



Committee for Public Education v. Nyquist (1973) - Justice Powell - 6/3.

Issue: The 60's took a major toll on Catholic education in New York. Many parochial students changed to public schools for a number of reasons. As a result, the impact on public and private education was severe. A New York statute (1) provided grants to qualifying nonpublic schools to be used for **maintenance and repair** of school facilities and equipment to ensure the health, welfare and safety of the pupils and (2) provided **tuition reimbursement** to parents of nonpublic schools and (3) provided for an **income tax deduction** for parents of parochial school students.

Held: All provisions are unconstitutional.

Reasoning: As to maintenance funds, there are no restrictions on which buildings get repaired, such as a chapel. The funds could even be used to light and heat religious centers. This has a primary effect that advances religion. In *Everson*¹, *Allen*² and *Tilton*³ bus fares, books and buildings withstood a constitutional challenge. In each case, the Court recognized that sectarian schools perform secular functions as well as religious functions and that some aid can be channeled to the secular without providing direct aid to the sectarian. Here, maintenance is not so restricted. The tuition grants are direct aid. Does it matter that the tuition reimbursement is given to parents instead of to the schools? No. The effect is to advance religion. Same for the income tax deduction. Also, there is an entanglement problem.

¹ Case 1A-R-022 on this website.

² Case 1A-R-037 on this website.

³ Case 1A-R-043 on this website.