

constitutional protections in Canada.

The first *Charter* challenge was the *Elwood v. Halifax County-Bedford District School Board* case in Nova Scotia. The case was initiated by the child's parents, who began by obtaining an injunction against the school board. The injunction prohibited school board officials from transferring their child, Luke, from his neighbourhood school where he had been registered and placed in a regular classroom with the help of the principal. The school board had told the parents it intended to return him to the segregated class for children with disabilities located in another school.

The parents claimed that their child had the constitutional right to the equal benefit both before and under the education law and the right not to be discriminated against on the basis of a mental disability under s. 15 of the *Charter*. The school board countered on the basis that the education act gave the board the power to make all placement decisions. School board officials strongly resisted acknowledging that the practice of placing all children with disabilities together in a self-contained classroom could constitute unlawful discrimination.

During the year after the injunction the parties exchanged evidence in preparation for the trial. Shortly before the trial was to begin, a settlement agreement was proposed on behalf of Luke. The agreement detailed a model situation for Luke in his neighbourhood school in a regular classroom. The case was settled on the basis of this proposed agreement in favour of the child. Because all cases involving an infant claimant which are settled prior to trial must be approved by the court, the *Elwood v. Halifax County-Bedford District School Board* agreement is incorporated into the final court order.

Amendments Pave the Way to Integration

More recently, education statutes have been amended to specifically exclude reference to differential treatment but they do not provide any explicit obligation to fully include all children in regular classrooms. In other words, education