax, which had refused to organize under the Act of 1864.³³

The city council of Halifax was not appeased. The offending clause whereby the Board of School Commissioners, an appointed body of twelve men, was empowered to specify to the city council, an elected body, the monies for the support of the school system had not been rescinded.³⁴ The city council was still required to levy sufficient assessment to yield the amount required by the Commissioners. From June 1866, to January 1867, the city council remained adamant and the government directed the Board to draw on the Bank of Nova Scotia to meet the current school expenses. The situation deteriorated to such an extent that a writ of *mandamus* was served on the mayor.³⁵ Finally in January 1867, it was conceded that no decision of the city council could supersede an act of the legislature, and the city council complied with the law.³⁶

Another crisis in connection with the Free School Act was brought on by the amendment moved by Mr. LeVescente, a Protestant member from Catholic Richmond county, which if passed, would have provided for separate schools whenever a section having at least twenty Catholic students from five different families employed a Protestant teacher. These separate schools which would be established in the same way for twenty Protestant children living in a section employing a Catholic teacher would have their own trustees.³⁷ In the heated debate

³² Harvey, "The Establishment of Free Schools in Nova Scotia," 1079; *Statutes of Nova Scotia*, 1865, c. 28, pp. 68-94.

³³ *Revised Statutes of Nova Scotia*, 4th Series, c. 32, sec. 87-90, pp. 186-187.

³⁴ *School Board Reports, 1866-1867*, pp. 2-3. The members of the first Board under the new Act were: Andrew M. Uniacke, D.C.L., Chairman, Very Reverend M. Hannan, D.D., Vice-Chairman, Very Reverend Dean Bullock, D.D., Reverend J. Pryor, M. H. Richey, S. Tobin, Patrick Power, Phillip Thompson, W. H. Keating, James Flinn, J. Thompson, A. West, J. R. Willis, Secretary.

³⁵ *Acadian Recorder* (Halifax, Nova Scotia), August 27, 1866. Mandamus is one of the extraordinary law remedies, also designated prerogative writs, by which public administration is subject to judicial control. Its chief use is to compel official action in accordance with law where a public or private interest demands such action. Disobedience to it may be dealt with as contempt of court and exposes the recipient to an action for damages. The slight recourse to mandamus indicates the gravity of the situation which invokes it. See Ernest Freund, "Mandamus," *Encyclopedia of Social Sciences*, X, pp. 84-86.

³⁶ City Council Minutes, January 14, 1867, as reported in the *Acadian Recorder* (Halifax, Nova Scotia), January 16, 1867.

³⁷ *Assembly Debates*, 1865, pp. 162, 163.

which the subject of separate schools always seems to provoke, the Catholic members Tobin and McKinnon warmly supported the amendment.³⁸ Dr. Tupper refused to entertain the motion on the grounds that it would destroy the common school system. He conceded that in the town of Halifax such an arrangement would be possible, but before he would countenance such a measure on a province-wide basis, he would burn the bill.³⁹ So vehement was the premier in his denunciation of the separate school issue that he drew from his Catholic colleague in the Cabinet a threat to resign.⁴⁰ The original bill as introduced by Dr. Tupper in 1865 passed the Assembly on April 12 and became law on May 2nd.⁴¹ With the amendments of 1866, it constitutes the basis of the free school system of Nova Scotia to-day.

In this establishment of free schools, there were two different arrangements advocated by those who sought to create a general system of public education.⁴² One group following the American system wanted non-sectarian schools common to all; the other wished to see denominational schools after the system followed by Quebec. In general the Catholics of Nova Scotia in 1864 desired separate schools because they felt as a minority that such a system would better guarantee their rights. When Tupper proposed to make the school system not only free but also non-sectarian, one-third of the people of Nova Scotia were Roman Catholics, accustomed under the free and easy system then prevailing to having their own schools in those sections in which Roman Catholics predominated, conducted largely under the control of the clergy. In the city of Halifax, to all intents and purposes, separate schools existed. All the buildings in which Roman Catholic children were taught had been built and were owned by the archbishop. The schools were conducted by members of religious orders and Catholic lay teachers, who included the teaching of religion as an integral part of the daily school work.⁴³

Through Archbishop Connolly the Catholics claimed the right to maintain schools, and the Church rejected a state monopoly of education, and disapproved of schools without religion. These views Bishop Connolly discussed with Dr. Tupper. The premier's reply reminded the bishop that the Council of Public Instruction, being the Cabinet, would always contain Roman Catholic representatives and, therefore, Catholic interests would be safeguarded.⁴⁴

³⁸ *Ibid.*, pp. 163-166.

³⁹ Saunders, *Three Premiers of Nova Scotia*, p. 340; *Assembly Debates*, 1865, p. 163.

⁴⁰ *The Nova Scotian* (Halifax, Nova Scotia), April 10, 1865; McKinnon to Tupper, March 30, 1865, Canada Miscellaneous, Tupper Papers, *Public Archives of Canada*, Ottawa 1, p. 22, cited by Groux, *L'Enseignement français*, II, pp. 26-27.

⁴¹ *Statutes of Nova Scotia*, 1865, c. 28, pp. 68-94.

⁴² *Assembly Debates*, 1865, pp. 161-220, passim.

⁴³ Longley, *Sir Charles Tupper*, pp. 33-34.

⁴⁴ Saunders, *Three Premiers of Nova Scotia*, pp. 339-340; E. M. Saunders, ed., *Life and Letters of the Right Honorable Sir Charles Tupper* (2 v., New York, 1916), I, pp. 93-97; Alexander Laidlaw, "Theodore Harding Rand," *Journal of Education*, XV (4th Series, 1944), p. 327.

Thus persuaded, the archbishop assured the premier that the bill had his approval.⁴⁵ At that time the Catholic schools in Halifax were well established and three religious orders provided teachers to staff them. Of the Sisters of Charity and the Religious of the Sacred Heart mention has already been made. Their co-workers in the early schools were the Christian Brothers, whom Bishop Connolly invited to Halifax in 1862 as teachers for the boys in the new elementary school in the cathedral parish.⁴⁶

That the school board intended to incorporate these schools, together with these controlled by Protestant denominations, into the city school system seems evident from the fact that the following clause in the Act of 1865 was pertinent to Halifax only, and gave to the commissioners of that city the authorization

to cooperate with the governing body of any city school on such terms as to the Board shall seem right and proper, so that the benefits of such schools may be as general as circumstances will permit, and in such cases the Board may make allowance to such schools out of the funds as shall be deemed just and equitable. But no public funds shall be granted in support of any school unless the same be a free school.⁴⁷

This stipulation constituted the only legal basis in the provincial law for the arrangement negotiated between the Board of Commissioners for Halifax city and the governing bodies of the various city schools. When the Board assumed charge of the schools in Halifax in November 1865, they found 700 children under the management of twenty-five teachers, and the schools supported by tuition fees from parents, or churches, or societies interested in education.⁴⁸ In his report on November 30, 1866, the Chairman of the Board stated that after investigation he had found the nine schools in the city capable of accommodating only about 2,000 pupils, so that twelve buildings with ninety-one rooms large enough to seat fifty-six pupils in each were needed to educate the 5,000 children who should be attending school.⁴⁹

The financial difficulties mentioned above precluded a building program, and the Board was consequently compelled to confine its efforts to cooperating with the governing body of any city school.⁵⁰ On October 16, 1865, Reverend Patrick Power and Reverend A. McIsaac on the part of the governing bodies of St. Mary's, St. Patrick's Male and Female Schools, and of the Convent Free school, informed the Board that they were willing that the said schools should henceforward be entirely free on condition that the Board would accept and remunerate at prevailing allowances the teachers in the schools designated free.⁵¹ The offer was accepted and

⁴⁵ *Ibid.*, XV, p. 340; Groulx, *L'Enseignement français*, II.

⁴⁶ Maura, *The Sisters of Charity*, p. 15.

⁴⁷ *School Board Reports*, 1866-1867, p. 3.

⁴⁸ *Morning Chronicle* (Halifax, Nova Scotia), June 13, 1868.

⁴⁹ *School Board Reports*, 1866, pp. 8, 10, 18-19.

⁵⁰ *Ibid.*, p. 17.

⁵¹ *Minutes of the Board of School Commissioners*, Office of School Commissioners, Halifax, Nova Scotia, I, pp. 11-12. Hereafter cited as *School Board Minutes*.

on November 1, 1865, the Catholic schools were thus incorporated into the city system.⁵² Some discussion then ensued as to whether the appointment of teachers should be made by the commissioners or from the governing bodies of the different city schools. The following resolution was moved, seconded and passed:

Resolved that in all arrangement to be made with the governing bodies of existing city schools with whom the Board may desire to cooperate, the following terms shall be observed – The teachers appointed to such schools by the Governing Bodies shall be subject to the approval of this Board and no such appointment shall be made without such approval first had. The teachers shall be subject to all such tests and controls by the Commissioners as are provided in the law in this province relating to public schools and be subject to dismissal by the Commissioners for such cause as may in their judgement require it.⁵³

In the Superintendent's report in January, 1866, the cordial cooperation existing between the Board and the governing bodies of city schools was stressed. The evident desire for the continued cooperation of these schools finds expression in the Superintendent's declaration that should such schools prefer not to form a part of the regular series for the city, the law still would permit the Board to treat with these schools in any way it may deem best calculated to secure their advantage to the public.⁵⁴ Classes for Catholic pupils conducted under their own auspices by a Mr. McDonald and Mr. Kelcher were accepted by the Board and moved to more suitable accommodations.⁵⁵ The liberality of the Board in accepting all schools and teachers as then constituted suggests that the greater initiative lay with it.

Devotional exercises in the new public schools were provided for in the three following regulations:

It is ordered that in cases where the parents or guardians of children in actual attendance in any public school or department signify in writing to the trustees their conscientious objection to any portion of such devotional exercises as may be conducted therein under the sanction of the trustees, such devotional exercises shall be either so moderated as not to offend the religious feelings of those so objecting, or shall be held immediately after the time fixed for the close of the daily work of the school; and no children whose parents or guardians signify conscientious objection thereto, shall be required to be present during such devotional exercises.

It is legal for pupils in a section with only a few departments, which cannot have, therefore, more than one series of grades to meet for devotional exercises in another room than the one in which they are registered for the work of the grade, the arrangement for exchange to be co-ordinated by the principal so that there may be no confusion or loss of time. Separate devotional exercises may thus be held simultaneously to suit the desire of different pupils who during the rest

⁵² *School Board Minutes*, Office of School Commissioners, Halifax, Nova Scotia, I, pp. 11-12.

⁵³ *Ibid.*, I, pp. 16-17; *School Board Reports*, 1866, p. 18.

⁵⁴ *School Board Minutes*, I, pp. 16-17; *School Board Reports*, 1866, p. 16.

⁵⁵ *Ibid.*, p. 25.

of the day will be in their regularly graded classrooms.⁵⁶

With such concessions the Catholics of Halifax found no reason to object to the new law. Religious instruction was given after school hours by teachers or by the clergy, and the same concession was made to Protestant clergymen in relation to any schools having Protestant pupils, provided they could induce the children to take advantage of the privilege.⁵⁷ In such a manner the system of free schools was brought into operation in Nova Scotia, with a freedom from sectarian strife and bitterness which has been the happy fortune of no other province attempting a similar course.⁵⁸

Doubtless the salutary experience gained by the legislators of Nova Scotia from the study of the school systems of England, Scotland, Prussia, and the Province of Upper Canada, was reflected in the legislation of 1864 and 1865. Particularly in the recognition of the necessity of the religious element in education, they avoided the introduction of a system of Godless education. The striking parallel between the regulations for devotional exercises in the Nova Scotia schools and the ideas on that subject expounded by the eminent educator and Superintendent of Education in Upper Canada, the Reverend Egerton Ryerson, affirms the fact that the school system of Nova Scotia is largely an importation.⁵⁹ His influence on the three successive superintendents is acknowledged in their advocacy of his views, directly by their circulation in Nova Scotia of his writing, and indirectly by their assimilation of them as their own.⁶⁰ But the latitude in the application of the law to the situation in Nova Scotia is peculiar to the province. By vesting in the

⁵⁶ Regulations 27, 28, 29, *Manual of the Educational Statutes and Regulations of the Council of Public Instruction of Nova Scotia* (Halifax, 1895). In the latest edition of the Education Act the same directive to teachers has been retained but the introductory clause has been deleted and the regulations for devotional exercises are now embodied in the last two quoted above. See Department of Education, *The Education Act and Related Acts, Province of Nova Scotia* (Halifax, Nova Scotia, 1956), pp. 40, 84.

⁵⁷ Longley, *Sir Charles Tupper*, p. 41.

⁵⁸ *Ibid.*, p. 40; W. L. Griffith, "Population and Culture," *America* (vol. IV of *The Oxford Survey of the British Empire*, ed., A. Herbertson, Oxford, 1914), pp. 212-213; Pierre Chauveau, *L'instruction publique au Canada* (Quebec, 1876), pp. 196-197.

⁵⁹ *Documentary Study of Early Educational Policy*, pp. 50-55. E. F. Henderson, A. Kelly, et al, ed., *Historical Sketch of the Separate Schools of Ontario and The Catholic School Minority Report* (Toronto, 1950), p. 29. This report was presented in conjunction with the Report of the Royal Commission on Education in Ontario, 1950, and is a valuable exposition in the history of education as it related to Roman Catholics and separate schools in Ontario, but its refutation of common misconceptions on the subject finds general application wherever these schools exist.

⁶⁰ Egerton Ryerson, "An Argument for Free Schools," *Journal of Education*, X (4th Series, 1939), pp. 1081-1089; *Journal of the Assembly*, 1852, Appendix II; *ibid.*, 1862, Appendix 39.

commissioners and trustees, officials largely elective in character, large discretionary powers for the regulation of the religious program in the schools of their own sections, the law makes possible the education of Catholic youth in public schools where devotional exercises are a prescribed part of the daily program.

The administration of the system has been remarkably free from the strife and litigation attendant on like arrangements in other provinces.⁶¹ In Nova Scotia, in accord with custom based on tolerance and an unwritten gentlemen's agreement, the issue respecting separate schools has not been allowed to create a crisis. One case only is on record as having reached the stage of litigation in a local court, namely, that of Albert E. Thurgood's statement of claim against the trustees of School Section No. 4, in the Municipality of the County of Richmond.⁶² In 1929, the Plaintiff, Mr. Thurgood, sought reimbursement of \$392.50 from the trustees for expenses incurred in sending his daughter to a public school in Sydney. By an arrangement of the trustees with the Convent school at Arichat, the few high school pupils in the district were taught with the private classes at the Convent, in consideration of a certain fee paid by the trustees. Thurgood's claim that a separate public high school should have been provided for Protestant students, formed the basis of his claim for personal reimbursement, and also for sectional reimbursement of the fees paid to the nuns. The Education Office at Halifax has record of the reimbursement of \$392.50, but no decision could be found on the second charge.⁶³

That this incident created little comment in the press of the Province indicates the degree of tolerance which had finally come to Nova Scotians. Indeed, the question of religious instruction in all the public schools was receiving the considered attention of the clergy and of education officials who found much to deplore in a system in which great numbers of students were virtually illiterate in their religious traditions. In 1929, the Education Department conceded its willingness to include religious instruction in the curriculum of the public schools provided the major denominations would compile such a course.⁶⁴ The effort produced no definite program beyond a prescription for Devotional Exercises, which were to begin at 9:00 A.M. and continue for fifteen minutes each day.⁶⁵ The Catholic schools, by anticipating the opening of school by fifteen minutes, could under these regulations utilize the first morning period for religious instruction.

⁶¹ Phillips, *The Development of Education in Canada*, pp. 322-325. For an account of the Catholic struggle for equal educational rights in New Brunswick, see Katherine F. MacNaughton, *The Development of the Theory and Practice of Education in New Brunswick, 1784-1900* (vol. I of the University of New Brunswick Historical Studies, Fredericton, 1947), pp. 200-236.

⁶² James Collins Miller, *National Government and Education in the Federated Democracies: Dominion of Canada* (Philadelphia, 1940), pp. 114-116.

⁶³ Miller, *National Government and Education*, p. 116.

⁶⁴ Letter to the Editor, *The Eastern Chronicle* (New Glasgow, Nova Scotia); November 8, 1929.

⁶⁵ See *Circular 186, Halifax Public Schools*, Supervisor's Office, Halifax, Nova Scotia, November 12, 1946 for a detailed program for Devotional Exercises in Halifax Public Schools.

Since such programs have the expressed or implied approval of the trustees, the procedure is not contrary to school law.

A parting shot on behalf of a neutral system was inevitable. In 1930, the Grand Orange Lodge of Manitoba vehemently attacked the Nova Scotia system in a pamphlet which attempted to show “how the excellent non-sectarian school law is violated in the interest of the Roman Catholic church.”⁶⁶ But the explanation of the Honorable Mr. Fielding, one-time premier of Nova Scotia, is characteristic of the Nova Scotia Protestant attitude towards the particular arrangement in Nova Scotia.

We have no separate schools by law, but I say, that we could not have brought about that happy condition if we had not been disposed to meet our Roman Catholic brethren in a generous spirit.⁶⁷

In other countries, Catholics have the honor and the burden of supporting a second school system to ensure the Catholic education of their youth. In Nova Scotia, however, it is questionable whether the majority of Catholics would be financially able or personally willing to undertake such a sacrifice. A noble minority have already done so, but the majority, having known no other system but that of tax-supported schools, would be reluctant converts to a parochial system.

The employment of religious teachers has met no valid objection, although the opinion has been expressed that the non-sectarian character of the public schools is violated by the religious atmosphere engendered by the religious garb of the teachers. Contrariwise, the Catholic schools annually receive some Protestant pupils for the very reason that the teachers are religious. The educational authorities, both at the provincial and civic level, manifest no discrimination against religious teachers, and they are accorded representation in all professional groups in which the teachers of the province are found.

The possibilities of a further extension of the system vary with the degree of concentration of Protestant population. Of late years, religious teachers, particularly those of the Congregation of the Sisters of Saint Martha, have entered the public schools in rural communities, and in the Halifax diocese the Sisters of Charity are performing a similar service. In cities and town the efficacy of the Catholic vote is the surest guarantee of retaining the privileges so hardly won. If the lessons of history are to be accepted, the principles of conciliation and mutual accommodation must be permitted to prevail. This is evinced by the fact that for the past half century the relations between Church and State in the sphere of education in Nova Scotia have been remarkably free from contention. Not in a wall of separation but in a spirit of co-operation is found the solution to the perennial problems of the harmonious exercise of those rights in education which belong inalienably to the Family, the Church and the State.

⁶⁶ Phillips, *The Development of Education in Canada*, p. 322.

⁶⁷ *Ibid.*