

STATEMENT FROM THE NORTHERN CATHOLIC BISHOPS ON THE
DRAFT EDUCATION REFORM (N.I.) ORDER 1989

7th November 1989

The Education Reform (N.I.) Order will shortly be laid before Parliament. At that stage, no further amendments are allowed: the Order in its totality must be either accepted or rejected by Parliament.

At each stage the Bishops made written submissions and had consultations with the Secretary of State and the Minister for Education. Even though helpful amendments resulted, we were not completely satisfied with the consultation procedure. We refrained from public comment, however, so as not to jeopardise the consultation process.

In previous written submissions to Government we outlined our concerns at considerable length; and these concerns still stand. In this statement, we limit ourselves to some major matters of principle, and our observations are made following advice we have received from senior legal counsel.

POSITIVE ASPECTS OF THE PROPOSED LEGISLATION

There are aspects of the Draft Order which we welcome and support. We welcome in particular the recognition of the special place of religious education in the curriculum. The Catholic school sector is fully in support of the stated overall aim of the legislation, namely that the curriculum should promote "the spiritual, moral, cultural, intellectual and physical development of pupils and thereby of society", and should prepare the pupils for "the opportunities, responsibilities and experiences of adult life".

EQUALITY OF OPPORTUNITY FOR ALL PUPILS

There is at present an unacceptably high proportion of pupils who leave school with no qualifications. We have a well-founded fear that the provisions of the Order, far from remedying the situation, will aggravate it still further.

It has been stated that one of the reasons for introducing "assessment arrangements" at each key stage is to identify pupils with learning difficulties. Inevitably, however, the prominence given to assessment and to assessment results will put pressure on schools and on teachers to aim at achieving high grades in assessments, with the result that less time will be devoted and less attention given to low achievers. Indeed, since a school's "success" will be measured in terms of test results, some schools may be reluctant to enrol pupils with learning difficulties. Children who achieve lower results could be regarded by a school as a burden, and will come to see themselves as failures. Their self-image will be still further lowered, and their hope of achievement in adult life still further reduced.

The Draft Order is about educational reform. We feel strongly that any educational reform worthy of the name should have as one of its primary aims to ensure that every pupil has access to a fair share of the total educational resources available.

We express once again our concern for pupils in disadvantaged areas. The social needs of these pupils must be given serious consideration. They are predominantly children of the poor and they are by no means a small or negligible segment of the population. If equality of educational opportunity is ever to become a reality there must be a much greater allocation of resources to schools and pupils in such areas. Indeed they above all should have financial priority.

The laudable objective of improving the quality of educational opportunities for all children can only be achieved by the continuing commitment of teachers. The proposals in the Draft Order place greater demands and responsibilities than ever before on principals as well as on teachers generally and on Boards of Governors. They must all be given the resources needed to enable them to discharge their heavy responsibility.

OPEN ENROLMENT

Inequality of educational opportunity, to the disadvantage of the poor, will be further fostered by the introduction of open enrolment. One immediate result will almost certainly be an increase in enrolments in grammar schools, at the expense of enrolments in secondary schools. Pupils less suited to an academic curriculum will suffer; schools located in deprived areas will suffer. A number of secondary schools, particularly those in deprived urban areas and in the more remote rural communities, will be threatened with non-viability and closure. Some rationalisation of school provision is unavoidable because of factors already existing. Open enrolment, however, will lead to unnecessary and uncoordinated school closures, and will make planned and coherent rationalisation still more difficult. It should surely be government policy that rationalisation should be determined, not by so-called "market forces", but by educational considerations, and particularly by concern for a proper balance of educational opportunities for all children and a proper geographical distribution of schools. We have strongly recommended to government that additional funding, resources and supports should be made available to schools newly formed as a result of rationalisation, which are presently endeavouring to establish themselves, and also, before incipient decline becomes terminal, to schools which, because of falling numbers, are threatened with closure.

INTEGRATED EDUCATION

There is a considerable number of people who sincerely believe that "integrated education" would make a significant contribution to the alleviation of conflict and to the promotion of reconciliation in our society. We respect their sincerity and commitment. The Bishops are totally committed to the aims of promoting reconciliation and eliminating conflict. Nevertheless, the Draft Order attempts **no definition** of the term "integrated education", or of its objectives. It confines itself to the vague statement that "integrated education" is the "education together at school of Protestant and Roman Catholic pupils".

Apart from this, the Draft Order seems to assume unjustifiably that there is a clear and agreed understanding about what the term "integrated education" means, about what its aims should be or in fact are, and about the criteria which would entitle a school to call itself "integrated". In reality, there is no agreed understanding about what the term means, and there is no clear consensus about what the aims of integrated education are or even should be. The advocates of integrated education include people with a wide variety of views about these matters, and even a variety of commitment in respect of the value and importance of religious education in schools. It is misleading to use one term to cover such a wide variety of outlooks.

The question of definition is not an academic matter. It will have major implications for the educational budget. Nevertheless, the attempted "definitions" of "integrated education" put forward in the Draft Order are so loose and subjective that they could be fairly described as arbitrary. They leave the term "integrated education" unacceptably vague and leave its financial privileges wide open to abuse and manipulation by persons whose aims may ultimately be quite different from the pursuit of mutual understanding and of full and equal respect for the religious beliefs and the cultural and other traditions of our divided community.

Indeed, even if there were universal agreement about these very desirable aims, it by no means follows that "integrated education" is the best way or the right way to achieve them. There is in fact no basis either in empirical educational research or in actual experience in Northern Ireland to justify this assumption or to justify the decision taken by government to give **privileged status** to "integrated education" in the Draft Order. There are many ways of promoting mutual understanding and there are many Catholic

and Protestant teachers and groups working in the field of inter-community reconciliation at school level. It is therefore unfair and indeed unjust to these teachers and groups for government to propose to give special financial treatment only to those bodies which have as an objective "the encouragement or promotion of integrated education". It is invidious for government to single out "integrated education" as its preferential option and as alone meriting a formal commitment by government to "encourage and facilitate" its development.

Government should recognise that Catholic schools and teachers have been major agents in promoting a spirit of reconciliation and peace within their own communities. Furthermore, they have played a leading role in education for mutual understanding and in promotion of contacts and shared projects between Catholic and Protestant teachers and children at every level. Indeed the Minister himself and officials of his department have recently publicly acknowledged this.

Nevertheless it is proposed that grant maintained integrated schools will share with controlled schools the provision of 100% capital grants and it is further proposed that they will be given priority over all schools, whether in the voluntary grammar, the maintained, or the controlled sectors, in regard to new buildings and extensions. This priority will necessarily mean even longer delays and cutbacks in the provision of necessary building programmes in these three sectors. In the maintained sector we have already been experiencing long delays, in some cases up to 15 years, in the provision of urgently needed new buildings or extensions.

We note that submissions from the Education and Library Boards and from the Teachers Unions have also expressed concern at the consequences for the other sectors of the preferential funding arrangements proposed for integrated schools.

In justice the public purse should require the same proportion of capital expenditure from the providers of a grant maintained integrated school as it requires from the providers of other voluntary schools. The fact that over the years the contributions of the Catholic community have effected substantial savings to the public purse has not been adequately acknowledged.

Catholic parents have to pay a financial penalty for their exercise of parental choice. They receive only a percentage (at present 85%) of capital funding for the provision of the Catholic schools of their choice. By contrast, 100% funding will be offered for integrated schools, namely schools chosen by parents on foot of a different exercise of parental choice.

We believe that this is unjust. Indeed, it is our considered view, supported by legal advice, that under the Northern Ireland Constitution Act 1973, these provisions of the Draft Order may well be held to be discriminatory and therefore void.

TRANSFER OF SCHOOLS TO GRANT MAINTAINED INTEGRATED STATUS

The Draft Order places on the Department of Education the duty "to encourage and facilitate the development of integrated education, that is to say the education together at school of Protestant and Roman Catholic pupils". Precise proposals are included in the Draft Order which are intended to encourage schools to transfer out of the maintained and the controlled school sectors into the integrated school sector, and thereby to promote the expansion of a new school sector, that of Grant Maintained Integrated Schools.

From our point of view, this could only happen through constriction of the existing Catholic school system. This must be a matter of great concern to the Catholic community. The Catholic school system has operated in partnership with the Department of Education over many decades, and has given valuable service to the whole of society, and not simply to the Catholic community, over all that time. At a time when there is so much welcome emphasis being given by government to the furtherance of mutual understanding and equality of treatment for both religious traditions in Northern Ireland, it is anomalous and contradictory that proposals should now be brought forward which threaten the rights of many Catholic parents and endanger the integrity of the Catholic school system.

RIGHTS OF PARENTS

It will be replied that government is merely facilitating parental choice. We too respect and support parental choice. Unfortunately, parental choice for some conflicts with the parental choice of others.

In the case in question, a simple majority of present parents (in fact it need only be a simple majority of those parents participating in the ballot) could by ballot decide to seek to transfer a school out of the Catholic sector. Only the Department's approval is needed to effect the transfer; and departmental approval, so far as the wording of the Order is concerned, requires only that the Department be satisfied that "the school would be likely to be attended by reasonable numbers of both Protestant and Roman Catholic pupils".

The Order is speaking of parents who at present have children attending the school. But these have only passing interests or rights in this school. They may well have made no contribution to its building or maintenance. The school has been provided through the efforts and donations of a whole parish community, who paid the voluntary contribution which is required from the Trustees. The necessary subscriptions were offered by members of the total community as an expression of their desire and their right to provide Catholic education for present and future generations. The school is in essence a school catering for a community. It is now proposed that the school can, without the consent of the community and against the express wishes of a significant number of the voting parents, be transferred out of the Catholic school system and thereby cease to be a Catholic school.

As the Draft Order's text now stands, a transient group of present parents can thus override the rights of other parents and of a whole Catholic community. This, in our view, amounts to a serious departure from the long-established tradition of governmental recognition of the rights of Catholic parents to Catholic education for their children. An amendment requiring the Department to have prior "consultation" with the Trustees would not remove our objection in principle to this section of the Order. It would still be the Department alone which decides. The rights of the other parents, of the community whose contributions made the original establishment of the school possible and of the Trustees, are simply ignored in the draft legislation. Only the rights of a small and transient majority of present and voting parents are recognised. There is no provision for subsequent reversion of the school from grant-maintained to voluntary status. The school is irreversibly lost to the rest of the Catholic community in the parish.

The parish will now have to provide a new school for the parents whose wishes for Catholic education have been outvoted. As experience has shown, this will take years of negotiation and delay. It may be difficult, even impossible, to obtain a suitable site. The disruption thereby caused to a Catholic community would be difficult to exaggerate.

RIGHTS OF TRUSTEES

The Trustees of a Catholic school are in law the owners of the school. In reality they hold the school in trust for the Catholic community. They operate under a Trust Deed, containing a basic charitable trust. They are the legal owners of the school. Yet their rights are not even mentioned in the Draft Order.

The contrast in this regard between the Northern Ireland Draft Order and the legislation in England and Wales is glaring. There the Education Reform Act 1988 (article 89.2) states that "no proposal shall be published under this section for the purpose of making a significant change in the religious character of a school unless the trustees of the school (if any) have given their consent in writing to the change in question". The Catholic Bishops in Northern Ireland are surely entitled to ask for no less than equal treatment with their counterparts in England and Wales in respect of such "a significant change in the religious character of a school" as is its transfer right outside of the Catholic school system. Here also the consent of the trustees should be a statutory precondition of such a transfer. "Consultation" is in no way an adequate substitute.

According to legal advice received, this provision, allowing for the change of status of a Catholic school to the status of a grant maintained integrated school without the consent of the Trustees, may also be held to be void under the Northern Ireland Constitution Act, 1973.

We have in previous oral and written submissions conveyed to the present Secretary of State and to his predecessor and to the Minister the very serious view we take of the above matters. We also advised them about the legal opinion we had received. We have repeatedly stressed to them our desire to avoid undesirable confrontation and controversy on the issues raised by the Draft Order. Fundamental differences, however, remain unresolved. We feel, therefore, that we now owe it to all those concerned in the Catholic maintained and voluntary grammar school sector, to the Catholic community and to the public in general to issue this public statement.