

CAPE OUTLOOK



Administration Boosts Tax Credits

Calling tuition tax credits "our most favorite subject," John F. Burgess, Special Assistant to the President for Public Liaison, welcomed more than 240 participants in a Tuition Tax Credit National Meeting to a White House briefing on May 6. Edwin Meese III, Counselor to the President, told the group: "We think (the President's bill) is a very important, fair, equitable, necessary proposal and a desirable part of our tax changes."

The meeting was sponsored by the Campaign for Educational Assistance of the U.S. Catholic Conference in conjunction with the Council for American Private Education and Agudath Israel of America. Its purpose was to advance the grass roots support for tax credits which had been heightened by the President's April 15 announcement of intent to introduce an "Educational and Opportunity Equity Act."

Gary Jones, Deputy Undersecretary of the Department of Education, assured the group that the administration is "serious" about the bill and expects to send it to Congress in the first week of June. He added: "Tuition tax credits are quite reflective of the President's philosophy of government and of education," explaining that they serve the goals of reducing tax burdens and encouraging diversity and pluralism, while at the same time assisting parents to meet the obligation to educate their children. Moreover, the bill gives substance to the President's desire to limit federal intrusion into the private school sector since it is designed to aid students and parents rather than the schools themselves.

Cited below are some of the arguments against the bill, followed by the administration's responses (in italics):

Supporting tuition tax credits is mutually exclusive of supporting public education. *Both sectors can benefit from the credits.*

The bill aids private schools at a time when

funds for public schools are being reduced. *This is a tax equity measure and as such does not aid private schools at all.*

It aids the rich. *54% of private school parents have an adjusted gross income of under \$25,000.*

It is unconstitutional. *Administration lawyers think it will pass constitutional muster.*

Congress does not support it. *There is an enormous amount of hidden support on the Hill.*

It is too expensive. *The \$100 million price tag for fiscal '83 is negligible in terms of the overall federal budget.*

Asked to characterize the intensity of the President's support of the plan, Jones replied, "The President is committed to tuition tax credits. The gentleman believes in tuition tax credits and we don't expect to lose this year but if we do we'll come back with it."

CAPE announces the formation of Parents and Educators for Tuition Tax Credits. Composed of private school and parent organizations, it advocates the passage of tuition tax credit legislation. A forthcoming issue of *Outlook* will carry a full account of coalition activities.

ED Hosts Private-Public Conference

"The purpose of federal assistance," Education Secretary Terrel H. Bell told a conference on May 4, "is to enhance the capacity of others to do that which they have the responsibility to do."

And with those words, the federal government, under the auspices of Dr. Charles J. O'Malley's Office of Private Education, attempted to do exactly that. The Office had convened a National Private-Public School Leadership Conference in Washington on May 4-5, bringing together over 100 Department officials, public and private school administrators, members of state boards and departments of education, delegates from religious, independent and nontraditional schools and representatives from a wide array of educational organizations. The purpose of the conference, according to O'Malley, was to "get them all in the same room at the same time" for a discussion of common problems and aspirations.

(continued on page 2)

(continued from page 1)

In addition to sessions on block grants and the status of regulations on education for the handicapped in which conferees were invited to "ask the experts" from ED, the conference provided an opportunity for discussions of state governance of private schools. These, in general, focused on the problem of achieving a balance between the legitimate interest of the state in assuring that education of good quality is taking place in private schools and the equally valid desire of private schools to keep free of governmental interference.

Several key questions were raised by participants as they considered the tensions inherent in the interplay of state responsibility and private school autonomy:

Is the state's proper role one of verification or prescription?

Does the burden of proof of "quality education" lie with the state or the school?

Should otherwise law-abiding citizens disobey a law which violates their religious tenets?

What can the state justifiably require of a private school in the way of curriculum, teacher certification, accreditation, compulsory attendance, and the meeting of health and safety criteria?

What constitutes a "compelling interest" on the part of the state?

How can the states, in these times of dire fiscal stress, accommodate a public policy which seems increasingly to demand universal access to the "education of one's choice" as well as universal access to a "free public education"?

The questions of "what constitutes a school" and "what constitutes education" recurred as *leit motifs* throughout the discussions of governance. Conference participants seemed glad to hear the notion advanced at the end of the proceedings by Sam Peavey, Kentucky CAPE representative, that they "must have something to do with whether boys and girls learn something important."

Playing Hardball for Title I

The U.S. Catholic Conference went to bat again for Title I, but on this occasion it was competing in a new ballpark: for the first time in its history, the Conference went before a House education appropriations committee.

Testifying before the Labor/Health and Human

Services/Education Subcommittee of the House Appropriations Committee on April 27, Rev. Thomas Gallagher, Secretary for Education of U.S.C.C., and four archdiocesan school officials pleaded for the restoration of funds to the Title I program which has brought special aid to the nation's most educationally disadvantaged children.

Commenting on the Catholic community's historical concern for the poor, the disadvantaged and minorities, Bro. Edmund Baran, O.S.M., Coordinator of Special Programs for the Office of Catholic Education of the Archdiocese of Chicago, said, "The quiet voices of the poor are not loud enough to be heard. . . . Our hope today is that we will help make those voices be heard."

Father Gallagher testified: "The proposal to cut Title I over the next three years is, in our opinion, sounding a general retreat from this nation's responsibility to needy children. . . . We are very concerned with the state of the economy in this country. . . . but we also think that the education budget has already taken more than its share of budget cuts."

Asked by Rep. George M. O'Brien (R-Ill.) to choose between Title I and tax credit funding, Gallagher replied, "Some of the choices do not have to be made only in the education budget. I hate to think our problems must be resolved by pitting our children against each other. Perhaps the oil industry should be investigated and the cost of a bomber looked into. The education of our kids is as much a part of our national defense as building a bomb."

Legislative Update

Postal Subsidy

Efforts continue in House and Senate Budget Committees to support a subsidy of \$913 million for postal services for 1983.

Technical Education

S.2281 (Danforth, R-MO).

To amend the Internal Revenue Code of 1954 to encourage contributions of computers and other sophisticated technological equipment to elementary and secondary schools.

Senate Finance committee hearing May 7.

H.R.5573 (Stark, D-CA).

Pending in Select Revenue Subcommittee.

COUNCIL FOR AMERICAN PRIVATE EDUCATION/1625 Eye Street, N.W., Washington, D.C. 20006

(202) 659-0016

A coalition of 15 national organizations serving private schools (K-12)

[ISSN 0271-1451]

Robert L. Smith, *Executive Director*; Carla Gelband, *Editor*; Jay Roudebush, *Art Editor*; Tara Kalagher, *Reporter*

OUTLOOK is published monthly (September through June) by the Council for American Private Education. Annual subscription \$8. Council members: The American Lutheran Church • American Montessori Society • The Association of Evangelical Lutheran Churches • Association of Military Colleges and Schools of the U.S. • Christian Schools International • Friends Council on Education • Lutheran Church-Missouri Synod • National Association of Episcopal Schools • National Association of Independent Schools • National Association of Private Schools for Exceptional Children • National Catholic Educational Association • National Society for Hebrew Day Schools • Seventh-day Adventist Board of Education, K-12 • Solomon Schechter Day School Association • U.S. Catholic Conference • Associated state organizations in Arizona, California, Connecticut, District of Columbia, Florida, Georgia, Indiana, Kansas, Maryland, Michigan, Minnesota, Missouri, Montana, Nebraska, New Mexico, Oregon, Puerto Rico, Rhode Island, Tennessee, Texas, Virginia, Washington and Wisconsin.

Drug Distribution Deterrent

S.2263 (Hawkins, R-FL).

To provide federal penalties for illegal distribution of controlled substances in or adjacent to elementary and secondary schools.

Pending in Judiciary Committee.

Testing

H.R. 1662 (Weiss, D-NY); H.R. 1312 (Gibbons, D-FL).

No markup anticipated.

Extend Social Security Cut-Off Date

S.2107 (Levin, D-MI)

Pending in Finance Committee.

H.R. 6183 (Luken, D-OH).

Pending in Social Security Subcommittee.

Guidance for Elementary School Children

S.928 (Stafford, R-VT).

Subcommittee on Education, Arts and Humanities held hearings May 12.

H.R. 1598 (Perkins, D-KY).

Pending before Subcommittee on Elementary, Secondary and Vocational Education.

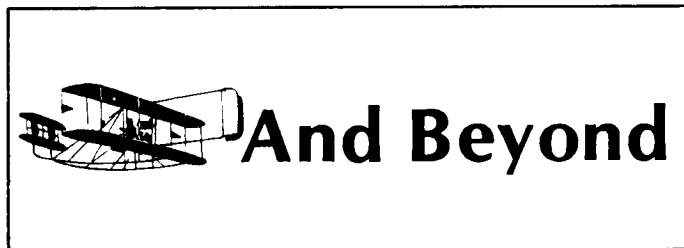
Capenotes

...Virginia-CAPE has elected Robert C. McIntyre, representing NAPSEC, as its new president.

...Area and state executives of the National Association of Independent Schools met in Washington on March 29-30. Charles O'Malley and Robert Smith spoke to them about issues in private education.

...CAPE has received a letter from Congressmen Gus Hawkins (D-CA) and Carl Perkins (D-KY) expressing gratitude for its leadership in "building unprecedented support for the ESEA-Title I program."

...Executive Director Smith addressed the annual meeting of the California Association of Private Schools for Exceptional Children on March 19.

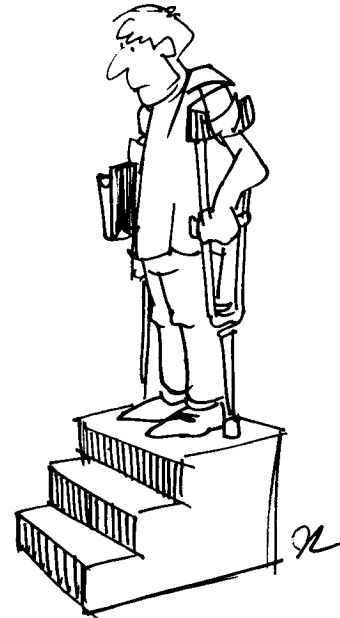


CAPE Holds "Special Ed" Meeting

CAPE held a meeting on April 26 to discuss special education in private schools with emphasis on serving the handicapped child in the regular classroom. Attendees included administrators, teachers and specialists with a common concern for the spe-

cial child in the CAPE organization schools. The goal of the meeting was to share information about the various programs which have been attempted and the problems still to be addressed.

Dr. Sally Smith, founder of the Lab School at the Kingsbury Center, Washington, D.C., spoke about three areas of difficulty which arise in educating the learning disabled child: dealing with the medical profession, with schools' admissions procedures and with insufficiently trained classroom teachers. Calling it "essential for each school to try to tailor



its teaching and programs to the needs of its special children," Dr. Smith added that schools must also be aware of their own limitations and know when they must refer a child to a more specialized institution.

Barbara Aiello, director of "The Kids on the Block," a troupe of puppets representing both handicapped and nonhandicapped children, described the lack of rapport among teachers who work with special children. She emphasized the need for cooperation among all teachers who deal with this population.

For a copy of the full conference report, contact the CAPE office.

Tara Kalagher

Court Upholds Minnesota Tuition Tax Deductions

A three-judge panel of the 8th U.S. Circuit Court of Appeals, disagreeing with its brethren on the First Circuit, has determined that a state tuition tax deduction law is constitutional. In the case of *Mueller v. Allen* the court upheld Minnesota's plan which allows a deduction of up to \$700 for expenses related to tuition, textbooks and transportation incurred on behalf of children attending public, nonpublic, secular or sectarian elementary and secondary schools.

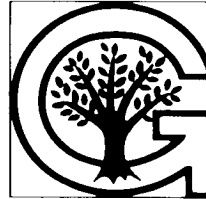
(continued on page 4)

(continued from page 3)

Recognizing that the First Circuit had reached an opposite conclusion on a Rhode Island tax statute nearly identical to the Minnesota law (*Rhode Island Federation of Teachers v. Norberg*, 1980), Chief Judge Donald P. Lay wrote, "...obviously the First Circuit's conflicting analysis in *Norberg* is cause of grave concern.... Nevertheless, our analysis places us in apparent disagreement with *Norberg*. We find the issue before us significant not only to the State of Minnesota but to the nation. Eventually, if not within the parameters of this case, the Supreme Court must decide whether statutes such as those in Rhode Island and Minnesota can survive constitutional scrutiny."

The court determined that Minnesota's law met the three-part test of constitutionality established in 1971 in the Supreme Court decision in *Lemon v. Kurtzman*: a statute must have a secular legislative purpose; it must have a principal or primary effect that neither advances nor inhibits religion; and it must not foster an excessive government entanglement with religion.

"We have applied the three-pronged test," the opinion said, "...and hold that Minnesota Statute §290.09, subdivision 22, does not violate the Establishment Clause. We acknowledge that this case falls in the gray area lying between constitutionally upheld tax exemptions...and unconstitutional tax "credits".... We have weighed all the factors; and, while we recognize the bestowing of some benefit to church-affiliated schools, we also find that any benefit to religion or involvement between church and state is so remote and incidental that the challenged deduction does not violate the constitutional wall separating church and state. We find that the dangers of (this statute) are quite far removed from those dangers which prompted inclusion of the Establishment Clause in the Bill of Rights."



*Now Available to all
CAPE Members*

**Grolier Educational Services
Introduces the Pre-School Support Program**

Including . . .

- Parent Talk Newsletters
- Resource Reports
- In-Service Tapes
- Plus much, much, more. . .

For information on this cost-free program available to participating schools contact Sam Rosen, Senior Vice President, Grolier Educational Services, 707 Westchester Avenue, White Plains, New York 10604. In New York call collect: (914) 682-4700. Out of Town call toll-free (800) 431-1256/7.

Grolier Educational Services
"Your Partner in the Pursuit of Educational Excellence."

CAPE OUTLOOK
COUNCIL FOR AMERICAN PRIVATE EDUCATION
1625 Eye Street, N.W.
Washington, D.C. 20006