

# Civil Rights In Public Education, Inc.

All human beings are born free and equal in dignity and rights  
UNIVERSAL DECLARATION OF HUMAN RIGHTS



Fall 2018

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## Legal Update: It's taking longer than we'd hoped, but we also want it done right. So we'll wait.

OPEN is a coalition of organizations and individuals who have retained the law firm of Dewart Gleason LLP to challenge the current public funding of separate schools on the grounds it violates s.15(1) of the *Charter of Rights and Freedoms*. We of course would like our lawyers to file the application immediately but we know they need to obtain as much evidence as possible because our application will be challenged by the Ontario government.

We have four possible lines of attack. Three of our attacks rely on the reasoning that various legal and other developments since 1987, including the decision by Quebec in 1997 to stop funding separate schools, justifies asking the Supreme Court of Canada to re-examine its *Reference re Bill 30* decision which decided the *Charter of Rights* does not apply to the funding of separate schools. But there is one argument that

does not rely on overruling the *Reference re Bill 30* case and which has already been successful in a 2017 lower-level case in Saskatchewan [*Good Spirit School Division v Christ the Teacher Separate School Division*, 2017 SKQB 109]. Saskatchewan, like Alberta and Ontario, has public funding of separate schools at approximately the same level as public schools.

Both sides agreed they were not challenging the 1987 *Reference re Bill 30* decision. But the public school board argued that the non-application of the *Charter of Rights* applied only to the funding of **Catholic** students in separate schools. It did not apply to the funding of **non-Catholic** students in separate schools. The judge agreed.

In March 2018, our lawyers sent out Freedom of Information requests to all 37 separate school boards asking for information on

a number of issues, including how many of their students were Catholic, etc.

Some of the boards replied promptly, in a professional manner. Some did not, requiring repeated time-consuming email and phone follow-ups or requests for clarification.

As we have received most, but not all, the replies, we cannot give the final results. The number of non-Catholic students is in a range.

But there are definitely some boards for which not being funded for non-Catholic students would make a difference. For example, the Hamilton-Wentworth CDSB with an elementary student population of over 18,000, has about 23% non-Catholic students. At the secondary level, about 33% of its students are non-Catholic.

Ontario is not the same as Saskatchewan, and the Saskatchewan decision is being appealed. But though it is taking longer than we want to obtain the relevant information, this course was definitely worthwhile pursuing. It might not in itself destroy the separate school system, but it should inflict serious damage.

By Reva Landau, OPEN's leader, and legal advisor.

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## Catholic schools and human rights: A deep contradiction

From an article by ROSEMARY GANLEY

Which appeared in the October 11th issue of the Peterborough Examiner

Homophobia in the Hallways: Heterosexism and Transphobia in Canadian Catholic Schools, is the title of a book by Prof. Tonya Callaghan of the University of Calgary. The contents are the result of research done for her PhD at the University of Toronto. Prof. Callaghan presented her findings to a full crowd at Trent University near Peterborough, Ontario.

Citing section 15 of the Canadian Charter of Rights and Freedoms, which prohibits discrimination based on gender and sexual identity, she pointed out the clash with official Roman Catholic teachings on all manner of sexual issues, but particularly homosexuality.

Despite the harmful words of Canon law in the Catechism of the Roman Catholic church which describes homosexuality as “intrinsically disordered” and “contrary to natural law”, many RC schools just call it “hate the sin but love the sinner”.

RC teachings on sexual matters is characterized by a condemnation of contraception, abortion, masturbation and divorce.

While publicly funded schools are required to have elections for boards to oversee schools under their care, many trustees will tell you that the ultimate authority for curriculum and policy lies with the bishop of the diocese.

That being the case, Prof. Callaghan also observed flagrant abuses of human rights. In one case, a teaching assistant in Alberta was fired for attempting to have a child with her same-sex partner and another teacher was fired for transitioning from female to male. Heterosexual allies have also been subject to penalties. One straight ally was fired for putting up a supportive poster.

In some Roman Catholic schools homosexual youth are referred to a “reparative” program “Courage International” for a conversion therapy which has been denounced by psychologists.

“The Vatican,” Callaghan said, “exercises a hegemonic\* force within Catholic schools.”

*\*hegemony: the domination of one state or others in a group.*

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<https://www.thepeterboroughexaminer.com/opinion-story/8957594-catholic-schools-and-human-rights-a-deep-contradiction/>

Thanks to CRIPE members for your patience. This court case will probably be our last hurrah, but you will be kept informed until the deed is done. Our strength helped to get this effort started, and we will finish it in grand style.

### About the word “merger”

#### **School trustee candidates push for one unified board**

Candidates running for local school board trustee in the public and Catholic systems advocated for the merger of their respective boards into one.

By Mary Caton of the Windsor Star Updated: October 3, 2018

#### **Note from CRIPE**

School "boards" are not the same as school "systems". Only two excerpts from the newspaper article are necessary, as follows, with bold type added, to find out what they really mean by a "merger": It appears that they want one "board" to oversee the operation of the two "systems" - Public, and Roman Catholic.

End of note from CRIPE.

**Renaud emphasized that “Catholic schools would stay open. It is not part of this plan to shut down schools.** It’s not about Catholic education, it’s not about Catholic schools, it’s about putting students first.”

\* \* \*

Halberstadt and Renaud **want the savings from eliminating duplication in administration and marketing** plowed back into the classroom and in particular, into programming for special needs students “which always seems to be underfunded,” Halberstadt said.

**The message:** Every time you see the word “merge”, read carefully to determine what the writer actually means. **Don’t be fooled!**

# It's time to merge\* Ontario's two school systems

From <https://theconversation.com/ca> for "Academic rigour, journalistic flair"

Canada Edition July 22, 2018

The era of two school systems in Ontario should be riding into the sunset. There are enormous cost savings and community benefits to be had by merging\* the public and separate school systems.

There is a pressing need to consolidate Ontario's separate and public school systems.

Long ignored by most politicians, this controversial idea deserves a fresh and serious policy discussion — especially now, with the new Ontario government contemplating cuts to the education system. School consolidation will result in significant and recurring cost savings, and will do so in an equitable manner that does not threaten existing services or facilities.

Consolidation of school systems will save money by eliminating service duplication, and it will eradicate enrolment competition between the two systems.

And contrary to a widely held perception, denominational schools are not necessarily protected by Canada's Constitution, as previously demonstrated in the provinces of Manitoba, Newfoundland and Labrador, and Québec.

## Huge potential cost savings

A 2012 discussion paper from the Federation of Urban Neighbourhoods estimates annual savings of between \$1.269 and \$1.594 billion by merging the systems.

The organization, a province-wide coalition of community and neighbourhood associations, looked at several factors, including savings from grants for administration, capital costs, reducing under-utilization and transportation costs.

\*See page 2.

In the Canadian Secular Alliance's 2015 pre-budget submission to Ontario's Ministry of Finance, the organization stated that while "the exact savings realized depend on what the amalgamated school system that would replace the status quo would look like, the savings under any reasonable set of assumptions amount to hundreds of millions of dollars per year."

The alliance also pointed to the duplication costs arising from "operating schools well below enrolment capacity and otherwise unnecessary student transportation distances."

While the estimates of cost savings may vary depending on how the consolidation would be implemented, a fiscal analysis needs to be undertaken in a non-partisan and verifiable manner.

## Eliminating competition for students

There is currently student enrolment competition between the separate and public systems as separate school boards try to woo non-Catholic kids. This competition is unhealthy, inconsistent with the purposes for which denominational schools were first established and a waste of school system resources.

John Hendry, a trustee with the Waterloo Region District School Board, argues that attempts to enrol non-Catholic students show that the separate school system is facing significant difficulty surviving as a "faith-based education system solely with Catholic students."

Catholic schools in Ontario are trying to attract students who aren't Catholic for funding purposes.

These same concerns were dis-

cussed in a 2016 *Globe and Mail* report showing that Ontario separate school boards are increasingly enrolling non-Catholic children and "siphoning students from the public stream as the two systems vie for provincial funding."

Single-school, rural and inner-city communities face particular risk for school closures given Ontario's current educational funding formula. It has become purely a numbers game when it comes to the continuance and future of many of these schools.

It's a real challenge to keep a school up and running, and by extension keep a community viable, when students in that community are channelled into competing school systems. While a community or neighbourhood may be able to keep its local school open if all children residing there attend that school, splitting the potential student body into parallel school systems makes the risk for closure of the local school much greater.

## Ontario should follow

### Québec, NL's lead

As mentioned, it's often argued that consolidation is not permitted because the rights of separate schools to maintain their status are constitutionally protected. While Section 93 of the 1867 Constitution provides for the continuation of the separate schools' denominational rights, it could be easily amended.

The 1982 Constitution Act, which included the Charter of Rights, updated the amendment procedure for the 1867 Constitution. Section 43 provides that where a provision applies to one or more, but not all, of the provinces, it can be amended by

resolution of the provincial assembly and the federal Parliament. Québec and Newfoundland have already invoked this clause, and Ontario can do the same.

In an opinion piece for CBC News, Richard Moon, a University of Windsor law professor, writes that Section 93 was drafted at a time when the dominant public or common school system in Ontario had a clear Protestant ethos. The protection for denominational rights ensured that members of the minority Roman Catholic community would not be pressured to send their children to the Protestant schools.

But Moon points out that the "character of the public school system in Ontario has changed dramatically since 1867, a change that has been accelerated by the Charter of Rights in 1982."

Moon's analysis of these changing conditions is shared by Queens University law professor Bruce Pardy, who walked through the procedures needed to amend the Constitution to permit consolidation.

Unlike the more complex process for amending other constitutional provisions, consolidation would only require the passage of a resolution by the Ontario legislature and the federal Parliament. Pardy concludes:

Any politician who claims that there is a Constitutional guarantee to Catho-

lic schools that binds the government is being disingenuous. The only thing that sits in the way of fixing a discriminatory and unfair constitutional anachronism is the reluctance of Ontario politicians to do so.

Before imposing harmful cuts such as the recent suspension of the building repair fund and closing more schools, the Ontario government should initiate a discussion about how consolidation could proceed.

An underlying goal of consolidation should be to minimize the disruption to existing programs and services. While discussions would likely centre on estimating cost savings, the social costs of maintaining separate systems should also be considered. For example, how would consolidation impact the travel times to schools for students, especially in rural areas?

Hopefully the matter of school consolidation will not become yet another partisan issue. All Ontario parties should cooperate, and all levels of government should be considered in the analysis.

It is no longer viable to dismiss the issue on the grounds of Constitutional entrenchment. It is clear that the law can be easily changed through a simple resolution at Queen's Park and in the Federal Parliament.

All that's truly needed is the political will to take on a difficult issue and move forward.

ting the kibosh on Catholic education.

Two Western University professors — one in the faculty of law and the other in the department of management and organizational studies — have made the case for merging Catholic and public school systems in Ontario.

"I'm not an old Protestant Orange person with prejudice toward Catholics, and neither is my co-author. We're both university professors," law professor Sam Trosow told *The Catholic Register*.

Trosow's co-author Bill Irwin holds a PhD in education and specializes in the issue of school closures. Together they wrote "It's time to merge Ontario's two school systems" for the well-regarded online policy journal *The Conversation*.

Since Quebec and Newfoundland ceased funding for Catholic education in the 1990s, only three provinces remain that give public funding and official status to Catholic school boards. In each of Alberta, Saskatchewan and Ontario there are concerted lobbies trying to defund the Catholic systems.

Trosow and Irwin argue that if Doug Ford's new Progressive Conservative government wants to find savings, freezing the \$100 million school repair fund — as the Conservatives did within weeks of taking office — is only going to make the eventual repair bill worse. Whereas eliminating Catholic school boards and their administrations could save between \$1.269 billion and \$1.594 billion a year.

"They keep throwing this number out and I really don't understand how they arrive at that. It's very frustrating," said Ontario Catholic School Trustees Association president Beverly Eckensweiler. "The way it is funded is per pupil. Every little butt in the classroom in the chair is how

## Study proposes merging\* Ontario's Catholic and public boards, heating up a long-running debate

By Michael Swan, The Catholic Register

It isn't just polls that show more than half of Ontarians wish there were no publicly funded Catholic schools.

There are organized campaigns to  
\*See page 2

get rid of Catholic boards. Lawsuits are being prepared that will argue publicly funded Catholic education violates the Charter of Rights and Freedoms. And now serious academics are making the case for put-

we're funded. So, with that comes the number of teachers you need, transportation and all that. So tell me how that is going to save money?"

Whether the students are all enrolled in one big board or in four separate boards (English Catholic, English public, French Catholic and French public) it all amounts to exactly the same number of students and exactly the same total of per-student grants, said Eckensweiler.

Vast duplication of administrations and costs between Catholic and public boards is mostly a fantasy, she said. Boards throughout the province pool their resources for purchasing supplies, co-ordinate on bus routes so the same bus picks up both public school and Catholic kids along their routes and all 72 boards participate in the province-wide Ontario Education Services Corporation, which sources software, training and other services.

### **The numbers**

"Where they're talking about they will save all this money is beyond me," Eckensweiler said.

The numbers in Trosow and Irwin's article come from a 2012 study for the Federation of Urban Neighbourhoods, a coalition of neighbourhood associations across Ontario.

### **The polls**

But worries over the survival of Catholic education may not end with a couple of professors in London, Ont. This summer an IPSOS poll found 56 per cent of Ontarians were in favour of merging public and Catholic systems and only 26 percent in favour of the system as it stands. It's a result consistent with polls going back more than a decade.

So far less than a third of those polled (30 per cent) think merging the school systems is an important or urgent issue.

But popular opinion isn't going to stampede the Catholic system into

trying to change people's minds, Eckensweiler said.

### **The struggle to keep RC schools**

"I know it's always been a struggle to keep Catholic education, but we will continue to struggle and we will continue to fight for it," she said. "We have a lot of organizations and people who want Catholic education. Maybe we don't hear from them as much as we hear those other voices."

Those other voices include a candidate running for the Windsor-Essex Catholic District School Board. Eric Renaud, a 27-year-old graduate of Windsor's Catholic schools, is running on the idea that ratepayers and the government will save money if public and Catholic systems merge.

### **Cost savings**

"Let's be honest — the PC government is looking for cost savings," Renaud told the *Windsor Star*. "And this is the best way of giving them that without affecting front-line services."

Against the likes of Renaud, Eckensweiler holds up 2.3 million Catholic ratepayers who have registered as Catholic school supporters. The OCSTA's big worry is that there are even more Catholics out there who think they're Catholic school supporters, but who aren't. Ontario's system for registering voters and municipal property taxpayers registers everyone as public school supporters unless they fill out a form to tell the government they're separate school supporters.

### **Registered voters count**

The number of registered Catholic supporters determines the number of trustees that sit on Catholic boards. Eckensweiler wishes parishes and schools did more to urge Catholics to go to voterlookup.ca and check their status.

Because the 1984 extension of full

funding for Catholic high schools turned on a constitutional challenge, most Ontario Catholics believe their education rights enjoy the iron-clad protection of Canada's Constitution. But Trosow argues eliminating education rights from the constitution is no big deal. It was done in both Quebec and Newfoundland. All it requires is a resolution calling for the change in the provincial legislature, followed by a corresponding vote by federal law makers in Ottawa.

Twenty years ago, Newfoundland went to the extra trouble of holding two referenda on consolidating its complex web of seven different education systems.

### **The Newfoundland example**

Fr. Winston Rye remembers the fight to save Catholic education in Newfoundland from his days as principal of Gonzaga High School in St. John's in the 1990s. What Catholics lost was something more profound than catechism lessons in school, said Rye.

Ontario Catholics may soon find themselves fighting for their education rights in court. An organization called OPEN has raised almost \$70,000 to support a legal challenge to Catholic education rights. Their test case is a Hamilton Wenrworth District School Board teacher named Adrienne Havercroft who claims she was harmed by Catholic school board hiring policies requiring teachers to be Catholic.

Trosow warns Catholics that, "The public is further ahead on this than the politicians are and a majority of people would be interested in doing it"

The majority doesn't scare Eckensweiler.

"Just because we're not out there shouting doesn't mean we're not fighting for it," she said. "Catholic education has always fought for what we believe in."

## By secular standards, the Catholic Church is a corrupt organization: Neil Macdonald

Federal authorities should treat it like one

By: Neil Macdonald · CBC News · Posted: Aug 26, 2018 *This column is part of CBC's Opinion section.*

### **WARNING: This column contains disturbing details**

Imagine for a moment that a big, admired multinational corporation, one selling a beloved product, was employing large numbers of male pedophiles and rapists, operating in rings all over the world, and that their crimes had been uncovered in Australia, Ireland, Canada, the Philippines, Belgium, France, Austria, New Zealand, Argentina, Chile, Britain, Germany and the United States, and, further, that senior executives had systematically covered up and suppressed evidence, transferring and enabling hundreds of predators, betraying thousands of victims.

What would happen to the company is not terribly difficult to imagine.

At a minimum, the U.S. government would likely use its Racketeer Influenced and Corrupt Organizations (RICO) law to go after not only the rapists and molesters, but also the company's executives, up to and including its CEO if possible, seizing the company's assets and seeking the harshest possible prison terms. That's the sort

of thing RICO was invented for. The company would almost certainly collapse.

But of course no company's warranty guarantees everlasting life, and no company maintains that its CEO is chosen by God.

The Roman Catholic church does, which is the only explanation for why, after the release of a grand jury report that detailed more than 1,000 cases of sexual abuse in Pennsylvania over several decades by more than 300 predators in clerical collars, many of whom are still alive, millions of American Catholics continued to attend mass.

The report detailed anal, oral and vaginal rape. It told of cases like the Pittsburgh priests who forced a young boy to strip naked and pose as Christ on the cross, then photographed him and shared the pictures for their later enjoyment – an in-church child pornography operation.

Or the priest who forced a nine-year-old boy to perform oral sex on him, then "purified" the boy's mouth with holy water. Or another priest who

forced his victim to confess to him.

Pennsylvania's attorney general, Josh Shapiro, told reporters last week that high church officials "routinely and purposefully described the abuse as 'horseplay' and 'wrestling,'" choosing to transfer the pedophiles to other congregations (where they'd have a whole new selection of horseplay partners), or send them away for prayerful reflection before returning to duty.

The same goes elsewhere. Revelations of horrors in all the above-mentioned Western countries (here in Canada, there was documented abuse in Quebec, British Columbia, Ontario, Nova Scotia and Newfoundland, where the church's Mount Cashel orphanage was operated as sort of a prison for child sex slaves) resulted in dismissals of some church officials, some lawsuits and a handful of criminal convictions, but not much more than that.

Each time, the Pope or one of his high subalterns would lament human frailty, and drone on about the sacred duty to protect the most vulnerable,

while privately fighting to thwart civil suits or conspiring to keep facts from investigating authorities.

Pope Francis, who enjoys the most saintly reputation of any recent pope (except for John Paul II, who was actually made a saint, despite all the ugly revelations on his watch) released an open letter to the world's Catholics after the Pennsylvania revelations, basically repeating the company line: gosh, sorry, that was terrible, we must do better, God bless you all, go in peace.

Noting first that "most of these cases belong to the past," (don't all cases belong to the past?) the Pope banged on for 2,000 words about feeling the pain of the vulnerable, and the necessity of ensuring it doesn't happen again (and again and again and again), but his central theme was expressed right off the top in a line from Corinthians: "If one member suffers, all suffer together with it."

Yes. Of course. Let's compare the spiritual suffering the Pope claims the revelations have caused him to that of a child being sodomized by an adult stalker in a clerical collar, a monster the boy probably doesn't think he's even allowed to complain about.

The right thing for the Pope to do would be to waive his sovereign privilege (he is a sitting head of state), and invite crimi-

nal authorities to freely and fully access church records worldwide, and drain the holy swamp. He might also consider at this stage ordaining women, because women are God's creatures too, perfectly able to spiritually guide the faithful, and, umm, don't tend to rape children.

But the privileged old men who run the church aren't going to allow any of that. They're a bit like gun control opponents, opposing an obvious solution on doctrinaire grounds.

There actually have been a few attempts to use the RICO statute against priests, notably in Cleveland, but jurors did not convict.

When former Oklahoma governor and former federal prosecutor Frank Keating, a practicing Catholic, compared the church's obsession with secrecy to the Mafia's, Cardinal Roger Mahony of Los Angeles demanded his ouster from a church board examining clerical abuse. Keating resigned from the panel.

Mahony, who covered up sexual abuse by priests in California, according to church records, retired peacefully at age 75. Only after a court order compelled the Los Angeles archdiocese to open its files on abuse was Mahony gently rebuked by the church.

By any secular standard, the

Catholic Church is a corrupt organization. It in fact sets the standard for impunity.

Cardinal Bernard Law, who presided over the coverup of the church's famous Boston sex abuse scandals, was plucked and brought to Rome by Pope John Paul II, where he resided until he died at the Vatican, beyond the reach of American prosecutors.

Earlier this year, after Bishop Juan Barros of Chile was accused of covering up clerical abuse, Pope Francis denounced the accusers' "calumny." When it turned out that there was merit to the accusations, and that the Vatican had been informed of the problem, Francis claimed he'd been misinformed. A few weeks later, all 34 of Chile's bishops tendered their resignations. Francis eventually accepted three of them.

And now, Catholic activist Susan Reynolds has gathered thousands of signatures on a letter demanding the resignation of all American bishops. It would be the right thing to do, but at a guess, the very notion amuses America's bishopry, comfortable in their armour of piety.

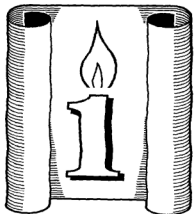
RICO, aggressively deployed by federal prosecutors using wiretaps, search warrants and informants, would be far more effective. They can't all flee to Rome.

**WHO WE ARE**

Civil Rights in Public Education, Inc. is an organization composed of citizens of differing backgrounds, living in more than 155 communities across Ontario, committed to one strong public education system, which offers neither privilege nor prejudice to anyone.

**OUR AIMS ARE**

- To serve as advocates for civil rights in public education so that the public is informed about the issue of publicly-funded separate schools.
- To hasten the day when Ontario’s education policy recognizes the dignity and worth of all children, their right to equality, and their right to freedom from religious discrimination.

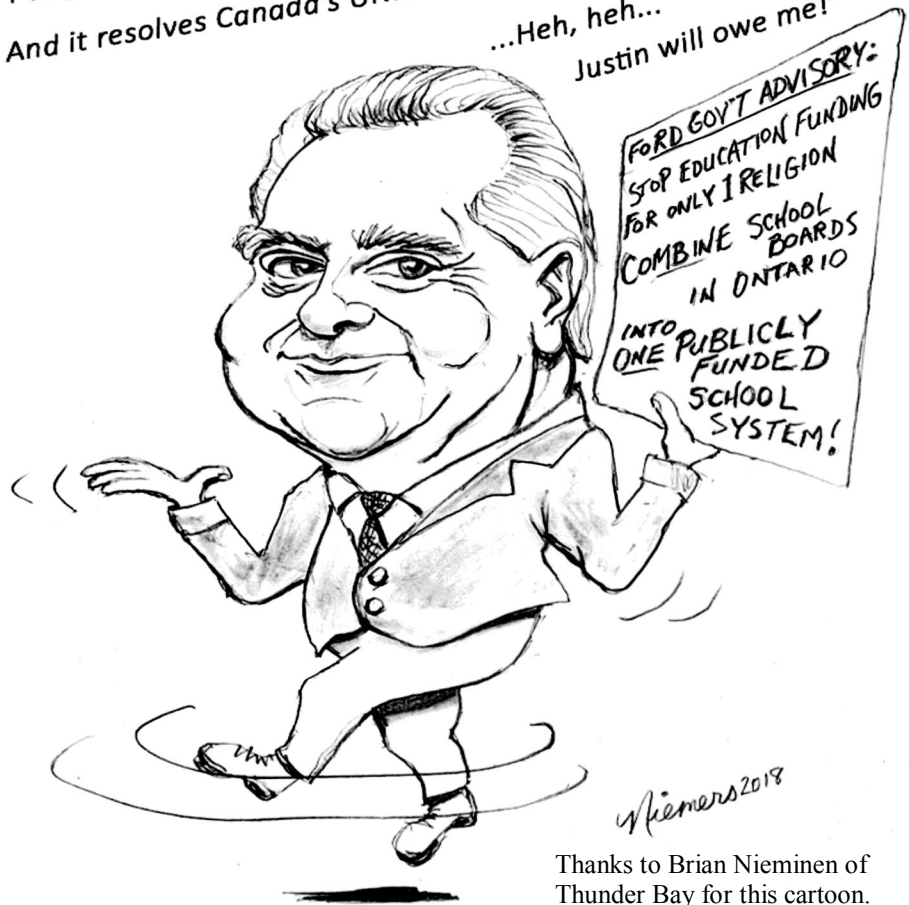


**OUR LOGO**

Our logo is composed of a background scroll representing the charters of rights which guarantee fundamental freedoms to all individuals; the numeral “1” signifies equality and social unity in one public education system for each official language; the flame above is the universal symbol for freedom.

We wish, but we won’t hold our breath on this one.

“Hoo-ah!”  
And it resolves Canada’s ‘little efficiency’ - \$1 billion saved/year!  
...Heh, heh...  
Justin will owe me!”  
And it resolves Canada’s UNITED NATIONS Human Rights violation...



Thanks to Brian Nieminen of Thunder Bay for this cartoon.

To be added to the mailing list, send \$20.00 to  
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**ABOVE ALL WE MUST MAKE SURE THAT NO CITIZEN OF ONTARIO, NOW, OR EVER IN THE FUTURE, IS PRIVILEGED OR DISADVANTAGED PUBLICLY BECAUSE OF HIS/HER FAITH, OR ABSENCE OF FAITH.**