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Refusing to be Licensed: Alberta Fundamentalist Christian Schools in the 1980s

Michael Wagner

During the late 1970s and into the early 1980s, Alberta experienced a significant growth in the number of religious private schools operating in the province; however, many of them did not obtain a license as was required by legislation. The provincial government began to deal with this situation by the early 1980s and, in a few instances, legal action resulted. Ultimately, one such case reached the Supreme Court of Canada, and the decision in that case continues to have important implications for parental rights in education. This article looks at why Christian fundamentalists refused to obtain government licenses for their schools, and were willing to face court action, and even go to jail, for this cause. While this conflict occurred primarily during the 1980s, the issues are relevant today. With the growth of home schooling in Alberta, similar concerns are likely to reappear.

The Holdeman Private School Case

Although there had been a small number of unlicensed Mennonite

private schools in Alberta by the mid-1970s, the number of unlicensed schools increased noticeably after a court case involving one Mennonite private school in 1978. This court case involved the Holdeman Mennonites in Linden, Alberta, who withdrew their children from the local public school and began operating a private school in September 1977. The Holdemans had applied for approval to operate the school from the Department of Education, but approval was refused due to concerns about the curriculum and the use of noncertificated teachers. They went ahead and opened their school anyway, and the local school board initiated legal proceedings to have the school closed. One of the Holdeman parents, Elmer Wiebe, was selected to be tried for violating the compulsory attendance provision of the School Act (Levy 1979, 120-24).

By the time the case went to trial in January 1978, the provincial court had taken over the prosecution from the school board. Nevertheless, Elmer Wiebe was acquitted using the Alberta Bill of Rights'

guarantee of freedom of religion, having argued that he had a right to have his children taught in a school that upheld his religious beliefs. The judge agreed with his argument. Instead of appealing the decision, the provincial government changed the regulations governing private schools, allowing a new category that accommodated the Holdeman school at Linden, and opened the door for other groups to start similar schools (Levy 1979, 124-28). This was significant for the future of religious private schools in Alberta.

The Unlicensed Private Schools

In spite of the creation of the new category of private schools, a number of groups that had not received the required approval of the Department of Education began to operate private schools. Apparently the *Wiebe* decision encouraged the opening of these unlicensed schools, since religious groups that desired schools believed they were no longer under threat of successful legal action

against them. As well, school boards were deterred from initiating legal action for fear of losing. By the end of 1981, 18 of these schools were known to be operating (Hop 1982, 164–67).

In 1984, when the government decided to ensure that these schools received the requisite authorization, there were 26 operating in the province. By September of that year, all but three schools had cooperated with the government or had shut down. All three were taken to court, but only one case proceeded beyond the lower court level. However, the school involved in that case, Western Baptist Academy, was already in court on related charges when the other unregistered schools were contacted by the government (Wagner 1998, 213).

The Jones Case

Western Baptist Academy was a private school operated by Western Baptist Church of Calgary, and the pastor was Larry Jones. Jones had withdrawn his children from public school and established a private school at his church in the late 1970s (Jones 1987, 1, 9). In March 1983, Jones was charged with aiding truancy since three of his children attended his unauthorized private school, Western Baptist Academy. The children were considered truant because the school was not recognized by the government. Jones was acquitted at his first trial, at least partly because a recognized expert in educational testing had testified that Jones' children were receiving "efficient instruction." This was important because the purpose of requiring private schools to receive a license was to ensure that children were receiving efficient instruction. The government

appealed this decision, but Jones was again acquitted. Again the government appealed, and in 1984, Jones lost at the Alberta Court of Appeal. This time he appealed, and the case went to the Supreme Court of Canada. The Supreme Court ruled against Jones in October 1986 (Carr 1987, 9–11).

After that ruling, Jones was again charged with truancy. He was convicted in August 1987, and faced a penalty of a \$250 fine or 30 days in jail. He refused to pay the fine and was jailed on October 7. After being released he continued to operate the school (Bercuson 1988, 15). As another showdown with the government developed, a deal was reached with Jones that allowed his school to remain open without violating his religious convictions. This brought the conflict to an end (Wagner 1998, 216). Nevertheless, the settlement had come only after years of conflict and considerable legal expense.

Reasons for Refusing a License

The question that naturally arises is, "Why would these people fight so adamantly to resist a government license for their school?" The answer to this question can best be derived from the writings of those holding the anti-license position. Thus articles by Pastor Larry Jones himself, his lawyer Philip Carr, fundamentalist Pastor Jake Johnson of Edmonton and another Alberta-based fundamentalist, Richard Reid, will be analyzed to derive the answer.

Frequently, the basis for the conflict between the fundamentalists and the government is stated in the form of questions. Richard Reid (1985, 1) puts it this way:

"The primary question concerning the whole issue of the government wanting to accredit or license the Christian school is, 'Who is responsible for the children of this province?' and 'To whom do the children belong?'" In his view, the conflict revolves around the control of children. Jones saw that as only one of two significant issues. In Jones' words, "Our controversy with the government is over two important matters, the first being who owns the children—the second, who owns the church. We believe the owner has absolute right of control" (1987, 13). Carr (1987, 5) agrees with the way in which Jones frames the conflict, noting that in the dispute with the government, "the following questions therefore arise: 1). Who owns the Church? 2). Who owns the children?"

The Church-State Issue

Thus the rationales for opposition to government licensing of private Christian schools can be divided into two categories: beliefs about authority over the church and beliefs about the role of parents versus the role of the state in the education of children. Regarding the former, the fundamentalists saw their schools as ministries of their churches. Therefore, they considered any government authority over their schools as government authority over their churches, and thus a violation of the principle of "separation of church and state." If the school is part of the church, control over the school unavoidably means control over the church. This line of reasoning is clearly advanced by Reid (1985, 4):

To license the school is to license part of the church. The ultimate end is to license our Sunday

School and Vacation Bible School. Again Christ is Lord of all, including the church, but specifically, He is Head of the church (Ephesians 1:22; 5:24). To license church school staff is to license church staff. The ultimate end in this procedure is to license the church pastor. This, of course, is exactly what has happened in socialist and communist countries.

The theological position that Christ is head of the church means that licensing the church's ministry is, in one sense, usurping Christ's authority over the church. Lawyer Philip Carr (1987, 5-6) puts it this way:

Because the church belongs to Christ, we have no right to "give her away" to the government (or anyone else, for that matter). The operators of educational ministries believe that seeking government licensing for their ministries is no less than handing the bride of Christ over to the government. Since ... God *commands* parents to educate their children, these individuals state that it is improper to then ask the state for *permission* to educate these same children. When God commands something, you obey His command; you do not ask anyone else for permission to do so.

The parents see themselves as fulfilling their religious duty to educate their children through a church ministry, and any government involvement in this process inevitably entangles the government in church affairs. Thus, to protect the sanctity of the church, government licensing or registration of their private school must be rejected. By desiring to license their school "the government authorities are seeking to place

themselves above God and his authority" (Carr 1987, 6).

Parental Rights in Education

As one can see from the extended quotation from Carr above, it is difficult to separate the issue of parents' responsibility for the education of their children from the church ministry issue. The focus of dispute really seems to rest on the fundamentalists' view that they are responsible for their children's education, and that the government should have no role in that education.

To the fundamentalists, parents are stewards of the children that God has entrusted to them, and the state should not intrude between those parents and God. God tells the parents (through the Bible) how to raise the children, and the parents are expected to carry out God's wishes. The state does not enter this picture.

God owns the children. He loans them to their parents. As such, children are a gift from God to parents. They are not a gift from God to the government, nor from government to the parents. The government has no role in the raising of children except in cases of imminent peril where children's lives are in danger. (Carr 1987, 7)

This is the fundamentalist view; the government should not be involved in the education of their children. Therefore if the government is allowed to be involved, even simply by licensing their school, the parents have abdicated at least some of their responsibility. Edmonton fundamentalist pastor Jake Johnson (1987, 2) puts it this way:

Christian parents who accept state licensing of their schools

acknowledge, by their acceptance of the license, the ultimate authority of the state over the material which is taught to their children, over who is allowed to teach them, and over the values and life-goals which are inescapably taught in the education which they receive. They may not have intended to acknowledge this, but wittingly or unwittingly, this is what they have done.

Education is a matter that concerns God, the parents and the children, and if the government is granted a role, that means the parents have surrendered part of their God-ordained responsibility.

It was primarily for this reason that Larry Jones refused to obtain a license. He refused to abdicate what he saw as a responsibility given to him by God.

I cannot receive a license—a license is permission by a higher authority to a lesser authority. There is no higher authority than God—by His Word He commanded me to teach my children just as clearly as He commanded me to preach and witness for Him. To accept a license would be a compromise of a Bible principle. (Jones 1987, 11)

Indeed, he saw his conflict with the government as an attempt by the government to get control of the children. But he was adamant in his refusal to give up that control.

The state is not primarily concerned about the quality of education as much as they [sic] are about being in control. ... [Q]uality education is not the issue. The state wants control of our children, they [sic] want us to submit to Caesar in every area of our lives. We will not give to the [sic] Caesar the things that belong to God. (Jones 1987, 11)

Children are God's property on loan to parents, and the government should therefore not usurp the role that God has given to parents. This struggle over who has the ultimate say in the education of children, parents or the state, was the fundamental issue.

Education as Inherently Religious

Richard Reid was perceptive in raising one other issue, although it does not seem to have played a large role in the conflict in the 1980s: the Christian belief in the religious nature of education. He states that "the Word of God teaches that education is a religious matter" (1985, 3) and goes on to say how that is relevant to the struggle between the fundamentalists and the government. "Regulation of education is, in fact, regulation of thought and faith. To regulate what is taught, how it is taught, and who is to teach it is to establish the final results of faith" (1985, 4). More specifically,

The philosophy of the provincial educational establishment is adversely opposed to the Christian philosophy. To allow the provincial Department of Education to regulate our educational process is to:

1. Try to mix incompatible philosophies of faith.
2. Permit Christian schools to slowly become like the provincial schools in philosophy and faith.
3. Incorporate the problems of provincial education into our system. (Reid 1985, 4)

The philosophies of education of the government and the fundamentalist schools was incompatible,

thus government regulation of those schools was inappropriate. While many nonfundamentalists would also see education as being inherently religious, they would not see the difference between themselves and the government as antithetical, as the fundamentalists did. Nevertheless, this argument was not used prominently during the conflict with the government. The issue of parental rights versus the role of the state in education was paramount.

Conclusion

Although the conflict described here took place during the 1980s, it has more importance than mere historical trivia. For one thing, even though Jones lost his case, the Supreme Court decision set new parameters for parental rights throughout Canada. In this sense, his dispute with the Alberta government has had nationwide implications that are felt today. Furthermore, there seem to be increasing numbers of people questioning the role of the traditional public education system, with increasing numbers of children attending alternative schools within the public system, charter schools, as well as private schools and home schooling. In particular, there is evidence that some home schoolers are refusing to register and are holding to religious principles similar to those advocated by fundamentalist private school supporters in the 1980s (Sillars 1997, 30). Alberta's educators should be aware of these issues, and the relationship between past conflicts in the province and the

potential for conflict between religious home schoolers and the government in the future. If some home schoolers continue to reflect the view of people like Larry Jones, it is not unlikely that Alberta will once again see court cases between fundamentalists and the provincial government. By understanding what occurred in the 1980s, educators will be better able to understand the conflict that could re-emerge before the end of this decade.

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