Court Decisions: The School Administrator's Dilemma

GEORGE B. REDFERN *

> Scylla guards the right side;
> insatiate Charybdis the left.
> —Vergil, *Aeneid*, III

THE school administrator often is obliged to chart a precarious course between the "rock" of status quo and the "whirlpool" of change. Social forces—compelling and persistent—exert a potent influence upon the administration and supervision of schools. Legislation and court decisions, at state and federal levels, increasingly tend to make inroads upon the management of education in this country.

The case for substantial modifications in educational direction and processes, if schools are to fulfill the changing and demanding requirements of the times, need not be belabored. More and more, this imperative is being voluntarily recognized and commitments toward its fulfillment are being made.

Central to the acceptance of the necessity for schools to change is the question of how it shall come about. Will it be embraced voluntarily and willingly? Or, must legislatures and courts intervene to mandate its coming?

The dilemma which school administrators face is twofold. On the one hand, pressure grows out of the social milieu to alter established educational patterns and processes. School administrators recognize the need to act. The urgency to do so may seem compelling, yet certain countervailing forces may impede the action. Hesitancy often stems from a realization that ultimate and successful implementation of proposed changes may hinge upon a deliberate and prudent assessment of how to proceed when conflicting forces both promote and impede change.

Another facet of the dilemma may arise out of the intervention of legislatures and courts. They may mandate changes even to the extent of dictating courses of corrective action for alleged deficiencies. The school administrator is often compelled to yield to the provisions of law or to the prescriptions of judicial opinion even to the extent of preempting the authority of boards of education and school administrators to carry out their leadership responsibilities.

This is not to argue that legislatures and courts should hesitate to intervene when injustices go uncorrected or constitutional rights are flouted. On the contrary, prompt and appropriate action is called for. As for judicial opinions, however, it seems reasonable to hold that the emphasis should be upon a definition of the dimensions of deficiency rather than upon prescription of particular remedies. The nature of the administrator's dilemma in response to court decisions can be illustrated in the following areas.

Various remedies have been suggested for *de facto* segregation and racial imbalance in schools, e.g., bussing, inner city-suburban

* *George B. Redfern, Associate Secretary, American Association of School Administrators, NEA, Washington, D.C.*

exchanges, pairing of schools, educational parks, and other techniques to reduce the incidence of imbalance.

Integration

The U.S. Supreme Court in 1954 and 1955 [1] outlawed *de jure* segregation in schools. In doing so, however, it was recognized that school officials more appropriately should promulgate policies and prescribe processes to correct the educational injustices of racial discrimination.

De facto segregation, though exceedingly difficult to correct, is nevertheless a problem of deep concern to many boards of education and school administrators. Pressures are unrelenting for the adoption of techniques for its correction. Many "solutions" elicit conflicting and sometimes violent reactions. Proponents of affirmative action often argue that the U.S. Supreme Court in the Brown *v.* Board of Education decisions, mentioned earlier, mandated the abolition of *de facto*, as it did *de jure*, segregation. Yet, the Sixth Circuit Court in Cincinnati, in 1966, held that if the school board's policy is:

> . . . one conceived without bias and administered uniformly to all who fall within its jurisdiction, the courts should be extremely wary of imposing their own judgment on those who have technical knowledge and operating responsibility for the education system. . . .[2]

On the other hand, the D.C. Circuit Court in 1967 [3] felt obliged to prescribe specific procedures to correct alleged injustices to children in the District of Columbia Public Schools. In this instance, the court intervened to dictate specific "solutions" to difficult and controversial problems. The American Association of School Administrators filed an *amicus curiae* in the Hobson *v.* Hansen decision of Judge J. Skelly Wright attesting to the defendant's right to appeal the decision and to reaffirm the primary responsibility for the nation's boards of education and school administrators to determine appropriate procedures to correct constitutional inequities within the public school system.

It can thus be seen that court decisions, in the area of integration of schools, may facilitate or constrain the exercise of legal and historical prerogatives of boards of education and school administrators in the management of public education. Dilemmas grow out of these interventions.

Local Control of Schools

A current problem confronting school administrators is the question of how to involve local communities in a more meaningful manner in the direct control of individual schools. This is at the heart of different proposals to decentralize large school systems, especially in cities.

The formation of "local lay boards" for individual schools or smaller geographical areas within the system is frequently proposed as a way to achieve this end.

Many operational problems grow out of the decentralization effort, e.g., how to obtain adequate finances when the taxing power resides only with the central board of education or governmental jurisdiction empowered to provide the money; how to mesh local staff procurement with the system as a whole; and how to relate local policies and procedures to quality standards of the total system.

Conflicts over teacher assignment and transfer procedures, as occurred in New York City with the opening of schools in September 1968, illustrate one of the unresolved issues in decentralized control of schools.

These conflicts present dilemmas for the chief school administrators and boards of education. While courts generally have not yet intervened to dictate how decentralization should take place, litigation may be resorted to by interests which have conflicting views on the subject. Governmental jurisdictions have intervened, as in the case of New York, and may do so in other cities that attempt to decentralize their school systems.

The advent of greater involvement of the federal government in providing funds to public schools has reemphasized the issue

[1] Brown *v.* Board of Education, I, 1954; Brown *v.* Board of Education, II, 1955.

[2] Deal *v.* Cincinnati Board of Education, 1966.

[3] Hobson *v.* Hansen, 1967.

of aid for private and parochial schools. This being a highly controversial matter, it is not surprising that many problems have developed to create more dilemmas for school officials.

Public Funds for Private Schools

A historic decision was given by the U.S. Supreme Court in June 1968 when it affirmed the constitutionality of a controversial New York state law which, in effect, authorizes the expenditure of public funds for school textbooks for children attending private schools.[4]

As Garber points out:

> . . . the case takes on added significance since it is the first decision dealing with school-church-state relationships decided by this court since it handed down its decision in the famous 1963 (Abington School District of Abington Township *v.* Schempp) prayer case.[5]

The unresolved problem which the New York textbook case presents to school administrators is best stated by Mr. Justice Douglas in a dissenting opinion when he pointed out that the difficulty boards will face is deciding which books are secular and which are sectarian (the books in the New York case were secular), adding that boards of education would be under heavy pressure by parochial schools to provide the books they preferred.

Religious Practices in Schools

A decision of the U.S. Supreme Court[6] resulted in many dilemmas for school administrators. In declaring Bible reading, the reciting of prayers, and other religious practices unconstitutional, the court made it necessary for marked adjustments to be made in many school activities, e.g., baccalaureate, observances at Christmas, Easter, etc. In order to help administrators make determinations in this area, the Educational Research Service of AASA and the NEA Research Division issued in May 1967 a report[7] indicating how many school systems have resolved the dilemmas created by this decision. By seeing how adjustments were being made, other administrators were thus enabled to make their own.

The school administrator must continually ask himself these questions: To whom do the public schools belong? Whose voice will be heeded? To whose influence will he yield? How will conflicting demands be reconciled? As more and more special interest groups press for schools to conform to their particular desires and concerns, and when these conflict with one another, the administrator finds himself in a difficult situation.

Change must be accommodated, but how to make it constructive and appropriate to the purposes for which it is intended is the question. For example, the demand to turn an inner-city school, which may be attended largely or totally by a certain ethnic group, over to local citizens must be pondered carefully. Will doing so achieve the promised results? What evidence is there to suppose that those who demand to take over the reins of leadership have or may acquire the expertise to succeed where the replaced leaders are alleged to have failed? Would it not be a wiser course of action to find a more effective way than this to revitalize community involvement and participation in a joint endeavor to make the inner-city school really relevant to the needs of its clients? Yet, this option, in many cities, is rapidly disappearing. While court decisions may not be an element in the resolution of these problems, the pressure of special groups and the necessity to make genuine improvements constitute an exigency that cannot be ignored. The dilemma comes in knowing how best to proceed.

So it is that the school administrator is obliged to risk the dangers of the "rock" and the "whirlpool" as he seeks to find the best answers to difficult educational questions. □

[4] Board of Education *v.* Allen, 1968.

[5] Lee O. Garber. "Why Supreme Court Judges O.K.'d N.Y. Textbook Loans." *Nation's Schools* 82 (2): 32; August 1968.

[6] Engle *v.* Vitali, 1962.

[7] Educational Research Service. "Some Local Policies on Religious Exercises and Observances in Public Schools." *ERS Reporter*. Washington, D.C.: American Association of School Administrators and the Research Division, NEA, 1967.