

A STUDY OF THE FUNCTIONS OF SCHOOL BOARDS
IN THE EDUCATIONAL SYSTEM OF THE
ROMAN CATHOLIC CHURCH IN THE UNITED STATES

by

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Each of my advisory committee members has been helpful in assisting me through my program of studies and dissertation. I am especially grateful to the chairman of my committee, Thomas C. Hunt, for understanding and helping me articulate the importance of this topic to me and to Catholic schools and their boards.

PREFACE

Having spent all but one year since I began school as either a student, teacher, or administrator in Catholic educational institutions gives me a privileged position from which to address "A Study of the Functions of School Boards in the Educational System of the Roman Catholic Church in the United States." As principal of a private Catholic secondary school, I served as president and executive secretary of that school's first Board of Trustees. As superintendent of schools for the Diocese of Richmond I, along with many others, have encouraged the formation of school boards for regional schools and parish education committees for parochial schools.

In the Diocese of Richmond there is a positive climate in which the renewal called for by Vatican Council II is taken seriously. There are many diocesan, regional, parish, and school councils, commissions, boards, and committees. These involve many clergy, religious, and laity in the life of the church. The positive atmosphere of the diocese and the commitment of interested people have supported regional school boards and yet they do not seem to be functioning effectively. I suspected that something was wrong with the organizational model under which these schools and their boards were functioning. This model was adapted from that proposed by Catholic school superintendents in Voice of the Community (cf. Appendix B) and was adopted from one used in public schools.

My commitment to the value of and need for Catholic schools to serve today's church and society as well as my concern about the problems which regional schools, their boards, and the diocesan education commission were having as they attempted to function within the structure of the diocesan church motivated me to select this aspect of the Catholic educational system for further research. Parish, inter-parish, and diocesan schools and their boards which are under the direct authority of the bishop of the diocese are the subjects of this dissertation. Private Catholic schools which have a different relationship with the bishop are mentioned in this study but are not the subject of it.

Most of the research for this dissertation involved reading and analyzing previous research which has been done on boards of education and the administrative organization of Catholic schools in the United States. The writings of professional Catholic educators, especially superintendents of schools, have also been utilized. As my friends and co-workers will testify, I have talked about this topic and my insights with anyone who would listen. My readings and reflections led me to conclude that in order to understand the functions of school boards, the reader needs the context of the authority structure of the Roman Catholic church as well as that of the development of Catholic elementary and secondary schools in this country. These topics are addressed in the first three chapters of the study.

The status of Catholic school boards is divided into two chapters. Chapter four discusses school boards prior to 1960 and

and chapter five covers the years from 1960 until 1980. Chapter six analyzes the authority for public education and models for Catholic school boards. The final chapter includes summary, conclusions, and specific recommendations regarding the reorganization of non-private Catholic schools and the constituting of diocesan and local school boards. These recommendations are consistent with the authority structure of the church and respect the rights of parents to have a voice in the operation of their children's schools.

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Chapter 1

THE AUTHORITY STRUCTURE OF THE ROMAN CATHOLIC CHURCH

The mission of the Roman Catholic Church and that of its schools is the same: evangelization. The church uses a variety of means to "proclaim the good news of salvation to all, generate new creatures in Christ through Baptism, and train them to live knowingly as children of God."¹ One of these means is the Catholic schools. The church, according to its most recent official document on schools, states that the church

establishes her own schools because she considers them as a privileged means of promoting the formation of the whole man, since the school is a center in which a specific concept of the world, of man, and of history is developed and conveyed.²

Because of their unique relationship to the church, Catholic schools are not entities unto themselves. In order to appreciate and analyze the growth and development of these schools and their boards of education, it is necessary to understand the organizational structure and specifically the authority structure of the church to which they belong.

The Roman Catholic Church

There are many valid definitions and descriptions of the Catholic church. Some people prefer the emphasis of Richard McBrien

who describes the church as follows:

the whole body, or congregation, of persons who are called by God the Father to acknowledge the Lordship of Jesus, the Son, in word, in sacrament, in witness, in service, and through the power of the Holy Spirit, to collaborate with Jesus' historic mission for the sake of the Kingdom of God.³

Others would rather use the definition of the church from the

Baltimore Catechism which states:

the church is the congregation of all baptized persons united in the same true faith, the same sacrifice, and the same sacraments, under the authority of the Sovereign Pontiff [Pope] and the bishops in communion with him.⁴

While the emphasis may be different in each of these definitions, the essential elements are the same. The Catholic Church claims divine institution, permanence, and apostolic succession. Apostolic succession, and the role of the bishop in his diocese, is the aspect of the definition which has the most to do with the authority structure or government of the church as a formal institution. It is this aspect of the church which will be emphasized in this study.

Models of the Church

For the first eleven centuries of the Catholic Church, governance was decentralized.⁵ Hildebrand, who became Pope Saint Gregory VII, encouraged the movement toward centralization to "provide a check on parochialism or tyranny at the diocesan level."⁶ This centralization has led to an hierarchical type of organizational structure for the church. There was little public questioning of this image of the church as a hierarchy until Vatican Council II

called for a "renewed emphasis on the idea of the whole episcopal 'college' - the Roman Pontiff, together with all the other bishops - as the full successors to the authority and responsibilities of the Lord's Apostles."⁷

Several models of the church have been proposed as appropriate responses to this shift in governance which Vatican Council II articulated. Each of the proponents of various models is careful to note that no one model defines the church exclusively. For a definition of the church to be complete, it is essential that it include the missionary responsibilities of the church to proclaim the gospel by the quality of the church's own life; by the application of the gospel to the struggle for social justice, peace, and human rights; and in word and in sacrament, in an organized and authorized manner. This complete definition identifies the church as a community of believers, a servant to the world, and a formal institution.⁸

This study will focus on the formal institutional model of the church and how Catholic schools and their boards function within the institutional church. Catholic schools have responsibilities in the areas of community and service, but the church as institution is where the schools as organizations must function.

Authority and Organization of the Church

In the Roman Catholic tradition, "all authority has its origin in God, who alone is the Author of all life."⁹ The church shares in this authority through Jesus Christ, the Son of God, and by the power of the Holy Spirit. Formal authority is exercised in the

church by the pope, who is the successor of Peter, the first head of the church, and by the bishops, who are the successors of the Apostles.

According to the church's law code (Canon Law), promulgated in 1917, the authority of the church does not depend on its members but has been defined by its divine founder. The three sections of the code which deal specifically with the authority of the church are:

As the successor to the primacy of St. Peter, the Roman Pontiff has not only the primacy of honor but also supreme and full power of jurisdiction over the universal Church, in matters of faith and morals as well as in those pertaining to the discipline and government of the Church throughout the whole world. (218,1)

This power is episcopal, ordinary and immediate, and extends over each and every church, and over each and every pastor as well as over the faithful, and is independent of all human authority. (218,2)

The Roman Pontiff legitimately elected obtains, from the moment he accepts the election, the full power of supreme jurisdiction by divine right. (219)¹⁰

Vatican Council II reaffirmed the position of the First Vatican Council (1869) on the authority of the church. The recent Council's "Dogmatic Constitution on the Church" proposed "to proclaim publicly and enunciate clearly the doctrine concerning bishops, successors of the apostles, who together with Peter's successor, the Vicar of Christ and the visible head of the whole church, direct the house of the Living God."¹¹ When the pope and bishops exercise their authority for the good of the entire church, they do so in a collegial or collaborative manner and are encouraged to use their authority as a service and source of edification for the people.¹²

The pope resides in Vatican City and functions as bishop of the city of Rome. An individual bishop is assigned to a specific geographical territory called a diocese. Within that jurisdiction, the bishop exercises his office of sanctifying and "the duty also of teaching and ruling, which, however, of their very nature can be exercised only in hierarchical communion with the head and members of the college."¹³

This "hierarchical communion" requires that individual bishops abide by universal church law as expressed in the Code of Canon Law and in official church decrees and documents. It also states that authority is given not just to Peter and his successors, the popes, but to the whole college of the Apostles and to those who succeed to the apostolic commission: "together with its head, the Roman Pontiff, and never without its head, the episcopal order is the subject of supreme and full power over the universal Church."¹⁴

While it is true that according to the Vatican Council II, "the governance of the church is no longer portrayed in purely monarchical terms as it was in the theology textbooks"¹⁵ prior to the mid-1960's, it is also true that there is no evidence to conclude from official church documents that this "collegiality" was to be extended officially beyond the pope and the College of Bishops to include diocesan and parish governance structures.

Even after Vatican Council II, bishops, as the successors of the apostles, have by right in the dioceses assigned to them all ordinary, special, and immediate power which is necessary for the

exercise of their pastoral office. This authority must recognize the power of the Roman Pontiff to reserve, by virtue of his office, certain matters to himself or to some authority.¹⁶

This same decree states that the bishops should listen to and consult with others but preserves the final authority to the bishop.

It states:

In governing their dioceses, however, bishops have need of helpers and advisers, of priests especially to whom for that reason they should be glad to listen and even to consult, without prejudice always to the right which bishops have of acting with freedom, of making such laws and regulations as consciousness of their obligations, duty and of the principles of government of the Church will suggest.¹⁷

The priests to whom the bishops "should be glad to listen and even to consult" are ordained ministers who usually work within a specific parish. Ordinarily, a parish is a territorial sub-division of a diocese and is administered by a priest called a pastor.¹⁸ According to the church's law, the diocese itself and each of the parishes is constituted as a moral person with the right to acquire and own property. The pastor is responsible for the administration of the parish under the authority of the bishop.¹⁹

However, all priests of a diocese are in a special sense collaborators with the bishop in the care of souls and in the administration of the church. Bishops are urged to have a special regard for priests and to facilitate the work of the entire diocese by being ready to listen to them and by cultivating an atmosphere of easy familiarity with the priests.²⁰ On their part, priests are admonished to "occupy their position of leadership as men who do not seek the

things that are their own but the things that are Jesus Christ."²¹ They are also encouraged by Vatican Council II to work with the lay faithful and sincerely to appreciate and promote the lay person's dignity. In this manner, the special role which the laity have to play in the church's mission will be enhanced.²² Pastors, in a special way, are encouraged "to promote the dignity and responsibility of the lay people within the church, to seek their prudent advice, and to allow them the opportunity to serve with freedom and initiative."²³

These lay people, or laity, those members of the Roman Catholic Church who are not ordained to the diaconate, priesthood, or episcopacy, are recognized as having an essential and "an active part of their own in the life and action of the Church."²⁴ Vatican Council II's "Decree on the Apostolate of Lay People" admits that the laity have a special apostolate within the diversity of ministry of the church. This apostolate is exercised when the laity work for the evangelization and sanctification of all people and when they strive to have the Gospel spirit permeate and improve the temporal order.²⁵

Within the diversity of ministry which this decree mentions, the office of teaching, sanctifying, and governing is specifically cited as being entrusted by Jesus Christ to "the apostles and their successors (the bishops.)"²⁶ This clear statement on the authority of the bishop in collaboration with pastors calls on the laity and all Christians to "promptly accept in Christian obedience what is

decided by the pastors who as teachers and rulers of the church, represent Christ."²⁷

Consultative Bodies Within the Church

Following Vatican Council II, there has been an emphasis on the concept of the church as the people of God and on lay involvement within the church. Members of the clergy have been encouraged to develop leadership styles which will assist and enhance such lay involvement. However, there is no evidence that the authority structure of the church as institution has changed as a result of Vatican Council II. Bishops are not required and, many would argue, not even permitted to delegate their authority to any individual or group.

It need not be concluded that in such a hierarchical organization, groups, and individuals without authority do not have power and influence. The fact that the authority structure of the church is based on the role of the bishop within his diocese makes it essential to clarify the responsibilities and roles of boards, councils, and commissions within a diocese so that they can exercise responsible power and influence.

Vatican Council II calls for each bishop to establish two consultative bodies within his diocese. According to the Council's statement on the "Office of Bishops Within the Church," each diocese must have a Council of Priests to assist the bishop in ruling the diocese by giving its advice. This representative group of priests "has a merely consultative voice" and ordinarily ceases to exist

when the bishop dies or is transferred from the diocese. The bishop is instructed to discuss with the Council of Priests the pastoral needs and good of the diocese and to hear its views.²⁸

The other consultative body which each diocese is encouraged to establish is a Pastoral Council whose membership should be composed of clerics, religious, and laity especially designated by the bishop. This council is to be convened by the bishop whenever he considers it advisable to examine and consider all that relates to the pastoral work of the diocese. According to the Vatican Council, this Pastoral Council "enjoys only a consultative voice."²⁹

One of the questions which this study addresses is how some people could conclude that diocesan and parish boards of education could be constituted as jurisdictional and policy making in response to the decrees and spirit of Vatican Council II when the only two such bodies mentioned by this council have clearly defined roles as consultative only.

Civil Authority of the Bishop Within the Diocese

In addition to his role in the authority structure of the Roman Catholic Church, the bishop also possesses civil authority regarding tenure of church property within his diocese according to state laws. Due largely to European and Protestant influences as well as to the practical necessity caused by lack of clergy, most of the Catholic church property was held by lay trustees during the early nineteenth century.³⁰ Often these lay trustees attempted to

extend their control to spiritual matters of the church and in some instances attempted to select their own clergy rather than accept those duly appointed priests. Such "lay trusteeism" was denounced by the First Provincial Council of Baltimore in 1829 which decreed "that in the future no church could be built unless it was assigned to the bishop of the diocese in which it was to be built."³¹

This decree, because it resulted in the bishop becoming an absolute owner of church property, created problems also. For instance, there were questions as to the transfer of property at the death of the bishop and instances of heirs of a bishop, not having a will, claiming church property at his death. A number of civil court rulings assisted the church in clarifying this situation. They found that as a matter of fact the bishop held the property only as trustee for members of the church even where no trust is mentioned in formal documents.³² The church forbade this practice of bishop as absolute owner of church property by decree of the Congregation of the Council, July 29, 1911.³³

There are three major systems by which states legislate the ownership of church property. These methods are Bishop-as-Trustee, Bishop-as-Corporation-Sole, and Corporation Aggregate. In the diocese where, according to the statutes of the state, the Bishop-as-Trustee method of property ownership is functioning, the legal title to the property is vested in the trustee (bishop) and the equitable title is vested in the members of the congregation (parish). The trustee holds title for the benefit of the congregation and can delegate

control of the property to the administrator of the parish while retaining the right of supervision and the freedom to govern according to the canons of the church. In the past, most courts have given congregations considerable voice in deciding what use or disposition is to be made of property by minimizing "the importance of the bishop as trustee and classify him as a passive, silent trustee with little power."³⁴ These court rulings evoke an objection by some people to the Bishop-as-Trustee type of church property ownership. These objections exist in spite of the fact that in recent times interference by a congregation in the disposition of church property is rare.³⁵

In those states which provide for the ownership of church property by the Bishop-as-Corporation-Sole method, the bishop and his successors in office are incorporated by law and are afforded perpetuity. This corporation sole holds absolute title to its property and is not dissolved but held in abeyance at the death or transfer of the bishop. The new bishop becomes the corporation sole. This type of church property ownership had its origins in colonial days wherever established religions existed, for example in Maine, Massachusetts, and Virginia. With the elimination of established religions in this country, state legislatures provided for the ownership of church property by various statutes. Some states continued the practice of corporation sole; in other states, court decisions have established "quasi corporation soles."³⁶ However, in Virginia and West Virginia, there are constitutional prohibitions

which prevent the incorporation of any church or religious denomination. In these states, title to church property is secured by law and the bishop functions in a manner which is very similar to that of corporation sole.³⁷

In the second half of the nineteenth century, two types of Corporation Aggregate began to appear in various state statutes. One of these types is trustee corporation, an outgrowth of the lay trustee system. In this kind of property ownership, legal title is vested in incorporated trustees and equitable title in the unincorporated society (congregation). The other type, congregational corporation, provides for title to property to be vested in the body corporate. All members of the parish (congregation) form a single legal entity. In the congregational corporation, officers of the corporation are elected and act as a board of directors or trustees and are the agents of the corporation.³⁸

Conclusion

The formal institutional structure of the Roman Catholic Church within which schools function situates final authority within a diocese in the bishop. Pastors are appointed as administrators of parishes and therefore responsible for the care of souls as well as for the goods and services of the moral person which is the parish.

Civil authority of the bishop is determined by the statutes and constitutional provisions of the state(s) in which the diocese is located. In those states, like Virginia, which prohibit the

incorporation of church or religious denominations, church property, including schools, is held by the bishop as a type of corporation sole. In these circumstances, the bishop enjoys the fullness of both civil and church authority.

Chapter 1 Footnotes

¹The Sacred Congregation for Catholic Education, The Catholic School (Washington, D.C.: United States Catholic Conference, 1977), p. 4.

²Ibid., pp. 4-5.

³Richard P. McBrien, Catholicism (Minneapolis: Winston Press, Inc., 1980), p. 714.

⁴Saint Joseph Baltimore Catechism (New York: Catholic Book Publishing Co., 1969), p. 72.

⁵Judith Anne Barnhiser, O.S.U., "A Study of the Authority Structures of Three Nineteenth-Century Apostolic Communities of Religious Women in the United States" (PhD dissertation: The Catholic University of America, 1975), pp. 18-21.

⁶John W. Donohue, S.J., Catholicism and Education (New York: Harper and Row Publishers, 1973), p. 11.

⁷Ibid.

Vatican Council II (1962-1965) was a several session gathering of Roman Catholic Bishops from throughout the world. The Council was called by Pope John XXIII and its documents and decrees are legislative for the Roman Catholic Church.

⁸McBrien, op.cit., p. 717.

⁹Ibid., p. 828.

¹⁰Barnhiser, op.cit., pp. 38-39.

¹¹Austin Flannery, O.P., general editor, "Dogmatic Constitution on the Church," Vatican Council II, The Conciliar and Post-Conciliar Documents (Northport, N.Y.: Costello Publishing Company, 1975), p. 370.

¹²Ibid., p. 383.

¹³Ibid., p. 373.

¹⁴Ibid., p. 375.

¹⁵McBrien, op.cit., p. 673.

¹⁶Flannery, "Decree on the Pastoral Office of Bishops in the Church," op.cit., p. 567.

¹⁷Ibid., pp. 592-593.

¹⁸Flannery, "Dogmatic Constitution on the Church," op.cit., p. 385.

¹⁹T. Lincoln Bouscaren, S.J., Adam C. Ellis, S.J., and Francis N. Korth, S.J., Canon Law: A Text and Commentary 4th rev. ed. (Milwaukee: The Bruce Publishing Company, 1963), pp. 89 & 192.

²⁰Flannery, "Decree on the Pastoral Office of Bishops in the Church," op.cit., pp. 581 & 573.

²¹Flannery, "Decree on the Ministry and Life of Priests," op.cit., p. 880.

²²Ibid.

²³Flannery, "Dogmatic Constitution on the Church," op.cit., p. 395.

²⁴Flannery, "Decree on the Apostolate of Lay People," op.cit., p. 777.

²⁵Ibid., p. 768.

²⁶Ibid.

²⁷Flannery, "Dogmatic Constitution on the Church," op.cit., p. 395.

²⁸Flannery, "Decree on the Pastoral Office of Bishops in the Church," op.cit., p. 600.

²⁹Ibid., p. 601.

³⁰"Church and State in the U.S.," New Catholic Encyclopedia, III, 751.

³¹Ibid.

³²Ibid., pp. 751-752 (cf. Mannix v Purcell [46 Ohio St. 102 (1888)]).

³³Ibid., p. 752.

³⁴Ibid.

³⁵Ibid.

³⁶Ibid.

³⁷Virginia, The Constitution of Virginia, IV, 14.

³⁸"Church and State in the U.S.," New Catholic Encyclopedia, III, p. 752.

Chapter 2

THE DEVELOPMENT OF SEPARATE CATHOLIC SCHOOLS IN THE UNITED STATES

The history of the Catholic school movement in the United States is unique among educational efforts. Almost from the beginning of the existence of the Roman Catholic Church, there were examples of schools related to churches and monasteries. The uniqueness of the American experience lies in two aspects of this movement. Catholic elementary and secondary schools in the United States represent the largest alternative to public education; in 1978-79, they enrolled 64.5 percent of the pupils attending private or non-public schools.¹ The other element is the composition of the student body: most of the parish and diocesan schools have attempted to be available equally to all of the children and youth of the parish regardless of the family's socio-economic status.

The development and growth of the Catholic elementary schools in this country paralleled that of the public schools. Until the early twentieth century, most formal schooling was limited to the elementary level; therefore, the focus of this chapter will be on those circumstances and attitudes which fostered the development and growth of Catholic elementary schools in this country. The following chapter will trace the history of the Central Catholic High School and its relationship to present regional Catholic high schools. An appreciation of background of today's Catholic schools is essential

to an understanding of the place of these schools and their boards in the Catholic church today.

Beginnings in Colonial and Early National Periods

Although Catholic schools as a movement began with the 1820-1830 wave of Irish immigration to the United States, there were a number of successful efforts to establish schools during the colonial and early national periods of this country's history. For example, both Spanish and French missionaries established schools in connection with their mission churches. Some of these schools experienced serious difficulties and did not survive for very long. One of the factors which contributed to their lack of success was that they were modeled after schools in Europe rather than adapted for missionary circumstances in this country. For the most part, these schools were started by missionary priests and religious communities of women who were invited by bishops to educate children in the faith.

The Franciscan "classical school and preparatory seminary in St. Augustine for the Spanish" is one missionary school which enjoyed longevity. It was established in 1606 and continued until 1753 with the expressed purpose "to teach the children Christian doctrine, reading and writing."² Ursuline Academy, opened in New Orleans in 1727, is another early example of a successful Catholic school. This academy included in its early days both a free day school and a boarding school, which is still operating as a Catholic girls' academy.

In the English colonies, a former Jesuit novice, Ralph Crouch, opened Newtown Manor School in southern Maryland in 1640. This school began as a free school and was financed largely by the endowments of local wealthy Catholics.⁴ The penal legislation of 1688, influenced by the overthrow of James II in England, repealed the statutes guaranteeing religious freedom in Maryland and forced this school to close.⁵

During the early 1700's, one free school was established in each of the twelve counties in Maryland and placed under the control of the Established Church.⁶ In the midst of this anti-Catholic climate, the Jesuits began a new school around 1741 in Bohemia, Maryland, near the Pennsylvania border. Among its students were John and Charles Carroll (John became the first bishop of the Catholic Church in the United States and Charles was a future signer of the Declaration of Independence) as well as Leonard Neale who became the second Archbishop of Baltimore. This school is generally accepted as the predecessor of Georgetown University founded by John Carroll in 1789.⁷ However, Newtown Manor is sometimes accorded this same distinction.⁸

The Influence of Irish and German Immigration

At the end of the Revolution, Catholics comprised less than 2 percent of the total population in this country. They numbered around 30,000 and were unevenly scattered throughout the colonies although there was some concentration of Catholics in Maryland and

and Pennsylvania.⁹ Between 1820 and 1830, 54,000 Catholic immigrants, more than 35,000 of whom were Irish, arrived in this country.¹⁰ Most of these newcomers had fled the economic disasters of Europe and were poor and uneducated. They tended, for the most part, to settle in the East and to work in factories.

Immigration continued during the nineteenth century, except during the Civil War; and during the second wave of mass immigration in the 1880's and 1890's, Germans were the most numerous group. Nearly 1,500,000 Germans entered the United States in the decade beginning 1880.¹¹ They were poor like the Irish, but, unlike the Irish, moved to the mid-West. In addition, they had different customs, culture, and personal standards of living, and they spoke a foreign language.

By 1890, the Catholic population in the United States was approximately 9,000,000 or 15 percent of the total population. Of these, over 4,500,000 were of Irish heritage and almost 2,000,000 were German. (Many Germans were Lutherans or Calvinists.)¹² Numbers alone made the impact of immigration felt. In addition, these immigrants brought with them an allegiance to a church with European roots and customs. Much has been written about the differences between the Irish and German immigrants and their struggles to learn to live peaceably together. Some of these differences surfaced among the American bishops in the "school controversy" and in the "Americanism" events which will be discussed later in this chapter.

Whether they were Irish or German, the immigrants met hostility and fear when they arrived in this country. Stories of the burning of convent and school buildings by "Americans" were common in the 1800's. Such activities were fostered by such organizations as the Native American Party, the Know-Nothings, and the American Protective Association. Publications such as Awful Disclosures of Maria Monk did little to alleviate the fears of those who knew nothing about Roman Catholicism.¹³

One of the most graphic examples of the hardships which some Catholic students experienced in the public schools is the 1859 Eliot School Controversy in Boston. At his parents' request, a Catholic boy refused to attend Protestant religious instructions. When he was whipped at school for his refusal to attend these instructions, his parents brought suit against the teacher. Not only was the teacher acquitted of charges but all the Catholic parents whose sons were suspended until they complied with the rules to attend such instructions were liable for prosecution under the 1853 Massachusetts Compulsory Education Law.¹⁴

The Common School Movement

Prior to the early 1820's, most schools which were in existence were either private or church related institutions. A few public or local schools existed but the states generally had not been directly involved in schooling efforts. The laws in most colonies as well as in the new states stated that parents were responsible for

the education of their children. However, there were some instances of financial support for these private and church related schools by the states. For example, in 1781, Massachusetts recorded state aid for a Catholic school for Indians; in 1806 and 1816, two Catholic schools in New York received state aid; and in 1818, Baltimore gave aid to a Catholic school.¹⁵

Around the time of the first major wave of Irish immigration to the United States, two major factors converged and encouraged the states to assume control and support for public schooling.¹⁶ One of these factors, the centralization of control of education by the states, was influenced by Horace Mann in Massachusetts and Henry Barnard in Connecticut and Rhode Island. These educational leaders were convinced that the life of the republic demanded an educated and intelligent citizenship which only the state could provide. The other factor which led to the eventual secularization of the public schools, was the question of how to handle religious diversity and ensure the rights of minorities within the common or public schools.¹⁷

Given the tenor of the times, it is not surprising that these first public schools were in fact Protestant schools. Prayer and Bible reading as well as religious instructions were acceptable and expected components of the pupil's curriculum even though Mann and others supported a system of public education that was free, universal, and nonsectarian.¹⁸ If all of the pupils had been of like religious background, there is little doubt that the history of public education as well as that of Catholic schools would be very different. There were numerous attempts on the part of both Catholic and public school

supporters to work out some compromises so that all children would be able to attend the same schools without harm to their religious beliefs. Some of these efforts will be discussed in conjunction with the responses that the American bishops made later regarding Catholic schools.

Responses of the American Bishops

When the American bishops met in 1829 at the First Provincial Council of Baltimore (an official meeting of all of the bishops in a given area), they were faced with the fact that Catholics numbered 500,000 or 4 percent of the population of the United States.¹⁹ At least 10 percent of this number were immigrants. Concern for the religious faith of the immigrants as well as recognition that education was essential for their integration into the life of this country were problems which the bishops had to admit.

These two concerns, the religious faith of the immigrants and the need for education, led the bishops into the question of the place of Catholic schools in the United States. Many bishops concluded that separate Catholic schools were absolutely essential for the church and the immigrants; others attempted to take a more compromising position and proposed plans which would make the public schools acceptable for the immigrant children.²⁰

Whatever their individual positions may have been, the bishops promulgated after that First Provincial Council the first of several formal legislative acts which would affect Catholic education

in this country. Among its statements was the following:

Since it is evident that very many children of Catholic parents, especially the poor, have been exposed and are still exposed, in many places of this province, to great danger of the loss of faith or the corruption of morals, on account of the lack of such teachers as could safely be entrusted with so great an office, we judge it necessary that schools should be established, in which the young may be taught the principles of faith and morality, while being instructed in letters.²¹

In addition to this legislation, the bishops published two pastoral letters written by Bishop John England to the clergy and laity. Both of these letters stressed the responsibilities of parents and clergy to attend to the religious education of the young and urged their support of Catholic schools.²²

Later Councils, recognizing that not all Catholic children were in Catholic schools, warned specifically against the public schools. They especially encouraged parents and clergy to assert their civil rights so that children would not be subjected to Protestant influences. The decrees of the Fifth Provincial Council of Baltimore in 1843, in particular, left no doubt as to the position of the bishops regarding schools. They wrote:

We have seen with serious alarm, efforts made to poison the fountains of public education, by giving it a sectarian hue, and accustoming children to the use of a version of the Bible made under sectarian bias, and placing in their hands books of various kinds replete with offensive and dangerous matter. This is plainly opposed to the free genius of our civil institutions. We admonish parents of the awful account they must give at the divine tribunal should their children, by their neglect or connivance, be imbued with false principles, and led away from the path of salvation.... Let them, therefore, avail themselves of their natural rights.²³

In 1852, following the First Plenary Council of Baltimore (an official meeting of all the bishops in the country), bishops were again exhorted to establish parochial (parish elementary) schools in their dioceses. By the Third Plenary Council of Baltimore in 1884, more specific legislation regarding Catholic parochial schools was promulgated. Priests and laity were said to be gravely negligent if they did not support the erection of parochial schools; parents were bound to send their children to these schools unless they received special permission to send them to other schools. The most quoted decree from this council stated:

Near each church, where it does not exist, a parochial school is to be erected within two years from the promulgation of this Council, and it is to be maintained in perpetuum, unless the Bishop, on account of grave difficulties judges that a postponement may be allowed.²⁴

Efforts to Compromise and Negotiate

The ideal of every Catholic child in a Catholic school has never been realized in spite of the acts from these Provincial and Plenary Councils. Neither was there unanimity among the American bishops regarding this legislation.

Two efforts were made by representatives of the public and Catholic schools to cooperate and experiment within the public school system with arrangements which would satisfy all concerned. These were the Lowell Plan in Massachusetts and the Poughkeepsie Plan in New York. From 1831 until 1852, the public system in Lowell, Massachusetts, included the Catholic schools in its system

under certain specific terms. The public school committee retained control over the examination and appointment of teachers; only those books and programs which had the approval of the committee were to be used; and the committee assumed the responsibility for the examination, inspection, and general supervision of the Catholic schools.²⁵

By hindsight, it is easy to see the difficulties which such agreements would bring. When one of the schools lost its Catholic teachers and the pastor brought in the Sisters of Notre Dame to teach in that school, the public school committee refused to approve them as instructors.

The Reverend Patrick F. McSweeney, pastor of St. Peter's Church in Poughkeepsie, New York, devised an arrangement with the public schools in 1873 which was similar to the intent of the Lowell Plan and to others which were operating in the cities of Boston, Savannah, Hartford, Newark, and Cleveland, and in the states of Missouri and Pennsylvania.²⁶ The Poughkeepsie Plan was much more specific, however, in stating that no religious exercises nor religious instructions were to be conducted during school hours. The public school board members retained control over the selection and appointment of teachers. This plan provided for religious instruction during the lunch break and seemed to work successfully until 1889 when the State Superintendent of Public Instruction, Charles R. Skinner, decided that the plan was illegal because it permitted the wearing of religious garb by public school teachers and allowed the permanent leasing of public school buildings.²⁷

Some of the efforts of the supporters of Catholic schools had an indirect effect on the secularizing of the public schools of this country. One example of this influence is reflected in the differences which existed between Archbishop John Hughes of New York and the New York Public School Society. The purpose of the Public School Society in New York was to provide education for indigent children not cared for by religious or private schools. Proposing to give a purely secular education, the schools operated by the society were, in fact, religious and Protestant. Hughes, faced with a significant number of immigrant children who could not be educated in the existing Catholic schools in New York, tried to get funds through this society to build additional parochial schools.

The Archbishop of New York quickly made himself a very vocal and articulate spokesman on behalf of this issue. Although his attempts to get funds through the Public School Society were not successful, Hughes was able to influence the passing of legislation in New York which extended the common school of the State of New York to New York City and ensured that "no school teaching any religious sectarian doctrine was to receive any money from the common school fund."²⁸ The Public School Society of New York went out of existence at this same time.

In addition to the legislative efforts of the American bishops expressed in the documents of the Provincial and Plenary Councils of Baltimore, their leadership in encouraging communities of religious women and men to establish communities in the United States

contributed to the growth of the Catholic school movement. Between 1829 and 1884, forty-four communities of religious women and eleven communities of religious men began work in this country. Almost all of these groups were directly involved in the education of youth. It was a common practice for religious communities to use the proceeds from their boarding academies to fund local day schools which were the beginnings of the parochial schools of more recent years.²⁹

Some Examples from Individual Dioceses

Given the authority structure of the Roman Catholic Church, it is understandable that each diocese has its own history of the growth of Catholic schools. History reflects a number of factors including the leadership of the bishop of the time and is therefore unique to each diocese. Some examples will illustrate the diversity of the movement.

Cincinnati. Due largely to the efforts of a Dominican priest, Edward Fenwick, who became bishop of Cincinnati, there were 103 schools in that diocese by 1870. Ten years later, the First Annual Report of the Parish School of the Cincinnati Archdiocese, noted that the number of schools had increased by seven and that these schools enrolled more than 28,000 pupils and employed around 600 teachers.³⁰ This growth was probably encouraged by the strong positions of the Provincial Councils of Cincinnati and expressed by the writings of Martin J. Spalding, Bishop of Louisville, Kentucky (a diocese within the province of Cincinnati) in 1855.

Earnestly do we desire to see a parochial school in connection with every Catholic Church in this province; and we hope the day is not distant when this wish nearest our hearts shall be fully realized.... The erection of Catholic schools is in many respects as important an object as the building of new churches. The Catholic Church has ever been the greatest promoter of education; she erected colleges and universities and she covered the earth with free schools, reared under the shadow of her church edifices, centuries before the fatal troubles of the sixteenth century came to unsettle the faith by severing the unity of Christendom; and she is a great a friend of education now as she was then but she wishes it not to be severed from religion, which is its main support and solid foundation.³¹

Philadelphia. The story of Catholic schools in Philadelphia during the middle of the nineteenth century was greatly influenced by the stands of its bishop, Francis P. Kenrick. Kenrick was concerned about the activities of the Nativist Party which was especially active in Philadelphia and affected the church materially and educationally. In addition, the question of the use of the Protestant Bible in the common school caused a number of riots. This issue was so volatile that Kenrick published a public disclaimer regarding the allegation that Catholics wanted the Bible removed from the common schools. Kenrick's statement claimed that Catholics just wanted the opportunity to use their own version and "to enjoy the benefits of the Constitution of the State of Pennsylvania, which guarantees the right of conscience, and precludes any preference of sectarian modes of worship."³² Kenrick also urged that the common schools "be preserved from all sectarian influence and that education be conducted in a way that may enable all citizens equally, to share

in its benefits, without any violence being offered to their religious conviction."³³

New York. The work of Archbishop John Hughes in New York on behalf of schools caused James Cardinal Gibbons to call him "the fearless champion of Christian education" and to state that "if today, our Christian schools are so thoroughly established and developed throughout the land, this result is due in no small measure to the bold and timely initiative of the Archbishop of New York."³⁴ Hughes' efforts to get funds from the Public School Society have been mentioned. His accomplishments deserve special comment when they are placed in the context of the poverty of the many immigrants who settled in New York, the anti-Catholic atmosphere of the times, and the internal struggles which he had with lay trusteeism when he first arrived in New York.

Differences Within the Hierarchy

In spite of these efforts within individual dioceses to build and finance Catholic schools, it would be inaccurate to assume that the legislative action of the Third Plenary Council of Baltimore in 1884 had the unanimous endorsement of all of the American hierarchy and clergy.³⁵ As a matter of fact, within ten years of that decree the percentage of parishes with schools went only from forty to forty-four.³⁶ It was during the last of the nineteenth and the first part of the twentieth centuries that major differences of opinion regarding the place of Catholic schools within the church began to surface.

One of the first internal controversies which the Catholic Church in the United States had to face was the "school controversy." It was precipitated by the remarks made by Archbishop John Ireland of St. Paul, Minnesota, when he addressed the annual convention of the National Education Association in 1890. In this address, Archbishop Ireland admitted that the state had the right to establish schools but objected strenuously to Catholics' participating in the public schools because they made no provision for religious instruction. Therefore, the church found it necessary to establish Catholic schools. Ireland proposed the establishment of a denominational system of public education; or, if this was not suitable, the establishment of the Poughkeepsie Plan throughout the United States.³⁷

The differences and divisions which existed within the American hierarchy as a result of Ireland's remarks surfaced immediately. His opponents objected to his praise of the free or common schools and accused him of abandoning the parochial school system. Among these critics were representatives of the more conservative leadership of the American Church: Bishop Bernard J. McQuaid of Rochester and Bishop Michael A. Corrigan of New York.³⁸ Ireland's staunchest supporters were James Cardinal Gibbons of Baltimore; Bishop John Keane, Rector of the Catholic University of America; and Bishop John Lancaster Spalding of Kentucky. (Gibbons had written previously insisting on the erection of Catholic schools but gave no violent disapproval of state schools themselves.) The controversy was heightened by the publication of the Reverend Thomas Bouquillon's pamphlet "Education: To Whom Does It Belong?" which

challenged the traditional thought of the church that the state had only a substitution right in education. Almost immediately, The Reverend René I. Holaind, a Jesuit professor of Ethics at Woodstock College published an answer in his brochure entitled, "The Parent First."³⁹

The fact that the dissension in the American Catholic Church over the schools was only a part of a much larger and deeper controversy within the church makes it difficult to separate the school issue from the broader "Americanism" controversy. Eventually, Pope Leo XIII appointed a commission of cardinals to study this controversy and report to him. Basically, the issue was whether or not the American Catholic Church was being influenced by the republicanism in the country to the extent that it was losing its ties with Rome. When Leo XIII wrote to Cardinal Gibbons regarding this issue, he was careful to distinguish what he meant by Americanism before condemning this tendency. As a result of the pope's efforts, both the conservative and liberal bishops claimed vindication so the issue of whether or not the church in this country was becoming too American was not settled.

The school issue was further addressed when Leo XIII, at the request of the American bishops, intervened by sending an official representative, Archbishop Francesco Satolli, to determine if the legislation from the Third Plenary Council of Baltimore was being observed in the United States. This papal legate became the first apostolic delegate from the Vatican to the United States. He presented fourteen propositions to the American bishops with the

hope of resolving the school problems. It should be noted that the school issue was further complicated in Rome by the pressures which James McMaster, editor of the New York Freeman's Journal, was putting on his connections in Rome to encourage a separate Catholic school system in America.⁴⁰

There were, among the fourteen propositions presented by Satolli, opposing positions presented. Basically, these propositions supported Ireland and Bouquillon; but because they represented a compromise position, they suited few. Certainly they did not satisfy Ireland nor his opponents. For example, one of the statements read that Catholic schools should continue to be erected and improved and made equal to the public schools. Another one gave the bishop of the diocese the responsibility and the right to determine the feasibility of establishing parochial schools based on local circumstances. Furthermore, bishops were urged to work closely with local school boards to form public schools agreeable to both Church and State.⁴¹

Some of the reactions of the American hierarchy to these propositions reflect the differences which existed over the issue of Catholic schools. For example, Bishop William J. McCloskey of Louisville, Kentucky, thought that the propositions would be "the death blow, to a certain extent, of our Catholic schools." Bishop Bernard J. McQuaid of Rochester, bitterly opposing these statements, wrote to Archbishop Michael Corrigan of New York and remarked "we are all in a nice pickle thanks to Leo XIII and his delegate."⁴²

On the other hand, Bishop John J. Kain of Wheeling, West Virginia, wrote to the pope and praised the propositions for their great service to the Catholic Church. Finally, Pope Leo XIII himself wrote to the American bishops and begged them to end the controversy so that "harmony be restored among the prelates of the Church in the United States." In this letter, the pope supported the decrees of the Third Plenary Council of Baltimore, encouraged the building of Catholic schools, and, at the same time, gave the local bishop the right to decide the conditions under which Catholic students might attend public schools in his diocese.⁴³

Even though the Catholic Church in America was divided into dissenting factions until World War I, during the first part of the twentieth century "bishops said less and settled down to the business of erecting schools and churches."⁴⁴ During this same time, the Catholic population of the United States continued to grow and the Catholic school system continued to increase in size and influence. By June 29, 1908, the Catholic Church in America was removed from its status as a missionary diocese and erected by Rome as a distinct diocese. By 1920, for example, there were almost 18,000,000 Catholics in the United States representing about 17 percent of the total population. At that same time, there were almost 6,000 Catholic schools which enrolled over 1,500,000 students.⁴⁵

Conclusion

The growth and development of Catholic elementary schools continued until 1965-66, when the Catholic elementary and secondary

schools in the United States enrolled almost 70 percent of all the students attending private elementary and secondary schools and comprised 68 percent of the private schools in this country.⁴⁶

The academic year 1965-66 has been noted as the high point of Catholic schools in the United States. Declining birthrates in general, changing attitudes by some regarding the value of Catholic school education, efforts to meet state accreditation standards with lower class sizes, fewer religious teachers, and financial pressures have been cited as reasons for the decline in the number of Catholic schools and their enrollments after 1965-66.

However, in spite of these factors, Catholic elementary and secondary schools in 1978-79 enrolled 64 percent of the private school students and operated 50 percent of the private elementary and secondary schools in the United States.⁴⁷ These schools continue to play an important role in education in this country and in the mission of the Catholic Church.

Chapter 2 Footnotes

¹Catholic Schools in America 1980 (Englewood, Colorado: Fisher Publishing Co.) in cooperation with The National Catholic Educational Association, P.V.

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³Ibid., p. 21.

⁴Glen Gabert, In Hoc Signo?: A Brief History of Catholic Parochial Education in America (Port Washington, N.Y.: Kennikat Press, 1973) p. 7.

⁵Rev. James A. Burns, The Principles, Origin and Establishment of the Catholic School System in the United States (New York: Arno Press, 1969), p. 105.

⁶Ibid., p. 106.

⁷Ibid., p. 112.

⁸Gabert, op.cit., p. 7.

⁹Ibid., p. 9.

¹⁰Buetow, op.cit., p. 46.

¹¹Gabert, op.cit., pp. 45-46.

¹²Ibid., p. 46.

¹³Ibid., p. 21.

¹⁴Buetow, op.cit., p. 132.

¹⁵Daniel F. Reilly, The School Controversy 1891-1893 (New York: Arno Press, 1969), pp. 5, 7.

¹⁶Ellwood P. Cubberley, The History of Education (Cambridge: Houghton Mifflin Company, 1920), p. 658.

¹⁷Ellwood P. Cubberley, Public Education in the United States (Cambridge: Houghton Mifflin Company, 1962), p. 231.

¹⁸Cubberley, History, p. 690.

¹⁹Buetow, op.cit., p. 112.

²⁰Gabert, op.cit., pp. 30-41.

²¹Burns, op.cit., p. 249.

²²

Bernard Julius Meiring, Educational Aspects of the Legislation of the Councils of Baltimore 1829-1884 (New York: Arno Press, 1978), pp. 58-61.

²³Ibid., p. 98.

²⁴Ibid., p. 231.

²⁵Buetow, op.cit., p. 159.

²⁶Gabert, op.cit., p. 62.

²⁷Buetow, op.cit., p. 161.

²⁸Ibid., p. 140.

²⁹Ibid., pp. 115-117, and Gabert, op.cit., p. 31.

³⁰Buetow, op.cit., p. 122.

³¹Ibid., p. 120.

³²Ibid., p. 135.

³³Ibid.

³⁴Ibid., p. 142.

³⁵Meiring, op.cit., pp. 227-249.

³⁶Buetow, op.cit., p. 170 quoting Henry J. Browne.

³⁷Neil G. McCluskey, S.J., Catholic Education in America: A Documentary History (New York: Bureau of Publications Teachers College, Columbia University, 1964), pp. 127-140.

³⁸Gabert, op.cit., pp. 60-65.

³⁹Buetow, op.cit., pp. 171-172.

⁴⁰Frances Forde Plude, The Flickering Light (New York: William H. Sadlier, Inc., 1974), pp. 51-52.

⁴¹Gabert, op.cit., pp. 64-65.

⁴²Buetow, op.cit., p. 174.

⁴³Ibid., p. 175.

⁴⁴Gabert, op.cit., p. 66.

⁴⁵Buetow, op.cit., pp. 225-226.

⁴⁶Catholic Schools in America 1980, iv.

⁴⁷Ibid.

Chapter 3

THE DEVELOPMENT AND ADMINISTRATIVE CONTROL OF THE CENTRAL CATHOLIC HIGH SCHOOL

The history of the common or public school movement and that of Catholic parochial schools parallel one another in this country. Initial efforts at formal schooling for the masses were concentrated at the elementary level. Secondary education as it is known today in the United States developed after World War I.¹ Originally most Catholic secondary schools were extensions of elementary schools, and the exceptions that existed were private preparatory schools for boys affiliated with colleges and universities and some academies for young women.²

The history of Catholic secondary education in this country has been recounted by several capable authors. The emphasis in this chapter will be on the development and administrative control of those schools designated as Central Catholic High Schools.

From Parochial to Central Catholic High Schools

The early Catholic high schools were under the authority of the pastor of the parish because they were extensions of the parish elementary school. These schools were called parochial or parish high schools. Eventually, however, many individual parishes were unable to support secondary schools, financially or academically. Consequently, groups of parishes or a diocese began to conduct secondary

schools.³ When this shift occurred, the administrative control of these schools moved from the individual parish level. The implications of this change in administrative control are important to the development of the Catholic School Board movement which flourished after Vatican Council II.

The term "central" was used in early studies of Catholic secondary schools to distinguish such institutions from parochial or private schools. "Parochial" designates that the funds for and administration of a school come under a parish and the authority of the pastor as the representative of the bishop in the local church; "private" is used to indicate that the control of the school is by a religious order or in rare cases by an individual. Parochial and private secondary schools are not the subject of this study. In this chapter, the terms "central" and "diocesan" will be used interchangeably to designate those Catholic secondary schools which are not affiliated with a religious community (private) or with an individual parish (parochial).

In 1927, Carl J. Ryan conducted the first study of the Central Catholic High School in the United States. After concluding his research, Ryan defined this kind of institution "as a Senior High School not connected with a college, which...represents an endeavor by means of endowment or by combining parochial or diocesan resources."⁴

Both Sister Mary Janet, S.C. and Edward Spiers worked from this same definition in similar studies. According to

Sister Mary Janet, "central was defined as applying to schools designated as such by a bishop to care for pupils of several specified parishes."⁵ Spiers agreed that a central Catholic high school "is an effort on the part of diocesan authority to provide a better secondary education by combining resources rather than by individual parish or community effort."⁶

It is interesting to note that the emphasis in all of these statements is on combining resources; there is no evidence in the studies that the authority of the bishop was an issue. The researchers did not question the provisions of Canon Law which recognize that the bishop is the final authority for Catholic schools in his diocese.

Growth of the Central Catholic High School

Prior to 1852, of the 221 Catholic secondary schools which were operating in the United States, only 26, or 12 percent, were recognized as diocesan; none was categorized as parochial; and the majority of the others were private and were conducted by religious communities.⁷ By 1924-25, there were 61 central Catholic high schools in the United States⁸ and by 1947 their number had increased to 165.⁹

In 1954, there were 190 diocesan high schools and more than 1200 secondary schools which were classified as parochial. In fact, a number of those schools which were designated as parochial were actually operated by more than one parish and should have been called

central.¹⁰ Although by 1978-79, the total number of Catholic secondary schools had decreased, the number which were diocesan or central (also known as interparish) had increased to 657, or 42 percent of the Catholic secondary schools in this country.¹¹

Shift to Central Administration and Control

The development of the central concept of secondary education was encouraged by the work of the Committee on High Schools of the Catholic Educational Association (now the National Catholic Educational Association). This committee submitted its resolutions at the first general meeting of the association in 1904. Among these were the conclusions that a Catholic high school was feasible in almost every city since several parishes could contribute to its operation and, therefore, this central school could become part of the diocesan school system under the control of the bishop.¹² In a later report, this same committee of the Catholic Educational Association recommended that "where possible it should be parish contributions rather than individual tuition fees that should support Catholic high schools."¹³

These two recommendations, diocesan control under the authority of the bishop and parish contributions (subsidies or assessments) rather than tuition fees, were fundamental to the operation of central Catholic high schools at least until the mid 1960's.

The First Central Catholic High School

Thomas E. Cahill of Philadelphia left part of his estate for

the erection and maintenance of a school for the free education of boys in that city. Roman Catholic High School opened in 1890 and was operated from Cahill's endowment fund. The administrative control of this institution was in the hands of a Board of Trustees whose members were the Archbishop of Philadelphia and the pastors of local parishes. Its faculty was composed of eighteen lay people and two priests who served as president and vice-president of the school. This Board of Trustee model was designed to keep a relationship of the central school to the parishes and at the same time to ensure diocesan control.¹⁴

Administration of the Central Catholic High School

As long as Catholic schools were related to a single parish, there would be no questions about the source of funding or the administrative control. The school was built and operated by the local pastor and parish usually from the contributions of the parishioners. Minimum tuition payments were charged by some parish schools, but most were tuition free. The operating costs were paid from the ordinary income of the parish. The pastor as the representative of the bishop administered the total parish including the school. The principal was responsible only for the academic aspects of the school and usually served as the religious superior of the faculty who were members of the religious community. The two aspects of administration which had to be dealt with in the development of the central Catholic high school were that of local authority (who

would replace the pastor as the representative of the bishop) and funding.

Local Administration of the Central Catholic High School.

The adoption of a Board of Trustee model, similar to that which governed Roman Catholic High School in Philadelphia, was the model for other central schools. It served as the typical governance structure of most diocesan high schools prior to the adoption of the model proposed by the Superintendents' Department of the National Catholic Educational Association (formerly the Catholic Educational Association) in 1967. The practice of appointing a priest as principal, or president as at Roman Catholic High School, was the norm for diocesan high schools also prior to the mid 1960's. There were some instances of religious women serving as principals of central schools; however, in these cases it was the common practice to appoint a priest to serve as school pastor or as coordinator.

As was mentioned previously, the three studies on the development of the central Catholic high schools (Ryan, Mary Janet, and Spiers) presumed that the authority for decision or policy making for the schools rested with the bishop of the diocese. The major authority question was and continued to be whether the bishop exercised that authority "either directly and immediately or through others who have been appointed to act in his name."¹⁵ The others appointed by the bishop to act in his name were the principal, the school board, and the superintendent of schools. In addition, the studies questioned whether in the general administration of the

schools the bishop reserved this power to himself and dealt directly with the principals, or delegated his power to others in the person of an individual (the superintendent) or a group of people (school board).

In the early years of the central Catholic high school, Ryan found no mention of a school board or of the bishop as an individual assuming the administrative authority of the schools. Almost twenty-five years later, Spiers found that a shift in the administrative control of the schools had occurred. The following chart illustrates that shift:

Administrative Authority of Central Catholic High Schools

	Ryan (1927)	Spiers (1951)
Board of Trustees	12	2
Principals	8	17
Pastors	7	1
Religious Orders	6	1
Superintendent	2	15
School Boards	-	9
Bishop	-	6
	<u>35 schools</u>	<u>51 schools</u>

In considering this shift in administrative control of the schools, it is important to note that the role of the superintendent of schools in the Catholic Church developed in the 1940's and that the diocesan boards of education which functioned prior to the Vatican Council II were accepted to be "chiefly advisory in character."¹⁷ Given the operation of the Catholic Church, it is accurate to assume, regardless of where the administrative authority was said to reside according to either the Ryan and Spiers studies,

that the individual or groups mentioned were diocesan priests to whom the bishop could delegate responsibility for the administration of the central Catholic high schools.

By the mid 1950's, there is no evidence that the administrative authority for these schools had changed. Only two of the fifty-eight dioceses studied reported that the principals of diocesan high schools were administratively responsible to the school board or to the president of the diocesan school board. The other fifty-six listed the bishop, the diocesan superintendent of schools, or someone else appointed by the bishop.¹⁸ These results were confirmed by the study of Sister Mary Ruth Ward in 1957. Ward analyzed the administrative patterns of diocesan school systems and found that while the superintendents of schools named the local pastors as the administrative heads of the schools, in practice administrative policy making was associated with the diocesan superintendent who immediately represented the bishop in education and also represented Catholic education to the state.¹⁹

By the middle of the 1950's, some dioceses were recognizing that secondary education was a diocesan responsibility and therefore "the planning, building, staffing, and financing become joint activities for the superintendent, bishop, and board."²⁰ There is evidence from Ward's findings that the effectiveness of these boards, whether diocesan or inter-parochial, was questionable. Meetings were held infrequently; areas of responsibility were not clearly defined; and most boards spent almost all of their time on finances.

The question of board membership was not settled either, and there were few instances of laity on the boards. There is also some evidence from this research to conclude that the superintendent of schools favored the traditional priest-member boards as a means of ensuring interest among pastors in educational matters.²¹

Funding of Central Catholic High Schools. Methods of funding central high schools by the Catholic church have not changed over the years. Funds for the construction of new buildings have come from three major sources: a religious community assumed the responsibility and was repaid from the operating fund over a number of years; building fund drives were conducted; or a means of direct assessments on parishes was devised. Often a combination of these methods was used.²²

Many of the early central high schools were free schools which received operating funds from an endowment or from the contributions of the parishes whose students enrolled in the school. In 1927, Ryan analyzed 35 of the existing central Catholic high schools and reported that 17 of them were tuition free and the other 18 charged tuition which ranged from a monthly per pupil fee of \$2.00 to one of \$7.50.²³ By 1947, there were three methods of obtaining operating income for central schools: charging tuition, parish assessments (a set tax on parishes based on the number of students from the parish in the school), or a combination of tuition and parish assessments. Of the 165 central Catholic high schools in 1947, 38 of them operated on tuition only; another 62 functioned on parish assessments only; and 62 of the central high schools used

a combination of tuition and parish assessments. (Three schools did not report their financial method of operations.)²⁴ Over the years, the number of tuition free central schools has decreased. The most common method of funding still in use is the combination of tuition and parish assessments.

Some dioceses have made distinctions between diocesan and central secondary schools and those high schools which are inter-parochial or regional (serving more than one parish). In most instances, the difference is based on the source of funding. The diocesan schools receive their subsidy from the diocese directly (usually collected from the parishes as a tax and returned to the schools as subsidy). Whereas the inter-parochial schools get their funds from the parishes directly.²⁵ After the late 1960's when a number of dioceses merged or consolidated parish schools, the experience of the central high school served as a model. Problems occurred, however, when these merged, consolidated, or regional schools were not constituted as diocesan because they attempted to function outside of the ordinary authority structure of the diocese and the parish.

Conclusion

Catholic secondary schools became known as central or diocesan schools when individual parishes were unable to operate high schools effectively. Ordinarily a priest served as principal, and a school board of local pastors was responsible for the funding of

such schools. The superintendent of schools represented the bishop in educational matters within the diocese and to the state. The model under which these schools functioned served as the guide for Catholic education until the mid 1960's when the new school board movement began in this country.

Chapter 3 Footnotes

¹Edward A. Krug, The Shaping of the American High School 1880-1920 (Madison: The University of Wisconsin Press, 1969).

²Edmund J. Goebel, A Study of Catholic Education During the Colonial Period up to the First Plenary Council of Baltimore, 1852 (New York: Benziger Brothers, 1937), p. 241.

³Carl J. Ryan, "The Central Catholic High School: Its Development and Present Status" (PhD dissertation: The Catholic University of America, 1927), p. 1.

⁴Ibid., p. 4.

⁵Sister Mary Janet, S.C., "Catholic Secondary Education: A National Survey: (Washington, D.C.: National Catholic Welfare Conference, 1949), p. 20.

⁶Edward F. Spiers, The Central Catholic High School: A Survey of Their History and Status in the United States (Washington, D.C.: The Catholic University of America Press, 1951), p. 2.

⁷Goebel, op.cit., p. 241.

⁸Ryan, op.cit., p. 17.

⁹Spiers, op.cit., p. 41.

¹⁰John P. Breheny, "Diocesan Administration of Catholic Secondary Education in the U.S.: Its Status with a Design for the Future: (PhD dissertation: Harvard University, 1954), Introduction, III.

¹¹Catholic Schools in America 1980, IX.

¹²Buetow, op.cit., pp. 182-183.

¹³Ibid., p. 184.

¹⁴Spiers, op.cit., pp. 18-19.

¹⁵Ryan, op.cit., p. 61.

¹⁶Ryan, op.cit., p. 62 and Spiers, op.cit., p. 109.

¹⁷Breheny, op.cit., 58

¹⁸Breheny, op.cit., p. 308.

¹⁹Sister M. Ruth Ward, "Patterns of Administration in Diocesan School Systems: (MA thesis: The Catholic University of America, 1957), p. 106.

²⁰Ibid., p. 174.

²¹Ibid., pp. 89-90.

²²Ryan, op.cit., p. 31 and Spiers, op.cit., p. 73.

²³Ryan, op.cit., p. 99.

²⁴Spiers, op.cit., p. 99.

²⁵Ibid., pp. 106-107.

Chapter 4

DEVELOPMENT AND STATUS OF DIOCESAN SCHOOL BOARDS IN THE UNITED STATES PRIOR TO 1960

Historically, the diocesan school board movement can be traced to 1852 when Bishop John N. Neuman established a "Central Board of Education" in Philadelphia. Several other dioceses had diocesan boards prior to the Third Plenary Council of Baltimore (1884) which legislated that a "Diocesan Commission of Examination" and "School Commissions" should be established in every diocese in the United States. Diocesan Boards, which existed until 1960, functioned in accordance with this legislation. The development and status of diocesan school boards from 1960 until 1980 is the subject of Chapter 5.

Diocesan Boards of Education Prior to the Third Plenary Council of Baltimore

Philadelphia

Bishop John N. Neuman in 1852 formed a "Central Board of Education" in Philadelphia. He himself presided over this board which was composed of the pastor and two lay delegates from each parish in the city. While he reserved the right to approve all resolutions and served as treasurer of the board, Neuman agreed to the following role for his diocesan board:

1. the board was to make general applications for aid;

2. the board was to distribute, under the direction of the bishop, such funds as might be received;
3. the board was to recommend a general plan of instruction for all the parochial schools; and
4. the board was to have all such other powers as might be added thereto by the unanimous action of the board.¹

Cincinnati

In 1863, Archbishop John B. Purcell of Cincinnati established an all priest School Board of Examiners whose role was to give examinations to teachers and award certificates to those who successfully passed the examination. It was later decreed, at the Fourth Provincial Council of Cincinnati in 1882, that every diocese in the province should set up a school board. These boards, whose members were priests appointed by the bishop, were given authority over all matters pertaining to Catholic parochial schools.² Their responsibilities were:

1. to regulate, administrate, and care for the schools of the diocese,
2. to examine teacher candidates, both lay and religious,
3. to collect the profit of book sales made to all schools of the diocese, and
4. to use book profits to educate poor pupils.³

Fort Wayne

When Bishop Dwenger of Ft. Wayne issued his pastoral letter in 1879 establishing a school board, he wanted to bring all schools of the diocese under general control. He directed the priest members to take any action that would improve the schools, including examination of teachers and selection of textbooks and

courses of studies. Each member of the board was assigned a certain number of schools to visit.⁴

Conclusion

It seems clear that in each of these three instances, the bishop recognized that he needed assistance in the administration of the Catholic schools of his diocese. It is interesting that a board rather than an individual was selected by the bishop to assist him. These boards established by each bishop seemed to enjoy some jurisdiction over schools of the diocese.

Boards of Education from the Third Plenary Council of Baltimore 1884 until 1960

The Third Plenary Council of Baltimore in 1884, which also legislated that each parish should build a school, stated that, within one year of the promulgation of its decrees, each diocese should establish a "Diocesan Commission of Examination." The responsibilities of this Commission were clearly delineated by decree 203 which states:

Since the status and growth of our schools depend especially on the fitness of the teachers, the greatest care must be exercised that none but good and competent teachers are set over them. And so we decree and command, that no one in the future will be admitted to the position of teaching in a parochial school unless he has by previous examination proved himself suitable and competent.

Therefore, the Bishops, within a year of the promulgation of this council, shall name one or more priests who are very well versed in matters pertaining to schools, to form a 'Diocesan Commission of Examination.' They shall be appointed until recalled, and those named shall solemnly promise the Bishop that they will perform their tasks

according to the norms to be given them by the Bishop and to attain the end for which the examination is established in accord with their abilities.⁵

This section continued to give detailed instructions regarding the examinations which were to be given. After the written and oral examinations had been successfully completed, the Commission was authorized to give an individual a diploma certifying competency. This diploma was valid for five years and for all dioceses. No priest could hire a teacher who did not have a valid diploma for employment in a Catholic school.

In addition to this Commission, the following section, 204, called on the bishop to establish several school commissions composed of one or more priests to visit and examine the schools in city and rural districts. Members of this Commission had the responsibility to visit each and every school in their district once or twice a year and to send a complete report on the condition of the schools to the president of the Diocesan Commission for the review and action of the Bishop.⁶

Intent of Legislation

The intent of this legislation was for each bishop to establish "a diocesan school board for the purpose of administering, in the name of the ordinary, and according to the best pedagogical methods, the affairs of the parochial schools."⁷ While there is some indication from comments of writers regarding the Third Plenary Council that laymen could be involved as members of the school committees formed in towns and rural districts,⁸ there is little

evidence that this in fact was the practice. The bishop's "domination of the board is an indication of the wish of the bishops to maintain strong central control and, at the same time, improve the organizational structure of the diocesan school system."⁹ In this effort, the bishop relied on the assistance of diocesan priests. The bishops exercised control in light of their responsibilities cited in the Canon Law of the Church. This universal law of the Church, promulgated in 1918, assigned to the bishop the authority for all parish and diocesan schools. In addition to this responsibility, Canon 1381 states that all schools, including private schools, are under the control of the bishop in the following areas: "the general rite of vigilance as to faith and morals, direct authority as regards religious instruction and the right of canonical visitation."¹⁰

Superintendent of Schools

Neither the legislation of the Third Plenary Council of Baltimore, nor Canon Law, mention the superintendent of schools. It is presumed that because the bishop has authority over all schools in his diocese, including the right of visitation and approval of teachers and textbooks of religion, that he can appoint someone to represent him with Catholic schools in the diocese.

It was not until the position of the superintendent of schools began to develop in this country in the early twentieth century that the question of who would be the representative of the

bishop was raised. Originally there seemed to be no conflict between the Diocesan Commission of Examination and the superintendent of schools who served as the immediate representative of the bishop. Conrad Boffa, a canon lawyer, states that the office of the superintendent also conforms to the requirements of the legislation of the Third Plenary Council of Baltimore, as well as to that of Canon Law, regarding the responsibility of the bishop to control and to visit, either personally or through another, the schools of the diocese.¹¹

New York in 1888 was the first diocese to appoint a superintendent of schools, The Reverend William Degnam. According to John M. Voelker, who studied the development and functional status of the diocesan superintendent of schools,

The pioneer superintendent of schools received his appointment either directly from the bishop or from the diocesan school board acting with episcopal approval. This commission conferred on him the authority to act for the diocese in educational matters. How far that authority extended depended ultimately upon the will of the bishop.¹²

Voelker also reported in 1935 that most of the functions which had been legislated for diocesan boards or commissions by the Third Plenary Council of Baltimore were being handled by the superintendent. These functions were

1. to visit the parish schools in the diocese and
 - a. examine the pupils in one or more subject;
 - b. inspect the buildings and school equipment;
 - c. hear complaints from pastors and teachers on the conditions and problems of the local school; and
2. to act as the executive school officer of the diocesan school board.¹³

The superintendent was also required to give the board questions for its consideration and action and prepare a school report for the board to incorporate into its recommendations to the bishop.

From Voelker's description in 1935, it appears that recommendations from the superintendent went to the bishop through the diocesan board of education. As the role of the superintendent continued to develop, he became recognized as the chief school officer of the diocese and was responsible, as the delegate of the bishop, for the administration and supervision of the schools. The board was for the most part advisory. Ordinarily the board was appointed by the bishop to advise the superintendent and to work with him on the formulation of policies and programs subject to the final approval of the bishop.¹⁴

Research on Diocesan Boards

Prior to 1960, there were three studies related to diocesan school boards. In 1944, The Reverend Arthur M. Leary studied, "The Place, Function, and Present Status of Diocesan School Boards" between 1871 and 1941. Of the 90 dioceses which responded to requests for information, 32 respondents reported that they had active diocesan school boards, 13 said they had inactive or nominal boards, and 45 dioceses had no school boards. In the early 1940's, approximately two-thirds of the 90 dioceses reporting did not have active school boards.¹⁵ Membership on these boards ranged from 3 to 28 for an average of 7 members. There were 224 priests, 35 religious (mostly women) and 7 laymen on these boards. They were only advisory.¹⁶

Two of the issues which surfaced in Leary's study were the relationship between the diocesan school board and the superintendent and the bishop's relationship with both. Leary agreed with a previous study on the role of superintendents that the superintendent was "solely and directly responsible to the Bishop" for the administration and supervision of schools¹⁷ and, therefore, fulfilled many of the functions which had been those of previous school boards, e.g., certifying teachers, visiting schools, and approving textbooks.

In his recommendations, Leary urged that well-informed, intelligent and interested laity, preferably parents, be selected for a "minority of membership" on diocesan school boards in order to "give the laity a justified participation in the work of Catholic schools."¹⁸ He concluded that the superintendent of schools should be the agent to discharge all functions pertaining to physical and instructional phases of the school and that "it is obvious from the data collected in this investigation that a diocesan school board composed of a minority of lay members and representing the best talents among the diocesan clergy has a definite and valuable place in the diocesan organization of Catholic education."¹⁹

Ten years after Leary's study was published, John P. Breheny's dissertation, "Diocesan Administration of Catholic Secondary Education in the U.S.: Its Status With a Design for the Future" was completed. After his study of 58 dioceses, Breheny concluded that there were few active diocesan school boards and

that none of the boards could be said to have representative membership from clergy, religious and laity. "These [board] members are in most instances priests of the diocese who serve for terms of indefinite length."²⁰ The status of diocesan boards was affected by unclear relationships. It was not unusual for authority under the bishop over the schools to be divided between the diocesan superintendent and other diocesan officials. The administrative relationships between the bishop, the board, where such existed, other diocesan officials, and the superintendent were not clearly defined.²¹

In an attempt to clarify relationships and assign functions to appropriate individuals and boards, Breheny urged that clear distinctions be made between policy enactment, policy formulation, and policy implementation. There was no doubt, according to Breheny, that the right to enact diocesan policy must be reserved to the bishop; that there should be provision made for continuing and effective participation of clergy and laity as a diocesan school board in the formulation of diocesan policy; and that the authority and responsibility under the bishop for the implementation of policy should be delegated to competent professional educators under the superintendent of schools.²² Breheny concluded by suggesting that the diocesan school board should be a lay board rather than a professional one and that the maintenance of clear-cut distinctions between the functions of policy formation, enactment, and implementation requires that neither those who are

charged with enactment (the bishop) nor those responsible for execution (superintendent and staff) should have membership on the board of education.²³

By the time Sister M. Ruth Ward published her dissertation, "Patterns of Administration in Diocesan School Systems" in 1957, the role of the diocesan superintendent of schools had developed to the point that Ward concluded that he represented the bishop's authority in education with some ordinary authority and responsibility. Often he was, practically speaking, responsible for education in the diocese as the personal delegate of the bishop.²⁴

According to Ward, the same lack of clarity in assigning areas of responsibility in school matters which Breheny had identified continued. She found that while the superintendent was the personal delegate of the bishop in school matters, "School boards, with the Bishop ex officio chairman, if they are boards which actually function, legislate on school matters, with or without the recommendations of the superintendent who may, or may not be, the executive secretary of the board."²⁵ Ward also found that the superintendents who were studied in this investigation indicated that they had little authority over pastors even in school matters.²⁶

According to Ward, in 1957 most large dioceses and many smaller dioceses did not have boards of education. School boards were functional in the western and southern and somewhat in the north central regions. While most members of diocesan school boards were diocesan priests, at least two dioceses had laymen on their boards. These

laymen, like the priest members, were appointed by the bishop to serve as consultors to him and the superintendent. Some boards existed which had little or no contact with the superintendent and served as a consultative group to the bishop primarily in financial matters.²⁷

This lack of clarity concerning the responsibility of the superintendent, the school board, and the pastor in school matters is further illustrated by the various functions of diocesan boards which Ward categorized. The board

1. may serve as a board of review, receiving the annual report of the superintendent and listening to his proposed program for the coming year;
2. may serve as advisory council to the Secretary or Superintendent of Education;
3. may serve as an advisory group to the Ordinary; and
4. may receive the recommendations of the Superintendent and recommend as a group, the action to the Bishop.²⁸

After having analyzed various patterns of administration among diocesan school systems in the mid 1950's, Ward concluded that

There appears to be no correlation between the historical tradition of school boards and their present status with the notable exceptions of several dioceses in the West, deep South, and North central areas. The School Board would appear to be defunct in Catholic education, as investigated within the limits of this study.²⁹

Conclusion

The Leary, Breheny, and Ward studies assumed that the authority for Catholic schools resided in the bishop of the diocese. Each of these reports was descriptive in nature and together with

the legislation of the Third Plenary Council of Baltimore and Canon Law, presented a picture of the status of school boards prior to 1960.

Before 1960, diocesan school boards assumed that the bishop had both authority and responsibility for Catholic schools within his diocese. They did not have clearly defined areas of responsibility and shared their consultative role with other diocesan officials, including pastors of individual parishes. They were poorly organized, met infrequently, and were composed primarily of diocesan priests who served as consultors to the bishop and the superintendent.

Ward concluded that Catholic school boards had had most of their assigned functions assumed by the superintendent of schools and a professional staff, and as a matter of fact, were not functioning in most large and many small dioceses. For all practical purposes, they were defunct in the United States.

Chapter 4 Footnotes

¹James A. Burns, Growth and Development of the Catholic School System in the United States (New York: Arno Press, 1969), p. 199.

²Ibid., p. 201.

³Sylvester J. Udoh, "The Development and Testing of Performance Standards for Diocesan Boards of Education" (PhD dissertation: The Catholic University of America, 1979), pp. 9-10.

⁴Burns, op.cit., p. 200.

⁵Bernard Julius Meiring, Educational Aspects of the Legislation of the Councils of Baltimore 1829-1884 (New York: Arno Press, 1978), p. 307.

⁶Ibid., p. 310.

⁷Conrad Humbert Boffa, Canonical Provisions for Catholic Schools (Washington, D.C.: The Catholic University of America Press, 1939), p. 181.

⁸Udoh, op.cit., p. 12

⁹Ibid., p. 14.

¹⁰T. Lincoln Bouscaren, S.J., Adam C. Ellis, S.J. and Francis N. Korth, S.J., Canon Law: A Text and Commentary 4th rev. ed. (Milwaukee: The Bruce Publishing Company, 1963), p. 767.

¹¹Boffa, op.cit., p. 181.

¹²Udoh, op.cit., p. 16.

¹³Ibid., p. 16.

¹⁴Ibid., p. 18.

¹⁵Arthur M. Leary, "The Place, Function, and Present Status of Diocesan School Boards" (MA thesis: The Catholic University of America 1944), p. 57.

¹⁶Ibid., p. 38.

¹⁷Ibid., p. 57.

¹⁸Ibid., p. 59.

¹⁹Ibid., p. 61.

²⁰John P. Breheny, "Diocesan Administration of Catholic Secondary Education in the U.S.: Its Status With a Design for the Future" (PhD dissertation: Harvard University, 1954), p. 104.

²¹Ibid., v.

²²Ibid., p. 94.

²³Ibid., p. 112.

²⁴Sister M. Ruth Ward, "Patterns of Administration in Diocesan School Systems" (PhD dissertation: The Catholic University of America, 1957), p. 141.

²⁵Ibid., p. 144.

²⁶Ibid., p. 146.

²⁷Ibid., p. 90.

²⁸Ibid., p. 91.

²⁹Ibid., pp. 90-91.

Chapter 5

FROM DEFUNCT TO THRIVING JURISDICTIONAL STATUS? SCHOOL BOARDS 1960-1980

It is impossible to select one individual or event responsible for the growth and development of the board of education movement in dioceses during the past twenty years. However, from the available literature, it is possible to recognize the key role which professionals, especially superintendents, played in the movement. One can also identify a variety of stated reasons, with their underlying assumptions, for which boards of education were promoted.

At the 1960 National Catholic Educational Association meeting, Monsignor John B. McDowell, Superintendent of Schools for the Diocese of Pittsburgh, urged his fellow superintendents to counteract a tendency toward decentralization of education by strengthening the office of the superintendent. In this same address, McDowell proposed a renewal of the laity's role in education.¹ This was also the meeting at which the superintendents received, from one of their standing committees on the functions of superintendents, a report which clearly indicated that those boards of education which existed were to assist the superintendent and were consultative in nature rather than administrative or policy making. It stated

Therefore, they assist the superintendent of schools by studying with him various educational problems and they help him formulate the programs and policies which

are in the best interest of the diocese. In almost every instance the bishop is the honorary chairman of the board and meets with the members in order to give directions² and authority to the many decisions which must be made.

In the decade between Sister M. Ruth Ward's conclusion in 1957 that "the school board would seem to be defunct in Catholic education"³ and Sister M. Virginia Bowling's dissertation "Two Emerging Administrative Structures in Catholic Education in the United States: Diocesan and Parish Boards of Education" some things happened in the Catholic Church and schools in this country which affected schools in a special way and encouraged the development of the board movement. While it would be inaccurate to suggest that Vatican Council II (1962-65) was the sole cause of the rapid development and increase in the numbers of boards,⁴ it is correct to use this church council as the focal point around which many changes in the Catholic Church manifested themselves. The particular emphasis of this study is the role of boards of education within the church. Therefore, only changes which affected schools and their relationship to the church will be emphasized.

Events within the Church in the Early 1960's

Superintendents of schools were keenly aware in the early 1960's of the warning signs of difficulties which would affect Catholic schools within several years. While schools did not exist in every parish in spite of the legislation of the Third Plenary Council of Baltimore, their existence as important to the mission of

the church in the United States had been established. The schools' place in the church was not seriously questioned between the "School Controversy" of the late nineteenth century and the mid 1960's.

This questioning atmosphere affected every aspect of the school, but it most seriously affected the personnel who traditionally staffed Catholic schools and the financial support which the schools had received from the parishes. There is little doubt that the large numbers of women religious who left religious life between 1965 and 1975 had a profound effect on the Catholic schools. These schools and especially the parents who chose the schools for their children had come to depend on the presence of the sisters and the tremendous financial contributions which religious made to the schools by working for a stipend and housing rather than a salary.

Rhoda Goldstein, Director of the Data Bank of the National Catholic Educational Association, has characterized this era accurately:

[Catholic schools] seem to have weathered such storms as the loss of almost 60,000 religious community members, the movement of millions of peoples to the suburbs, a changed theological attitude regarding Catholic children attending Catholic schools, and the financial crunch of additional lay teachers in a period of inflationary wages and costs.⁵

Mary Perkins Ryan in Are Parochial Schools the Answer? epitomized the "storm" manifested by changed attitudes regarding Catholic schools. Her major criticisms were the following:

1. The Catholic school system is a relic of the siege mentality;
2. General education can and should be separated from religious formation in these times and in this country;

3. Catholic schools are financial handicaps and therefore remain mediocre;
4. The manner in which Catholic schools present religious education is too formal to be effective in life;
5. In a pluralistic society they are divisive;
6. They are contrary to the spirit of ecumenism; and
7. They consume time, effort, and money that might better be spent upon adult formation in catechetical centers and Newman Clubs.⁶

This type of criticism gained popularity among many Catholic leaders. These criticisms were accepted as accurate in spite of the finding of the National Opinion Research Center in 1963 regarding the positive advantages of attendance at Catholic schools. The two major researchers, Andrew Greeley and Peter Rossi, found that, in addition to the positive results of Catholic school attendance, there was no evidence either among adults or among teenagers that the religious education programs operated for Catholics attending public schools had any effect on either religious behavior or social attitudes.⁷

Stated Reasons for the Catholic School Board Movement

Many superintendents were not willing to abandon a system which worked in favor of universal non-school religious education which had not been tested long enough to ensure its effectiveness. Therefore, in the midst of much criticism within the church regarding schools, a number of vocal supporters of Catholic schools saw the board of education as a means of countering some of the negative criticism and taking the case for Catholic schools to the people. They were convinced that the base of support for Catholic schools had to be

broadened beyond bishops, clergy, and professionals if the future of Catholic schools were to be assured. Generally, proponents of a broader-based school board posited toward

1. the role of the laity and the future of Catholic schools;
2. financial support from government and community; and
3. response to Vatican Council II and a new image for Catholic schools.

The Role of the Laity and the Future of Catholic Schools

Parents had been recognized as the primary educators of their children by the Catholic Church for many years. Some board leaders suggested that it was time for the church to put this conviction into practice and allow parents and other members of the laity to have a voice in the formal education of their children in Catholic schools.⁸ Some superintendents, recognizing that Catholic schools had been dominated by clergy and religious,⁹ wanted to allow parents to take into their own hands control of policy for the schools.¹⁰ A number of leaders were convinced that the future existence of Catholic schools depended on functioning jurisdictional lay boards.

Monsignor O'Neil C. D'Amour, Superintendent of Schools for the diocese of Marquette and the father of the Catholic school board movement,¹¹ chaired the superintendents' committee which produced the influential monograph on the board movement.¹² He often insisted that lay control of educational policy was the peculiar contribution of the public school system in America and should be applied without

modification to American Catholic schools as well.¹³ When he spoke at the 1968 National Catholic Educational Association Convention, D'Amour stated his position regarding parental control of Catholic schools as follows:

Traditionally, the American Catholic school has been purely and simply a school of the church. Its total operation both as regards policy-making and as regards administration, has been firmly in the grasp of the official church. Parents who have taken seriously the accepted principle of their rights in education and have thus sought to implement those rights, have most often been met with sharp rebuff.¹⁴

Not all of the authors who wrote about the board movement agreed with this strong position of D'Amour. A more moderate position suggested that it would be wiser to learn from the difficulties which public school boards had experienced. One suggestion was to give professional educators significant representation in policy-making.¹⁵ However, others supported the position of D'Amour regarding parental involvement in policy-making. For example, James Deneen, a staff member of the National Catholic Educational Association, and Daniel Davies, a co-developer of the Davies-Brickell Loop in decision making, claimed that "anything less than authority to formulate policy, subject to extremely rare episcopal or pastoral veto, does not seem consistent with recognized rights of parents and the community."¹⁶

Even those who did not totally agree with the solution of D'Amour, Deneen, and Davies recognized that schools would not survive without the support of the Catholic community. This support

depended on giving the laity more control over schools and thereby radically changing the authority structure of these schools. Others who wanted to enhance the role of the laity in Catholic schools believed that pastors and administrators needed the insight and judgment of members of the laity.¹⁷ Other arguments offered were that the laity have a right to voice their opinions through boards which represent the community, including teachers;¹⁸ that boards provide highly effective means of ensuring the accountability of Catholic schools;¹⁹ and that parental voice in education would prevent autocracy and enhance the quality of education.²⁰

When Bishop William E. McManus, Superintendent of Schools in the Chicago Archdiocese, spoke at the funeral of Monsignor O'Neil C. D'Amour in 1968, he declared that "elected boards, with the laity in the majority, are Catholic education's best hope for progress in the future."²¹ Davies and Deneen reflected D'Amour's conviction in the dedication of their book when they noted that the board movement is "the best guarantee of a continuing and effective Catholic Church presence in education."²²

The Reverend C. Albert Koob, president of the National Catholic Educational Association, and Russell Shaw, director of publicity and public relations of the National Catholic Educational Association, believed that the "best hope" for Catholic schools was to give control to those who support schools.²³ They hoped that separating schools from parish control by means of a school board "will save Catholic schools."²⁴ A similar conviction about the

relation of boards to the future was expressed by Davies and Deneen. Recognizing that boards of education as they were proposed implied a substantial change in the traditional authority role of bishop and pastor, Davies and Deneen were convinced that such a change was necessary "if Catholic schools are to maintain their vigor."²⁵

There were mixed motives expressed by some authors for the development of boards. John Donohue, a Jesuit educator, believed that in the 1960's many segments of the Catholic school system in the United States were too large and complex for management by declining numbers of ecclesiastical personnel alone, so he proposed that boards be composed primarily of parents. Davies and Deneen concluded that while there was no assurance that boards of education would "save" Catholic schools "there are excellent reasons to believe that a monolithic, clerically dominated approach will guarantee its demise."²⁷ As Catholic schools face the challenges of the future, they "will be the stronger and healthier," according to Jesuit Neil McCluskey, "for not seeking refuge behind a clerical culture."²⁸ Virgil Blum, a Jesuit educator who directs Citizens for Educational Freedom, expressed the relationship of lay involvement and the future of Catholic schools as an unanswered question:

Will the noninvolvement of American Catholic laymen - due to the inactivity of pastors and bishops - bring about the collapse of the Catholic school system, and the consequent secularization of American society?²⁹

Financial Support from Government and the Community

In the introduction to their report, Voice of the Community: The Board Movement in Catholic Education, a committee of superintendents stated clearly that "demand for funds [public tax support] has been a major factor in raising new and serious questions concerning the schools and their operation." They believed that the community support for Catholic schools had to be broader than that of the clergy and proposed that some restructuring of policy-making practices within Catholic education had become essential.³⁰

The superintendents addressed the Catholic community's need to increase financial support of the schools also. However, the committee reported that few people understood the financing of the schools. While understanding is no guarantee of giving, it was the superintendents' experience that lack of understanding and lack of voice in policy-making would limit the community's willingness to give financial support to schools. The report went further in support of its position to take the case to the people by declaring:

if we are to divorce Catholic education from the class system imposed by tuition and from the inadequacies of support out of general Church funds, then the case must be brought to the people; they must be convinced of the need and they must be given a voice on policy. These things can best be accomplished through Boards of Education.³¹

Other leaders addressed the issue of government aid for Catholic schools also and concluded that there would be no such aid unless there were representative boards who controlled policy for these schools.³² D'Amour, one of the foremost promoters of the

movement for a national Catholic association of school board members, stated the position clearly, "the simple fact is that the U.S. Government or state governments are not likely to channel aid through the bishop, the priest, the diocese, or the parish."³³ He believed that it was much more likely that the government would grant financial assistance to the education of children in those Catholic schools and systems whose policy control was in the hands of representative boards of citizens. D'Amour also recognized that some form of central financing would be necessary if diocesan boards were to exercise effective control over the diocesan system.³⁴

Another diocesan superintendent, Michael O'Neill of Spokane, Washington, claimed that for a school board to be effective, it must be recognized as the recipient of school funds from all sources - church, government, parents, and other donors. O'Neill was convinced that the boards should be given "full legal autonomy and responsibility (including liability) for all financial operations."³⁵

Response to Vatican Council II and a New Image for Catholic Schools

A number of spokesmen for the board movement saw in the documents of Vatican Council II and subsequent statements from the American Catholic Church, an opportunity to project a new image for Catholic schools. Vatican Council II called for the laity to be more involved in the church. The American bishops' 1973 statement on education, To Teach As Jesus Did, said that "representative structures... should be the normative means by which the community,

particularly Catholic parents, address...educational needs, objectives, programs, and resources."³⁶ Membership on these boards should be open to people from many points of view and should be responsible to "direct the entire range of educational institutions and programs within the educational ministry."³⁷

A subsequent document from the bishops in 1977, Sharing the Light of Faith, also called for a diocesan board to be broadly representative of all people of the diocese. This board should have the responsibility for developing policy for all of the educational efforts of the diocese.³⁸ In assigning responsibilities to the education board, this catechetical directory presumed the existence of a Diocesan Pastoral Council with the charge to establish the broad pastoral plan for the diocese. Both the board of education and the pastoral council were defined by the bishops in this document as being consultative.³⁹

Board movement leaders proposed that "the cause of Catholic education is considerably enhanced when it projects an image of democratic representation in policy-making."⁴⁰ They also used the themes of "shared responsibility or participatory decision-making," which were seen as directions in church government, to support boards of education. Mary Angela Harper, the Executive Director of The National Association of Boards of Education of the National Catholic Educational Association, stated that the board movement is the "brightest hope for implementation" of this type of decision-making.⁴¹

McCluskey said that explosive forces were unleashed by the Second Vatican Council and these forced a complete reappraisal of Catholic education in the United States.⁴² He saw boards fitting into this reappraisal. Davies and Deneen concluded that Vatican Council II encouraged a rethinking of the Church's legal structure⁴³ and suggested that such changes are "democratizing the government of the Church"⁴⁴ to the extent that many Catholic boards possessed very real jurisdictional authority.⁴⁵

Research on Boards of Education after Vatican Council II

Sister M. Virginia Bowling concluded in 1967 "that today's diocesan board of education is a far cry from the first diocesan board established in 1879"⁴⁶ which had resembled the early public school Board of Visitors and served as a kind of inspectional body.⁴⁷ Even in their initial stages of revitalization in the 1960's, the boards bore "little resemblance to the inept boards of education of the past."⁴⁸ Her research included 57 of the 89 existing diocesan boards of education in the United States at the time. Seventy-five percent of the existing boards had been organized in the ten years prior to Bowling's study. Sixty-four percent, or 36 of the boards studied, could be called representative in that they had clergy, religious, and laity among their membership. Fifty-nine percent had members appointed by the bishop and the rest obtained members by a variety of methods including election by popular vote in four dioceses.⁴⁹

According to the chairmen of the 57 boards, 49 boards (86 percent) indicated that the board's authority was extensive or fairly extensive. Most of these 49 chairmen described their board's type of authority as advisory or a combination of advisory, policy-making, and regulatory. The three boards which claimed "complete" authority over the diocesan educational system were said by their chairmen to be policy-making or regulatory policy-making.⁵⁰

An analysis of the specific responsibilities of the 57 diocesan boards revealed, according to Bowling, that the boards were most active in the areas of school organization and operation and in public relations, and that they were considerably less active in such areas as location of schools, of school staffing, and in educational programming.⁵⁰

While 48 boards were responsible for the establishment of teacher salary scales and 46 boards proposed plans for improved school financing, there is no indication from this research that any diocesan board had responsibility for determining how schools or diocesan school offices were to be funded. The lack of board responsibility in personnel matters is apparent: only two boards selected the superintendent of schools; only three boards selected diocesan school principals; eight boards placed lay teachers and seven selected diocesan school office personnel.⁵²

Concurrent with Bowling's research were the studies of James R. Deneen, "The Status of System-Wide School Boards in Catholic Dioceses in the United States" and William G. Scanlon, "The

Development of the American Catholic Diocesan Board of Education, 1884-1966." Both of these studies are valuable contributions to the body of research concerning boards of Catholic schools in the United States. However, the work of Deneen seems to have had greater influence on the development of the Catholic school board movement in this country. This influence is related to his position in the late 1960's as Associate Secretary of the Superintendent's Department of the National Catholic Educational Association and to his publication with Daniel R. Davies in 1968 of New Patterns for Catholic Education: The Board Movement in Theory and Practice.

Deneen's principal findings regarding the status of diocesan school boards in 1966 concurred with those of Bowling. He reported, based on information from 82 dioceses which had system-wide boards in 1966, that 15 percent of the responding superintendents of schools "termed their boards legislative and autonomous, that is, their Bishops have agreed that any decision made by the board will automatically bind the school system."⁵³ Fifty-three percent of the board's constitutions provided that formal regulations must have the Bishop's approval, and 25 percent said they were advisory only. Members were appointed to the diocesan boards by the Bishop in 55 percent of the dioceses. Of the total members on diocesan school boards 82 percent were male and 48 percent of those were diocesan priests.⁵⁴

Deneen identified seven functions of diocesan school boards which were common to at least 60 percent of the boards studied:

1. Establishing the length of school day and year;
2. Establishing minimum teaching qualifications for lay personnel;
3. Setting salary schedules for religious personnel;
4. Setting salary schedules for lay personnel;
5. Setting fringe benefits for lay personnel;
6. Setting admission policies for diocesan schools; and
7. Establishing pupil disciplinary policies.⁵⁵

Deneen found, as did Bowling, no indications that diocesan boards had among their functions, control over the funding of schools or the placement of personnel.

During the decade between 1967 and 1977, the number of diocesan boards of education continued to increase in the United States. By September, 1967, one hundred and six dioceses, or 73 percent of the dioceses in the United States, reported the existence of a diocesan board of education, but only 6 percent of these boards claimed jurisdictional and autonomous authority.⁵⁶ This was a decrease from the 15 percent of the diocesan boards identified as jurisdictional the previous year by Deneen. However, 30 percent, or thirty-two boards were "simply advisory" while 63 percent, or sixty-seven boards, were "jurisdictional with decisions requiring approval or veto from the Ordinary."⁵⁷

There is some indication from the 1967 status report that additional functions had been given to the boards of education: 26 percent approved the Office of Education budget; 68 percent approved policies for parish or area boards; 24 percent approved policies for CCD (parish religious education programs); 14 percent approved policies for Newman Apostolate (Campus Ministry); and 19 percent approved policy for adult education.⁵⁸

In 1972, there were 131 boards in the 158 dioceses in this country; in 1977, the number of dioceses had increased to 163, but the number of diocesan boards remained the same, and for the first time, 24 separate religious education boards were reported. By 1979, there were 2 more dioceses in the United States and 6 fewer diocesan boards; and 56 diocesan school boards and 26 religious education boards. For the first time, national statistics reported that there were 281 regional education boards. The development of regional boards may have contributed to the decline of diocesan boards.⁵⁹

In 1979, Sylvester Udoh completed his dissertation, "The Development and Testing of Performance Standards for Diocesan Boards of Education, U.S.A." He developed a combination of two sets of performance standards, theoretically and empirically derived, and tested these on 107, or approximately 83 percent of the existing diocesan boards of education. His purpose was "to assess the specific roles of diocesan boards of education in educational policy-making and administration in the United States."⁶⁰ Udoh categorized these boards according to four hypothetical board models:

1. Jurisdictional (autonomous) - a board which not only legislates but controls. It has final and total jurisdiction, includes all areas of educational policy and administration, as well as the legislative power to enact policy.
2. Zone jurisdictional - when jurisdiction does not extend over the entire range of educational concerns. A zone jurisdictional board of education has final but not total jurisdiction.
3. Consultative - a body of persons which cooperates with diocesan education policy-makers in the policy-making

process. It may formulate or even adopt policy but it never enacts it.

4. Regulatory - a board which enacts or uses existing rules and regulations to govern the operation of its schools. Such a board is administrative rather than policy-making or advisory.⁶¹

Udoh reported that while 23 percent of the boards he studied were partially autonomous, according to their constitutions, 17 percent of these were also consultative or regulatory. Therefore, only 6 percent of the boards did not have to have decisions approved, and were jurisdictional or autonomous. Even this 6 percent or fewer than 10 boards, "were autonomous only in certain given areas of diocesan education decision-making."⁶²

Of the 62 boards scoring on the jurisdictional scale, 19 percent possessed only partial jurisdiction. Only 5 percent of these boards "had full jurisdictional authority constitutionally provided for."⁶³ The others were zone, or partially jurisdictional. Seventy-nine percent of the boards responding were constituted as consultative. Of these at least 87 percent reported that they were in practice consultative to one or more diocesan officials, including the bishop, pastoral council, chancellor, vicar, and superintendent.⁶⁴ Although 21 percent of the boards were regulatory by constitution, at least 90 percent of them had consultative or partial jurisdictional authority as well.⁶⁵

Of those 54 respondents who identified the diocesan or education superordinate to whom they were consultative and/or responsible, almost 60 percent identified the bishop, 7 percent indicated the superintendent and "a surprisingly significant number of boards -

18 (33.33 percent) - were found to operate under the constitutional provisions of being consultative to both Bishop and superintendent at one and the same time."⁶⁶

Udoh also reported on the effects of various role relationships which affect the board of education. He found that roles were functionally diffuse, rather than specific for diocesan boards of education and other diocesan structures. As a matter of fact, the results of this study indicate that the superintendent of schools was constituted as superordinate of the board of education in 41 percent of the responding dioceses.⁶⁷

Udoh summarized his analysis of the role of diocesan boards in educational policy-making and administration by concluding that "the presence of mixed performance styles as a characteristic of diocesan boards is evident."⁶⁸

Summary

Catholic schools in the late 1960's were a threatened species. They were the subject of criticism by some well-known and respected Catholics. Limited financial and personnel resources were very real concerns. Many superintendents and other professionals recognized the circumstances within which schools were functioning and proposed renewed boards of education as a means to secure a future for Catholic schools.

The superintendents through their own committee recommended that these boards be jurisdictional and have total control over the

operation of the school system. They published their recommendations with suggested board models in Voice of the Community. That publication and the handbook for boards on which Daniel Davies and James Deneen collaborated: New Patterns for Catholic Education: The Board Movement in Theory and Practice have been influential in the development of the board movement for the past fifteen years.

The research on this movement which has been utilized in this study is that of Sister M. Virginia Bowling, James Deneen, and Sylvester Udoh. Bowling concluded that the boards of the mid-1960's were a far cry from the first diocesan boards and bore little resemblance to the inept boards of the past. Both she and Deneen found that the majority of dioceses had or were organizing boards; that most of these had come into existence within the past ten years; and that most boards had representative membership appointed by the bishop.

The three studies found that boards of education had no control over finances and little influence over personnel. In the Bowling study, three chairmen indicated that their boards had "complete" authority, while 86 percent of the chairmen said that their authority was extensive or fairly extensive within their role as advisory or a combination of advisory, policy-making and regulatory. When Deneen analyzed responses from the superintendents, he determined that 25 percent of the boards were advisory only; 53 percent had to have their formal regulations approved by the bishop; and 15 percent indicated that their boards were legislative and

autonomous, that is, their bishops had agreed that any decisions made by the board would automatically bind the school system.

By the time that Sylvester Udoh conducted his research in 1979, the number of diocesan boards of education had increased to 131. Udoh concluded that of the 107 boards he studied, 6 percent had limited autonomy or jurisdiction; 79 percent were consultative, often to more than one diocesan official or body; and that 21 percent were regulatory. This overlapping led Udoh to conclude that diocesan boards in 1979 functioned within mixed performance styles.

Conclusions

In spite of the increase in the number of diocesan boards of education since Vatican Council II (from 89 in 1967 to 129 boards of education, 51 diocesan school boards, and 26 diocesan religious education boards in 1979),⁶⁹ and the tremendous effort made by professional educators at both the national and diocesan levels to constitute these boards as jurisdictional, the most recent research indicates that the American Catholic Church has settled the question of the authority of the boards. The problem is that the practical settlement is in opposition to the board model proposed by professional Catholic educators. At most, 6 percent of the boards are constituted as partially autonomous and most boards operate within a mixed range of performance styles: zone jurisdictional, consultative, and regulatory.

It seems that the leading proponents of the board movement were operating from some false assumptions. There was a tendency to minimize the practical authority of the bishop of the diocese in some of the influential writings. For example, when the superintendents' committee proposed that the diocesan board of education should be jurisdictional in nature and should have total control over the operation of the school system by having responsibility for the broad policies under which individual schools will operate, they did not ignore the final authority of the bishop over schools of the diocese but they did limit his involvement to having the "final word in faith and morals and the Catholicity of the schools."⁷⁰ This position presumed that the bishop was willing and able to give the board complete jurisdiction in finances with appropriate legal autonomy and responsibility.⁷¹ Some also presumed that eventually the board would have title of ownership or lease of the school property.⁷²

This push for a shift in authority regarding the operation of schools was encouraged by an interpretation of the spirit of Vatican Council II which concluded that the church after Vatican II was being influenced to modify its decision-making structures. The board of education movement was based in part on the assumption that there had been a shift in the authority structure of the church as a result of the Council decrees. There is, however, a great difference between calling for the bishops to change their leadership styles and use their authority to serve the people and assuming that the Catholic

Church was going to begin operating like a democracy. Another faulty assumption was made that the bishop is free canonically and civilly to hand over to other legal entities, assets which belong to the diocese.

The literature on Catholic School Boards shows a tendency to use terms equivocally. Writers use words such as "policy-making" and "participative decision-making" interchangeably. Few distinctions were made between advisory and consultative until Sylvester Udoh developed his four hypothetical board models with their sub-sets. No one seemed to have taken Breheny's distinctions among policy formulation, enactment, and implementation seriously. The very term "board of education" means different things to different people, depending on their experience with industry and other corporate boards.

When the superintendents suggested a public school model for diocesan school boards, they assumed that the adaptation would not be a major problem. Authority for the public school board comes ultimately from the people through the democratic process; authority within the church comes from the bishop of the diocese. In addition, they assumed that this one model would work in all dioceses in this country as well as for boards of total education - schools and other programs.

Some boards movement leaders concluded that the boards which they were promoting had their origins in those commissions and committees legislated by the Third Plenary Council of Baltimore.⁷³ While the concept of involving a group in the educational efforts of

the diocese may be traced to the last century, it is not accurate to assume that the clerical boards which were advisory to the bishop were the earlier versions of these proposed lay boards with complete jurisdiction over all of education within the diocese. The question of whether canon law would allow the bishop to delegate his authority for schools even if he wanted to was not addressed in the literature.

Later writings on boards of education presumed that each diocese would have an active, functioning pastoral council whose responsibility was to determine broad pastoral plans within which diocesan educational efforts could be planned. While 92 of the 165 dioceses in this country reported in 1979 that they had diocesan pastoral councils, little research has been done on their effectiveness. Since the authority and role of boards of education need some further clarification, it is safe to assume that the functions of the newer pastoral councils have not yet been satisfactorily determined. If the role of the superordinate body, the pastoral council, is not clearly defined, it is difficult to make the function of a subordinate body, the board of education, dependent on it.

Almost twenty years have passed since the initial efforts to establish truly jurisdictional Catholic boards of education in this country. These efforts were dependent on one model which had been adopted from public school boards. The goal was to secure the future of Catholic schools for the church in this country by giving complete control to the lay board. During these years experience alone has shown that there must be a middle ground between no board

of education and a lay jurisdictional board. The work of Sylvester Udoh provides the needed framework to develop such alternative models.

Chapter 5 Footnotes

¹Sister Ann Virginia Bowling, I.H.M., "Two Emerging and Evolving Administrative Structures in Catholic Education in the United States: Diocesan and Parish Boards of Education" (PhD dissertation: Wayne State University, 1968), p. 32.

²Sylvester J. Udoh, "The Development and Testing Performance Standards for Diocesan Boards of Education" (PhD dissertation: The Catholic University of America, 1979), p. 18.

³Sister M. Ruth Ward, O.P., "Patterns of Administration in Diocesan School Systems" (PhD dissertation: The Catholic University of America, 1957), p. 91.

⁴Michael O'Neill, New Schools in a New Church (Collegeville, Minnesota: Saint John's University Press, 1971), p. 105.

⁵Rhoda Goldstein, "Enrollment: Facts and Forecast," Momentum (Washington, D.C.: National Catholic Educational Association, May, 1977), p. 4.

⁶Harold A. Buetow, Of Singular Benefit: The Story of U.S. Catholic Education (New York: The Macmillan Company, 1970), p. 290.

⁷Andrew M. Greeley and Peter H. Rossi, The Education of Catholic Americans (New York: Doubleday and Company, Inc., 1968).

⁸Mary-Angela Harper, Ascent to Excellence in Catholic Education: A Guide to Effective Decision-Making (Waterford, CT: CROFT-NEI Division of Prentice-Hall, Inc., 1980), iii.

⁹James Michael Lee, editor, Catholic Education in the Western World (Indiana: University of Notre Dame Press, 1967), p. 110.

¹⁰Voice of the Community: The Board Movement in Catholic Education (Washington, D.C.: National Catholic Educational Association, 1967), p. 1.

¹¹Lee, op.cit., p. 114.

¹²Voice of the Community.

¹³C. Albert Koob and Russell Shaw, S.O.S. for Catholic Schools (New York: Holt, Rinehart and Winston, 1970), p. 54.

¹⁴Lee, op.cit., p. 114.

¹⁵Koob and Shaw, op.cit., pp. 54-55.

¹⁶Daniel R. Davies and James R. Deneen, New Patterns for Catholic Education: The Board Movement in Theory and Practice (New London, Connecticut: Croft Educational Services, 1968), p. 40.

¹⁷Olin J. Murdick and John F. Meyers, Boards of Education: A Primer (Washington, D.C.: National Catholic Educational Association, 1972), p. 5.

¹⁸Stephen J. Kelleher, "A Correlation of the Suggestions of the Bishops of the United States for the Revisions of the Code of Canon Law," (unpublished committee report, August 26, 1966), p. 83.

¹⁹Koob and Shaw, op.cit., p. 147.

²⁰Murdick and Meyers, op.cit., p. 6.

²¹Davies and Deneen, op.cit., preface.

²²Ibid.

²³Koob and Shaw, op.cit., p. 60.

²⁴Ibid.

²⁵Davies and Deneen, op.cit., p. 40.

²⁶John W. Donohue, S.J., Catholicism and Education (New York: Harper and Row, Publishers, 1973), p. 8.

²⁷Davies and Deneen, op.cit., p. 125.

²⁸Neil G. McCluskey, S.J., Catholic Education Faces Its Future (New York: Doubleday and Company, Inc., 1968), p. 27.

²⁹Virgil C. Blum, S.J., Catholic Education: Survival or Demise? (Chicago: Argus Communications Company, 1969), p. 17.

³⁰Voice of the Community, p. 1.

³¹Ibid., p. 4.

³²Davies and Deneen, op.cit., p. 33.

³³Lee, op.cit., p. 115.

³⁴Richard T. Corrado, "A Community Speaks...The Perceptions of Decision Makers Toward Centralized Financing for Catholic Elementary Schools" (PhD dissertation: University of Florida, 1973), p. 14.

³⁵O'Neill, op.cit., pp. 115-116.

³⁶To Teach As Jesus Did: A Pastoral Message on Catholic Education (Washington, D.C.: United States Catholic Conference, 1973), #139.

³⁷Ibid., #140.

³⁸Sharing the Light of Faith: National Catechetical Directory for Catholics of the United States (Washington, D.C.: United States Catholic Conference, 1979), #238.

³⁹Ibid. and Udoh, op.cit., p. 43.

⁴⁰Murdick and Myers, op.cit., p. 3.

⁴¹Ibid.

⁴²McCluskey, op.cit., p. 17.

⁴³Davies and Deneen, op.cit., p. 36.

⁴⁴Ibid., p. 37.

⁴⁵Ibid.

⁴⁶Bowling, op.cit., p. 30.

Bowling credits the Diocese of Ft. Wayne with the first diocesan school board and does not mention those which were established in Philadelphia in 1853 and Cincinnati in 1863 and 1882.

⁴⁷Ibid., p. 74.

⁴⁸Ibid., p. 46.

⁴⁹Ibid., p. 141-188.

⁵⁰Ibid., p. 77.

⁵¹Ibid., p. 78.

⁵²Ibid., p. 79.

⁵³James R. Deneen, "The Status of System-Wide School Boards in Catholic Dioceses in the United States," The Superintendents' Report (Washington, D.C.: National Catholic Educational Association, No. 4., May 1968), p. 3.

⁵⁴Ibid., p. 2.

⁵⁵Ibid., p. 3.

⁵⁶"Current Status of Boards of Education," The Superintendents' Report (Washington, D.C.: National Catholic Educational Association, No. 2., December, 1967), p. 1.

⁵⁷Ibid., p. 1.

⁵⁸Ibid., pp. 1-2.

⁵⁹Policy Maker (Washington, D.C.: The National Association of Boards of Education of the National Catholic Educational Association, v 8, n 1, October, 1979), p. 6.

⁶⁰Udoh, op.cit., p. 25.

⁶¹Ibid., pp. 52-65.

⁶²Ibid., p. 124.

⁶³Ibid.

⁶⁴Ibid.

⁶⁵Ibid., p. 125.

⁶⁶Ibid. p. 126.

⁶⁷Ibid. p. 164.

⁶⁸Ibid. p. 125.

⁶⁹Bowling, op.cit., p. 148, and Policy Maker, p. 6.

⁷⁰Voice of the Community, p. 7.

⁷¹O'Neill, op.cit., p. 116.

⁷²Davies and Deneen, op.cit., p. 40.

⁷³Corrado, op.cit., p.2.

Chapter 6

AUTHORITY FOR PUBLIC EDUCATION AND MODELS FOR CATHOLIC SCHOOL BOARDS

When Davies and Deneen discussed the basic functions of a Catholic board, they began with the admission that "it is impossible to speak sensibly of a board of education's responsibilities before its authority has been clearly determined."¹ Furthermore, they assumed that the ability to determine its authority rests with the board itself. According to them, the board must find answers to such questions as: What is the board's charge? What powers does it possess? What are the community's educational needs and expectations? Only when the board's jurisdiction has been thoroughly explored and settled to the satisfaction of all parties may the board proceed with its duties.²

The Catholic board movement during the past fifteen years has been an effort to answer these questions by insisting that boards be jurisdictional and exercise total control over parochial and diocesan schools. The organizational model for such boards was proposed in Voice of the Community. According to these proponents, the model was "to be found in the Board of Education system developed over the years by public education in this country."³ While Davies and Deneen in their handbook, New Patterns for Catholic Education, admitted that considerable care should be exercised in drawing analogies with

public school boards, nevertheless they proposed that Catholic boards function in ways that are similar to public school boards.⁴

Since the issue of its authority is critical for boards, whether public or Catholic, and because a public school board model has often been proposed for use by boards of Catholic schools, some understanding of public school boards is important. The authority and functions of these boards is necessary background to a critique of present as well as any alternative models for Catholic school boards.

Authority for Public Education

The Constitution of the United States makes no direct reference to education, but most state constitutions have specific provisions which make education a legal responsibility of the state. In addition, the statutes of most states stipulate in considerable detail how schools are to be governed.⁵ The state constitution, statutes of the legislature, and rulings of courts are the foundations for the legal status or authority of public schools and their boards.⁶ Therefore, within the parameters of their individual state constitutions and decisions of the courts, each state legislature possesses the plenary power to make basic policy decisions regarding schools.⁷

Jurisdiction of State Boards of Education

Control over public education is exercised by the executive

as well as the legislative branch of state government. The governor, the state superintendent of public instruction and the staff of the department of education, the state board of education, and other state agencies influence public education in both direct and indirect ways. The state board of education exists in every state but Wisconsin.⁸ Within the executive branch, the state board is "also seen as having a policy-making function, specifically in those areas delegated to them by the legislature, and also in terms of supporting policy positions to the governor and the legislature."⁹ Whether in practice the state board functions as policy making or whether it legitimizes the policy recommendations of the state superintendent has been the subject of much research.

The purpose of this analysis is not to study how the state board or local boards function in practice. No attempt is made to investigate the informal relationships which play a part in public school policy making. The important point for this study is that in those areas delegated to it by the legislature, the state board of education does have jurisdiction. These jurisdictional areas are the instructional program which includes its scope, establishment of standards, requirements of a course of study and approval of textbooks. Other aspects are certification of personnel and facilities standards with the establishment of school plant standards, approval of school sites, and approval of plans and specifications of new buildings. Jurisdiction also involves financial support.¹⁰

State control over education is often the strongest in the area of finances.¹¹ Many aspects of this financial control are governed by state statutes. School districts may be either fiscally dependent or independent depending on whether they have to submit their budget to another agency for approval, but within these limitations state boards of education have considerable financial control over public education.¹²

Members of these state boards are most often lay citizens, as opposed to professional educators. In over half of the states, members are appointed by the governor; others acquire membership by popular election or some other means. Over half of the state boards select the state superintendent who serves as the executive officer of the board, but in the remainder of the states the relationship between the state board and the state superintendent is not as clearly defined.¹³

Local School Districts: Quasi Corporations

Local school districts are extensions of state governments and are therefore subject to the unique constitutional and statutory regulations of each state. Much diversity exists among the 16,000 school districts in this country,¹⁴ but all of them are "the instrumentalities through which education is overseen and managed."¹⁵ These school districts are quasi corporations, controlled by a governing board, with the power to tax, the right to make contracts, and the right to sue and be sued.¹⁶

As a quasi corporation, the district and its board has only those powers specifically granted in the law and whatever discretionary powers have been determined by law or approved as necessary to meet the obligation of the state to provide a public educational system.¹⁷ Generally the duties of local school boards include the right to establish and build schools, to employ a superintendent, to establish rules to manage schools, to employ teachers, and to raise and spend money.¹⁸

Implications for Catholic School Boards

Arguments have been offered for the past fifteen years, at least, that Catholic schools should function in ways that are similar to those of public schools. If this approach is followed, it would be necessary to have each diocese organize its schools in accord with the constitution and legislation of the state in which the schools are located. Therefore, as a basis for a model for the reorganization of Catholic schools in Virginia, the authority for public schools in Virginia will be analyzed. The Constitution of the Commonwealth and Virginia School Laws will be the sources for this review.

Commonwealth of Virginia Constitutional Provisions

In Article VIII of the constitution of Virginia, authority for public education is vested in the General Assembly, which

shall provide for a system of free public elementary and secondary schools for all children of school age throughout the Commonwealth, and shall seek to ensure

that an educational program of high quality is established and continually maintained.¹⁹

The General Assembly also has the responsibility to determine a formula for funding such an educational program by apportioning costs between the Commonwealth and the local units of government which comprise such school divisions. The constitution also mandates that the local units must pay their share of the apportionment.²⁰

State Board of Education

The general supervision for the school system, according to the constitution, is vested in a nine member Board of Education appointed by the Governor for four year terms. These appointments are subject to confirmation by the General Assembly.²¹ The powers and duties of the Board of Education are constitutionally provided for as follows:

1. Subject to such criteria and conditions as the General Assembly may prescribe, the Board shall divide the Commonwealth into school divisions of such geographical area and school-age population as will promote the realization of the prescribed standards of quality, and shall periodically review the adequacy of existing school divisions for this purpose.
2. It shall make annual reports to the Governor and the General Assembly concerning the conditions and needs of public education in the Commonwealth, and shall in such report identify any school divisions which have failed to establish and maintain schools meeting the prescribed standards of quality.
3. It shall certify to the school board of each division a list of qualified persons for the office of division superintendent of schools, one of whom shall be selected to fill the post by the division school board. In the event a division school board fails to select a division superintendent within the time prescribed by law, the Board of Education shall appoint him.

4. It shall have authority to approve textbooks and instructional aids and materials for use in courses in the public schools of the Commonwealth.

5. Subject to the ultimate authority of the General Assembly, the Board shall have primary responsibility and authority for effectuating the educational policy set forth in this Article, and it shall have such other powers and duties as may be prescribed by law.²²

Superintendent of Public Instruction

The constitution also provides that the Superintendent of Public Instruction shall be appointed by the Governor, subject to confirmation by the General Assembly. The term of the superintendent shall coincide with that of the Governor. His duties and powers shall be prescribed by law.²³

Other Constitutional Provisions

Although the details are to be provided by law, the constitution states that the supervision of schools in each school division shall be vested in a local school board. Finally, the State Board of Education is responsible to hold and administer the Literary Fund.²⁴

Virginia School Laws

Virginia School Laws 1980 cites detailed requirements regarding public schools in the Commonwealth.

State Board of Education

Virginia school laws prescribe the following regulations for the State Board of Education:

1. a president shall be elected from members for a term of two years;
2. a majority of members shall constitute a quorum for the transaction of business;
3. meetings shall be held upon the call of the president or at the request of the majority of members; due notice must be given to all members regarding the time and place of meetings. Ordinarily the board will meet at the office of the Superintendent of Public Instruction;
4. minutes of each meeting shall be signed by the person presiding at each meeting;
5. the board may adopt its own bylaws and promulgate such regulations as may be necessary for it to function in accord with provisions of the law;
6. the Board of Education by the fifteenth of November each year must submit to the Governor and General Assembly a report on the condition and needs of public education in the Commonwealth. The law specifies that certain points must be included in this report;
7. the accreditation of public elementary and secondary schools is the responsibility of the board. It may provide for the accreditation of private elementary and secondary schools at the request of the private school; and
8. the board is also authorized to issue regulations regarding pupil personnel records in public schools.²⁵

Superintendent of Public Instruction

According to Virginia law, the superintendent has the following duties:

1. to serve as secretary of the Board of Education;
2. to provide such assistance in his office as shall be necessary for the proper and uniform enforcement of the provisions of the school laws in cooperation with the local school authorities;
3. to prepare and furnish such forms for attendance officers, teachers and other school officials as are required by law; and
4. to perform such other duties as the Board of Education may prescribe.²⁶

He is also responsible by law to administer the National School Lunch Act.²⁷

Local School Divisions

Virginia law is detailed regarding the establishment and responsibilities of local school divisions. Criteria are given for the establishment and realignment of school districts. The law clearly states that the local school board and the governing body of the district affected must approve before any school division can be divided or consolidated.²⁸

Local School Boards

Decisions of the courts have held that "the power to operate, maintain and supervise public schools in Virginia is, and has always been, within the exclusive jurisdiction of the local school boards and not within the jurisdiction of the State Board of Education."²⁹ These boards are immune from tort liability.

Local school board members are appointed by a variety of means in Virginia. The method which is provided by law depends on the type of governmental structure of the locality. Details are given for the selection of school board members according to a single county system (with an alternate method provided), for a division having a county manager or county board form of government, in districts with cities and towns constituting school divisions, and another method for other school divisions. The law also requires that members be qualified voters and bona fide residents of the district in which they will serve. Provision is also made for the amount of money which each county may pay school board members.³⁰

Division Superintendent

The division superintendent, according to law, shall be appointed by the local school board for a four year term. The minimum salary, 60 percent of which the state pays, shall be prescribed by the State Board of Education. This minimum salary may be supplemented out of local funds. The local school board is responsible to provide necessary travel and office expenses for the superintendent. The superintendent shall perform such duties and services as are prescribed by the school board and by the State Board.³¹

Reorganization of Catholic Schools
According to Public School Model

The following proposed reorganization of Catholic schools is based on an assumption that enough similarities exist between public and Catholic schools to allow the public school model to serve as the basis for the organization of Catholic schools in the Diocese of Richmond. Constitutional provisions of the Commonwealth of Virginia regarding public education are the sources for this proposed reorganization.

Diocese of Richmond

If the state constitutional provisions regarding the authority of the General Assembly for public education were followed in the Diocese of Richmond, the bishop should provide for a system of free Catholic elementary and secondary schools for all children of school age throughout the diocese and should seek to ensure that an

educational program of high quality is established and continually maintained. The bishop, therefore, would have the responsibility to determine a formula for funding such an educational program by apportioning between the diocese and local units of the church (parishes) comprising such school divisions. Parishes would be required to pay their share of the apportionment.

Diocesan Board of Education

The general supervision for the Catholic school system, according to the sample model, would be vested in a nine member Board of Education appointed by the bishop for four year terms. Since the bishop is actually the executive, legislative, and judicial branches of church government, these appointments would not be subject to confirmation. The powers and duties of the Diocesan Board of Education would be

1. Subject to such criteria and conditions as the bishop may prescribe, the Board would divide the diocese into school divisions of such geographical area and school-age population as would promote the realization of the prescribed standards of quality, and should periodically review the adequacy of existing school divisions for this purpose.
2. It would make annual reports to the bishop concerning the conditions and needs of Catholic education in the diocese, and should in such report identify any school divisions which have failed to establish and maintain schools meeting the prescribed standards of quality.
3. It would certify to the school board of each division a list of qualified persons for the office of division superintendent of schools, one of whom would be selected to fill the post by the division school board. In the event a division school board fails to select a division superintendent within the time prescribed by law, the Board of Education would appoint him.

4. It would have authority to approve textbooks and instructional aids and materials for use in courses in the Catholic schools in the diocese.
5. Subject to the ultimate authority of the bishop, the board would have primary responsibility and authority for effectuating the educational policy set forth in diocesan legislation.

Superintendent of Schools

The Superintendent of Catholic Schools for the diocese would be appointed by the bishop. His term would coincide with that of the bishop. His duties and powers would be prescribed by diocesan law.

Problems Related to this Proposed Reorganization

This proposed reorganization of Catholic schools in the Diocese of Richmond according to the model of public schools in Virginia would require a significant shift in practice within the traditional authority structure of the Catholic Church and in the operation of schools. There is no doubt that the bishop has the authority to mandate such an organizational model for the schools in his diocese. The question is one of feasibility.

To assume that the bishop could provide for a system of "free Catholic elementary and secondary schools for all children of school age throughout the diocese" is to ignore the history and tradition of Catholic parishes and schools in this country. Catholic schools began as extensions of the local parishes and only when the local parishes were not able to provide secondary education was there an effort to move control from parishes to the diocese. The

Catholic Church does not have a history of maintaining a strong diocesan system of Catholic schools. In addition, there has never been unanimity among the American bishops regarding the place of Catholic schools within the church.³²

The Virginia State Board of Education operates within the three distinct branches of state government, while school boards of the Catholic Church operate within an authority structure in which these functions reside in one person, the bishop of the diocese. Even if the bishop agreed to bind himself to accept the decisions which a diocesan board would make, there is no judicial branch, within the diocese, which has final authority to settle disputes which may occur over the jurisdiction of the board and that of the bishop. Furthermore, the board would have to possess title to school property as well as have the power to tax parishes, assume loans, sue and be sued.

There are some proponents of the board movement in Catholic education who have attempted to take a public school model of governance and adapt it for use by Catholic schools. The difficulty with this approach is that the basis of authority of the two systems is so different that it is inaccurate to expect that the models for governance could be the same. The authority for public education comes from the people of the state and is exercised by the General Assembly in accord with the provisions of the constitution. The authority for the Catholic school education comes from the bishop of the diocese who must ensure that schools are administered in accord with the laws and regulations of the Catholic Church as well as those of the state in which the diocese is located.³³

Alternative Models for the Organization of Catholic Schools

Boards of Education have served Catholic schools since 1852 with varying degrees of success and there does not seem to be any current trend toward abandoning these boards in the United States. Both the number of boards and the number of lay members on these boards continue to increase. The following alternative models for the organization of Catholic schools and their boards are based on the assumptions that the authority for the administration of the schools must be clear and that both schools and boards must function in ways that are consistent with church and civil law.

Parish Schools

In a parish elementary school there is no question of who has final authority in church and school matters.³⁴ The pastor, both traditionally and canonically, is vested with the chief responsibility for building and operating the parish school. Within diocesan guidelines and policies, parish schools can and often do function successfully. If there is a board for the school, it can be constituted so that lines of accountability and responsibility are clear. Therefore, parish schools are not included in these alternative organizational models. What is suggested later about the organization and jurisdiction of boards will be applicable to parish schools however.

Alternative Models

In addition to parish and diocesan or central schools, there are, in a number of dioceses, schools which serve more than one parish

but are not organized as diocesan schools. Problems often occur for these schools, which are called merged, consolidated, inter-parish, or regional, because they have no clear authority base. They are neither parochial nor diocesan and, therefore, attempt to function outside of the traditional organizational structure of the Catholic church, diocese and parish. There are three categories of models which can address these situations: clerical models, the school as a moral person, and the school as separate incorporation.

Clerical Models. Some schools are organized according to models which place an ordained priest in the position of authority in non-parish schools. The practice of appointing a priest as principal or as school pastor is operative in some dioceses in this country. According to this method of operation, the bishop holds one of his diocesan priests accountable for the administration of the non-parish school.

There are other ways in which priests assume the responsibility for the administration of such schools. One way is to establish non-parochial schools as diocesan and, therefore, under the authority of the bishop directly or through his appointed vicar for education or superintendent of schools. Another way is for the bishop to appoint priests as regional pastors or deans with specific responsibilities for education within certain regions or deaneries of the diocese.³⁵

The School as Moral Person. A solution to the question of the authority base for the non-parochial or non-diocesan school could be the recognition of such institutions as moral persons within the diocese. Canon law provides for the establishments of parishes as moral persons with all the rights of an ecclesiastical moral person. These rights include that of perpetuity; the right to acquire, own, and administer church property; and the right to sue and be sued in ecclesiastical courts.³⁶ Church law also allows the bishop of the diocese to establish hospitals, orphanages, and other similar institutions to serve the needs of the people in the diocese. These institutions may be constituted by him as moral persons in the church.³⁷

Catholic schools could be recognized or established as moral persons with the same rights and responsibilities as other entities within the church. The bishop would appoint an administrator, either cleric or lay, who would have the same administrative relationship to the bishop as the pastor of a parish. Canon law details the responsibilities of church administrators.³⁸ If a school functioned as a moral person within the diocese, officially at least, the question of the school's authority base would be settled.

The School as Separate Incorporation. It is within the tradition of the Catholic church for schools to operate as private schools whose incorporation is distinct from the diocese in which it functions. Historically, most private schools have been conducted by religious

orders, although there are several lay private Catholic schools in this country. These schools are not under the direct administration of the bishop of the diocese except in that they operate within the diocese with the permission of the bishop.

Authority for such Catholic schools is clear. The Boards of Trustees of private Catholic schools own and operate the schools. The bishop of the diocese in which the school is located retains authority over the religious instruction in the school and is responsible to ensure the school's Catholicity.³⁹

Performance Models for Catholic School Boards

After the authority structure within which Catholic schools of a diocese will function has been determined, it is possible to discuss the organization and responsibilities of boards related to the schools. The proposals which will be suggested are based on the performance models for boards of education which were proposed by Sylvester Udoh: jurisdictional, zone jurisdictional, consultative, and regulatory.

Jurisdictional Boards

Udoh defined the jurisdictional model for boards as one which is legislative, total, and final.⁴⁰ Within the authority structure of the Catholic church, it is inaccurate to claim that any school board is jurisdictional according to Udoh's definition. The final authority for Catholic schools rests with the bishop of the diocese. While his control over private schools is not absolute,

the fact that the bishop retains, according to church law, authority over the Catholicity of the school and the right of visitation, gives the bishop jurisdiction in significant areas of the private Catholic school. Therefore, technically the jurisdiction of the private school board is not total.

In practice, however, most bishops allow boards of private Catholic schools to function as if they were jurisdictional. These boards not only formulate, but also adopt and enact policy. They hire or appoint an administrator who is accountable to the board for the implementation of policy. Such boards have ownership of property, financial responsibility for the school, and control over personnel. They are civil corporations and are, therefore, bound by laws of the state in which they are chartered to operate.

There are many examples of articles of incorporation and by-laws for private schools which could be used by Catholic schools. The example in Appendix A of this study is from the Lutheran School Association. It was selected because it is an example from another Christian denomination which has a tradition of parochial school education in this country.

Zone Jurisdictional

A zone jurisdictional board is one whose authority is legislative and final, but not total. According to Udoh, a board may be zone jurisdictional by choice or it may be constituted in this manner. The jurisdiction of such a board does not extend over the entire range of educational concerns which include: students, personnel,

educational programs, educational organization and facilities, educational finances, and general concerns.⁴¹

A bishop may establish a diocesan school board, for example, as zone jurisdictional with legislative and final authority in the areas of educational programs except religious education and educational organization and facilities. A local school board may be constituted as jurisdictional in educational finances but not in personnel. It is also possible that some of the educational concerns would not be within the jurisdiction of any board, but would be an administrative responsibility. It is essential that responsibility for all areas of educational concern be determined so that both the board and the administrator can function effectively.⁴²

Consultative

A consultative board may formulate or even adopt policy but it never enacts policy. The main purpose of a consultative board, according to Udoh, is to cooperate with diocesan policy-makers in the policy-making process. Such a board may exercise its consultative role in one of three ways: brief-receiving, mutual-deliberative, or advisory.⁴³

Brief-receiving. The purpose of a board's functioning as brief-receiving is to predispose members to accept the policy decisions which will eventually be made and to solicit the cooperation of the board in the implementation of such policy.⁴⁴

Mutual-deliberative. When a board operates as mutual-deliberative, problems are presented to the board by the diocesan official. Suggestions, reactions, and ideas are solicited from the board members. Both the board and the professional, usually the superintendent, participate in the discussion, but it is clear that the board does not make the final decision regarding the policy statement.⁴⁵

Advisory. When the level of participation in decision making is at the adoption stage, and the adopted decision is passed on to a superordinate for enactment, the participating board is said to be advisory. The recommendations of such a board are usually said to be "legislative, subject to approval."⁴⁶

Regulatory

A regulatory board is one which enacts or uses existing rules and regulations to govern the operation of its schools; such a board is considered administrative rather than policy-making or advisory. Udoh found that there are two ways in which boards function as regulatory bodies: agency of legitimation and interstitial agency for procurement.⁴⁷

Agency of Legitimation. When a board is neither constituted nor equipped to assist policy-making efforts, it can assume the appearance of making policy. Policy decisions can bear the seal or endorsement of the board, but in fact the primary role of such a

board is to convince the public that the decisions of the administration are for the benefit of the community and its schools.⁴⁸

Interstitial Agency for Procurement. The work of such a board is to function between the community and the administration to persuade the community that the work of the school system is important enough to merit its financial support. When a board operates in such a manner, both the board and the community can feel that the board is making policy.⁴⁹

Conclusion

A public school board model is not appropriate for use by Catholic schools because the very source of the authority for each type of school is different. The constitution of each state recognizes that the General Assembly, or similar legislative body, has jurisdictional authority, under its constitution and in accord with court rulings, for public schools within the state. On the other hand, authority for Catholic school education is vested in the bishop of the diocese who is responsible to ensure that Catholic schools are organized and administered in accord with church and civil laws.

Before the jurisdiction of a school board can be determined, the authority structure within which the school functions must be clearly determined. Traditionally, at the elementary level most schools have been parochial and at the secondary level, most have been central or diocesan. Schools which are presently organized as neither parish nor diocesan nor private attempt to function outside

of the authority structure of the church. Some models which can situate such non-parochial and non-diocesan schools within the structure of the church are categorized as: clerical models, the school as moral person, and the school as separate incorporation.

Within a clearly defined authority structure, school boards can be constituted as jurisdictional, zone jurisdictional, consultative, or regulatory. The final chapter of this study, "Summary, Conclusions, and Recommendations," will offer some practical applications for organizing schools and for constituting Catholic school boards.

Chapter 6 Footnotes

¹Daniel R. Davies and James R. Deneen, New Patterns for Catholic Education: The Board Movement in Theory and Practice (New London, Connecticut: Croft Educational Services, 1968), p. 40.

²Ibid.

³Voice of the Community: The Board Movement in Catholic Education (Washington, D.C.: National Catholic Educational Association, 1967), i, and Appendix B.

⁴Davies and Deneen, op.cit., p. 37.

⁵Roald F. Campbell, editor, The Organization and Control of American Schools, 4th edition (Columbus, Ohio: Charles E. Merrill Publishing, Co., 1980), p. 61.

⁶Charles E. Reeves, School Boards: Their Status, Functions and Activities (Westport, Connecticut: Greenwood Press, Publishers, 1954), pp. 63-64.

⁷Campbell, op.cit., p. 72.

⁸Ibid., p. 66.

⁹Ibid., p. 73.

¹⁰Ibid., pp. 76-79.

¹¹Ibid., p. 79.

¹²Ibid., p. 80.

¹³Ibid., p. 66.

¹⁴Ibid., p. 90.

¹⁵Ibid., p. 91.

¹⁶Ibid., p. 90.

¹⁷Ibid., p. 97.

¹⁸Ibid. p. 75.

¹⁹Virginia School Laws (Charlottesville, Va.: The Michie Company, 1980), p. 16.

²⁰Ibid., p. 17.

²¹Ibid.

²²Ibid., p. 18.

²³Ibid.

²⁴Ibid., pp. 19-21.

²⁵Ibid., pp. 33-34.

²⁶Ibid., p. 35.

²⁷Ibid.

²⁸Ibid., p. 36.

²⁹Ibid., p. 39.

³⁰Ibid., pp. 39-55.

³¹Ibid., pp. 55-58.

³²cf. Chapter 2: "The Development of Separate Catholic Schools in the United States."

³³Sister Ann Virginia Bowling, I.H.M., "Two Emerging and Evolving Administrative Structures in Catholic Education in the United States: Diocesan and Parish Boards of Education" (PhD dissertation: Wayne State University, 1968), p. 143.

³⁴Ibid.

³⁵T. Lincoln Bouscaren, S.J. Adam C. Ellis, and Canon Law: A Text and Commentary (Milwaukee: The Bruce Publishing Company, 1963), p. 155.

³⁶Ibid., pp. 194 & 358.

³⁷Ibid., p. 798.

³⁸Ibid., pp. 828-831.

³⁹Ibid., pp. 767-769.

⁴⁰Sylvester J. Udoh, "The Development and Testing of Performance Standards for Diocesan Boards of Education," (PhD dissertation: The Catholic University of America, 1979), pp. 52-53.

⁴¹Ibid., pp. 58-59.

⁴²Mary-Angela Harper, Ascent to Excellence in Catholic Education: A Guide to Effective Decision-Making (Waterford, CT: CROFT-NEI Division of Prentice-Hall, Inc., 1980), pp. 63-82.

⁴³Udoh, op.cit., p. 61.

⁴⁴Ibid., p. 62.

⁴⁵Ibid., p. 63.

⁴⁶Ibid., p. 64.

⁴⁷Ibid., p. 65.

⁴⁸Ibid., p. 66.

⁴⁹Ibid., p. 66-67.

Chapter 7

SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS

Since the twelfth century, the Roman Catholic Church has been a hierarchical organization which professes that all authority comes from God and that formal authority within the church is exercised by the pope and the bishops in a collegial and collaborative manner. Since Catholic schools in the United States have traditionally been an expression of the teaching mission of the church, they functioned within the authority structure of the church until the early 1960's. Around Vatican Council II, some leading Catholic educators proposed a change in the relationship of parish and diocesan schools to the church by suggesting that the boards of education related to them should be totally jurisdictional and, therefore, assume authority over the operation of Catholic schools.

The model which was proposed was not consistent with the authority structure of the church and the role of the bishop. Within his diocese, a bishop has by right, all ordinary, special, and immediate authority which is necessary for the fulfillment of his pastoral office of teaching, governing, and sanctifying. The bishop's authority must be exercised in accord with the church's Code of Canon Law, the official decrees of the church, and the civil laws of the state regarding tenure of church property. Canon Law vests the bishop with final authority over Catholic schools in his diocese. In the

case of private schools, this authority extends over those matters which have to do with the Catholicity of the school and its religious education curriculum. However, the authority of the bishop is absolute over parish and diocesan elementary and secondary schools. These schools are the subject of this study.

The bishop appoints priests as administrators of the goods and services of the parishes which are territorial sub-divisions of the diocese. These pastors are responsible to the bishop for the adequate administration of the total parish including the parish elementary school. Usually, the pastor is not the principal of the school, but authority over its operation in accord with diocesan policies rests with him. Diocesan schools are directly accountable to the bishop through his appointed vicar for education or superintendent of schools. Prior to 1960, most central or diocesan schools had a priest who served as principal and a school board of local pastors which was responsible for the funding of the school.

Diocesan school boards started in 1852 when Bishop John N. Neuman established a Central Board of Education in Philadelphia. However, the board movement as it is known today in Catholic schools began immediately prior to Vatican Council II which was in session from 1962 until 1965. Before the early 1960's, several dioceses had established boards which were similar to the Philadelphia model.

In addition, the Third Plenary Council of Baltimore in 1884, legislated that every bishop should establish a Diocesan Commission of Education composed of several competent priests. This commission

was responsible for administering examinations to teachers and giving diplomas to those who successfully passed the examination. This diploma was necessary for employment in a Catholic school. Bishops were also called by this Council to form school commissions to visit and examine schools once or twice a year and report to the bishop through the president of the diocesan commission. In many dioceses, these commissions became known as school boards and the president was the superintendent of schools.

Before 1960, diocesan school boards assumed that the bishop had both authority and responsibility for Catholic schools within his diocese. These boards did not have clearly defined areas of responsibility, however, and shared their consultative roles with other diocesan officials. They were poorly organized, met infrequently, and were composed primarily of diocesan priests who served as consultants to the bishop and the superintendent of schools.

Sister M. Ruth Ward in her 1957 study, "Patterns of Administration in Diocesan School Systems," concluded that school boards by the late 1950's had had most of their assigned functions assumed by the superintendent and a professional staff. As a matter of fact, boards were not functioning at all in most large and many small dioceses. Ward went so far as to state that for all practical purposes, at the time of her study, diocesan school boards were defunct in the United States.

In the last twenty years, the Catholic Church and schools have been affected by Vatican Council II, which both reflected and

initiated significant changes within the Catholic community. The staffing of Catholic schools, for example, has been seriously affected by the large numbers of religious women who left religious life between 1965 and 1975. Declining birthrates, the movement of millions of people to the suburbs, changed attitudes regarding Catholic children attending Catholic schools, and the financial burden of additional lay teachers in an inflationary economy are additional challenges which Catholic schools have faced during the past years.

In the midst of much criticism within the church regarding Catholic schools, a number of vocal supporters saw a revived board of education movement as a means to ensure the future for Catholic schools. They hoped to counter some of the negative criticism by taking the case for these schools to the people. They wanted to broaden the schools' base of support beyond bishops, clergy, and professionals. The three major reasons which proponents of school boards cited to support their efforts were the role of the laity and the future of Catholic schools, financial support from government, and response to Vatican Council II and a new image for Catholic schools.

Many of the most vocal supporters for renewed school boards were also the strongest advocates for truly jurisdictional Catholic lay boards of education. The first and most popularly proposed board model was adopted from the public schools (cf. Appendix B). However, because the source of authority for public

schools and Catholic schools is so different, this proposed model for Catholic school boards has been adopted in less than six percent of the dioceses in this country.

During the past fifteen years, the number of diocesan boards related to education has increased dramatically. There are approximately 129 boards of education, 51 school boards, and 26 religious education boards currently operating at diocesan levels, but very few of them function jurisdictionally in spite of tremendous efforts by both national and diocesan professional educators.

There seems to be no question about the value of diocesan boards of education composed of lay, religious, and clergy, for Catholic schools today. The challenge is to devise models for the organization of schools and the constitution of their boards which will be consistent with the authority structure of the Catholic Church, and sound educational practices.

Conclusions

Catholic schools must function within the authority structure of the institutional church which traditionally has provided for their being organized as parish, diocesan, or private schools. Recently, however, many parishes have merged their individual schools into consolidated, inter-parish, or regional schools. There are several ways in which these "new" schools can be organized so that they function within the authority structure of the church.

One category of solutions is the adoption of one or more of the clerical models of administration. A priest could be officially designated by the bishop as his representative to the school as principal, school pastor, or dean. Many dioceses have used this approach successfully. However, the dependence on one of the clerical models as a long term solution for the local administration of Catholic schools seems risky because these models presume that a number of priests would be interested in and academically prepared for Catholic school administration. These models also imply that for schools to function within the church they must be directly under the administration of ordained clerics.

Two other types of school organizations that are consistent with the authority of the church are the school as moral person and the school as a separate incorporation. A number of institutions within the church are recognized as moral persons. In addition to the diocese and each parish, Catholic hospitals and orphanages are frequently erected or recognized as moral persons. Within the church, a moral person enjoys certain rights and privileges and has responsibilities to the bishop. If Catholic schools were to function as moral persons, they would operate within the diocese in the same way as parishes. The bishop would appoint an administrator to be responsible to him for the proper administration of the goods and services of the school.

Moral persons are established by formal erection or recognition by the bishop. Examples of non-parish and non-diocesan schools

acting as if they were moral persons already exist. Regional schools have been allowed to buy and sell property and maintain and repair buildings as if they were "owners." Some have been defendents in law suits and others have been permitted to enter into civil suits in their own names. Regional schools could function formally as moral persons within the authority structure of the church if they were erected formally or recognized as such by the bishop.

If bishops were willing to give, sell, or lease school buildings and furnishings to individuals or groups, present schools could be separately incorporated and become private Catholic schools operating with the permission of the bishop and subject to his authority in the areas of the school's Catholicity and religious education. The Board of Trustees of these schools would have jurisdictional authority (cf. Appendix A) in all other areas of the operation of the school including finances and personnel. The adoption of this option for the organization of schools would be a radical change in the traditional relationship of parish and diocesan schools to the bishop.

How boards of education relate to Catholic schools in any diocese is dependent on the organization of the schools and on the relationship of the bishop to the Catholic schools within his diocese. If a bishop wishes to involve himself actively in the administration of the non-parish schools, he may prefer to establish a diocesan board of education which would be constituted in a manner similar to

those boards which functioned in the dioceses of Philadelphia, Cincinnati, and Fort Wayne prior to the Third Plenary Council of Baltimore (1884). According to that model, the bishop would chair this board which would be responsible for the funding, curriculum, and personnel of the schools. The superintendent of schools could function as executive secretary of the diocesan board as a member of the bishop's chancery staff. Membership on this board could be appointed by the bishop from among interested clergy, religious, and laity of the diocese. Under the leadership of the bishop, this type of diocesan board would have jurisdiction over schools of the diocese. The bishop could also determine to constitute such a diocesan board as consultative to him and/or to the superintendent of schools. In this arrangement, membership could be the same as the jurisdictional board. The difference rests in the direct involvement of the bishop in the deliberations of the diocesan board.

If the bishop chooses (although none has), he could activate the legislation of the Third Plenary Council of Baltimore, which has not been rescinded nor contradicted, and establish a "Diocesan Commission of Examination." This commission's responsibilities would include the certification of teachers for employment in Catholic schools as well as reporting the findings of the local school commissions to the bishop. According to this legislation, the bishop would also mandate the formation of local school commissions to visit schools and report their condition to him through the president of the diocesan commission. According to this approach, the diocesan

board or commission would have zone jurisdiction in the area of certification of teachers and the board of the school would have responsibilities in other areas of the school's operation under the authority of the bishop.

Members of the diocesan commission could be appointed by the bishop from among clergy, religious, and laity of the diocese who are qualified to judge the competency of Catholic school teachers. Members for the local school board could be selected by appointment or election depending on the preference of the community which supports the school. The important qualification for membership would be that individual members should be capable of and interested in seeing that the school is administered according to diocesan policies. This type of local school board would be categorized as regulatory and therefore administrative according to Udoh's classification.

These models presume that the bishop of a diocese is in a position to foster and encourage the development of schools within his diocese. In each of these examples, he takes an active role personally or through his appointed vicar or superintendent in the administration of schools, especially those that are organized as non-parish schools. Boards which function at the diocesan level could be constituted as zone jurisdictional or consultative depending on the preference of the bishop and his direct involvement in the activities of the board. If the diocesan board has zone jurisdiction, under the authority of the bishop, and formulates clear diocesan

policies then the boards for the local school would function most effectively as regulatory and consultative to the administrator of the school.

In those circumstances in which the bishop is not willing or able to assume the leadership for Catholic schools himself or through his appointed vicar or superintendent, he should consider allowing non-parish schools to incorporate separately in accord with the regulations of the state. In this way, parents and other interested people could assume direct responsibility for the operation of the school. The Boards of Trustees for each of these schools would be accountable to the bishop to ensure that the school is Catholic and that its religious education program is consistent with diocesan policies. Within this understanding of the bishop's canonical authority over private Catholic schools, the Boards of Trustees would have jurisdiction over the school's total operation.

Recommendations

A major reason why many Catholic school boards have not functioned successfully is that the organizational system under which they and the schools function is not consistent with the authority structure of the Roman Catholic Church. Even with the most clearly defined lines of authority relationships, for example, bishop and pastor, the issue of who has the power is often not clear in given situations. When authority lines are not defined, the tensions between who has authority and who has power are even more noticeable.

As a matter of fact, a strong argument can be made for the suggestions that when a person's authority is questioned or threatened, he has a natural tendency to withhold power to himself rather than allow others to exercise it.

The Roman Catholic Church is a hierarchical organization. The decrees of Vatican Council II did not alter the fact that within his diocese, the bishop has final authority. In the consideration of the functions of school boards in the church, this recognition is critical. The questions which some proponents of the Catholic school board movement after Vatican Council II had regarding who controls or should control Catholic schools may still be unanswered. However, there is no question as to who has authority for Catholic schools within the diocese. (The issue of whether this should be the case is not the subject of this study.) The fact is that if Catholic schools and their boards are going to be part of the institutional church, they must operate in a manner consistent with the church's authority.

Given this fact, I recommend that:

all non-parish schools which are not private be formally erected by the bishop as moral persons in their own names.

This step would not solve the tensions between authority and power, but it would at least clearly establish non-parish schools within the organizational structure of the diocese. The principal would become the canonical administrator of the school, accountable to the bishop. Responsibilities of the school board would be determined by diocesan policies regarding all consultative bodies within the diocese.

The Catholic school board movement after Vatican Council II attempted to answer the question of who controls Catholic schools by urging that boards of education be constituted as jurisdictional. By attacking the authority structure of the church relative to schools, proponents of this type of board diverted attention from the real issue of who in fact has power or control over the operation of the schools. For example, bishops and pastors may traditionally have had authority for schools, but they have never had the power to force parents to send their children to Catholic schools or to build schools where there were inadequate resources and/or lack of interest in the school. For example, even though the Third Plenary Council of Baltimore legislated that all Catholic children should attend Catholic schools and that all pastors should build schools, unless parents and pastors were exempt from their obligations by the bishop, these mandates have never been universally fulfilled. Obviously authority and power did not reside in the same person or group.

Even though Vatican Council II did not alter the authority structure of the church, its decrees and spirit certainly enhanced the roles and responsibilities of all people within the church. Therefore, I recommend that:

each diocese establish a diocesan school board as well as a local board for each elementary and secondary school.

If the bishop chooses to chair this diocesan board himself, the board should be constituted as zone jurisdictional. The areas in which the board would not have jurisdiction are those regarding the schools'

Catholicity and religious education since these aspects of the schools are related to the canonical authority of the bishop which he cannot delegate. However, if the bishop does not assume an active role on the diocesan school board (and this is the more likely case), then the diocesan school board should be constituted as consultative to the bishop. In this instance, it is essential that the bishop detail for the school board the areas in which he wants diocesan policies formulated and those which he wants to reserve to the local school level. As a matter of fact, the consultative diocesan school board cannot and should not function without this clear direction from the bishop. It is important to remember that the distinction between diocesan and local school authority is within the provisions of Canon Law which give each moral person clear rights and responsibilities within the church.

I recommend that the bishop charge the diocesan school board with the responsibility to formulate policies (even if the board is constituted as zone jurisdictional only the bishop has the authority to enact diocesan policy) in the following areas:

1. the establishment of a formula for the local funding of schools. This formula should include percentage relationships for the annual operating budgets of schools between tuition, parish(es) financial support, and third source funding.
2. standards and means by which Catholic elementary and secondary schools would be evaluated and accredited. This responsibility would include the qualifications of teachers, especially those who teach religion, as well as specific requirements regarding the religious education curriculum.

Even with this clear mandate, the diocesan school board will immediately face the issue of who has responsibility for school property and how to factor this responsibility into a funding formula. As canonically established moral persons, non-parish schools assume administrative responsibility for their own property. In the schools which are parochial, the parish is responsible for the administration of all parish property, including the buildings used by the school.

Parishes, according to church law, are relatively autonomous regarding the administration of their goods and services. I have recommended that the non-parish schools be accorded this same status. Within this structure where the administrator of the school is responsible to the bishop, I recommend that:

local school boards be constituted as consultative to the school administrator and responsible to assist the administrator in the following areas:

1. financial management of the school, including the implementation of the diocesan funding formula,
2. hiring of personnel, and
3. selection of curriculum and textbooks.

The preceding recommendations regarding non-parish schools being established as moral persons in their own names will create some problems for the administration of the traditional parish schools. One of these which was mentioned in relation to the funding formula is the question of who is responsible for the property used by the school. The legal ownership of church property is determined by civil law and varies depending on state statutes. Canonically, however, church property is not administered at the diocesan level, but at the parish level even if the parish is not the legal owner of the property.

Establishing non-parish schools as moral persons places the responsibility for the administration of property with the school. It does not address the issue of whether the amount of tuition charged in non-parish schools should include capital improvements and extraordinary maintenance costs while the tuition charged in parish schools would not usually include such costs.

This question raises the issue of why any Catholic school must be considered part of a parish rather than have an existence in its own right. The fact that throughout the country most new parishes are established without much thought being given to building a parish school supports the conviction that the type of Catholic parish which built and maintained elementary schools and supported central secondary schools in the past does not in fact exist in today's Catholic Church. Whether a school operates as a parochial school today is a matter of historical circumstances rather than deliberate planning. If some Catholic schools within a diocese can be recognized as having legitimate existence of their own within the diocese, all schools ought to be given this same opportunity. Therefore, I recommend that:

serious consideration be given by bishops to formally erecting all non-private Catholic schools as moral persons in their own names.

If this recommendation were accepted, lines of accountability and responsibility for all Catholic schools would be clearly established. Both canonical and educational administration would be the responsibility of one person, the principal. The present bifurcated

arrangement which officially recognizes the pastor as the canonical administrator of the parish, including the school, and the principal as the one who assumes responsibility for the daily operation of the school would no longer exist.

When lines of authority and accountability are not clear or not accepted, it is difficult if not impossible for individuals and boards to function effectively and efficaciously regardless of the most detailed and sophisticated diocesan organizational charts (cf. Appendix C). Recognizing the authority structure within which individuals and groups must operate does not in itself guarantee that there will be no problems regarding the administration of Catholic schools, but this recognition does permit people to know what is expected of them as administrators and how boards can function properly. When clarity regarding authority and accountability is lacking, more time is spent trying to determine how a board is to function than on the issues at hand.

It is a fallacy to assume that if an individual or board does not have final authority, it does not have a valuable role within the church. As a matter of fact, authority and power need not, and often do not, reside in the same person or group. Clearly stated lines of authority and accountability will free people to exercise responsible power within the church and Catholic schools.

The recent statements of the American bishops and the Vatican's Sacred Congregation on Education restate the unique role which Catholic schools have within the mission of the church.

Diocesan educational leaders, including bishops, have a responsibility to organize schools and constitute their school boards to ensure that these schools will continue to serve this unique role in the future. The recommendations which have been made in this study reflect the history and tradition of Catholic school education in this country while recognizing the needs of today's church and schools. These recommendations also exclude the option of adapting a public school organizational model because there are significant differences between the two educational systems. Attendance at Catholic schools is a free choice, while public school attendance is determined in most cases by the residence of parents. Public school attendance districts do not overlap geographical areas, while several Catholic schools may be located within one public school attendance zone. The other major difference between the two systems is the source of financial support. The funding of public schools is primarily the joint responsibility of state and local governments. Catholic schools are funded by subsidies from local parishes, tuition payments of parents, and a combination of these two sources.

The prevailing questions of the past twenty years were who does and should control Catholic schools? The question for the 1980's is: Will Catholic school leaders, including bishops, organize schools and constitute their boards in ways which are consistent with the authority of the Catholic Church and responsive to the rights of parents to have a voice in the operation of their children's schools?

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APPENDIX A

SAMPLE CONSTITUTION

ARTICLES OF INCORPORATION

LUTHERAN SCHOOL ASSOCIATION OF

(NAME OF CITY), INCORPORATED

THESE ARTICLES OF INCORPORATION are executed by the undersigned, natural persons more than twenty-one (21) years of age, for the purpose of organizing a (name of state) corporation under Chapter ___ of the (name of state) Statutes, known as "the nonstock corporation law".

ARTICLE I

NAME

The name of the corporation is:

LUTHERAN SCHOOL ASSOCIATION OF

(NAME OF CITY), INCORPORATED

ARTICLE II

PERIOD OF EXISTENCE

The period of existence of the corporation is perpetual.

ARTICLE III

PURPOSES

The purposes for which this corporation as organized are:

A. To promote Lutheran education and to establish, conduct, control, manage, and maintain Lutheran schools for that purpose in the State of _____.

(Name of school) admits students of any race, color, national and ethnic origin to all the rights, privileges, programs, and activities generally accorded or made available to students at the school. It does not discriminate on the basis of race, color, national and ethnic origin in administration of its educational policies, admissions policies, scholarship and loan programs, and athletic and other school administered programs.

B. To acquire by gift, option, lease, purchase, conveyance, devise, or in any lawful manner, real or personal property, with the full right to lease, sell, or otherwise dispose of the same; and,

C. To borrow money for the purposes of the corporation and to give security therefor; and,

D. To have all powers of a corporation organized under Chapter ___ of the (name of state) Statutes, when no inconsistent provision is made by law or in these Articles of Incorporation as specified in Section _____ of the (name of state) Statutes, and, in general, do all things and perform all acts incident to or necessary or proper in carrying out the business and purposes of the corporation, and

E. to engage in any lawful activity within the purposes for which corporations may be organized under Chapter ___ of the (name of state) Statutes.

ARTICLE IV

PRINCIPAL OFFICE AND REGISTERED AGENT

The principal office of the corporation is in the City of _____, (name of state), and the name and address of the corporation's registered agent is:

Name of individual
Street
City, state, zip

ARTICLE V

MEMBERSHIP

The designation of the class or classes of members, and the qualifications, rights, and method of acceptance of members of each class, the manner in which members may be expelled from membership, and the limitations on or denial of voting rights of members or any class or classes of members, shall be set forth in the Bylaws of the corporation.

ARTICLE VIDIRECTORS

The affairs of the corporation shall be managed by a Board of Directors and the number, qualifications, and classes (if any) of the Directors shall be fixed by the Bylaws of the corporation, but the number of Directors shall not be less than three (3), and the Directors shall be elected or appointed in the manner and for the term provided in such Bylaws. The Directors constituting the first Board of Directors and the addresses of each such Director are as follows:

(Name of chairman), Chairman
(Street)
(City, state, zip)

(Name of vice chairman), Vice-Chairman
(Street)
(City, state, zip)

(Name of secretary), Secretary
(Street)
(City, state, zip)

(Name of treasurer), Treasurer
(Street)
(City, state, zip)

These directors shall hold office for such period as may be specified in the Bylaws.

ARTICLE VIISHARES OF STOCK AND DIVIDENDS PROHIBITED

The corporation shall not have or issue shares of stock, and no dividend shall be paid and no part of the income of the corporation shall be distributed to or inure to the benefit of its members, Directors, or officers.

ARTICLE VIIIDISTRIBUTION OF ASSETS ON DISSOLUTION,DISCONTINUANCE OR LIQUIDATION

In the event it becomes necessary or expedient for any reason whatsoever to dissolve the corporation or cease the activities thereof, then all of the remaining assets, property, and income owned or held by the corporation shall be used exclusively for one or more of the exempt purposes described in Section 501 (c) of the Internal Revenue Code, or for charitable, scientific, literary, or educational purposes that qualify within the definition of the purposes for which this corporation was created.

ARTICLE IX

AMENDMENT

These Articles of Incorporation may be amended in the manner authorized by law at the time of the amendment. No amendment shall be adopted which changes this corporation from a charitable corporation to that of a corporation organized for the pecuniary profit of the members thereof.

ARTICLE X

INCORPORATOR

The name and address of the incorporators are as follows:

(name of chairman) _____
 (street) _____
 (city, state, zip) _____

(name of vice-chairman) _____
 (street) _____
 (city, state, zip) _____

(name of secretary) _____
 (street) _____
 (city, state, zip) _____

(name of treasurer) _____
 (street) _____
 (city, state, zip) _____

Executed in duplicate this ____ day of _____, 19__.

(signature of chairman) _____
 (typed name of chairman)

(signature of vice-chairman)
(typed name of vice-chairman)

(signature of secretary)
(typed name of secretary)

(signature of treasurer)
(typed name of treasurer)

(The sworn statement of witness of a licensed notary public is to be included here, if required by state law.)

SAMPLE BYLAWS

BYLAWSLUTHERAN SCHOOL ASSOCIATION OF
(NAME OF CITY), INCORPORATEDARTICLE IPURPOSE

The purpose of such corporation shall be to promote Lutheran education to establish, conduct, control, manage, and maintain a Lutheran school for that purpose in the State of _____.

A complete statement of philosophy and goals is attached to these Bylaws.

ARTICLE IIMEMBERSHIPSection 1 - Congregational Membership

Any _____ Synod Lutheran congregation desiring to be a member of the Lutheran School Association of (name of city) shall:

- A. Adopt a resolution to that effect;
- B. Select delegates in the manner prescribed by these Bylaws;
- C. Make formal application to the secretary of the Association on the form authorized by the Board of Directors;
- D. Contribute an annual sum as determined and published from time to time by the Board of Directors;
- E. Involve itself in the recruitment of students;
- F. Support the programs of the Association.

Section 2 - Associate Membership (Optional)

Any Lutheran congregation not belonging to or affiliated with the _____ Synod desiring Associate Congregational membership shall:

- A. Adopt a resolution to that effect;
- B. Select a representative in the manner that delegates are selected by member congregations; Associate Congregational Representatives shall be accorded the full privileges of the floor in any meeting, but shall not be entitled to vote or hold office;
- C. Make formal application to the secretary of the Association on the form authorized by the Board of Directors;
- D. Contribute an annual sum as determined and published from time to time by the Board of Directors;
- E. Involve itself in the recruitment of students;
- F. Support the programs of the Association.

Section 3 - Individual Membership

Any eligible individual desiring individual membership in the Association shall:

- A. Comply with the Articles of Incorporation;
- B. Make formal application to the secretary of the Association as specified by the Board of Directors;
- C. Contribute an annual sum to be determined and published from time to time by the Board of Directors;
- D. Involve himself in the recruitment of students;
- E. Individual members shall be accorded the full privileges of the floor in any meeting, but shall not be entitled to vote or hold office unless also chosen as representatives of congregations holding congregational membership.

ARTICLE III

ASSEMBLY OF CONGREGATIONAL DELEGATES

Section 1 - Delegates

Each congregation holding congregational membership in this Association shall annually select from its midst (number) delegates and as many alternates as it deems necessary who shall be accredited to the secretary of this Association. All delegates shall be communicant members in good standing of the local congregation. A congregation may choose to elect a pastor, a Director of Christian Education, or laypersons as members of its delegation.

Section 2 - Voting Franchise

At any meeting of the Association each accredited delegate present, or his alternate, shall be entitled to one vote.

Section 3 - Responsibilities of Delegates

Delegates shall be responsible for keeping their congregations informed about the activities and progress of the Association, serve as liaison between the congregation and the Association, actively participate in the recruitment of students, and foster financial support for the Association. One delegate from each participating congregation shall be designated as chairperson of the respective delegation.

Section 4 - Regular Meetings

There shall be (number) meetings of this Association annually. These meetings shall be held on a determined and published date in the months of _____, _____, and _____. The _____ meeting shall be designated as the annual meeting, at which time elections shall take place. Delegates shall be notified of meetings _____ number of days prior to the meeting.

Section 5 - Special Meetings

Special meetings of the Association may be called by the Board of Directors or at the written request of (number) member congregations, as defined in Article II, Section I of the Bylaws of the Association. Delegates shall be notified of the special meeting and its purpose at least ten days prior to the date of the meeting.

ARTICLE IV

BOARD OF DIRECTORS

Section 1 - Membership

The Board of Directors shall consist of (number) persons, (number) of whom shall be pastors, and (number) of whom shall be lay-people. Any member in good standing of a congregation holding congregational membership in this Association shall be eligible.

Section 2 - Term of Office

The Directors elected shall hold office for a term of three years and/or until their successors have been chosen. No Director shall be elected for more than two consecutive terms.

Elections of Directors shall be held at the annual meeting of the Assembly of Congregational Delegates.

Section 3 - Vacancies

Any vacancy occurring on the Board between elections shall be filled by an appointee of the Board. The individual so appointed shall hold office for the unexpired term.

Section 4 - Election of Officers

After each annual election the Board of Directors shall organize and elect from its midst the following officers: A chairman, a vice-chairman, a secretary, and a treasurer.

Section 5 - Powers

The Board of Directors shall be empowered:

- A. To conduct, manage, and administer the affairs of the Association; to hold all monies and property, real, personal, and mixed, however acquired, and shall use, manage, and conduct the same under the direction and for the use and benefit of this organization; to accept or reject gifts, grants, bequests, legacies, and devises; at the direction of the Association to acquire, sell, transfer and convey, mortgage, and pledge all real and personal property for the Association; to provide proper bond for the officials who are charged with the handling of the funds of the Association; to provide for an annual audit of the financial records of the Association; to provide for the financial needs of the Association and administer its funds; to determine and publish a budget, tuition rates, and various membership fees annually or as changes are made; to appoint such additional officers and committees as may from time to time be deemed necessary;
- B. To supervise the activities of the school; to determine and to ratify educational and academic policies of the school;
- C. To report its actions at each regular meeting of the Association; to prepare the agenda for each meeting of the Association;

- D. To call, employ, appoint, and/or dismiss instructors.

Section 6 - Meetings

Regular meetings of the Board of Directors shall be held monthly. The place, day, and hour of such meetings shall be established by the Board and should be announced to the Association.

Special meetings of the Board may be called by the chairman or upon written request of (number) members of the Board. Notices of such special meetings shall be duly given by the secretary (number) days in advance, announcing the purpose of the meeting.

Any action required or permitted by the Articles of Incorporation or Bylaws or any provision of law to be taken by the Board of Directors at a meeting or by resolution may be taken without a meeting if they consent in writing, setting forth the action so taken, shall be signed by all of the Directors then in office.

ARTICLE V

LIMITATION OF BOARD POWER

This Association limits and restricts the powers of the Board of Directors by reserving to itself the right to approve or disapprove the incurring of any extraordinary liability and expenditure. (If desired, the limitations on these powers can be enumerated.)

ARTICLE VI

DUTIES OF OFFICERS

Section 1 - Chairman

The duties of the chairman shall be:

- A. To preside at all meetings of the Board of Directors and at all meetings of the Association;
- B. To serve at the direction of the Board in capacities that may be determined from time to time;
- C. To sign and acknowledge all deeds and instruments for the transfer, conveyance, and assignment of the property belonging to said Association, and all instruments, contracts, and papers necessary or convenient in the transaction of the business and affairs of this Association;

- D. To make a full and detailed annual report of the affairs of the Association.

Section 2 - Vice-chairman

The duties of the vice-chairman shall be to act in the capacity of the chairman in the latter's absence or disability.

Section 3 - Secretary

The duties of the secretary shall be:

- A. To keep an accurate record of the minutes of all meetings of the Association and the Board of Directors;
- B. To carry on such correspondence as directed by the Association and the Board;
- C. To send proper notices of meetings;
- D. To maintain the official roster of the congregations and individuals belonging to the Association, and to keep safely and systematically all papers, records, and documents belonging to the Association.

Section 4 - Treasurer

The treasurer shall be bonded. His duties shall be:

- A. To manage the funds of the organization as directed by the Board of Directors;
- B. To keep, or cause to be kept, an accurate record of all receipts and disbursements;
- C. To make periodic reports to the Board of Directors and the Association;
- D. To submit his records for annual audit.

Section 5 - Executive Committee

The above named officers shall serve as an executive committee between meetings of the Board of Directors at the direction of the Board.

ARTICLE VII

NOMINATIONS AND ELECTIONS

Section 1 - Nominating Committee

The chairman shall announce at the (month) meeting what offices are to be filled at the next annual meeting, and shall, at the same time, appoint and instruct a nominating committee consisting of (number) members.

Section 2 - Slate of Candidates

It shall be the duty of the nominating committee to prepare a slate, designating for each office two candidates who have indicated their willingness to serve, and to present such slate to the delegates at the next annual meeting. Any delegate of the Association may propose additional candidates from the floor. The Association shall accept or reject all nominations by a majority vote of the delegates present.

Section 3 - Qualification of Nominees

Any person nominated for the office of Director shall be a communicant member of an Association congregation.

Section 4 - Election

Elections of the members of the Board of Directors shall be by ballot distributed to accredited delegates or their alternates. A majority of all votes cast shall decide an election. After the first election of the Association, (number) pastors, and (number) of lay-people shall be elected annually.

ARTICLE VIIIQUORUM

A majority of delegates present at any regular or special meeting of the Association shall constitute a quorum. A majority of the membership of the Board of Directors shall constitute a quorum at any Board meeting.

ARTICLE IXFINANCIAL OBLIGATIONS

Every congregation holding membership in this Association shall be obligated for and contribute its pro rata share of the Association's annual budget requirements as established by the Association's delegate meeting, and, insofar as practicably possible, shall pay the same at the rate of at least one-twelfth thereof each and every month until fully paid. The method of raising such financial obligations shall be determined by the individual congregation.

If the member congregation finds it impossible because of unique circumstances to meet its financial obligation, the Board of Directors shall enter into negotiations with the congregation in order to arrive at a God-pleasing resolution of the difficulty, even to the extent of a temporary reduction of the assessment.

ARTICLE X

THE ADMINISTRATOR

The administrator of the Association's school shall be engaged by and be subject to the authority of the Board of Directors. He shall be required to attend all Board and Association meetings, and shall be an ex-officio member of all committees of the Board.

ARTICLE XI

CORPORATE SEAL

The corporate seal of the corporation shall have the following inscription: The Lutheran School Association of (name of city).

ARTICLE XII

DISSOLUTION

In case of division or schism in the membership resulting in an actual separation, all property of the corporation shall be retained by that group which remains true to the aim as defined in Article III of the Articles of Incorporation and continues to hold membership in the _____ Synod. (Other options may be considered).

ARTICLE XIII

AMENDMENTS

These Bylaws may be amended by a two-thirds majority vote of the delegates present (providing there is a quorum) and voting at any regular meeting of the Association, or at any special meeting called for that purpose, provided that a written copy of the proposed amendment has been mailed to the delegates 60 days prior to the meeting at which the proposed amendment is to be voted upon, and provided that at least half of the member congregations are represented when the vote upon the proposed amendment is taken.

APPENDIX B

SUGGESTED CONSTITUTION FOR A DIOCESAN BOARD OF EDUCATION*

ARTICLE I

Name, Purposes & Duties

Section 1. There is hereby established a Board, under the name of "Diocesan Board of Education," having the purpose and the duties of governing all matters pertaining to education in the Diocese of _____. These shall be deemed to include Catholic schooling and all other formal educational activities, including all matters pertaining to the Diocesan Office of Education; the location, opening and closing of schools; the location, opening and closing of catechetical centers; the determination as to whether schools or catechetical centers shall be operated in given locations; classes; teachers, salaries, educational, athletic and related programs; finances; standards of education; application of Christian principles to the educational programs; and all formal courses of religious education. All decisions of the Board of Education shall be binding upon the Superintendent of Education; the Office of Education; all subordinate Boards of Education; and the pastors, principals and staffs of the schools and catechetical programs within the Diocesan system.

ARTICLE II

Membership on Board

Section 1. Number and Composition. The Board of Education shall be geographically and numerically representative of the Catholic community. It shall include clergy and laity. It shall have representation of the religious orders serving the Diocese.

Section 2. Election, Vacancies, Removal. The members of the Board shall be elected by a method to be established. Vacancies on the Board shall be filled in the same manner. Any member of the Board, other than an ex officio member, who is absent from two consecutive regular meetings of the Board shall, unless excused by action of the Board, cease to be a member.

*Voice of the Community

Section 3. Tenure of Office. Each member shall hold office for the term of three years, provided, however, that in order that the terms may be staggered, and that one-third of the members of the Board may be elected in each year beginning three years from the date thereof, the initial terms shall be divided so that _____ members will have a term of five years, _____ members for a term of four years and _____ members for a term of three years. The present and future members of the Board shall hold office until successors be elected or until prior resignation or death or until prior disqualification by absence from two consecutive Board meetings not excused as aforesaid.

Section 4. Ex Officio Membership. The Bishop of the Diocese of _____ shall be an ex officio member of the Diocesan Board of Education.

ARTICLE III

Officers

Section 1. Creation of Officers. The officers of the Board shall consist of a President, Vice-President, a Recording Secretary and such assistants and additional officers as the Board may elect.

Section 2. The Superintendent of Education. The Board shall retain an executive officer who shall be the Superintendent of Education. Said officer shall be considered not a member of the Board.

Section 3. Election, Tenure, Vacancies and Removal. Officers shall be elected annually at the annual meeting of the Board designated for this purpose. They shall be from nominations submitted by a Nominating Committee appointed by the President and by any member from the floor; they shall hold office until the next annual election and thereafter until their successors are duly elected and qualified.

Section 4. President. The President shall act as Chairman of the Board and of any Executive Committee; shall be the executive head of the Board; shall appoint all committees unless otherwise specified by the Board; shall execute on behalf of the Board all written instruments except as otherwise directed by the Board; shall be responsible for the agenda to be used at meetings; shall be responsible for reporting the actions of the Board to the Bishop of _____; and in general shall perform all duties incident to the office of a President and such other duties as from time to time may be assigned to him by the Board.

Section 5. Vice-President. The Vice-President at the request of the President shall perform the duties and exercise the functions of the President and when so acting shall have the power of the President, and shall perform such other duties as delegated by the President.

Section 6. Secretary. The Secretary shall keep the minutes of the meeting of the Board; shall see that all notices are fully given in accordance with the provisions of this constitution; shall be custodian of the records of the Board; shall see that the Board seal is affixed to all documents, the execution of which on behalf of the Board under a seal is duly authorized and when so affixed may attest the same; and in general, shall perform all duties incident to the office of the Secretary of the Board and such other duties as from time to time may be assigned by the President of the Board.

Section 7. Assistant Officers. The Assistant Officers shall have such duties as from time to time may be assigned to them by the Board or by the President.

ARTICLE IV

Meetings

Section 1. Regular, Special and Annual Meetings. The Board shall meet _____ subject to change by the Board itself or to postponement by the President. Special or additional regular meetings shall be held whenever called by the President or by a majority of the Board. The regular meeting held in the month of May in each year, or if none is held in that month, then in the next month in which a regular meeting is held shall be designated the annual meeting for the purpose of election of officers and any annual report.

Section 2. Time, Place and Notice. All meetings may be held at such times and places within or without the State as may be fixed by the President or by a majority of the Board upon not less than _____ days' notice. Notice of the place, day and hour of all meetings must be delivered in writing. All meetings of the Diocesan Board of Education are to be open meetings unless designated as being Executive. Decisions made in Executive sessions must be presented and voted on at open sessions before becoming effective.

Section 3. Quorum. A majority of the entire Board is necessary for the transaction of business at meetings; and a majority vote of those present shall be sufficient for any decision or election.

Section 4. Rules of Procedure. The Board may fix itself on rules of procedure but in the absence of such, Roberts "Rules of Order" shall apply.

ARTICLE V

Committees

Section 1. Executive Committee. The Board may provide for an Executive Committee of five (5) or more members, the President to be an ex officio member, and the other member or members to be elected by the Board and serve at the pleasure of the Board; the President is to be the Chairman thereof. During intervals between meetings of the Board, the Executive Committee may possess and execute all of the powers of the Board conferred in this constitution, to the extent authorized by the resolution providing for the Executive Committee or by subsequent resolutions. The Executive Committee shall meet at the call of its Chairman and shall fix its own rules or procedures and notices to be given of its meeting. Meetings of the Executive Committee shall be open meetings. A majority shall constitute a quorum.

Section 2. Other Committees. The Board may by resolution provide for such other committees as it deems advisable and may discontinue the same at its pleasure. Each entity shall have such powers and shall perform such duties as may be assigned to it by the Board and shall be appointed and vacancies filled in the manner determined by the Board. In the absence of other direction, the President shall appoint all committees.

ARTICLE VI

Office of Education

Section 1. Constitution, Staff, Appointment. There shall be an Office of Education for the Diocese of _____; a Superintendent of Education who shall be the Executive Officer of the Board of Education and other staff positions as the Board may deem appropriate; the Superintendent shall have such compensation and term of employment as determined by the Board. Other staff members shall have such compensation and other terms of employment as the Superintendent determines subject to the approval of the Board.

Section 2. Duties and Powers. The Superintendent of Education shall be responsible directly to the Board for the implementation of its policies in the Diocese. The Office of Education shall be

under the direction of the Superintendent and under his direction shall have immediate charge and control of the general administration and supervision of all formal education within the Diocese.

ARTICLE VII

Seal

Section 1. Seal. The Board's seal shall be the seal, an impression of which appears on the margin hereof.

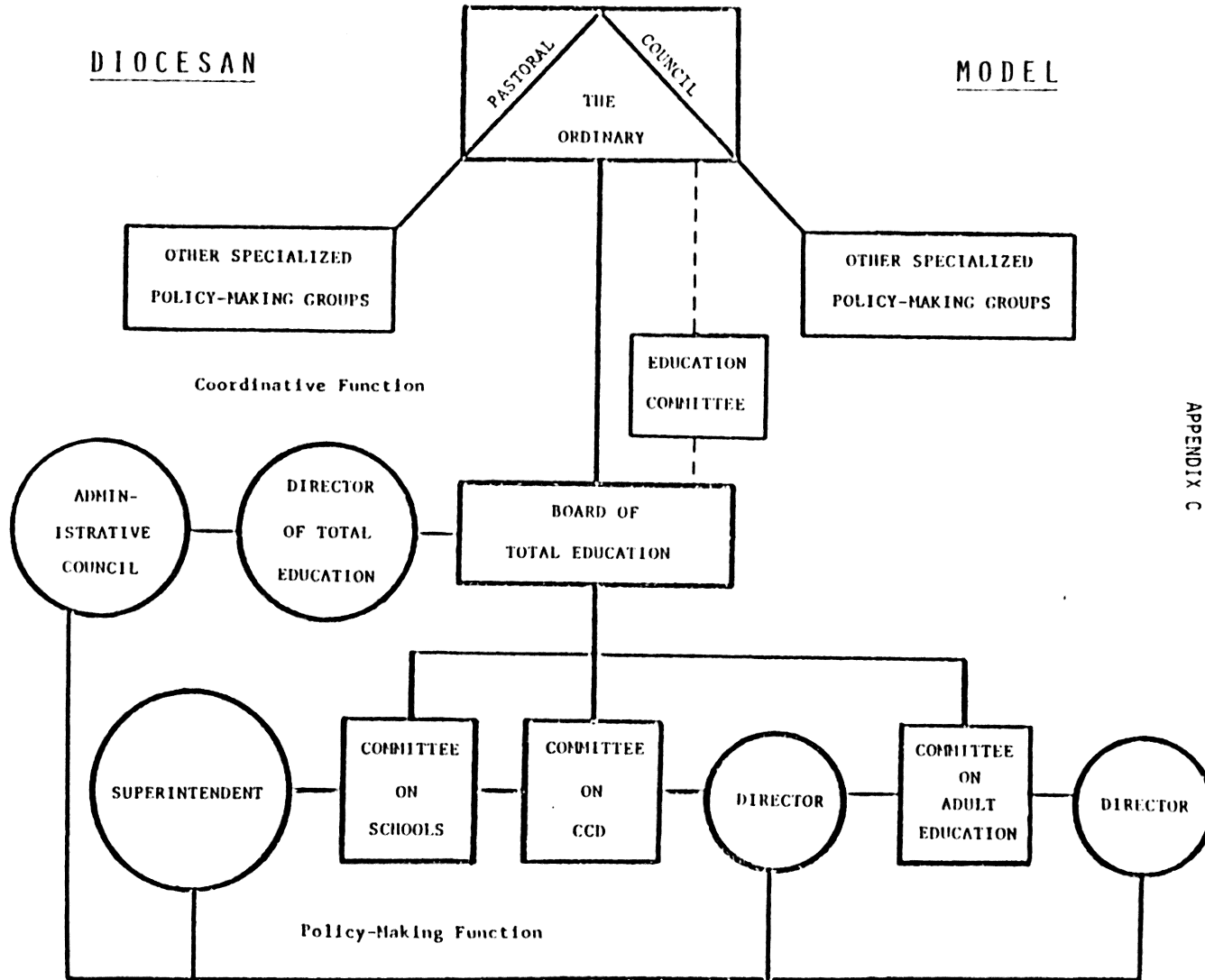
ARTICLE VIII

Amendment of Constitution

Section 1. Amendment. This constitution may be amended, supplemented or repealed in whole or in part at any time by a two-thirds vote of all of the members of the Board.

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APPENDIX C

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A STUDY OF THE FUNCTIONS OF SCHOOL BOARDS
IN THE EDUCATIONAL SYSTEM OF THE
ROMAN CATHOLIC CHURCH IN THE UNITED STATES

by

M. Lourdes Sheehan, RSM

(ABSTRACT)

Until the era of Vatican Council II in the mid 1960's, Catholic elementary and secondary schools functioned within a clearly established authority structure. Parochial schools operated under the authority of the pastor of the parish and diocesan or central schools under that of the bishop of the diocese or his priest delegate.

Vatican Council II called for active lay participation in the life of the church and encouraged bishops to consult with the laity and value their contributions to the church. However, there is no evidence that the decrees of this Council altered the authority structure of the church. The Roman Catholic church is a hierarchical organization in which the bishop has final authority within his diocese. In many states, he also has complete civil authority in the tenure of church property.

Following Vatican Council II, the proponents of a renewal Catholic school board movement urged that these boards be constituted as jurisdictional with complete authority for Catholic schools. The model for these boards was based on the public school board model.

Since the authority structure of the Roman Catholic church is significantly different from that of the state which receives its authority from the people, the organizational systems including boards of education for Catholic and public schools must reflect these different authority sources.

This dissertation studies the authority structure of the Roman Catholic church, the reasons for the development of a separate Catholic school system in the United States, the development of central Catholic high schools, and the Catholic school board movement before and after Vatican Council II. It concludes by making recommendations for alternative models for reorganizing non-private Catholic schools within the authority structure of the church and for constituting diocesan and local school boards in a manner which gives parents a voice in the operation of their children's schools.