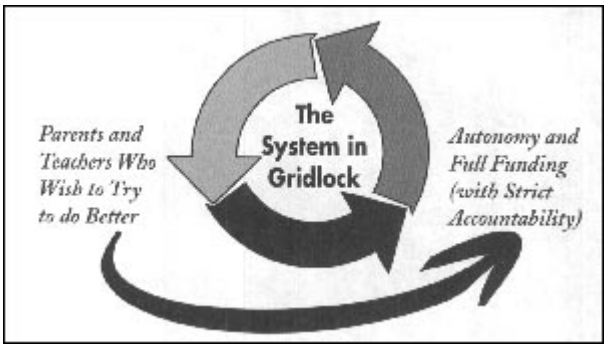
The Charter Idea: Reform of the Entire System

THE BEAUTY of the charter school idea is that it allows parents and teachers to simply avoid this impenetrable bureaucratic mess. They don't have to exhaust themselves or distort their lives for years in the fight to change it - they simply bypass it. A charter law allows them to opt out of the whole affair and take their children and the money with them (see following diagram). Because the dollars follow the children, this is a reform to which the existing system will immediately pay attention. How could it not? It will be impossible to outlast this reform or pretend that everything is all right when children are not showing up as usual, the system is losing large chunks of funding, and some of its most able teachers and administrators are choosing these new public schools. Other teachers, too, will also be paying very close attention. Imagine their response over time as they see their colleagues gaining far more autonomy, a new level of professionalism, and much greater satisfaction teaching in charter schools. When all this hurts enough, the system will learn from the new public schools in town, find ways to break the gridlock, and will become more responsive and effective.



And that is the purpose of charter school legislation in Atlantic Canada and elsewhere. It is not to provide a few new and perhaps innovative schools for some children and their parents. Rather, the purpose of charter schools is to hasten reform of the entire system. The intent is not to attack and destroy the existing system (as might occur with the unrestricted voucher). Instead, the system is left largely intact while enough schools and educators are set free to demonstrate that they can do much better with different, less restrictive conditions of governance.

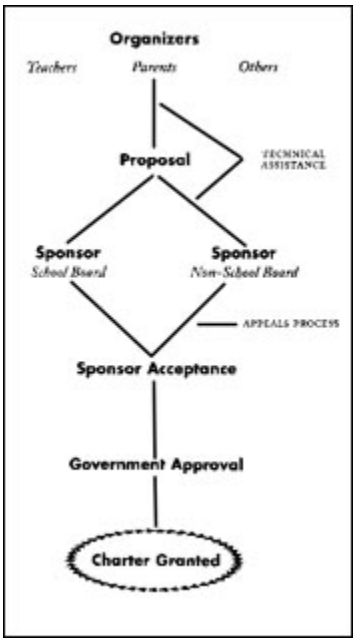
Over time, however, their educational successes and the much higher levels of parent and teacher satisfaction that result from chartering will expose the existing system to an entirely new and powerful set of dynamics: *choice, competition, and real consequences for poor performance*.

The charter school idea is predicated on these new dynamics and need not apologize for them. They have already proved themselves by vastly improving the delivery of public services in a number of western democracies. The challenge for Atlantic Canada's legislators, as it has been for those elsewhere, is to ensure that the process is fair and that equality of opportunity for students is preserved.

Chartering: How Does It Work?

AS NOTED EARLIER, charter schools would only be possible in Atlantic Canada if these provinces had a charter law. The process begins with a group of teachers, parents or others who are dissatisfied with, or feel they can do better than, their existing public school. They

wish to create a charter school. While most often it is teachers or parents who wish to do so, other groups, including colleges and universities and even the private sector, should be able to participate. Such groups, called *organizers* (or petitioners or applicants), must develop a detailed plan for their school, spelling out its failures and how it will be managed. There may or may not be technical assistance available from provincial officials to guide and assist the organizers. When their proposal has been developed, organizers present it to a *sponsor*. This is a group that can legally enter into a contract with successful organizers and hold them accountable for the performance of the school. If the sponsor does not approve the charter document, there may be an *appeals procedure*. The approval of a more senior board or body or even that of the Minister of Education will be required for final approval of the charter application. The above scenario may be summarized schematically (see following figure).



There is a great misconception in Canada about charter organizers. Because it was frustrated Canadian parents who first saw the potential of charter schools, many educators and others assume that chartering is something done only by parents. That is one way, but only one. Of course, parents should have the right to charter schools and operate them if they are able. But that is very hard work and the demands go on for years. As well, parents can move, lose interest, quarrel, or simply make errors from inexperience.

In fact, teachers are the natural candidates for chartering. Many have the motivation and skills necessary and have quietly watched others running their schools for years. So far, they have been slow to figure this out for themselves. Many have followed the anti-charter positions taken by their unions. However, as Myron Lieberman wrote in *Public Education, An Autopsy*: ..."union interests and teacher interests . . are not always identical" (Lieberman, 1993). Gradually, however, teachers are beginning to understand that chartering is ideal for them and that they are the natural organizers.

Ideally then, before attempting to do it themselves, the best role for parents is to choose from an array of regular and charter public schools, selecting the one whose philosophy, methods, and expectations match their own. By comparison, consider this: If readers had the funds and the desire to enroll their children in a strong private school, why would they choose to work

for years to recreate an Upper Canada College? Would it not make far better sense to simply choose such a school run by skilled educators and be done with the matter? By far, then, the better solution in the public domain is to encourage teaching professionals to come forward under charter legislation, create a large number of charter school choices, and allow parents to choose.

Sponsors are required to provide the legal legitimacy for a province to grant charters. They also act as a screening device to ensure that charter applicants have well-organized and -considered school proposals that are educationally sound and meet the tests of public education created in the province's charter legislation. Essentially, the sponsor enters into an agreement with the organizers and holds them accountable for the performance of the school.

It is critical that the organizers be able to approach entities other than their local board for sponsorship. The reason? School boards do not like charter schools, and the process would often end right there if there were no alternative sponsorship or appeals process available. In Alberta, the law wisely provides that if the local school district rejects the charter application, organizers may then appeal directly to the Minister of Education for approval and sponsorship. A classic example is now playing itself out in Alberta as this paper is written. The Calgary Public School Board has summarily (and derisively) refused to sponsor a charter proposal for a traditional model school, despite abundant evidence that the proposal was well-considered and supported by large numbers of parents. The abusive manner in which the proposal was refused has offended many parents, educators, editorialists and even the Minister of Education. Of course, it is precisely to him that the charter applicants will now directly appeal. It is also important to note that more recent and dynamic legislation has included sponsorship by community colleges and universities. This lends legitimacy and liveliness to the chartering process, and immediately creates more and stronger charter applicants.

Technical assistance is crucial. Preparation of a strong and well-considered charter proposal requires skill, considerable effort, and insider knowledge. As well, the proposal must fully comply with the terms of the charter regulations. Since school boards are generally hostile to the idea, the best solution is for the province itself to provide helpful technical assistance and advice to organizers. That is the solution favored in the U.S. by those states with the strongest legislation. Of course, if a state or province wishes to enhance educational reform prospects through chartering, it is in its own interest to provide a measured amount of quality technical assistance.

An *appeals process* is critical. If the local district must be approached for sponsorship and there is no appeals process, then all or most charter organizers will be turned down. This happened in Minnesota, the first state in the U.S. to draft charter legislation in '89. All initial applicants were refused by their local school districts. Alerted to the error, legislators amended the bill in '93 to allow for alternative sponsorship after appeal. With that provision, charter action began almost immediately. It should be noted, however, that charter organizers can be led though an expensive and exhausting process by a hostile board, even if ultimate refusal could have been foreseen. The better approach by far is to allow organizers the ability to secure a non-school board sponsor from the very beginning.

Wonderful Opportunities for Teachers

TEACHER EMPLOYMENT issues are very significant to the charter school process. If teachers do not feel safe to give it a try, if they risk loss of their original position in the

district, their seniority, and their pension benefits, few will apply. Thoughtful laws seek to provide security in these areas. This does not mean that such teachers are unwilling to accept the right of the charter school governing body to hire or dismiss them. Quite the reverse is the case for many of these very able teachers. Recently, for example, Boston's City on the Hill charter school had applications from 400 qualified teachers for three positions and the Renaissance School (an Edison Project school) had 700 applicants apply for thirty-six teaching positions. Able teachers willingly accept these conditions, knowing that their greatest protection lies in their teaching ability and the instant consensus they will have with the school and their fellow teachers on such issues as teaching methods, expectations, and values. The strongest charter laws preserve the ability of the charter school to choose its own teachers and to dismiss them should it choose to do so.

The arrangement is not one-sided. Good charter laws still allow for collective bargaining. However, they allow teachers to choose for themselves whether their bargaining unit will be at the school or district level. Such laws also allow teachers the choice of not being involved at all (as in the example of the Minnesota teachers' cooperative school at the beginning of this booklet).

Further, and most important, the best legislative provisions allow for a leave of absence by teachers who wish to work in a charter school. Their former teaching position in the district should be guaranteed for a set period, with or without extensions, for up to three to four years. During that time, they should retain their seniority within the district and be able to retain and contribute to its retirement plan. These provisions should be embodied in the charter legislation.

"Live and Dead" Charter Laws

NOT ALL charter legislation is created equal. Experience has shown that simply passing some charter legislation does not ensure that any chartering will occur. That is because there are strong and weak ("live and dead") charter laws. A live law has features that allow real autonomy and accountability. Such a law provides the potential for a greater number of charter schools to be developed quickly with fewer compromises. This will result in more choices, more innovation and more schools that will rapidly provide a challenge to the existing public system.

A dead law has features that blunt real autonomy and accountability. Such a law presents unrealistic impediments to those who would open charter schools. It restricts their choices, puts up roadblocks to approval, limits the numbers of charters available, places them in a position of dependency on school boards, and otherwise limits the dynamism of the process.

To illustrate the importance of this concept, consider the experience of three states that have strong charter laws: California, Arizona and Michigan. By March 1996, these three states alone had approved 212 charters - well over half the number then approved by all twenty-four states with charter laws. By contrast, Georgia and Kansas, states with dead legislation, had approved not one charter school in over two years.

Why would a legislature pass such a weak, lifeless charter law? The answer lies in the compromises necessary to get bills through legislatures. They are often fiercely fought by teachers' unions and public education leaders who do not want competition. Often, a dead law is the result of a compromise agreed to by exhausted or disheartened legislators on the one side and public education leaders who appear to support a dead law on the other, knowing it

will not be a threat or force them to change. Atlantic Canada's legislators should take note.

Why Does the Charter School Idea Arise Now?

FOR A WHOLE SERIES of reasons, open discussion of public education in Atlantic Canada is now very appropriate. Obviously, passage of such legislation in Alberta and the recent emphasis on structural reforms and fiscal prudence by governments in Atlantic Canada make such debate very timely. However, there is also a convergence of a number of factors that make further charter legislation in Canada especially attractive. Let us consider some of them.

Increasingly, it is apparent that our bureaucratically-governed public education system suffers the problems associated with public monopolies. Whether it be Ontario Hydro, Canada Post or the Halifax Public School Board, such monopolies have serious flaws that are now becoming apparent. Lacking flexibility and stimulation by competitors, such monopolies are simply less efficient and effective than they might be, despite the best efforts of caring and committed managers and staff. These huge organizations are less innovative, lack a strong focus on outcomes, and are unable to satisfy increasing demand for specialization. In the case of huge, often unresponsive school systems, there are even worse consequences. Increasing numbers of parents feel alienated or lack confidence in the system, and many of the system's teachers are badly stressed or burned out. This is not sustainable. Unless there are changes, public education in Canada will slowly but surely lose its support and legitimacy.

Provider capture is a term referring to the self-interest of the bureaucrats running the current system. Their interests are often at odds with those of parents, children, teachers in the classroom, and the larger community, which has been funding the whole apparatus in a handsome fashion. Provider capture has resulted in hugely increased expenditures and palpably diminished responsiveness. Those paying the bills, whether they be provincial governments or municipalities, now know that spending levels are unsustainable. Worse, they have in their hands evidence that they are getting poor value for their funding over the years.

Expenditures on education in Atlantic Canada are three and a half times greater than 30 years ago, even allowing for inflation. This exorbitant increase has been even greater than that in the rest of Canada, though Atlantic Canadian literacy and numeracy remain well below the national average (only one Atlantic province, Nova Scotia, scores better than the national average in either category, in this case literacy, though Nova Scotia's literacy rate remains below the average in all western provinces, and its numeracy rate is well below the national average).

Comparison with the Canadian average tells only half the story; Canada generally has been an underachiever. Despite the flood of money, basic skills levels in Atlantic Canada and the rest of Canada actually declined through 1991.