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"Will the sun come up in the morning?"

The 1999-2000 Conflict between Summerhill School and the British Department for Education and Employment

by

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Honors Thesis

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Introduction

On March 23, 2000 a group of school children sat in the Royal Courts of Justice in London and voted to accept an agreement between Secretary of State for Education David Blunkett and their school, Summerhill School in Leiston, Suffolk. This vote ended a year-long fight to keep the school from closing. Carmen Cordwell, the chair of that meeting later remarked, “This is our charter for freedom. After 79 years, this is the first official recognition that A.S. Neill’s philosophy of education provides an acceptable alternative to compulsory lessons and the tyranny of compulsory exams. With this one bound, we are free at last.”¹ Freedom, compulsion, tyranny—this fiery language fits the passion of the moment which has been immortalized in the memory of the small, tight-knit Summerhill community. Those in the world of democratic education see the March 2000 decision as a definitive victory which legitimizes and protects their existence.² For the outsider, however, Summerhill’s fight is nothing more than a human interest story in the Sunday newspaper or maybe a forgettable scene from a period of national

² The term “Democratic Education” has been used to describe several different philosophies, but in this paper it refers to the model established by A.S. Neill in the early 1900’s. Neill believed that children were inherently good and that traditional schools were dangerous to the spirits and minds of the children compelled to attend them. Instead, Neill wanted children to be given total freedom to control their daily actions and that this freedom could only be truly experienced while living as part of a purely democratic community. At Summerhill, his experimental school designed to test his philosophy, Neill established the practice of the school meeting where all facets of community life were to be discussed, voted on and enforced democratically. Children and adults were to be treated equally and to have equal say in meeting. Neill’s theories have had substantial influence on education systems across the world, although those at Summerhill will argue that most other adaptations of Neill’s system do not completely live up to his expectations. The belief in the value of personal freedom and democratic participation has, however, created a small but dedicated international community committed to creating more places where children can grow up surrounded by these principals.
education reform. Somewhere in between these two extremes there is a narrative that is both unique and representative, zoomed in on 12 acres and stretched out across an entire nation, revealing a fundamental misalignment between the roots of large bureaucratic forces and the origin of the emotive and deeply personal experiences of a small community as well as the commitment to education that lies at the heart of both extremes.

Founded in 1921 by the famous educational theorist A. S. Neill, Summerhill claims to be “the oldest children’s democracy in the world.” For almost 100 years, the independent boarding school has operated almost exactly as Neill intended it to, based on the progressive belief that when left to their own devices and given the freedom to make their own decisions, children will naturally become kind, loving, and successful individuals. Lessons are optional, teachers are equals, and rules are written and voted on by students. Although most individuals associated with the school—students, teachers, and parents—enthusiastically support its methods, the school’s unique philosophy was put on trial in the late 1990’s when a damning report was published by the British Government’s OfSTED (the Office for Standards of Education). The British DfEE (Department of Education and Employment) found serious issue with the school’s operations—in particular, the lack of compulsory lessons and consistent assessment—and issued a Notice of Complaint which, in essence, threatened to revoke the school’s registration if these aspects weren’t remedied appropriately. This 1999 report sparked national and international attention because instead of accepting the report’s findings, Summerhill decided to appeal the Notice of Complaint and fight for the right to allow children the freedom to control their own education, and a year later the school won.

The year between the official citation in March 1999 and the resulting Independent Schools Tribunal in March 2000 was spent campaigning for support from alumni and others
across the world. Two independent inspections of the school were conducted which challenged OfSTED’s findings and several experts came forward with research that both supported Summerhill’s practices and accused OfSTED of conducting a seedy and unprofessional inspection. All of this information was taken to the Royal Courts of Justice for what ought to have been a two week tribunal. In reality, the tribunal only lasted three days and only consisted of the testimony of the Registrar for Independent Schools before the DfEE settled with Summerhill in an agreement that rescinded the original report’s complaints. This agreement, which true to the school’s character, was voted on and approved by a special meeting of the school’s pupils, set a potentially important precedent for the future of democratic education in the UK and the world. For the first time, a democratic school was given what the school community saw as legal protection to follow its core tenets of non-coercive and non-compulsory education despite the fact that it was very possible that some of the children might chose to take a path very different from the one prescribed by traditional schools.

Summerhillians speak of the case as an intentional attempt to eradicate a form of education that threatened the government’s traditionalist model. When the story is viewed within a larger, national context, however, these vindictive intentions are either too well hidden to trace, or the entire situation seems to be a consequence of forces much larger than one school. Starting in 1997, New Labour pledged itself to a series of sweeping social policy reforms, with education as its primary focus. A central aspect of these reforms was increased attention to standards and progress, which included an increase in inspections and accountability. Could the 1999 Summerhill report simply be a product of changing attitudes in education? Secretary of State of Education David Blunkett and other officials deny any type intentional targeting and attest that they were never trying to close Summerhill, only working to ensure that all students were
receiving the education they needed to be successful adults. Are these comments the veiled and scripted words of closed-minded bureaucrats opposed to democratic education or do they stem from an honest desire to improve Britain’s schools? How can the memory and emotion of a community be reconciled with the official documents and comments of a government agency?

Despite this rich disagreement in narrative, historians have yet to seriously examine the case or to frame it in a larger national context. There has been one academic paper published on the topic by a professor from Manchester Metropolitan University named Ian Stronach, but his interest rested in a critical examination of the methods of the investigation as a way to discuss a possible trend in unfair and unethical government audits. His paper is more focused on proving this trend in audits than it is in giving a comprehensive picture of the scandal. Apart from the media coverage of the event, the only other chronicle of Summerhill's fight with the government is a single page on the school’s own website, but this is narrative is understandably subjective. A fictionalized television miniseries has further confused fact and fiction surrounding the scandal and has left many questions unanswered. What really motivated OfSTED’s damning report? What drove Zoe Readhead, the school’s principal, to fight so adamantly? How did the children feel about the conflict? Why 1999? Why Summerhill?

This paper seeks to fill the void in the historiography of the school by investigating the 1999 standoff between Summerhill and OfSTED in an unbiased and unsensational way. The Summerhill experience has been explored and recorded through a series of informal, personal interviews that were conducted during the summer of 2014 in and around London. These interviews were originally intended to be compared against interviews with OfSTED inspectors and DfEE officials as a way of answering the questions posed above, but the inability and unwillingness of several key government officials as well as the unavailability of many

government documents from the period have forced this paper to take a slightly different approach. As a result, much of the political narrative has been constructed from New Labour policy documents, newspaper coverage and analytical sources. Although the overrepresentation of Summerhill voices does prevent a completely balanced account of the entire debate, it actually sets up an even more interesting narrative about the discrepancies that arise when personal experience is compared to the documented and traceable facts of an event.

This investigation will begin with a comprehensive overview of New Labour’s identity and how that shaped the party’s educational policy during its first term. Next will come a detailed record of the entire case, which will start with an analysis of the bureaucratic process and forces that were at play. After that, the themes that emerge from the interviews of Summerhillians will be explored, including several surprisingly consistent theories about why the 1999 report was so negative. The thesis conclusion will then attempt to make sense of the lasting effects of this conflict as well as its place in New Labour’s attempt to reform British education and Summerhill’s attempt to remain faithful to its founding principles.
Chapter 1:

New Labour - New Party, New Standards and New Accountability

New Labour’s 1997 victory marked the end of an almost 20 year Conservative reign and was arguably the result of the self-destruction of one party coinciding with the rebranding and revitalization of another. By 1997 the economic and social policies of Margaret Thatcher and John Major had taken an emotional toll on Great Britain. Tony Blair’s New Labour party offered a refreshing alternative to Conservatism that retained the previous government’s emphasis on accountability and efficiency while promoting a broader sense of community and vision. In the very first entry of his 900 page memoir, David Blunkett, the Secretary of State for Education and Employment during New Labour’s first term, describes what he interpreted as a nation-wide feeling of reprieve. He remembers that, “Among the crowds there was an almost tangible sense of enjoyment, the sheer exhilaration of people reveling in the feeling that the Tories had disappeared—as if the whole nation was letting out a huge sigh of relief.” It is interesting to note that even Blunkett describes a “sense of relief,” not a feeling of victory or celebration. Even he seems to recognize that New Labour had won partly because they weren’t the Conservatives, but regardless of voters’ true sentiments, New Labour had obviously found the right place between traditional Labour and Conservatism that allowed them to win.

As its name suggests and its 1997 Election Manifesto vocally articulated, New Labour branded itself as something distinct from what had come before. They called themselves a party of practicality, pledging to think critically about what the nation needed and to enact policies that would fulfill those needs, stating that, “What counts is what works. The objectives are radical.

The means will be modern." Tony Blair set out what he called a "Third Way" of government, an in-between realm that was neither traditional Labour nor Conservative. For example, while introducing the party's economic identity, the Manifesto explains, "In each area of policy a new and distinctive approach has been mapped out... That is why new Labour is new. The old left would have sought state control of industry. The Conservative right is content to leave all to the market. We reject both approaches." Instead, New Labour committed itself to a partnership between government and industry that was designed to create a version of capitalism that was both competitive and fair, two ideals that hadn't been successfully paired together before. This type of reinvented and hybridized policy characterized New Labour's platform.

New Labour's economic plans tied directly into the party's core objective of creating a more equal and prosperous nation. The 18 year Conservative government had seen inequality rise to unprecedented levels, and New Labour was poised to stop this escalation of inequality and to work towards a more egalitarian society. The 1997 Manifesto lists 10 promises that the Labour government would uphold if elected, and although they touch upon different aspects of society, they all tie into the central goal of making Great Britain more successful by ensuring employability of the citizenry through education. Tony Blair famously announced that education would be his party's keystone issue in a party conference speech in October 1996 when he said, "Ask me my three main priorities for government, and I tell you: education, education, education." In a paper from the Centre for Analysis of Social Exclusion (a very New Labourite name by the way), John Hills interpreted the foundation of these three priorities and suggested that, "If one is searching for a linking theme across Labour's welfare policies within its first year

it might be found in its promotion of work and the work ethic. Tony Blair’s famous three
priorities...flow explicitly from an analysis that both low productivity and growing inequality
have roots in a workforce which is ill-equipped for the contemporary global economy.”

New Labour’s entire identity was centered around the belief that equality of opportunity through
education would lead to a more equitable and productive nation.

While New Labour’s publications are filled with descriptions of how different the party
was, the actual “newness” of New Labour is something that has been hotly debated by both
Labour traditionalists and conservatives. Professor of contemporary political history Steven
Fielding published a book in 2003 which attempted lay out this debate and in which he writes,
“... authors have at times employed a cautious ‘new Labour’, an assertive ‘New Labour’, a
wholly qualified ‘‘New Labour’’, or, as here, a sceptical ‘‘New’’ Labour.’”9 As subtle as these
varying degrees of capitalization and quotation may be, Fielding’s list draws attention to the fact
that the ‘new’ of New Labour was linguistically as well as politically and ideologically
ambiguous. Was New Labour simply a rebranding without new ideology? Was it based on a
changed ideology that had previously gone unnoticed and unnamed? Was it actually so new
when compared to the previous government’s policies? Tony Blair’s election as party leader in
1994 marked the birth of a party that maintained Labour’s traditional commitment to increasing
equality through government funding for social programs but which did so by walking a
hazardous middle line that was criticized for partially abandoning the labor unions and working
class constituency of traditional Labour while also failing to fully abandon Thatcherite
economics. New Labour was neither old Labour nor was it Conservative. Tony Blair made it

Exclusion, 1998, 26,
http://eprints.lse.ac.uk/5553/1/Thatcherism_New_Labour_and_the_Welfare_State.pdf.

9 Steven Fielding, The Labour Party: Continuity and Change in the Making of ‘new’ Labour,
very clear, both before he became party leader and during his candidacy for Prime Minister, that his party was Labour for the modern world and that, while his ultimate goals were the same as those of his Labour forefathers, his policies would be intentionally reviewed and reinvented to better serve the needs of 21st century Britain.

The first definitive step towards making a new Labour party was Tony Blair’s push to rewrite the party’s famous Clause 4 which had defined its values, aims and identity since 1918. A previous party leader had attempted to rewrite the clause in 1959, but it wasn’t until 1995, shortly after becoming party leader, that Tony Blair was able to make this very significant change and concretely mark the beginning of New Labour. The 1918 version of Clause 4 had a strong undertone of Marxist socialism, announcing that the main goal of the organization was, “To secure for the workers by hand or by brain the full fruits of their industry...” and to “promote the political, social and economic emancipation of the people, and more particularly of those who depend directly upon their own exertions by hand or by brain for the means of life.”

These aims had served Labour well in the early 20th century, but the global economy was very different at the end of the century than it had been in the beginning and this working-class rhetoric no longer represented Tony Blair’s vision.

The 1994-5 version of Clause 4 starts by defining the party as a “democratic socialist party,” which “believes that by the strength of our common endeavour we achieve more than we achieve alone, so as to create for each of us the means to realise our true potential and for all of us a community in which power, wealth and opportunity are in the hands of the many not the few...” Not only does the revision define the party’s aims and values with more detail that the previous version, but it almost totally abandons the party’s purely working-class roots and its

rhetoric of wealth redistribution in favor of a broader promise of national prosperity, partnership, and communication.

Some traditional members of the party were highly critical of the new Clause 4 because of how dramatically it seemed to be abandoning time-honored values, but New Labour adamantly proclaimed that its new mission statement was still true to Labour’s historic socialist identity. In his first speech as Party Leader in 1994 Tony Blair acknowledged this shift as an intentional and deliberate one. He addressed the party saying, “...a belief in society, working together, solidarity, cooperation, partnership. These are our words. This is my socialism... It is not the socialism of Marx or state control. It is rooted in a straightforward view of society, in the understanding that the individual does best in a strong and decent community of people with principles and standards and common aims and values.”11 Blair did not hesitate to denounce the socialism of the old party, but he did not outright abandon socialism. He simply reinterpreted it in the context of a world in which factory workers and labor unions were no longer the party’s primary constituency and the competitive nature of capitalism had ceased to be its sworn enemy. In fact, the 1997 manifesto proclaims, “We are a broad-based movement for progress and justice... But we have liberated these values from outdated dogma or doctrine and we have applied these values to the modern world.”12 In this way, Blair made it clear that New Labour would be a new party as far as how it designed and implemented its social and economic policies, but that it would still embody the fundamental values of socialist parties.

The most central of these values was the pursuit of increased equality, and New Labour’s treatment of the concept of equality perfectly captures the difference between New and Old. As a review of any of New Labour’s green and white papers will show, New Labour was devoted to

increasing equality by ensuring equality of opportunity instead of working towards equality of outcome as was often the case before. For example, in Clause 4, instead of “securing for the workers the fruits of their industry” (original Clause 4), New Labour announced that it hoped for a nation where “wealth and opportunity are in the hands of the many not the few” (new Clause 4). Both of these statements are drawn from the common desire to increase equality and decrease oppression caused by exploitation, but New Labour’s phrasing includes the concept of opportunity, suggesting that it has shifted from ensuring that workers are given an equal wage to ensuring that citizens are given an equal chance to make that wage.

As Clause 4 shows, from its very inception New Labour was determined to publicly break from what was seen as a tired, unpopular and outdated version of socialist politics while still holding dear many of the ideals that had driven Labour in the first place. Although Labour said it did, several voices in the debate about the newness of New Labour have questioned whether or not this shift in rhetoric reflected a true shift in ideology. Fielding suggests that it is possible that many of the ideals of New Labour can be traced back before 1994 all the way to the 1970’s neo-revisionists and some of the policies of the Callaghan government. In fact, Fielding’s main argument is that New Labour was the logical continuation of an already mature set of opinions within the party and that although undeniably significant changes took place after 1997, the addition of the ‘new’ to New Labour was ultimately not much more than an act of ingenious political rebranding designed to win the general election.\footnote{Fielding, The Labour Party: Continuity and Change in the Making of ‘new’ Labour.} Supporters of this argument don’t necessarily disagree with the concept of reinterpretation as discussed above, but they believe that any newness in New Labour policy was a result of years of progress and a history of adapting to current situations instead of a black and white break between old and new.
In addition to the intricacies of New Labour's identity it is important to remember that the party ran on a dual platform of being different from both old Labour and from the Tories because this second distinction actually has as much of a grey areas as the first.\textsuperscript{14} While New Labour was quick to admonish most of the previous government's attitude towards welfare, during its first term Blair's government seemed to accept several previously Conservative schemes, which doesn't allow an absolute line between the two to be drawn. Blair never attempted to hide the fact that he wouldn't totally abandon everything the Conservatives had created. The 1997 Manifesto admits, "Some things the Conservatives got right. We will not change them."\textsuperscript{15} The Manifesto doesn't go into much detail about what these things might be, but New Labour's actions throughout its first term do offer some insight. For example, during the election campaign New Labour promised to honor the Conservative's national budget for the next two years, and in doing so was not able to increase the amount of money spent on social programming. In fact, New Labour had actually promised not to increase welfare spending as well as to stop the traditional tax and spend model, both being moves that old Labour might have have condemned as shifts to the opposite side of the political spectrum.

Whether New Labour was a definitively new party, just a brilliant linguistic ploy, or the realization of a shift toward the more moderate middle that had slowly been gathering strength, there is no doubt that the "newness" of New Labour meant recognizable changes in the operations of several sectors of British life. The most relevant for this paper, of course, is education, and here New Labour's guiding values become crystallized and the ideological foundations for the conflict with Summerhill begin to emerge.

\textsuperscript{14} "New Labour Because Britain Deserves Better," 1.
\textsuperscript{15} "New Labour Because Britain Deserves Better," 2.
In October 1976, the Labour party president John Callaghan gave a lecture at Ruskin College that has been remembered as the beginning of the “Great Debate” in Britain over the purpose of education. In it he argued that the role of education was to prepare children to have a “lively, constructive, place in society” as well as to give them the skills for “a job of work.” A little over twenty years later, just about six months before he would be elected Prime Minister, Tony Blair addressed another audience at Ruskin in commemoration of Callaghan’s speech and echoed his predecessor’s message in the confident and urgent manner that would come to represent New Labour educational policy. Bitterly critical of the Conservatives’ education policy, Blair spoke of education as something vital and pressing that would be at the center of New Labour’s work towards increasing equality. He explained, “We have the responsibility now to learn the lessons of the last twenty years and put in place an education service fit for a new Millennium.” For New Labour, education wasn’t something that could be left alone; it had to be reevaluated and reinvented to better prepare the majority of Britain’s children to be productive members of the economy, and used as a tool to decrease the level of inequality left from the Thatcher and Major premierships.

Speeches like the one at Ruskin College make it very clear that Tony Blair was not simply being rhetorical when he announced his three priorities for Labor as government at the 1996 Party Conference. “Education, Education, Education” was repeated over and over again by both the media and New Labour itself, but before long it was joined with a similarly catchy slogan that would define how New Labour designed its educational policy. The mantra “standards, not structures,” was a direct reaction to the Conservative era in which a strong belief

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that education should be ruled by the market encouraged an obsession about the structure, or the organization and labeling, of schools. In fact, a very quick gloss of the educational policy from the Conservative government reveals an almost comical, and entirely frustrating, rotating door of naming, renaming, organizing and reorganizing of the nation’s education system. In opposition to this, New Labour asserted that the quality of education in a school should be valued over the form that the school takes. In his Ruskin speech Blair was very clear about this shift. He explained, "... we know the qualities that make a successful school—clear leadership from the Head, ongoing staff review and improvement, high expectations of all pupils, good links with parents, the list is well-known—and changing the structures doesn't alter the need to imbue every school with these qualities." In government, New Labour determinately upheld this understanding—in fact, as if a catchy mantra wasn’t enough, the first White Paper that New Labour published, titled Excellence in Schools, uses the word “standards” no less than 174 times in less than half that many pages.

New Labour was opposed to the Conservative obsession with structures, but that didn’t mean that it could completely ignore the debate about how schools would be organized that had been hanging over the British education system since the tripartite system was first outlined in the 1938 Spens Report and then set up in the 1944 Education Act. This system, of which remnants were still present in 1997, created three separate tracks that separated at age 11: elite grammar schools for the brightest, technical schools for those whose skills seemed best suited to trade work, and secondary modern schools for everyone else. By 1997, the 11 year old selection had been almost completely abandoned and there were still over 160 grammar schools.

18 Blair, "The Agenda for a Generation."
in the UK but secondary modern schools had become comprehensives that were designed to give the same education to everyone. The comprehensive system had been established by the previous Labour government in the early 1960’s and was designed to fit Labour’s traditional commitment to “secondary education for all.”

Comprehensives might seem to perfectly fit New Labour’s promise to adopt policy that would benefit “the many not the few” and ensure “excellence for all,” but by 1997, New Labour was severely disappointed in the state of comprehensive education. As Excellence for Schools explains, “The idea that all children had the same rights to develop their abilities led too easily to the doctrine that all had the same ability. The pursuit of excellence was too often equated with elitism.” In their view, comprehensives were providing a standard, unsuccessful education which, by failing to create an environment where excellence was the norm were systematically failing to prepare Britain’s youth for the modern world. In response, New Labour promised that, “The demands of the future will require that everyone succeeds in secondary education. We are not going back to the days of the 11-plus: but neither are we prepared to stand still and defend the failings of across-the-board mixed ability teaching...We intend to modernise comprehensive education to create inclusive schooling which provides a broad, flexible and motivating education that recognises the different talents of all children and delivers excellence for everyone.” Comprehensive schools were educating the vast majority of British students but they weren’t doing it successfully and this was a disservice not a benefit for the many.

New Labour’s plan for comprehensive schools had both system-level and classroom-level elements but both were firmly anchored in a commitment to diversity as a tool to raise standards.

Excellence in Schools suggested that instruction in the classroom be centered around the concept

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21 Department for Education and Employment, Excellence in Schools.
22 Department for Education and Employment, Excellence in Schools, 11.
of ‘setting’ or tracking which is a system of ability-based grouping designed to provide all
students the level of challenge they need. The document asserts, “We believe in ‘diversity within
one campus’, with the method of teaching and the organisation of a school playing to the
strengths of every child,” and then goes on to create a list of topics that the party hoped would be
researched and then implemented, including “target grouping, fast-tracking, accelerated learning
and the systematic teaching of thinking skills.” In essence, New Labour was promoting diverse
teaching and grouping methods because they believed that different students needed different
environments in order to reach their full potential but wanted to ensure that each method resulted
in high standards. On a larger scale, these ideas translated into the promotion of the creation of a
system of ‘specialist’ schools and ‘families of schools’ that were designed to give more students
the opportunity to prosper as well as create a culture of collaboration between schools.

As the party’s treatment of the comprehensive system shows, New Labour designed each
of its educational policies around a core set of fundamental beliefs and goals. In his foreword to
Excellence in Schools, David Blunkett writes, “This, the first White Paper of the new
Government, is as much about equipping the people of this country for the challenge of the
future as it is about the Government’s core commitment to equality of opportunity and high
standards for all.” These dual commitments of “equality of opportunity” and “high standards
for all” can be used as umbrella headings under which all of New Labour education reform and
theory can be sorted and understood. The first harkens back to New Labour’s proclaimed split
from Old Labour. Equality of opportunity means fixing issues of inequality at the source to
create a state in which all individuals have equal resources with which to develop their talents
instead of creating a system that compensates for the inevitable disparities caused by unequal

26 Department for Education and Employment, Excellence in Schools, 3.
access. High standards were New Labour's primary vehicle with which to create this equality. As was already introduced, New Labour very strongly believed that a system of high, but attainable goals as well as the necessary pressure and support needed to reach them would ensure that British students received the education they needed to compete in both the domestic and international labor markets.

The idea of equality of opportunity is most clearly seen in the party's fervent commitment to early childhood education. In Excellence in Schools the party writes, "Our policies will be designed to achieve early success rather than later attempts to recover from failure. This explains the emphasis we have placed on nursery education for all 4 year-olds and on raising standards in the three 'Rs' at primary level." While the secondary and higher education systems also needed greater attention, New Labour recognized that working to increase primary school success would ensure that all children were given an equal foundation, which would make it easier to address the issues at the higher levels. This important work started at the preschool level with the promise of guaranteed places for all 4 year-olds (plus a goal of eventually having the same for all 3 year-olds), as well as a re-working of the system in which families and preschools were matched.

At the primary level (elementary school) New Labour promised to reduce class sizes to 30 or less, as well as to start a system of required baseline assessment upon school entrance. The class size reduction was to be paid for with money redirected from a program left over from the Conservative government called the Assisted Places Scheme (designed to grant places at fee-charging schools to children of lower income). This decision was in line with New Labour's "benefit the many not the few" philosophy because smaller primary classes would ensure that the
vast majority of children were given more individual attention and therefore a better foundational education. The baseline assessment program was intended to serve as a mark against which future progress could be measured, as well as to identify potential learning disabilities as early as possible. Each of these initiatives were driven by the fundamental goal of increasing the overall quality of education of the nation’s youngest students so that they would be more successful later on, regardless of the challenges they might face.

New Labour’s commitment to equality of opportunity was fully supported by and intertwined with its dedication to raising standards. The party made education its primary focus because of a strong belief that education’s ultimate purpose is to prepare students to be productive members of society and they were adamant that the only way to successfully do this was to ensure that all students attended schools that were held to the same rigorous standards of excellence. These standards were to be accompanied by very high achievement goals, as well as pressure to meet them and the support with which to do so. In terms of policy, this commitment to standards was best embodied by the National Literacy Project and the National Numeracy Project. These were each year-long campaigns to assist in reaching the ambitious goals that, “By 2002 [the end of Labour’s first term]: 80% of 11 year-olds will be reaching the standards expected for their age in English; and 75% of 11 year-olds will be reaching the standards expected for their age in maths.” These ‘standards’ were passing grades on national exams which were designed to test mastery of the National Curriculum. The National Literacy Project was to take place first and included the ‘suggestion’ of a dedicated Literacy Hour each day in every primary school as well as intensive training and support of all teachers on how to better teach reading. The Numeracy Project would take place the next year and follow a similar

structure. Through programs like these, New Labour was able to ensure impressive gains in national statistics while still promoting diversity in schools. They welcomed diversity in identity so long as a certain caliber of results could be achieved.

Excellence in Schools mentions that New Labour established the ambitious 80% and 75% goals as a way of making themselves accountable to their promise of having education as their main focus and that, in a similar manner, schools should be held accountable for their results as well. The relationship between standards and accountability is one that defined New Labour’s entire attitude towards education. With a slight air of leftover conservatism, New Labour asserted that standards could only be achieved if schools were held responsible for their own progress and if that progress was consistently and visibly tracked. As one of the six major principles that emerge from Excellence in Schools states, “Intervention will be in inverse proportion to success,” which describes a system of pressure and support that was designed to ensure schools were meeting the established standards.

Progress towards reaching these standards was to be tracked through national test results as well as regular inspections by OfSTED (the Office for Standards of Education), a non-governmental agency tasked with evaluating the nation’s schools. The Summerhill conflict was the result of one of these inspections, and a close examination of this interaction will reveal the strong influence that New Labour policies had on this particular school.

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Chapter 2:
OfSTED and the DfEE - Inspection as Bureaucracy

Before discussing the details of Summerhill’s inspection, it is important to understand the
organization that was responsible for conducting it because in many ways it is easy to argue that
the inspection was simply the result of bureaucratic process. Officially created in 1992 as part of
the new Education Act, the Office for Standards in Education (OfSTED) was an independent
agency tasked with the inspection of the nation’s schools. Acting apolitically, the office was to
write reports for and make suggestions to the Department of Education and Employment about
the state of the nation’s schools. These reports, in turn, were to be used by the DfEE to make
decisions about registration, funding and general levels of achievement. Before 1992, the task of
inspecting the nation’s schools had been delegated to a group of roughly 500 inspectors called
Her Majesty’s Inspectors. The creation of OfSTED reduced the number of HMIs and created a
system by which these individuals would now oversee teams of contracted inspectors, which
would allow for a much more thorough and regular inspection schedule.

This restructuring gave New Labour a ready-made vehicle for its increased focus on
standards and measurable accountability. Although OfSTED was designed to be intentionally
apolitical, there is no way to truly separate the office’s operations from the larger, and therefore
political, atmosphere surrounding educational policy. OfSTED inspection teams were well
trained to evaluate schools using specific and targeted criteria designed to align with national
initiatives, which of course, by 1999, was very heavily focused on raising academic standards.

Each year, Her Majesty’s Chief Inspector, the head of OfSTED, publishes a report for the
DfEE as a summary of the office’s actions and findings during inspections for that year. In 1999,
Christopher Woodhead’s HMCI report echoed the rhetoric typical of New Labour education
policy at the time. In his general commentary he wrote about how overall standards were slowly increasing and that the most significant improvements had been seen in Key Stage 2 (age 7-11). He was especially proud about this statistic, commenting, “In that the drive to raise standards depends above all else on raising standards in the basic skills, this is a very significant and promising development, which is directly linked to the National Literacy and Numeracy strategies.”33 Only a few years away from his party’s self-imposed deadline to raise standards to 80% passing in English and 75% passing in Mathematics by 2001, this was surely good news for Secretary of State for Education David Blunkett. The remainder of Woodhead’s commentary was less positive however, as he went on to discuss several areas where he believed standards had stagnated or started to fall. He warned, “If standards are to continue to rise we need decisive management action, locally and nationally, that concentrates attention on the two imperatives that really matter: the drive to improve teaching and strengthen leadership.”34 As Woodhead’s introduction clearly shows, five years after New Labour’s ascent, the discussion in the educational sector was still very, very much about standards of achievement, teaching and progress.

Although the vast majority of OfSTED’s work concerned state-maintained schools, the organization was also responsible for inspecting independent schools for registration (without which it was illegal to operate a school). In his opening commentary to the 1999 HMCI report, Woodhead was vocal about his mistrust of the independent sector. He wrote, “the sector is very diverse, and there is a small minority of schools that gives rise to serious concern. The fact that an independent school can register without evidence of a suitable curriculum development plan

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or financial security is a cause for concern." Independent schools, which got no funding from the government, were not held to the National Curriculum and had almost complete freedom in their operation, but they were required to meet certain minimum standards in order to stay open. These schools were to be inspected according to these standards about once every 5 years, with possible follow-up visits if deemed necessary. The inspections could result in an official Notice of Complaint from the Secretary of State for Education if the school was providing an unsafe environment for its students (whether through inadequate accommodations or staffing issues), or if it was discovered that, "efficient and suitable instruction is not being provided at the school having regard to the ages and sex of the pupils attending it." As Woodhead's comments suggest however, the requirement of "efficient and suitable instruction" was a seemingly arbitrary standard for schools to reach, and it is in this ambiguity that the Summerhill conflict manifested itself.

By 1999, OfSTED had developed a rather turbulent relationship with Summerhill School. The 1999 inspection was the third full inspection in nine years and OfSTED had also conducted several monitoring visits, including a rather thorough visit in the summer of 1998. Although the frequency of visits to Summerhill was abnormally high, the 1999 report explained that these multiple visits were necessary because, "Since then [the second full inspection in 1993] the pattern has been repeated of strongly critical inspection findings being followed by promising plans of action that were only very partially, if at all, implemented by the school." According to the report, the 1998 monitoring visit had, "found evidence of significant planning to address the weaknesses identified by the previous inspections," and the 1999 inspection was "carried out to

36 The Education Act of 1996, paragraph 469.
establish the extent to which the necessary improvements had been made and whether the school remained suitable for registration.”38 Of course, the 1999 team found that the school had not satisfactorily met these requirements and the Independent Schools Registrar Michael Phipps issued a Notice of Complaint which sparked the Independent Schools Tribunal in 2000. A close examination of the 1999 Report reveals that just how influential New Labour’s education policies about progress, standards, and equality of opportunity were in shaping this particular team’s version of “efficient and suitable.”

The general argument of the report was that Summerhill’s policy of non-coercive education had created a situation in which there was no guarantee that students were learning and that the consequences of this practice were likely to be extremely negative. This argument was supported by two twin failures: the lack of regular attendance (which was judged to make learning and achieving impossible) and the lack of regular assessment (which was alleged to make accountability and the tracking of attainment of standards impossible). Standards of reading and numeracy—New Labour’s two major goals—are both reported to be lower than acceptable in lower grades in particular, despite fairly satisfactory teaching. The report concluded that these low achievement marks were evidence that the, “Monitoring of progress is inhibited by the school’s philosophical attitude to assessment, and continuity is difficult to provide because attendance at lessons is unpredictable.”39 In the eyes of the report, attendance was necessary for assessment, assessment was necessary for planning, and planning was necessary for reaching expected standards.

Although asserting that, “This report cannot and does not pass judgment on the unique philosophy on which Summerhill is founded,” the authors of the report were not shy in

disclosing their belief that Summerhill's students were unaware of the dangerous consequences of missing classes and that the school wasn’t upholding its responsibility of providing suitable and efficient instruction. The language of the report was very harsh, at one point asserting that, “... for the great majority of pupils, their curriculum is fragmented, disjointed, narrow and likely to adversely affect their future options. This amounts to an abrogation of educational responsibility...The school has drifted into confusing educational freedom with the negative right not to be taught. As a result, many pupils have been allowed to mistake the pursuit of idleness for the exercise of personal liberty.” This comment in particular exposes the deeply rooted belief that Summerhill's children were not being guided towards success the way they should have been, which could have been influenced by New Labour’s commitment to equality of opportunity. If Summerhill’s kids were learning how to “pursue idleness” instead of how to be successful in a societally appropriate way, then Summerhill was doing them a disservice by leaving them vulnerable to failure, hardship and inequality later in life.

At another point the report further articulates that, “without adult guidance about the appropriateness of their choice, it [the freedom for students to choose their classes] can result in no work in the core subjects of English, mathematics and science.” Of course Summerhillians would argue that the absence of adult guidance is exactly their goal, but for the OfSTED inspectors, who were working in New Labour’s educational atmosphere, the fact that children could attend school and not take those three central subjects was an automatic sign of failure. If New Labour wanted to increase standards in the nation’s core subjects, then allowing children to completely skip out of those subjects was entirely unacceptable.

The influence of larger political structures on the report—in particular New Labour’s dedication to progress and standards—comes at no surprise when it is read in comparison to OfSTED’s 1995 *Framework for the Inspection of Nursery, Primary, Middle, Secondary and Special Schools*. This particular document is especially helpful in understanding Summerhill’s fate because it lays out the specific elements that inspectors were expected to pay attention to (many of which, according to the 1999 inspection team, Summerhill did not have). This inspection protocol was in place before New Labour’s rise, but the structure it provided when combined with New Labour’s education platform, created a hostile environment for Summerhill.\(^{43}\) The Framework carefully outlines each of the headings under which inspectors are expected to evaluate the school and each heading has two separate lists: “Inspectors must evaluate and report on…” and “Judgements should be based on the extent to which the teachers/school/curriculum…”.\(^{44}\)

As these lists clearly suggest, inspectors were given a very formulaic and targeted rhetoric that they were expected to uphold during inspections. For example, teaching was to be judged based on the extent to which teachers: “Plan effectively; ... manage pupils well and achieve high standards of discipline; ... assess pupils work thoroughly and constructively, and use assessments to inform teaching.” Summerhill’s philosophy prevent its teachers from

\(^{43}\) Of course, anyone cognizant of the timeline of events being discussed here could justifiably argue that using the 1995 Framework, which was published two years before New Labour came to power, to suggest that the changes created by New Labour’s education initiatives were responsible for the unique nature of the 1999 inspection report is unfair. However, creating very clear cause and effect is almost impossible with this story, and it is the opinion of this author that the repetition of the “New Labourite” words like progress, continuity and assessment made this particular document even more influential once New Labour’s policies had been passed. An additional point in support of the Framework’s influence on the inspection in question is that 1999 was the first year Summerhill was fully inspected since the document’s publication, and so there is no data to suggest that a post-Framework but pre-New Labour would have been any different.

engaging in most of these activities, and so a strict interpretation of the Framework’s instructions would require that Summerhill be given a negative score. Similarly, a school’s curriculum was to be judged based on the extent to which it: “provides equality of access and opportunity for pupils to learn and make progress; ... is planned effectively, providing continuity and progression of learning;... [has] effective systems for assessing pupils’ attainment; and [uses] assessment information... to inform curriculum planning.” Here too, the same mantras of assessment, progress and continuity make it clear that Summerhill didn’t present anything that the inspectors could easily identify as successful. The repetition of these types of words throughout the Framework, as well as the Inspection Report, strongly suggest that the 1999 inspection was heavily influenced by New Labour policies. An inspector trained by the Framework and immersed in the New Labour standards- and assessment-based philosophy would have had to spend a significant amount of cognitive energy to fit Summerhill into this rigid structure and find reason to give the school a positive evaluation.

Shortly after the 1999 Inspection Report was published, Summerhill received a letter from Michael Phipps, the Registrar of Independent Schools for England, which included a six-point Notice of Complaint. A Notice of Complaint is the most serious consequence of an inspection report, and essentially outlines the specific points where the school has been found to be failing and then gives a school a prescribed amount of time to implement specific remedies to those issues. In Summerhill’s case, three of these complaints were concerned with the school’s structures (unsafe electric wiring, inadequate bathrooms, and worn floors) but the other three addressed the school’s pedagogical practices and asserted that, as mentioned above, the school

45 Framework for the Inspection of Nursery, Primary, Middle, Secondary and Special Schools, 18, 19.
was not providing “efficient and suitable instruction” to its students. In abbreviated terms, complaints 4-6 were: (4) voluntary attendance “leads to arbitrary narrowing of the curriculum actually studied, inhibiting continuity and pupils’ progress,” (5) “lesson planning and teaching is unsatisfactory at Key Stage 2 contributing to insufficient progress,” and (6) “the school’s practice of not assessing pupils without their permission… inhibits pupils’ progress.”

The accommodation complaints and their suggested remedies were mostly accepted by Summerhill, but the remedies to the complaints concerning educational practices were not accepted, and these are what Summerhill appealed in the Independent Schools Tribunal. These remedies required that the school: (4) “must ensure that all pupils engage regularly in learning either within timetabled lessons or within prescribed self-supported study programmes and that they study a sufficiently broad and balanced curriculum aiming at standards of attainment with the national expectations;” (5) “must ensure that a suitable planned curriculum is provided for pupils at Key Stage 2 and that the quality of teaching is satisfactory or better;” and (6) “must ensure that sufficient assessment is undertaken systematically to chart each pupil's progress and attainments and to identify any problems or needs so that these can be met by appropriate educational programmes.” Here once again the language of these remedies—standards, national expectations, sufficient assessment and attainments—very clearly echoed New Labour’s

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47 Complaint 2, which concerned the operation and labeling of bathrooms was also part of Summerhill’s appeal, and actually consumed a surprising amount of time during the tribunal’s discussion, but it eventually became a mute point because the DfEE’s representative said that the Secretary of State no longer thought that bathrooms were an issue. This was a exceptionally sore spot for Summerhill’s legal team because they had spent considerable resources and time arguing that Complaint 2 was unfair and illegal and weren’t told that it was a non-issue until during the Tribunal.  
48 Notice of Complaint to Summerhill School, 4.
primary objectives and is evidence that OfSTED’s inspection did not operate in a vacuum free from larger political pressures.

Of course, the content of the Notice of Complaint sparked an immediate and intense reaction from the Summerhill community. For this small, tight-knit group of people, New Labour’s influence on OfSTED’s actions didn’t matter as much as the implications that those actions now had for their school. As will soon be discussed, the Summerhill community erupted with a whole host of criticisms about the conduct and bias of the OfSTED inspectors, many of which hold up extremely well to scrutiny. And yet, as the language of the report and the analysis of New Labour’s policies show, there is also a strong possibility that this inspection was as much a consequence of the political and educational atmosphere of 1999 as it was about the personal opinions of the OfSTED inspectors. The multivalent and at times ambiguously complicated roots of the 1999 Inspection will become even more evident through a detailed discussion of Summerhill’s side of this experience.
Chapter 3:
Summerhill - Inspection as Personal Experience and Communal Threat

Hylda Sims, a Summerhillian who attended the school in the 1940's, published a novel in December 2000 based on her experience as a pupil and the community's experience with OfSTED and the DfEE in 1999. The title, Inspecting the Island, is a play on the often used and unfair comparison between Summerhill children and the band of wild boys from William Golding's famous novel The Lord of the Flies. But the image of Summerhill as an island can help to explain the way the Summerhill community thought of themselves and how they responded to the threat of the inspection. Somehow separate from the mainland, slightly mysterious and maybe wary of outsiders, Summerhill was a school within a national system but ideologically and geographically secluded. When asked to remember the inspection itself, several Summerhillians talk about the inspectors as "intruders." Another former student remembered seeing, "a massive group of strangers walking around in fucking power suits." These outsiders had trespassed into Summerhill's private world and passed judgment on a system that, the Summerhillians claimed, they hadn't taken the time or made the effort to understand. In the eyes of the Summerhill community, OfSTED was like the conquistadors of the colonial era, foreigners who didn't take the time to gain the cultural knowledge and skills necessary to understand or appreciate the native civilization they were threatening.

50 Nathan Clutterbuck, (Student at Summerhill in 1999), in discussion with the author, June 26, 2014.
Note: Interview subjects will be referenced in several ways in this paper. The vast majority of individuals had no objection to their names being included in this paper and so these people will be quoted with their names or other identifying information depending on what is being discussed at the time. In the few cases where an individual requested anonymity, quotations will be cited using a pseudonym and this will be noted in the corresponding footnote.
Summerhillians reacted to their presence with all the strength of anyone whose entire world is being threatened would be expected to react.

The Summerhill community saw the inspection and Notice of Complaint as a threat to an entire way of life held sacred, and to the existence of the only place where this lifestyle had ever existed in its pure form. They were nervous, worried and scared, but they were also ready to fight to the death to protect what they held precious. In a letter written a month before the Tribunal, Zoe Readhead reflected on the recent events and told her fellow Summerhillians, “This has been the most traumatic few months of my life. I am too busy to spend time with my new grandchild and find it very hard to get away from the stress which churns my stomach every morning when I wake.” That said, she also wrote in her letter of a sense of satisfaction that, “the children have responded with great strength and are fighting hard for their school.”

During an interview in the summer of 2014, Misha, a pupil at the time of the inspection, echoed Readhead’s “going to war” rhetoric as he explained how he believed the community felt that year. He described:

I don’t want to be overdramatic with this comparison, the scale is wrong, but it’s a bit like looking at the Second World War, not in the sense that, you know, we were fighting for our lives against Nazi oppression... well we might have compared them [OfSTED and the DfEE] to Nazis, but mainly in the sense that, you know, people look back on the second World War, and it is very easy to forget that we didn’t know we were going to win, especially in Britain, before you guys [the Americans] turned up, we thought we were going to lose.

Nathan, a friend and fellow pupil of Misha’s picked up on this metaphor and explained, “It was very scary, especially for us [older kids], thinking we might have to finish somewhere else.... in some respects it was scary and horrible, but it was also a little bit exciting, because there was a lot of emotion involved, everyone was getting very passionate about it, and the one thing that

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52 Misah Gale, (Student at Summerhill in 1999), in discussion with the author, June 26, 2014.
war creates is unity, and so we started pulling our socks off and putting our shit together." The unified, frenzied, and passionate fight that emerged would culminate with the March 2000 victory at the Independent Schools Tribunal, but the refining and implementation of this protest is a story that exposes the other side of the fundamental miscommunication between bureaucratic process and personal experience.

On March 13, 1999 Summerhillians across the world opened their mail to find an emotional letter from Zoe Readhead. "Today is a sad day for Progressive Education and Parental Choice in this country...Of course we are all gutted. It is difficult to even digest what our future problems are going to be, let alone make any plans," Readhead wrote. Her letter announced that the school had just received the summary of a damning inspection report and that the Secretary of State for Education was expected to issue a Notice of Complaint sometime soon. She pleaded for support and for the prompt return of an attached ex-pupil survey to "collate statistics, which may help in a court battle." This call to action was the first of what would become a two-pronged preparation for battle that included the student committee which named itself S.A.V.E. Summerhill (Support Alternative Values in Education) and the preparation for a formal, legal defense at the Independent Schools Tribunal. These joint efforts had a common goal—to protect Summerhill from closure and have the Notice of Complaint annulled—but the arguments that become formalized and presented at the end of the year in the Tribunal have strong, fiery roots in the almost frenzied writing and actions of the school community and the S.A.V.E Summerhill committee.

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53 Clutterbuck, discussion, June 26, 2014.
As is the Summerhill way, the response to the threat started in a school meeting. No one can remember exactly when, but several members of the community remember Readhead addressing the meeting, explaining that they had the option of voting to make class attendance compulsory to comply with the DfEE’s recommendations or that they could appeal. She asked the community if it was willing to change the school’s practices to stay open and the vote to fight was unanimous. Soon thereafter, Summerhill elected a response committee of 10 children to spearhead the preparations. The campaign was student-driven, but all of the students who were asked to provide their versions of the time spoke of the crucial role that Michael Newman, the school’s science teacher, played in directing and organizing their actions. Nathan explained that Michael was, “an old veteran of political campaigns, an old socialist” and that he was instrumental in helping the students set up meetings, elicit press coverage, and formalize the language of their protest. Throughout the year, Michael and the committee garnered public support for their cause through a series of staged media events, including, among other things, inviting Members of Parliament to a special school meeting in the House of Commons to celebrate the school’s 70th anniversary, delivering a petition to Number 10 Downing Street, and arranging to appear (with signs in hand) at several locations where David Blunkett, Secretary of State for Education was scheduled to be. The committee also focused on gathering support from the alternative education community by writing to ex-Summerhillians and parents as well as to other schools.

As the committee worked to rally support for Summerhill, its rhetoric quickly became focused on the child’s right to be consulted on matters concerning him/her, as outlined in Article 12 of the UN Convention on the Rights of the Child. Newman and the committee children believed that the biggest flaw with the entire inspection process was the fact that Summerhill’s

children hadn’t been involved and that the closure of the school would be a dramatic setback for
children’s rights across the world. However, this wasn’t the only issue around which
Summerhillians rallied. The biggest challenge to understanding the ideological foundations to all
of this protest is the fact that the personal, emotional nature of the campaign gave rise to a huge
number of personal theories about why Summerhill was being attacked and what angle of
response would be most successful. Everyone involved agreed that Summerhill was being
unfairly victimized, but there are several themes instead of one central concept around which the
community organized.

The first comprehensive response to the threat came in the form of a document titled
Summerhill Response to 1999 HMI Inspection Report, which was posted on the S.A.V.E
Summerhill website and widely disseminated. This document is undated but was definitely
written sometime between the publication of the report in March and the issuing of the Notice of
Complaint in June. It attacks the OfSTED Inspection Report and consists of the text from the
“Summary of Inspection Report” (the document that Summerhill first received, prior to the
actual report’s publication) in normal font interrupted with the school’s comments and critique in
bold. The authors of this document set out three reasons for publishing their work. In essence,
these reasons were: 1) The language of the report was “emotive and unprofessional” and the
report was “biased and prejudicial”; 2) HMI was aware of the negative press coverage that this
report would create and had “deliberately chosen to use such style and language” which “makes
the supposed neutrality of Ofsted look totally ridiculous when they appear so obviously
politically motivated”; and 3) Ofsted has created an image of “authority and infallibility” and
“should not be allowed to bully those who do not agree with it.” The first of these points
constituted the majority of the document’s commentary because it was the easiest to highlight,
but the second two served as overarching themes and overall, this document can be seen as the first iteration of most of Summerhill’s central arguments.

The issue of the Inspection Report’s language can be split into two slightly different points: “emotive and unprofessional” language that was ostensibly an indicator of OfSTED having conducted a shoddy and inaccurate inspection even by its own standards, and “biased and prejudicial” language that supposedly served as an indicator of either OfSTED’s or the DfEE’s unwarranted judgment of Summerhill’s educational philosophy. Each of these aspects will be dealt with in turn.

The 1995 Inspection Framework very clearly explains that OfSTED was to inspect schools in a non-partisan way and to make evaluations based on very specific criteria. The Summerhill Response, however, cites several instances in the Inspection Report that the community saw as clear indicators that the 1999 Inspection team had not lived up to these requirements and had made judgments without supporting evidence. As an example, in reply to the Report’s comment that, “Some pupils have learning disabilities... many have experienced little success in conventional education,” the Response says, “4 pupils have defined and documented learning difficulties. Where is the evidence that ‘many have experienced little success in conventional education’? This is not true... This comment is really irrelevant, and is only placed here to convey some negative image of the school as a place for rejects and failures.”\(^{57}\) For the authors of the Summerhill Response, calling four pupils “some” and discussing the educational pasts of other students without actually gathering any information on their histories were examples of serious malpractice.

Another example of this type of unfair and unsupported language was cited later in the document. To one of the Inspection Report's most negative critiques: "The school has drifted into a confusing educational freedom with the negative right not to be taught. As a result many pupils have been allowed to mistake the pursuit of idleness for the existence of personal liberty," Summerhill responded: "This is another meaningless sensational comment... The pursuit of idleness is not encouraged. Where is the evidence for this reactionary rubbish? Is it based on one inspector following 2 young girls for part of the day, when they spent this time in conversation? Is talking now classified as the "pursuit of idleness"? Is it based on them seeing students not in lessons? The inspectors were not even present here in the school for a complete day, so it is impossible to understand how they could make a damning statement by which implication is applied to most of the school." The image of these two little girls being followed by and trying to escape from, as one of their older brothers put it, "scary creepy adults" was an image that would come to represent Summerhill's experience of the inspection and the central critique here was that the inspectors hadn't taken the inspection seriously and that phrases like the "pursuit of idleness" were not based in fact. Although inspecting a school could never be perfectly scientific, generalizing one's findings on the basis of a sample size of two is clearly unprofessional. In a school that was founded to provide a specific 24-hour environment, visiting only during traditional class hours and paying attention only to lessons also doesn't produce representative data. According to this document's authors, the Inspection Report shows very clear evidence that the inspection team was not interested in evidence at all.

One area where it seems that the Inspection Team was careful to gather evidence was in the required parental survey that accompanies every OfSTED inspection. Here too, the

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59 Clutterbuck, discussion, June 26, 2014.
Summerhill Response found fault with the inspection’s methodology. Summerhillians were proud of the overwhelmingly positive response to this survey, which asked parents to reflect on their experience with the school and the education it provided their children. The Summerhill Response argued that the Inspection Report included the survey results because it was required by law to do so but that it shied away from discussing their significance. The Response argued, “no mention is made in the summary of the very high response (71%) by the parents. Nor is there any mention in the summary of the overwhelmingly positive response of the parents to the school and the effects it is having on the children.” More detailed data was included in the complete inspection report, but, the Summerhill Response argued, the absence of a discussion of the positive nature of these results in the summary was further proof that OfSTED was not interested in presenting a fair representation of the school.

Just as the positive survey results became something of a banner under which Summerhillians congregated, members of the DfEE and OfSTED rallied around a phrase that the Summerhill Response took particular grievance with. The disclaimer “This report cannot and does not pass judgment on the unique philosophy on which Summerhill is founded” would eventually constitute a major point of the Tribunal discussion. On the level of the Inspection Report’s language, however, the Summerhill Response identified several places where this statement was completely contradicted. In terms of curriculum, for example, the Inspection Report stated, “The range of curricular provision remains narrow in terms of what is actually delivered to pupils,” but the Response explained that, “HMI has chose to emphasize ‘what is actually delivered.’ HMI admitted that the curriculum on offer was fine, but that they were only looking at what was delivered. This seems difficult to reconcile with the school’s philosophy that children have the freedom to decide what they wish to study... in fact, in this instance, as in many

others, the report totally ignores the school's philosophy. According to the document's authors, criticizing the breadth and content of the curriculum that Summerhill's children had chosen to participate in at any given time, instead of the broad amount of material that they could have chose from, was inherently criticizing the system that allowed them to choose in the first place. If the inspection had been conducted with respect to Summerhill's philosophy, the discussion about curriculum would have focused on what types of subjects were being offered and how well they were accessed when students chose to access them. The fact that some subjects weren't being chosen would be seen as a sign that the system was working, not as a sign that the school was failing.

Another moment in the Inspection Report that the Response saw as incompatible with the disclaimer, and an overall excellent example of biased and prejudicial language, was during a discussion of non-attendance and its effects on mathematics. The Inspection Report stated, "A root cause of these defects is non-attendance at lessons; for example, some pupils abandon mathematics for up to two years." Summerhill's Response stated, "This statement does not take into account personal interest, aptitude, effects of past experience, etc.... It is not based on any sort of before and after studies of attendance and non-attendance. It is speculative... If a child chooses not to study mathematics for any length of time, this does not mean he has 'abandoned' the subject. He or she has chose to do something else. The central pillar of Summerhill's philosophy was that children should have the right to study what they want, when they want. By criticizing some students' decisions not to formally study math at a given point in time and by calling non-attendance the root of the school's defects, the Report was undeniably passing judgment on that philosophy.

The publication of the *Summerhill Response to 1999 HMI Inspection Report* began to codify the visceral emotion that erupted when the severity of the inspection results became apparent. The document’s language was certainly hyperbolic and at times very colloquial in its use of language, but it did begin the process of unifying and mobilizing Summerhill’s rebuttal by explaining the community’s thoughts in an accessible and concise platform. From here, especially once the Notice of Complaint was officially delivered in July, support for the school flooded in in the form of handwritten notes from children and educators worldwide, completed ex-pupil surveys, donations to the school’s campaign fund, and letters on the school’s behalf to local MP’s, Tony Blair, David Blunkett, Chris Woodhead, and anyone else who would listen.

The points of protest in these tokens of support varied but they did tend to fall into one of several main arguments. As is often the case with a close-knit community with lively internal conversation, Summerhill’s response began to coalesce around a series of main themes. These included: children’s rights, parents’ rights and malpractice and the intentional victimization of the school during the inspection process. Parts of these three concepts have already been discussed, but it is worth exploring each of them in turn because they help tell the story of Summerhill’s preparation for the tribunal and are instrumental in understanding the arguments that eventually became the basis for the formal, legal appeal.

Parental rights is the simplest of the three to explain, and although it is probably the least emotional, it provided the Summerhill community with a strong legal basis for its protest. The European Convention for the Protection of Human Rights and Fundamental Freedoms, of which the UK is a signatory, specifically states, “No person shall be denied the right to education... the State shall respect the right of parents to ensure such education and teaching is in conformity
with their own religious and philosophical convictions." As the results of the parental survey
distributed by OfSTED, as well as the onslaught of letters from parents and past-parents proved,
Summerhill parents strongly supported the school and its philosophy. The community’s
argument was as follows. Parents who chose to spend money to send their children to
Summerhill did so because they wanted their children to grow up in an environment that allowed
them to experience the freedom, which is at the core of Summerhill’s educational philosophy.
Summerhill was the only place where this environment existed in its purest form, so asking the
school to adhere to the remedies in the Notice of Complaint, which in their opinion would
change the type of environment Summerhill provided, would deny parents the right protected by
the Convention to educate their children according to their own beliefs.

The philosophy that Summerhillian parents believed they were being denied access to is
one that values, above all, the right of the child to make decisions about his or her own life, and
this right became the focal point for the campaign committee’s work. Article 12 of the United
Nations’ Convention on the Rights of the Child which was ratified in 1989, but which was still
being incorporated into British law 10 years later, reads:

States Parties shall assure to the child who is capable of forming his or her own views the
right to express those views freely in all matters affecting the child, the views of the child
being given due weight in accordance with the age and maturity of the child. For this
purpose the child shall in particular be provided the opportunity to be heard in any
judicial and administrative proceedings affecting the child... 64

Anyone familiar with Summerhill’s philosophy will recognize that the school seems to perfectly
embody the principle of Article 12. In addition to the fact that closing the school would destroy a
perfect example of the Convention’s intentions, the campaign committee galvanized around the

63 United Nations, Convention for the Protection of Human Rights and Fundamental Freedoms,
Protocol No. 1, Article 2.
64 Convention on the Rights of the Child, Article 12.
argument that the inspection process had actually broken Article 12 by denying Summerhill’s students the chance to participate and express their opinions. Although OfSTED claimed to have spoken with students during the inspection, Summerhill pupils felt that their views on their school had been totally ignored.

The campaign committee used this argument about children’s rights as their primary focus for protest and early on in the year they considered the possibility of bringing the case to the UN. Although the committee was never forced to follow through with this option, it very successfully used this issue to generate support during its campaign for public support. With the experienced guidance of Michael Newman, four of the most active committee members arranged to meet with Katarina Tomasevski, a United Nations Special Rapporteur on the right to education in March of 1999. In a letter to Newman after this meeting, Tomasevski expressed glowing praise for the group of students, writing “I hardly exchanged three sentences with you when we met, but it was a joy to talk to the children. Their self-confidence, their ability to articulate their version of what education is about, their capacity to accept reasonable arguments and dismiss unreasonable ones is impressive... Support them in writing the way they think and feel.”\(^{65}\)

The language she used—encouraging Michael to “support” the children—embodied the essence of Article 12 and underscored that the Summerhill children were capable of having individual opinions and that they had the right to express them on their own. In a letter to the children, Tomasevski explained that she was not able to prevent the school from closing, but that she had written to the British government and her general approach was, “to argue with the government that your specific case demonstrates that the thrust of the Convention on the Rights of the Child has not been put into practice and to ask the government how it proposed to adjust to

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the requirements of the Convention.⁶⁶ Although the slow nature of UN proceedings prevented Tomasevski’s support from resulting in any significant actions of the government, the campaign committee was very proud of her involvement and the accusation that OfSTED did not respect children’s rights during their inspection was a central issue of Summerhill’s case.

The absence of children’s voices in the 1999 inspection was only one of a series of critiques about the inspection process itself. The Summerhill Response cited several places where the report made claims that the school felt were unsupported by evidence and this trend, plus other examples of malpractice, were reaffirmed by an independent inspection that was conducted by a team of educators over a period of six weeks between November 1999 and January 2000. A major critique of the OfSTED inspection was that the team of 8 HMI inspectors (instead of the usual contracted inspectors) did not treat Summerhill fairly because they severely disrupted normal operations, did not spend enough time at the school to gain a complete understanding of what was going on there, and did not take the time to evaluate the aspects of the school which Summerhill finds the most beneficial (such as the student meeting and independent play). Methodologically, the independent inspection was much more thorough. This team intentionally visited the school as individuals instead of a large group, and spent a total of 17 days observing every aspect of life at Summerhill including staying overnight, talking informally with students, and attending the school meeting.⁶⁷ During this time, the authors of the independent report agreed that they were at a school that did not deserve the negative language of OfSTED’s report. By taking time to fully understand Summerhill and being careful to approach their task unbiasedly, this team was not able to substantiate the areas of apparent

weakness that OfSTED found. For example, in the area of assessment, which OfSTED found serious issue with, the independent team commented, “We have to conclude that the case presented by OfSTED and by the Secretary of State is not supported by the evidence. It seems that OfSTED inspectors arrived at Summerhill with a predetermined template as to how schools must operate assessment, irrespective of the philosophy, character or circumstances of a school.”

The belief that OfSTED was guilty of serious malpractice by either failing to or refusing to look outside of the conventional “template” of how they thought a school should look and operate was foundational to Summerhill’s opposition. Although the independent report does not pass judgment about whether the OfSTED team was intentional about the lack of respect it gave towards Summerhill’s unique ethos, it is very adamant that the school did not deserve the negative results and that most of the OfSTED’s most damning comments were not supported by evidence.

Although the independent inspection report reserved judgment on the intentionality of OfSTED’s actions, the Summerhill community did not. The vast majority of Summerhillans asked to remember their experience of the inspection and tribunal believed that, for a variety of reasons that will be discussed, OfSTED came into the 1999 inspection with the intention of giving the school a very negative report. The personal experiences of the teachers and students who were present during the inspection left no doubt in their minds that the inspection team was uninterested in giving Summerhill a fair chance. While recounting his experience of having an OfSTED inspector observe one of his lessons, one of Summerhill’s teachers commented, “He wasn’t a very nice man. He was on his phone during my inspections... he didn’t come up to see

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68 Cunningham, Report of an Inquiry into Summerhill School.
69 As discussed in Chapter 2, OfSTED actually did have a very clear template for inspections, but in the opinion of the Summerhill community, Summerhill could have been evaluated by this template without such detrimental effects if the inspectors had taken time to really understand what they were observing.
documentation, he didn’t come up and engage with me. He was sort of just perfunctory.” 70 In relation to the entire process, this same teacher was very explicit about his opinion. He stated,

I mean, to me, the inspection was very seriously flawed, in the sense that um, they’d come here with the agenda to close us down… They weren’t objective. They showed no sort of sympathy for the philosophy of the school. They simply were here. I mean, the sense that there were things to inspect outside of lessons, they had no clue, even though we repeated it. They refused to meet with the kids, they were scared to meet with the kids. 71

This comment could have been made by any number of members of the Summerhill community. Over and over again, when asked to remember the inspection Summerhillians recount stories of inspectors being totally uninterested in anything outside of lessons and express the conviction that this specific team knew it would admonish the school before they ever arrived at its campus.

The total lack of respect for Summerhill’s philosophy and absence of concrete evidence is even clearer in the notes that the OfSTED inspectors produced during their visit. These documents are not usually available for public consumption, but their involvement in the legal proceedings of the 2000 tribunal obliged OfSTED to preserve them and a portion were released under a Freedom of Information Act request made in connection with the present thesis.

Although a large number of the handwritten notes are almost impossible to read, the comments of one inspector are legible and particularly enlightening. Although it is impossible to ever really know his/her intentions, the comments of this particular inspector show that he/she was making broad judgments without substantial evidence and that he/she was either uninterested in or woefully under-informed about Summerhill’s educational philosophy and goals. Under the heading “Attitudes, Behavior and Personal Development” which has instructions to “Consider the extent to which pupils show interest…develop their capacity for personal study... behave

70 Michael Newman, (teacher at Summerhill in 1999), in discussion with author, June 20, 2014.
71 Newman, discussion, June 20, 2014.
well...show respect for property...form constructive relationships... show initiative and are willing to take responsibility,” this inspector wrote:

The poor levels of attendance and very small numbers who attend regularly are indicative of low levels of interest and motivation to learn science amongst most of the pupils. Those attending lessons generally behave well...That this interest/involvement is rarely sustained over a period of time is indicative of poor attitudes to learning... Rather, learning itself is clearly seen as optional and not generally worth a lot of personal effort. How did this inspector know that students weren’t interested in learning about science? What did he/she measure or record which indicated that the students had poor attitudes toward learning and that learning was seen as optional? Someone who was familiar with Summerhill’s philosophy and who was striving to keep it in mind when evaluating the school would have never made these types of judgments.

A supporter of Summerhill was able to explain a trend that even further highlights the less-than-textbook inspection practices of the 1999 OfSTED team. This individual, who asked for anonymity and will be referred to here as Tom, had experience working on OfSTED inspections and his involvement in the legal preparations granted him/her access to these same documents, plus another group of worksheets on which the inspectors recorded and scored every lesson observed (this second group was not released under the FIA). At the time, lessons were to be scored 0-7 with 0 representing a lack of sufficient information to make a judgment, 1 representing excellence, anything above 4 or 5 signifying concern, and 7 representing failure. According to Tom, in the “progress” category a concerning number of these worksheets had a score between 4 and 6. In his/her opinion, the OfSTED inspectors saw low levels of attendance as proof that no academic progress was being achieved and therefore gave the lessons very high (which means bad) progress scores. He explained however, that based on his experience, these

scores should have all been 0 because a lack of students in a classroom constitutes a lack of sufficient data to make an evaluation. In other words, the absence of conventional proof of progress shouldn’t have led to the conclusion that no progress was being made. Furthering his analysis of these documents, Tom also commented that several of these worksheets showed significant spelling errors, were incomplete, or overall lacked the level of care and attention that he had come to expect from inspections during his long career as an inspector.73

As has become clear, the three main arguments that Summerhill’s defenders rallied around (children’s rights, parental rights, the malpractice and bias in the inspection) all had at least some degree evidentiary basis. Many other less substantiated theories also circulated at the time. The variety of these theories speaks to the deeply personal threat that Summerhillians felt, but also further exposes how certain they were that the 1999 inspection had some degree of intentional malice. During interviews about the experience, every member of the community was asked a version of the questions “Why do you think this happened? What is it about Summerhill that might have caused this?” and a brief explanation of some of the more prevalent answers can even further illuminate the Summerhill experience and the communal nature of the reaction, as well as the fundamental miscommunication between this small group of people and the vast political culture they were being subjected to.

One of the most common explanations for OfSTED’s actions was that, on a subconscious level, the inspectors were reacting jealously to the freedom that Summerhill’s children were given. According to several Summerhillians, the inspectors were most likely raised in the traditional school system and the freedom that children at Summerhill experience must have

73 Tom, (member of Summerhill legal team, pseudonym), in discussion with author, June 29, 2014.
made them incredibly jealous for a childhood that they would never experience. This subconscious jealousy then surfaced as hatred and an unwillingness to approach the inspection with an open mind.

Closely tied to jealousy is the theory that OfSTED was instead reacting to a strong fear of Summerhill’s freedom, both because its success threatened New Labour’s education policies and the traditional sector in general, and because the idea of releasing children from adult control is fundamentally terrifying. Danë Goodsmann, an ex-Summerhillian who sent her children to the school and who was one of the individuals who was selected to serve as a lay-person adviser for inspections after the tribunal, addressed both of these manifestations of fear in her interview.

When asked what it was about Summerhill that made it a target she explained, “I have no idea, and I ponder that constantly, it’s a very small place. As Neill said, it’s an effective experiment. Maybe the thing that’s worrying is that it’s an experiment that’s proved itself.” In Goodsmann’s opinion, which was repeated by several of her fellow Summerhillians, the overwhelming evidence showing that Summerhill pupils leave the school to live productive and happy lives stood in direct conflict with everything that New Labour was trying to accomplish. If this tiny school with its non-traditional philosophy could produce successful people, then maybe it was a threat to New Labour’s push towards standards and accountability and needed to be quieted.

Goodsman also discussed the common theory that OfSTED was reacting to the fear that giving children total freedom meant having no control over the future of society. She explained, “It always reminds me of the Aztec belief that if they didn’t slaughter a virgin every night, the sun wouldn’t rise... And that’s exactly the position that people have when it comes to education...It’s terrifying. Because the consequence of the sun not rising is we all die and that is

74 Danë Goodsmann, (Summerhill past-pupil, parent, supporter), in discussion with author, July 1, 2014.
the degree of belief that people have. If my child doesn’t do this [follow the traditional pattern of
education] they’ll never succeed.” In other words, OfSTED might have been acting to ensure
that society progressed forward by making sure Summerhill’s children would be successful as
adults. Summerhillians believed that the vast majority of society saw success as the linear
progression from one accomplishment to the next and that OfSTED was unable to accept that
abandoning this step-by-step procedure could be rewarding.

Summerhillians also had theories that relied less on understanding OfSTED’s
subconscious and more on interpreting the potentially shady political factors at work. Theories of
agreements made behind closed doors were extremely prevalent. One Summerhillian
remembered,

I can’t prove it... a friend of my family is a senior civil servant, and my dad asked them
to ask around and the quote that came back was, “the government wants the school
closed.” I don’t know... how high it went up, but I’m pretty sure it was David Blunkett..
[he] was aware of it and made a decision of it, you don’t send that many inspectors, you
don’t inspect a school every single year, you don’t put it on a special To Be Watched list,
they had a plan, they wanted it shut down... and it wasn’t to do with results—it was to do
with ideology. 76

Another individual wondered if Blunkett might have decided to close Summerhill to show that
he was getting something done. She explained, “This is hindsight rather than I knew before... it
was clear that he himself wanted to make his mark, so shutting down Summerhill would be one
of those kind of things, but I say "it was clear," my perception was, that’s what I believed him to
be doing.” 77

Other individuals saw Chris Woodhead as the mastermind. A “right wing, nasty Tory,”
Woodhead was a staunch believer in the value of a traditional education and had been recorded

75 Goodsmn, discussion, July 1, 2014.
76 Gale, discussion, June 26, 2014.
77 Goodsmn, discussion, July 1, 2014.
expressing ideas about education that were starkly opposed to everything Summerill stood for.\textsuperscript{78} Several Summerhillians strongly believed that closing their school would have given Woodhead an impressive ideological victory. An even more scandalous version of Woodhead’s intentions, which was repeated by at least two Summerhillians, was that he had recently been involved in a scandal involving a relationship he had had with a 6th former when he was a high school teacher and that, in the words of one Summerhillian, “there might have been an agenda for him to renew his public image as someone who smashes progressive schools. An, ‘I closed down the school where kids can have sex’ kind of thing.”\textsuperscript{79} Obviously none of these theories can ever be proven, but the fact that multiple Summerhillians told similar stories suggests that they might have been picking up on some type of intentionality.

The vast number of both plausible and implausible theories about why the 1999 inspection happened and why it was wrong were eventually refined and formalized into Summerhill’s legal appeal at the March 2000 Independent Schools Tribunal. Such a tribunal only had power to annul the Notice of Complaint, not to pass judgment on Summerhill’s practices or OfSTED’s procedures, and so the arguments were mostly confined to the points in Summerhill’s Notice of Appeal.

After a series of letters and meetings between Summerhill’s legal firm Stephens Innocent and the DfEE, the Notice of Appeal was officially submitted on August 3. This document outlined the school’s objections to the Notice of Complaint and started the process for appealing it in the Tribunal. It officially put into writing that the school was unwilling to accept Complaints 2, 4 and 6 and in doing so, established the basic scaffolding on which the legal case was built.

\textsuperscript{78} Ian Cunningham, (author of Independent Report), in discussion with author, June 27, 2014.
\textsuperscript{79} Newman, discussion, June 20, 2014.
Although the legal argument was incredibly nuanced, it was strongly rooted in the firm assertion that the inspection was misguided, that the Notice of Complaint at times overstepped its legal rights, and that overall, the DfEE did not respect the school’s unique and worthwhile philosophy. These basic tenets manifest themselves in the objections to each complaint.

Complaint 2 was the only accommodation complaint that the school did not accept, and it was concerned with the number and separation of bathrooms. The Notice of Appeal stated that the school, “has no objection to increasing the number of working and accessible WCs but appeals against the requirement that there are separate lavatories for male and female pupils, and staff.” As the Appeal explained, Summerhill’s issue with this requirement rested on the fact that the school strove to create “a democratic family environment [of] equality between members of the community,” the same type of environment as can be found in a family home, and that in this type of setting it would be ridiculous to label separate bathrooms for boys, girls, and adults. The appeal acknowledged that sharing bathrooms could be seen as leaving students vulnerable to sexual or physical abuse at the hands of teachers or other students, but was adamant that the ethos of the school, as best evidenced in the Meeting, already safeguarded against this by giving children a safe place where their voices were heard and where they had enough power to address this type of issue if it ever were to happen. Further, the appeal stated that there was actually no “statutory basis” for Complaint 2 or its required remedy because, as an independent school, Summerhill only had to meet the Department of Health’s requirements, which said nothing about how bathrooms must be labeled or used as long as they were safe and maintained in good working order.

The most threatening part of the Notice of Complaint was Complaint 4 which focused on
the “arbitrary narrowing of the curriculum” that resulted from non-compulsory attendance and
required that the school “ensure that all pupils engage regularly in learning.” Again, the Notice
of Appeal called upon the same three central arguments. It accused OfSTED’s report of being
“fatally flawed in the assumptions it makes, the criteria it has used, the evidence it has gathered
and the conclusions it has drawn.” It then asserted that any type of “requirement demanding
that pupils engage in compulsory study though attendance at lessons or otherwise” lacked respect
for the school’s educational philosophy, and that, “such a requirement... would remove a basic
tenet of freedom of choice provided by the school which is sought by its consumers.” The
appeal goes on to cite the illegality of the requirement stating that, “The Secretary of State is
acting unlawfully in imposing upon an independent school a definition of ‘efficient and suitable
instruction’ imported from the state sector which is not based on what is suitable and efficient in
the context of an alternative approach to education sought by parents of pupils at the school.”
The idea of imposing on parental wishes is also expanded when the appeal states that Complaint
4 infringes on the rights of parents to educated their children in accordance with their beliefs, as
established in the 1996 Education Act and in the European Convention for the Protection of
Human Rights and Fundamental Freedoms.

Complaint 6 followed smoothly from Complaint 4 because it was concerned with
assessment, a lack of which, according to OfSTED, also threatened student progress and
attainment. The Appeal’s central argument against this Complaint was that, “it is factually
incorrect,” and “based upon the wrong premise.” OfSTED claimed that Summerhill was not

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assessing its pupils, but the Appeal asserts that the school in fact had a “variety of ranges of assessment” and that “formal written assessment and the ‘marking of books’ are merely one method of providing feedback to children on their development.” Once again, the appeal asserted that OfSTED’s report and the Notice of Complaint that followed were based on inaccurate or incomplete data and did not at all respect Summerhill’s educational philosophy or its rights as an independent school.

On March 20, 2000 Summerhill’s legal team finally had the chance to present its vast collection of data and argue against the DfEE at the Independent Schools Tribunal. This tribunal was originally slated to last up to two weeks, but in reality it only lasted through three days of testimony before the two sides came to an agreement which essentially annulled the Notice of Complaint and set up guidelines for future inspections of Summerhill. Members of the Summerhill community had mixed feelings about this conclusion because the early end prevented the majority of their most explosive evidence from becoming public record, but they all unanimously agreed that the results were so positive primarily because of their barrister Geoffrey Robinson who was a very well-known and successful Human Rights defender. During interviews multiple Summerhillians recounted a story about how the legal team had been keeping Robinson’s involvement a secret and how all the color drained from the face of the DfEE’s barrister Ms. Foster when she saw him walk into the courtroom on the first day of the tribunal. Under Robinson’s leadership, the Summerhill team was able to present a case strong

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87 Although OfSTED conducted the inspection, the Notice of Complaint that was being appealed in the Notice of Complaint was written by the Department for Education and Employment so technically the Respondent of this case was the Secretary of State for Education and Employment (David Blunkett). Blunkett was not present at the Tribunal, and there were several moments where the DfEE’s legal team had to postpone answers in order to have him clarify his position overnight.
enough to force the DfEE to propose a settlement after only three days. Whether this settlement was the product of superior legal skills on Summerhill’s side, the lack of sufficient preparation or data on the DfEE’s side, or some combination of both is uncertain, but an examination of the major arguments presented by Summerhill (though Robinson’s opening statement and his lines of questioning) further cement the fundamental miscommunication between bureaucratic process and personal experience.

The arguments presented by Summerhill’s legal team during the three days of the tribunal reflected the critiques made in the Notice of Appeal and can be summarized by two main statements: OfSTED’s inspection and the actions of the DfEE were unfair and unprofessional, and the remedies included in the Notice of Complaint should be removed because the were based on this faulty inspection and would require Summerhill to violate its educational philosophy.

In his characteristically eloquent way of speaking, Robinson made the first of these arguments in his opening statement. He addressed the tribunal saying:

_In any intelligent educational system, Summerhill would be supported and viewed as a precious resource. Sadly, the behavior of OfSTED has not been intelligent. The evidence in this case will show its behavior is frequently in breach of its own proclaimed standards, its inspectors have demonstrated a lack of professionalism, basic errors in methodology, and a degree I am sorry to say, of persecution in the demands they have made of Summerhill as a school… The conclusion, however, that we will invite the tribunal to draw from this evidence is that Summerhill is not failing its pupils—OfSTED is failing the Secretary of State._

A vast majority of Summerhill’s preparation for the tribunal was concerned with showing the blatant negligence of the 1999 inspection team and many of these points have already been discussed. The premature end of the tribunal prevented Summerhill’s most impressive evidence about OfSTED’s actions was never actually discussed, but Robinson was still very successful in

showing that OfSTED hadn't conducted a fair inspection by arguing, among other things, that the Inspection report's disclaimer about not judging the school's founding principals had been violated as soon as the Notice of Complaint required that Summerhill "ensure" that students were engaged in certain types of activities.

Whether or not OfSTED and the DfEE had passed judgment on Summerhill's founding philosophy became a central piece of the Tribunal's discussion and is one of the best examples of the fundamental miscommunication that existed between the two sides. Fairly early on in the first day Ms. Foster argued that in no way was the Secretary of State passing judgment on Summerhill's philosophy and that it was very much in his department's jurisdiction to require Summerhill to maintain certain standards for its students. She explained:

...issues of overriding philosophy of education are not engaged by the Secretary of State's supervision, save as to ensuring certain minimum standards of the transmission of knowledge and intellectual development. It is not the Secretary of State's intention to strive to close the school. It is not his intention to enter an ideological battle. This appeal does not concern a battle of ideologies. The Secretary of State is not intent on enforcing compulsory lessons on Summerhill pupils, nor on compelling the abandonment of the general philosophy of education propounded by AS Neill.89

The assertion that the Secretary of State was not trying to force Summerhill to abandon the practice of non-compulsory lessons was Foster's central claim, and the place where the miscommunication is most evident. In the eyes of OfSTED and the DfEE, the remedies in the Notice of Complaint which required that Summerhill "ensure" certain process were implemented or certain actions were taken did not encroach on Summerhill's philosophy of non-coercive education. In other words, OfSTED and the DfEE argued that it was possible to "ensure" acceptable standards and accountability without abandoning Summerhill's philosophy.

The Summerhill community clearly did not agree with this central argument. During his questioning of the DfEE’s principal witness Michael Phipps (the independent schools registrar), Robinson argued that the requirement that Summerhill “ensure that all pupils engage regularly in learning” was in fact a requirement that the school abandon its founding principles and instate compulsory lessons. To this argument Phipps asserted that the Secretary of State believed that the school could fulfill this requirement by “encouraging” students to attend lessons or participate in some type of structured learning and that this would not constitute abandoning its beliefs. Here, the fundamental disagreement is clear. Phipps and the DfEE believed that “encouraging” wasn’t a form of coercion and that it could be used to fulfill the Notice of Complaint’s remedies, but Robinson proceeded to corner Phipps into stating that ensure was defined as “Make certain... ensure that all pupils engage regularly in learning. Yes, make certain.” He then argued that the only way to “make certain” that students were learning would be to abandon what Summerhill saw as its founding philosophy, and that even “encouraging” would violate this philosophy.

In addition to this debate over the definition and implications of the words “encourage” and “ensure” the other major moment in the Tribunal was when Summerhill’s inclusion on a list of schools “To Be Watched” was revealed. The tribunal’s judge was actually the person to ask about these letters. He asked Miss Foster the DfEE’s barrister, “I wonder if we could have some elucidation of what, ‘TBW’ means, which is given as the purpose of the visit.” She responded, “To be watched, is TBW” to which he said, “Presumably it is a label which has been on some secret dossier on the school. This is a school to be watched, rather than a visit to be watched.

Miss Foster didn’t have an answer until the next day, when there was a long discussion that revealed that these letters did in fact mean that the school had been identified as deserving extra attention and that the school had never been made aware of this status. The Summerhill side latched onto this discussion and claimed that it was absolutely unfair that Summerhill hadn’t been notified that it was being watched and although The DfEE representative claimed that this list wasn’t a over-assertion of OfSTED’s rights to inspect, Robinson made a strong argument that this was proof of undue victimization and a discriminatory inspection process.

The TBW discussion seemed to be a definitive turn in the opinion of the Tribunal’s judge and was likely a deciding factor in the DfEE’s decision to present Summerhill with an agreement so early in the process. On the final day of questioning, Robinson was able to being presenting some of Summerhill’s plethora of evidence about the OfSTED’s biased and unprofessional actions, but the full extent of this information didn’t become part of the official record because by this point, it was arguably very clear that the Summerhill legal team had likely won the support of the Tribunal.

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The Independent Schools Tribunal concluded after three days of testimony with an agreement between Summerhill School and the DfEE which essentially annulled the Notice of Complaint and established a system for future inspection. Technically a victory for Summerhill, the nuances of this agreement, as well as the larger implications of the tribunal as time progressed, offer a very rich discussion. The official statement of agreement explains that Complaint 2 was annulled during the tribunal and that, “as to complaints 4 and 6... In essence, it was confirmed on behalf of the Respondent [technically David Blunkett, Secretary of State for Education] that there was not a desire on his part to have Summerhill struck off the Registrar or to compel children there either to attend lessons or engage in formal self-supported study, or to prevent the school from putting into effect the educational philosophy of its founder, AS Neill.”

It is also stated that in the future Summerhill would be allowed to appoint a layperson to assist with OfSTED’s inspection and to “facilitate the resolutions of any issues which may from time to time arise.” The document then sets a list of agreements regarding the content of future inspections. It reads, “The Respondent and the Appellant agree to the following:”

a. The views of the school as expressed in the Meeting... will be taken fully into account on that inspection;
b. The views expressed in the current reports of Professors Stronach, Thomas, Cunningham will be taken into account; [these men were all advisors to the Summerhill legal team and wrote about multiple aspects of non-traditional education]
c. The pupils voice should be fully represented in any evaluation of the quality of education at Summerhill;
d. Learning is not confined to lessons and inspections must consider the full breadth of learning at Summerhill;

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93 “Statement of Agreement,” 2.
e. The freedom of children to attend classroom lessons or not in accordance with Neill’s philosophy is acknowledged;
f. Levels of attendance at lessons should not form the only basis for judgments of the suitability and efficiency of instruction and education.94

These bullet points alone seem to represent a solid Summerhill victory, and the Summerhill community did rejoice when the decision was made public. Amidst the revelry, however, there was also a sense of regret over a potentially missed opportunity and a cautious fear that the fight might not be fully over.

Feelings of regret were expressed by several community members about how the decision to shorten the Tribunal prevented Summerhill’s legal team from fully exposing the details of OfSTED’s behavior during the inspection. The vast majority of Summerhill’s case, which included binders and binders of information such as Tom’s commentary on the school profile and inspection notes, was never submitted into evidence and therefore never became part of the public record. Going into the tribunal, there had been a strong hope among Summerhillians that this case might end by forcing OfSTED and the DfEE to reconsider the inspection process and its consequences for children and schools in general, but the final agreement left these organizations under no obligation to change their procedures except in regard to Summerhill.

Adding to the already tempered nature of this victory, the DfEE’s official press release set shockwaves of anger and fear through the Summerhill community. Released just hours after the end of the tribunal, this document served as the official summary of the tribunal’s agreement. Several Summerhillians remembered a frantic trip from the pub where they’d been celebrating back to the lawyers office to try and reach the major newspapers with an alternative before it was too late. The line of the press release that caused this flurry of activity was, “The Secretary of State and Summerhill School have reached agreement that: Summerhill will encourage pupils to

94 “Statement of Agreement,” 2.
attend lessons and will improve teaching and assessment across the curriculum." In comparison to the actual text of the agreement, this statement struck Summerhill's supporters as a blatant lie. They had never agreed to "encourage" anything. In fact, they believed that they had successfully argued that to "encourage," was the same as to "ensure" and that Summerhill's philosophy did not support this type of education. To the casual observer, the language of the press release suggested that the DfEE had essentially forced Summerhill to adhere to its remedies despite the fact that the Notice of Complaint had been annulled.

Public interest in the Summerhill story soon faded, but the ill feelings that came with the end of the tribunal for those most closely associated with the Summerhill preparation did not dissipate. Michael Newman and the campaign committee children continued to try and raise support for their cause of children's rights, and also added the new goal of getting OfSTED to apologize for the malpractice associated with the 1999 inspection of their school. They attended and submitted questions to several Select Committees (meetings where government officials are required to answer questions from MPs) but it was several years before their question was heard. Even then, their efforts did not result in any real change in policy or any type of public recognition outside of the original press release. For OfSTED and the DfEE, the conflict with Summerhill didn't precipitate any noticeable difference in operations. Summerhill has been inspected two times since 1999 and both inspections have followed the guidelines specified in the tribunal statement, with fairly positive results. Some members of the Summerhill community optimistically attributed this shift to a positive change in the organizations' opinions about the school. Others wondered if it was simply because of a change of leadership. Chris Woodhead resigned from his post as Her  

96 Newman, discussion, June 20, 2014.
Majesty’s Head Inspector very soon after the end of the tribunal, but once again, despite Summerhill suspicion, there is no proof that the two were linked. While it is quite possible that the inspection and DfEE legal teams look back on the period as an embarrassing mistake, historic evidence provides no insight past the structural level, and on that scale nothing noticeable resulted from the experience.

With the press release as the final, official conclusion to this conflict and the lack of any change in the operations of OfSTED, the conflict between Summerhill and the DfEE comes to a disappointing conclusion. The case, which had the potential to set a precedent for other independent schools, did not result in any significant change in policies and didn’t create the legal protection for independent schools the way Summerhill had hoped. Despite what seemed like a Summerhill victory, or at least not a DfEE victory, the combination of the press release and then the lack of a precedent ruling means that the New Labour’s push for standards and accountability is ultimately the force that prevailed.

Ironically, proof of the inconclusive and anticlimactic nature of Summerhill’s 2000 tribunal victory emerged very recently during the writing of this paper. On March 4, 2015 Zoe Readhead announced on the school’s Facebook page that, “Today we heard from our lawyer that after two years of (very intermittent) correspondence with the Department for Education, the Secretary of State has now made a final decision to terminate Summerhill’s ‘special’ inspection arrangements... It seems that everybody is equal under the eyes of the law- but, to borrow a phrase, some people are more equal than others.”^97 This post immediately created a flurry of activity and support, just like 16 years earlier. A petition has been started titled “Make OfSTED Accountable During its Inspections” with the goal of eventually reinstating the 2000 agreement and extending its terms to all schools. At the time of this paper’s submission there have been no

plans for legal action, although the vast majority of Facebook comments suggest that the community would be interested in pursuing that avenue if it became necessary. In an email to the author, Readhead expressed that, despite how disappointing this development has been, she, "feel[s] it would be irresponsible to put Summerhill's future at risk by the possibility of getting into debt just to prove a point," and so it is very unlikely that the 1999/2000 conflict will resurface any time soon. 98

Ultimately, this thesis leads us to ask questions about the specificity and contingency of these historical events. Why Summerhill? Why 1999? The nature of this conflict is that every nuance in the answer to the guiding questions of this paper will never be satisfactorily revealed. And yet, in providing the first balanced historic narrative and analysis of this struggle, this investigation does bring forward a host of important revelations. Summerhill's story is a unique example of the fundamental miscommunication between bureaucratic process and personal experience. There is no smoking gun and no clear demarcation of good vs. bad. From the official, documented narrative it is clear that Summerhill's fate was heavily influenced by large political structures and changes in national educational policy, and yet it is wrong to say that the Summerhill community's experience of feeling intentionally victimized and unfairly invaded is invalid. There are very clear indicators that the OfSTED inspectors were responding to the increased pressure for standards and accountability that came out of New Labour's rise to power, but there is also very clear evidence that those same inspectors did not give Summerhill a fair chance by not investing the time they should have to fully understand the school and its philosophy.

98 Zoe Readhead, "RE: Recent Updates at Summerhill," E-mail message to author, April 16, 2015.
The fact that there is evidence to support the validity of each side's position in this conflict is proof in and of itself of the central conclusion of this entire discussion. At the core of both New Labour's educational policies and Summerhill's educational philosophy there is a fundamentally different understanding of what it means to be educated and what children need to be happy, successful adults. Neither side is wrong and both sides have seen incredible success, which has encouraged proponents of each extreme to tenaciously defend their values. Although originally intended to explain the traditional sector, Dane Goodsmen's analogy about how society clings to the need to ensure future progress and success the same way that Aztec civilizations clung to sacrificial ceremonies to ensure they stayed alive, can be expanded to explain both sides of this conflict and the miscommunication that created it. Summerhill's conflict with OfSTED reveals that at both extremes of the educational spectrum there is the fervent desire to get things right; that both the entrenched, traditional bureaucrats and the non-conformist, progressive innovators are devoted to ensuring that their sun will be high in the sky tomorrow morning.
Works Cited


Katarina Tomasevski to Alex, Carmen, Nathan and Vita. November 19, 1999.


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