

# Revisiting the “New” Old School Question: Faith-Based Funding and the 2007 Ontario Provincial Election Campaign

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## Overview

In June 2007, Ontario Progressive Conservative Leader John Tory announced, if elected to office in the upcoming provincial election, his party would consider funding faith-based schools.<sup>1</sup> This pronouncement became one of the defining issues of this campaign because it reopened an emotionally and politically charged issue in Ontario dating back to the 1840s, when faith based-schooling was referred to as the ‘school question’. In particular, this school question led to the decision to guarantee public funding to the Roman Catholic (separate) school system as part of the *British North America Act* (1867). According to Ronald Manzer, “[b]oth before and after Confederation, the ‘school question’ was consistently one of the most explosive and deeply divisive issues of Canadian politics...” (2003 p. 40).

First, this paper will offer an examination of the historical literature related to the legal and political decisions surrounding funding faith-based schools in Ontario. Second, it will explore how the Ontario Conservative Party's promise of funding faith-based education unfolded during the 2007 election campaign. Third, the paper will offer a few options to consider in relation to the question of funding faith-based schools in Ontario.

## Establishment of the Common School

Under colonial rule in both Canada West (Ontario) and Canada East (Quebec), a mix of non-denominational common schools, grammar schools, and religious schools existed with minimal colonial oversight (Axelrod, 1997). Passage of *The School Act 1841*, signaled the emergence of a state school system to promote mass education in both Canada West and Canada East. For example, this *Act* enabled inhabitants of a parish in Canada West to elect a board of school trustees to build and operate common (Protestant) schools in their district. The dissenting minority (Catholic) were also entitled to select a board of trustees and proceed with construction of schools for their district (Althouse, 1967; Manzer, 2003). Both common schools and Catholic schools were entitled to a share of the legislature’s annual appropriation for public instruction, based on the number of children in attending these schools (Althouse, 1967; Axelrod, 1997).

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<sup>1</sup> The Roman Catholic school system in Ontario is already provincially-funded based on the *British North America Act*. This will be explained more fully within this paper.

In 1843, *The Act for the Establishment and Maintenance of Common Schools in Upper Canada* separated the educational governance of Canada West from Canada East, and it clarified more specifically regulations for establishing denominational and non-denominational schools. This *Act* also described the power and authority of the Office of the Chief Superintendent and the Assistant Superintendent of Schools for Canada West and Canada East (Axelrod, 1997; Manzer, 1994).

The reason the “school question” was deeply divisive, especially in Canada West (Ontario) was due to political/religious factions that emerged who wanted to control education. In particular, Catholic and Anglican conservatives opposed liberals who were supporting only a non-denominational common school. In the middle were a group of conservative liberals and liberal conservatives<sup>2</sup> who wanted common public schools with non-sectarian religious education but recognized the need for some element of separate provision for Roman Catholics (Fleming, 1972; Manzer 2003).

During this period of political conflict, Egerton Ryerson became Chief Superintendent of Schools in Canada West from 1847-1876. Ryerson held a firm and controlled supervision over common schools, while securing and clarifying the role of separate schools. Ryerson built a school administrative structure that was highly centralized, and he set out the duties and responsibilities of elected and appointed educational officials in relation to Upper Canada’s educational system (Axelrod, 1997; Young & Levin, 2002). Ryerson was successful in having revisions introduced to the 1850 *Schools Act* that recognized more clearly in legislation both the non-denominational character of common schools and minority denominational right to separate schools. Ryerson continued to support, notwithstanding opposition from some political officials in Upper Canada, giving separate schools an equal share of provincial school grants, according to their average attendance (Althouse, 1967; Fleming, 1972).

What evolved under Egerton Ryerson’s leadership was an educational model in Ontario that was centralized within a provincial framework; however, Ryerson understood within this model was the need to ensure the local administration of schools overseen by school boards. These local boards were there to stimulate local communities to elect trustees, build schools, hire teachers, enroll their children, and vote on tax levies. Ryerson believed this model was important for the maintenance of both the common and separate school systems across Ontario (Althouse, 1967).

### ***The British North America Act: Expanding Education and the Onset of Legal Challenges***

In 1867, section 93 of the *British North America Act* gave provincial legislatures exclusive jurisdiction to make law in relation to education, subject to the provision that: “[n]othing in any such Law shall prejudicially affect any Right or Privilege with respect to Denominational Schools which any Class or Person have by Law in the Province or the Union:” (Dyck, 2008, p. 692). Where denominational schools existed in law at the time of a province’s entry into Confederation, they would be protected. For this reason separate (Catholic) schools were maintained in Ontario (Manzer, 1994; Young & Levin, 2002).

Ontario “moved up” to a system of secondary common (public) schools in 1871, but this did not include Roman Catholic schools. Secondary public boards were created to operate non-denominational secondary schools for teaching subjects in grade 9 through 13. This meant Roman Catholic (separate) school boards were limited to offering instruction in grades 1 through 8, although, subsequent decisions allowed them

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<sup>2</sup> This group included Robert Baldwin, Francis Hincks, William Draper, and John A. Macdonald (Manzer, 1994).

to operate some urban schools to teach subjects in grades 9 and 10 on a case-by-case basis (Fleming, 1972; MacLellan, 2002).

The question of whether the Ontario government had acted constitutionally in providing for only non-denominational high schools bubbled to the surface in the 1920s. In particular was the issue of whether Catholic boards could use public grants and taxes to establish high schools.<sup>3</sup> In 1925, the Ontario government agreed with Catholic leaders to submit a test case to the courts to resolve this matter. The case became known as *Township of Tiny and Others v. The King*, which began in December 1925 (Coulter, 1995). Ontario government lawyers argued that while some students in Catholic schools were doing advanced work beyond grade 8, this was a practice, not a legal right that required government funding to establish publicly funded high schools. The fact that some urban Catholic boards were operating private high schools was an example of a voluntary practice not evidence of a right. In his decision, Justice Rose agreed with the Ontario government lawyers, and he wrote that separate school trustees had to obey the provincial government's regulation fixing the point beyond which a publicly-funded Roman Catholic (separate) school education system could not proceed. In addition, Justice Rose wrote that even though not eligible for public funds for their Catholic high schools, separate school supporters still had to pay public high school taxes. The case was appealed by Catholic leaders to both the Supreme Court of Canada and the Judicial Committee of the Privy Council (JCPC), however, both courts agreed with Justice Rose's ruling (Dixon, 1994; MacLellan, 1995).

An important outcome of *Tiny* is that it established the core area of the BNA's section 93(1) constitutional guarantee with regard to public funding of Roman Catholic separate schools. On the other hand, since separate school trustees could offer elementary but not secondary level education as a matter of right, there was no concomitant state obligation to fund separate schools beyond the elementary school level (MacLellan, 1995). With the onset of the Depression and then World War II, the challenge to extend public funding for Roman Catholic separate schools to include high schools simmered on the backburner.

### **Immigration, Education, and Multicultural Policy**

As Canada became home to an increasingly greater number of immigrants, and as the economy moved away from a rural agrarian base to an urban industrial, school enrolment was affected. From 1861-1901, Ontario's school enrolment grew from 600,000 to 1.1 million (Axelrod, 1997; Fleming, 1972). Part of this growth was due to the influx of immigrants from parts of Europe where English and French were not the primary languages and where Christianity was not the sole religion practiced. Among the largest groups that settled in Canada during this period were: Germans, Scandinavians, Jews, Chinese and Ukrainians. While many settled in the Western Canada, a good number moved to Ontario. As Robert Harney and Harold Troper surmise, the opinion of many Canadians in relation to the presence of immigrants from unfamiliar countries revolved around the observation of why foreign immigrants "can't be like us?" (Axelrod, p.85). This goal of assimilation was evident in the schooling of immigrant children in the decades preceding and then following World War Two. Some non-Christian groups, particularly Jewish parents enrolled their children in public school but created privately-funded Jewish education programs to enrich their children's cultural and religious identity (Axelrod, 1997; Royal Commission on Learning, 1950).

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<sup>3</sup> Ontario separate (Catholic) students were able to attend private Catholic high schools that were tuition-based.

While Canada's population after World War Two expanded rapidly, Ontario's population from 1941 to 1971 doubled from 3.7 million to 7.6 million. A significant percentage of this increase can be attributed to immigration from other parts of Canada but also from outside Canada (Coulter, 1995; MacLellan, 2002). During this period, Canada's immigration policy divided immigrants into two classes: preferred and non-preferred groups. Most preferred immigrants came from the United States and northern and western Europe. Immigrants from central, eastern, and southern Europe were often in the non-preferred category and they faced stricter regulations. For example, in some cases, immigrants from these regions were admitted only if sponsored by a relative already legally admitted to Canada (Cameron, 1972; Coe, 1984; Green and Green, 1999; Royal Commission on Learning, 1950).

In 1967, the federal government abandoned its long-standing two-tiered immigration policy in favour of a point system that admitted individuals based on a person's education, age, language, and other skills and qualifications, rather than nationality. This opened the door for immigrants from a greater number of countries to settle in Canada (Green and Green, 1999). As Canada moved into the 1970s, new values of pluralism and renewed definitions of democracy led to the rethinking of the traditional connection between Christianity and Canadian identity. In 1971 Canada established a national policy on multiculturalism, which helped to set the stage for equality considerations related to economic, social, cultural, and political spheres.<sup>4</sup> The inclusion of race, ethnicity, language, and religion in the federal multicultural policy was important because of the historic prominence of French and English cultures above all others (Chen, 2007). Education was implicated in at least three of the multicultural policy's objectives, as outlined by then Prime Minister Trudeau to the House of Commons:

- The government will assist members of all cultural groups to overcome cultural barriers to full participation in Canadian society.
- The government will promote creative encounters in interchange among all Canadian cultural groups in the interest of national unity.
- The government will continue to assist immigrants to acquire at least one of Canada's official languages in order to become full participants in Canadian society (Chen, 2007 p. 128).

In 1977, Ontario created a provincial multicultural policy which recognized the racially and ethnically diverse population of its province, and the citizenship entitlement of all Ontario citizens regardless of race or religion. In the same year, the Toronto School Board became the first school board in Canada to develop an official policy on race relations, this policy was then adopted by Toronto's neighbouring boards. In 1985 an Advisory Committee on Race Relations within the Ministry of Education was established. Related to this initiative were a series of activities focused on education, including revision of the objectives of schooling at the elementary level to reflect multiculturalism. In 1987, the Ontario government renewed its commitment to support multiculturalism by supporting policy development and implementation guidelines for antiracism and ethnocultural equity programs in a range of government programs and services (Chen, 2007; Dixon, 1994).

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<sup>4</sup> A number of these changes stemmed from the work of the 1963 Royal Commission on Bilingualism and Biculturalism. The Commission recommended increased government attention be given to other ethnic groups, including public funding in certain areas where representation from visible minority community members was low (Dyck, 2008).

### ***The Charter of Rights and Freedoms and Extending Funding to Separate Schools***

In 1982, Canada's legal landscape shifted with passage of the *Charter of Rights and Freedoms*. The *Charter* guarantees "freedom of conscience and religion" and "equality under the law without discrimination based on religion" (Dyck, 2008, p. 695). The *Charter* empowered groups to use its clauses to challenge the special place of Christian religious prayers and traditions in public schools. Several of these cases centred on the right of religious freedom and equality under the *Charter*.<sup>5</sup> In some instances, the courts struck down practices that violated the freedom of children who did not belong to the dominant Christian religious group (Chen 2007; Gidney, 1999; Seljak, 2005).

In June 1984, to the surprise of many, Ontario Premier William Davis announced in the Ontario Legislature that his government planned to extend public funding to Roman Catholic separate school system beyond the current grade 10 level, to the end of grade 13. Known as the *Act to Amend the Education Act* (Bill 30), the proposed legislation was challenged immediately in court by the Ontario Secondary School Teachers' Federation, (OSSTF), the Association of Large School Boards of Ontario (ALSBO), and the Metropolitan Toronto School Board. (MTSB). These groups joined together and used the *Tiny* decision to make their case against extending funding to the Roman Catholic school system to the end of Grade 13.

One month after announcing his plan to extend funding for Ontario Catholics to the end of the secondary panel, Premier Davis established The Commission on Private Schools in Ontario, led by Bernard Shapiro.<sup>6</sup> Davis noted in his statement that Bill 30:

Legitimately raises questions about the place of independent schools in our province... (and that) it is timely and useful to review the role of these schools in educating our children. (Shapiro, 1985, p.1)

Shapiro's report recommended developing a more heterogenous educational approach with greater public involvement with private schools through funding and oversight by public educational officials. The Commission favoured creation of a new type of school, one which, though private, would be associated with a school board (MacLellan, 1995; Shapiro, 1985).

Extending funding to the end of grade 13 for Catholic schools could have become a key issue of the spring 1985 Ontario provincial election campaign; however, Conservative, Liberal, and New Democratic Party leaders publicly supported the Davis government's decision. The all-party consensus agreed that Catholics should get full funding for historical and constitutional reasons, and that no other religious groups were entitled to public support for their schools. Despite public pressure, all three provincial party leaders refused to debate the issue during the 1985 spring campaign (Gidney, 1999; Hickcox, 1993).

In May 1985, the Ontario Conservative Party was defeated by the Liberal Party led by David Peterson, who, as Premier, then appointed Sean Conway, Minister of Education. In response to the challenges launched by OSSTF, ALSBO, and MTSB, Conway asked for a Constitutional Reference on Bill 30. The Ontario Court of Appeal held that the financing of separate schools to the end of high school was constitutional.

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<sup>5</sup> *Zylberberg et al v. Sudbury Board of Education* (1988); *Canadian Civil Liberties Association v. Ontario (Minister of Education)* 1990 (is also referred to as *Elgin County*). Both focused on minority groups' freedom of religious and equality rights under the *Charter of Rights and Freedoms* to challenge religious or financial policies practiced by the state in its schools. These two cases also laid the groundwork for *Adler*, which will be discussed shortly (Dickinson and Dolmage, 1997).

<sup>6</sup> Bernard Shapiro was then Director of the Ontario Institute for Studies in Education.

The decision was appealed to the Supreme Court, which ruled in 1987 that Bill 30 was constitutional and the rights of Roman Catholic school supporters to have their children receive instruction at the secondary level had been too restrictive in *Tiny* (Dixon, 1994; MacLellan, 2002; Manzer, 1994).

### **Challenging the Absence of Public Funding for Non-Catholic Schools**

The decision by the Ontario government to extend funding to the end of Grade 13 for the Roman Catholic school system was viewed by some Jewish, Protestant, Muslim, and Hindu organizations as an entitlement that was not afforded to their religious organizations. Despite feeling sidelined by Bill 30, the recommendations from the Shapiro Commission encouraged these groups to become more focused. As a result, religious coalitions emerged in the late 1980s to challenge the status quo. One was the Multi-Faith Coalition for Equity in Education (MFC). A second united Hindu, Sikh, Muslim, Mennonite, and Reform Protestant parents, who joined informally with the Canadian Jewish Congress (CJC) and the Ontario Alliance of Christian Schools (OACS) on the issue of expanding public funding to non-Catholic, faith-based private schools. These faith-based coalitions noted that in the past few decades, Ontario had moved from a predominately White Anglo-Saxon Protestant populated province to a multicultural mosaic that promoted diversity and the inclusion of new immigrants into many aspects of society. So why, faith-based groups argued, should public education be different?

The arguments offered by these faith-based coalitions went on to note that Ontario was no longer the province of yesteryears. In fact, over the past 100 years more than 10 million immigrants arrived from around the globe, making the country and particularly Ontario, one of the most diverse provinces in Canada. While initially most immigrants came from Europe during the first half of the 20<sup>th</sup> century, by the latter half of this century, non-Europeans began arriving in larger numbers as economic immigrants, or refugees, or as family members of previous immigrants. By 1970 close to 50% of all immigrants to Canada originated from Caribbean nations, Asia, and South America, and in the 1980s a growing number came from Africa. As we moved into the 1990s, 58% of Canada's immigrants were born in Asia; 20% were from Europe; and 22% came from the Caribbean, Central and South America, Africa, and the United States. Over 50% settled in Ontario (Statistics Canada, 2007). Table One offers an overview of the percentage of various religious groups that settled in Canada from 1991-2001. As is evident in this table, Muslim, Serbian Orthodox, and Hindu are at the top, while Roman Catholic, Anglican, and United Church immigrants make up a smaller percentage of immigrants coming to Canada during this period (Harper, 1997; Statistic Canada, 2001).

**Table 1 Selected Religions by Immigrant Status and Period of Immigration**

Religion	Immigrated Between 1991 and 2001
Muslim	49.7%
Serbian Orthodox	45.8%
Hindu	42.8%
Buddhist	27.4%
Hutterite	27.3%
Adventist	20.7%
Christian (not included elsewhere) <sup>7</sup>	18.0%
Methodists	15.2%
No Religion	10.4%
Pentecostal	9.4%
Jewish	7.9%
Baptist	6.4%
Roman Catholic	6.0%
Anglican	1.7%
United Church	0.7%

(Source, Statistics Canada, 2001)

As noted earlier, the court system became the place where parents concerned about the prevalence of Christian traditions could challenge these practices and, in some instances, have these overturned. This pattern continued in the mid-1990s, when a group of parents challenged the absence of public funding for private religious schools in Ontario. The case, known as *Adler v. Ontario* rested, in part, on section 2(a) “the freedom of conscience and religion” section of the *Charter of Rights and Freedoms*. These parents asserted that based on section 2(a), their rights were being contravened. The Ontario Court of Appeal in *Adler v. Ontario* ruled that it was constitutional for the Ontario government to refuse to fund non-Roman Catholic religious schools. Two years later the decision was upheld by the Supreme Court of Canada (Davies, 1999; Dickinson & Dolmage, 1996; MacLellan, 1995). Although the groups favouring public funds for religious schools lost the appeal, the Supreme Court noted that while not required to fund non-Catholic religious schools, government has the legal power to reverse this decision by changing the laws. This legal comment opened the door for faith-based, non-Catholic school funding coalitions to begin applying political pressure to Ontario’s political parties to change the laws to meet their needs.

While courts were deciding on whether to grant faith-based private schools the same right as Roman Catholic schools to access public funding, in January 1994, the Royal Commission on Education (RCOL) report, *For the love of learning* was released. Although, the RCOL report did not directly address the question of funding non-Catholic religious schools, the Commissioners’ did recognize explicitly Ontario’s growing multicultural population and the importance of promoting ethnoracial equity in provincial educational policies (Royal Commission on Learning, 1994).

<sup>7</sup> Includes persons who report “Christian”, as well as those who report “Apostolic”, “Born-again Christian”, and “Evangelical”.

## The Ontario Progressive Conservative Government and Private School Tax Credits

The 1995 election of the Ontario Progressive Conservative Party, led by Mike Harris, initiated a series of major changes within Ontario. Particular emphasis was placed on restructuring Ontario's educational sector during the Ontario Progressive Conservative government's two terms in office.<sup>8</sup> In 2000, shortly after being elected to its second term in office, the Ontario Progressive Conservative Government introduced the *Equity in Education Tax Credit* (Bill 45), to enable parents who enroll their children in private schools to qualify for a partial tax credit related to tuition. Parents became eligible to claim 50% of private school tuition up to a maximum of \$3500 per child. The plan was to be phased in at \$700 per year over five years. Interestingly, Bill 45 was being led by Finance Minister Jim Flaherty<sup>9</sup> and not the Ministry of Education (Lewington, 2001).

Bill 45 was viewed as a significant step forward by the Multi-Faith Coalition for Equity in Education (MFC), the Canadian Jewish Congress (CJC), and the Ontario Alliance of Christian Schools (OACS)<sup>10</sup>. While Bill 45 did not fund private schools directly, it did indirectly, through the tax system, support them. Concerns were expressed by public school supporters that, if passed, Bill 45 would encourage families to opt out of the public school system and this would erode money from the public system. Each pupil enrolled in private school would be one less pupil on which to base the per-pupil grants for public school boards. In particular, the Ontario Teachers' Federation (OTF) along with a number of educational stakeholder groups, such as Parents for Education noted as problematic, that private schools have limited accountability and often hire non-certified teachers. The Conservative government estimated the cost of Bill 45 would to be approximately \$300 million per year; however, Liberal and New Democratic officials assessed the annual cost at closer to \$500 million. In response to these concerns, the Ontario government delayed implementing Bill 45 (Canada NewsWire 2001). Although Bill 45, *The Equity in Education Act* was passed in the Ontario Legislature on 28 June 2001, both the Liberal and New Democratic Members of Provincial Parliament (MPPs) voted against Bill 45 (Canada NewsWire, 2001).

In April 2002, with the resignation of Mike Harris as Ontario Premier, Ernie Eves was then elected to lead the Ontario Progressive Conservative party.<sup>11</sup> Upon assuming the Office of Premier, Eves delayed implementing the *Equity in Education Act* until the following requirements could be added to the legislation:

- require that schools assess student progress in the core subjects of reading, writing, and mathematics;
- ensure that parents and legal guardians of pupils enrolled in independent schools are informed of how schools monitor and assess the progress of their children in the core subjects;

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<sup>8</sup> The *Common Sense Revolution* (CSR) outlined major changes to a host of programs and services, particularly in education, that would occur if the Ontario Progressive Conservative Party was elected to office. The Harris Government introduced sweeping change with *The Fewer School Boards Act* and *The Education Quality Improvement Act*.

<sup>9</sup> Flaherty represented Durham-Centre an increasingly diverse and affluent community within the Greater Toronto Area (GTA) As a result of redistribution, Durham-Centre became Whitby-Ajax.

<sup>10</sup> As noted earlier the Hindu, Sikh, Muslim, Mennonite, Reform Protestant parents were affiliated with the CJC and OACS in this issue,

<sup>11</sup> Jim Flaherty was a candidate for the leadership of the Ontario Progressive Conservative Party; however, he lost to Ernie Eves. A portion of Flaherty's leadership campaign rested on continuing the tax credit to fund private schools.



- enhance student safety in independent schools by requiring that schools verify the status of their instructors with the Ontario College of Teachers and share the results of this verification with parents; and
- inform parents and guardians where they can find information about consumer protection from the Ministry of Consumer and Business Services. (Canada News Wire, 2003)

Leading up to the 2003 Ontario provincial election campaign, Premier Ernie Eves, released a platform document titled, *The road ahead* which reaffirmed his government's support for the Equity in Education Tax Credit (EETC). The Liberal Party led by Dalton McGuinty, promised to repeal the EETC, under its plan titled, *The Ontario Liberal plan for education: excellence for all* (Canada NewsWire, 2003). Shortly after being elected to office, the Ontario Liberal government introduced *The Fiscal Responsibility Act, 2003* to assist the government in tackling the \$5.6 billion inherited deficit. One of the clauses in this *Act* called for the elimination of a number of tax credits including the EETC (Canada NewsWire, 2003)

Shortly after the Ontario Liberal government announced elimination of the EETC, Arieh Waldman filed a grievance with the United Nations Human Rights Commission (UNHR), based on the fact that Roman Catholic children in Ontario are entitled to attend separate schools at public expense, yet children of other minority religions do not have the same right. In 2005 the UNHR informed the Canadian government that it must eliminate discrimination on the basis of religion in the funding of Ontario schools. Denying other religious groups this right is a violation of the International Covenant on Civil and Political Rights. Two weeks after the release of the UNHR decision, representatives of the Multi-Faith Coalition for Equal Funding of Religious Schools presented a proposal to federal Justice Minister Irwin Cotler that recommended politically and financially viable ways to extend equal funding to all qualifying faith-based schools. The same report was presented to Ontario Minister of Education, Gerrard Kennedy in December 2005. No action was taken by either the federal or provincial government to this proposal (Canada NewsWire, 2005; Chen, 2007).

### **The 2007 Ontario Provincial Election and Faith-Based Funding**

Within the Ontario Progressive Conservative Party, the issue of tax credits for private schools remained on the agenda of some of its senior members. At the 2004 Ontario Progressive Conservative Leadership convention, candidates Jim Flaherty and Frank Klees were in favour of restoring the tax credit for private schools; however, leadership candidate John Tory was silent on this issue. In June 2007, at the Progressive Conservative policy conference, John Tory, who won the leadership of the Ontario Progressive Conservative Party, publicly announced his support for a faith-based model for education in Ontario. Tory moved from an indirect tax credit to a model that would enable faith-based schools to receive direct funding. Tory surmised that one of EETF's shortcomings was its availability to wealthy parents who did not need a tax credit as a motivator to enable them to send their children to private schools. To circumvent this problem, Tory contemplated the idea of restricting funding to faith-based schools only because this would make wealthy, non-religious private schools ineligible for a tax credit (Tory, 2003).<sup>12</sup>

Table Four (located near the end of this paper) provides a selection of the 2007 Ontario election educational platform issues from the Liberal Party, Progressive

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<sup>12</sup> A number of the wealthy private schools have historically significant religious roots, even though they are not part of the daily activities of these schools.

Conservative Party, and New Democratic Party. In particular, each of the three main political parties offered a significant number of initiatives it would support if elected to lead. What is interesting to note is why the Progressive Conservative's party promise to support faith-based funding percolated to the top amid the other promises.

In August 2007 John Tory commented that Ontario is the only province that pays the entire cost for students who attend Roman Catholic schools and none of the cost for students who attend Islamic, Jewish, or other faith-based schools. Furthermore Tory indicated that some provinces across Canada support varying forms of funding for faith-based schools<sup>13</sup> (Howlett, 2007). For an overview of which provinces provide funding to faith-based funding refer to Table Two.

**Table Two: Faith Based Funding Across Canada**

British Columbia	Partial funding of religious schools
Alberta	Full funding to faith-based and charter public school boards, and 60 per cent funding to private schools delivering provincial curriculum.
Saskatchewan	Full funding to historical high schools and school associated with school districts; partial for others.
Manitoba	Fifty per cent of the funding provided to public schools for operating costs if they comply with provincial standards.
Ontario	Only province that provides 100 per cent funding to Catholic schools but none to all other faith-based schools.
Quebec	Partial funding to established religious schools that follow Quebec curriculum.
New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland	Offer no funding to faith-based schools.

Early in the election campaign, John Tory was not specific in his response to questions about how, if elected to lead, his government would implement faith-based school funding. As public pressure mounted on this issue, Tory became more detailed on how faith-based funding would work; Tory stated he would do the following:

- Immediately after winning 2007 Ontario provincial election, appoint former Premier William Davis to lead a Commission into extending public funding to faith-based schools.
- October/November 2007, Commission would begin stakeholder consultations.
- Spring 2008, based on outcome of consultation exercise, Commission would draw up a plan for a faith-based schooling pilot projects.
- Spring 2008, introduce pilot project into legislature to seek approval.
- Summer 2008, put in place administrative framework for pilot project.
- September 2008, pilot project would begin and be monitored by the Commission.

<sup>13</sup> Estimated that approximately 53,000 students in Ontario attend private, faith-based schools (Howlett, 2007).

- Spring 2009, Commission would release its report of faith-based pilot projects.
- Fall 2009, Ontario government would introduce amendments to the *Education Act*
- September 2010 implement faith-based school funding plan across Ontario. (Mahoney, 2007)

Critics charged that Tory's plans would ghettoize children and unravel the high standards of the public education system, and they wanted more details than just a timeline. In response to these critics, Tory noted his government would require faith-based schools to teach the Ontario curriculum; employ fully credentialed teachers; and participate in accountability measures, including standardized tests and provincial inspections. In addition, faith-based schools would be attached to existing public school boards rather than setting up separate districts for each faith (Agrell, 2007).<sup>14</sup>

In response to comments that members of his own party were critical of public funding for faith-based schools, Tory said he would permit the matter to be decided on a free vote by MPPs. The Conservative Party estimated the faith-based plan would take three years to implement and cost up to \$400 million per year, however, the Liberal Party put the figure at closer to \$500 million.<sup>15</sup> Of the 53,000 students who attend Ontario's private religious schools, it was estimated that about 10,000 would move to publicly funded faith-based schools. Many of the more fundamental Christian schools opposed any direct government intervention and were adamant about not teaching subjects related to evolution and sex education (Sullivan, 2007).<sup>16</sup>

Approximately one month before Ontarians were to go to the polls to elect a provincial party to govern them, a poll was released showing that 71% of those asked totally opposed the funding of private, faith-based schools, while 26% were in total support of funding private, faith-based schools. When asked about their political affiliation, and whether they supported faith-based funding, 55% of those who identified as Progressive Conservative were not in favour of public support for faith-based schools. The main reasons respondents did not support funding faith-based schools were concerns over mixing religion and education along with the opinion that the public education system is not well funded currently. For those who do support the extension of funding to faith-based schools, the opinion rests on fairness, given that the Catholic system is receiving funds, and on the notion that educational funds should be redistributed among more religious groups across Ontario. In addition, at this stage of the election campaign, 40% of those surveyed supported the Liberal Party, 34% supported the Progressive Conservative Party, 16% supported the New Democratic Party and 10% supported the Green Party. Yet with respect to leadership, Mr. Tory was personally more popular at 37% than Mr. McGuinty at 31%, while Howard Hampton received 17%. The survey reported that Tory would also benefit from focusing more specifically on leadership and fiscal matters (The Strategic Counsel 2007a). In particular the authors of the survey noted:

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<sup>14</sup> John Tory cited the example of Edmonton, Alberta where one Jewish and several Christian schools receive public funding and are part of the public school board.

<sup>15</sup> Political and educational critics of Tory's plan estimated the costs to be as high as the previous Ontario Progressive Conservative *Equity in Education Tax Credit* (Bill 45).

<sup>16</sup> Tory also commented that religious schools would be allowed to teach creationism, but later clarified by stating only in religious classes.

The [Progressive Conservative's] PC's religious school plan is 'dead on arrival' for the large majority of Ontarians-with two thirds opposition. Moreover, it is the big factor holding John Tory back; more Ontarians say he would make a better premier than McGuinty, and he doesn't seem to carry the stigma of Harris. This could turn out to be his deal breaker. (The Strategic Counsel, 2007a, p.17)

In early September, the Canadian Jewish Congress (CJC) launched a television, radio, and internet advertisement campaign in an attempt to connect to voters and strengthen the standing of faith-based support in the upcoming Ontario provincial election. The CJC advertisements called for the Ontario government to extend funding to all religious schools, saying that otherwise these religious groups are being unfairly "shut out" of the public school funding system (Alphonso, 2007). That same month, the Canadian Civil Liberties Association (CCLA) released a report titled, *The public funding of religious schools*. The report recommended that "at a minimum, there should be no new funding of any religious schools and, a constitutional amendment should be enacted to terminate the public funding of Catholic schools" (Canadian Civil Liberties Association, p. 20). The CCLA Civil expressed concern that funding any religious-based schools would erode public education, making it more difficult to integrate youngsters from diverse backgrounds into society. On the same day the CCLA released this report, it also funded a half-page newspaper advertisement called, "A joint statement against the funding of religious schools". The statement outlined the CCLA's opposition to any form of funding faith-based school system, which stressed the need to support public schools as vehicles for bringing diverse children together regardless of wealth, status, religion, or ethnicity. The CCLA statement was also endorsed by a list of well-known Ontario public figures. The CCLA also submitted a copy of its report to Minister Education Kathleen Wynne (Canadian Civil Liberties Association, 2007; Lewington, 2007). The CJC media campaign and the CCLA's initiatives put Ontario's Catholic community on high alert. In particular, the CLLA campaign focused on the need to eliminate the historic funding of Roman Catholic schools because, in a province where public schools are viewed as secular, the presence of a religious-based publicly funded system appears unfair to Ontario's new religious minorities (Brown, 2007).

A few days before the Ontario election, Strategic Counsel released its findings from a survey conducted in early October. The results indicated that about 49% of those polled noted that funding of private religious schools had been more significant than the Liberal Party's broken promises, which came in at 39%. Overall, the faith-based funding issue was viewed as having serious implications on the Ontario Progressive Conservative Party and its leader, John Tory because it replaced the initial Progressive Conservative attack on the Liberal Party's broken promises within the minds of those polled. The matter of permitting Members of Provincial Parliament (MPPs) a free vote in the Ontario Legislature on the matter of funding faith-based schools did not really connect positively with Ontario voters, because 60% of those polled said this announcement would not change their opinion on the matter. As the election campaign drew closer, 30% of those polled favoured John Tory, which was a decrease of 7% from the previous StrategicCounsel poll. While McGuinty increased from 31% to 37% and Hampton remained at 17%. This same survey showed the Liberal Party positioned to win a majority government with 43 %, the Progressive Conservative Party at 32%, the New Democratic Party at 18% and the Green Party at 6%. Many observers cited John Tory's support for faith-based funding of private schools for the decrease in support for the Progressive Conservative Party from September to October (The Strategic Counsel, 2007).

A few days before the Ontario election, the *Toronto Star* published results of a poll it conducted in response to John Tory's promise to hold a free vote in the Ontario Legislature, if his party won the election, on the issue of funding faith-based private schools. The poll asked Ontario Progressive Conservative candidates how they would vote on extending public funding to faith-based private schools, if a free vote was held in the legislature. Of the 91 Conservative candidates who responded, 28 were opposed to funding faith-based school, 11 were in favour, and 52 would either hold public consultations or wait for legislation.

On 10 October 2007, Ontarians went to the polls to vote, and the Liberal Party emerged with a majority of the 107 seats in the Ontario Legislature. Both the Liberal and Progressive Conservative parties decreased their share of the popular vote. Compared to the number of voters who cast ballots in 2003, there was a decrease of 73,416 voters in the 2007 election. Voter turnout dropped to 52.8% of eligible voters, which broke the previous record of 54.7% in the 1923 election.<sup>17</sup> Table Three compares the number of candidates elected and the percentage of total ballots cast in 2003 and 2007 along with the change in popular vote between these two elections.

**Table Three 2003 and 2007 General Elections Results for Ontario**

Party	2003 Candidate Elected	2007 Candidates Elected	2003% of total valid ballots cast	2007 % of total valid ballots cast	Change in Popular Vote
Green Party	0	0	2.8%	8.0%	+5.225
Liberal Party	72	71	46.4%%	42.3%	-4.15%
New Democratic Party	7	10	14.7%	16.8%	+2.98%
Progressive Conservative Party	24	26	34.6%	16.8%	-2.98%

Source: Elections Ontario 2003 and 2007

Progressive Conservative Leader John Tory was among the candidates who did not win a seat. Tory was a candidate in Toronto's Don Valley West constituency, and he ran against incumbent/Education Minister, Kathleen Wynne. To return to the survey released by the *Toronto Star* a few days before the election, of the 28 Ontario Progressive Conservative candidates opposed to the extending public funding to faith-based private schools, 10 were elected in their ridings. Of the 11 in favour of extending funding to faith-based private schools, 1 was elected. Of the 52 who would either hold public consultation or wait for legislation to vote on 6 won their seats.

### Observations and Conclusions

To know the degree to which the Ontario Progressive Conservative Party election promise to fund faith-based private schools affected the outcome of the 2007 Ontario provincial election would be difficult to state with confidence at this preliminary

<sup>17</sup> This 2007 Ontario provincial election included a referendum on whether to change from the current single-member-plurality system to a mixed member proportional representation system. Due to electoral redistribution, the number of seats increased from 103 to 107. The 2007 Ontario provincial election was the first held since the province moved to a fixed election date. The date had been set for 04 October but to avoid conflict with the Jewish holiday of Shemini Atzeret, the date was rescheduled for 10 October.

stage of the study. To unpack this issue, a more multi-layered research approach will need to be put in place. What can be offered are some observations that have surfaced within the paper that allude to the historical complexities of navigating the intersection of religion and education in Ontario over the past 140 years. As this paper has demonstrated, from Ontario's early days, mixing religion and education has led to some interesting outcomes.

The question of funding faith-based schools in Ontario is not new; however, what has changed is the context within which this decision is discussed. As this paper has demonstrated, the initial decision in Upper Canada to fund the two main school systems (Protestant and Roman Catholic) was then entrenched in the *British North America Act* (1867). Yet, the decision to fund religious-based schools varied across provinces. In the decades that followed, despite pressure to accommodate the needs of the Catholic community, Ontario's school system remained structured around the original tenets set out by former Superintendent of schools for Canada West (Ontario) Egerton Ryerson.

As Ontario's economy and population expanded in the decades leading up to and then beyond World War Two, the education system also grew quickly. In this post WWII era, the preferential nature of Canada's immigration policy shifted to a system in the 1970s that was inclusive of a broader range of citizens from countries that Canada had not drawn immigrants from traditionally. This immigration shift was coupled with the adoption of multicultural policies by both the federal government and certain provincial governments, including Ontario. For Ontario, these multicultural policies initiated legislation that applied to a variety of provincial programs and services in response to Ontario's increasingly diverse population.

In 1982, passage of the *Charter of Rights and Freedoms* offered faith-based school leaders a chance to employ the *Charter* to balance the historical preference of publicly funding only Roman Catholic schools with that of religious private schools that were not funded publicly. The decision to extend public funding to Ontario's Roman Catholic schools to the end of grade 13 was seen as a step back by many of these faith-based school leaders and they vowed to continue to use the courts to correct this situation. In some cases, these groups were successful in eliminating Christian practices that ran counter to Canada's *Charter* legislation. In early 2000, the issue of indirectly funding private schools emerged as Bill 45 *The Equity in Education Act*. In 2003, this *Act* was terminated by the McGuinty Liberal government.

The re-emergence of funding faith-based private schooling as the key issue of the 2007 Ontario election was criticized by observers because of the lack of attention paid to other pressing educational issues. In addition, concerns related to unstable health care, lack of affordable housing, deteriorating urban infrastructure, and growing environmental problems were not given adequate attention from provincial political leaders during the 2007 Ontario election. Even the issue of Premier McGuinty's record of broken promises during his first term in government was relegated to the back of the election line. To the dismay of many, this Ontario election campaign did not resonate with voters, which was evident in the low turnout rate that might have stemmed from when media outlets began announcing a Liberal majority (Urquhart, 2007). Shortly after the election, John Tory issued a mea culpa for his party's inability to form the next Ontario government, which he blamed on his support for funding faith-based private schools. This admission enabled Tory to regain the support of his caucus, and then in February 2008, hold onto his leadership of the Ontario Progressive Party (Ferguson, 2008; Howlett & Galloway, 2007).

The issue of deciding whether to extend funding for faith-based schools beyond Ontario's current model has once again opened a divisive political, judicial, economic, and social issue. The final section of this paper will draw from some of the ideas offered

by various groups or individuals noted in the paper to restructure Ontario's educational system in response to the issue of faith-based public school funding. These options are offered here to highlight some of the benefits and costs of each approach. The approaches outlined here are not an exhaustive list with regard to this issue. The options are: maintain the status quo, fund faith-based private schools, or eliminate funding to all religious schools.

### **1. Maintain the Status Quo**

This is the approach that has been the basis upon which Ontario's educational system has been structured since the mid-1800s. Historically, Protestant and Roman Catholic schools were recognized as the only options available to parents and students who wanted their children attend a publicly funded system. Over the years, the Protestant system has become somewhat secular. What distinguishes the separate system from the public system is the focus on Roman Catholic religion and traditions that underpin its educational philosophy and mission. Under the status quo approach, the two systems would continue with the public system positioned to accommodate and embrace the diversity of faiths and cultures present in Ontario so these are recognized more fully within the province's educational system. For the benefit of their students, Catholic schools would be encouraged to include a diverse group of faiths in their religious education classes. Overall, the constitutional and funding arrangements would not change under this approach.

### **2. Fund Faith-Based Private Schools**

Re-introduce this approach along the lines outlined by Ontario Progressive Conservative leader John Tory during the 2007 Ontario provincial. Private, faith-based schools would receive public funding but be required to follow the *Education Act* along with other pieces of legislation that the Ministry deems necessary to provide a positive learning environment for children attending faith-based, private schools. In essence, these schools would need to be open to allowing students who may not be from their faith to attend as long as parents who chose this option were aware and agreed to the teachings his/her child would be receiving. There would be consideration in relation to some aspects of religious accommodation but this would be considered on an individual school basis. In addition, there will need to be attention paid to using the formula of where sufficient numbers warrant before agreeing to fund some faith-based schools that have low enrollment.

Some observers have compared this approach to the establishment of alternative schools in a number of school boards across Ontario. These alternative schools "offer parents and students something different from mainstream schooling" (Toronto District School Board, 2008). While Ministry of Education approved courses are delivered in these schools, they are done so in a learning environment that is flexible and meets the needs of individual students. The Toronto District School Board (TDSB) funds 26 alternative schools for students, some of these school are for students who are: gifted academically, musically inclined, or cognitively challenged. These alternative schools operate within the public schools system. One option would be to recognize faith-based schools using this alternative school model so these schools would receive public funding but be required to follow Ministry of Education guidelines. Faith-based schools not willing to participate in this approach would remain private and self-funded.

### 3. Eliminate Funding to All Religious Schools

During the latter part of the 2007 Ontario provincial election campaign, the Canadian Civil Liberties Association in its report *The public funding of religious schools*, recommended no new funding for any religious schools and the elimination of funding for Catholic schools. The authors of the CCLA stressed that it is unfair and no longer historically necessary to publicly support the Catholic school system, given Ontario's focus on promoting ethnocultural policies across a range of provincial programs and services. The CCLA noted that the public education system should strive to acknowledge, affirm, accommodate, and celebrate the diversity of faiths in Ontario's multicultural society. The CCLA option would be opposed strongly by Catholic leaders across Ontario who have worked to maintain and build a publicly-funded Catholic learning community stretching over 140 years. The CCLA report surmises that public schools are the vehicles through which we can build on diversity and incorporate ethnocultural programs into school programs. Supporters of a secular publicly-funded system offer Newfoundland as an example of a province that had five religious-based publicly funded school systems for generations. However, Liberal Premier Brian Tobin held a second referendum and then obtained the necessary constitutional amendment from the federal parliament to transform the province's educational system in 1998 (Chung, 2007).<sup>18</sup>

Each of these three options has its strengths and weaknesses in relation to responding to the question of publicly funding faith-based schools. The combined issue of religion and education is not likely to go away now that the 2007 Ontario election campaign has ended, or even after John Tory admitted that he erred in including this on his 2007 Ontario election platform. Education is a key socializing function within our society and, as Ontario's population continues to become more diverse, determining which educational decisions will be supported by politicians becomes even more critical for citizen and groups to have their voices heard and acted upon. The 2006 Census showed that recent immigrants born in Asia (including the Middle East) made up the largest proportion of newcomers to Canada (58.33%) which is significantly greater than the 12.1% of recent immigrant from this same category in 1971. Toronto, Montreal, and Vancouver were home to 68.9% of the recent immigrants in 2006. There are some signs that immigrants are choosing to settle in smaller metropolitan communities such as Calgary, Edmonton, Ottawa, and Hamilton (Statistics Canada, 2007).

The significance of these figures points to the continued increase of Canada's immigrant population as crucial factor in the country's future. This is especially important in Ontario, which is the recipient of a majority of immigrants coming to Canada. With the growth of particular immigrant communities comes influence in terms of lobbying for changes in a host of social and policy areas, including education. Many new Canadians may opt for enrolling their children in the public school system, while supplementing this with cultural and religious classes which they finance. Others may view the presence of public funding for the Catholic school system as a catalyst for once again pressuring the Ontario government to expand funding to their communities as a way to recognize diversity through education.

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<sup>18</sup> The first referendum to end public support for faith-based schools was held in 1995 by Liberal Premier Clyde Wells, and it passed by a slim margin; however, this plan still allowed religious schools to be established where numbers warrant. The second referendum was held in 1997 by Liberal Premier Brian Tobin, and it received 73% of the vote. The Catholic and Pentecostal communities launched a court injunction but it failed. In 1998, Newfoundland and Labrador introduced a single, publicly-funded secular system.



In an interesting twist of fate, in early May 2008, Premier McGuinty announced that an all-party committee would be studying the proposal to terminate the Lord's Prayer from the daily proceedings of the Ontario legislature. This announcement resulted in 5,700 email submissions from the public, which temporarily crashed the legislature's website along with hundreds of phone calls requesting that the tradition be upheld. Even Premier McGuinty's mother criticized her son's government for considering this proposal. While this sidebar issue does not relate directly to the issue of funding faith-based schools, it demonstrates the extent to which religious traditions and practices can still initiate a quick response from some members of the public (Puxley, 2008). Perhaps it would be naïve to consider the Ontario 2007 election results having settled the issue of public funding for faith-based private schools.

**Table Four: Selection of 2007 Ontario Election Platform Issues for the Liberal Party, Progressive Conservative Party, and New Democratic Party**

Liberal Party	Conservative Party	New Democratic Party
Expand after-school homework help and introduced online homework help.	Increase public education funding by \$800 million in the first year to at least \$ 2.4 billion more in the fourth year	Committed to fairness in education so all kids have an equal start and get the education they deserve
Create specialized schools in every school board. These schools will appeal to young people with strong interests in the trades, math, science, arts, and athletics.	<b>Take action to bring faith-based schools into the public system, by creating an opportunity for non-Catholic, faith-based schools to choose to join the publicly funded education system the same way Catholic schools have already done.</b>	Every child in Ontario has a right to an excellent school, properly staffed with programs children need.
Increase ESL funding another 18% and special needs funding another 8%.	Move to a better, more sensible way to reduce class sizes. The key is allowing local flexibility so that school boards can decide the best way to use their resources.	Provide resources needed by children with autism and special needs by funding Intensive Behavioural Intervention (IBI) services.
Expand Family Literacy Centres across the province, so children from all backgrounds arrive at school ready to learn.	Repair schools and upgrade them to acceptable standards. Open more schools for community use for evening and weekend activities.	Expand early childhood education to include full day junior and senior kindergarten and expand ESL
Create \$150 million Every Student Fund for students in grades 4-8 as the next step in closing the gap in supports for elementary students.	Ensure a safe, secure learning environment for students and staff in Ontario's schools.	Provide school board with stable, long-term funding so children's education does not suffer
Expand the successful Pathways to Education program, to give more students from at-risk neighbourhoods a fair shot at success.	Continue to invest in early child hood education, building on the success of the early learning centres.	Stop forcing parents to raise for school essentials by introducing the Local Priorities Grant for individual school needs.
Create teams of social workers, youth workers and police to work with at-risk students to make sure they have support they need to succeed.	Ensure English as Second Language (ESL) program to those who need it.	Provide schools with the resources to conduct annual public reviews of the funding formula
Provide \$10 million to prepare schools to deliver Intensive Behavioural Intervention (IBI) therapy on-site for the first time.	Expand standardized testing. Standardized tests are an effective measure of how students' measure up to Ontario's standards, as long as such tests supplement, but never replace, hands on knowledge.	Terminate the practice of some schools boards that charge for tutorial services for children who are experiencing academic difficulties.

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