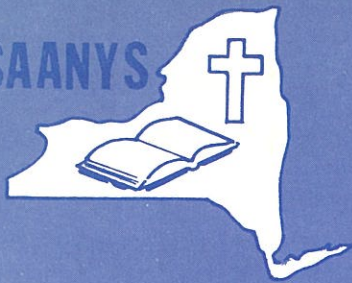


CSAANYS



NEWSLETTER

CATHOLIC SCHOOL ADMINISTRATORS ASSOCIATION OF NEW YORK STATE

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Courts Curb Power of States To Regulate Nonpublic Schools

The highest courts of Ohio and Vermont recently upheld the rights of parents to free choice in education, on religious grounds, over the right or duty of the state to regulate schools "for the good of its children." The Ohio case centered on the fact that application of all state standards would result in suffocation of independent thought and educational policy, and the effective retardation of religious philosophy in the school. The court expressed its concern that the philosophy of public education may be the promotion of Secular Humanism, but did not rule on the issue.

The court said that a general education of high quality can be achieved by means other than the comprehensive regimentation of all academic centers of the state. This was the central issue in the Vermont case.

Here the court said that equivalent education could not be made synonymous with education in approved schools: "In the light of what is involved in 'approval,' the state would be hard put to constitutionally justify limiting the right of normal, unhandicapped youngsters to attendance at 'approved' institutions."

The Ohio case (*State v Whisner*) resulted from the refusal of a Protestant minister and his small group of parishioners to have their newly formed school chartered, and thereby have to accept state standards. The decision went against them in the lower court in 1974. The decision in 1974 there referred to the established principle that the natural rights of a parent to the custody and control of an infant child are subordinate to the power of the state, which has the duty to promulgate minimum standards for its children. Also, two sets of standards would deny equal opportunity to some children.

The largest newspaper in Ohio had this to say about *Whisner*:

The bureaucratic maze of regulations and standards, cobbled together over the years by the State Board of Education and the State Department of Education, were found by the court to be "pervasive and all-encompassing." So much so that, "total compliance with each and every standard by a nonpublic school would effectively eradicate that distinction between public and nonpublic education, and thereby deprive (persons) of their traditional interests as parents to direct the upbringing and education of their children."

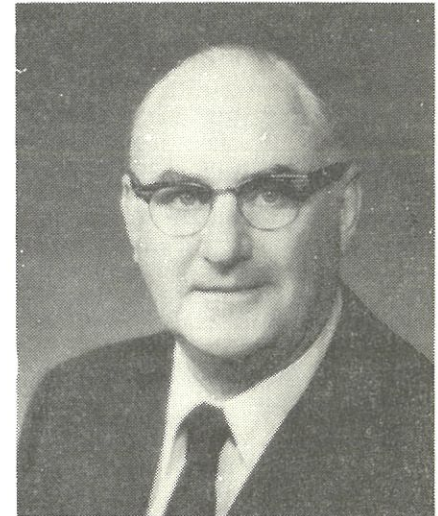
Many of these standards have little or nothing to do with the legitimate goals of a sound academic education. Gymnasiums, auditoriums and the number of drinking fountains in a school are largely irrelevant to the attainment of basic education. Too often, these standards impose a needless financial hardship that only a school supported by a vast taxing power or a deeply entrenched private fund-raising capability can afford. The effect of the burdensome standards on small independent schools are obvious. Over the long haul, the alternative school is ground under the heel of a standardizing, conformity-prone public bureaucracy.

Many administrators whose membership was due in June or during the summer months postponed their renewal to the new budgetary year. This summer renewal membership represents approximately half our membership. Please send your dues as soon as possible. Without your dues we cannot operate.

B.G.F.

The wise unanimous opinion, written by Justice Frank D. Celebrezze, also cited the inevitable effect of state standards imposed on teaching materials, including textbooks and subject presentation. "... We share the concern of appellants that the philosophy espoused... (in some of the standards) relating to the teaching of

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**Brother Bernard Flood, FMS
Executive Director**

Brother Bernard comes to CSAANYS from the Catholic School Office in Birmingham, Alabama, where he was Assistant Supt. in charge of Planning and Administration. Prior to that he was the Director of Education for the Marist Brothers, Esopus Province, from 1967-74.

In 1961-62 he was a consultant to a group working to establish an Anglo-American co-educational secondary school in Geneva, Switzerland. This "Newman School" never was built, because of funding problems.

He also served as Supervisor of Schools for the U.S. Province from 1958-61 and was a principal of secondary schools in Wheeling, W. Va., and Manhasset, N.Y., for a total of eight years.

Brother has long been active in the NCEA, serving on the executive committee of the Secondary School Dept., the advisory board of the Supervisor's Section, and later, the SPA section. He is presently a member of CACE (Chief Administrators Dept.) and has served in the past on its executive committee.

Brother has also held numerous positions in his province and is a member of NASSP, ASCD, and NCSS. He was awarded a B.S.Ed. from Fordham in 1940 and an M.A. from Teachers College, Columbia, in 1945.

NEWS NOTES

Harlem Parents Union Continues Struggle for Parent Power

Mandated Services Decision

Attorney General has applied for hearing before U.S. Supreme Court. Hopefully this will settle all questions of constitutionality of the one-time payment, including that of the enabling legislation which permitted the schools to sue. If accepted, the decision would not come until spring or later.

Required Services

This has also been appealed to the U.S. Supreme Court.

Copyright Legislation

The revision of the 1909 law, which could create problems for educators, is waiting to be brought before the House. A version has already passed the Senate.

Language has been introduced which protects fair use in education, but the bill can still be changed in the House and in the Conference to reconcile the Senate and House versions. If problems do develop, educators across the country should be alerted in time to react.

Title IVB

A packet of materials on Title IVB has been sent to all principals by the State Ed. Dept. It outlines some changes in procedures and contains explicit instructions for filling out the Private School Expenditure Request Forms.

Basic information on Title IVC, done in Q & A form, has also been issued by the SED. It is essentially the same as last year's.

The Harlem Parents Union is continuing its battle for effective alternatives to public education. Eight families are testing the compulsory education law by keeping a total of twelve children out of school, providing education through tutoring. Many more parents and children would be involved, except that would make legal procedures and documents very cumbersome.

The parents are proposing a voucher experiment as an alternative to sending their children to failing schools. They have received the support of many local legislators and community leaders.

NYC Title I Case

The law firm headed by Edward Bennett Williams, a nationally prominent attorney, is handling the defense for Catholic schools. The right of Catholic and Protestant parents to be intervenors is being established, over the objections of Leo Pfeffer and the ACLU, etc.

The litigation will probably be long and slow, lasting between one and three years.

Tax on Religious with Secular Jobs

IRS has ruled that religious working at jobs unrelated to the religious mission of the order, even though their salary was going to support of order, were subject to income tax.

"In order for the employment of a member of a religious order to constitute the exercise of duties required by such order within the meaning of the Employment Tax Regulations, the services must be of the type that are ordinarily the duties of members of the order and must be performed by the member as part of the duties for or on behalf of the religious

Six New Board Members '76-'77

The first meeting of the Board on September 24th will bring five new faces to Albany.

The newly elected Secondary school Representatives are Sr. Jean Smith, SSJ, from Nazareth Academy, Rochester; Dr. Michael Langan from Nardin Academy High, Buffalo; and Bro. John Farrell, FSC, from La Salle School, Albany.

Sr. Joseph Marie, RSM, from St. Bernard's, Saranac Lake, was chosen by Ogdensburg principals to fill the unexpired term of Sr. Theresa Geoghan. Sr. Patricia Burkard, OSF, has been chosen to fill the unexpired term of Sr. Christelle as the Buffalo Elementary Representative.

Sr. John Joseph, OSF, from OL of Sorrows, Vestal, on the basis of last year's election, is filling out the unexpired term of Sr. Maureen Mara.

order as its agent... Ordinarily a member is performing services as the agent of the religious order only if the order is engaged in the performance of the services as a principal. Ordinarily an order is not engaged in the performance of services as a principal where the legal relationship of employer and employee exists between the member and the third party with respect to the performance of such services."

AFT Supports Democrats

Al Shanker has announced active support by his union of Democratic platform candidates as the best thing for public school teachers. Millions will be spent through the AFT's political arm to elect Carter-Mondale and local candidates.

Liberty and Justice for Catholics?

The Bishops' bicentennial conferences intended to be a real grassroots program to shape the policy of the NCCB for the next five years, will wind up in Detroit Oct. 21-24. After conferences in each diocese, five regional ones were held last year for input. Position papers based on these will be presented, possibly amended, and finally adopted.

CSA'NYS presented testimony, after much difficulty in getting on the program, in the conference centering on Ethnicity in Newark, N.J. in early December. The burden of our message was that the schools, particularly the parents who are in effect being doubly taxed, are being forgotten. Liberty and justice for our own, we said, should be the first concern of the NCCB.

We pointed out that a pamphlet sponsored by the NCCB, **Respect Life**, almost completely omitted any reference to education in its presentation of the rights and duties of parents, children, and family. The only explanation of this could be that those who have the bishops' ears are the clergy and laity who feel the apostolate of Catholic charities is more important than education.

Judging by the composition of diocesan delegations to Detroit, the final statement of the bishops on liberty and justice will also relegate the needs and rights of our parents to a minor place.

Let us hope and pray that this assessment will be proven wrong.

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citizenship, social studies and health, may be interpreted as promoting secular humanism, and, as such, may unconstitutionally be applied..." Celebrezze wrote.

And Celebrezze took due notice of the potentially restrictive effects of the standards on development of a healthy diversity of thought.

Martin W. Essex, superintendent of education, whose power and bureaucratic domain have been diminished by this decision, reacted predictably. He suggested the court was establishing the "right of ignorance" and promoting "white flight" to avoid the integrated public schools. He missed the point.