

If the descriptions of the “Famine” Irish of Toronto and of their living conditions presented the whole picture, the reader might wonder how Bishop Power, with the few priests, prominent Catholic laymen and trustees available to him, was able to establish any Catholic schools in the 1840s. Research of the historian, Brian Clarke revealed that the poor Irish living in the slums of Toronto constituted only a fraction, sizeable though it may have been, of the total Irish Catholic population of the city. St. Paul’s Church had parishioners in a position to support a separate school financially and to lobby Egerton Ryerson and other officials for improved separate school rights. First, there were the Irish who had emigrated from Ireland before the Famine years. They had

quickly moved into the middle class. Second, some Famine immigrants had possessed the money and initiative to set out for another continent; they did not sit idly in the lower class. Fr. Jean-François Jamot, the vicar general, in the early 1860s published a "Census of City Ward" that included the following "Distribution of Irish-Catholic Occupations."²⁶ (See figure 2.2.)

Thus, more than half of the Irish Catholics were above the unskilled category with consequent higher incomes. For example, painters and carpenters made \$7.85 to \$8.85 a week; tailors, moulders, and pressmen \$9.50. There was Catholic ownership of a large brewery, a large foundry, newspapers, a wholesale operation, the Toronto Street Railway, a factory for manufacturing bedding, and a dry goods emporium. There were Irish Catholic grocers, tavern keepers, printers, hardware store owners, clothing storeowners, butchers, and grain merchants. Among the professionals there were lawyers, doctors, assessors, and one judge on the Court of Queen's Bench. These Catholic tradesmen, businessmen and professionals moved to St. George's Ward in the area of King and Bathurst Streets, and, as the city grew, along Dufferin St. between College and Bloor Streets, bringing with them a demand for new separate schools. By the early 1860s these men were fully integrated with a steady job, a house and savings account.²⁷

Many of these men had sufficient time, leadership ability and public support in order to become involved with Catholic fraternal and nationalistic organizations, municipal politics and school affairs. They were available to be appointed to the Toronto Board of

Examiners, or later to run for trustee on its replacement, the TCSB, as well as for the separate school board in St. Lawrence Ward.²⁸ They, along with the parish priests, Fr. Patrick McDonough and his successors Frs. Thaddeus Kirwin and Thomas Fitzhenry (later a separate school trustee²⁹), turned early to the task of establishing and maintaining a government-recognized school for St. Paul's parish.

The most prominent and influential Toronto Catholic layman of the time was the Honorable Captain John Elmsley (1801-1863). Throughout the 1840s, he looked after the interests of Catholic pupils in both common and separate schools by serving as a member on the Toronto Board of Examiners and then on the TCSB. Later in the decade he began many years as a separate school trustee for St. John's Ward and as secretary-treasurer for each of the separate school boards in three of the Wards of Toronto. Elmsley, son of John Elmsley, chief justice in Upper and Lower Canada, grew up in York, Upper Canada, as the privileged son of a member of the "Family Compact."³⁰ After a stint in the Royal Navy, he retired and began to manage his father's extensive land holdings.

In 1831 Elmsley married a Catholic, Charlotte Sherwood, daughter of a judge on the Upper Canada Court of King's Bench. Two years later, Elmsley converted from the Church of England to Catholicism. Hence began his signal contributions to the development of separate schools. In 1841 he helped build the first Catholic school soon to become a recognized separate school, a frame structure on Richmond St. at the rear of the Lombard St. fire hall and became a trustee in order to manage it. As well, Elmsley used his resources to

pay the salaries of the separate schoolteachers. At some personal hardship he advised Catholics attempting to form separate school boards in various places in Canada West, and usually served as their secretary and recruited teachers for them. One example of legislative challenges that he encountered was the fact that by law the clerk's signature was required for the formation of a rural separate school to be recognized officially. Elmsley recalled the difficulties inherent in meeting this requirement:

Under the present law we are compelled to dance attendance upon Reeves and Chairmen of Boards, the former often miles and miles away from us, and to also take the chance of finding these functionaries at home; and also in good humour, and we have found them also to be subject to all kinds of delays and objections to endorse our little paper. ... One of them had his ink frozen ... and had to wait till a general thaw took place; another had not a copy of the Statutes by him and so he could not tell what the Law was ... and so through the endless trivial obstacles, all sufficiently annoying to deter anyone from pursuing the cause, to say nothing of traveling in mud, in some parts of the year, snow in other parts.³¹

As well as persevering over such resistance, he served as a Warden for St. Paul's Church and secretary to the bishop of Toronto; donated property at Clover Hill for St. Michael's College, St. Basil's Church, and St. Joseph's Convent; organized work "bees" and financing for St. Michael's Cathedral. With a fellow parishioner, Elmsley assumed the \$57,600 debt

on the cathedral and founded the Orphan Asylum on Nelson St. When the "Famine" Irish arrived, he risked his life ministering to the sick and provided for the burial of the Loretto Sisters who died looking after them. The Catholic newspaper *Canadian Freeman* lauded his self-sacrificing behaviour:

His care of the poor, of the widows and orphans, of those who were swept away by fever, was incessant. With the tenderness and devotion of a Sister of Charity, he visited the fever sheds, ... nursed and tended the sick; he consoled the dying, he buried the victims of the terrible scourge; he washed with his own hands the poor, bereaved orphans whose condition would have excited disgust in the minds [of many].³²

For the surviving orphans he erected a building in the Gore of Toronto (now absorbed by Brampton) to provide them with elementary education and farming skills.

Elmsley also assumed the role of school volunteer and benefactor. He visited the schools of St. Paul's parish often to distribute prizes and taught the boys at Sunday School in Hogg's Hollow. Fr. Kelly in his history of St. Paul's parish painted a picture of Elmsley marshaling the pupils to church using a long rope with a knot every yard and with a boy on each side of each knot. He served as a board-appointed separate school inspector at times and as trustee, chairman and secretary-treasurer on the Toronto's separate school boards until the year of his death on 8 May 1863. An obituary prepared for the *Globe* stated that, 'The widows and the orphans of Toronto have

now to mourn the demise of their kind-hearted guardian."³³ Brother Joachim of Mary, director of the Christian Brothers of De la Salle, described Elmsley as "A better layman Toronto never saw before and may never see again; ... he left an imperishable name after him."³⁴ Upon his arrival in Toronto in 1850, Bishop Charbonnel reported to Rome that Elmsley and one other convert had saved the whole Catholic establishment in Toronto by giving all their fortune as security. "I should be happy if the Holy See would grant a mark of satisfaction to those two fervent Christians."³⁵ Elmsley lived long enough to witness royal assent on 5 May 1863, of the constitutionally guaranteed *Scott Act*

Elmsley's role in the survival of separate schools in Toronto cannot be overstated. "Franklin Walker claims that Elmsley's own taxes and donations helped to keep Catholic schools functioning until the 1855 Act provided more revenue. And [Murray] Nicolson goes one step further: 'Without the generosity of Charbonnel and Elmsley the whole separate school system [in Toronto] would have failed.'"³⁶ As yet, there is no separate school in his name in Toronto, a situation that deserves correction. The University of St. Michael's College named a hall after him.³⁷

Two other notable Catholic personages were Charles Donlevy (1812[13]-1858) and Samuel Goodenough Lynn. Donlevy became a trustee for St. James Ward in 1853 and served as chairman of one of Toronto's separate school boards. He was a leader in the St. Patrick's Benevolent Society, the Total Abstinence Society, the Catholic Colonization Society, and on the board of a relief organization to alleviate

the suffering of the Irish Famine victims. Most importantly for the separate school system, Donlevy founded the *Toronto Mirror*, an important voice for Irish Roman Catholic reformers in Canada West. He joined forces with the bishop of Toronto to campaign for improved separate school legislation and funding. His editorials appeared regularly during the debates leading up to the separate school bills in 1853 and 1855.³⁸ Samuel Goodenough Lynn, another convert from the Church of England, was a wealthy businessman and proprietor of a store selling Catholic books and devotional objects. He worked closely with Elmsley devoting personal funds for the building of St. Michael's Cathedral and providing temporary accommodation in his home for the Ladies of Loretto upon their first arrival in Toronto. Lynn also served as trustee and secretary-treasurer for one of Toronto's separate school boards.³⁹

These men and other Catholics of St. Paul's parish, some lost in the mists of time, dedicated themselves to making use of the first separate school legislation in 1841 and then seeking improvements in that legislation. Trustees Elmsley and Lynn and Charles Robertson, president of the Toronto Catholic Institute⁴⁰ and later a Toronto separate school chairman, attempted to achieve two objectives — improve the financial situation of the separate board and get another separate school for those Catholics living west of Yonge St.

Achieving the first objective to improve separate school revenues seemed out of reach. The provincial Board of Education (a few years later designated as the Council of Public Instruction)⁴¹ was responsible for distributing

the common school fund (CSF) to the common school boards of Canada West. In turn, the common school boards were obligated to apportion the CSF to the common and separate schools in their jurisdiction. The common school trustees based the amount of money that they would forward to the separate school trustees on the qualifications of the separate school teacher, the accuracy of separate school enrolment submitted by the separate school trustees and other minuscule details. Sometimes their decisions would be founded on unreasonable assumptions. During his years as secretary-treasurer for the Toronto separate school trustees, Elmsley experienced repeated frustration in his negotiations with the TCSB and with the city clerk for a just share of the CSF. On more than one occasion the separate school board was deprived of the CSF for its teachers' salaries.

The plight that one separate schoolteacher experienced exemplified typical bureaucratic hostility and nitpicking adherence to the letter of the law rather than to its spirit. In August 1846 P. J. O'Neill, chairman of the separate school board, D. R. Bradley, trustee and J. Elmsley, secretary-treasurer, appealed to Ryerson about the salary of one of the city's separate school teachers, Denis Heffernan. Teachers were paid their share of the CSF at the end of the school year. In Heffernan's case, the trustees had promised him ninety pounds. The letter to Ryerson outlined the following events. The secretary of the TCSB, G. A. Barber, had refused to pay Heffernan on two grounds. First, Barber explained that his board could not recognize the school in which he taught as a legally constituted separate school since the separate school board had not submitted the

necessary paperwork on time. Second, Barber stated that Heffernan was not certified. Heffernan argued that the technicality of separate school documentation should not deprive him of his share of the CSF. He also pointed out that he had presented himself often to Barber, but that the superintendent had refused to examine him. Unsuccessful in his first meeting with Barber, Heffernan got examined and certified by the county superintendent and applied to Barber again. He was told again that it was too late. Heffernan then appealed to the city council, which advised payment of £33. Barber still refused at first, but did write a letter to Ryerson that he would pay Heffernan "as directed."⁴² Despite the letter to Ryerson from Bradley and Elmsley and despite Charles Donlevy's editorial remarks in his *Toronto Mirror* about Barber's "indiscretion and petty tyranny"⁴³, Ryerson ruled that Heffernan was not entitled to any further consideration because he had accepted the £33 from Barber.⁴⁴ Heffernan resigned.

Elmsley had no success either with regard to the second objective, opening an additional separate school in Toronto. The existing legislation provided that twelve Catholic heads of families resident in a common school section could meet to establish a separate school board. Since the TCSB had thirteen common school sections in the city, theoretically thirteen separate school boards could be established. The intention to form another separate school board in Toronto was blocked, however, when in 1847 the *Common School Act*⁴⁵ replaced the Board of Examiners with the TCSB and gave it the power and duty to determine the number, sites and description of schools and whether

such schools should be denominational or mixed. Thus, both the 50% representation on the school board and the power of ten or more Catholic heads of families to form a separate school board were no longer in the legislation for cities. The TCSB exercised its prerogative and turned down Elmsley's request for another separate school.⁴⁶

The struggle for justice for separate schools intensified in 1850 with the arrival of the new bishop of Toronto as the replacement for the deceased Bishop Michael Power. Bishop Armand Marie de Charbonnel's previous appointment had been in Montreal where the English Protestant dissentient schools had establishment and financial equality with the French Catholic common schools. He knew of the separate school controversy in Canada West, but could not understand why the Catholics there did not have the same rights as the Protestants of Canada East. He often made this point with Ryerson. The chief superintendent would counter that dissentient schools were necessary in Canada East because the common schools were Catholic, but the common schools in Canada West were non-denominational. The non-denominationalism of the common schools was not an answer for Charbonnel; on the contrary, it was its most undesirable feature.

As Charbonnel learned from Elmsley and others the specific aspects of the legislative and financial impediments to expansion of Catholic education in Toronto — the power of the city's common school board over separate schools, the requirement of separate school supporters to pay common school taxes, the inability to establish or maintain a separate

school in a school section where there was a Catholic teacher in the common school — he was at first puzzled, then angered and finally attempted to eliminate any and all perceived injustices. This would inevitably put him on a collision course with Ryerson whose views diametrically opposed those of the bishop. Within a short time, he concluded that he could not work with Ryerson, resigned from the Council of Public Instruction and began to seek removal of the chief superintendent's administration over separate school boards.

There were, besides Charbonnel, strong forces against Ryerson and the proponents of one non-denominational school system: the bishops of Canada East and West; Catholic lay leaders with influence and power, notably Elmsley; the Catholic press; separate school trustees; and the aforementioned members of the legislature for Canada East. Assisted by these groups, Charbonnel at once began to address the problems: "I purpose to neglect nothing to assure the success of this vital question."⁴⁷

His immediate problem was to get another separate school to serve his greatly increased numbers of parishioners in the east end around the Don River. The educational institutions existing upon his arrival in 1850 were the following: a private academy (i.e. post-elementary) operated by the Sisters (Ladies)⁴⁸ of Loretto; five private (i.e. unrecognized as separate schools) one- and two-room Catholic elementary schools, operated with diocesan funds and tuition⁴⁹; and St. Paul separate school for boys and St. Paul separate school for girls.⁵⁰ Adding to the number of legally recognized separate schools would increase the separate

school trustees' share of the CSF and would replace the "poor" schools.

On 14 October 1850, Charbonnel picked up on Elmsley's request in the 1840s and sent a diplomatic letter to the TCSB requesting three separate schools.⁵¹ The *Common Schools Act* of 1850⁵² removed the 1847 clause that gave approval for establishing a separate school in a city or town to the common school board. The 1850 *Act's* section 19 restored the separate school right that required a city board of trustees to establish a separate school upon the application of twelve or more heads of families resident in a common school section. But the mechanism of section 19 confined each separate school to the boundaries of a small TCSB common school section. Charbonnel preferred to use the 1850 *Act's* section 24 empowering the TCSB to "determine the number, sites, **kind**, and description" of the city's schools. With this method a separate school could be established anywhere in the city and would be limited only to the boundaries of the city.

Charbonnel's first letter to the TCSB was written in French. The TCSB refused to receive it. When Charbonnel had his letter translated into English and sent it again, the common school trustees refused his request for three separate schools on the basis that the 1850 *Act* did not require but only empowered them to establish a separate school and that there was already sufficient separate school accommodation. The bishop's next move was reluctantly to demand **seven** separate schools in seven of the TCSB's thirteen common school sections. His letter submitted the required eighty-four (7 12) Catholic heads of families. In it he shrewdly pointed out that:

In a pecuniary point of view the greatest sufferers will be the Protestant Teachers of the several school sections, in which separate schools will be established. ... The Roman Catholic Teachers will receive such proportion from the public monies, as the number of pupils attending their schools will warrant. ... Although the applications for seven separate schools will be made, yet should the Board be disposed even yet to reconsider the matter, and take up the principle of compromise, those applications will be withdrawn. ... We have seven teachers competent to take charge of the seven separate schools ready at short warning... They are, with a single exception, unmarried, and therefore are content.⁵³

In other words, seven male common school teachers could lose their jobs, and the TCSB would lose a share of the CSF in seven of their common school sections.

On 30 December the TCSB, uncertain of the law, asked Attorney General Robert Baldwin whether or not it was compelled to establish a separate school in each school section. Despite the existence of section 19, he did not know either. The TCSB once again refused to grant Charbonnel's request. The bishop then appealed to Baldwin, who put the decision back into the hands of the common school trustees. Charbonnel did not give up. A Catholic lawyer, James Hallinan (later a Toronto separate school trustee himself), acted for Thomas Hayes and J. P. O'Neill, Toronto separate school trustees for school section # 9 in St. James Ward, in an appeal to the Court of Queen's Bench. As a test case, Hallinan

argued for only one separate school. Charles Donlevy, one of the separate school trustees and owner of the *Mirror*, editorialized: the common school trustees "say to Catholics 'You are perfectly welcome to send your children to the Protestant Schools, but whether you send them or not you shall contribute to support them [the Protestant schools].'"⁵⁴ (His use of the designation "Protestant" to describe Ryerson's non-denominational common school accurately reflected the views of many of the Catholic leaders of the time.)

The Court upheld the board's rejection; it judged that the city's thirteen common schools were not in "common school sections," but merely in "attendance areas." Section 19, therefore, was not applicable. Furthermore, the court wrote, there was only one school unit for separate school purposes and, therefore, the board could not be compelled to grant the bishop's request. Finally, the judges cited the 1850 *Act* stating that the common school trustees in a city were to determine the "kind" of schools.⁵⁵ In short, the TCSB could limit Toronto to one separate school. To make matters worse, after the judgment the Catholic voters failed to elect a single trustee to the TCSB. Donlevy reported that Toronto's five Catholic elementary schools might be forced to close because of the common school board's refusal.⁵⁶ Records indicate that the Catholic schools continued to operate after the 1850 judgment, but, since they did not have the legal status of separate schools, they received no share of the CSF.

In June 1851 Charbonnel's next move was to appeal to Ryerson, with whom initially he was on good terms. The bishop drew Ryerson's

attention to the equality that the Protestant school supporters of Canada East possessed, telling him that, if he administered the separate schools as Dr. Meilleur, the chief superintendent of schools for Canada East, governed the dissentient schools, then "our condition for the education of our dear children will become good and better." Charbonnel appealed with feeling: "the redress of the wording of the clause in behalf of the city Catholic separate schools is in your hands and heart."⁵⁷
