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# THE HISTORY AND FUTURE OF PRIVATE EDUCATION IN THE UNITED STATES

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*In the early Republic, no simple distinction between public and private schools existed. With the advent of the common school, a system of government-sponsored schools emerged. Hostility to nonpublic schools, especially Catholic ones, developed because of the fear that they would undermine the foundations of civil and political order. This hostility has historically been expressed through regulation and denial of funding. Currently, private schools are experiencing a more favorable public attitude because of a widespread disillusionment with public schools. The future of private schools depends on how faithfully they express a distinctive and worthy character to their institutions.*

The organizational picture of private schooling in the United States is enormously complex, and the history of its evolution could not possibly be told in the brief space allotted. The purpose of this article is more modest: to cast some light on how private schools have been perceived at various stages in their history, to thereby suggest reasons for the difficulty we experience in having a reasonable policy debate about their future contribution to educating America's children, and to venture some cautious scenarios of the forms which that future might take.

## PRIVATE SCHOOLS AND COMMON SCHOOLS

Those who have written the history of American popular schooling have in general not been sympathetic to private alternatives, but private schools have played a major role in making the American people literate and numerate in

the decades before the rise of the common public school. A ward-by-ward survey in Boston in 1817, coordinated by the celebrated architect Charles Bulfinch, found that public school enrollment amounted to 2,365 students, with over 4,000 students attending free or tuition-charging private schools (Schultz, 1973). In 1830, in New York City there were 6,178 pupils attending public schools, 3,000 attending church schools, and 16,000 attending non-sectarian fee-charging schools. Of 463 schools in the city, only 11 were operated by the semi-public Public School Society (Ravitch, 1974).

The common school movement led by Horace Mann, Henry Barnard, and others in the 1830s and 1840s did not so much expand the provision of schooling as it expanded the state share of total enrollment at the expense of privately-controlled schools. "In 1826, when 44.5 percent of all children aged birth to nineteen [in Boston] were in some school, 32.6 percent of all schoolchildren were in private schools.... By 1850, when the percentage in private schools had dropped to 12.2, the overall enrollment rate remained at 45.4 percent" (Kaestle & Vinovskis, 1980, pp. 18-20). Government-operated schools were chasing private schools out of the market.

Much of the energy of the education reformers of the common school movement had less to do with the unavailability of elementary schooling than it did with opposition to schooling under private auspices. Kaestle and Vinovskis, after a careful study of the data available, concluded that

Americans' apparent indifference to the educational schemes of republican theorists in the early days of nationhood led to the myth of the 'sleepy' period in our educational history. The illusion that there was little schooling prior to 1840 in the American Northeast can be traced to school reformers like Horace Mann and Henry Barnard, who were hostile to private schools, such as academies, as well as to the small district schools that prevailed in rural areas. They preferred the model of the mid-seventeenth-century New England town, where schools served the whole town and were required by colony-wide laws. As population dispersed, however, the district system developed in rural areas—and in the eighteenth century urban development fostered private educational alternatives. (1980, p. 209)

The history of private schools in the United States—and the suspicion and resistance which they have often encountered—can only be understood against the background of this hostility and of what is elsewhere called "the common school agenda." That agenda is described as

the deliberate effort to create in the entire youth of a nation common attitudes, loyalties, and values, and to do so under central direction by the state. In this agenda 'moral education' and the shaping of a shared national identity were of considerably more ultimate importance than teaching basic academic skills. (Glenn, 1988, p. 4)

Mann and his allies wanted to ensure that the rising generation possessed civic virtue through education provided in common schools under direct government control.

There are obvious antidemocratic implications to this idea that the state should use schooling to shape its citizens. "Upon this subject of popular education," Mann's forerunner James Carter wrote in 1826,

a *free* government must be *arbitrary*. For its existence depends upon it... The ignorant must be allured to learn, by every motive which can be offered to them. And if they will not be allured, they must be taken by the strong arm of government and brought out, willing or unwilling, and made to learn, at least, enough to make them peaceable and good citizens. (Carter, 1969, pp. 48-49)

The best-known American proponent of this program of social progress by schooling is of course Horace Mann, who asked,

how shall the rising generation be brought under purer moral influences [than that of their parents, so that] when they become men, they will surpass their predecessors, both in the soundness of their speculations and in the rectitude of their practice.... The same nature by which the parents sunk into error and sin, preadapts the children to follow in the course of ancestral degeneracy. Still, are there not moral means for the renovation of mankind, which have never yet been applied? (1846, pp. 64-65)

Those "moral means" were to be found in state-directed schools fashioned after his own mind. In these schools, the religious beliefs of parents and local communities would be banished and the "pure religion of heaven" (closely resembling Mann's own Unitarian beliefs) taught in their place together with the moral principles considered appropriate by Mann and his allies in the emerging educational establishment (Glenn, 1988).

Mann, like Plato and Rousseau, believed in the perfectibility—indeed, the "makeability"—of men and women provided that they were so educated that they could not want to do evil. Mann promised that, given a generation of schooling such as he prescribed, it would be possible to close down the prisons. The existence of schooling alternatives based upon what he considered the prejudices and superstitions of traditional religion threatened to prevent this happy outcome. For Mann, the danger was represented primarily by the Calvinism in which he had been brought up.

In fact, until the massive Catholic immigration that started in the late 1840s, there were many Protestant voices criticizing the sectarian character of the common public school. Horace Mann by no means represented the mainstream of Protestant thought. A religion without salvation, a religion of moral exhortation and sentimental images, was appealing to an educated elite

confident of its own mastery and of the nation's inevitable progress; but it bore little relation to the powerful revival impulses that were shaping American Protestantism.

Theologically-informed critics were not taken in by Mann's call for religious instruction limited to those doctrines upon which all could agree. Mann's original premise was unacceptable to those who believed that the sinfulness of human nature required conversion and redemption by God's intervention as a necessary prelude to the educative process of sanctification. As one of his critics asked in a debate carried on in the Boston newspapers:

Who but men are to determine what is 'the religion of heaven'? Does it include the holiness of God, the corruption of the human heart, the sacrifice of Christ for sin, the eternal punishment of the finally impenitent...? No, you will say, these belong to the 'creeds of men'.... (Culver, 1929, p. 78)

Although Mann took care to be evasive in reply, we know from his journals and private correspondence, in fact, that he understood "the means of salvation" as being the pursuit of ever-higher ideals, exemplified in the life and teaching of Jesus, not faith in him as Savior.

Mann's critics denied that the common school was in fact neutral with respect to religious beliefs. As one wrote in the press,

I have not accused Mr. Mann of being opposed to what he calls religion in schools. On the contrary, I charge him with being a dogmatist, a sectarian, zealous and confident, as all sectarians are. I have accused him, and do accuse him, of deciding what those 'principles of piety' are, which the Constitution demands to be taught in schools. (Smith, 1847, p. 24)

"Secular neutrality," these critics concluded, amounted to the imposition of secularism through the public schools.

Such Protestant reservations about the common school crumbled with astonishing suddenness in the face of the "threat" of the Catholic immigration which increased dramatically in the late 1840s. Immigration itself was not opposed so much as the possibility that the immigrants would remain an unassimilated mass, reinforced in their "differentness" by the influence of their priests. This concern seemed to be confirmed when Catholic spokesmen challenged the sectarian character of the common school in terms not too different from that which Protestant critics had already used, but with what seemed the sinister intent of discouraging immigrant parents from exposing their children to its benign assimilating influence.

## **THE THREAT OF CATHOLIC SCHOOLING**

The belief in a Catholic conspiracy against the public school system and thus

against the foundations of civil and political order goes far back in the history of public schooling, and helps to explain the peculiarly negative attitude toward faith-based schools expressed both in state constitutions and in First Amendment jurisprudence.

Nor was this belief altogether groundless. The heavy Catholic immigration which began in the 1840s would no doubt have aroused nativist fears in any case, but these fears were heightened by the refusal of Catholic leadership to accept the religious character of the common public school. The timing could not have been more unfortunate: 10 or 12 years of zealous promotion of the common school throughout the Northern states had bestowed upon them an almost sacred glow. Horace Mann was insistent, as he wrote in his *Twelfth Report* (1848),

that so far from its being an irreligious, an anti-Christian, or an un-Christian system, [the common school] recognizes religious obligations in their fullest extent: that it is a system which invokes a religious spirit, and can never be fitly administered without such a spirit; that it inculcates the great commands, upon which hang all the law and the prophets; that it welcomes the Bible, and therefore welcomes all the doctrines which the Bible really contains; and that it listens to these doctrines so reverently, that, for the time being, it will not suffer any rash mortal to thrust in his interpolations of their meaning, or overlay the text with any of the "many inventions" which the heart of man has sought out.... (as cited in Cremin, 1957, p. 111)

Catholic demands that these Protestant (because the Bible was read without commentary) religious elements be purged from the common school to make it acceptable to Catholic children were widely and correctly perceived as disingenuous; after all, the bishops at the First Plenary Council (1852) in Baltimore rejected the idea that education could be purged of religious elements and warned lest youth be "involved in all the evils of an un-Catholic education, evils too multiplied and too obvious to require that we should do more than raise our voices in solemn protest against the system from which they spring" (McCluskey, 1964, pp. 80-81). And the effort to create separate parochial and diocesan schools was perceived as a rejection of assimilation into American life. Those who took it this way were wrong. As I have written elsewhere, "German and Irish Catholic immigrants were eager to embrace virtually everything about contemporary American life while providing an alternative educational system for their children" (Glenn, 1988, p. 204). The critics managed to convince themselves, however, that Catholic schools were not simply an alternative to the common public schools but were deliberately directed to undermining and destroying public education. The rhetoric on the Catholic side contributed to this conclusion, because it insisted upon delegitimizing the public schools altogether. For example, the Catholic paper in Boston told its readers, in 1852, that

[t]he general principle upon which these education laws are based is radically unsound, untrue, Atheistical.... It is, that the education of children is not the work of the Church, or of the Family, but that it is the work of the State.... Two consequences flow from this principle.... In the matter of education, the State is supreme over the Church and the Family. Hence, the State can and does exclude from the schools religious instruction.... The inevitable consequence is, that ... the greater number of scholars must turn out to be Atheists, and accordingly the majority of non-Catholics are people of no religion. (Lord, Sexton, & Harrington, 1944, p. 582)

Protestants replied with equal rhetorical vigor. One of the most influential defenders of the common public school was Congregationalist minister Horace Bushnell. In a fast day sermon in Hartford in 1853, he warned that it had

been clear for some years past, from the demonstrations of our Catholic clergy and their people, and particularly of the clergy, that they were preparing for an assault upon the common school system, hitherto in so great favor with our countrymen; complaining, first, of the Bible as a sectarian book in the schools, and then, as their complaints have begun to be accommodated by modifications that amount to a discontinuance, more or less complete, of religious instruction itself, of our "godless scheme of education".... Evidently the time has now come, and the issue of life or death to common schools is joined for trial. The ground is taken, the flag raised, and there is to be no cessation, till the question is forever decided, whether we are to have common schools in our country or not. (Cheney, 1880, p. 300)

To Bushnell and others, the common public schools were nurseries of a free republic, private schools of factions, cabals, agrarian laws, and contests of force (Cheney, 1880). Catholic schools were a menace to society and their religious justification was in fact no justification at all: "The arrangement is not only unchristian, but it is thoroughly un-American, hostile at every point to our institutions themselves" (Cheney, 1880, p. 300). Bushnell found it "a dark and rather mysterious providence, that we have thrown upon us, to be our fellow-citizens, such multitudes of people, depressed, for the most part, in character, instigated by prejudices so intense against our religion" (Cheney, 1880, p. 300). It was his hope, however, that through the common school "we may be gradually melted into one homogeneous people" (Cheney, 1880, p. 300).

Despite this hostility toward Catholic schooling, the last years of the nineteenth century and the first six decades of the twentieth saw a tremendous expansion built upon the sacrifices of immigrants and the constant attention of church leaders. In Massachusetts, where Catholics were slower than those in the Midwest to create a parochial school system, the percentage

of children enrolled in private schools rose from 7% in 1869-1870 to 10% in 1884-1885 and to 16% by 1890 (Jorgenson, 1987). The triumph of the common school that had been so confidently expected by Mann, Bushnell, and others seemed to be decisively blunted.

## LEGAL CONSEQUENCES

Hostility to nonpublic schools, and especially to Catholic schools, has found expression in two ways: through regulation and through denial of funding. Periodically there have been attempts to regulate private schools to death, or even to forbid them altogether. Courts have held repeatedly that the application of reporting requirements and other oversight measures to faith-based schools, even those that are operated as ministries of churches, is not unconstitutional as such, provided that it is rationally related to ensuring that school-aged children receive an education equivalent to that provided by the public education available locally (*Attorney General v. Bailey*, 1982).

The right to operate and to choose nongovernment schools has come to be widely recognized, though not without decades of struggle in France, Germany, the Netherlands, and the United States. According to the *International Covenant on Economic, Social and Cultural Rights*, article 13, 3:

the States Parties to the present Covenant undertake to have respect for the liberty of parents...to choose for their children schools, other than those established by public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions. (Fernandez & Jenkner, 1995)

This question has been resolved, for the United States, by the Supreme Court in its 1925 decision in *Pierce v. Society of the Sisters*; the Court struck down an Oregon law requiring all children to attend public schools until completion of the eighth grade, finding that this unjustly threatened the rights of private corporations (schools) to carry out their business and that it interfered with the right of parents to direct the education of their children.

The fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the state to standardize its children by forcing them to accept instruction from public teachers only. The child is not the mere creature of the state; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations. (*Pierce v. Society of the Sisters*, 1925)

The Court, it should be noted, also stressed



the power of the state reasonably to regulate all schools, to inspect, supervise, and examine them, their teachers and pupils; to require that all children of proper age attend some school, that teachers shall be of good moral character and patriotic disposition, that certain studies plainly essential to good citizenship must be taught, and that nothing be taught which is manifestly inimical to the public welfare. (*Pierce v. Society of the Sisters*, 1925)

Subsequent decisions about state regulation of faith-based schools have weighed this broad language against the First Amendment rights of parents, teachers, and school sponsors. While government has a general right to regulate in the public interest, there are limits upon how extensive this regulation may be. "The regulatory scheme [for schools] must not be so comprehensive, intrusive, and detailed as to eliminate the possibility of private schools offering a program of instruction that is indistinguishable in important respects from the public school program" (van Geel, 1987, p. 23). In an important state-court case, the Ohio Supreme Court ruled that the state-mandated

standards are so pervasive and all-encompassing that total compliance with each and every standard by a non-public school would effectively eradicate the distinction between public and non-public education, and thereby deprive these appellants of their traditional interest as parents to direct the upbringing and education of their children. (*State of Ohio v. Whisner*, 1976)

Excessive government regulation of private schools has generally been beaten back, but they have had little success in seeking to be treated fairly in the allocation of public funds for education. In this respect, the United States contrasts with most other Western democracies, which provide funding to faith-based schools at a level equivalent to that received by the government's own schools. There can be no question that "American exceptionalism" in this respect derives historically from fears about Catholic immigration. The theme of Catholic assault upon public education, of the "little red schoolhouse" in danger, has been a constant one since the 1840s and continues to be a central element in the opposition of the teachers' unions to vouchers. Boston's Committee of One Hundred in the 1880s had a simple and straightforward message: "We charge the Papal hierarchy with being hostile to free education and seeking the destruction of the public school system" (Jorgenson, 1987, pp. 171-172).

It is impossible to understand the continuing resistance to funding of faith-based schools apart from this resonance—since the start of heavy Catholic immigration, religious schooling has never been perceived by the non-Catholic majority as simply an alternative to the public schools. "The argument of the common school leaders was simple and blunt: the growth of Catholicism was a menace to republican institutions and must be curbed.

Catholic schools, as a contributing factor to the growth of the Church, must also be restricted and, if possible, suppressed" (Jorgenson, 1987, p. 216).

It is striking how often in American history the question of public funding for or even tolerance of parochial schools has been presented as threatening to destroy the public schools. In 1875, President Grant urged Union veterans gathered in convention to oppose funding for "any sectarian schools." This was necessary, Grant said, in words later cited by Justice Frankfurter in *McCullum v. Board of Education* (1948), because "if we are to have another contest in the near future of our national existence, the dividing line will not be Mason and Dixon's, but it will be between patriotism and intelligence on one side and superstition, ambition, and ignorance on the other" (*McCullum v. Board of Education*, 1948). As Tyack and Hansot note, "Catholics did not doubt that they were the target of Grant's remarks. Democrats retorted that the Republicans were raising an emotional anti-Catholicism...as a new kind of bloody shirt" (1982, p. 77).

Encouraged by the success of this anti-Catholic and anti-immigrant theme, and to spread Northern enlightenment in the defeated South as well, Grant called upon Congress to submit to the states for ratification a constitutional amendment

making it the duty of the several States to establish and forever maintain free public schools adequate to the education of all the children in the rudimentary branches within their respective limits, irrespective of sex, color, birthplace, or religions; forbidding the teaching in said schools of religious, atheistic, or pagan tenets; and prohibiting the granting of any school funds, or school taxes, or any part thereof, either by the legislative, municipal, or other authority, for the benefit or in aid, directly or indirectly, of any religious sect or denomination, or in aid for the benefit of any other object of any nature or kind whatever. (Cohen, 1974, p. 1165)

Congressman James G. Blaine introduced such an amendment; while it failed, his name has come to be attached to the anti-aid constitutional provisions adopted by most states. Anti-Catholic and (in the West) anti-Mormon sentiment was clearly the primary motivation for these measures, which were enacted as Catholics began to dominate the politics of northern cities where public funding might have been extended to the growing parochial school systems. The state "Blaine amendments" can best be understood as one of many efforts of Protestant majorities to neutralize the growing power of urban Catholics by removing spheres of decision-making from the municipal to the state level.

So determined were supporters of the common public schools to oppose the flourishing of parochial schools they were willing to sacrifice the private academies which continued to serve many communities that did not maintain public high schools. In Massachusetts, a constitutional provision forbidding

state support to "sectarian schools" had been adopted in the anti-immigrant fervor of 1853, but an even more explicit ban was proposed at the end of the century, excluding nonsectarian private schools as well. Development and passage of this amendment represented a compromise; Catholics were determined that, if their schools were ineligible for tax support, the institutions created and patronized by Protestants would be excluded as well. They refused to accept that the academies were any less sectarian than their own schools. One speaker at the constitutional convention held in 1917-18 described a parochial school in Quincy:

that school is doing just the kind of work the gentleman from Deerfield claims his school is doing. It is going out into the streets of Quincy; it is taking inside its rooms the children of the poor and the rich; it is educating them. It is saving the city thousands of dollars a year. Why, if the Deerfield Academy is to receive money, should not that institution also receive money? (*Debates in the Massachusetts Constitutional Convention, 1919, p. 192*)

Accommodating the growing Catholic power in the United States did not mean, as in the Netherlands and other Western democracies, satisfying the demands of Catholics and Protestants alike for their own schools, but rather meant denying those demands more evenhandedly (Glenn, 1988).

The issue of parochial schools emerged again after World War II, when the grandchildren of Catholic immigrants formed an ever-larger share of America's middle class and gained a strong political presence in the industrialized states. In several of these states, the legislatures approved funding for selected program components in nonpublic schools. For example, a state program in Pennsylvania allowed state education officials to "purchase secular educational services" from nonpublic schools, while a program in Rhode Island provided 15% salary supplements for nonpublic school teachers teaching subjects offered in the public schools. In the absence of an anti-Catholic political majority, opponents turned to the federal courts, which for the first time applied the non-establishment clause of the First Amendment to state funding of faith-based schools. The Rhode Island and Pennsylvania programs were struck down (*Lemon v. Kurtzman, 1971*) in one of a series of decisions against support for schools with a religious character.

The attitude behind these decisions finds particularly direct expression in Justice Black's dissent in a 1968 case authorizing the loaning of textbooks in secular subjects to nonpublic schools:

The same powerful sectarian religious propagandists who have succeeded in securing passage of the present law to help religious schools carry on their sectarian religious purposes can and doubtless will continue their propaganda, looking toward complete domination and supremacy of their par-

ticular brand of religion. And it nearly always is by insidious approaches that the citadels of liberty are most successfully attacked. (*Board of Education of Central School District v. Allen*, 1968)

It is startling to find such intemperate remarks years after the election of John F. Kennedy and his subsequent assassination which seemed to lay to rest, at least in polite discussion, the idea of a Catholic conspiracy to achieve “complete domination and supremacy” over American society and political life. Somewhat more tempered expressions of the same theme are found in Justice Brennan’s praise of the public (as contrasted with the parochial) schools for “the training of American citizens in an atmosphere free of parochial, divisive, or separatist influences of any sort” (*Abington v. Schempp*, 1963) or when Justice Jackson, joined by Justice Frankfurter, wrote: “Our public school, if not a product of Protestantism, at least is more consistent with it than with the Catholic culture and scheme of values” (*Board of Education v. Everson*, 1947).

Today, ironically, the religious menace is perceived by liberal opinion-makers to come largely from Protestant “Fundamentalists” and their schools.

## RECENT DEVELOPMENTS

In recent years, the perception of Catholic schools has mellowed as Catholics themselves have become fully assimilated into the American mainstream, not always to their spiritual advantage, and as a result of studies finding that Catholic schools do very well at educating those children and youth who are most at risk of failure. Data from the massive *High School and Beyond* longitudinal study have been used by Coleman, Hoffer, and Kilgore (1982), Coleman and Hoffer (1987), Chubb and Moe (1990), and, most recently, by Bryk, Lee, and Holland (1993). Coleman and Hoffer argued that

the achievement growth benefits of Catholic school attendance are especially strong for students who are in one way or another disadvantaged: lower socioeconomic status, black, or Hispanic... The dropout rates from Catholic schools are strikingly lower than those from public schools or other private schools. This reduced dropout rate holds both for those who show no signs of problems as sophomores and for those who as sophomores are academically or disciplinarily at risk of dropping out. (1987, p. 213)

Bryk and his colleagues found that “the achievement of students in Catholic high schools was less dependent on family background and personal circumstances than was true in the public sector” and “the achievement advantage of white over minority students...increases in public high schools during the last two years of schooling, whereas the minority gap actually decreases in Catholic schools” (Bryk, Lee, & Holland, 1993, pp. 5, 247).

Chubb and Moe (1990) attributed the "Catholic school advantage" largely to the conditions that constrain public schools, especially in large urban school systems, writing that "schools are largely explained by the types of environments that surround them" and that "the freer schools are from external control—the more autonomous, the less subject to bureaucratic constraints—the more likely they are to have effective organizations" (pp. 19, 187). Decentralization within such a system may lead to efficiencies by shortening the hierarchical lines of control, but it leaves in place the subordinate situation of the school as a unit within a large organization constrained by rules, rewards and sanctions, and bureaucratic culture. Only complete autonomy would change the dynamic that imprisons public schools, they argue.

A study of Catholic, public magnet, and public district high schools in New York City found, similarly, that decentralization alone does not confer the benefits that are derived from real autonomy. The first two, described by the authors as "focus schools," resembled each other more than the public magnet schools resembled the public district schools.

Most site-management schemes transfer the politics of interest group bargaining from the school district to the school building. A focus school, in contrast, is built around specific educational and ethical principles, not around accommodating the interests of all parties.... Focus schools are best developed from the ground up, around a small core of committed individuals, not by superimposing procedural templates on existing zoned schools. (Hill, Foster, & Gendler, 1990, p. xi)

Coleman and his colleagues look beyond such external conditions to posit the existence of what they call a "functional community" in and around a Catholic school, based upon membership in a parish and its associated organizations, whereby the adults associated with the school are mutually able to reinforce a set of values, an ethos, that enables the school to be effective in its socializing role, and thus in its academic role as well. The "consistency of values" characteristic of religiously-based schools is more than a shared culture. This consistency, they argue, compensates for the loss of the old residentially-based community that upheld community standards for the younger generation: "the major changes in social context have been twofold: the destruction of functional communities based on residence, and the realignment of value communities around some dimension other than residence" (Coleman & Hoffer, 1987, p. 15). Indeed, religiously-based schools "may escape some of the faults of schools of the largely closed geographically based functional communities...(such as the transmission of the community's status system across generations) while retaining the capacity to maintain and reinforce a set of values" (Coleman & Hoffer, 1987, p. 13).

Because residential proximity is no longer the source of dense interaction and thus of value communities, residential areas tend to be heterogeneous in values—and without, as in the past, a dominant set of values to which all paid tribute. Values, when not held in place by dense interaction, diverge. The school is the principal locus in which these divergent values come into confrontation.... Schools based on value communities, such as the schools of choice in the public sector and independent schools in the private sector, approximate voluntary associations, paralleling the shift of society generally from ascriptive organizations to purposive organizations. Like other voluntary associations, they are not based on a whole fabric of values which prescribe behavior in all areas of life, but upon a single value dimension which is relevant to the purpose of organization. (Coleman & Hoffer, 1987, pp. 16-17)

Keeping pace with this new appreciation of the virtues of Catholic schools, which has not carried over to fundamentalist Protestant schools still generally perceived as undesirable (Peshkin, 1986), is a revived interest in allocating public funds for a variety of service-providers belonging to the civil society rather than to the government. Most of these are religious. The federal *Adolescent Family Life Act* (AFLA) of 1981 (upheld by the Supreme Court in 1988 in *Bowen v. Kendrick*), the *Child Care and Development Block Grant Act* (CCDBG) of 1990 (amended in 1996), and the Charitable Choice provision of the Welfare Reform law (*The Personal Responsibility and Work Opportunity Reconciliation Act* of 1996), all permit public funds to be used for educational activities carried out by faith-based organizations.

Concurrently, there has been a certain weakening of the legal prohibition against any form of public funding for the education provided in faith-based schools. In June 1997, the Supreme Court decision in *Agostini v. Felton* in effect reversed two earlier decisions—*Aguilar v. Felton* and *Grand Rapids School District v. Ball*—which had been a devastating setback for the view that the state had a legitimate interest in providing strictly secular services within the context of faith-based schooling. *Grand Rapids* struck down a school district program that provided supplementary courses such as arts and crafts, home economics, Spanish, gymnastics, chess, and model building during and after the regular school day in classrooms leased from nonpublic schools to pupils in those schools; the classrooms were leased by the school system, had to be free of religious symbols, and displayed a sign “public school classroom” (*Grand Rapids v. Ball*, 1985). *Aguilar v. Felton* struck down a federally-funded program under which employees of the New York City school system provided remedial instruction to poor children attending faith-based schools, on the basis that supervising those employees closely to ensure that they did not further the religious mission of the schools would necessarily create an “excessive entanglement” of public officials with religion (*Aguilar v. Felton*, 1985).

Reversing these earlier decisions, Justice O'Connor announced for the *Agostini* majority "that the Court has abandoned *Ball*'s presumption that public employees placed on parochial school grounds will inevitably inculcate religion or that their presence constitutes a symbolic union between government and religion" (*Agostini v. Felton*, 1997). The Court found that no impermissible state incentive to religious practice existed when "the aid is allocated on the basis of neutral, secular criteria that neither favor nor disfavor religion, and is made available to both religious and secular beneficiaries on a nondiscriminatory basis" (*Agostini v. Felton*, 1997). The prohibition against government entanglement in the affairs of religious bodies was modified as well. Justice O'Connor pointed out that "not all entanglements...have the effect of advancing or inhibiting religion. Interaction between church and state is inevitable...and we have always tolerated some level of involvement between the two. Entanglement must be 'excessive' before it runs afoul of the Establishment Clause." (*Agostini v. Felton*, 1997)

The recent decision in *Agostini*, building on several earlier decisions that have allowed aid when the benefit could be understood to go directly to the student, holds out the possibility that the courts will move toward a "positive neutrality" which seeks not to influence individual decisions for or against religion by offering assistance equally to religious and non-religious institutions on the same terms. Positive neutrality rests upon a pluralist understanding of the political and social order:

the pluralist creatively seeks to develop political processes and public policies that will not merely tolerate faith communities and associations and their individual members, but will integrate them fully—as religious structures and persons—into the life of the body politic.... Strict neutrality seems to be rooted in the concept of neutrality as a value in and by itself; while positive neutrality sees neutrality...as a means by which to assure that religious structures can realize the autonomy or freedom that is theirs in their proper sphere of endeavor. (Monsma, 1993, pp. 176, 200)

## PROSPECTS AND POSSIBILITIES

What are the prospects, then, for private schools? To answer that question, we need to consider both the external and internal environments. The external environment is more favorable to schools not operated by government than it has been for a long time. In the mid-seventies, Arthur Powell tells us, a survey found that "the most-voiced fear of the heads of even the strongest independent schools is the increasing encroachment of federal legislation and jurisprudence" (1996, p. 64). Such close regulation is out of fashion now; though it will by no means go away, it no longer seems likely to sweep all before it.

On the financial front, rising costs continue to be a major headache, and

each time the expenditures for public schools go up it creates pressure on nonpublic schools to match their computers or their pupil-teacher ratios. While these are good times financially for the United States, there is a definite pinch experienced by families on the lower margins of the middle class who often turn to nonpublic schools because they cannot afford to live in communities whose public schools have a strong reputation.

The charter school phenomenon, while a very good thing for American education, could do serious damage to nearby private schools, particularly to those which do not have a strong religious identity (the one terrain onto which charter schools cannot follow them). Independent or “prep” schools are generally not in a strong position to assert a mission which distinguishes them from those charter schools serving fairly affluent populations; Powell reports that, “in 1990, 73 percent of prep schools had no formal or informal ties to any religion” (1996). Nor are their students distinctively religious: “Twenty-three percent of prep school seniors claimed in 1990 to have no official religious affiliation, compared with 18 percent of college-bound privileged public school seniors and 17 percent of all college-bound public seniors” (Powell, 1996, p. 24).

Ironically, just as public opinion and the law are becoming less hostile toward distinctively religious schools, the private school universe in the United States seems to be less and less religiously distinctive.

One of the primary advantages enjoyed by private schools is no cause for rejoicing by even their strongest advocates: the widespread public disillusionment with public schools, and not just those of the inner city. This paper has not considered to what extent if any the dismal reputation of public schooling is deserved—the author has sent his own seven children to urban public schools out of religious convictions—but there can be no doubt that it is real. What turns many parents away from public schools has nothing to do with lack of resources or even with academic outcomes, but with the sense that they are not morally-coherent, character-forming institutions. Private schools have the unquestionable advantage that they are free to be such communities of education in their broadest sense.

That brings us to the internal environment of private schools. It may be that the greatest threat they face is a “loss of nerve” and conviction about their educational mission. To quote Powell again, independent schools have in recent decades become “more democratic, egalitarian, and sympathetic communities. But they are also weaker communities in their capacity to take educational stands and embrace pervasive and visible ideals about what education should be. They are diverse but divided, inclusive but fragmented” (1996, p. 14). But “[w]ithout some overarching sense of purpose, it is difficult for schools to put in place procedures, expectations, and traditions that together send a clear and constructive message to all students, teachers, and families” (Powell, 1996, p. 20). And, we might add, it is especially difficult



to explain to parents why the private school should be preferred to a charter school which may be even more distinctive and enjoy the advantage of full public funding.

But how can a school maintain its distinctive character, whether that character is religious or pedagogical? Experience suggests that the most important safeguard has to do with selection of staff. Many religious schools and social agencies do not take religious commitments into account in making their hiring decisions; relying upon a mission statement or upon a governing board, they assume that professional qualifications are all that matter in selecting staff. This can be a fatal mistake.

There happens to be some good research on this question from the Netherlands, where full government funding has been provided to Catholic and Protestant schools and youth-serving agencies for many decades. Government is not allowed, under the Dutch Constitution, to interfere with the religious character of the organizations which it funds. One might expect that this would be a utopia for religiously-distinctive education. The visitor finds, however, that many Protestant and Catholic schools and agencies are only residually religious, and some policy analysts argue that they have thereby lost their *raison d'être* and should simply be taken over by the state. Why? The primary reason seems to be because too little care has been taken in hiring professional staff. The danger signals were apparent 30 years ago. An important sociological study by a future Minister of Education found that 57% of the parents with children in a Catholic school thought that its religious character was important, but only 30% of the teachers agreed (van Kemenade, 1968). Another study of a large Protestant youth-serving agency found in 1969 that nearly half of the professional staff but only 5% of the volunteers and board members were critical of its religious character, and that as often as not the agency's distinctive mission had not been discussed during the hiring and orientation process (Simonse, 1997).

Few of us feel comfortable applying religious criteria to employment decisions, but to do so seems a fundamental requirement of "truth-in-advertising" for schools which claim a religious identity. Otherwise, it is very unlikely that their character will continue to have any real meaning, and parents will be misled in choosing those schools for their children. This does not have to mean, of course, that Catholic schools should hire only Catholics: better a Protestant teacher or a Jewish teacher who takes religious conviction seriously and is willing to teach within the context of the school's mission than an indifferent Catholic! Indifference is the poison which seeps into a school's life if shared convictions are not front and center.

Expressing and living a religious character is by no means a simple matter for a school community, given the fears of "imposing our values" which are so prevalent today. But some values are worth standing up for, and the availability of a choice of schools based upon a range of understandings of

the moral and philosophical foundations of education should remove all hesitations on that score.

It would not do to leave the impression that religion is the only basis upon which a school can develop and express a distinctive ethos, a moral coherence which makes it as effective at educating children as it is successful at attracting like-minded parents. There are many fine schools which have achieved such coherence on the basis of a shared understanding of education which is thoroughly secular, although even a secular ethos may be understood as functionally religious. Perhaps such schools have to work a little harder at keeping the ethos fresh and effective (Wynne & Ryan, 1996).

What does the future hold for private schools? It is in their own hands to a large extent, dependent upon how faithfully they express a distinctive and worthy character in the myriad details of their life and work. If they fail to rise to that challenge, no changes in the political and legal climate will make them capable or deserving of survival.

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