

FORUM

# Serious Questions from Serious People: The Past and Future of the History of Education in Canada

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## Abstract

This article examines two venues where historians of education have in the past addressed serious, publicly significant questions: commissions of inquiry and courtrooms where education rights and educational injustices are litigated. The article argues that these two examples demonstrate historians' particular skills and abilities as evidence-gatherers, clear communicators, strong generalists, and experts in making sense of change over time. The article also suggests that these particular skills and abilities can be the basis for historians' continued contributions to answering questions of public significance.

**Keywords:** historians; education commissions; Truth and Reconciliation Commission of Canada; education rights; educational injustices; Canada

Not that long ago, I asked a retiring historian of education about the future. “There will always be work for historians like us,” he assured me. “Serious people will keep asking serious questions that we are uniquely equipped to answer.”<sup>1</sup> In this essay, I look at two spaces where historians of education have answered serious questions before: official inquiries into school systems, and courtrooms where educational rights and injustices are litigated. To be sure, these are not the only places where historians handle consequential matters. Teaching about the past in a classroom is serious business. So is historical research in archives. For that matter, our colleagues in other education disciplines are also engaged in their own forms of serious work. I do not wish to take anything away from any of these efforts. Rather, concentrating on two examples of the serious work of historians of education is just one way for me to spotlight and spell out the special knowledge and skills we possess. This, I hope, will encourage us to continue to apply that knowledge and those skills, wherever serious questions may arise for us in the future.

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<sup>1</sup>This comment is quoted as I remember it.

## Official Inquiries

“Some day there will be an investigation of the high costs of investigations,” Canadian satirist Bob Edwards once joked.<sup>2</sup> While many Westminster parliamentary systems have them, Canada might be unique for the sheer number of official inquiries, such as royal commissions, that federal and provincial governments have called. Many of these have been education commissions, with just about every province during the twentieth century calling at least one major one.<sup>3</sup> British Columbia alone convened eight.<sup>4</sup>

Education commissions are mandated to scour the system, to study it up and down and from back to front.<sup>5</sup> This is a perfect remit for historians. We gather evidence. Commissions thrive on collected facts and data. We are strong generalists, able to trace “social, political, and economic factors” simultaneously in ways that sociologists, political scientists, and economists, who specialize in one or the other of these factors in isolation, are not. Commissions take all possible angles on an issue: social, political, economic, and many others. We are specialists in the study of change over time, its causes and effects.<sup>6</sup> Commissions are absorbed with change. “Royal Commission studies allow us to reappraise our educational efforts,” British Columbia’s 1988 Sullivan Commission report reads, “to look backward and forward in time, to preserve what is good and enduring, and to consider the changes we can make to produce even more effective ways for people to learn.”<sup>7</sup> We write well for general audiences. Commission reports are “grey literature” that our clarity and directness—and a little of our zip—can brighten.

These historian qualities may be why education commissions have often called on us to contribute to, and even lead, their work. The historian of education Louis-Philippe Audet was secretary of Quebec’s landmark Parent Commission (1961–1963) and likely produced at least the first chapter of the commission’s report, on the history of education in Quebec.<sup>8</sup> Another historian of education of Audet’s generation, C. E. Phillips, was on Ontario’s equally watershed Hall-Dennis Commission (1965–1968).<sup>9</sup>

<sup>2</sup>Bob Edwards and Hugh A. Dempsey, eds., *The Wit & Wisdom of Bob Edwards* (Toronto: Hurtig, 1976), 93.

<sup>3</sup>Cary F. Goulson, *A Source Book of Royal Commissions and Other Major Governmental Inquiries in Canadian Education, 1787–1978* (Toronto: University of Toronto Press, 1981).

<sup>4</sup>Jean Barman and Neil Sutherland, “Royal Commission Retrospective,” in *Children, Teachers and Schools in the History of British Columbia*, ed. Jean Barman, Neil Sutherland, and J. Donald Wilson (Calgary: Detselig, 1995), 411.

<sup>5</sup>Barman and Sutherland, “Royal Commission Retrospective,” 412.

<sup>6</sup>Peter N. Stearns, “History and Public Policy,” in *Social Science and Public Policy: The Roles of Academic Disciplines in Policy Analysis*, ed. George J. McCall and George H. Weber (Port Washington, NY: Associated Faculty Press, 1984), 91–122.

<sup>7</sup>British Columbia Royal Commission on Education, *A Legacy for Learners* (Victoria: Queen’s Printer for British Columbia, 1988), 3.

<sup>8</sup>Commission royale d’enquête sur l’enseignement dans la province de Québec, *Les structures supérieures du système scolaire, volume 1 of Rapport de la Commission royale d’enquête sur l’enseignement dans la province de Québec* (Quebec City: The Commission, 1963), 11, [https://www.bibliotheque.assnat.qc.ca/DepotNumerique\\_v2/AffichageNotice.aspx?idn=2710](https://www.bibliotheque.assnat.qc.ca/DepotNumerique_v2/AffichageNotice.aspx?idn=2710).

<sup>9</sup>Josh Cole, *Hall-Dennis and the Road to Utopia: Education and Modernity in Ontario* (Toronto: University of Toronto Press, 2021). Another example is the historian Rebecca Priegert Coulter, who wrote “An

Two historians, Thomas Fleming and John Calam were, respectively, the research director and senior researcher for the Sullivan Commission's section on "schools and society," while Fleming also edited the commission's final report.<sup>10</sup>

## Courtrooms

Another place where historians of education have had considerable influence is the serious business of litigation of education rights and educational injustices. Both types of proceedings often require courts to gain a sense of the educational past. Historians are the experts they call to give them that awareness. One of the biggest cases in Canadian history to litigate education rights was the Bill 30 case. The case concerned the rights of Catholics in the province of Ontario to fully publicly funded Catholic separate high schools.<sup>11</sup> As the Ontario government prepared to legislate full public funding for those schools in 1985, it referred its proposed law (Bill 30) to the Ontario Court of Appeal to test the bill's constitutionality.<sup>12</sup> The court ruled the bill constitutional in a 3-2 decision. This split ruling opened the door to an appeal to the Supreme Court of Canada (SCC), an appeal that was soon filed by a group led by the Metropolitan Toronto School Board (a public board of education) and the Ontario Secondary School Teachers' Federation (the public high school teachers' union).<sup>13</sup>

When the SCC heard the Bill 30 appeal in 1987, Canada's highest court considered three core constitutional questions bearing on the legislation. One of these was decidedly a historical question: Did Ontario fully fund Catholic high schools at the time of Confederation in 1867? If the answer turned out to be yes, then the right to full public funding for Catholic schools was constitutionally protected, as Canada's founding documents (the British North America Act and the Constitution Act, 1982)—and indeed the nation's founding compromise itself—forever protect all denominational rights and privileges in education that existed "at the Union [at Confederation]."<sup>14</sup> To answer the question, the 1987 SCC decision states, "it [was] necessary to consider the

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Introduction to Aspects of the History of Public Schooling in Ontario, 1840-1990," in *For the Love of Learning: Background Papers for the Royal Commission on Learning*, vol. 1, compiled by Nancy Watson, Joyce Scane, and George Bedard (Toronto: Royal Commission on Learning, 1995), 1-19.

<sup>10</sup>British Columbia Royal Commission on Education, *A Legacy for Learners*, ii.

<sup>11</sup>In other countries, notably the United States, Catholic schools are private schools. This is *not* the case in several Canadian provinces, including in Ontario. Gidney explains: "The [Catholic] separate schools, however, are also *public* schools in the sense that they are financed by grants and local taxes like other public schools, and in all but their religious policies are administered just like the rest of the public system. Whatever else they are, they are not 'private schools.'" R. D. Gidney, *From Hope to Harris: The Reshaping of Ontario's Schools* (Toronto: University of Toronto Press, 1999), 5-6.

<sup>12</sup>Before this, Ontario funded Catholic separate schools only to the end of Grade 10. Grades 11 to 13, which the public (non-Catholic) schools also had, were *de jure* private education in the province's Catholic high schools. Bill 30 proposed bringing these three grades under the Catholic separate schools' public aegis for the first time. Or perhaps it was bringing them under that umbrella again, since the Bill 30 reference case was supposed to determine if these grades or their equivalent had been funded historically or not. Gidney, *Hope to Harris*, 16-19, 127-41.

<sup>13</sup>Gidney, *Hope to Harris*, 137.

<sup>14</sup>Canada, *A Consolidation of the Constitution Acts 1867 to 1982. Constitution Act, 1867* s 93; *Constitution Act, 1982* s 29 (Ottawa: Minister of Justice, 2021), [https://laws-lois.justice.gc.ca/PDF/CONST\\_TRD.pdf](https://laws-lois.justice.gc.ca/PDF/CONST_TRD.pdf).

history of pre-Confederation legislation pertaining to education in Upper Canada [i.e., Ontario].”<sup>15</sup>

The appellants in the Bill 30 case hired R. D. Gidney, a historian of education at the University of Western Ontario (UWO), to testify on the historical question about denominational rights. The respondents hired their own historians of education. Together the two sides submitted “more than a thousand pages” of historical evidence, including Gidney’s, which the ruling cites.<sup>16</sup> Gidney would later write with education law professor and UWO colleague G. M. Dickinson that, with exceptions, “there have been few legal cases in this country in which historical evidence and interpretation have played so prominent a part” as the Bill 30 case.<sup>17</sup>

Few cases—at that point in time. Gidney and Dickinson did not anticipate the Indian Residential Schools (IRS) cases that would pile up in the 1990s. These cases litigated not education rights—but educational injustices, such as poor learning conditions, abuse, and inadequate instruction, in the IRS system that Canada’s federal government oversaw or operated for Indigenous children from the 1880s to the 1990s. The avalanche of cases (4,500 different lawsuits by 2000) were eventually collected as a class action,<sup>18</sup> which was then settled with the Indian Residential School Settlement Agreement (IRSSA) in 2006.<sup>19</sup> That settlement included the government agreeing to support a Truth and Reconciliation Commission (TRC), which traveled the country, collected testimony, and reported in 2015.<sup>20</sup>

The IRSSA assigned the TRC seven goals, including compiling “as complete an historical record as possible of the IRS system and its legacy.”<sup>21</sup> To accomplish this, the TRC relied on historians’ research. The six volumes in the TRC’s report include *Canada’s Residential Schools: The History, Part 1, Origins to 1939* (volume 1) and *Canada’s Residential Schools: The History, Part 2, 1939 to 2000* (volume 2), two publications that run a combined two thousand pages.<sup>22</sup> Separate volumes on Inuit and

<sup>15</sup>Reference re Bill 30, An Act to Amend the Education Act (Ont.), 1987 CanLII 65 (SCC), [1987] 1 SCR 1148, <https://canlii.ca/t/1ftms>.

<sup>16</sup>G.M. Dickinson and R.D. Gidney, “History and Advocacy: Some Reflections on the Historian’s Role in Litigation,” Note and Comments, *Canadian Historical Review* 68, no. 4 (1987), 577–78, and note 8; Reference re Bill 30, An Act to Amend the Education Act (Ont.).

<sup>17</sup>Dickinson and Gidney, “History and Advocacy,” 577. Ultimately, the SCC did not reject Gidney’s historical evidence, but nevertheless ruled against the appellants. Reference re Bill 30, An Act to Amend the Education Act (Ont.).

<sup>18</sup>Jennifer J. Llewellyn, “Dealing with the Legacy of Native Residential School Abuse in Canada: Litigation, ADR, and Restorative Justice,” *University of Toronto Law Journal* 52, no. 3 (Summer 2002), 261.

<sup>19</sup>Canada, National Consortium and the Merchant Law Group, Independent Counsel, the Assembly of First Nations and Inuit Representatives, General Synod of the Anglican Church of Canada, Presbyterian Church of Canada, United Church of Canada, and Roman Catholic Entities, *Indian Residential Schools Settlement Agreement*, May 8, 2006, <https://www.residentialschoolsettlement.ca/settlement.html>.

<sup>20</sup>Canada et al., *Indian Residential Schools Settlement Agreement*, Schedule N, “Mandate for Truth and Reconciliation Commission,” 2006, <https://www.residentialschoolsettlement.ca/settlement.html>. For the report, see Truth and Reconciliation Commission of Canada, *Final Report*, 6 vols. (Ottawa: Truth and Reconciliation Commission and McGill-Queen’s University Press, 2015).

<sup>21</sup>Canada et al., *Indian Residential Schools Settlement Agreement*, Schedule N, 2, <https://www.residentialschoolsettlement.ca/settlement.html>.

<sup>22</sup>Brian Gettler, “Historical Research at the Truth and Reconciliation Commission of Canada,” *Canadian Historical Review* 98, no. 4 (Dec. 2017), 646.

northern experiences, and on Métis experiences, as well as a report on survivor testimony, include considerable historical evidence as well.<sup>23</sup> TRC volumes 1 and 2 lean heavily on two historians' monographs, namely J. R. Miller's *Shingwauk's Vision* and J. S. Milloy's *A National Crime*.<sup>24</sup> History of education played a serious part in the serious business of addressing past Canadian wrongs on an unprecedented national stage.

On smaller stages also, historians have recently given evidence in court cases litigating educational injustices. In the 2020 case of *Cavanaugh et al. v. Grenville Christian College et al.*, for example, Paul Axelrod, a York University professor emeritus and historian of education, testified as an expert on the historical standard of care in provincial public schools. The Cavanaugh trial weighed accusations that staff at Grenville, a private school for mostly boarding students in grades 7 to 12, had abused students under the school's system of strict rules and harsh punishments. Axelrod's evidence, which the judge called crucial to the court's finding against Grenville Christian College, demonstrated without a doubt that discipline at Grenville from the 1970s to 1990s fell far short of prevailing norms at public or private schools.<sup>25</sup>

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Official inquiries, such as royal commissions, and court cases and their outcomes, such as the TRC, are serious business. They deal with evidence, call for a big-picture view that is clearly communicated for a public audience, and are often concerned with change over time. Historians possess unique knowledge and abilities enabling us to speak on these matters. We are evidence-gathering generalists, plain-language communicators, and are better equipped to explain change over time and its causes and effects than practitioners of any other discipline. We are uniquely prepared for serious questions, which people will continue to ask and which we will continue to answer.

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<sup>23</sup>See Truth and Reconciliation Commission of Canada, *Canada's Residential Schools: The Inuit and Northern Experience, TRC Final Report*, vol. 2 (Ottawa: Truth and Reconciliation Commission and McGill-Queen's University Press, 2015); Truth and Reconciliation Commission of Canada, *Canada's Residential Schools: The Métis Experience, TRC Final Report*, vol. 3 (Ottawa: Truth and Reconciliation Commission and McGill-Queen's University Press, 2015); and Truth and Reconciliation Commission of Canada, *The Survivors Speak: A Report of the Truth and Reconciliation Commission of Canada* (Ottawa: Truth and Reconciliation Commission, 2015).

<sup>24</sup>Gettler, "Historical Research at the Truth and Reconciliation Commission of Canada," 646. Gettler is critical of this reliance on secondary material, for good reasons that he explains in his article. There are other potential challenges for historians of education who become involved with commissions or courts. Presentism, objectivity, and partisanship are among them. A longer article would have space to address such concerns.

<sup>25</sup>*Cavanaugh et al. v. Grenville Christian College et al.*, 2020 ONSC 1133 (CanLII), <https://canlii.ca/t/j6460>.