

**Title: Adult Education and the Law: A Collection and Examination of Legislation as it Bears on the practice of Adult Education in Canada. International Journal of University Adult Education, vol. 23, no. 1-3**

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Introduction

The recent publication of *Adult education in Continental Europe: An Annotated Bibliography of English Language Materials, 1980-1982*, by Jindra Julich (Monographs on Comparative Studies in Adult Education, Centre for Continuing Education, The University of British Columbia, Vancouver, Canada) indicates that there is a growing interest in the legal foundations for adult/continuing education throughout Europe. No doubt approaches are different, but some possibility of comparative analyses exists.

The term adult/continuing education is used because the term adult education alone does not seem appropriate either to reflect important areas of growth or to cope with some peculiarities of legal evolution. To use continuing education alone, while preferable from our point of view (see/below) would also only confuse as long as the relative anarchy in the usage of terms continues to exist. To be clear, what we are primarily interested in is the legal evolution bearing on the adult sector of systems of continuing education--as we have defined the term. The latter sentence serves also to describe what is actually happening at least in our society, which is that law created originally to take care of the conventional groups of children and youth, for educational purposes, is evolving in its application to other bodies of students and learners. The principal engine of this evolution in 'common law' societies is that of jurisdictional decision, or case law. In other types of legal systems, presumably the means of evolution is quite different, and therein perhaps lies the first area for comparative study. In a federal system such as Canada, with thirteen separate jurisdictions, the basis for comparative work is built in. Anyone interested in this area has, at least on the surface, quite enough 'home-made' comparative work for a lifetime of research and reflection. However, it is quite certain that despite the differences between provisions in these various jurisdictions, a fact that is likely to be the case in other federal systems, there are also prevailing biases that mean that the similarities, taken at a certain level of abstraction, are greater than the differences. For this reason, we welcome the indications of increased attention in the European and other countries, and will begin to look for areas of comparison. In the long run, what is of the greatest interest is whether there are universal factors that affect the relationship of learning, rather than education, and the law.

We shall begin to collect the materials cited in the Kulich publication. We would also be interested in entering into exchanges and sharing interest and materials with the authors of those works, looking forward perhaps to something of a network of individuals who share this interest in each of the countries represented.

The education of adults in Canada, as in any other industrial-technical society, includes a multitude of intentional programs and achievements, ranging from simple provisions for part-time students by School Boards in every province to the provision of educational opportunities for inmates of federal and provincial penitentiaries.

One would not expect, or wish, that the legislative basis for such an enormous range of activities would be simple to display, describe or understand. Nevertheless, it is our view that it is of increasing significance to describe and understand that basis as thoroughly as possible.

Until recently, few adult educators in Canada or elsewhere have needed to be familiar with the legislative underpinnings of their activities. So long as no one was legally prevented from encouraging and/or providing adult education, the perceived marginality of the mission discouraged much curiosity about the legal foundations. However, that time has passed. Legislation affecting adult 'learning' and adult 'education' is emerging from the world's legislatures in increasing volume. If we are to play our role as competent professionals, we need to know what the legislation is, at least in our own jurisdictions. We need to understand how to use the appropriate legislation. In addition, we should be able to assist in the development of legislation, that is, be able to translate the necessities of successful adult learning into the unfamiliar language of the statutes. In the long run, that also means that we should try to understand the difference between good and bad, successful and unsuccessful, legislation devoted to the support or direction of adult learning and adult education. In this study, all levels of government are involved, though the primary attention will be devoted to provincial and federal levels, in that order.

What we propose is to move, at least initially, in a kind of widening series of circles. We will start with the most visible 'educational' legislation, the various Education or School Acts of the provinces, and move to the less obvious statutes, including those that can be said to be in support of learning, as distinct from education. While in fact, in some provinces, the School Acts may appear to have less significance for the education of adults than other pieces of legislation, it seems sensible to begin with them. Indeed, as the school boards move increasingly towards the acceptance of responsibility of the basis education of everyone in their communities, regardless of age, we are likely to find more and more attention in the various Education or School Acts devoted directly or indirectly to the education of adults. We must also expect that the century of experience with these central instruments of 'educational' legislation will have enormous influence on the development of future legislation devoted to the education of adults.

In Section 1, we will present a list of the titles of various Acts and Regulations that have been supplied to us by each of the provinces. The basis for the initial gathering of documents was a letter addressed to each province, requesting 'copies of all legislation upon which your activities in adult/continuing education are based'. We asked for principal legislation and any additional statutes that may have a bearing on the practice. In addition, we asked for comment on the adequacy or the inadequacy of the existing legislation. We deliberately did not provide our definition of adult education at that time, since the way it is defined in each jurisdiction, assuming that the definitions differ, is of some considerable importance.

Following the titles and some initial commentary, we will, over a period of time, provide some analysis of the legislation in each province. We will reproduce only those clauses of the legislation that we believe to be significant for adult education, and comment on what possible alternative meanings they may have. In the case of the 'Education Acts' presented in the first phase of this enquiry, we will provide commentary on them against a background of the following four questions:

1. How is adult education defined in the particular jurisdiction? What terminology is used? For our purposes, we will use the present Unesco definition as a basis for commenting on those in use provincially and federally, largely because it is the most inclusive of all definitions in use.

the term 'adult education' denotes the entire body of organized educational processes, whatever the content, level and method, whether formal or otherwise, whether they prolong or replace initial education in schools, colleges and universities as well as in apprenticeship, whereby persons regarded as adult by the society to which they belong develop their abilities, enrich their knowledge, improve their technical or professional qualifications or turn them in a new direction and bring about changes in their attitudes or behaviour in the twofold perspective of full personal development and participation in balanced and independent social, economic and cultural development;

adult education, however, must not be considered as an entity in itself, it is a sub-division, and as integral part of, a global scheme for life-long education and learning;

the term 'life-long education and learning' for its part, denotes an overall scheme aimed both at restructuring the existing education system and at developing the entire educational potential outside the education system;

in such a scheme men and women are the agents of their own education, through continual interaction between their thoughts and actions; education and learning, far from being limited to the period of attendance at school, should extend throughout life, include all skills and branches of knowledge, use all possible means, and give the opportunity to all people for full development of the personality;

the educational and learning processes in which children, young people and adults of all ages are involved in the course of their lives, in whatever form, should be considered as a whole. (Recommendations on the development of Adult Education, Canadian Commission for UNESCO, Occasional Paper No. 34, Ottawa, 1980, p. 3).

\* In preference to the term 'life-long education', we have chosen the term 'continuing education' defined as follows:

It is a system(s) of education which includes formal and non-formal education, that is defined with respect to its various parts and agencies (elementary schools, secondary

schools, colleges, and universities, for example) in terms of specific educational objectives to be fostered, rather than in terms of the ages or circumstances of learners. The system is available to persons of any age, part-time or full-time, voluntary or compulsory, and is financed by a mixture of private and public resources. It is distinguished from other educational activities in the society by the possession of the exclusive right to provide public recognition or certification for those completing its programs, though not all of its programs need lead to such certification. (Thomas, A.M., Ironside, D.J., Abbey, D.S., Draper, J.A., Brundage, D.H., Fales, A.W., & Kidd, J.R., *New Reflections on a Learning Society: A Response to the Report: Continuing Education: The Third System*, Published by the Ministry of Education, Government of Ontario, Toronto, 1981 (informal publication). Toronto: Department of Adult Education, The Ontario Institute for Studies in Education, 1981).

2. Who are the students? Are adults specifically included, specifically excluded? What dimensions of the 'role' of student are specified in the legislation?

3. Who are the teachers? How are they defined? Does a common definition include teachers at all levels of the educational system? Is this definition maintained by Ministerial fiat, by professional examinations, or by collective bargaining, or by all three? Is all teaching limited to those defined as teachers?

4. What are the principal characteristics of the administrative structures supported by the legislation in question? To what degree are the procedures specified in the legislation or in regulations? For example, how are programs developed, maintained, controlled? What provisions are there, if any, for pupil (student) participation in program development? Can the legislation be said to embody opportunity for learning in the structures or procedures established?

The application of this last question as a base for analysis requires some elaboration. It can be argued, and perhaps demonstrated, that different administrative structures and different procedures involve varying opportunities for the individuals who must make them work to learn. The traditional hierarchical administrative structure, common to many large organizations, provides much less opportunity for fewer individuals within it to learn enough to understand how it works, than does the 'tabernacle' type organization which demands more decision-making responsibility from more people, and therefore provides more opportunities to learn more about it. In the situations in which we are particularly concerned, the existence of a 'board', of consulting and advisory machinery, and perhaps the existence of several examples of one class of organization, the school board within a single system, or the existence of a variety of different types of organizations for more people than a few large centrally administered agencies. Since it is organizations that are concerned with bringing about learning as their principal or only purpose with which we are concerned, then it becomes of critical importance to examine the built-in opportunities for those who must make them work to learn, as well as examining the degree to which those who are recipients of their services are able to understand how they work. When the only recipients of the services were children and youth, the significance of the latter characteristic was of a lesser importance, but as the majority of recipients or students become individuals who are 'considered adults by their societies', the issue becomes of central concern. We cannot expect very much of teaching agencies providing services for adults which are incomprehensible in their character to those adults or which are impenetrable and unresponsive to expressions of student need for particular types of educational opportunities. The precise point at which student and/or adult influence should be made, or can be most effective, remains a matter of debate, but it cannot be ignored as a matter of concern in a study of legislation affecting the education of adults and children alike.

When we include less 'educational' types of legislation, the background for the commentary and analysis will require some modification, less emphasis will be placed on the first three questions, and more on the fourth. This will be particularly true in the case of the judicial decisions and federal legislation included.

#### NOTE

As we have developed this project, exploiting the flexibility in revision of the word processor, it has become clear to us that that particular item of technology functions somewhat as the 'memory hole' in Orwell's Nineteen Eighty-Four. With each facile revision, whatever 'was' vanishes and whatever 'is' is all there is. The only easily accessible record of the evolution of this project will be contained in printed versions as they appear. Those readers with historical interests will need to guard their successive versions with care. We will keep under close security one copy of each generation of report which we may be able to provide on request at some cost. As we will also

identify each successive report by date and number, readers should note that each successive edition may be altered anywhere in the text. We may be able, with each successive edition, to provide a key to where the main changes are to be found. We will, however, from this time forward (1983) maintain a separate section of repealed legislation, by title, and for each jurisdiction. This may be made available upon request or at irregular intervals. While our present plans are to continue publishing in a form defined by jurisdiction, that is, all the legislation for each province, we intend to design the system so that readers may receive, on request and for a fee of some kind, the information in different classifications, for example, all the School Acts with accompanying commentary, or all the judicial decisions relating to learning, 'whether this will work or not, or whether there be sufficient demand, is a matter of experimentation. Readers should be warned that material to be found in these reports is not likely to be exhaustive in the sense necessary for litigation. It is intended to be suggestive only of possible points of view that might be directed to the legislation included and of sources of further, more intensive, information and direction.

We are most grateful to those offices and individuals in provincial ministries who have replied carefully and systematically to our enquiry. We have a firm notion of how much time, effort, and diligence those people took. We can only hope that our further responses will prove to be of commensurate benefit to them and their colleagues.

**LEGISLATION DETERMINING THE PRACTICE OF ADULT/CONTINUING  
EDUCATION, AS REPORTED BY PROVINCE**

<b>PROVINCE</b>	<b>ACT(S)</b>	<b>SOURCE</b>
<b>British Columbia</b>	1. School Services (Interim) Act (1982)	Department of Policy and Legislative Services, Management Operations
	2. School Act Regulations (1981)	Department, Ministry of Education
	3. Education (Interim) Finance Act (1982)	
	4. College and Institute Act (1981)	
	5. University Act (1980)	
	6. Institute of Technology Act (1981)	
<b>Alberta</b>	1. Department of Education Act (1980)as amended to March 22, 1982	1. Planning and Research, Alberta
	2. Department of Advanced Education Act (1983)	2. Department of Advanced Education
	3. Department of Manpower Act (1983)	3. Department of Manpower
	4. Universities Act (1980)	
	5. Universities Amendment Act (1981)	
	6. College Act (1980)	
	7. College Amendment Act (1981)	
	8. Banff Centre Act (1980)	
	9. Banff Centre Amendment Act (1981)	
	10. Technical Institutes Act (1981)	
	11. Technical Institutes Amendment Act (1981)	
	12. Private Vocational Schools Act (1980)	
	13. Alberta Heritage Scholarship Act (1981)	
	14. Student Finance Act (1980)	
	15. Student Loans Guarantee Act (1980)	
<b>Saskatchewan</b>	1. An Act respecting the Department of Advanced	Department of Advanced Education and Manpower

Education and Manpower Act  
(1983)

2. Regulations under the  
Department of Advanced  
Education and Manpower Act  
(1983)

3. Education Act (1981)

4. An Act respecting  
Community Colleges (1981)

5. An Act respecting the  
Saskatchewan Universities  
Commission (1979)

6. An Act respecting the  
University of Saskatchewan  
(1981)

7. An Act respecting the  
University of Regina

8. An Act to regulate Private  
Vocational Schools (1980)

9. An Act to Provide for  
Financial Assistance to Certain  
Students for the Pursuit of their  
Studies (1981)

**Manitoba**

1. Public Schools Act (1980)

2. Education Administration  
Act (1980)

3. Universities Establishment  
Act (1978)

4. Universities Grants  
Commission Act (1977)

Deputy Minister of Education

**Ontario**

1. Education Act (1981)

2. An Act to Amend the  
Education Act (1982)

3. Ministry of Colleges and  
Universities Act (1980)

4. Ryerson Polytechnical  
Institute Act(1977)

5. Apprentice and Tradesmen's  
Qualification Act (1980)

5. Apprentice and Tradesmen's  
Qualification Act (1980)

6. Private Vocational Schools  
Act (1980)

7. Ontario College of Art Act

1. Legislative Branch

2. Senior and Continuing Education  
Branch, Ministry of Education,  
Ministry of Colleges and Universities

(1968-1969)

<b>Quebec</b>	<ol style="list-style-type: none"><li>1. Arrete en conseil concernant la creation de la Direction generale de l'education permanente</li><li>2. Loi modifiant de nouveau la Loi l'instruction publique (1980) (1879) (1978)</li><li>3. Charte de l'Universite de Montreal (1967)</li><li>4. Loi concernant l'Universite Laval (1970)</li><li>5. Loi modifiant la loi des colleges d'ensiegnment general et professionnel (1980)(1979)</li><li>6. Loi relative a l'Universite du Quebec (1978) (1968)</li><li>7. Loi modifiant la Charte de l'Universite de Montreal (1968)</li><li>8. Accord Canada-Quebec relatif au programme national, de formation professionelle our les annees 1982-83, 1983-84, 1984-85</li><li>9. Loi sur la formation et la qualification professionnelles de la main-d'oeuvre (1980) (1979) (1978) (1969)</li></ol>	Government du Quebec, Ministere de l'Education, Direction générale de l'education des adultes, Service de la recherche, du development et de la reconnaissance
<b>New Brunswick</b>	<ol style="list-style-type: none"><li>1. New Brunswick Community College Act (1980)</li><li>2. Trade Schools Act (1969)</li><li>3. Regulation 71-126 Trade Schools Act (1972)</li></ol>	Department of Continuing Education
<b>Nova Scotia</b>	<ol style="list-style-type: none"><li>1. Education Act (1982)</li><li>2. School Boards Membership Act (1982)</li></ol>	Department of Education
<b>Prince Edward Island</b>	<ol style="list-style-type: none"><li>1. School Act (1974)</li><li>2. An Act to Amend the School Act (1975, 1977, 1980)</li><li>3. The School Act Regulations</li></ol>	<ol style="list-style-type: none"><li>1. Department of Education, Management Information</li><li>2. Department of Labour</li></ol>

- (1979, 1980, 1981, 1983)
4. An Act to Establish Holland College: A College of Applied Arts and Technology in Prince Edward Island (1974)
  5. An Act to Amend the Holland College Act, Regulations (1979)
  6. Holland College Act, Regulations (1979)
  7. Apprenticeship and Tradesmen's Qualification Act (1980)
  8. Apprenticeship and Tradesmen's Qualification Act Regulations (1979, 1980)
  9. Trade Schools Act (1974)
  10. Trade Schools Act, Regulations (1979)
  11. An Act to Establish the University of Prince Edward Island (1974)
  12. An Act to Amend the University Act (1976, 1981, 1982)
  13. An Act to Establish the Maritime Provinces Higher Education Commission (1974)

<b>Newfoundland</b>	<ol style="list-style-type: none"> <li>1. Department of Education and Youth Act (1970)</li> <li>2. Department of Education and Youth Amendment Act (1971, 1973, 1974, 1977)</li> <li>3. Technical and Vocational Training Act (1970)</li> <li>4. Trade School Act (1970)</li> <li>5. College of Trades and Technology Act (1969)</li> <li>6. College of Trades and Technology Amendment Act (1980)</li> <li>7. Bay St. George Community College Act (1977)</li> <li>8. Memorial University Act (1970)</li> <li>9. Memorial University Amendment Act (1973, 1974,</li> </ol>	<ol style="list-style-type: none"> <li>1. Department of Education and Youth</li> <li>2. Division of Adult and Continuing Education</li> </ol>
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1977, 1980)

10. Act Encouraging University  
Education (1970)

11. Schools Act (Scholarship)  
Regulations (1980)

12. College of Fisheries Act  
(1970)

13. College of Fisheries  
Amendment Act (1974, 1978)

**Yukon**

1. Ordinances of the Yukon  
Territory (1980)

Industrial Training, Department of  
Education

2. Apprenticeship Training  
Ordinance (1964) Northwest  
Education Ordinance (1977)

**Northwest  
Territories**

Education Ordinance

Northwest Territories

## Commentary

No jurisdiction provides adult education under one statute. In addition, it is likely that once the significance of the Unesco definition is understood, we will find, and be offered, many, many more statutes than have resulted from the preliminary enquiry.

Besides the direct support of the Ministry of Education and the Ministry of College and Universities in the activities of school boards, colleges of applied arts and technology, the polytechnical institute, and the universities, nine Ontario ministries are currently funding programs in continuing education to the amount of at least \$309,000,000 (1978-79). (Continuing Education, The Third System, Ministry of Education, Ontario, 1981, p. 46) Northwest Territories

We suspect that a comparable situation applies in every province, and that a great variety of legislation, non-educational in appearance, is involved. All of the provinces and one territory report at least two departments holding acknowledged responsibility for the education of adults. Whether this involves constant adjustment of jurisdictional boundaries, or whether, so far, it has not presented particular problems, is not yet clear. Even within the relatively limited range of activities represented by the reported legislation, the variety in the titles of the various statutes is notable. One of the abiding problems of determining the legislative basis for adult education is that of vocabulary, which often makes it difficult to locate the specific statute by title. It takes a considerable familiarity with the Canadian system, and the intricacies of federal-provincial relations, to understand the significance for adult education in Canada of the Fiscal Arrangements Act.

Finally to be noted is the remarkable regency of all of the legislation reported. The earliest is dated 1967 (Quebec), the latest 1983, with an astonishing concentration in the past five years. While some of the Acts may have originated much earlier than the dates shown, all have been either overhauled or introduced by their respect legislatures in the last decade and a half. This seems to provide substantial evidence for our initial assertion that legislation related to adult education is increasing in volume, and undergoing frequent and substantial alteration. Several of our correspondents alluded to changes in existing statutes to be made in the near future. It does appear that we need to be alert to and informed about these and other changes.