

Supreme Court Ruling Challenged

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Harrisburg, Pa. — In filing a petition with the U.S. Supreme Court for reargument of the Pennsylvania school aid case—*Lemon vs. Kurtzman*—attorneys for seven non-public schools in Pennsylvania and that state's attorney general challenged the court's decision on five counts and asked for a "supplemental opinion" to clarify its scope.

Significantly, they said the court left the "misleading" im-

pression that its action in the Pennsylvania case "constituted a final nullification and termination" of the state aid law, with respect to all nonpublic schools.

The petitioners called for a "supplemental opinion" to rectify the "misconception" that the decision was a final determination on the constitutionality of the law, which, they said was not the question before the court.

At the same time, they ac-

cused the court, not only of transgressing its own prior rulings by setting up an "entanglement (of church and state) test" which is a "suppression of religious liberty," but of suggesting that it disapproves of "free political expression by religious groups."

Attorneys for the seven non-public schools involved in the *Lemon* case feel the court erred in equating the Pennsylvania statute with Rhode Island's. They said the Rhode

Island law encompasses only Catholic schools in one diocese while the Pennsylvania case includes all types of non-public schools, Catholic, Protestant, Jewish, non-denominational and private.

In addition, they said there was no trial in Pennsylvania, with the high court considering only a "dismissal" by a lower federal court. He said the differences in the two cases were the main legal point contained in the new re-argument petition.

In the landmark June 28 decision, the Court ruled that Pennsylvania and Rhode Island laws providing salary supplements to teachers of secular subjects in non-public schools were unconstitutional. The court said the Pennsylvania statute, like that of Rhode Island, "gives rise to entanglements between church and state" because of the "very restrictions and surveillance necessary to ensure that teachers play a strictly non-ideological role."

The petitioners characterized the court's determination of entanglement as "pure guesswork" that plainly calls for reconsideration. They added that the test's application, can only depend upon "completely subjective factors . . . not remotely related to any known principal of law."

The "entanglement" approach, the petitioners said further, "presents all the vices of arbitrary and discriminatory government action which the court has deplored for other branches of government, including the vices of vagueness, overbreadth, and dragnet classifications."

The petition also asked the Court to remove, via supplemental opinion, "the suggested disapproval of free political expression by religious groups."

In this regard, the petitioners said the Court ruled out any public disputes concerning religious questions, and they added:

"We know of no prior opinion in the history of the Supreme Court in which the Court has presumed to state that some issues should be kept out of the forum of public discussion."



Heads Order

Father Eugene A. Marino, SSJ, has become the first black vicar general of a Roman Catholic religious order in the U.S. He was elected to the post by the Josephite Fathers, a community founded to serve black people. Father Marino, 37, is a native of Biloxi, Miss. He will serve a four-year term. (RNS)

NO POLAND VISIT

Vatican City — (RNS) — The Vatican has flatly denied renewed reports in the Italian press that Pope Paul VI is planning to visit Poland soon.

U.S. Pastoral Council Seen As 'Not Feasible Now'

Pomfret, Conn. — (RNS) — A national pastoral council for the Roman Catholic Church in the U.S. is "not feasible" at this time, according to the findings of a 15-member steering committee set up by the bishops of this country.

Following a four-day conference here, the committee said, however, that "the desirability of some structure on a national level is evidenced by widespread disillusion among elements of the People of God whose morale has, in effect, been destroyed . . ."

Msgr. J. Paul O'Connor of Youngstown, Ohio, chairman, told Religious News Service that a full report of the committee's findings will be provided to the 50-member Advisory Council of the U.S. Catholic Conference when it meets Sept. 10 in Marriottsville, Md.

He said the council can then decide what the next move on a national pastoral council will be. The council may instruct the steering committee to go ahead with a full working pa-

per on a pastoral council or suspend its study.

Although admitting that the committee's findings do not favor a national pastoral council now, Msgr. O'Connor said the entire report of his group is "very positive" about setting up some kind of national level body.

In effect, the committee's statement noted, "The Church's need to establish a renewed credibility with significant numbers of her people lends importance to the process and structure of an instrument such as a national pastoral council."

Noting that a fully-developed national pastoral council is not a plausible alternative at this time, the committee statement said, however, that "from the same study and consultation this committee judges as highly desirable some structure on a national level through which representative priests, religious and laity can share with the bishops in the decision-making process . . ."

The committee statement

went on to recommend strongly the use of a "vehicle," possibly the USCC Advisory Council itself, to "serve as a working model for future developments of a structure that would implement this shared responsibility on a national level."

Msgr. O'Connor told RNS that the steering committee released the statement because "we want to be open with our work." But he said he did not want to elaborate on the committee's full report until the Advisory Council has a chance to read it.

The handwriting appeared to be on the wall earlier this month when the National Council of Catholic Women (NCCW) released the findings of a survey among their members indicating that only 10 per cent of those polled favored a national body or pastoral council at the present time.

The NCCW was one of several national Catholic agencies asked by the steering committee to gauge grassroots opinion on the question of a national pastoral council.

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