

COMMONWEALTH OF PENNSYLVANIA  
HOUSE OF REPRESENTATIVES  
HOUSE LABOR RELATIONS COMMITTEE

\* \* \* \* \*

PUBLIC HEARING

IN RE: HOUSE BILL 2626

\* \* \* \* \*

BEFORE: FRANK ANDREWS SHIMKUS, Chair  
Ron Buxton, Eddie Day Pashinski, Ken Smith,  
Ron Waters, Sean Ramaley, and Thomas  
Blackwell, Members

HEARING: Thursday, September 18, 2008  
1:11 p.m.

LOCATION: Wilkes University - Henry Student Center  
84 West South Street  
Wilkes-Barre, PA 18701

WITNESSES: Anthony Liuzzo, Rita Schwartz, Irene Tori,  
George Rudolph, Kreg Mendus, Michele Kirk,  
Robert J. O'Hara, Phillip Murren, Nicholas  
Cafardi, William Smedley, Mike Young,  
Michael Milz, Martin Milz, John Dean,  
Joseph Casciano, Mary Rochford, Timothy  
Coyne, Robert Paserba, James Katz,  
Theodore Clater, Joseph LaCava

Reporter: Gregory Jones

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## P R O C E E D I N G S

REPRESENTATIVE SHIMKUS:

Welcome to the public hearing on House Bill 2626. And we'd like to thank you all for your patience and for your attendance. It's a very, very important bill. My name's Frank Andrews Shimkus. I represent the 113th Legislative District, which is half of the City of Scranton and surrounding areas. I'll ask the other lawmakers here on this committee to introduce themselves in just a moment. But I would also like to thank the Wilkes University. This is an outstanding facility. And I do appreciate the opportunity to be in such fine quarters. So before we begin, to my right, I'll ask the gentlemen to introduce themselves to you.

REPRESENTATIVE BUXTON:

Representative Ron Buxton from Dauphin County.

REPRESENTATIVE PASHINSKI:

Representative Eddie Day Pashinski, 21st District, Luzerne County.

REPRESENTATIVE SHIMKUS:

Okay. And we are going to begin by asking the prime sponsor of this bill, who is

1 Representative Pashinski, to just give us a brief  
2 overview. I mean, we have had hearings. We have had  
3 rallies. We have had lots of input. We now, to my  
4 account, and he may have more, have at least 26 co-  
5 sponsors of this bill. It's something that has a  
6 great deal of interest and it's talked about every  
7 day. So Representative Pashinski, if you would,  
8 please, give us a summary of what's happening.

9 REPRESENTATIVE PASHINSKI:

10 Thank you, Mr. Chairman. Just to correct  
11 the record, 56 sponsors.

12 REPRESENTATIVE SHIMKUS:

13 Fifty-six (56) sponsors?

14 REPRESENTATIVE PASHINSKI:

15 I'd like to thank the House Labor  
16 Relations Committee members and Chairman for agreeing  
17 to hold this second hearing on House Bill 2626. As  
18 you know, House Bill 2626 addresses a very sensitive  
19 but imperative issue of allowing lay employees of  
20 religiously-affiliated employers to elect  
21 representation by a labor organization and to  
22 collectively bargain. Specifically, House Bill 2626  
23 amends the Pennsylvania Labor Relation Act of 1937 to  
24 provide coverage under this law to religious  
25 employers, which include religiously-affiliated non-

1 profit and for-profit schools and their employees.  
2 Additionally, and very importantly, the bill  
3 establishes protection for the employer's religious  
4 beliefs by requiring the Pennsylvania Labor Relations  
5 Board to uphold the employment decision based on their  
6 religion and to respect the school's organizational  
7 structure.

8           Nearly all of other public and private  
9 employees are granted protection for collective  
10 bargaining by law. I believe that these rights should  
11 apply to all workers, including the workers at  
12 religiously-affiliated establishments. As you will  
13 hear today, House Bill 2626 is extremely important  
14 because while employees of religiously-affiliated  
15 schools currently have the ability to choose to form a  
16 labor organization, their employers maintain the  
17 ability to choose at any time to not recognize that  
18 association. To this effect, the employees are then  
19 subject to the attitudes of their employers.

20           During the last hearing, we heard much  
21 concern from opponents of this legislation. They are  
22 apprehensive of possible infringement upon religious  
23 beliefs. However, I stressed that House Bill 2626  
24 should not be construed as an attempt to effect  
25 religious mana. In no way does this legislation seek

1 to attack the ability of a church to practice their  
2 religion. However, it does seek to guide their  
3 treatment of employees. At issue are fair employment  
4 practices, not religious beliefs.

5           Few other employers are able to use the  
6 argument of religion as a tool against allowing their  
7 employees to unionize. And in this matter, I believe  
8 this argument should not be a significant concern.  
9 Religious employers are subject to any other  
10 government rules and regulations, including safety and  
11 health standards, education requirements and other  
12 employment laws. For example, religiously-affiliated  
13 employers must adhere to the wage payment and  
14 collective law, the Workers' Compensation law and the  
15 minimum wage law. Religiously-affiliated schools are  
16 accountable to nearly all anti-discrimination  
17 components contained in the Pennsylvania Human  
18 Relations Guide.

19           Like all other schools, the Department of  
20 Education requires that certain subjects be taught in  
21 non-public schools. As well, for the 2008-2009 fiscal  
22 year alone, the state-appropriated funding, which is  
23 channeled through the Department of Education, for  
24 services for students at non-public schools. Some of  
25 these include nearly \$79 million for non-public and

1 charter schools for transportation, over \$86 million  
2 for services to non-public schools, which I understand  
3 include counseling and services for students with  
4 special learning needs, and \$27 million for loans,  
5 textbooks, materials and equipment for non-public  
6 schools. In addition, I remind you that while we may  
7 hear about court decisions, it remains the job of the  
8 legislature to make, change and improve laws. And it  
9 is the duty of the court to interpret and enforce the  
10 law.

11           Now, clearly, all employers maintain  
12 superior economic power in bargaining with individual  
13 employees. But Pennsylvania enacted a State Labor  
14 Relations Act in 1937. It sought to level the playing  
15 field for employees to ensure that employees are not  
16 always subject to take-it-or-leave-it jobs, to ensure  
17 that employees receive a fair day's wage for a fair  
18 day's work. An individual's labor is sometimes the  
19 only asset at their disposal. And collective  
20 bargaining has been an effective way to ensure that  
21 individuals receive fair treatment and compensation in  
22 return for that labor.

23           I thank my colleagues who have already  
24 signed onto this bill, and I appreciate your  
25 attendance and attention to the remaining testifiers.



1 Thank you.

2 REPRESENTATIVE SHIMKUS:

3 Thank you, Representative Pashinski. A  
4 couple of things that I'd just like to clear up.  
5 First of all, I wanted to mention that the Chairman of  
6 the Labor Relations Committee is Representative Bob  
7 Belfanti. He could not be here because of medical  
8 reasons. Recently he had surgery. I am the Majority  
9 Secretary, which is why I have the opportunity to  
10 chair --- the honor to chair this meeting. I would  
11 also like to introduce a staff member, Joanne  
12 Manganello, who is sitting here, and Douglas Miller in  
13 the back. And we have several other lawmakers who  
14 have joined us. And I'm sure that they are here  
15 because of Schuylkill County construction. But that's  
16 a whole different committee hearing. And so I would  
17 ask the members who have just joined us, starting with  
18 the representative to my right, if they would  
19 introduce themselves.

20 REPRESENTATIVE SMITH:

21 Representative Ken Smith, Lackawanna  
22 County, 112th District.

23 REPRESENTATIVE RAMALEY:

24 Good afternoon. Sean Ramaley, 16th  
25 District, Beaver and Allegheny Counties.

1                   REPRESENTATIVE WATERS:

2                   Good afternoon. Ron Waters, West  
3 Philadelphia and Delaware Counties.

4                   REPRESENTATIVE BLACKWELL:

5                   Tom Blackwell, Philadelphia County, 190th  
6 District.

7                   REPRESENTATIVE SHIMKUS:

8                   Did we miss anybody? Anybody? And of  
9 course, our court stenographer is here. And I would  
10 like to say this. We would like to keep this on  
11 schedule. We are scheduled to be here until three  
12 o'clock. Having been in many, many, many, many, many  
13 committees, if we read everything that's here, we will  
14 be here until three o'clock next Thursday. So since  
15 we will be reread these --- I assure you we will give  
16 them attention. I would ask that as you testify, to  
17 highlight some of your points so that we the  
18 opportunity to question, because if you read verbatim,  
19 we are going to be here for a long time. And so we're  
20 going to begin that way. I'm going to start this way  
21 by bringing to the podium Dr. Anthony Liuzzo, who is  
22 the professor of business and economics at the MBA  
23 Program at Wilkes University. Doctor, thank you.

24                   DR. LIUZZO:

25                   Thank you. I've been asked to provide to

1 this body a framework of federal and state laws in  
2 order to better understand Bill 2626. I personally  
3 will not express my own opinion relative as to this  
4 bill, but will merely present some history and related  
5 laws and cases that place the bill in some historical  
6 and philosophical context. I'll keep my comments  
7 extremely brief, but I'd be happy to answer any  
8 questions submitted by the Committee.

9           At the federal level in 1935, Congress  
10 cast the National Labor Relations Act, also called the  
11 Wagner Act, which gave employees two fundamental  
12 rights: the right to form, join and assist labor  
13 organizations or unions, and the right to bargain  
14 collectively with representatives of such employees'  
15 own choosing. The law also created a series of  
16 employer unfair labor practices, for example,  
17 discriminating against an employee who attempts to  
18 exercise his or her rights, dominating the labor union  
19 for financial or other means, and refusing to bargain  
20 in good faith. The law's been amended several times.

21           In 1947, the so-called Taft-Hartley Act,  
22 named the Labor Management Relations Act, added a  
23 third right, the right not to join the union.  
24 However, in the majority of states, including  
25 Pennsylvania, while this right is protected, the

1 existence of so-called union shops requires that where  
2 a union is present, all employees must sign a document  
3 referred to as a check-off, which gives employers the  
4 right and obligation to deduct union dues from  
5 employees' paychecks. It should be noted that there  
6 are 20 of the so-called right-to-work states, most  
7 located in the South and Midwest, in which this  
8 practice is not allowed.

9           Taft-Hartley also added several  
10 additional unfair labor practices pertaining to  
11 illegal activities to the original listing. In 1959,  
12 another amendment, the so-called Landrum-Griffin Act,  
13 named the Labor Management Reporting and Disclosure  
14 Act, was passed, which provided for fairness in union  
15 practices. The National Labor Relations Act at the  
16 federal level does not protect employees working in  
17 small businesses.

18           Over the years, the federal courts carved  
19 out various exclusions to the listing of employees who  
20 had access to the two rights granted under these  
21 federal statutes. The listing of excluded employees  
22 included such individuals as independent contractors.  
23 And doctors were not allowed unionize relative to  
24 HMOs. Supervisors, as university faculty, generally  
25 may not unionize. Agricultural workers, persons

1 employed by a parent or a spouse, persons in domestic  
2 service, for example, domestic help. And importantly,  
3 government work is at three levels: federal, state and  
4 local government. Of course, these workers are  
5 subject to protection under state laws if states opt  
6 to protect them.

7           In 1975, lay teachers in two Chicago  
8 seminaries run by the local diocese voted to unionize.  
9 The bishop refused to bargain with them, and the union  
10 filed a complaint with the National Labor Relations  
11 Board. The NLRB decided it had jurisdiction and  
12 ordered the bishop to accept the union. The diocese  
13 appealed. The Circuit Court of Appeals has denied the  
14 NLRB's enforcement, citing protections under the First  
15 Amendment. The Opinion noted, and I quote, the real  
16 difficulty is found in the chilling aspect that the  
17 requirement of bargaining will impose on the exercise  
18 of the bishops' control of the religious mission of  
19 the schools.

20           By the time the case reached the Supreme  
21 Court of the United States in 1979, a similar  
22 situation had developed in five schools in the diocese  
23 of Fort Wayne/South Bend, Indiana. And those cases  
24 were folded into the Chicago case. The Supreme Court  
25 upheld the Circuit Court's ruling, stating that the

1 original National Labor Relations Act and the  
2 legislative history did not clearly grant jurisdiction  
3 to the NLRB, and that, quote, the Court will not  
4 construe the Act in such a way as would call for the  
5 resolution of a difficult and sensitive First  
6 Amendment question, closed quote. The Court explained  
7 that involvement in a religious school would create  
8 burdens on religious liberty due to church/state  
9 entanglements. The entanglements, thus interference,  
10 would be unavoidable, would be inconsistent with the  
11 First Amendment of the United States Constitution. In  
12 effect, this case, Catholic Bishop of Chicago v. NLRB,  
13 added an additional exclusion to the listing of  
14 employees not protected by the key rights mentioned  
15 earlier and not covered under federal law.

16           At the state level, the Pennsylvania  
17 Labor Relations Act created a Pennsylvania Labor  
18 Relations Board in 1937. This law mirrors the federal  
19 law and encourages the peaceful resolution of private  
20 sector industrial disputes through collective  
21 bargaining. The law protects employees, employers and  
22 labor organizations engaged in legal activities  
23 associated with the collective bargaining process.  
24 The Board's private sector jurisdiction has, to date,  
25 been limited to employers and their employees not

1 covered by the National Labor Relations Act, for the  
2 most part, only small businesses.

3           As is the case with the federal law, the  
4 Pennsylvania Labor Relations Act grants employees the  
5 right to self-organization, to form, join or assist  
6 labor organizations, to bargain collectively through  
7 representatives of their own choosing, and to engage  
8 in concerted activities for the purpose of collective  
9 bargaining or other mutual aid or protection. The law  
10 also creates unfair labor practices similar to those  
11 enumerated under the federal statute.

12           To date, most of the Board's work is in  
13 the public sector. For example, the Public Employee  
14 Relations Act, enacted in 1970, extended collective  
15 bargaining rights and obligations to most public  
16 employees and their employers at the state, county and  
17 local government levels. Another example, Act 111 of  
18 1968 granted collective bargaining rights to police  
19 officers and firefighters. And in 1992, Act 88  
20 modified the Board's role in public school bargaining  
21 disputes.

22           In the private sector, State Supreme  
23 Court rulings held that lay teachers are not covered  
24 under the Pennsylvania Labor Relations Act. In 1996,  
25 in Association of Catholic Teachers, Local 1776 et al.

1 v. the Pennsylvania Labor Relations Board, a ruling by  
2 the Pennsylvania Supreme Court indicated that in the  
3 absence of a clear intention on the part of lawmakers  
4 to include lay teachers as employees covered by the  
5 law, such teachers were not to be considered employees  
6 under the Pennsylvania Labor Relations Act.

7           If enacted, House Bill 2626 would change  
8 the definition of an employee under the current law to  
9 include lay teachers in religious schools. The change  
10 would have the effect of requiring a diocese to  
11 recognize and bargain collectively with teachers'  
12 unions. It would also allow religious schools to  
13 bring grievances to the Pennsylvania Labor Relations  
14 Board.

15           In 2007, the Bureau of Labor Statistics  
16 published information on union membership for 2007.  
17 The report notes that union workers nationally now  
18 account for 12.1 percent of all wage earners, down  
19 from 20.1 percent in 1983. However, Pennsylvania,  
20 overall union membership as a percentage of the  
21 workforce increased from 13.6 percent to 14.7 percent.  
22 The Bureau of Labor Statistics report also notes some  
23 interesting trends on national data. Firstly, workers  
24 in the public sector had a union membership rate  
25 nearly five times that of private sector employees.



1 And secondly, education, training and library  
2 occupations had the highest unionization rate among  
3 school occupations at 37.2 percent.

4 This concludes my prepared comments. I'm  
5 happy to entertain questions and comments. I'm also  
6 happy to respond to you privately if you wish. Thank  
7 you.

8 REPRESENTATIVE SHIMKUS:

9 Thank you, Doctor. Any questions? Thank  
10 you very much. We appreciate your testimony.

11 DR. LIUZZO:

12 Thank you.

13 REPRESENTATIVE SHIMKUS:

14 Our next testifier is Rita Schwartz,  
15 President of the National Association of Catholic  
16 School Teachers, Irene Tori, Archdiocese of  
17 Philadelphia, George Rudolph, William Smedley, Kreg  
18 Mendus and Michele Kirk, if you would approach. And  
19 once again, I will say again, to the best of your  
20 ability, abbreviate your comments. We will read them.  
21 The questions sometimes become very, very prolonged.

22 MS. SCHWARTZ:

23 Mr. Smedley was listed on the agenda, but  
24 is still in school. So we will be here, but he will  
25 not be with us for this particular panel.

1                   REPRESENTATIVE SHIMKUS:

2                   We'll note that.

3                   MS. SCHWARTZ:

4                   Thank you. Mr. Chairman and members of  
5 the House Labor Relations Committee, my name's Ms.  
6 Rita Schwartz. I am the president of the National  
7 Association of Catholic School Teachers as well as the  
8 President of the Association of Catholic Teachers  
9 Local 1776 in Philadelphia.

10                   I am appreciative of the opportunity to  
11 speak once again before the committee. I was here at  
12 the first hearing in August. And at that time, I  
13 presented examples of how non-unionized teachers have  
14 been treated in the elementary schools in the  
15 Archdiocese of Philadelphia, among other places. I  
16 mentioned specifically the lack of due process for  
17 these teachers. All that they have is the Parish  
18 Appeal Board, which is predominantly --- three  
19 quarters of which, or even probably more, are their  
20 administrators or diocesan people. These teachers  
21 have no right to go to this Board. Automatically they  
22 must be filtered through the diocesan office. They  
23 can only go to a board for due process if the pastor  
24 they're taking there agrees to go to the board and be  
25 bound by its result.

1           So that is a big problem. And a lot of  
2 you are pushing for the passage of House Bill 2626.  
3 These teachers have no right to be given job security.  
4 They are invited back every year that they teach,  
5 which I would think after about 20 years, could get to  
6 be a little depressing waiting for an invitation in  
7 the mail.

8           So for all of these reasons, and then  
9 we'll also hear from the people who are with me today,  
10 we are pushing for the passage of House Bill 2626.  
11 The teachers with me today are here because at the  
12 previous hearing, Representative DePasquale and  
13 Representative Waters had asked about unionized  
14 teachers and how they felt about their jobs. It was  
15 very difficult to get non-unionized teachers here  
16 because there is a fear that if they become vocal  
17 about this situation, they may not have a job.

18           So the teachers who are with me today are  
19 from unionized Catholic schools and Catholic school  
20 districts. And they will tell you in the course of  
21 the afternoon how they feel about that. And you will  
22 hear their history before they were unionized. You  
23 will hear what is happening today. And you will hear  
24 the difference the union has made for these teachers.

25           And my last remark would be that where

1 there is a mutually respectful collective bargaining  
2 relationship, half the teachers in their unions will  
3 not need the services of the Pennsylvania Labor  
4 Relations Board. However, where these basic rights to  
5 organize and to bargain are denied, teachers need to  
6 have recourse. There is, at present, no protection  
7 under law. All Catholic teachers in Pennsylvania are  
8 one bishop away from what has happened in the Diocese  
9 of Scranton. I'm going to pass the time to the other  
10 people and they can tell you very well what's going  
11 on.

12 MS. TORI:

13 Mr. Chairman and members of the House  
14 Labor Relations Committee, I am very appreciative and  
15 honored to have the opportunity to speak with you  
16 concerning the passage of House Bill 2626. My name is  
17 Irene Tori and I am the vice president of the  
18 Association of Catholic Teachers, the sole and  
19 exclusive bargaining agent for the lay teachers in the  
20 25 schools of the Archdiocese of Philadelphia.

21 I have worked in the archdiocese for the  
22 past 32 years, the first 25 spent as a mathematics  
23 teacher at Archbishop Ryan High School in northeast  
24 Philadelphia and the last seven years as a staff  
25 person with the Association of Catholic Teachers. I

1 have been involved with the Association since I  
2 started teaching, and have been an officer in the  
3 Association since 1983.

4           The Association of Catholic Teachers had  
5 been involved in several organized campaigns since the  
6 United States Supreme Court ruled in 1979 that lay  
7 teachers in Catholic schools were not covered by the  
8 National Labor Relations Act. Elementary teachers  
9 approached the Association in the mid 1980s seeking  
10 representation. I think it is important to note that  
11 we've never initiated and organized a campaign with  
12 the elementary teachers. They have always called our  
13 office. We met with the teachers. We discussed their  
14 options. They always seemed very interested in  
15 organizing until one of the teachers would ask, can I  
16 be fired for doing this? We would always answer them  
17 honestly and say yes. At that point, the teachers, no  
18 matter how bad their working conditions were, would  
19 begin to backtrack from their up to then very strong  
20 desire to have a say over the conditions of their  
21 employment. The passage of House Bill 2626 would  
22 change the answer that the Association has to give  
23 them.

24           The Association was also involved in two  
25 organizing campaigns for the school's maintenance

1 workers. Again, the maintenance men and women would  
2 be very united and very strong in their desire to have  
3 a union until the question about their continued  
4 employment arose. And then all bets were off.

5           Without the ability to select a  
6 representative of their own choosing and enter into  
7 collective bargaining with their employer, the  
8 elementary teachers and the maintenance workers have  
9 no protection from termination based on union  
10 activity. Sometimes elementary teachers with many  
11 years of service will call the Association for help.  
12 We try to do the best we can, but we are limited in  
13 what we can do, if we can do anything at all, because  
14 the teachers have no contract. When they call, they  
15 will do it from home or they're whispering so softly  
16 because they don't want anyone to know that they were  
17 in contact with the union. They don't want to give  
18 their name or their parish or even a phone number for  
19 fear someone discovers they contacted the union. That  
20 fear is pervasive and extends beyond the individual  
21 teacher and his or her employer.

22           That was evidenced in the example I  
23 submitted in my written testimony where one of our  
24 elementary teachers was fearful that if her husband,  
25 who happens to be protected by our contract working in

1 one of our high schools, would testify --- he very  
2 much wanted to be here today to testify, but he could  
3 not, I guess, console his wife that --- what this  
4 could possibly do to her job. As he said, with me  
5 testifying, she sees an opportunity for someone in the  
6 media to make an issue of a couple, who both worked  
7 for the same church employer, but the husband has  
8 numerous labor issue rights available to him and the  
9 wife has few, if any. She sees herself being let go.  
10 After having giving selflessly of herself for so many  
11 years, she does not want her career to end in this  
12 manner. This is very much a real concern that has  
13 been stirring within her from the moment I e-mailed  
14 our congressmen asking them to support House Bill  
15 2626. There is little that I can say that will make  
16 her scenario any less real.

17           It is extremely sad that anyone would  
18 have to live and work that way every day. House Bill  
19 2626 would take away that fear. The teachers are in  
20 the classroom every day with their students. They  
21 know what they need to provide their students with the  
22 best education possible. They are in contact with the  
23 parents, and they know what the parents want for their  
24 children. Without House Bill 2626, these teachers  
25 will have no ability to provide input to their

1 employer about their work environment, one that will  
2 make the educational experience for students that much  
3 better and address the parents' needs as well.

4           What recourse do the teachers have now?  
5 They don't have any recourse. They are at the mercy  
6 of their employer. If they don't like imposition  
7 rather than collaboration, they need to find another  
8 job. Longtime, dedicated teachers are leaving every  
9 year. The teachers who are hired to replace them do  
10 not stay for very long, maybe three or four years.  
11 Since they don't see any future in our schools, any  
12 job security or any input into their work life, they  
13 go to the public schools. Please notice that I did  
14 not mention salary as being one of the issues of why  
15 they leave. It's unfortunate that we train the  
16 teachers and public schools gain them. While I am  
17 happy that they continue to use their talents in the  
18 education profession, I would much prefer they stay  
19 with us and use those talents here.

20           This also affects the stability of our  
21 schools. Sometimes the most senior teacher in a  
22 department or in a grade level is one with only three  
23 or four years at that school. There is no history.  
24 There's no long-term commitment. It is as if there is  
25 a revolving door at the entrance to the school.



1                   For the employer/church, unfortunately,  
2 there is always the bottom line. While the parish  
3 tries to provide the best education possible within  
4 their limited financial resources, if they are in a  
5 financial pinch, they will look for relief of that  
6 situation. Many times the solution is to cut  
7 teachers, as was presented to you in the first hearing  
8 by Rita Schwartz, of a 61-year-old teacher six months  
9 away from full pension, 34 years of teaching, who was  
10 told by her pastor that, after 34 years, with a salary  
11 of \$44,000, she was too costly and he was going to let  
12 her go. The other solution is to increase the  
13 teachers' contributions to their healthcare to the  
14 point where the teachers are working just to pay for  
15 their benefits.

16                   On behalf of all those teachers and  
17 employees who work in the Catholic schools and have no  
18 protection when seeking representation and collective  
19 bargaining from employer/church, I urge you to pass  
20 House Bill 2626. Thank you.

21                   REPRESENTATIVE SHIMKUS:

22                   Thank you very much for your testimony.  
23 I know I have questions already, but I'd like to hear  
24 from the rest of the panel and then we will perhaps  
25 have questions for individuals. So if we could have

1 Mr. Ruldoph from the Diocese of Greensburg, please.

2 MR. RUDOLPH:

3 Mr. Chairman and members of the House  
4 Labor Relations Committee, my name is George Rudolph.  
5 I'm from Pittsburgh, the Diocese of Pittsburgh.

6 Bernadette Lito taught high school  
7 English in Catholic schools in Pittsburgh for 42  
8 years. When she retired in 1972, she retired with a  
9 pension check of less than \$100 and a three-day, all-  
10 expense-paid trip to Williamsburg, Virginia. That was  
11 the year the Union Local 2400 was voted on and  
12 accepted by the teachers and passed. Lito was one of  
13 the early rallying cries for organization by the  
14 union.

15 Today, some 36 years later, Local 2400 is  
16 well-established and successful in its operation.  
17 It's representative of the teachers in the Pittsburgh  
18 Diocese. Our existence today is one of harmony and  
19 trust. In our negotiations and daily interactions, we  
20 found the diocese to be generous, fair and respectful  
21 of our positions in matters of conflict in operation.

22 Catholic schools are tremendous academic  
23 institutions. The success of Catholic school students  
24 in the classroom in the working world is well  
25 documented. Yet Catholic schools pay less money for

1 the education. Teachers teach, in many cases, in  
2 antiquated settings. Catholic teachers are paid less  
3 than those in the public sector. This means Catholic  
4 teachers do a better job and for less. It means the  
5 Catholic school teacher sacrifices more, spends more  
6 time in the classroom, while keeping to the standards  
7 of professionalism. That standard is taller than the  
8 schools in the State of Pennsylvania. They also  
9 uphold the moral fiber and teaches that the Church is  
10 primary and in their presence.

11 Catholic school teachers, in other words,  
12 are the backbone of the Catholic school system. As  
13 such, they deserve the right to organize. They  
14 deserve the right to make a decent wage and have  
15 adequate healthcare for themselves and their families,  
16 a pension to care for them when they're senior, to a  
17 work environment that is just and fair. The diocese  
18 may provide some or all of these for their teachers.  
19 The union can guarantee it. The union can guarantee a  
20 more stable environment. The union can guarantee  
21 fair, continual services. These are factors that  
22 serve the teachers in the diocese well because as  
23 teachers have protection, they also feel comfortable  
24 and it ignites the pathos and the feeling of comfort  
25 and confidence in the community and in the workplace.

1           House Bill 2626 will give Catholic school  
2 teachers the opportunity to teach in such a fair and  
3 just environment, an environment that brings all the  
4 points previously mentioned into the workforce. But  
5 the most important thing that House Bill 2626 brings  
6 is the right to organize. As earlier mentioned, Local  
7 2400 of Pittsburgh and the Diocese of Pittsburgh have  
8 a model relationship. The union has recognized that  
9 teachers should work in a comfortable environment.  
10 This all took place without House Bill 2626.

11           For whatever reason, if Pittsburgh would  
12 get a new bishop tomorrow who personally would not  
13 recognize Local 2400, as was the case in Scranton,  
14 Pennsylvania, one man's personal philosophy could  
15 change all that was and all that is. Respectful to  
16 bishops, we cannot afford to have one man determine  
17 the fate of hundreds of teachers, parents and  
18 students. Years of service, years of stability, years  
19 of sacrifice by teachers can be lost with one stroke  
20 of the bishop's pen. House Bill 2626 would prevent  
21 this from happening.

22           I understand that hard times happen.  
23 Consolidations are necessary and jobs are lost. But  
24 we cannot accept not having the right to organize and  
25 protect our families, our Catholic schools and our

1 careers. We cannot afford to have no recourse. We  
2 support House Bill 2626. Thank you for your  
3 attention.

4 REPRESENTATIVE SHIMKUS:

5 Thank you, sir, for your testimony. Mr.  
6 Mendus, president of the Greensburg Catholic Teachers  
7 Association.

8 MR. MENDUS:

9 Good afternoon, gentleman and ladies. My  
10 name's Kreg Mendus. I'm the president of the  
11 Greensburg Catholic Teachers Association. I'm in my  
12 30th year of being a member of Catholic Teachers  
13 Union. It is a pleasure to address this group in this  
14 historical confluence of Pennsylvania labor law in the  
15 Roman Catholic Church.

16 Contrary to what many people think, the  
17 Roman Catholic Church is not a monolithic institution  
18 speaking with one voice. It is a pluralistic  
19 institution. A fine line is sometimes negotiated  
20 between the rich history of social justice issues  
21 involving the rights of a worker, and continue to this  
22 day, and the interpretation of these teachings that  
23 are seemingly contradictory to practice. This  
24 plurality of views has historically punctuated the  
25 difference between on aspect of the Church, the

1 magisterial, and another, the very body of the Church,  
2 its people.

3           For the non-schooled in the nuances of  
4 social justice issues within the Church, the  
5 difference can be seen as those who have power and  
6 those who do not. Pluralistic views often translate  
7 into different interpretations and actions among the  
8 magistry themselves, in other words, one bishop  
9 acting very pro-labor and another bishop seeing any  
10 organized labor as a threat to his sovereign rule.

11           Most individuals who remain teaching in  
12 the Catholic school have an awareness that teaching is  
13 more than just being a teacher. It's a mission. It's  
14 a witness to a value system that is shared by most  
15 individuals, regardless of their specific religious  
16 tradition. The nuts and bolts of operation in the  
17 running of this school system and its unique charge  
18 can sometimes be clouded by the very nature of this  
19 diverse, pluralistic institution, lending to conflict  
20 between labor and management. And frankly, the  
21 impetus can be serious.

22           The union contract functions as a  
23 framework for dialogue when differences inevitably  
24 arise. It gives voice to the worker in the process of  
25 operation of the school, creating an atmosphere of

1 ownership, and delineates the structural reference as  
2 advancement in the programs. Within the guiding  
3 umbrella of the union contract, our 53-person union  
4 membership has an average teaching history of 20 years  
5 of service, leading to a stability in programs that  
6 only comes through experience and time. Our union  
7 contract is to provide the basis for a relationship  
8 between management and labor. It can boast that there  
9 has only been three grievances filed since 1982. And  
10 I am happy to say the union just ratified a six-year  
11 contract this past Monday that will continue to be the  
12 stabilizing force for the teachers of the Diocese of  
13 Greensburg.

14                   We are at a crossroads of labor relations  
15 in this country, much of which is beyond our control.  
16 I encourage you to extend the basic right to organize  
17 that has been afforded by others in this state and  
18 excluded by Catholic schools, by actively working for  
19 passage of House Bill 2626. Thank you.

20                   REPRESENTATIVE SHIMKUS:

21                   Thank you very much, sir. And Michele  
22 Kirk of the Diocese of Altoona.

23                   MS. KIRK:

24                   Mr. Chairman and members of the House  
25 Labor Relations Committee, my name is Michele Kirk,

1 and I am a general science and biology teacher at  
2 Bishop Carroll Catholic High School in Ebensburg, as  
3 well as a proud member and elected officer at the  
4 Altoona-Johnstown Catholic School Teachers  
5 Association. I am pleased to be able to address this  
6 committee to urge passage of House Bill 2626.

7 I began my teaching career at Bishop  
8 Carroll, as many teachers did, making it the  
9 steppingstone to a career in the public system. I had  
10 taught as a long-term sub in three public school  
11 districts prior to being hired full time at Bishop  
12 Carroll. At that time, I had had second thoughts  
13 about making teaching a career. After teaching just  
14 one year in a diocesan school, I realized that it was  
15 exactly what I had expected teaching to be like, and I  
16 didn't want to have to think about leaving to find  
17 another job. As a single person, I knew, in order to  
18 be able to support myself, I needed better wages and  
19 benefits, and that would only come by getting a  
20 lucrative job in the public school system.

21 At Bishop Carroll, I quickly realized  
22 that they're a family, not just a technical support  
23 staff, comprised of secretaries, cafeteria and  
24 maintenance workers, teachers and students each doing  
25 a job. We are all personally vested in making the



1 school the best educational institute and be the best  
2 that we can be.

3           When the opportunity came to me to become  
4 a more active member of the Teachers Association, I  
5 took it, hoping that I could help our working  
6 conditions to a level such that people wouldn't have  
7 to leave our school. First, I was a Scholarship  
8 Committee member, then a building representative, the  
9 recording secretary for meeting minutes, and now my  
10 current rise to financial secretary. I hoped each  
11 position was a stepping stone to help establish a  
12 better working condition. This would help to keep  
13 those qualified individuals in our school. We can  
14 accomplish this by strengthening the relationship  
15 between the Teachers Association and the diocese in  
16 getting a fair and just contract. These contracts  
17 include many adjustments to working conditions. It's  
18 not just salary and benefits that concerns teachers.

19           Twenty-two (22) years ago when I first  
20 was employed by the diocese, I was one of five new  
21 full-time lay teachers hired. There was a large  
22 percentage of the teachers being replaced given the  
23 fact that the faculty at the time was about 26 full-  
24 time lay teachers and nine full-time religious. All  
25 of those positions were available as a result of

1 teachers previously holding them leaving to find a  
2 lucrative job. If we are to educate our students in  
3 mind, body and soul, we need to keep quality teachers  
4 among the faculty for longer than a year or two at a  
5 time.

6           Through the work of the union and our  
7 diocese, negotiating contracts seems to be doing just  
8 that. In August I attended the Diocesan New Teacher  
9 Mentoring Workshop. I am the mentor to the only new  
10 high school teacher hired in the diocese this year.  
11 And he is replacing a teacher that retired after 35  
12 years of service to the school. There were  
13 approximately 20 other new teachers that attended, all  
14 replacing teachers in the non-union elementary  
15 schools. In the first seven years of my career at  
16 Bishop Carroll, we had replaced four or five teachers  
17 each year as they left to find jobs for better working  
18 conditions and wages.

19           Since 2001, our school has hired only  
20 nine new full-time lay teachers to replace individuals  
21 that have left the school. Of those nine teachers,  
22 six left as retirees, one left to raise her family,  
23 one moved to a job that was closer to her home, and  
24 one was accepted to a Master's degree program out of  
25 state. The revolving door of replacing full-time lay

1 teachers has ceased because the Teachers Association  
2 and the diocese have worked together to maintain  
3 quality individuals.

4                   This tradition has benefited our schools  
5 in many ways. One way has been helping the  
6 relationship between parents and the teachers, because  
7 the parents knew teachers personally from the older  
8 children going through the system. Neighbors know the  
9 faculty for having been in the system themselves as  
10 students. As one colleague stated to me, this  
11 relationship between parents and faculty has  
12 strengthened the discipline within our school because  
13 your reputation of discipline in the classroom  
14 precedes you.

15                   The most important benefit, I believe, is  
16 the academics. Teachers develop and teach the  
17 curriculum. You take ownership with pride.  
18 Consistency in the faculty leads to continuity in the  
19 curriculum. And that is lost when new teachers are  
20 put into the classroom year after year. The stability  
21 of teaching staff helps the learning environment of  
22 the students. Having the same teachers return year  
23 after year creates a comfortable environment to give  
24 the students more confidence in their work, allowing  
25 them to excel in the academics.

1           The teachers of the Altoona-Johnstown  
2 Catholic School Teachers Association are asking to be  
3 given the rights afforded to other workers, to  
4 organize and continue working cooperatively with our  
5 employers to benefit all involved. Given that our  
6 bishop is retiring in a couple of years, we need the  
7 protection of House Bill 2626 to ensure that the  
8 Altoona-Johnstown Catholic School Teachers  
9 Association's 25 years of hard work doesn't end up  
10 like our fellow teachers in the Scranton-Wilkes-Barre  
11 Diocese.

12           Therefore, we ask you to see the critical  
13 importance of House Bill 2626. And it's important in  
14 our efforts to serve our students, parents and  
15 community, as we have been in the past in the Altoona-  
16 Johnstown Diocese. With your help, we can continue to  
17 provide our students with the best possible Catholic  
18 education of mind, body and soul. Thank you for your  
19 time.

20                           REPRESENTATIVE SHIMKUS:

21           Thank you for your testimony. Why don't  
22 you just stay right there, because there will be  
23 questions? And I'm going to open it up to the panel  
24 for questions. And I have questions. And Rita  
25 Schwartz, would you please come to the table, and also

1 Irene Tori, please? I'm not going to ask you to  
2 comment on this, but I am going to make a note that as  
3 Chairman, we have Rita Schwartz coming for the  
4 National Association of Catholic Schools, Irene Tori,  
5 Philadelphia. George Rudolph, you are from  
6 Pittsburgh?

7 MR. RUDOLPH:

8 That's right.

9 REPRESENTATIVE SHIMKUS:

10 Kreg Mendus from Greensburg. Michele,  
11 you are from Altoona-Johnstown?

12 MS. KIRK:

13 That's correct.

14 REPRESENTATIVE SHIMKUS:

15 The only teacher that is not represented  
16 is from Scranton.

17 MS. SCHWARTZ:

18 He'll be here. That's Mr. Smedley.

19 REPRESENTATIVE SHIMKUS:

20 Mr. Smedley? He will be here? He has  
21 submitted testimony. He'll be here after class?

22 MS. SCHWARTZ:

23 Yes.

24 REPRESENTATIVE SHIMKUS:

25 My question to you is --- and it's a kind

1 of a funny thing. You know, I said to Ken Smith when  
2 you sat down, I said, just don't touch my gavel, you  
3 know, because it's a symbol of power. You know, it's  
4 a symbol. And if I bang it, I can say, okay, this  
5 meeting is adjourned. You know, let's all go, you  
6 know, for coffee. You've said, Rita, if may I call  
7 you Rita --- I believe you made a statement that we  
8 can be one bishop away from a decision. Are you  
9 suggesting that there is no appeal, no listening ear,  
10 no step beyond that ---? And the reason I say that is  
11 because in the Diocese of Scranton, I believe it would  
12 be fair to say that we have a strict bishop. Would  
13 you please explain what you meant by that?

14 MS. SCHWARTZ:

15 Well, basically, the bishop answers  
16 canonically to the Pope. But the Pope really doesn't  
17 have a whole lot of power once he appoints the bishop.  
18 So if we are not protected by law, which we are not at  
19 the time, then whoever our Ordinary, capital O, is, or  
20 our bishop is, that individual has the power, almost  
21 absolute power, over what happens.

22 So as George spoke about in Pittsburgh,  
23 they have a very good working relationship, as do we  
24 in the high schools in Philadelphia with our Ordinary.  
25 But if someone should come in and decide to totally

1 throw it all out, as is what happened in Scranton,  
2 then we can --- we do have, canonically --- we don't  
3 have anything civilly, but we have, canonically, the  
4 ability to file what's called canonical recourse  
5 against our bishop and file that with a congregation  
6 in Rome, kind of like the Parish Appeal Board in the  
7 North Side in Philadelphia. It's all heavily  
8 administratively run. So you file at the Congregation  
9 for Faculty Education in Rome. The congregation is  
10 composed of bishops. They rule on your complaint  
11 against their fellow bishop. Ninety-nine (99) times  
12 out 100, they would rule in favor of the bishop. They  
13 would find something that, you know, was not good  
14 about our petition.

15                   We then can appeal. We appeal to the  
16 Supreme Court of the Catholic Church. The Supreme  
17 Court of the Catholic Church is called the Apostolic  
18 Signatura. That's also in the Vatican. That is also  
19 manned by --- and it is manned, by bishops, cardinals.  
20 They're all, you know, clerical. And they would then  
21 rule, just as our U.S. Supreme Court did. The U.S.  
22 Supreme Court in the Catholic bishop case used a  
23 procedural loophole that since we were not  
24 specifically mentioned by Senator Wagner in 1935 as  
25 being included under NLRB, then we were excluded by

1 NLRB.

2           So the Signatura then would rule on our  
3 appeal to, you know, the complaint. I have personally  
4 filed eight complaints over the years against various  
5 bishops. It's kind of like lions ate Christians in  
6 Europe, you know. It's an impasse board which is ---  
7 the whole thing behind House Bill 2626 is that we can  
8 get teachers with a collective bargaining agreement  
9 that has in it a grievance process, a due process,  
10 that it has to keep.

11                   REPRESENTATIVE SHIMKUS:

12           And we sat, especially those of us that  
13 are within the Diocese of Scranton, in the meeting,  
14 and one of the first things that I said was, I'm very  
15 uncomfortable with lawmakers being involved in a  
16 church issue. I am very uncomfortable with that. And  
17 yet ---. And Ms. Tori, this is my question to you.  
18 It becomes a matter of workers' rights, which is why I  
19 am co-sponsor of Representative Pashinski's bill, and  
20 why I am pushing for this. You used two words --- or  
21 you used one word and I kind of elaborated on it. You  
22 used the word fear. Is there fear of 2626 and people  
23 who would push for it in your field? And also, would  
24 you ever expect repercussions because of this?

25                   MS. TORI:



1           Yes to all of that. There is definitely  
2 a fear out there. The fear at this point is that the  
3 elementary teachers who are not represented in the  
4 Archdiocese of Philadelphia, they have no recourse  
5 now. And any time they come to us, they immediately  
6 back away because they know if somebody finds out, if  
7 their employer, their pastor, their principal finds  
8 out that they're even calling the Association, they  
9 could be fired. And we have had cases like that.

10           Norwood-Fontbonne was the prime example.  
11 The one that was mentioned previously --- the teachers  
12 at Norwood-Fontbonne Academy in Chestnut Hill, a  
13 suburb of Philadelphia, contacted me and asked if they  
14 could talk with me about their problems --- that they  
15 had no representation. It was not money. It was  
16 empowerment. I spoke with them. I met with the  
17 teachers. The two teachers that had contacted me, not  
18 the least senior teachers teaching at the school, at  
19 the end of the year were told they no longer had jobs.  
20 And it wasn't that they were cutting back, because  
21 they were replaced. It wasn't that they had gotten  
22 bad evaluations, because they hadn't. They were  
23 excellent teachers. But they had attempted to start a  
24 union.

25                           REPRESENTATIVE SHIMKUS:

1                   So House Bill 2626, in your opinion,  
2 based on what you described, has the potential to take  
3 away the fear factor and the repercussions?

4                   MS. SCHWARTZ:

5                   Yes.

6                   MS. TORI:

7                   Absolutely.

8                   REPRESENTATIVE SHIMKUS:

9                   Thank you very much. Representative  
10 Pashinski.

11                   REPRESENTATIVE PASHINSKI:

12                   Thank you, Mr. Chairman. Representative  
13 Shimkus touched upon this word that I found rather  
14 alarming. I never imagined that word to be used  
15 within the purview of the Catholic school system, the  
16 word fear. Would that be acceptable as an opinion of  
17 all the representatives that are here from around the  
18 state? You all feel as though that there is that kind  
19 of fear factor, that that's why this bill is so  
20 desperately needed? Okay. Let's just get back to  
21 just a few facts. Would you clarify how many dioceses  
22 we do have in Pennsylvania?

23                   MS. SCHWARTZ:

24                   There are eight dioceses in Pennsylvania.  
25 Five --- well, Scranton, strictly speaking, has one

1 active teachers union left, and if I could testify ---  
2 okay. But the teachers in the four regional systems  
3 no longer have union representation that is recognized  
4 by the bishop. So you have Pittsburgh, Altoona,  
5 Greensburg, Philadelphia and Scranton, to a certain  
6 degree, that are unionized under NACT, our National  
7 ---. Then we have Allentown, which has its own  
8 private union that is independent. It negotiates  
9 wages and benefits with the diocese and everything  
10 else. Then you have Harrisburg and Erie, which have  
11 no representation at all.

12 REPRESENTATIVE PASHINSKI:

13 Okay. Could you clarify how many  
14 Catholic school teachers there are in Pennsylvania and  
15 of that amount, how many are members of the union?  
16 Give or take a few.

17 MS. SCHWARTZ:

18 Well, knowing that there are about 3,000  
19 elementary teachers in Philadelphia that are not  
20 unionized, I would say probably 500 or 600 in  
21 Harrisburg, maybe 300 in Erie that are not unionized.  
22 And then there are, within Altoona, Greensburg,  
23 Pittsburgh and Scranton, some unorganized teachers.  
24 And most of the elementary teachers outside of the  
25 Pittsburgh Diocese are not organized.

1                   REPRESENTATIVE PASHINSKI:

2                   Then how many are actually in ---?

3                   MS. SCHWARTZ:

4                   I would say probably 75 percent of the  
5 teachers are unionized, and 25 percent are not.

6                   REPRESENTATIVE PASHINSKI:

7                   Seventy-five (75) are unionized, 25  
8 percent are not?

9                   MS. SCHWARTZ:

10                  The elementary ---.

11                  REPRESENTATIVE PASHINSKI:

12                  Of the five.

13                  MS. SCHWARTZ:

14                  Of the five?

15                  REPRESENTATIVE PASHINSKI:

16                  Of the five dioceses.

17                  MS. SCHWARTZ:

18                  Well, maybe it's 60/40. Maybe it's 60  
19 organized, 40 not organized.

20                  REPRESENTATIVE PASHINSKI:

21                  Okay. Is it possible you could get me  
22 that ---

23                  MS. SCHWARTZ:

24                  Sure.

25                  REPRESENTATIVE PASHINSKI:

1                    --- at another time? The reason I'm  
2 asking that is it's a very sensitive controversy as  
3 far as the number of people and the number of  
4 dioceses. Those people that are calling you from the  
5 elementary, could you tell me, what are their  
6 concerns?

7                    MS. SCHWARTZ:

8                    Their concerns are basically job  
9 security, some say in what happens to them. If they  
10 have some sort of a problem, if a situation arises  
11 that they are unsure how to handle, they have no due  
12 process. I mean, it's a matter of going before the  
13 principal, going before the pastor. Then you're at  
14 their mercy.

15                   REPRESENTATIVE PASHINSKI:

16                   Are these concerns about time, working  
17 conditions or are they about curriculum?

18                   MS. SCHWARTZ:

19                   Basically, time, working conditions.  
20 Very little about curriculum.

21                   REPRESENTATIVE PASHINSKI:

22                   Is there an attempt to make an equalized  
23 workload for all the teachers?

24                   MS. SCHWARTZ:

25                   How do you mean?

1                   REPRESENTATIVE PASHINSKI:

2                   Let's say, all teachers will have a  
3 minimum of five classes, one prep period, one duty-  
4 free lunch? Or do some teachers have a heavier  
5 load ---?

6                   MS. SCHWARTZ:

7                   Well, it depends on the situation. At  
8 the high school level, since we're unionized, yes, you  
9 have the five classes, the one prep, a lunch. At the  
10 elementary level, it's hard to say because you could  
11 have a grade change. You could be teaching eighth  
12 grade one year and be teaching kindergarten the next  
13 year. It depends on, I guess, the needs at the  
14 school. Sometimes you don't get a true reason as to  
15 why you, you know, are being changed. Your expertise  
16 is in one area. Why would you go to something that is  
17 not, you know, within your range? But, you know, they  
18 can set the schedules up any way that they want to. I  
19 was at a fundraiser last night ---.

20                   REPRESENTATIVE PASHINSKI:

21                   There's no input on behalf of the  
22 faculty?

23                   MS. SCHWARTZ:

24                   Oh, I think that there is input, but it  
25 doesn't have to be --- it's not a mutual agreement.

1                   MS. TORI:

2                   Yeah. I mean, they can set ---. The  
3 teachers can give input. Whether it's going to be  
4 heard and processed by the employer is a completely  
5 different question.

6                   REPRESENTATIVE PASHINSKI:

7                   Okay. How about pay scale? If a person  
8 in the high school is teaching ten years and a person  
9 from the elementary is teaching for ten years, what  
10 would their pay scales --- would it be the same?

11                   MS. SCHWARTZ:

12                   No.

13                   REPRESENTATIVE PASHINSKI:

14                   It would not be the same?

15                   MS. SCHWARTZ:

16                   No.

17                   REPRESENTATIVE PASHINSKI:

18                   How is the pay scale done?

19                   MS. SCHWARTZ:

20                   Pay scale for the high school is  
21 established by contract. We negotiate the pay scale.

22                   REPRESENTATIVE PASHINSKI:

23                   And at the elementary?

24                   MS. SCHWARTZ:

25                   At the elementary level, they have what

1 is called a suggested salary schedule. But the pastor  
2 is free to deviate from that.

3 REPRESENTATIVE PASHINSKI:

4 Now that the system, as I begin to  
5 understand it, no longer --- the pastor no longer does  
6 the negotiating; is that correct?

7 MS. SCHWARTZ:

8 There is no negotiating on the elementary  
9 level.

10 REPRESENTATIVE PASHINSKI:

11 No, I know there's no negotiating on the  
12 elementary level at all. However, I believe now the  
13 --- if I remember the other testimony, the bishop  
14 basically is the overseer of all of the relationships  
15 with those teachers in that particular diocese as  
16 opposed to the pastor ---.

17 MS. SCHWARTZ:

18 On the elementary level, again, you have  
19 the bishop, who is basically the king. As a pastor is  
20 appointed, again, by Church law, that pastor becomes  
21 almost autonomous in his parish. So he basically ---.  
22 Even though the bishop would appoint the pastor, that  
23 pastor, unless he does something really, pretty bad,  
24 is going to be there. And the bishop doesn't have a  
25 whole lot of control over him. He does financially



1 overrule him.

2 REPRESENTATIVE PASHINSKI:

3 I recall in testimony that the Diocese of  
4 Scranton was beginning to do something new, something  
5 different. And rather than having all the separate  
6 parishes have different pay scales, they were trying  
7 to standardize them on a diocese basis; is that  
8 correct?

9 MS. SCHWARTZ:

10 On a regional basis. There are four  
11 regions in diocese.

12 REPRESENTATIVE PASHINSKI:

13 Okay. That ---.

14 MS. SCHWARTZ:

15 But that was because the bishop then says  
16 to them --- I guess he asked them if they would come  
17 under this model. And they would've had to say yes.

18 REPRESENTATIVE PASHINSKI:

19 Okay. All right. But the fact of the  
20 matter is anybody teaching in elementary, essentially,  
21 you're an at-will employee?

22 MS. SCHWARTZ:

23 Correct.

24 MS. TORI:

25 Correct.

1                   REPRESENTATIVE PASHINSKI:

2                   Some of the high school levels, that's  
3 where most of your unions are?

4                   MS. SCHWARTZ:

5                   Right. Yes.

6                   REPRESENTATIVE PASHINSKI:

7                   And you have at least some negotiating  
8 rights. Those negotiations that you conduct, tell me  
9 what you are negotiating.

10                  MS. SCHWARTZ:

11                  We are negotiating every salary,  
12 benefits, working conditions, due process, everything.

13                  REPRESENTATIVE PASHINSKI:

14                  Does anything that you negotiate deal  
15 with religion?

16                  MS. SCHWARTZ:

17                  Well, we did negotiate, as part of our  
18 Labor Management Agreement, what's known as the sacred  
19 morals clause, where we agreed mutually with that  
20 system that if there is a violation of Church law ---  
21 a Catholic teacher is divorced and is remarried  
22 without an annulment, a Catholic teacher is known to  
23 be --- is found in the classroom --- abortion rights,  
24 that does not go through our grievance process. Our  
25 grievance process in the contract goes to binding

1 arbitration except for violations of doctrines, laws  
2 of the Church, which we said, fine, it goes to the  
3 bishop. And the bishop is the final authority.  
4 That's never, ever been an issue.

5 REPRESENTATIVE PASHINSKI:

6 Well, that's where I'm going with this.  
7 So you're only negotiating time, working conditions,  
8 salary, healthcare issues, et cetera? You are not  
9 negotiating ---?

10 MS. SCHWARTZ:

11 We're negotiating what everyone else in  
12 the secular situations would be negotiating.

13 REPRESENTATIVE PASHINSKI:

14 In those negotiations, the diocese does  
15 have the right to say no to you?

16 MS. SCHWARTZ:

17 Yes.

18 REPRESENTATIVE PASHINSKI:

19 The PLRB does not interfere with those  
20 negotiations?

21 MS. SCHWARTZ:

22 No.

23 REPRESENTATIVE PASHINSKI:

24 The PLRB only gets involved if a conflict  
25 occurs and a request is made?

1                   MS. SCHWARTZ:

2                   Well, once there is ---. What we want  
3 the Pennsylvania Labor Relations Act to do is to is to  
4 allow teachers who are unorganized, who are not  
5 protected under any other law ---. They're protected  
6 by Church teaching, but that doesn't seem to get the  
7 job done. So if they want to organize ---. We want a  
8 level playing field. That's what we want. We want  
9 the teachers to be able to sign a form, have that form  
10 taken to the Pennsylvania Labor Board, have them check  
11 it out, make sure that it's a valid authorization,  
12 have them schedule elections, have the elections. If  
13 the union wins the election, then we would negotiate.  
14 Once we've negotiated a contract, what we have in that  
15 contract will determine how we will we resolve  
16 disputes.

17                   REPRESENTATIVE PASHINSKI:

18                   Correct.

19                   MS. SCHWARTZ:

20                   And so as I've said in my testimony, if  
21 there is a good working relationship there and there's  
22 a contract, I'm not going to need the Pennsylvania  
23 Labor Relations Board.

24                   REPRESENTATIVE PASHINSKI:

25                   That was going to be my question. How

1 many times, in your recollection, since your unions  
2 have been organized on the high school --- secondary  
3 level have there been grievances filed?

4 MS. SCHWARTZ:

5 Oh, there are grievances filed all the  
6 time.

7 REPRESENTATIVE PASHINSKI:

8 Well, I understood the one was only three  
9 grievances since 1982.

10 MR. RUDOLPH:

11 That's correct.

12 REPRESENTATIVE PASHINSKI:

13 So it sounds to me like there's a pretty  
14 good working relationship.

15 MR. RUDOLPH:

16 Correct.

17 REPRESENTATIVE PASHINSKI:

18 In the Scranton Diocese, how many  
19 grievances were filed?

20 MR. RUDOLPH:

21 Are you asking me?

22 REPRESENTATIVE PASHINSKI:

23 Any one of you who can answer that.

24 MR. MICHAEL MILZ:

25 Can I answer that?

1                   REPRESENTATIVE PASHINSKI:

2                   Yes, you can.

3                   MR. MICHAEL MILZ:

4                   Oh, I'm sorry. I'm Michael Milz. Should  
5 I introduce who I am?

6                   REPRESENTATIVE PASHINSKI:

7                   You already did.

8                   MR. MICHAEL MILZ:

9                   I already did? I'm the president of the  
10 Scranton Diocese Association of Catholic School  
11 Teachers. Sure, we've filed grievances from time to  
12 time.

13                   REPRESENTATIVE PASHINSKI:

14                   Could you tell me what those grievances  
15 were?

16                   MR. MICHAEL MILZ:

17                   You could pick almost any topic other  
18 than a religious topic. Never on a religious topic.  
19 But they'd be on issues that affected their contract.  
20 Did someone in authority violate the contract or did a  
21 teacher violate the contract? If there was a dispute  
22 about the violation of a contract based on the  
23 language, that goes through the grievance procedure.

24                   REPRESENTATIVE PASHINSKI:

25                   And they were all ---

1                   MR. MICHAEL MILZ:

2                   They were all, in the end, reconciled.

3                   REPRESENTATIVE PASHINSKI:

4                   --- reconciled?

5                   MR. MICHAEL MILZ:

6                   Absolutely.

7                   REPRESENTATIVE PASHINSKI:

8                   Okay. The relationship is good?

9                   MR. MICHAEL MILZ:

10                  We had binding arbitration ---.

11                  REPRESENTATIVE PASHINSKI:

12                  This is where I struggle. There is where  
13 I struggle, to try to understand how in one diocese,  
14 you can have a union that functions well with the  
15 hierarchy and, I believe, produces quality education,  
16 and now another diocese, what used to be is no longer.  
17 And this is where I have my difficulty trying to  
18 understand how it's okay in one, two, three, four,  
19 five, but it's not okay in this one.

20                  MS. SCHWARTZ:

21                  Because, Representative, it's what I just  
22 said. We're one bishop away. It is the bishop that  
23 determines the relationship. And the bishop of  
24 Scranton has determined that after about 30 years,  
25 there is not going to be a union management

1 relationship here. And it's his ability to do that.  
2 We have no place to take --- that's why we need House  
3 Bill 2626.

4 REPRESENTATIVE SHIMKUS:

5 I understand.

6 MS. SCHWARTZ:

7 Oh, I know you understand.

8 REPRESENTATIVE PASHINSKI:

9 But again, for the record, I want to make  
10 it very clear that in all the years that your unions  
11 have been together, your discussions or your  
12 grievances have strictly been, you know, time, date,  
13 salary, health ---?

14 MS. SCHWARTZ:

15 Contract violations ---.

16 REPRESENTATIVE PASHINSKI:

17 Nothing to do with ---?

18 MS. SCHWARTZ:

19 No.

20 MS. TORI:

21 No.

22 MS. SCHWARTZ:

23 No. And there is no article in the  
24 Philadelphia contract entitled religious disputes or  
25 religion. There's a salary article. There's a fringe



1 benefit. There's a, you know, terms of agreement.  
2 There is a grievance procedure. There is  
3 extracurricular activities. There's teacher  
4 assignments. There's everything, tenure, seniority,  
5 union representation, everything. There is nothing  
6 that says religion.

7 REPRESENTATIVE PASHINSKI:

8 Thank you.

9 REPRESENTATIVE SHIMKUS:

10 Thank you. You understand now why I say  
11 it's so important that we are brief as we summarize  
12 some of our testimony, because every lawmaker up here  
13 has a question. And so I'm going to turn it to ---.

14 REPRESENTATIVE WATERS:

15 Thank you, Mr. Chairman. I perfectly  
16 understand --- my theory is, when one side has power  
17 over the other --- and I'm also going to say that I  
18 understand that we need to manage this as a  
19 partnership. And also, I'm a deacon in a Baptist  
20 church. But my children were all educated in the  
21 Catholic school system. So I do believe in the  
22 Archdiocese of Philadelphia. My children attend  
23 there. And they went to high school. I was listening  
24 to Bishop Mengeling about the idea to merge. So I  
25 believe in the dedication of the teachers of the

1 school system. And I might add you were very  
2 important in building a partnership of the school and  
3 the management. What I don't understand is how --- my  
4 understanding is high schools normally unionize?

5 MS. SCHWARTZ:

6 Right.

7 REPRESENTATIVE WATERS:

8 Elementary schools do not?

9 MS. SCHWARTZ:

10 No.

11 REPRESENTATIVE WATERS:

12 Why?

13 MS. SCHWARTZ:

14 We have attempted for the last 30 plus  
15 years to work with the elementary teachers for the  
16 organization. What bogged it down ---. We've been to  
17 the National Labor Board. We've been to the  
18 Pennsylvania Labor Board. What bogged us down,  
19 Representative, was that before we could talk about an  
20 election or representation election, the diocese put  
21 before the union at every meeting that we went to with  
22 every parish a document called the Statement of  
23 Principles. The Statement of Principles had --- 90  
24 percent of it was basically what's in the beginning  
25 part of our contract with the high schools, that we

1 recognized the non-taxing nature of the Church, that  
2 we were recognizing the religious nature. We were  
3 recognizing where there are religious --- and  
4 unfortunately, there are very few religious left  
5 anymore. And that's another whole problem, but ---.  
6 So it's all of those things.

7                   But there was one paragraph in that  
8 statement that I was to sign as the head of the union  
9 before they would even discuss putting an election  
10 together, not that they would agree to an election,  
11 but that they would discuss an election. That  
12 paragraph said that the teachers --- any dispute  
13 revolving around termination or suspension had to be  
14 taken care of on the parish level with the right to  
15 appeal to the Parish Appeal Board. The Parish Appeal  
16 Board is decidedly management-oriented. And I think  
17 it's been changed now because there were people on  
18 there --- more management people --- a couple of  
19 pastors, principals, somebody from the diocesan office  
20 and then teachers who are appointed by their  
21 principal.

22                   Well, I don't know if I want to go before  
23 that Board if my job depended on it. However, I don't  
24 have an automatic right. I have to be in the school  
25 two or three years before I can go to them if I'm

1 terminated. I have to have my petition to go there  
2 passed through the diocesan educational office.  
3 They'll decide if my case goes there. I can only go  
4 there if the pastor that I'm bringing there agrees to  
5 be bound by what that board decides. If he says, no,  
6 I don't want any part of it, then I can't go. And you  
7 know, once I go there, if I get there, you know, I  
8 might get a decision, but I'm going to get a five to  
9 two decision, maybe a four to three if you can  
10 convince somebody. So, you know, I can't sign that as  
11 a precondition for talking about whether or not the  
12 teachers can have an election. And as I said at the  
13 previous hearing, would you vote for my union if I  
14 signed away your right to due process before you even  
15 had a chance to exercise it?

16 REPRESENTATIVE WATERS:

17 So they're the big man in power?

18 MS. SCHWARTZ:

19 Absolutely. Because I had no place to  
20 go. If I could go the Pennsylvania Labor Board and  
21 say, yo, then it's a whole different story. But I  
22 don't have any place to go. And the only way I'm  
23 going to get anything is if my teachers would decide  
24 to go walk a line some place, and that's disruptive of  
25 the education. That's not what we're about either.

1 So it's like a Catholic Catch 22, as I call it.

2 REPRESENTATIVE WATERS:

3 What I think is --- you said about the  
4 teachers, but it has to do with recourse and ---?

5 MS. SCHWARTZ:

6 Absolutely.

7 REPRESENTATIVE WATERS:

8 And I understand that as also varied  
9 kinds of --- several roles for people to get them  
10 their rights. In terms of working conditions --- and  
11 that's what this is all about, better working  
12 conditions. I understand, especially in these  
13 economic times. I had the good fortune of having the  
14 experience of having to work with management as an  
15 employee, but also working in management. I loved my  
16 job, I loved my membership, but without management, we  
17 wouldn't have any work. What I don't understand is  
18 you're asking for basic things and management works  
19 with them. I don't find anything wrong with that.  
20 And actually, I'm scared to death when people don't  
21 have any power. I mean, I don't think either side  
22 should have more power than the other. I definitely  
23 don't believe that any corporation, business,  
24 association should have power over my people, our  
25 people. It's shouldn't be either/or. There should be

1 a basic fairness. People just want to be treated  
2 fairly. And lots of times people do things out of  
3 their own personal finances to help students. We  
4 should be able to have some type of collective  
5 bargaining system, without having to fear if there's a  
6 disagreement they're going to be terminated. And in  
7 this instance, I think we have an unbalanced  
8 situation. Thank you.

9 MS. SCHWARTZ:

10 Thank you.

11 REPRESENTATIVE RAMALEY:

12 Thank you, Mr. Chairman. Ladies, thank  
13 you very much for taking your time. And I appreciate  
14 your testimony. Let me start by saying I am a product  
15 of Catholic grade school education. It was a great  
16 experience. Of course, the nuns got sick of me and  
17 kicked me out after a while. But that's a different  
18 story.

19 But when we met with the officials of the  
20 Diocese of Scranton, several representatives, I put  
21 this question to them. And let me explain it. What I  
22 said was, can the Catholic Church --- can they afford  
23 to be in education today? And I asked that question  
24 because ---. Let me ask you this question. Is there  
25 an expectation that your union would be apples to

1 apples with the public school union? Because my fear  
2 is --- and I am a big cheerleader of Catholic  
3 education. My fear is that if there is that  
4 expectation, that we might as well pack up our bags  
5 and go home now, because it just --- you don't have  
6 taxpayer dollars.

7 MS. SCHWARTZ:

8 Absolutely not.

9 REPRESENTATIVE RAMALEY:

10 And I assumed that. I assumed that  
11 answer. It is a fear or a caution.

12 MS. SCHWARTZ:

13 But keep in mind, Representative, we, as  
14 Catholic school teachers, have a vested interest in  
15 keeping the school open.

16 REPRESENTATIVE RAMALEY:

17 Right.

18 MS. SCHWARTZ:

19 Because our vocation is there. Our job  
20 is there. Our future is there as the future of the  
21 children is there. So we're not going to negotiate  
22 something that is going to jeopardize the future of  
23 that school. We need --- and Ms. Kirk says, we are  
24 entitled to a just wage. And that can be, you know  
25 --- when you talk about what is a just wage, it

1 depends on who is paying and who's getting it as to  
2 how just it is.

3           But we certainly don't want to put any  
4 Catholic school out of business. We're looking, in  
5 Pennsylvania, that the bishops have agreed to be  
6 covered under the unemployment compensation law  
7 because the Church is protected from unemployment. So  
8 in Pennsylvania --- if our teachers --- if there's a  
9 cutback in the enrollment and our teachers are laid  
10 off, we can collect unemployment. They can't in New  
11 Jersey. They don't get it in Massachusetts and I'm  
12 sure in most other states. I know they do in New York  
13 State. But there are a lot of other states that are  
14 --- you know. So we're not protected that way.

15           So no, we're not --- if we wanted public  
16 tax dollars --- when our teachers leave us sometimes  
17 for public school, it's that they need to get extra  
18 money. And God bless them. But we're there. We want  
19 to keep the school going. And it would be foolish for  
20 us to ---. I told you, if they come into Catholic  
21 school teaching for money, I hope they have a good  
22 medical plan, because they need to get their head  
23 examined.

24                           REPRESENTATIVE RAMALEY:

25                           Thank you.



1                   REPRESENTATIVE SHIMKUS:

2                   Representative Buxton.

3                   REPRESENTATIVE BUXTON:

4                   This is directed to you, Ms. Schwartz.  
5 Who or what establishes the qualifications of a lay  
6 teacher?

7                   MS. SCHWARTZ:

8                   Well, our employer would tell us what the  
9 qualities were that they were looking for and what the  
10 qualifications are for the teacher.

11                  REPRESENTATIVE BUXTON:

12                  So you could have eight different  
13 criteria throughout the Commonwealth of Pennsylvania  
14 to qualify lay teachers?

15                  MS. SCHWARTZ:

16                  Well, strictly speaking, you could, but I  
17 believe that most times, they're going to look in ---  
18 each diocese is going to look for the qualities that  
19 are --- I'm sure they're written down throughout  
20 Pennsylvania on what the qualities of a lay teacher  
21 are or what ---.

22                  REPRESENTATIVE BUXTON:

23                  So unlike a public school teacher who has  
24 to meet certain criteria established by the Department  
25 of Education, you're saying that Catholic lay teachers

1 really have no criteria that's uniform throughout the  
2 dioceses in Pennsylvania?

3 MS. SCHWARTZ:

4 Well, I can't speak for what the criteria  
5 are. I just know that the teachers that I know  
6 throughout Pennsylvania --- most dioceses require them  
7 to be certified.

8 REPRESENTATIVE BUXTON:

9 By DVE?

10 MS. SCHWARTZ:

11 And you get incentive pay if you are  
12 getting additional credits and degrees. So we want  
13 the best. We want ---. Our problem is that a lot of  
14 times we can't hold onto this because they will teach  
15 with us for a few years and then they'll go off  
16 someplace else, you know, like that. But yeah. I  
17 mean, everybody wants good teachers. If you don't  
18 have good teachers, you might as well just bag it in  
19 now.

20 We've also had the ability in the  
21 Philadelphia contract to negotiate certain aspects of  
22 it. Teachers, until they are certified, are not able  
23 to get tenure. We also have an education grant in our  
24 contract which has been negotiated to help the  
25 teachers if they are going for certification or for an

1 advanced degree, to hopefully keep them in the system.  
2 So we have negotiated many of the items that I guess  
3 would be the qualifications for a teacher. Many of  
4 our teachers are certified. Almost 50 percent of our  
5 teachers are --- have a Master's degree. So they have  
6 advanced their own education. If they haven't  
7 received any education grants --- but they've made the  
8 commitment and they set their own standards.

9 REPRESENTATIVE BUXTON:

10 But the bottom line is there's no  
11 uniformity among the eight dioceses in Pennsylvania in  
12 determining the qualifications of a lay teacher; would  
13 that be an accurate statement?

14 MS. SCHWARTZ:

15 Well, as far as I know, no. But I know  
16 that there is ---.

17 REPRESENTATIVE BUXTON:

18 I mean, you have a situation in  
19 Philadelphia where you have a contract. I'm from  
20 Harrisburg where there is no contract. I have to  
21 assume that the qualifications under your contract  
22 would be a little stricter than, perhaps, --- and I'm  
23 only speculating --- those lay teachers in the  
24 Harrisburg diocese?

25 MS. SCHWARTZ:

1 I don't know that you can say that. I  
2 think that everyone wants good teachers in their  
3 schools.

4 REPRESENTATIVE BUXTON:

5 We all want good teachers.

6 MS. SCHWARTZ:

7 Yeah. But I ---.

8 REPRESENTATIVE BUXTON:

9 But in public schools, there is a state  
10 law that requires a minimum requirement. In the  
11 Catholic Church, there is no governance.

12 MS. SCHWARTZ:

13 Well, non-public schoolteachers do not  
14 have to be certified. I mean, that's something that's  
15 the law; right?

16 REPRESENTATIVE PASHINSKI:

17 But I thought that all your teachers had  
18 to be certified. My question was whether the ---

19 REPRESENTATIVE BUXTON:

20 I don't believe so.

21 REPRESENTATIVE PASHINSKI:

22 --- elementary teachers have to be  
23 certified. I think your high school teachers have to  
24 be.

25 MS. SCHWARTZ:

1 I don't believe they always have to be.  
2 No non-public school teacher in Pennsylvania has to be  
3 certified in order to work in a school. But a number  
4 of school systems around here --- a number of them do  
5 require certification.

6 REPRESENTATIVE BUXTON:

7 That's fine. Thank you.

8 REPRESENTATIVE SHIMKUS:

9 Thank you. Representative.

10 REPRESENTATIVE BLACKWELL:

11 Thank you. Thank you very much.  
12 Something very quick. Do the elementary school  
13 teachers ---? Are you saying that none of the  
14 elementary school teachers in this state are in a  
15 union?

16 MS. SCHWARTZ:

17 No. No. There are unionized elementary  
18 teachers.

19 REPRESENTATIVE BLACKWELL:

20 There are some?

21 MS. SCHWARTZ:

22 Yes. Here in the Diocese of Allentown,  
23 all the elementary and high school teachers are in one  
24 union in Allentown. And in Pittsburgh, the elementary  
25 schools that choose to be organized and unionized are

1 unionized. In Scranton, until January 24, 2008, you  
2 had unionized elementary teachers.

3 REPRESENTATIVE BLACKWELL:

4 And there are in Scranton?

5 MS. SCHWARTZ:

6 No. No teacher union is recognized by  
7 the Diocese of Scranton now. There's a company union  
8 now.

9 REPRESENTATIVE BLACKWELL:

10 Can you give me a rough estimate of the  
11 difference in salaries of the unionized teachers as  
12 opposed to not --- the lay teachers?

13 MS. SCHWARTZ:

14 Well, the one specific that I use, it  
15 takes an elementary lay teacher in the Archdiocese of  
16 Philadelphia's non-unionized elementary schools about  
17 20 years to make the high school starting salary.

18 REPRESENTATIVE BLACKWELL:

19 Twenty (20) years? Can you tell me the  
20 difference between the amount of time for tenure? You  
21 said there's a lot of turnover in non-union classes or  
22 schools. Can you tell me the difference between the  
23 turnover in the elementary schools that are union and  
24 those who are not?

25 MS. SCHWARTZ:

1 I believe it's about 30 percent turnover  
2 in the elementary schools. In Philadelphia, there are  
3 maybe ten percent of people leaving for various things  
4 in the high school.

5 REPRESENTATIVE BLACKWELL:

6 I'm talking about elementary.

7 MS. SCHWARTZ:

8 Oh. Unionized elementary?

9 REPRESENTATIVE BLACKWELL:

10 Yes.

11 MS. SCHWARTZ:

12 I'd have to think it's less than those  
13 that are non-union.

14 REPRESENTATIVE BLACKWELL:

15 It would be helpful if you can get them.

16 MS. SCHWARTZ:

17 Oh, okay.

18 REPRESENTATIVE BLACKWELL:

19 One of the points they're arguing, I  
20 believe, that people stay longer because they have to,  
21 as opposed to people who are --- I don't want to say  
22 not have to. People who are ---

23 MS. SCHWARTZ:

24 Less secure.

25 REPRESENTATIVE BLACKWELL:

1                   --- less secure. So what I would like  
2 for you, if you can, to see if you could get this, the  
3 differences.

4                   REPRESENTATIVE SHIMKUS:

5                   Thank you, Representative. And ladies  
6 and gentlemen, thank you very much for your testimony.  
7 Our next panel is Dr. Robert O'Hara, executive  
8 director of the Pennsylvania Catholic Conference,  
9 Attorney Phillip Murren, general counsel, and Nicholas  
10 Cafardi, dean of Duquesne University Law School. Once  
11 again, I welcome you to the panel. And I'm sure that  
12 there's going to be questions. And it's nice to talk  
13 to you again. Doctor, you can begin whenever you're  
14 ready.

15                   DR. O'HARA:

16                   Representative Shimkus, Representative  
17 Pashinski, members of the House Labor Relations  
18 Committee and other members of the Pennsylvania House  
19 of Representatives, my name is Robert J. O'Hara, Jr.  
20 I'm the executive director of the Pennsylvania  
21 Catholic Conference. We are the public affairs agency  
22 of the Catholic Diocese of Pennsylvania and issue the  
23 public policy and public comment.

24                   With me is Phillip J. Murren from the law  
25 firm of Ball, Murren and Connell. Mr. Murren has



1 served as legal counsel for the PCC since 1975. He  
2 has been directly involved in each litigation in the  
3 state and federal courts in this Commonwealth since  
4 1976 and related to the constitutionalities when  
5 exercising jurisdiction over Catholic schools by  
6 governmental labor relations agencies.

7           Also with us today is Dr. Nicholas  
8 Cafardi, Dean Emeritus and Chair Professor of legal  
9 Process and Procedure at Duquesne University Law  
10 School in Pittsburgh. Dr. Cafardi is both a juris  
11 doctor and a doctor of canon law.

12           And let me just go off my testimony for a  
13 second and say, Representative Blackwell, I appreciate  
14 your comments. If you want to hear from the  
15 Archdiocese in Philadelphia, they are here, and so is  
16 the Archdiocese of Scranton and representatives from  
17 the Archdiocese in Pittsburgh. We've heard the  
18 anecdotal stories at this point, and I want you to  
19 hear some points made by the administration of the  
20 diocese.

21           One story which we heard at the last  
22 hearing is about a teacher who had 34 years of  
23 experience and was six months away from retirement and  
24 apparently was told that she was not going to have a  
25 job anymore. My understanding is that teacher is

1 still working right now in that school. And she has  
2 been offered a number of other jobs. So there is  
3 another point of view here, and I want you to know  
4 this. We're the Catholic Church here. This is not  
5 industry in the 1900s. We are a religious  
6 institution. I think that's a point we want to make.

7           We've already participated in one hearing  
8 on this issue and provided testimony. We have  
9 provided additional testimony here today. I'm not  
10 going to go into the same discussion as we had before,  
11 but I do want to hit on some of the points of that  
12 testimony. I'd also like to touch on some of the  
13 points that were raised by Attorney Mark Chopko, an  
14 expert constitutional lawyer from Spradley, Ronon,  
15 Stevens and Young. He was general counsel in the  
16 United States Catholic Conference of Bishops for over  
17 20 years. I want to hit on some of the points he made  
18 at the last hearing. Also, you have a letter that was  
19 submitted by Professor Richard Garnett from Notre Dame  
20 University that has been submitted, and we are  
21 available to discuss the piece that he submitted  
22 today.

23           I think the most important point for you  
24 to consider here today is that the Catholic Church  
25 established its schools as the principal means of

1 transmitting the Catholic faith to each generation.  
2 That is our principal means. This is how we pass on  
3 our faith. Our schools are different from our  
4 hospitals and from our charities. Our hospitals and  
5 our charities are there because as the Catholic  
6 Church, we want to do good work, we want to help the  
7 poor and we want to help them. We don't evangelize in  
8 our hospitals. We don't evangelize in our charities.  
9 In our schools we do evangelize. We teach the gospel.

10           The whole life of the Catholic School is  
11 directed to religious angles. This, of course, is  
12 most dramatically reflected in the teachers, who  
13 integrate the gospel in both their private and  
14 professional lives. The teachers are the lifeblood of  
15 the teaching ministry. In effect, when a person  
16 chooses to be a teacher in a Catholic school, they  
17 choose to be a minister of the gospel. These same  
18 values were expressed at the last hearing, and I see  
19 they are again here today by the Keystone Christian  
20 Education Association. Their evangelical method also  
21 teaches their gospel.

22           And the religious nature of this mission  
23 has been repeatedly recognized by the civil courts,  
24 not only in Pennsylvania, but the federal courts. The  
25 courts upheld that unlike public or nonsectarian

1 schools, religious schools exist for religious  
2 purposes, to which everything in the life and  
3 operation of the school is subordinate. Not only have  
4 the courts recognized that, but so also has the  
5 General Assembly itself. In 1970, the General  
6 Assembly gave the Pennsylvania Labor Relations the  
7 legal authority to compel non-profit employees and  
8 public school districts to bargain with the unions.  
9 It should be noted that Catholic schools at that time  
10 in 1970 had a substantial number of lay teachers. And  
11 the evangelical schools, Christian education schools,  
12 almost all of their teachers were laypeople. And at  
13 that time, the General Assembly declined to include  
14 them in Pennsylvania labor relations policy.

15           I believe that everyone here today  
16 subscribes to the notion that state government should  
17 not meddle in religious doctrines. This also has to  
18 relate to how and by whom religious doctrine is  
19 taught. The Pennsylvania Labor Relations Board  
20 customarily oversees collective bargaining and  
21 employee discipline between employees and employers  
22 concerning all the terms and conditions of employment.  
23 But in religious schools, many of the terms and  
24 conditions of employment are religiously sensitive.  
25 In a Catholic school, the terms and conditions of

1 employment are the what, the how and the by whom  
2 religious doctrines are taught.

3           Our teachers are expected to minister by  
4 example. They are expected to go to masses with their  
5 students on Holy Day, the First Friday and other  
6 significant religious occasions. Also, by example, if  
7 the bishop, for instance, or another religious figure  
8 comes and makes a presentation in the school, the  
9 teachers might be expected to stay beyond the  
10 contracted time when they would normally leave. They  
11 also would be asked and expected to participate in  
12 religious programs, such as a religious Christmas play  
13 or an Easter celebration.

14           Although our dioceses are not required  
15 under law to have unions, many of our dioceses do have  
16 unions. And you've heard that today. But even in  
17 these, there's no negotiating over the terms and  
18 conditions of employment that attack on the religious  
19 integrity or the Catholic identity of the school or  
20 the right of religious officials to interpret and  
21 apply Church laws to determine the best way to  
22 accomplish school-related items.

23           At the last hearing, Professor Brian  
24 Benestad, professor of theology at the University of  
25 Scranton, Father William King, general canon lawyer

1 for the Diocese of Harrisburg, noted that it is the  
2 diocesan officials' responsibility to determine the  
3 best way for accomplishing the schools' religious  
4 legislation. This will be reiterated today by  
5 Professor Cafardi. He is both a civil and canon  
6 lawyer with many years of experience.

7           The Catholic Church is governed by the  
8 Code of Canon Law. These are statutes adopted by ---  
9 and also by statutes adopted the individual diocese.  
10 These laws have been developed and refined over the  
11 course of 2,000 years. It is thus for good reason  
12 that the Church objects to the proposed insertion of  
13 governmental agencies acting as the referee over  
14 relationships between a religious faith entity and its  
15 religious school.

16           At the last hearing, Attorney Mark Chopko  
17 made four very important points, which I wish to once  
18 again emphasize. This bill will open the door to  
19 litigation between religious institutions and their  
20 ministerial employees. This bill takes sides in a  
21 religious dispute. This bill would displace religious  
22 authority with secular authority. This bill would  
23 excessively entangle government in the internal  
24 affairs of a religious organization. I'd like to turn  
25 testimony over to Mr. Murren now. He can elaborate

1 more on some of those legal issues.

2 MR. MURREN:

3 My testimony relates principally to the  
4 technical legal points that are involved in this more  
5 so than a constitutional nature. They're set out at  
6 length in the written statement that was submitted to  
7 the committee today. I won't simply reiterate  
8 everything that's in the written statement. As I was  
9 told by Dr. O'Hara, it's all lawyer stuff anyway. So  
10 it is, however, responsive to some of the questions  
11 that were raised initially about some of the court  
12 decisions other than the ones issued by the courts in  
13 Pennsylvania, the U.S. Supreme Court and the U.S.  
14 Court of Appeals for the Seventh Circuit that we  
15 discussed in prior written statement that we  
16 submitted.

17 There are courts in three other states  
18 other than Pennsylvania that have rendered decisions  
19 adverse to the Church-affiliated educational  
20 institutions on the issue of labor relations agency  
21 jurisdiction. Those occurred in New York, New Jersey  
22 and Minnesota. However, each of those decisions  
23 highlighted important differences between the laws at  
24 work in those states and the law that would be placed  
25 into operation in Pennsylvania with House Bill 2626.

1           In New Jersey there is no administrative  
2 agency that enforces the labor laws. They are  
3 enforced solely through the courts, which are, in the  
4 words of the New Jersey Supreme Court, more adept at  
5 handling the constitutional confrontations that will  
6 inevitably occur through the regulation supervision of  
7 the collective bargaining process. The New Jersey  
8 court, in fact, criticized the National Labor  
9 Relations Board, on which the Pennsylvania Labor  
10 Relations Board is modeled under our Labor Relations  
11 Act, as a Leviathan-like administrative agency that  
12 would constantly monitor and supervise the labor  
13 relations in the Catholic schools. And for that  
14 reason, it extinguished the Catholic Bishop of Chicago  
15 decision.

16           In New York and in Minnesota, those  
17 courts were careful to limit the bargaining that was  
18 mandated solely to purely secular items. It said that  
19 it was unconstitutional to inquire into whether the  
20 religious principle was used as a pretext. A  
21 pretextual requirement is a prominent feature of House  
22 Bill 2626. House Bill 2626 contains no limitation on  
23 the terms and conditions of employment so that they  
24 relate only to purely secular terms and conditions,  
25 which means all terms and conditions of employment



1 would be open to the mandate of collective bargaining  
2 and government supervision under House Bill 2626.

3           And also, all three of the --- the  
4 decisions in all three of those states completely  
5 ignored what were the clearest warnings of  
6 constitutional imperil that were contained in the  
7 Supreme Court's decision in the Catholic Bishop of  
8 Chicago case. Never mentioned in any of those cases  
9 was this statement by the Supreme Court: the  
10 Church/teacher relationship in a church-operated  
11 school differs from the employment relationship in a  
12 public or other non-religious school. We see no  
13 escape from conflicts flowing from the Board's  
14 exercise of jurisdiction over teachers in church-  
15 operated schools and the consequent, serious First  
16 Amendment questions that would follow. That statement  
17 is by the Supreme Court of the United States, never  
18 mentioned by the lower courts that rendered the  
19 decisions in other states.

20           However, those statements were  
21 prominently mentioned in two other decisions by U.S.  
22 Courts of Appeal: the District of Columbia Circuit and  
23 the First Circuit. Those cases are set forth in the  
24 testimony. Those cases also dealt with Labor Board  
25 jurisdiction over religiously-affiliated educational

1 institutions.

2           We also, in response to a request by a  
3 committee member, contacted attorneys and diocesan  
4 representatives in other dioceses that were subject to  
5 state labor relations agency jurisdiction. They told  
6 us that there was always a difference between a non-  
7 government supervised union and a government-  
8 supervised union. The government was always a moving  
9 presence in the relationship between the union and the  
10 Church-related institution. And it changed to matrix.  
11 And in one New York diocese, the attorney told us that  
12 the statute actually contributed to a labor strike by  
13 bringing the government into the matrix and changing  
14 the negotiating position between the unions and the  
15 schools. It led to divisive relationships within the  
16 school faith community. It led also to the strike  
17 being spilled over into the school community in the  
18 form of teachers enlisting students to take sides in  
19 the labor strike. It led to work stoppages in that  
20 diocese. On the whole, they were very dissatisfied  
21 with their experience with having the government in  
22 the background and ready to be reported to by the  
23 teachers' union in those relationships.

24           There will be other witnesses from  
25 various other dioceses that are here to describe both

1 positive and negative relationships or experiences in  
2 dealing with teachers' unions. That is why the Church  
3 is best left to work this out amongst its own faith  
4 communities.

5           The Diocese of Scranton has a  
6 particularly unique situation that distinguishes it  
7 from the other dioceses at this time in the history of  
8 the diocese and the history of every organization.  
9 But still, it needs time to work itself out according  
10 to Catholic principles as Catholic principles are  
11 understood and applied within that faith community.  
12 Now Professor Cafardi can address the canon law issue.

13           DR. CAFARDI:

14           Representative Shimkus and members of the  
15 House Labor Relations Committee, as you've been told,  
16 I am that rare creature, a layman who is also a canon  
17 lawyer of the Catholic Church. And my canon law  
18 degree is from the University of Saint Thomas in Rome.

19           As a canon lawyer, I represented  
20 individuals and religious institutes before diocesan  
21 tribunals, in the Holy See in Rome. And as a civil  
22 and canon lawyer, I've advised dioceses and religious  
23 institutes on the proper civil law structures for  
24 their ministry and canon law. I'd also like to say  
25 that I grew up in a union household. My father was a

1 member of two unions: the Carpenters' District Council  
2 in Pittsburgh and also the Ushers' Union at Three  
3 Rivers Stadium, and before that, at Forbes Field. So  
4 my education was paid for by union dollars. I'm very  
5 grateful for it. I can never forget.

6                   The Canon Law of the Roman Catholic  
7 Church is the oldest continually functioning legal  
8 system in the world. It's based on collections of  
9 Church law and discipline that were put together at  
10 the end of the first and part of the second centuries  
11 A.D. It predates the English common law by over 1,000  
12 years. It predates the American legal system by 1,700  
13 years. The 1983 Code of Canon Law is the universal  
14 law for the entire western or Latin Church and is  
15 currently enforced in all the archdioceses and  
16 parishes in the United States of America, including  
17 the archdioceses, dioceses and parishes that make up  
18 what we call the Province of Philadelphia, which is  
19 basically the same as the Commonwealth of  
20 Pennsylvania.

21                   The Canon Law of the Roman Catholic  
22 Church is filled with theological and dioriginal  
23 (phonetic) discipline. It finds its fundamental rules  
24 in the experience of society based on faith and having  
25 as its primary purpose the proclamation of the gospel

1 and the saving of souls. In the Christian community,  
2 an overall obligation of theological ordinances prior  
3 to any law is the bond that binds the faithful to God  
4 and to each other. Canon Law is direction in detail  
5 as to how to fulfill this principal obligation in  
6 daily life. Canon Law, in its essence, depends on  
7 pre-existing theological realities. It is therefore  
8 impossible to read the language of the Code of Canon  
9 Law without an awareness of the theological reality on  
10 which that law was based.

11                   In my written presentation, I cited 794,  
12 795, 800, 803, 804, 805, 806. I'm not going to read  
13 them to you. They are in the prepared statement. I  
14 do, though, want to draw a number of conclusions from  
15 these Canons as it applies to our current situation.  
16 First, the bishop, which is referred to in the Canons,  
17 as was pointed out previously, as the Ordinary, is  
18 entrusted by the Code of Canon Law with the  
19 responsibility and also the authority to establish and  
20 oversee Catholic schools, that is to say, schools  
21 whose major concern is to make sure that the Catholic  
22 faith is handed down from generation to generation.

23                   Second, this is an administrative path  
24 for the bishop, but it's also a theological path  
25 because it involves the propagation of the faith,

1 which is the bishop's primary duty. Third, this  
2 education is an education of the whole person, not  
3 simply an education in the three R's. It includes the  
4 moral education of the person as well, whereas Canon  
5 795 says, quote, children and youth are to be nurtured  
6 in such a way that they're able to develop their  
7 physical, moral and intellectual balance harmoniously,  
8 acquire a more perfect sense of responsibility and a  
9 right use of freedom, and are formed to participate  
10 actively in social life, closed quotes.

11 Fourth, teachers in Catholic schools are  
12 the bishop's collaborators in a theological ministry.  
13 They are not simply employees, but rather, co-  
14 ministers with the bishop in his ministry of Catholic  
15 education. This is why the Code of Canon Law is so  
16 particular in requiring that those who teach in  
17 Catholic schools be, as Canon 803 says, quote,  
18 outstanding and correct doctrine and integrity of  
19 life, closed quote.

20 Fifth, teachers in Catholic schools, in  
21 their exercise of the ministry of education, with the  
22 diocesan bishop, are office holders in the Church.  
23 And their office exists in a stable manner to further  
24 a spiritual purpose. That's Canon 145. Sixth, as a  
25 result, teachers in Catholic schools do not simply

1 teach by what they say in the classroom. They also  
2 teach by how they live their own lives. Their  
3 vocation to teach in a Catholic school is an office of  
4 the Church, and it is a true ministry, which they  
5 exercise together with the bishop. It's more than a  
6 job as you and I might use that term.

7           It should be evident that the application  
8 of state-enforced labor relations models to the  
9 diocesan bishop and his co-ministers for the  
10 propagation of the Catholic faith, namely, the  
11 teachers in Catholic schools, would impede, if not  
12 destroy this co-ministry. It would require the  
13 diocesan bishop to use the mechanism of the state to  
14 deal with what is not, at face, a secular, but rather,  
15 a religious and spiritual relationship.

16           Should the proposed legislation be  
17 adopted, the church/state conflicts that it would  
18 propagate are enormous. For example, if the teachers  
19 in a Catholic school choose to be represented by a  
20 particular secular bargaining agent, should that be in  
21 its publicly-stated goals, principles or prior public  
22 action, give honor to the teachings of the Catholic  
23 Church, the bishop could not, consonant with his role  
24 as Chief Teacher of the Diocese, endorse that means of  
25 participation in the ministry of Catholic education

1 even remotely. Or if that union sought to bargain  
2 over matters of Catholic doctrine and law or even the  
3 application of that doctrine and law in everyday  
4 situations in the lives of its members in ways that  
5 would limit the bishop's authority to be the final  
6 decider of such theological or canonical matters, the  
7 bishop could not participate in that part of the  
8 bargaining process. The diocesan bishop must be able  
9 to assure unhampered --- unhampered by state oversight  
10 or union involvement.

11           As a public action, the teachers in those  
12 schools, as co-ministers of the apostolic Catholic  
13 education, are compatible with their obligations as  
14 ministers and witnesses in their lives and in their  
15 teaching of the gospel truths the Catholic schools are  
16 created to propagate. A secular model of employee  
17 relation should not be forced on any ministry of the  
18 Church with a governmental agency acting as an arbiter  
19 or referee of the bishop's duties under that model.  
20 The ecclesiastical ministry has to be free to choose  
21 its own faculty with its own doctrines and teachings.  
22 It is particularly inappropriate, I think, for a  
23 government lawmaking body to take sides in an  
24 intrachurch dispute over the organizational structure  
25 of that ministry, or the ministry will be divided how



1 and by whom.

2                   Finally, although I've spoken primarily  
3 as a canon lawyer, I don't want to omit to some of my  
4 concerns as a civil lawyer who's worked with and for  
5 church bodies in Pennsylvania. I'm especially  
6 concerned in the present situation that my state  
7 legislature is promoting to utilize the coercive power  
8 of government to intervene in an intrachurch dispute.  
9 The very language of your bill that you are exempting  
10 the coverage of Pennsylvania's Religious Freedom  
11 Protection Act in this instance should alert you to  
12 that danger. And finally, as a Catholic, I'm  
13 particularly concerned that my church is departing in  
14 this case coercive power in the situation, namely, the  
15 performance of the Catholic ministry of education,  
16 where the state has no role and does not belong.  
17 Thank you.

18                   REPRESENTATIVE SHIMKUS:

19                   Thank you very much. I have a couple of  
20 questions, and I know that Representative Pashinski  
21 does as well. I'll try to be brief. Under no  
22 circumstances would I ever try to legislatively  
23 interfere in the matter of faith nor morals of the  
24 Catholic Church. And Bob, you and I have worked on  
25 many issues of other --- and you had expressed your

1 concerns, where I would agree with you.

2           However, when it comes to this bill, it  
3 appears to me that what is happening, and this my  
4 opinion, is that you are cherry-picking what state law  
5 you will adhere to. Now, as a canon expert, you cite  
6 Canon 800. Now, my Doctorate in Theology is not in  
7 Catholic theology, and so I'm sure I will misinterpret  
8 this. The Canon 800 says that the Church, the  
9 Catholic Church, has the right to establish and direct  
10 schools on any discipline type of level. And you said  
11 that you would resent the legislature interfering ---  
12 and I don't remember the exact quote ---.

13           DR. CAFARDI:

14           I didn't say I resent it. I said I was  
15 concerned.

16           REPRESENTATIVE SHIMKUS:

17           Fine. Fine. I assure you that in the  
18 first eight years of my life, I attended Catholic  
19 school, and corporal punishment was absolutely part of  
20 it. And now in order to be certified, corporal  
21 punishment is not allowed. So therefore, the  
22 Legislature has already intervened in Canon 800. And  
23 so therefore, I'm not sure --- and, again, I'm  
24 admitting my weakness here --- I'm not sure that  
25 Cannon Law can be quoted as a reason why you cannot

1 apply 2626.

2 DR. CAFARDI:

3 Is that a question you want me to try to  
4 answer?

5 REPRESENTATIVE SHIMKUS:

6 I don't know. I'm just thinking out  
7 loud.

8 DR. CAFARDI:

9 Canon 800 doesn't give anybody the right  
10 to beat anybody else up.

11 REPRESENTATIVE SHIMKUS:

12 Help me. Help me.

13 DR. CAFARDI:

14 There's nothing in Cannon 800 to prepare  
15 for --- that says anything about corporal punishment.

16 REPRESENTATIVE SHIMKUS:

17 But it does say it may establish the  
18 discipline of the school.

19 DR. CAFARDI:

20 That's not what that word means there.

21 The discipline of the school is the teaching  
22 discipline, in other words, schools of vocational  
23 training, schools of classical training. That's what  
24 the word discipline means there. It doesn't mean  
25 discipline in the sense of corporal punishment. It's

1 discipline in the sense of a scholarly discipline.

2 REPRESENTATIVE SHIMKUS:

3 And I respect and I appreciate that. And  
4 my other question is this. This whole thing has come  
5 down because of what's happening in Scranton. I don't  
6 know that we would have 2626 if, in the Diocese of  
7 Scranton, we didn't have that situation. Now,  
8 Attorney, you have said, I think, at the last hearing  
9 that even if this passed, you see a gazillion appeals.  
10 Is it really worth it? I mean, are we not back to  
11 what Ms. Rita Schwartz said where we have a bishop who  
12 is saying my way or the highway and we will fight it  
13 to the very end? I mean, what is wrong with 2626?  
14 Because I feel confident that this is going to pass  
15 and pass almost unanimously.

16 MR. MURREN:

17 2626 is the same ---. It directly  
18 invites the courts into the constitutional  
19 confrontation that has been litigated since the mid  
20 1970s routinely. Every time it's come up. Every  
21 place it's come up. So I feel very confident in  
22 predicting that there will be litigation if House Bill  
23 2626 is adopted, and that's because when you put the  
24 government overlay into the relationship between a  
25 diocese and its teachers, there will be

1 confrontations, including the Church and the  
2 employees, that will come before the government  
3 agency. And the government agency will have to decide  
4 those. And those questions under House Bill 2626 are  
5 not limited to purely secular items, such are they  
6 paid enough, are they abiding by a grievance agreement  
7 that was negotiated? There are other things that can  
8 happen. All of those ---.

9           There were extensive records made in  
10 every one of those cases in which I was involved here  
11 in Pennsylvania, and also, there's a case out in  
12 Indiana in which we were involved in --- the Fort  
13 Wayne, Indiana case, which got consolidated with the  
14 Catholic Bishop of Chicago case. But if you will read  
15 the Opinions in those cases and see all of the  
16 specific conflicts that those courts described in  
17 those cases when --- especially when unfair labor  
18 practice charges related to anti-union animus would  
19 come up, then you will see that there are very real  
20 prospects for entanglement between government and  
21 religion. And those courts --- the U.S. Supreme Court  
22 saw that.

23                           REPRESENTATIVE SHIMKUS:

24           And I see that, too. But if you choose  
25 to take state certification, if you choose to take

1 state transportation, why then --- why can you say,  
2 well, here's, as Representative Pashinski said, one,  
3 two, three, four, but five doesn't count?

4 MR. MURREN:

5 Because those other things don't  
6 interfere with religious issues. Those other things  
7 are carefully structured to be constitutional in that  
8 they are not aid directly to the institution. They  
9 are aid to the children who are attending the  
10 institution. There was a bill that was enacted in  
11 Pennsylvania some time ago that provided for the  
12 salary subsidization of teachers. That was direct  
13 money paid to the school for the services of the  
14 teachers in secular subjects. That was struck down by  
15 the U.S. Supreme Court in the case in which it  
16 announced the excessive entanglement doctrine about  
17 monitoring and supervising teachers who are involved  
18 in an essentially religious enterprise.

19 REPRESENTATIVE SHIMKUS:

20 Thank you very much. Representative?

21 REPRESENTATIVE PASHINSKI:

22 Are you guys the lions then?

23 MR. MURREN:

24 Pardon me?

25 REPRESENTATIVE PASHINSKI:

1 Are you guys the lions then?

2 MR. MURREN:

3 No. Actually, we're the Christians.

4 REPRESENTATIVE PASHINSKI:

5 Very good. I think there's a lot of  
6 Christians in this room. What I find fascinating and  
7 that I want put into the record the last time we had  
8 the hearing, we had attorneys and officials of  
9 Catholic universities, also authorities, giving us a  
10 completely different view. So this is no different  
11 than a court case where you have an offense and a  
12 defense. And it's obvious that through this hearing,  
13 maybe we can find some method by which we're going to  
14 find the agreement. You indicated before that the New  
15 York law stated it was limited bargaining to purely  
16 secular items; is that correct?

17 MR. MURREN:

18 That was the holding of the court. It  
19 said that we will not allow bargaining of anything  
20 other than purely secular subjects.

21 REPRESENTATIVE PASHINSKI:

22 Okay. At the present time in New York,  
23 do unions still exist?

24 MR. MURREN:

25 Oh, yes.

1                   REPRESENTATIVE PASHINSKI:

2                   Their Catholic schools are functioning?

3                   MR. MURREN:

4                   They're functioning as I described in our  
5 conversations with the --- especially with the  
6 attorney from the Rockville Centre Diocese. It's an  
7 uncomfortable relationship from a church/state  
8 perspective because of the presence of the government  
9 as the referee in that relationship.

10                  REPRESENTATIVE PASHINSKI:

11                  Still dealing with secular issues?

12                  MR. MURREN:

13                  They're dealing with secular issues, yes.

14                  REPRESENTATIVE PASHINSKI:

15                  If 2626 were to be redefined to deal with  
16 secular issues, would that be more acceptable to you?

17                  MR. MURREN:

18                  There is still ---. It would diminish  
19 somewhat the problems, but it wouldn't remove them.  
20 As Professor Cafardi alluded to, one of the threshold  
21 issues is House Bill 2626 would say that the Catholic  
22 Church would have to accept any collective bargaining  
23 representative that the employees would choose, and  
24 that could be a union that holds views and advocates  
25 views that are antithetical to Church teachings. So



1 that's the very threshold issue in certifying a union.  
2 And I don't know how you amend 2626 to remove that.

3 REPRESENTATIVE PASHINSKI:

4 Okay. So other than secular issues,  
5 you're concerned about what kind of union  
6 representation your Catholic school teachers may  
7 select?

8 MR. MURREN:

9 I'm concerned about the pretext  
10 provision, yes, certainly.

11 REPRESENTATIVE PASHINSKI:

12 See? Now we're making progress.

13 MR. MURREN:

14 We're concerned about the fact that there  
15 could be unfair labor practices charges that could  
16 --- that, while they would revolve around anti-union  
17 animus ---. Let us suppose, for example, that someone  
18 who is a union representative engages in conduct that  
19 the Church finds religiously unacceptable. That is  
20 the prescription for a confrontation over what the  
21 true motivation was in disciplining that employee.

22 REPRESENTATIVE PASHINSKI:

23 Couldn't that occur anyway if that  
24 individual occurred in an activity that was unbecoming  
25 to that particular institution?

1                   MR. MURREN:

2                   It would occur, but not with government  
3 as the referee and with government sitting down and  
4 putting the Church to the test of demonstrating to the  
5 secular referee what the nature of the religious  
6 factoring was and how the conduct violated that factor  
7 and with the government referee having full  
8 discretion, full authority to reject what the Church  
9 says about its own doctrine.

10                   REPRESENTATIVE PASHINSKI:

11                   Well, we have a little gray area here.  
12 Because they sign a paper that indicates that they  
13 will follow certain rules; is that correct?

14                   MR. MURREN:

15                   I'm sorry?

16                   REPRESENTATIVE PASHINSKI:

17                   I said it's my understanding that the  
18 Catholic teachers have to sign an agreement relative  
19 to those conditions.

20                   MR. MURREN:

21                   There are Cardinal's Clauses, if that's  
22 what you're referring to, in individual teacher  
23 contracts and in individual --- and in the diocesan  
24 policy manuals throughout the Commonwealth, yes.

25                   REPRESENTATIVE PASHINSKI:

1           And as an attorney, if there's a contract  
2 and someone violates that contract, that's pretty much  
3 an open and shut case. I don't see that as a major  
4 problem because they signed the contract. And if they  
5 violate that contract, then therefore, whether they're  
6 a member of the union or not, the Church would be in  
7 their purview.

8           MR. MURREN:

9           The distinguishing feature of a  
10 Cardinal's Clause is that there is no recourse beyond  
11 the diocese for violation of the Cardinal's Clause.  
12 You don't go to court for the Cardinal's Clause.

13           REPRESENTATIVE PASHINSKI:

14           Correct. Correct. That's my point.  
15 That's why I don't think that's a secular issue.

16           DR. CAFARDI:

17           Representative Pashinski, I think --- the  
18 problem I'm having listening to the discussion is that  
19 you seem to presume we can separate the secular from  
20 the religious in the Catholic grade schools and high  
21 schools. I don't think you can do that. When the  
22 Supreme Court looked at any issue, the Supreme Court  
23 of the United States said, simply, you can't do that.  
24 I think Attorney Murren has given some examples where  
25 there is such an interconnection between religious

1 issues and what we would like to think are secular  
2 issues. It's made evident that the ability to  
3 separate the two is really illusory. That's why I was  
4 speaking about the fact that the teachers in Catholic  
5 schools are exercising a ministry. I mean, it is  
6 their religious ministry. Even if they're teaching  
7 arithmetic, it's a religious ministry.

8 REPRESENTATIVE PASHINSKI:

9 No one is contesting that. What's  
10 difficult is that you have five dioceses that have  
11 unions functioning well. And here we have a problem.  
12 Is there a union in the Vatican?

13 MR. MURREN:

14 I don't believe so. I don't know. I  
15 don't know if there is or there isn't. I would like  
16 to ---.

17 REPRESENTATIVE PASHINSKI:

18 But you did answer that. You said you  
19 didn't think so.

20 MR. MURREN:

21 I don't know.

22 REPRESENTATIVE PASHINSKI:

23 I know. There is a Vatican law expert.  
24 There is a Vatican union.

25 MR. MURREN:

1           That's a matter of the concordat between  
2 the Holy See and the Republic of Italy. You know, I  
3 really don't ---.

4           REPRESENTATIVE PASHINSKI:

5           There is a Vatican union, though.

6           MR. MURREN:

7           Italy's heavily unionized. I wouldn't be  
8 surprised that there is a Vatican union.

9           REPRESENTATIVE PASHINSKI:

10          Is this church one church?

11          MR. MURREN:

12          Pardon me?

13          REPRESENTATIVE PASHINSKI:

14          Is this one church?

15          MR. MURREN:

16          I think, again, the idea that outsiders  
17 have of the Catholic Church, that the Catholic Church  
18 is a monolith, is really not true. You gave the best  
19 example yourself, sir, when you said there are eight  
20 dioceses in Pennsylvania. There are five that have  
21 unions. That should indicate right there that every  
22 bishop gets to decide that issue in his diocese with  
23 the people with whom he is working together with to  
24 educate kids in Catholic schools. The fact that we  
25 don't have the same attitude towards unionization in

1 every dioceses indicates right there that every  
2 bishop, and even further, every pastor has a right in  
3 these situations as well.

4           I mean, what if your ---? For example,  
5 if your statute has the effect of organizing teachers  
6 in a diocese, overlooking the fact that parish schools  
7 are parish schools --- in the Canon Law, every parish  
8 is a separate legal person. And the director of the  
9 affairs of that legal person is not the bishop. It's  
10 the pastor. So you could, with your law, as well-  
11 meaning as you are, and I don't doubt the sincerity of  
12 your motives, you could, with that kind of a law,  
13 impose a structure on the Catholic Church in which  
14 bishops are now exercising within the Canon Law the  
15 rights of the pastor, therefore stepping on those  
16 parish rights. These are all the kinds of things that  
17 could happen while the state imposes this discipline.

18           What's happened, for example, in  
19 Pittsburgh, I was a part of the recent negotiations in  
20 the 1980s when Pittsburgh voluntarily accepted  
21 unionizations by agreement with the unions in  
22 Pittsburgh. It's worked very well. But there's no  
23 state arbiter involved in those --- in the course of  
24 those grievances by contract between the parties with  
25 arbitration clauses. It works very well without the

1 interference of the state. The Church is free to do  
2 that by agreement. What I have a problem with here is  
3 that your legislation, in fact, forces a model on the  
4 Church.

5 REPRESENTATIVE PASHINSKI:

6 My concern is that we have authority, but  
7 that represents the Catholic community that are on  
8 both sides of this issue. We have professors, you  
9 know, that's well respected like yourself, take a  
10 different view. We have attorneys that's well  
11 respected like you, sir, take a different view. And  
12 so the continuum of opinions are ---. But I would say  
13 the inconsistency within the Catholic system also ---  
14 when you have five that have and don't. The Vatican  
15 has a union. You can't have one here. And as a  
16 result, it causes ---.

17 But I'd like to come back that to secular  
18 --- where it said purely secular items. And that's  
19 what 2626 was focusing in on, to try to delineate  
20 purely secular items from any religious doctrine. No  
21 way does this ---. But you guys --- you are  
22 indicating to me that no matter what you do, because  
23 of the fact that each individual teacher is also a  
24 minister, therefore, there could be no delineation.

25 And what I say to you is in New York,

1 because it's purely secular items, it is working, has  
2 worked. Minnesota, New Jersey has it in their  
3 constitution, which is slightly different. The fact  
4 of the matter is if the law was dithering, then it  
5 would be perceived differently and it would be  
6 adjudicated differently. And may I point out to you,  
7 we wouldn't be here today if everything was cool. But  
8 it's not. And as a result, we are being put into the  
9 middle of this conflict because those people that we  
10 all represent are taking a position that they are  
11 being unjustly dealt with.

12                   So we will remain calm. We will remain  
13 cool. We all want to try to see an amicable  
14 reconciliation of this. And I'm just looking for the  
15 possibility of altering 2626 so that we can stay  
16 within those purely secular items so as not to cause  
17 this conflict.

18                   DR. O'HARA:

19                   And let me say that this law, not only  
20 are there differences from diocese from diocese,  
21 there's difference from religion to religion and from  
22 Baptist religion to Baptist religion. And you will  
23 have some religious groups who will have no problems  
24 whatsoever with unions and you will have others that  
25 do. And in fact, this will be imposed upon them also.



1           Let me say that with regard to the  
2 secular institution, keeping this to the secular  
3 matters, if that were possible, I would expect that  
4 then the State of Pennsylvania would've been able to  
5 give money to Catholic schools when they passed that  
6 law years ago. But in fact, when it went up to the  
7 Supreme Court of the United States, they said no, that  
8 no matter how that money could be given to Catholic  
9 schools, it was meant to be given only to science  
10 teachers, to math teachers, to geography teachers.  
11 Not sounding very much like religious subjects; does  
12 it? But in fact, the Supreme Court of the United  
13 States said there will --- you cannot avoid  
14 church/state entanglement in these matters. That is  
15 the matter here. When the state does get involved in  
16 religious institutions, there becomes entanglements.

17           When you mentioned earlier whether or not  
18 the beginning of --- providing of busing. That busing  
19 is provided to students, not to the schools. The  
20 money does not go to the schools and then to our  
21 buses. The money is provided to students, through the  
22 largess of the General Assembly of Pennsylvania  
23 deciding that those students are students of taxpayers  
24 and they deserve to be transported to the school  
25 within ten miles of a public school district. That

1 was the decision of the General Assembly of  
2 Pennsylvania to the student, not to the Catholic  
3 school or to any religious school. It was given to  
4 the taxpayers.

5           When we are lobbying now to try and help  
6 our students to go to our schools, we are asking for  
7 vouchers. Why? Because you can't give the money to  
8 the schools. And you can't entangle the State in the  
9 operations of the schools. So you give the vouchers  
10 to the students. And you've decided not to do that.  
11 But the fact of the matter is there are  
12 church/state entanglements when the State does get  
13 involved in a law that puts them into this situation.

14           REPRESENTATIVE PASHINSKI:

15           Are there cases that you find it  
16 appropriate to ask a state for vouchers ---?

17           DR. O'HARA:

18           I don't decide. The student ---. This  
19 would go to the students. Vouchers go to the  
20 students, and they can use them to go where they wish.  
21 That was the intent when we were trying to have  
22 vouchers. Not to the school. Then the students can  
23 use them to go to any school they wish. And then they  
24 could go to a secular or private school.

25           REPRESENTATIVE PASHINSKI:

1 Based on the fact that they are ---?

2 DR. O'HARA:

3 Students and citizens of the State of  
4 Pennsylvania.

5 REPRESENTATIVE PASHINSKI:

6 Does that money work for an employee?

7 DR. O'HARA:

8 It doesn't go to the ---. It would not  
9 go to the school.

10 REPRESENTATIVE PASHINSKI:

11 I'm just saying is it based on the fact  
12 that they are citizens of Pennsylvania and are  
13 therefore entitled to that so the employees ---?

14 DR. O'HARA:

15 My point is those employees in the  
16 Catholic schools, they choose to become ministers of  
17 the gospel.

18 REPRESENTATIVE PASHINSKI:

19 Ministers of the gospel? They haven't  
20 take the vow of poverty.

21 DR. O'HARA:

22 Neither have most priests, by the way.

23 REPRESENTATIVE PASHINSKI:

24 And upon ---. Then that's a change.

25 DR. O'HARA:

1           No, it's not a change. It's a secular  
2 ---. Religious orders take vows of poverty. Your  
3 pastor does not.

4           REPRESENTATIVE PASHINSKI:

5           Okay. I see. And those laypeople also  
6 do not have systems where they're taking care of them  
7 in their twilight years?

8           DR. O'HARA:

9           We do have retirement systems. You can  
10 talk to the diocese about the various different  
11 retirement packages that are available. Certainly we  
12 do.

13          REPRESENTATIVE PASHINSKI:

14          Now, you're talking about for the lay  
15 teacher or for the priests?

16          DR. O'HARA:

17          Both.

18          REPRESENTATIVE PASHINSKI:

19          You have a retirement ---?

20          DR. O'HARA:

21          Certain dioceses don't. Certain diocese  
22 do. I don't know the particulars of them. But  
23 certainly they do.

24          REPRESENTATIVE PASHINSKI:

25          Scranton does?

1                   DR. O'HARA:

2                   I can't say for Scranton.

3                   REPRESENTATIVE PASHINSKI:

4                   Okay. Can anyone tell me? Does Scranton  
5 have a retirement for the lay teachers?

6                   UNIDENTIFIED SPEAKER:

7                   Yes.

8                   DR. O'HARA:

9                   Yes is the answer.

10                  REPRESENTATIVE PASHINSKI:

11                  Okay. Could you tell me, the individual  
12 who had the 44 years of teaching ---?

13                  DR. O'HARA:

14                  Thirty-four (34).

15                  REPRESENTATIVE PASHINSKI:

16                  Well, there was another one. I believe  
17 it was Mrs. Lito had 30 years ---.

18                  DR. O'HARA:

19                  Okay. Yeah. The archdiocese is here,  
20 and they'll be able to discuss it in details of that.  
21 My understanding is that she is working today in that  
22 school.

23                  REPRESENTATIVE PASHINSKI:

24                  Mrs. Lito is still working?

25                  DR. O'HARA:

1 I don't know whether Mrs. Lito is. I'm  
2 not sure. This is the archdiocese ---. A particular  
3 situation was brought up, and it sounds like the one  
4 that we were aware of. If there's another, we're not  
5 aware of it.

6 REPRESENTATIVE PASHINSKI:

7 This was relayed by George Rudolph of  
8 Pittsburgh about Mrs. Lito.

9 DR. O'HARA:

10 Oh, okay. That's not it. The example I  
11 was referring to was the one from the archdiocese.

12 REPRESENTATIVE PASHINSKI:

13 And I would like to know more about that  
14 one. That was made part of the record last time as  
15 well. Thank you.

16 REPRESENTATIVE SHIMKUS:

17 Representative Smith has a question, but  
18 as a member of the Education Committee, do I  
19 understand now that I have to go back and be concerned  
20 that if we give math to a religious school, that we  
21 are somehow interfering, because in a Catholic school,  
22 a math teacher is a minister, and so therefore, we are  
23 intertwining? That's what I believe you said, sir.

24 DR. O'HARA:

25 What I said was that teachers who teach

1 in Catholic schools teach not only the subject that  
2 they teach, but they also teach by their example  
3 because we don't just teach the three R's in Catholic  
4 school. We teach the Catholic way of life in our  
5 school.

6 REPRESENTATIVE SHIMKUS:

7 I believe you said math teachers are  
8 ministers of the gospel.

9 DR. O'HARA:

10 I don't think I said about math teachers.  
11 I said all the teachers. In fact, any teacher in a  
12 Catholic school is a participant in the ministry of  
13 Catholic education.

14 REPRESENTATIVE SHIMKUS:

15 And I don't mean to be argumentative,  
16 but ---.

17 DR. O'HARA:

18 No, I don't mean to ---.

19 REPRESENTATIVE SHIMKUS:

20 This is where we're getting crazy here,  
21 because we can't see how we can delineate this. I  
22 mean ---.

23 DR. O'HARA:

24 Well, I think that's what I suggested,  
25 Chairman Shimkus, is that the --- it's impossible to

1 separate, in fact, the secular from the non-secular.

2 REPRESENTATIVE SMITH:

3 Gentlemen, thank you very much for your  
4 testimony. And Robert, I think you answered my  
5 question. My question was going to be when the  
6 Catholic schools use the public transportation ---  
7 busing, the assistance of any IU, remedial math and  
8 reading, nursing staffing, that type of thing, I  
9 believe you answered that question by saying that  
10 because their parents are taxpayers of the  
11 Commonwealth of Pennsylvania, that they're entitled to  
12 this; am I right?

13 DR. O'HARA:

14 I think I --- legally, I'll let him  
15 answer the specifics of that question.

16 MR. MURREN:

17 The General Assembly adopted all of those  
18 programs of direct pay to the students primarily  
19 because their parents are paying the same taxes as  
20 those who attend the public schools.

21 REPRESENTATIVE SMITH:

22 I see. I think I can agree with that.

23 DR. O'HARA:

24 There's not religious entanglement in  
25 riding on a bus. The General Assembly determined



1 that.

2 REPRESENTATIVE SMITH:

3 Okay. The ministry stops there?

4 DR. O'HARA:

5 Well, I'm not saying there's no ministry  
6 there.

7 REPRESENTATIVE SMITH:

8 Well, they're taken to Catholic ---.

9 DR. O'HARA:

10 The distinction, sir, is ---. No, that's  
11 a student outside the school. They're getting them to  
12 school. There's no ministry involved there. But once  
13 they're in the school, the people who are teaching  
14 them in that school are participating in the Catholic  
15 ministry of education.

16 REPRESENTATIVE SMITH:

17 Okay.

18 REPRESENTATIVE SHIMKUS:

19 Gentlemen, thank you very much.

20 REPRESENTATIVE BLACKWELL:

21 Chairman?

22 REPRESENTATIVE SHIMKUS:

23 Oh, I'm sorry. One more question.

24 REPRESENTATIVE BLACKWELL:

25 One more question.

1                   REPRESENTATIVE SHIMKUS:

2                   Representative Blackwell, I apologize.

3                   REPRESENTATIVE BLACKWELL:

4                   From what I'm hearing today, I believe  
5 --- I don't see --- from the testimony I've heard ---  
6 and I was not at the last hearing, but I did not hear  
7 that organizing --- once you organize at a union, it  
8 would infringe upon the religious teachings of the  
9 Catholic Church. Now, in here today --- and I ask  
10 this question --- I have no experience dealing with  
11 the teachers being ministers. And I have no problem  
12 with that. I have no problem with the Church calling  
13 --- the employees of that particular church  
14 representing that particular religious belief. I  
15 think they should. How do you feel with secular  
16 teachers?

17                   DR. O'HARA:

18                   I can't answer that. You'll have to ask  
19 the Archdiocese of Philadelphia. I wouldn't know the  
20 answer to that specifically.

21                   REPRESENTATIVE BLACKWELL:

22                   This is the way that I have seen it. I  
23 am not a teacher. I have no teaching degree. I'm a  
24 litany leader. But I'm interested in my children in  
25 that school. Now, why is it that ---? And I

1 understand the question that I asked you --- you  
2 represent the other side of the issue. I understand  
3 really --- and I've heard no question in terms of not  
4 wanting to get involved in the religious aspect of the  
5 institution or the school. And what I'm hearing,  
6 we're talking about the working environment. And  
7 maybe I'm wrong in that. I'm trying to get it in my  
8 mind, what is the opposition to organizing a teachers'  
9 union? And yet you have it in the higher grades. I  
10 don't ---. I'm not understanding that.

11 MR. MURREN:

12 Well, the way I would explain it would be  
13 that those dioceses that do have unions have unions by  
14 private agreements between the pastors, the bishop and  
15 the members of the union. The difference between  
16 those situations and this is that your bill now  
17 interposes the state in that relationship. The state  
18 is not presently in that relationship, which is why I  
19 think the relationship works. But once you interpose  
20 the state with the state's coercive powers, that's a  
21 different issue.

22 REPRESENTATIVE BLACKWELL:

23 Well, you know, I will say this to you,  
24 sir. Some time ago, we had some folks in this great  
25 country of ours who were not allowed to vote. And the

1 government stepped in and acknowledged that you should  
2 have the right to vote. Everyone has rights.

3 I attend a Byzantine church, and as I  
4 said earlier --- I said this for a reason. I see the  
5 dedication of, you know ---. When I was a kid, which  
6 was not too long ago, there were a lot of nuns at  
7 North Versailles. And frankly, I was always kind of  
8 jealous because I didn't go to a Catholic school.  
9 That's why my children go. But I've seen that now  
10 they have a lot of lay teachers. And I believe in the  
11 teachings of the Catholic Church --- we have our  
12 disagreements, but ---. And I want those students to  
13 have some type of a religious or I'd like to say  
14 spiritual teaching that they're not getting elsewhere.

15 I just don't see, from what I'm hearing  
16 ---. Your argument is based on, from what I'm  
17 hearing, the religious aspect. That type of  
18 opposition --- or I should say people on the other  
19 side of this issue. Opposition may be a strong word  
20 in this setting. I continue to hear about secular  
21 issues, not religious issues. I don't care if you  
22 disagree with me. Now, there may be a couple of days  
23 that there are --- it is at issue. But this text ---  
24 let me say that that's a community issue.

25 I found that --- I went and talked to

1 lawyers. Only two lawyers helped me. We got a  
2 contract. Because lawyers will talk to both sides an  
3 issue. You understand what I'm saying? You know, so  
4 if you're going to be a minister, be a minister. But  
5 if you're a teacher or an administrator, the Catholic  
6 Church says you're ministers. I have no problem with  
7 that. I respect it.

8           But you know, I used to tell my attorney  
9 --- and I didn't usually mention a contract, but  
10 sometimes attorneys have a way of trying to take over  
11 and say, I'll be the speaker. I'll speak for you. I  
12 told my attorney, I'm going to negotiate my contract.  
13 You just keep me legal. Because I understand. I live  
14 it. I represent my membership. You represent me  
15 staying out of court. I want you in your court. You  
16 just make --- interpret everything that I agree to.  
17 Just make sure you interpret it my way. See what I'm  
18 saying?

19           So you know, we can always find reasons  
20 why we don't argue fair. The same goes here. I've  
21 heard how one diocese ---. There's no reason why they  
22 can't duplicate it across the board. There's no  
23 reason. No real reason. So I think that the key, as  
24 Representative Shimkus says --- we can come to an  
25 agreement, because frankly, I'm very uncomfortable

1 dealing with trying to --- or what some people may  
2 interpret as trying to get into religious issues,  
3 which I am not going to go there. If we don't do  
4 that, now we'll talk in balance.

5 DR. O'HARA:

6 I appreciate that. I mean, I appreciate  
7 the fact that you're very uncomfortable, because so am  
8 I with regard to this legislation in terms of getting  
9 into religious issues. Let me say that you mentioned  
10 that a minister, which is a person --- administrator.  
11 A bishop is both by virtue of who he is, a minister  
12 and administrator. And what you've heard here today  
13 so far is that you have various structures in various  
14 dioceses. In some dioceses, we have unions right  
15 across the board in both elementary and secondary  
16 schools. In other dioceses we have unions in  
17 secondary schools but not in elementary schools.

18 And Representative, you yourself said  
19 you're very happy with Catholic education. All your  
20 children went there, and they're doing pretty good.  
21 And frankly, I don't know that anybody here objects  
22 that it's basically done as a result of the good work  
23 the teachers do in our schools across the state  
24 everywhere. No one is complaining about the outcomes  
25 of Catholic education. But the person that has to

1 determine what happens at the diocese is the bishop.  
2 And bishops have to determine what is best for their  
3 diocese. And you may have a situation in one diocese  
4 where it's good to have a union and others where it's  
5 not good to have a union. And that has to be  
6 determined by the bishop and what he sees and what's  
7 going on there.

8 REPRESENTATIVE BLACKWELL:

9 That's my main problem. That's my main  
10 problem.

11 DR. O'HARA:

12 But if you have a school ---. If you  
13 have a school ---. If you have a school that was a  
14 Baptist school, you'd be the boss of that school.

15 REPRESENTATIVE BLACKWELL:

16 But you know what? I don't want to be  
17 the boss of that school. I want to work together. I  
18 don't want to be where I have people who are afraid of  
19 me. I have had the experience of people working for  
20 me, but I want to say that we worked together. I  
21 don't like to say they worked for me, because they  
22 have rights, too.

23 This leads to my next question. I'll be  
24 brief. Why do you think ---? I'm putting this on the  
25 record today. Turnover rate. That affects education.

1 They're like family. Lay teachers were brothers and  
2 sisters. The principal should treat our teachers, in  
3 my opinion anyway, with respect, the same way you'd  
4 treat your parents or your students.

5           From the testimony that I've heard, there  
6 seems to be a higher turnover rate with non-union  
7 teachers because of their lack of opportunity to have  
8 their concerns dealt with in terms of being able to  
9 disagree with the bishop. Now, I don't know if  
10 they're right. I'm not saying they're right. But  
11 they're not given a choice whether I want to ---  
12 they're right or they're wrong. If I choose to be in  
13 a particular Catholic school system, now I'm on the  
14 call of duty. The same works here for employees.  
15 Now, I do it and I do it without having ---. But now  
16 I have to pay my light bill. I have pay my gas bill.  
17 And I want to be where I know that I'm going to have  
18 security. One thing I don't have is that if I  
19 disagree ---. Because of how this situation is, I'm  
20 not feeling that I'm going to have a career here if I  
21 go against ---. Here comes another offer. More  
22 wages. When they have an opportunity --- I have to go  
23 where there's more security. Now, the students are  
24 the ones that get the loss of experience.

25           Now, the school has the --- the



1 administrator has the ability to process the teaching  
2 --- making sure his teacher, certified teacher,  
3 individually --- taking the experience ---. What is  
4 the problem of ---? Or what is the reason for  
5 opposition of a union to deal with secular issues, not  
6 religious issues, or not spiritual issues? What's the  
7 problem?

8 DR. O'HARA:

9 The Church, as a teaching institution,  
10 does not say that unions should not be formed, should  
11 never be accepted. The fact that the dioceses in  
12 Pennsylvania have had unions shows that. The Diocese  
13 of Scranton, which is the target of this legislation,  
14 has chosen to go in a different direction and to give  
15 voice to their employees in a different way. Now,  
16 it's been labeled as a company union. You have people  
17 coming from the Diocese of Scranton that you could ask  
18 directly about the particular circumstances that led  
19 to that bishop's decision. You have people coming  
20 from the Archdiocese of Philadelphia who will, I  
21 think, give you a totally different picture and show  
22 that there is no climate of fear that's prevalent  
23 among the teachers in the elementary schools in the  
24 Archdiocese of Philadelphia. But those witnesses can  
25 better speak to that than me.

1           But the premise of your question,  
2 Representative Blackwell, is that there is some type  
3 of climate of fear and insecurity that's come over the  
4 elementary school teachers in the archdiocese. And I  
5 don't think that the archdioceses witnesses who are  
6 here will agree with that. So I think that ---.

7           REPRESENTATIVE BLACKWELL:

8           That's why we're here today.

9           DR. O'HARA:

10           Exactly. But is it the province of the  
11 Legislature of the Commonwealth of Pennsylvania to  
12 step into a disagreement within the Catholic Church,  
13 specifically within a particular diocese, and choose  
14 sides in that disagreement on the basis of what this  
15 committee feels is authentic Catholic teaching,  
16 Catholic social teaching, about the acceptance of  
17 unions? And I don't think that that's true.

18           REPRESENTATIVE BLACKWELL:

19           I don't think we're getting into Catholic  
20 teaching. I think what we're trying to do is come to  
21 some middle ground where both sides are respected.  
22 Like I said, personally, I do not intend to try to  
23 force anybody. But I would not believe someone has  
24 the right to say we're not going to have this and  
25 we're not going to have that without some type of

1 dialogue. There's something wrong. You know, people  
2 have a whole lot of horror stories. And I know that,  
3 you know, some of them aren't necessarily true. And I  
4 can give you a whole lot of good stories. I've heard  
5 both sides.

6           So I do know, because of my own personal  
7 belief, that if I'm in the position to say I won't  
8 pass it, I don't think it that's right. I don't think  
9 it's right. You know, either you get benefits or you  
10 don't. What my father said, it's an outlaw situation,  
11 every man for himself. That's the way I look at it.

12           I mean, I think that lay teachers have a  
13 right also. Not that I believe it's a legal right.  
14 That's why we have this hearing. If it were not for  
15 the fact that --- and I'm going to tell you, I believe  
16 that there is a fear factor there. Is it as bad as  
17 people say? Yes or no? I cannot tell you how you  
18 feel about a situation, because I have not been in  
19 your shoes. Okay?

20           You've got these good situations, these  
21 bad situations. I'm looking for the bad situations.  
22 So we're not trying to get all of your work places.  
23 We trying to look for bad ones, and that's why we're  
24 having these hearings. And I would encourage you to  
25 do something where we don't have to. To do things

1 right, because as I said, I am very uncomfortable.  
2 Thank you very much.

3 REPRESENTATIVE RAMALEY:

4 What I'm going to say will take one  
5 minute. Let me say two things, because if I don't say  
6 it, I won't be able to sleep tonight. One, first of  
7 all, Counselor, you said that you hoped this whole  
8 thing would work itself out. As a state official, I  
9 hope it does, also. And hopefully at the end of the  
10 day, nobody's ---. Two, let me speak as a Roman  
11 Catholic, as somebody that works out of state, that's  
12 been a lector at his church for over 20 years, whose  
13 family's involved in the diocese, that I truly believe  
14 that two dynamics have changed Catholic schools.

15 One, when I was there in the late '60s  
16 and early '70s, it was all religious. That's that.  
17 But also, that top dynamic, that top leadership, that  
18 very, very top dynamic that changes every now and then  
19 in our diocese, I truly believe that if he's going to  
20 be the leader, if he's going to be the shepherd, then  
21 he has to come out of the ivy tower and sit down in a  
22 very Christian way and say, how do we deal with this  
23 together. Thank you.

24 REPRESENTATIVE SHIMKUS:

25 We are way past due. And so here's ---.

1 I'm going to set some rules here. First of all, I  
2 wonder if Mr. Smedley is here from the Diocese of  
3 Scranton? He was originally on ---. Mr. Smedley, we  
4 don't want to ignore your testimony. If you would  
5 like to come up and give your testimony now. I know  
6 you submitted it, but we had testimony from teachers  
7 from every diocese. And we were very anxious to hear  
8 from yours, and you were in class.

9                   Then after that, what we're going to do  
10 is we are going to hear everybody's testimony. And  
11 unless the lawmakers have a burning desire to ask a  
12 question, I'm going to ask them to submit it in  
13 writing because the questions take so long. And then  
14 we will ask our staff members to get those questions  
15 to the speakers. And we will get those on the record  
16 and make them available to you on website so you can  
17 have access to that. Mr. Smedley, if you would  
18 present your testimony.

19                   MR. SMEDLEY:

20                   Yes. In the spirit of expediency, to  
21 speed things up --- you've already read the statement  
22 that I presented to you. And I've been sitting back  
23 there for an hour listening to all the testimony. And  
24 as myself as a practicing Roman Catholic, not only as  
25 a teacher now for 26 years in the Catholic school

1 system, I would just simply like to share three things  
2 with you.

3           The first thing is that when I began  
4 teaching in a Catholic school, and my first year was  
5 at Saint Galvin. My next year was at Bishop O'Reilly  
6 High School. Then I was encouraged to join the union.  
7 And to be honest with you, I looked at them and I  
8 said, at 22 years old, how can you unionize against  
9 the Catholic Church? I thought --- because I was  
10 raised as a Roman Catholic.

11           Nothing terrible happened the next few  
12 months to change my mind that the Catholic Church is  
13 not a good entity. However, when my eyes were ---  
14 when I opened my eyes and realized that there were  
15 certain not religious issues, because I was 100  
16 percent in agreement with the religious and the  
17 spiritual issues that are represented by the Catholic  
18 Church, but when I looked at the secular issues, I  
19 became frightened. And I went to, at the time, Jared  
20 Wynch (phonetic), who was the head of the union, and I  
21 said, sign me up, not as a reaction to something that  
22 had happened, but simply to protect myself.

23           I was 22 years old, and I was as green as  
24 they come. Now I'm 47. And I made a decision through  
25 the years. As a good friend of mine, a fellow teacher

1 who just retired this year, Margaret Shelby said,  
2 Bishop O'Reilly was a trap. We came in there. We  
3 started to teach. And it was a ministry. And it  
4 became ---. And if Bishop O'Reilly didn't close, I  
5 would've been buried there. Now I am lucky enough to  
6 be part of Holy Redeemer High School, which is the  
7 consolidation. And I have every intention of being  
8 buried there. I love what I do. I love being able to  
9 minister as a Roman Catholic in an educational manner.

10                   But also, I see what's going on. And at  
11 47 years old, to be perfectly honest with you, my wife  
12 and my family and I cannot sit back every year  
13 wondering whether or not I'm going to have certain  
14 rights, certain guarantees or even the possibility of  
15 a job the following year. Okay?

16                   The second story I would like to share  
17 with you is seven, eight, nine years ago when I  
18 watched one of my fellow teachers, who happened to be  
19 an athletic director, a basketball coach, and a phys  
20 ed teacher, and through the politics that exist ---  
21 and no one can deny that it occurs on both sides. The  
22 politics that exist is they decided that they wanted  
23 to open up the basketball position job. The way that  
24 they did that is they made it across the board that  
25 the athletic director could not also be a coach.

1           So being a man of strong principles,  
2 knowing that his son was coming to Bishop O'Reilly the  
3 next year, which he did not, but was coming, he would  
4 get the chance to coach him, he chose the \$3,000-a-  
5 year job over the \$12,000-a-year job as the athletic  
6 director. Well, that totally blew away the board.  
7 They realized that not only could they get rid of him  
8 as the basketball coach, they could get rid of him as  
9 the athletic director. And all of a sudden, after 18  
10 years of coaching baseball and cross country, our jobs  
11 were opened up.

12           My interview --- what can we do for you?  
13 How can we make your program better? His interview  
14 was an H-bomb. So not only did they get rid of him,  
15 as the athletic director and the basketball coach were  
16 not protected under the union, but they reduced his  
17 position as phys ed instructor to part time. Here's a  
18 man of 45 years who loved Catholic education, working  
19 in that particular school as much, if not more than I  
20 do, and now he is trying to support a family on a  
21 part-time salary. He went to work for an iron works  
22 company to work part time. It's a tough situation.

23           And I've been listening to your --- the  
24 spiritual versus the secular. As people said --- as  
25 Representative Blackwell said, I can't tell you the



1 legal aspects of everything. I can't. My sister's an  
2 attorney. She can tell me those things. And someone  
3 once said to me when confronted with a legal question  
4 to the lawyer the lawyer said, I don't do moral. I do  
5 legal. Well, I don't do legal. I do moral.

6           And I look at this as there are issues  
7 that are moral issues, that are spiritual issues that  
8 are tenets of the Catholic Church that should not ever  
9 be infringed upon. I agree with them. And that's why  
10 we, for all these years, had what was known as the  
11 Bishop's Clause. If you violated any tenet of the  
12 Catholic Church, he could simply, with no recourse,  
13 say, you're done. And I have no problem with that,  
14 because I ---. Certainly in a Catholic school  
15 institution, I don't want to see anything taught in a  
16 classroom that would violate any of those Ten  
17 Commandments or any of the moral codes that's out  
18 there. But my concern was, again, the secular issues  
19 --- schedules.

20           And you know, we had contracts 40 pages  
21 in length. Two pages dealt with salary. And it's the  
22 uncertainty that literally frightens me as at 47 years  
23 old, and I plan on teaching another 20 years. Of  
24 course, if it's in the Catholic system, it'll probably  
25 be 40 years. But I understand the new retirement

1 policy is they retire at 80 and make it increase.

2           But I do agree with separating the  
3 religious and spiritual. And I don't want ---. As a  
4 raving conservative, I don't want the government  
5 telling me how to worship or what's moral and what's  
6 immoral. But simply just as a teacher who has  
7 committed my life to Catholic education, I don't want  
8 to lose that because of a whim. And it has nothing  
9 ---. You know, it doesn't even have to do with this  
10 particular person that's in charge. It could be 10  
11 years from now, 15 years from now, 20 years from now  
12 with somebody else coming up who just, on a particular  
13 whim, decides to change things without any due  
14 recourse. Thank you.

15                   REPRESENTATIVE SHIMKUS:

16           Thank you for your testimony. Anyone who  
17 has a question, I'll ask you to submit it in writing  
18 and we'll contact you. Now I'd like to invite Mike  
19 Young, a parent of a student at St. Nicholas, St.  
20 Mary, St. Aloysius to the podium.

21                   MR. YOUNG:

22           This is a bit nerve-wracking. I'm not  
23 used to this. Gentle members of this committee, let  
24 me talk straight to the point. I think it is  
25 reprehensible beyond belief that a Catholic-way

1 congregant would rather not align himself with the  
2 bishop and would not rather not align themselves to  
3 the bishops or to the teachings of the Catholic Church  
4 and would rather not wait for the Catholic Church to  
5 hear what they have to say.

6           You, the very people at the pinnacle of  
7 the laity community, that we have entrusted you to  
8 teach these truths in school, rather align yourselves  
9 to force the majority to follow the courts instead of  
10 the cross. I count myself in the majority as a parent  
11 in your district who will not have a voice, who not be  
12 given a vote in your state-affiliated court-  
13 adjudicated union. I will not have any representation  
14 in your state-backed union. And yet I have to go to  
15 the school. I have to go work at the school the same  
16 as you do. I endeavor the same as you do at the  
17 school.

18           Teaching Catholic attitude to our youth,  
19 oh, yeah. Working before and after-school programs,  
20 oh, yes. And at school functions, oh, yeah, and the  
21 cafeteria, oh, yeah, and fixing toilets, oh, yes, plus  
22 mopping and buffing the floors, oh, yeah, and cleaning  
23 lavatories, oh, yeah. I can go on and on. I could go  
24 on and on about all the work and all the dedication  
25 parents, teachers, students, janitors, secretaries and

1 the religious clergy, all of us together, the same as  
2 you do.

3           We easily attach attributes to these  
4 functions, attributes like jobs, employment,  
5 volunteering, giving somebody a hand and works of good  
6 will. That is not what they are about. They are,  
7 indeed, first and foremost corporal works of mercy.  
8 That is taught in the Catholic doctrine somewhere  
9 around the fourth grade, corporal meaning the physical  
10 body, works meaning an action, and mercy because that  
11 is what God is giving to us, His mercy.

12           A fundamental piece of the Catholic  
13 doctrine teaches us if no one performs corporal works  
14 of mercy, God's wrath will be unleashed upon us. We  
15 hear more in Catholic schools about God's love, about  
16 God's love for us. But God does have wrath. And He  
17 uses it to punish the wicked, which is about one step  
18 level above a sinner. Corporal works of mercy are  
19 clearly defined by the Catholic Church such as  
20 teaching the ignorant, giving alms to the poor,  
21 clothing the naked and visiting the sick or in prison,  
22 and feeding the hungry. You may call it a job. You  
23 may call it volunteering. But in the Catholic school  
24 system, you are performing a corporal work of mercy  
25 the same as I do. And I congratulate you all for

1 that. Now, if House Bill 2626 were to pass the House  
2 and Senate and the Governor's quill, I would and  
3 thousands of us would still have no vote.

4           As a parent of one close school, my wife  
5 and family participate in school fundraisers with  
6 other parents and teachers at the bake sales and  
7 donated flea market items and by selling raffle  
8 tickets. And we supported other schools doing the  
9 same. My family is grateful to Bishop Martino for  
10 trying his best to keep more schools open as long as  
11 school administrators can afford to do so, and even  
12 then sometimes longer.

13           In the reorganization of parish schools,  
14 my family remained in the Catholic education system.  
15 A newly developed diocesan faith solution. Not a  
16 perfect fit for some. Still a major adjustment for  
17 others. And sadly, others still have found it easier  
18 to opt out altogether. But still the system was  
19 approved over the fiscally ill-managed things that  
20 plague our economic conditions in America today. I  
21 congratulate the Most Reverend Bishop for his  
22 foresight into these matters. He definitely avoided  
23 the setback most corporations, accounting firms,  
24 banking industries have scandalously fallen prey to  
25 these past few days.

1           There is an alternative to House Bill  
2 2626. That alternative may be to reignite the union  
3 party that is not backed by the state if this so be  
4 the finding of the Vatican. But right now, all  
5 teachers and other employees do have a voice in the  
6 employee relations program, bureaucratic in some  
7 sense, but still it ensures that parents can still  
8 afford and schools can continue to operate in a more  
9 accountable way in the Catholic community. And to  
10 ensure the integrity and preservation of Catholic  
11 education, we will go forward being accountable to  
12 each other. Step up to the plate and participate.  
13 And Jesus will show you what life's worth living for.

14           REPRESENTATIVE SHIMKUS:

15           Thank you for your testimony, sir.

16           MR. YOUNG:

17           Thank you.

18           REPRESENTATIVE SHIMKUS:

19           I would like to invite our next two  
20 speakers, Michael Milz, the president of the Scranton  
21 Diocese Association for Catholic School Teachers, and  
22 Attorney Martin Milz.

23           MR. MICHAEL MILZ:

24           Good afternoon. Mr. Chairman and members  
25 of the Committee, one month ago I had the opportunity

1 to appear before the committee to offer testimony in  
2 support of House Bill 2626, a measure desperately  
3 needed, I have to re-emphasize, by my colleagues in  
4 the --- in order to fully enjoy our rights as workers  
5 and as citizens.

6 I'm not here to offer the same  
7 information as I did a month ago. I'm here because as  
8 the last meeting progressed, members of the committee  
9 had several excellent questions both of me and others  
10 on the nature of workings of House Bill 2626. At that  
11 time, many of those questions went unanswered due to  
12 the fact that it required a good deal of research to  
13 find the answers. Attorney Milz and I are here today  
14 to supply answers to a few of those questions asked.

15 At that first hearing, as well as today,  
16 you heard from several opponents to the bill who said  
17 that if such legislation were passed, it would  
18 continually call on the Pennsylvania Labor Relations  
19 Board to take sides in disputes between teachers and  
20 their employers where the issues that were to be  
21 decided were of a religious nature. I believe it was  
22 Attorney Murren who said that the issue in contention  
23 might be whether a Biblical passage was X or Y, and  
24 the state would have to judge whose view was to  
25 prevail. Another opponent said the bill would be an

1 outright invitation for the state to second-guess  
2 religious authorities on religious issues and to  
3 substitute the Labor Board's judgment for that of  
4 Church authorities. Indeed, the opponents of the bill  
5 went on and on with the argument that if House Bill  
6 2626 became law, the board would be doing nothing more  
7 than ceaselessly presiding over disputes of this  
8 issue.

9           First, I believe Representative Blackwell  
10 made the point ---. I need to say that we believe our  
11 opponents' arguments of this sort are a bit  
12 disingenuous and are being used to simply attempt to  
13 disguise what is definitely unanimous on their part.  
14 That aside, at the August hearing, Representative  
15 Gergely asked one of the opponents of the bill if he  
16 had specific evidence of the workings of a New York  
17 State law that has covered the employees of  
18 religiously-affiliated schools there since 1968.  
19 That's 40 years. House Bill 2626 is patterned after  
20 that law, which was held to be constitutional in that  
21 state's courts. When that person said he had no  
22 specific evidence, Representative said that a follow-  
23 up on that issue was needed.

24           We did that follow-up. We contacted the  
25 New York State Labor Relations Board, which provided



1 us with the following information. Over the years  
2 during with the employees of religiously-affiliated  
3 schools have been covered under the New York Labor  
4 Relations Act, it appears there has never been a  
5 filing with the Labor Relations Board by the employer  
6 or the employees that drew the Board into a situation  
7 where it was called upon to resolve a religious  
8 dispute. From every indication, the filings seen by  
9 the Board were same kind of meat-and-potato issues  
10 that affected all employer/employee relationships. It  
11 is our contention that if House Bill 2626 was enacted,  
12 the General Assembly could expect the workings of the  
13 law to be no different in Pennsylvania than they have  
14 been in New York. Attorney Milz will provide you with  
15 some specific information.

16 MR. MARTIN MILZ:

17 Chairman Shimkus, Representative  
18 Pashinski, members of the committee, I am here to talk  
19 about a technical legal issue. But as I sat here  
20 listening to the testimony, it occurred to me that I  
21 am probably the only witness to appear before this  
22 committee who is the product of an entire education in  
23 a unionized religiously-affiliated school system. I  
24 went to St. Nicholas/St. Mary's, three blocks that way  
25 and on right. I sent my son there. And over the

1 years, going back to that school, I saw the same faces  
2 year after year after year. And I received a quality  
3 education in that building and next door in Bishop  
4 Hoban High School. And now I hear over --- in the  
5 past year and half or so, there have been some faces  
6 that have left that building. And that breaks my  
7 heart. And there are reasons for that that I think  
8 have the basis in this dispute that we're here  
9 discussing today.

10           And I think we need to refocus a little  
11 bit as to what our motives are here. Certainly,  
12 everybody knows we're here to talk about providing the  
13 ability for lay employees of religious organizations  
14 to organize. And everybody knows what the emphasis  
15 for that was. We're talking the situation here in  
16 Scranton. Now, this is a larger issue. This is an  
17 issue of democratic choice for employees across the  
18 state. And it's a choice that employees in the state  
19 already have. And this is a discrete group of them  
20 that do not. And it applies to employees of any  
21 religious denomination.

22           So we can talk about the situation that  
23 is taking place here in Scranton, and that is the  
24 impetus for this legislation, but that cannot be the  
25 sole reason for this legislation. When there is a

1 mine disaster, you get legislation on mine safety. We  
2 have a disaster here. And we're seeking legislation  
3 that covers this situation and will cover situations  
4 in the future. And I think it's important to keep  
5 that in mind.

6           And what I'm here to talk about today is  
7 the New York State situation. We are not seeking to  
8 reinvent the wheel. The legislation proposed by  
9 Representative Pashinski isn't something new in the  
10 United States. There is a directly analogous  
11 situation in New York. And that situation has existed  
12 for a number of years, back to 1968, actually. And  
13 teachers have collectively bargained with --- teachers  
14 and other employees, with religious organizations in  
15 that state.

16           Now, the system that's set up in New York  
17 is similar to how the PLRB would oversee disputes  
18 between employer and employee in situations under the  
19 House Bill 2626. And it's an administrative agency  
20 interposed between --- or to resolve disputes between  
21 employers before proceeding to the courts. Now, it's  
22 important to keep in mind that both the PLRB and the  
23 organization that stands in its shoes in New York, the  
24 SERB, the New York State Employee Relations Board, has  
25 no authority to enforce an order in and of itself. In

1 order for that to happen, it must be appealed for  
2 enforcement to the courts. So the administrative  
3 involvement of the government is very small in the  
4 first instance.

5           And this is the situation that was  
6 thoroughly covered in three important court cases,  
7 both federal and state, that have addressed this issue  
8 in New York. And I'll read to you a short passage in  
9 each of those cases about the function of the state  
10 association. And that seems to be the primary concern  
11 of the testimony of Mr. Murren and Mr. Chopko, is that  
12 this state agency is coming in and encroaching upon us  
13 and telling us what we can or cannot do. But that is  
14 simply not the case.

15           Here is how it was described by the State  
16 of New York. And I see no difference between that  
17 organization and the PLRB. The state board's  
18 relationship with religious schools over mandatory  
19 subjects in bargaining does not involve the degree of  
20 surveillance necessary to find excessive  
21 administrative entanglement. And the state board  
22 supervision over the collective bargaining process is  
23 neither comprehensive nor continual.

24           Now, that has been documented in every  
25 case that has looked at the constitutionality of an

1 administrative agency's involvement in overseeing  
2 collective bargaining between a religious employer and  
3 its employee. And that has been the law in the State  
4 of New York for a number of years now. That language  
5 first appeared in 1985. It was confirmed again by the  
6 New York State Supreme Court, the Court of Appeals,  
7 1997 in the Presbytian (phonetic) case.

8           So in New York this system already  
9 exists. And the arguments raised by the opponents of  
10 this bill were heard in that case. We're hearing the  
11 same arguments now that they have offered before. And  
12 those arguments were roundly objected. Mr. Murren  
13 made mention of the fact that those case didn't cite  
14 the Seven Circuit language that he likes so much.  
15 There's a very good reason for that. I'm not a  
16 constitutional scholar, but I know that is not law.  
17 That is not the rationale of the United States Supreme  
18 Court, nor would were the statements of Justice Berger  
19 binding law of the Supreme Court. There is an  
20 extensive discussion of the constitutional issues  
21 right here.

22           And in response to Mr. Murren, and Mr.  
23 Chopko's and the other gentleman's argument contained  
24 in the written testimony of Marcy Hamilton, who is a  
25 professor of law at Cardozo University, who would like

1 to have been here today. She is an eminent scholar in  
2 this field, has handled cases of this nature before  
3 the United States Supreme Court and has written  
4 extensively on this subject. And I would suggest that  
5 you review her testimony. And she would also invite  
6 you to ask her question if you feel the need to submit  
7 them in writing. So I would recommend that to you.

8           So these arguments about entanglement  
9 have been thrice rejected in a very parallel situation  
10 for New York. And I think Representative Blackwell  
11 pointed out the problem here. He said that's his main  
12 problem, that it's one person saying what happens to  
13 everyone. The bill here offers democratic choice.  
14 Just as any employer would be reluctant to accept  
15 unionization in their business, this employer is  
16 similarly reluctant. Their concerns here are not  
17 based upon true religious conflict. They're based  
18 upon employer/employee conflict. That has proven to  
19 be the case in New York.

20           I researched into the question of whether  
21 the New York State Employer Relation Board, the SERB,  
22 has been asked to resolve questions of religious  
23 doctrine. This involved contacting the SERB directly  
24 since their opinions and decisions are not available  
25 directly to the public. So from what they were able

1 to determine, they identified 21 instances of  
2 representation positions and 31 unfair labor practices  
3 filed by or against religiously-affiliated  
4 associations since 2000, which is as far back the  
5 records could go under the time constraints to offer  
6 testimony.

7           Most of those unfair labor practice  
8 charges, which is the primary role of any  
9 administrative agency, is to examine an unfair labor  
10 practice, most involved typical situations of anti-  
11 union discrimination or refusal to bargain. None, not  
12 a single one, involved a determination of religious  
13 doctrine. When issues of religion did arise, they  
14 arose in a context of a type of preliminary standard  
15 objections that we hear today, that it is an  
16 entanglement. But there was never the mention of any  
17 situation, any specific entanglement, that's taken  
18 place.

19           The State of New York has lived with this  
20 statute for many, many years. There were challenges  
21 to the constitutionality of the administrative agency  
22 oversight. And that was upheld to be constitutional.  
23 One would think that if there were these dire  
24 situations in which a government agency is called to  
25 interpret religious doctrine, that there would be

1 subsequent appeals to the courts to enforce those, to  
2 dispute the interpretation that the administrative  
3 agency had allegedly made. Those situations do not  
4 exist. You can do as much exhaustive research as  
5 possible. There has never been a case where the SERB  
6 has been called out for overstepping its bounds to  
7 intrude into a constitutional issue of religion.

8           There's much mentioned about the  
9 difference between secular and religious subjects. I  
10 think the bill as it now stands before this committee  
11 is a secular bill. The only role of the PLRB is to  
12 compel good faith bargaining over mandatory issues of  
13 collective bargaining. Mandatory issues deal with  
14 wages, hours, terms and conditions of employment.  
15 They cannot insist upon religious issues, because that  
16 is not a mandatory issue. We're talking about meat  
17 and potatoes. And every indication of the situation  
18 in New York, they were talking about meat and  
19 potatoes.

20           Now, in my written testimony, I cite one  
21 case for your review that I think may need some  
22 clarification. But it's explained within the written  
23 testimony. But it was not an intrusion on a religious  
24 issue. There was a religious explanation given for  
25 why employees needed a background check and why that



1 was unilaterally imposed. And ultimately, background  
2 checks are not a matter of religion. It was the  
3 determination of the SERB. Now, I think that would be  
4 self-evident to anyone.

5           Just a few other points. In addition to  
6 my research with the SERB --- because I was reliant  
7 upon their offices to conduct that research because  
8 only they have access to their files, I got in contact  
9 with the other organizations who can identify --- that  
10 have represented lay employees of religious  
11 associations for a number of years. They reviewed  
12 their files and could not identify a single instance  
13 in which that board was called upon to resolve a  
14 religious issue. Again, if it happened, it would be  
15 there. There's year of experience under this.

16           Now, the opponents of the bill say there  
17 will be litigation if this is passed. Of course,  
18 there will be litigation if this is passed. There's  
19 litigation with every employer/employee relationship.  
20 There will be litigation challenging this bill. It's  
21 happened in New York. And it's been upheld.

22           As far as other concerns that we heard,  
23 those organizations that I contacted in New York, the  
24 Lay Faculty Association, the Diocesan Elementary  
25 Teachers and the Federation of Catholic Teachers, they

1 actually fall into that scary situation that was  
2 raised by earlier testimony. They are affiliated with  
3 large international unions, the Office and  
4 Professional Employees, the National Association and  
5 the Laborers' International Union of North America,  
6 which are large unions that represent employees in  
7 various different capacities. And those relationships  
8 have continued for many years.

9           So I submit that the fears raised here as  
10 far as religious entanglement are non-specific. And  
11 the facts that they have laid out under a directly  
12 analogous situation show that there is no conflict.  
13 There has been no challenge. The New York State  
14 statute, through experience, has proven itself to be  
15 practically workable and constitutionally sound. And  
16 I submit the same would hold here with HB 2626 as it  
17 now stands.

18                           REPRESENTATIVE SHIMKUS:

19           Thank you both. Again, I'm going to  
20 point out that we have about ten speakers remaining,  
21 and I knew that this would be a detailed hearing  
22 because it has been since the very beginning. I'd  
23 like to invite to the podium Mr. Joseph Casciano,  
24 superintendent of schools, James Redington, principal  
25 of Holy Redeemer, James Burke and Attorney John Dean.

1 I would also like to point out if any of you who were  
2 on the schedule, if you would prefer not to speak,  
3 because we do have your written testimony, and you  
4 would just prefer to have us read that, you know, we  
5 would be glad to accept that, as well. And I would  
6 also ask you to please, to the best of your ability,  
7 when you speak summarize. And we will not be asking  
8 questions. We will be submitting them in writing to  
9 you. So you may begin when you're ready.

10 MR. DEAN:

11 Thank you. I thank the committee for  
12 allowing me the opportunity to address House Bill  
13 2626. And I also thank my fellow speakers who are  
14 allowing me to speak out of turn, as I have my own  
15 school board meeting tonight that I have to leave  
16 after my testimony, which I'll go through with  
17 hopefully no questions.

18 By way of background, I know most of you.  
19 Who don't know me, I'm a licensed attorney practicing  
20 in the Commonwealth of Pennsylvania maintaining  
21 offices in Scranton and Wilkes-Barre. By further  
22 background, my wife and I, who is a medical  
23 professional, currently have two children attending  
24 St. Jude's School in Mountaintop. My daughter is a  
25 sixth grade student at St. Jude's, and my son,

1 Matthew, I'm proud to say, just commenced his  
2 kindergarten and is very pleased with his Catholic  
3 education.

4                   More importantly, young Mr. Milz, who  
5 spoke here before, is not the only person who is a  
6 product of a union household. My mother is a retired  
7 teacher from Pittston Area High School retired under  
8 the American Federation of Teachers. My mother was a  
9 proud teacher for 30 years at Pittston Area, and I'm a  
10 proud son of a union member. I currently serve as a  
11 member of the Board of Directors for the Holy Redeemer  
12 School System and have so served during the past two  
13 school terms.

14                   In my private practice, I've served as  
15 lead labor negotiator for multiple school systems.  
16 I've also served as lead labor negotiator for  
17 municipalities as well as private entities.  
18 Accordingly, I have multiple years of collective  
19 bargaining experience under both the Pennsylvania  
20 Labor Relations Act and the National Labor Relations  
21 Act. Such experience, in addition to labor  
22 negotiations, includes litigating multiple grievances  
23 through arbitration to the Commonwealth Court as well  
24 as litigating unfair practice charges under the Public  
25 School Code. Those unfair practice charges are

1 litigated before the Pennsylvania Labor Relations  
2 Board. Accordingly, I'm intimately familiar with the  
3 Pennsylvania Labor Relations Act in the Public Schools  
4 Code.

5           Now, I appreciate young Mr. Milz with his  
6 research, but I'll tell you about actual experience in  
7 litigation. Contrary to Mr. Milz's testimony that the  
8 PLRB is very small in its interaction, I can assure  
9 you, based on my experience representing multiple  
10 school districts, the PLRB is intimately involved in  
11 negotiations, intimately involved in unfair practice  
12 charges. So while the research may be good, the  
13 experience is not quite there yet. I'm sure it will  
14 come to that.

15           Prior to my testimony today, I have  
16 reviewed the proposed amendment at issue and can  
17 categorically say that based on both my experience in  
18 Catholic education and in public school labor law, the  
19 adoption of House Bill 2626 will have serious  
20 consequences and infringe on my right granted to me by  
21 the United States Constitution. In that regard, my  
22 young children, the youngest who just began his  
23 journey through Catholic education, my family has a  
24 great interest in the stability and identity of  
25 Catholic schools.

1           Due to my involvement in labor negotiations  
2 in public schools, I know, and it's undisputed, that  
3 teachers' unions, as is their right, negotiate over  
4 economic as well as non-economic issues. These issues  
5 range from issues such as large as healthcare and  
6 wages to issues such as whether or not they are  
7 required to enter students' grades and homework on a  
8 computer program so that students and parents may have  
9 instant access to same. As to the latter, despite the  
10 fact that teachers admitted that it didn't cost them  
11 any extra time and it benefited both teachers and  
12 students, they wanted to negotiate over something as  
13 little as that. Now, they may have the right to do so  
14 as the Pennsylvania labor law. And we will negotiate  
15 that.

16           Other examples include negotiating over  
17 whether they offer students buses or whether or not  
18 they have to attend parent/teachers' nights. All  
19 those issues may or may not be subject to bargaining.  
20 But that's a public school issue. What concerns me as  
21 a parent of Catholic students is that our teachers  
22 currently accompany our students to mass. It is  
23 certain that the teachers union will attempt to  
24 negotiate that as a term and condition of employment.  
25 I do not want the school system ---.

1 UNIDENTIFIED SPEAKER:

2 You were misinformed or lied to. You  
3 can't let that go on. That's a lie. That's a lie.

4 MR. DEAN:

5 Sir, we were respectful during your  
6 testimony.

7 UNIDENTIFIED SPEAKER:

8 Well, we didn't lie.

9 MR. DEAN:

10 Please be respectful during mine.

11 UNIDENTIFIED SPEAKER:

12 That's a lie.

13 REPRESENTATIVE SHIMKUS:

14 Ladies and gentlemen, please let Attorney  
15 Dean finish his testimony.

16 MR. DEAN:

17 As a parent of Catholic school students,  
18 I do not want the school system to be compelled to  
19 bargain over any term and condition of employment that  
20 is an element of religious mission or the identity of  
21 the Catholic schools.

22 More troubling than negotiating those  
23 issues is the act itself as written out. The act as  
24 written out says the Pennsylvania Labor Relations  
25 Board will make a determination as to whether the

1 religious employer, and I quote, religious employer,  
2 took action based on religious doctrine or whether the  
3 religious doctrine was a pretext. It cannot be  
4 credibly stated that allowing the Pennsylvania Labor  
5 Relations Board, a lay entity, a quasi-governmental  
6 lay entity, to make such a determination does not  
7 impinge upon the separation of church and state, which  
8 our founding fathers held so dear.

9           Additionally, teacher strikes. As part  
10 of my private experience, I have seen the disruption  
11 teachers strikes can cause. While the Public Employee  
12 Relations Act as well as the Public School Code  
13 contains certain prerequisites before public school  
14 teachers can go on strike, as I read 2626, it does  
15 not. Moreover, 2626 does not limit the amount of time  
16 that teachers can go on strike. The public school  
17 teachers are limited in the amount of strikes, and  
18 it's still disruptive. Unfettered, unlimited amounts  
19 of days on strike would be a great disruption to our  
20 school board.

21           Finally, my review of House Bill 2626  
22 does not limit the union to which the Catholic  
23 teachers may opt to join. And that was confirmed  
24 early today by testimony. This fact presents a very  
25 significant problem to the parents of Catholic school



1 students. Without such limitations, the teachers may  
2 join a union which does not support Catholic missions  
3 and its values. If such happens, through our tuitions  
4 and diocesan money, House Bill 2626 can result in our  
5 money supporting positions and causes which are in  
6 direct contrast to Catholic tenets. As you are aware,  
7 certain unions, which is their right, support matters  
8 such as pro-choice or birth control. Catholic school  
9 teachers joining said unions, which would be their  
10 right under 2626, would result in the Catholic church  
11 paying to support causes which are against our  
12 beliefs. The end result of the foregoing would either  
13 be House Bill 2626 being ruled, as I anticipate,  
14 unconstitutional or a significant reduction in the  
15 number of students attending Catholic schools,  
16 resulting in a loss of jobs and possibly schools.

17 My wife and I, along with the parents of  
18 over 3,000 students in the Holy Redeemer School  
19 system, chose Catholic education for our children.  
20 House Bill 2626 would constitute a governmental  
21 intrusion of our interest in the continuing stability  
22 and religious identity of our children's educational  
23 path and an unconstitutional impingement upon our  
24 rights to religious freedoms. Thank you.

25 REPRESENTATIVE SHIMKUS:

1 Thank you very much for your testimony.

2 MR. CASCIANO:

3 Representatives Shimkus and Pashinski and  
4 Smith, thank you very much for the opportunity to  
5 address you. I will try to summarize this as quickly  
6 as I can. I think it is important, again, to remind  
7 the representatives that the decisions made in the  
8 Diocese of Scranton were not done rapidly. The  
9 planning process began in 2005 and a national  
10 consulting firm, Meitler Consultants, were hired from  
11 Wisconsin to oversee many facets of the Catholic  
12 education facility, demographics, things that were  
13 needed and necessary to go on for us to look to the  
14 future to see what we might be able to do to continue  
15 Catholic education into the 21st century.

16 After many months of research and  
17 meetings, a preliminary plan was presented for  
18 Luzerne, Lackawanna and Wayne Counties. And that was  
19 announced in November of 2006. Immediately following  
20 those recommendations, teacher representatives were  
21 gathered to discuss criteria for teacher placements in  
22 the new system. Our director of human resources held  
23 numerous meetings with the teacher representatives  
24 throughout the 2006-2007 school year to set the  
25 criteria for the teachers going forward.

1 Seniority state certification, religious  
2 certification, and a pastor's letter were what were  
3 required for teachers to continue. Seniority was  
4 continuous years of service in the Diocese of  
5 Scranton, regardless of what school they may have been  
6 at. Specifically, at Holy Redeemer High School,  
7 there were four Catholic high schools that were merged  
8 into one, bringing a very veteran faculty, a very  
9 talented faculty, into the mix.

10 At the last hearing, there was a  
11 statement made that Mr. Milz was fired for his union  
12 action. We would like to go on record as saying that  
13 is not true. Mr. Milz was one of nine faculty members  
14 in the social studies department of Holy Redeemer High  
15 School. Seven were needed for the 2008-2009 school  
16 year. An early retirement package was put together by  
17 the Employee Council with the Director of Human  
18 Resources and accepted by the diocese to allow  
19 teachers to retire early so that in Holy Redeemer  
20 system, 11 teachers took advantage of that early  
21 retirement incentive, first in the Diocese of Scranton  
22 to have a package available for our teachers, which we  
23 were very pleased to see happen for their years of  
24 service in Catholic education. Therefore, those 11  
25 teachers retiring prevented 11 other teachers from

1 being laid off as well. So we were very pleased to  
2 have that.

3           As stated earlier in our testimony, and I  
4 would just like to reiterate it, is that there is an  
5 Employee Relations Council in each of the four systems  
6 of the Diocese of Scranton. And all employees of both  
7 the support staff, those who work at secondary,  
8 maintenance staff, cafeteria, et cetera, teacher aides  
9 and all others are represented at that table. In  
10 addition to that, our administrators also, over the  
11 years, were never represented as a body. They were  
12 all done separately in that. And they, too, have now  
13 a voice into decisions going forward. So they are  
14 worked on at all times.

15           The major concern of the bishop since his  
16 arrival has been that our schools must be true to  
17 Catholic teaching in all aspects. He instituted a new  
18 religion curriculum and textbook series for all our  
19 high schools. A chastity program for all our  
20 elementary schools has been adopted. The bishop meets  
21 annually with all high school religion teachers and  
22 religion coordinator from each elementary school to  
23 ensure the integrity of Catholic identity within our  
24 schools. All areas of the curriculum, as well as the  
25 total environment of our Catholic schools, must be

1 evaluated to preserve the true teaching mission of our  
2 Catholic schools. Our administrators, teachers and  
3 staff members are not mere employees but rather, an  
4 extension of the teaching mission of the Church. The  
5 role of the Catholic administrator, teacher and/or  
6 staff member goes well beyond the secular  
7 responsibility of providing an outstanding education,  
8 but more importantly, that the gospel message is  
9 instilled in every aspect of the school.

10           Throughout the years, when finances were  
11 limited in the various schools, the negotiations forced  
12 decisions that sometimes acted against the very  
13 essence of the school. I don't believe that on either  
14 side that may have been the initial intention, but in  
15 the results, teachers, you know, held firm to the time  
16 allotment. And so on annual in-service day, teachers  
17 would stand up and walk out before the presenter  
18 finished. The religious programs were curtailed  
19 because teachers were not required to stay after. And  
20 in some schools, there was division within the school  
21 communities where there were associations. Teachers,  
22 again, in order to give them a free period, in some  
23 schools, the only way that was able to be provided was  
24 for the pastor and/or principal to take the students  
25 to mass and allow the teachers to have a free period

1 because they had no way of adding another person to  
2 the staff.

3           Our Catholic schools are vital to our  
4 diocese. And we hope to be able to provide for the  
5 future of them in any way that we possibly can. We  
6 would also like to state that the three boards of  
7 directors also were asked to vote on whether or not  
8 there should be recognition of the union. And the  
9 three boards voted not to recognize the union. So I  
10 share that with you. The testimony is written. Thank  
11 you very much.

12           REPRESENTATIVE SHIMKUS:

13           Thank you very much, Mr. Casciano. Mr.  
14 Redington from Holy Redeemer?

15           MR. REDINGTON:

16           Actually, that was for all of us.

17           REPRESENTATIVE SHIMKUS:

18           That was for all of you? Okay. All  
19 right. I appreciate that. And if we have questions,  
20 we will indeed submit them. Our next speaker will be  
21 Mary Rochford, the superintendent of schools of the  
22 Archdiocese of Philadelphia and Attorney Coyne and Mr.  
23 Robert Paserba. Again, if you could summarize or  
24 whatever you could do to abbreviate, I would be  
25 grateful. We're running out of time with Wilkes'

1 generosity.

2 DR. PASERBA:

3 Good afternoon, Mr. Chairman and members  
4 of the committee. I am Dr. Robert L. Paserba,  
5 superintendent of Catholic schools in the Diocese of  
6 Pittsburgh. Thank you for welcoming my testimony this  
7 afternoon. As superintendent for the Catholic schools  
8 in Pittsburgh, I represent 24,000 students in a six-  
9 county area, 1,800 professional educators. They  
10 include men and women. And 95 percent of those 1,800  
11 are lay employees. Only five percent are religious.

12 Prior to being superintendent for the  
13 Catholics schools in the Diocese of Pittsburgh, I was  
14 a member of the Pennsylvania State Education  
15 Association serving as superintendent of Butler Area  
16 School District, assistant superintendent in Hampton  
17 Township, a teacher in the Butler Area Schools. And I  
18 served in various capacities for public universities  
19 in Florida and in Maryland.

20 My direct experiences, however, in  
21 Catholic education and public education has involved  
22 being the chief negotiator of Butler Area School  
23 District and for 14 years now in the Pittsburgh  
24 Catholic schools. You have heard testimony earlier  
25 from the vice president of our organization, the

1 Pittsburgh Federation of Diocesan Teachers, Mr. George  
2 Rudolph. And he spoke very highly of the relationship  
3 that exists there amongst and between the bishop, the  
4 negotiators, the administrators and pastors, and all  
5 of those who represent the Catholic education on  
6 behalf of the students. I'd like to point out just a  
7 few parts of my testimony and leave the rest for what  
8 is written.

9           Each of the three groups of Catholic  
10 School Teachers who are represented by the federation,  
11 including elementary, secondary in the St. Anthony  
12 School programs have just recently negotiated six-year  
13 contracts. They extend through 2013 and 2014. Each  
14 of the three groups have a language which is very  
15 similar. They have salary agreements, which are very  
16 similar, including, for example, at the high school  
17 salary scale, high school teachers begin at \$31,100  
18 with a Bachelor's Degree. They begin at \$32,100 with  
19 a Master's Degree. Over the six years, they will  
20 attain more that three percent increase per year,  
21 which is included in the contract. They get  
22 supplemental payments for longevity and an attainment  
23 for taking preventional development courses,  
24 healthcare benefits for individuals and family,  
25 participation in diocesan pension plans, CREP, a



1 voluntary early separation plan, which allows for  
2 continued benefits for up to five years based upon the  
3 commitment they made to Catholic education.

4           But one thing, of course, is not included  
5 in any of the contracts, would be if the schools are  
6 free to offer a --- under the direction of the  
7 catechetical or religious areas under the direction of  
8 the bishop. The Cardinal's Clause included in each  
9 one has been referenced through the day. In regard to  
10 protective rights and due process rights for the  
11 employees, there are meet and discuss opportunities, a  
12 formal grievance procedure, which goes all the way to  
13 the American Arbitration Association, if necessary.  
14 And the decision of that panel of arbitrators,  
15 including awards of the arbitrator, are identified as  
16 being final and binding. And matters involving  
17 discipline for reasons of religious principle, of  
18 course, not a subject for the grievance procedure.

19           One of the things that we recently did,  
20 which came up over and over again this afternoon, is a  
21 concern that we're one step away or one bishop away  
22 from having a potential problem of having all of us  
23 unemployed. Well, in the most recent contracts, all  
24 three, elementary, secondary and high school, they put  
25 the appropriate language in, which says that --- and

1 it was approved by our canon lawyers and approved by  
2 our bishops. It's understood that no school covered  
3 by this agreement shall ever cease to be covered by  
4 this agreement. No changes in operation or  
5 organizational structure shall take away any of the  
6 benefits in the contract for the life of it. So I  
7 think, again, there are ways in which we can work.  
8 There are ways in which --- at the local level,  
9 without interference from the state, that we're able  
10 to do these things and do them well.

11           My other testimony, which is included in  
12 here, I will not read, but again, it is written, but  
13 I'll just summarize this way. House Bill 2626 would  
14 create a law based on a local grievance in one  
15 specific region. Rather than allowing that one  
16 grievance to work towards its own resolution, House  
17 Bill 2626 would create a general statewide law with  
18 unknown consequences. And that is our concern.

19           Each system of Catholic schools in the  
20 Commonwealth has adopted or may adopt procedures to  
21 ensure fair compensation and just working conditions  
22 for lay educators. For those who are not unionized in  
23 our elementary schools --- 39 of our 100 are  
24 unionized. The others are not. Believe it or not, we  
25 model exactly what we do with those who are not

1 unionized with the union contract. Our handbook  
2 running through 2014, we try to match the salary  
3 schedule as best we can, allowing the pastors, local  
4 enforcers to identify it more closely. But the  
5 language and so forth, it's basically the same. And  
6 we distribute that handbook for our teachers. We  
7 provide for the schools, the pastors and principals  
8 both a union contract and a handbook if they're not  
9 unionized. And we ask them to follow as closely as  
10 they can, even with the salary and benefits provided.  
11 A number of them do that. Again, thank you for my  
12 testimony to you.

13 MS. ROCHFORD:

14 Good afternoon. My name is Mary  
15 Rochford. I'm the newly appointed superintendent of  
16 schools for the Archdiocese of Philadelphia. So  
17 please have mercy on me. Of my 35 years in Catholic  
18 education, 26 of those have been spent in the  
19 Archdiocese of Philadelphia, both as a religious and  
20 now as a lay teacher and a lay administrator of the  
21 schools.

22 I feel today that I am the person in the  
23 room that can give you direct testimony to the good  
24 atmosphere that is within the parish and regional  
25 elementary schools in the Archdiocese of Philadelphia.

1 The pastors, the principals, the staff that work in  
2 our school, the teachers, we see ourselves as a  
3 community of believers who have come together to  
4 support the Catholic education of our students. And  
5 that is our main mission.

6           But I feel bad today that there are  
7 teachers in our schools who have --- do have a fear.  
8 If they do, I wish they would call us. We have lots  
9 of teachers talk to us, lots of teachers who bring up  
10 situations and issues. And we come immediately to  
11 work with our principals and our teachers over those.

12           In our schools, we have 3,725 teachers,  
13 182 schools. Seventy (70) percent of those teachers  
14 have four or more years of teaching in our parish and  
15 regional elementary schools. One of the Church  
16 documents, Justice in the World, says this: those who  
17 serve the church by their labor should receive a  
18 sufficient livelihood and enjoy that security which is  
19 customary in their region.

20           We have a pastors' committee of the  
21 Archdiocese of Philadelphia that meets throughout the  
22 year. And one of their charges is to come up with a  
23 recommended salary scale for the teachers at the  
24 elementary level. I know that all of the pastors who  
25 have schools are surveyed during the year to see what

1 level of raise they can afford --- their parish can  
2 afford in order for the parish to be able to balance  
3 its own budget. And looking all of that, the pastors  
4 committee discussed what is the best. And I know it's  
5 a painstaking process. I am there when they're  
6 discussing it. I am there speaking for the great work  
7 that our teachers do and advocating for them.

8           There's also another church document,  
9 Restoring Social Order, that says, it is unjust to  
10 demand wages so high that an employer cannot pay them  
11 without ruin or without constant distress among that  
12 working people themselves. What can the market bear?  
13 In the secondary schools in the Archdiocese of  
14 Philadelphia, the cost per student is \$6,100. The  
15 tuition that is paid by the parent per child is \$4,850  
16 plus fees. So each high school determines its own  
17 fees. So you could, in the end, see that a student is  
18 paying somewhere between \$5,200 and \$5,500 of that  
19 \$6,100. The secondary school then has to make up the  
20 difference.

21           At the elementary schools, the cost per  
22 student is \$3,000. The tuition is \$2,200. And the  
23 parish and fundraising have to help make that up.  
24 However, there's also a sliding scale for parents.  
25 The first child might pay the \$2,200. That's an

1 average. So you might find some elementary schools  
2 \$2,500 for the first student. The second, third  
3 child, there's a sliding scale for them.

4 Our concern is that an expectation of  
5 higher wages would be a severe difficulty for the  
6 parishes to be able to do that. So if government  
7 supervised unionization of our elementary teachers at  
8 this time in our history, it would not bring a better  
9 work environment, for we have that. It is our goal  
10 every year to provide the teachers with a work  
11 environment second to none, and the type of classroom  
12 setting, and expect cooperation from both parents and  
13 students to enable the work of Catholic education to  
14 unfold without interruption and with a level of  
15 excellence as a parent to all.

16 A government supervised unionization  
17 would further challenge the parishes' and parent-  
18 guardian abilities to provide Catholic education the  
19 way we are currently doing. A major shift would  
20 happen at this time, and greater demands for increased  
21 salaries would come to the parishes. Swift closures  
22 would ensue with decreased need for the current number  
23 of teachers employed throughout parishes of the  
24 archdiocese.

25 We'd just like to make a statement of the

1 one teacher, I think, in the last testimony, the  
2 teacher of 34 years. There was a situation at the  
3 school. When the teacher went into that school, she  
4 was hired in October of 2005. The school that she was  
5 hired into was a newly formed regional school. Now,  
6 when we newly form a school, all teachers come in at  
7 the first year of experience. They do not bring their  
8 --- they stay on the same salary scale that they have.  
9 But they all are first year teachers in that school.

10           This teacher coming in in October was the  
11 last person hired. And the school is going through  
12 constriction, decrease in enrollment, mostly because  
13 parents could no longer afford it, and the school did  
14 not have an extensive amount of tuition assistance to  
15 be able to provide the parents. So the teacher could  
16 have been let go, apparently, because she was the last  
17 person hired. One of the pastors, yes, foolishly, did  
18 make a comment. If that teacher was let go, it would  
19 be a higher salary that would not be then a challenge  
20 to the parish. However, the principal called me  
21 immediately and said, what can we do for the teacher?  
22 We got on the phone. I got on the phone and I was  
23 involved in the situation. The teacher was offered  
24 the kindergarten class. She didn't want it. Her  
25 grandson was in it. The teacher was offered the sixth

1 grade in that school. She didn't want it. She didn't  
2 want to go that high.

3           So the school was making efforts to give  
4 her a position that she would be able ---. She'd have  
5 had plenty of experience at various grade levels. She  
6 finally did settle for the seventh grade teaching  
7 position in that school. And my understanding in  
8 talking with the principal is that she seems satisfied  
9 and pleased there.

10           So when we hear things that are not fair  
11 or things that are discouraging to teachers, we are  
12 right there. And I can tell you, in the Office of  
13 Catholic Education, we have teachers talking to us all  
14 the time. When there are situations, we immediately  
15 talk with the teacher and with the principal to see  
16 what we can remedy. If someone doesn't come to us, we  
17 can't know what we can't know. Since I've been in the  
18 Office of Catholic Education for ten years, we've had  
19 one appeal. So that's all that's happened from  
20 teachers feeling that whatever situation has come to  
21 them in their school has been something that was  
22 unfair.

23           In order to lose a teaching position in  
24 an elementary school, first of all, there's a process.  
25 If there is some question of not having the ability to



1 do the assignment the teacher has, that would be one  
2 way of leaving, certainly if you did something to  
3 violate Church doctrine. And the only other way is  
4 constriction. And that happens as a result of  
5 declining enrollment, which we continue to see. And  
6 that's our greatest fear, that higher salaries will  
7 cause parents not to be able to come to the school.  
8 So we take that choice away. My greatest concern is  
9 the child loses the opportunity for Catholic  
10 education. Thank you.

11 REPRESENTATIVE SHIMKUS:

12 Attorney Coyne.

13 MR. COYNE:

14 Good afternoon. I'll keep this as brief  
15 as possible. One correction. My name is Timothy, not  
16 Thomas, but that's fine.

17 REPRESENTATIVE SHIMKUS:

18 I called you Attorney Coyne, so I was  
19 right.

20 MR. COYNE:

21 Thank you. I am an attorney.  
22 Fortunately today, I was here to answer any questions  
23 that you may have. So thank you for postponing that.  
24 But I'm also here to rectify any misstatements that  
25 may have been made unintentionally.

1           A question that came up in written  
2 testimony was that the archdiocesan elementary  
3 teachers are at-will employees. That is not correct.  
4 For the most part, there's a contractual basis. So  
5 the contract controls the employer/employee  
6 relationship. Not all pastors do offer contracts.  
7 Some do not have contracts. They would be considered  
8 at-will employees. Under Pennsylvania law, there is  
9 such a thing as an at-will employee, but in effect,  
10 there really is no at-will employee, because they're  
11 protected classes. I cannot fire someone based on  
12 race, based on religion, based on sex. So in effect,  
13 under Pennsylvania law, there really is no at-will  
14 employee.

15           Another statement that came up was that  
16 there's no recourse. Being a lawyer, I worked for the  
17 archdiocese 12 years in litigation for them in three  
18 years for in-house counsel. There's always recourse.  
19 There's the courtrooms. In my 15 years working for  
20 the Archdiocese of Philadelphia, I'm aware of only two  
21 cases for elementary schools to take their grievances  
22 to the courts. Thank you.

23           REPRESENTATIVE SHIMKUS:

24           Thank you. I appreciate it. And we will  
25 submit some questions.

1                   MR. COYNE:

2                   Sure. I figured.

3                   REPRESENTATIVE SHIMKUS:

4                   All right. Our next speaker is Attorney  
5 James Katz. It is James?

6                   MR. KATZ:

7                   It is James. And it is Katz. Mr.  
8 Chairman, members of the Committee, I guarantee you I  
9 will be exceedingly brief so you will be able to go  
10 out of here saying, I heard from one lawyer who spoke  
11 for less than two minutes. And I won't read any  
12 prepared remarks, because I don't have any.

13                   I'm an attorney with Spear Wilderman in  
14 the New Jersey office, and I was the attorney that  
15 represented the New Jersey Civil Liberties Union in  
16 connection with the case that came before the New  
17 Jersey Supreme Court in 1996 involving the right of  
18 Catholic lay teachers to organize in the State of New  
19 Jersey. I really have four points I want to leave you  
20 with this afternoon.

21                   First, Catholic Bishop, which is the 1978  
22 United States Supreme Court, which is frequently  
23 referenced in these debates, did not, and I emphasize,  
24 did not make any constitutional determination as to  
25 whether the National Labor Relations Board would

1 somehow infringe upon First Amendment rights. It made  
2 a statutory analysis, and it determined that there was  
3 no affirmative evidence that Congress intended for the  
4 National Labor Relations Act to cover lay teachers in  
5 religiously-affiliated schools.

6           Second, I think it's important to correct  
7 a mistake that was made by a prior speaker, Mr. Dean,  
8 when he talked about the Pennsylvania Labor Relations  
9 Board in terms of what this act would do. I think the  
10 most appropriate analogy to think about the  
11 Pennsylvania Labor Relations Board is they are the  
12 referees. They are not the players in the game. They  
13 don't decide the results in the game. They just  
14 referee to ensure that the field is equal.

15           So for example, they do not require  
16 individuals to join or not to join a labor  
17 organization. They do not make that determination.  
18 That is a determination that is up to the free choice  
19 of the individual. They do not mandate any particular  
20 subjects. And they do not mandate any particular  
21 terms and conditions of employment that apply to any  
22 employer organization. All they do is to require for  
23 parties to bargain in good faith. It is the parties  
24 themselves that decide what the terms and conditions  
25 of employment are. They decide what the wages are.

1 They decide what the benefits are. It is not the  
2 Pennsylvania Labor Relations Board. And there's  
3 nothing about this piece of legislation that would  
4 alter that.

5           More importantly, it is important to  
6 understand that there is no order that is issued by  
7 the Pennsylvania Labor Relations Board that is self-  
8 executed. Rather, if any party disagrees with that  
9 order, they have a right to go to the court, which is  
10 the final arbiter of any disputes. And to the extent  
11 there is a concern that somehow a religious belief is  
12 being infringed upon, to the extent there is any  
13 concern that any particular demand of negotiation  
14 relates to an impermissible subject, it is the courts  
15 that decide that, just as, I might add, if there ---  
16 and the prior speaker talked about the anti-  
17 discrimination laws that institutions and religiously-  
18 affiliated schools are subject to. You have the same  
19 situation with the Equal Employment Opportunity  
20 Commission. They have the same right to oversee to  
21 ensure that individuals' rights are protected.

22           The key here, and this goes to my third  
23 point, when you look at either the Establishment  
24 Clause claims or the free exercise claims, all we need  
25 to do is look at the three courts that have made

1 decisions since 1978 that have dealt with the same  
2 type of arguments that are being raised here, that  
3 somehow this piece of legislation would either raise  
4 Establishment Clause issues or would raise free  
5 exercise issues.

6           The courts that have considered it have  
7 rejected it. It was rejected by the New Jersey  
8 Supreme Court in 1996. And albeit, they were dealing  
9 with the constitutional right, that is Article I,  
10 paragraph 19 of the New Jersey Constitution, that  
11 allows and gives employees the right to organize. The  
12 same defenses were raised that if you recognized labor  
13 unions and lay employees in religiously-affiliated  
14 schools that would raise Establishment Clause issues.  
15 That would raise free exercise issues. It was  
16 rejected there. It was rejected by the Minnesota  
17 Supreme Court in 1992 in the Phil Murray case. It was  
18 also rejected by Second Circuit in 1985 dealing with  
19 the Catholic High School case. The issue is not  
20 entanglement. The issue is excessive entanglement.  
21 And what the courts have consistently held is that  
22 these types of questions involving negotiations over  
23 secular issues would not involve excessive  
24 entanglement and would not create constitutional  
25 problems.

1 I can't assure you as I'm sitting here  
2 that this piece of legislation, if enacted by  
3 Pennsylvania, would not be subject to judicial  
4 challenge. All I can tell you is that if you look at  
5 the track records, that if you look at these cases  
6 over the last 20, 25 years, the courts have repeatedly  
7 held that there is no First Amendment problem.

8 Finally, there was an issue raised  
9 regarding a specific provision in the statute that  
10 provides as follows. And it says, when the  
11 evidentiary record before the Board shows that a  
12 religious employer made an employment decision based  
13 on religious grounds the board shall deem such grounds  
14 cause for the decision unless the employee or his  
15 representative establishes by clear and convincing  
16 evidence that the employer's religious justification  
17 is a pretext.

18 That is a well-known form of legal  
19 analysis. And it really looks for what the primary  
20 motivation is for the institution's act. There is  
21 nothing impermissible about that. There's nothing  
22 that would involve the Pennsylvania Labor Relations  
23 Board in an improper area or involve the Board in  
24 trying to discern religious belief issues. All it is  
25 looking for is what's the primary motivation of the

1 act.

2           In summary, I believe that this statute  
3 represents a well-balanced attempt to recognize and  
4 protect both the rights of employers and rights of  
5 religious-affiliated institutions while at the same  
6 time protecting the rights and the interests of lay  
7 teachers throughout the Commonwealth of Pennsylvania.  
8 Thank you.

9                           REPRESENTATIVE SHIMKUS:

10           Thank you. Our final two speakers are  
11 Dr. Theodore Clater, executive director of the  
12 Keystone Christian Education Association, and Pastor  
13 Joseph LaCava for the Independent Bible Church of  
14 Duryea.

15                           DR. CLATER:

16           It's good to be back with a couple  
17 familiar faces and new faces. We had the opportunity  
18 to give testimony a month ago representing our  
19 association at that point in time. I assured you that  
20 to the best of my knowledge, a number of groups would  
21 either give you written or conversational testimony  
22 further. I have been asked not to repeat myself, and  
23 I'll attempt to accomplish that with Joanne.

24           Obviously, there was, for the first time  
25 through, a listing of four different speakers, Dr.



1 Hollier spoke, I felt, quite well to the whole issue  
2 of how do you address the issues which have again  
3 surfaced today as to what is the nature of secular  
4 versus religious. Mr. Lucas, with his historical  
5 background, appealed for --- boasts some his  
6 historical perspective. He appealed in the whole  
7 arena of the concern for church polity and how  
8 churches make decisions and how the act would  
9 interfere with that decision-making process in many  
10 churches.

11                   Maybe I should add at this point there's  
12 been a number of discussions today that the state  
13 would stay out of doctrine. We've previously given  
14 testimony that staying out of doctrine is  
15 insufficient. The nature of decision-making is  
16 oftentimes spiritual, not necessarily doctrinal. The  
17 nature of attitudes with the staff for the religious  
18 school is just as important as the teachers' actions.  
19 And inappropriate attitudes would be just as  
20 inappropriate for a minister of the gospel, whether  
21 clergy or teacher. And we've covered those things.  
22 Attorney Greg Reid obviously spoke of any number of  
23 points from his background both as a layman in our  
24 churches as well as with his background that these  
25 things would be very problematic.

1                   With all of those things, in summary, I  
2 was asked if I would present to you several  
3 organizations' written comments on the belief that,  
4 from their part, to at least make mention of these  
5 things orally might have them more likely to be read  
6 than if they were just thrown to you in written form.  
7 I have reviewed them. I can give you in summary that  
8 Mrs. Coker (phonetic) comes to you with a strong  
9 background in the whole issue of the Bicentennial  
10 Commission. She is a walking encyclopedia of what our  
11 forefathers meant, why they meant it and what caused  
12 them to do what they have done. And she's given any  
13 number of references in her testimony of where freedom  
14 of religion fits into this whole concept. Frankly,  
15 she describes for herself that she ---. I think she  
16 uses the word she's appalled that this idea is here,  
17 because from her viewpoint, it is so much an affront  
18 to religious freedom. She also speaks of the freedom  
19 of conscience and how freedom of conscience is so  
20 intertwined in all of these things, which is possibly  
21 more for the audience than for you, because you've  
22 been to Harrisburg more recently.

23                   In the Harrisburg newspaper today is a  
24 major article that you guys just yesterday had a  
25 ceremony celebrating on the 17th of the month

1 encouraging all citizens to be more mindful of our  
2 Constitution, its history, its provisions. And I  
3 think if Mrs. Coker could write her testimony a day or  
4 two later, she would probably comment some of those  
5 things to you. I would think that all of us would  
6 say, amen, that all of us need to be more conscious of  
7 that document.

8           I rotate from there to a second set of  
9 testimony that I was asked to present. The ACSI is  
10 the largest group --- to my knowledge, the largest  
11 group of Evangelical schools in the State of  
12 Pennsylvania. Dr. Storey presents his document to  
13 you. He gives the identification in his lead  
14 paragraph, 190 different schools, 35,000 students. On  
15 page two he starts addressing what they, as an  
16 association, believe would be the effect if 2626 were  
17 enacted into law. He continues that all the way  
18 through that as he comes through.

19           The bottom of his second page addresses  
20 some of the materials that Keystone addressed. And  
21 that is the nature of how a church accomplishes its  
22 decision-making and accomplishes its priorities. He  
23 accomplishes those things. You'll notice on the next  
24 page he's addressing the effects of a potentially  
25 negative bargaining process. It is so totally

1 different from the way that a church accomplishes its  
2 spiritual goals. He accomplishes in his text how that  
3 is so totally different from health laws and all of  
4 those things. And I leave you to your fate to  
5 continue to read.

6           The next fellow grew up with you guys. I  
7 had no idea that there's a certain somebody on this  
8 platform that, in his younger days, was in a band.  
9 Now, I wonder who that would be. Well, he says he  
10 went to school with you. And this is a local  
11 attorney. And quite frankly, he has watched the  
12 newspapers. He has watched the community prattle all  
13 over this area for so long, he feels like he knows the  
14 issue backwards and forwards.

15           But he writes to you all as a committee  
16 because he has a great concern as to how this would  
17 affect all of the churches in the circles where he  
18 runs, the Evangelical circles. You'll notice that in  
19 the second paragraph of his testimony, he summarizes  
20 Keystone's comments previously. That's a quick  
21 paragraph. As you would suspicion, he likes what  
22 Clater, Hollier, Lucas and Reid said. You can take it  
23 from there.

24           You can notice then he continues ---.  
25 And he identifies on the second page he's a layman,

1 but he had his children very deeply involved in  
2 religious school. He volunteered his own time to  
3 teach there. He does not believe the teaching or the  
4 teachers are somehow different from the clergy. He  
5 obviously is concerned, and he's somebody from your  
6 own backyard.

7                   I then come to, I think it's, what, an  
8 eight-page document. This document comes from 20  
9 different church denominations or fellowships. A  
10 little bit of a miracle to accomplish Joanne's hope  
11 that we could cut down on your reading and get a joint  
12 statement from multiple groups that all can come  
13 together and say, this is the nuts and bolts as we see  
14 it.

15                   On the second page of the testimony, I  
16 have listed the organizations so that you can see them  
17 by name. Several of them have commented that I should  
18 be sure to point out to you that there's --- a non-  
19 academic word --- there are scads of independent  
20 churches around that may have the same doctrinal  
21 positions as these, but they are not part of an  
22 official fellowship or denomination in any way, shape  
23 or form. But they indicate that probably you could  
24 multiply this by two or three or four if you could  
25 somehow get all of those independent churches together

1 and somehow get them in one room and, you know, is  
2 this what you believe. These denominations say if  
3 that were possible, the numbers would mushroom.

4           When you come to the testimony that they  
5 have prepared on page number three, they give you a  
6 summary that they have read transcripts, they've read  
7 things like that, and they are saluting KCEA's  
8 comments already presented to you. And in an old-  
9 fashioned way they're saying, amen, that's what we  
10 believe. We're not going to repeat it. We're going  
11 to go ahead and say additional things.

12           These groups have then stated their  
13 position. They believe this is a problem. They  
14 believe that they would have to oppose it very  
15 strongly. Why the concern? They have chosen to use  
16 an idiom from nature about the muskrat. And they have  
17 attempted to use what we know from our waterways of  
18 important levies to hold the river water where it's  
19 supposed to be as opposed to outward. And they have  
20 chosen to say that our forefathers set up certain  
21 levies --- obviously, including religious liberty ---  
22 our Bill of Rights. And they noticed that this past  
23 June in the Midwest, one of the problems we faced when  
24 the Midwestern states were hit with floods was that  
25 they found a number of levies that the muskrats had

1 burrowed under them so much, they weakened the levies,  
2 endangering the whole of the culture. They're  
3 attempting to make the comments, as I read their  
4 documents here --- they love muskrats. Cute as can  
5 be. They deserve good habitat. They deserve  
6 everything imaginable. But when muskrats start  
7 digging into the levy, we all, as a culture, have  
8 problems.

9                   Now, I think they kind of culminate when  
10 you get clear back at the back. They've obviously  
11 given a number of illustrations. But they comment  
12 clear at the back that in reality, they see 2626  
13 somewhat like a muskrat, good in its place, but if it  
14 destroys something so important as the levy, i.e.  
15 religious freedom, we shouldn't go there.

16                   Now, Joanne has shared to me, and I'm  
17 thankful for this group for doing so, that you wanted  
18 additional illustrations of how the Evangelical  
19 community felt they would be endangered if this bill  
20 passed. So I won't repeat myself. They have listed a  
21 number of things. Starting on page five they listed  
22 three that are rather philosophical. They call them  
23 that. Then on page six and following, they listed  
24 actual --- six exact examples of where they believe if  
25 the 2626 starts reaching the levy of religious

1 liberty, however good is the intention --- Mr. Lucas  
2 covered good intentions --- there's other things that  
3 are going to fall if the levy of religious freedom and  
4 freedom of conscience falls. And I've attempted to  
5 show those --- highlight those six here on pages six  
6 and seven as this group has given them. And I won't  
7 repeat those.

8                   The last in this whole packet, the writer  
9 is away out of state, but his assistant is here. And  
10 so we're going to give the assistant to the pastor the  
11 opportunity to present his boss's comments.

12                   REVEREND LACAVA:

13                   Thank you very much. I appreciate being  
14 given the opportunity to speak with you today. My  
15 name is Joseph LaCava. And as Ted has said, I am the  
16 assistant pastor at the Independent Bible Church in  
17 Duryea. I think part of it, too, what I'm going to  
18 say, just summarizing Dr. Al Kumar's (phonetic)  
19 comments --- I would like you to know that I am native  
20 of this valley and I reside here as well, been  
21 residing here for 14 years, was out of town, was in  
22 New England for a number of years, about 13 years. I  
23 came back here in 1994. And so I think I understand  
24 something about our culture, about our way of life  
25 here. I myself grew up in, I call it a union home, a



1 family that --- the strength of the unions and the  
2 importance of that.

3           But here today, my privilege is to be  
4 able to share with you --- and I'm certainly just  
5 going to summarize. I didn't write this letter myself  
6 to you and write this testimony myself, but will share  
7 with you and for the benefit of others who are  
8 listening, the crux of this very, very briefly. And  
9 that is this.

10           We at the Independent Bible Church in  
11 Duryea, we hold a monthly pastors' fellowship. And  
12 that pastors' fellowship is for, of course, a number  
13 of churches throughout this area. And we have around  
14 --- a little more than 50 churches that are  
15 represented there. And they are some of those  
16 independent churches that Mr. Clater mentioned here  
17 just a few minutes ago. They are completely what you  
18 see is what you get. They are not affiliated with  
19 some larger denomination. And so that pretty much  
20 makes up the group that comes to our church to have  
21 this fellowship. And of course, through these  
22 churches, we're getting a representation of not only  
23 these pastors, many of them who are from this area,  
24 but certainly the congregants, the parishioners, are  
25 people who have lived in this area in northeast

1 Pennsylvania for years and years and years.

2           Well, House Bill 2626 came to our  
3 attention. And we discussed it at our fellowship.  
4 And first we began simply to see it as something that  
5 truly was a matter for the Roman Catholic Church and  
6 the internal struggle that we thought that they ---  
7 was theirs to deal with. And that was really an  
8 agreement among all the pastors that were there. This  
9 is really something that, you know, we've heard about  
10 it, read about it, saw information about it.

11           However, as we began to study a little  
12 bit more about this bill, we became convinced that  
13 there were implications that went beyond and outside  
14 of the Catholic Church. And so that's why we're  
15 thankful for the opportunity just to present this to  
16 you today. And so we look at this ---. We believe  
17 that there's a misunderstanding of the differences  
18 between religious and secular education and ministry  
19 as offered by Christian teachers to the families of  
20 our local church assemblies.

21           We note that in the bill, the word  
22 commerce is used. And of course, by that, we're  
23 assuming that means these are buying and selling of  
24 goods and services. We don't see the presentation or  
25 the teaching aspect or the idea of that as commerce.

1 We see that as ministry. And so therefore, for us, it  
2 has an entirely different connotation and it's a great  
3 concern to us the way the bill seems to be coming  
4 across. We think by using this word, the idea of  
5 ministry as we see it is completely ignored and the  
6 concept of Christian education is missed.

7                   Now, in your letters you read, you'll see  
8 Dr. Kumar mentions about his daughter who was trained  
9 in Christian education. And I failed to mention, too,  
10 earlier when I said this, that I am myself --- was a  
11 Christian school administrator and teacher. And so  
12 from personal example from the testimony he gave here,  
13 we never saw teachers as simple employees providing a  
14 service. Always, we'd see them as someone who was  
15 ministering. While they were presenting the academic  
16 material, they were infusing the academic material  
17 with the claims of Jesus Christ and Christianity and  
18 the Bible. And so to separate those two, in our mind,  
19 really completely misses the point of ministry. So  
20 we're saying it's not a matter of selling religion or  
21 education. It's a matter of ministering.

22                   In Ephesians chapter four, verse 11  
23 through 13 --- it is quoted in your paper. I won't  
24 read it. You can look at. But we see the point of  
25 that as this, that ministry is to be done by the

1 entire church congregation, not just by what we might  
2 see as the clergy. And so therefore, to reduce the  
3 Christian school teacher to a lower position than that  
4 of a minister, whether they're ordained or not, that's  
5 to do with the service, we believe, to the higher  
6 calling that they have from the biblical text as we  
7 understand it here.

8           We also believe it's --- the language  
9 that's being suggested by this bill will do damage to  
10 doctrinal beliefs of any church once it's stamping,  
11 decision-making policy and procedures are called into  
12 question by secular government if they are, in fact,  
13 called into question. The bill states the board may  
14 neither define nor interpret religious doctrine. The  
15 board may inquire into whether the doctrine is a  
16 pretext for action of the employer. We're concerned  
17 that this will lead into intrusiveness and then,  
18 therefore, may be left to the board to determine the  
19 validity of doctrine. And that is, of course, of  
20 great concern to us.

21           So will it leave the Board ---?  
22 Question. Will it leave the Labor Relations Board to  
23 determine what the local church may or may not believe  
24 in relation to hiring and releasing teachers, what  
25 they teach? Those are concerns that we have. And of

1 course, I discerned already ---. I haven't been here  
2 all afternoon. I had to arrive late. But I've  
3 already heard people mention a concern about would  
4 this sort of thing dabble into Church government or  
5 Church polity as well. And that's our concern.

6           Is it a satisfaction to us there's some  
7 wording in there that the board may write decisions  
8 and that differences could be adjudicated? We're  
9 concerned that the sheer weight of defending its  
10 actions, a church's actions, in the face of what we  
11 would see as the secular decision-making criteria,  
12 that that would be stifling and that would be  
13 intrusive. And that would be, as we would see, the  
14 very reason why our founding fathers recognized the  
15 need for religious liberty in our land and protection  
16 of it.

17           Again, having lived here many years, and  
18 those that I'm representing here as far as members of  
19 our pastor's scholarship, we've heard a lot about the  
20 things that have gone on with the Catholic schools,  
21 the teachers, the bishop and his staff. And we're  
22 familiar, too, with churches of our  
23 Protestant/Evangelical persuasion when we have  
24 disagreements. And it's a full range of those.

25           But what we would like to suggest to you

1 as a committee that even with the problem at hand,  
2 that the Catholic schools of northeastern Pennsylvania  
3 seem to have the devices capable of dealing with its  
4 internal situation and that there may be a lot of  
5 internal debate within the Catholic Church as to  
6 whether or not the actions of bishop are supported by  
7 Catholic Canon Law. That is fine. What we say is let  
8 the Catholic Church sort that out and believe that  
9 that's their business.

10                   And in conclusion ---. Let me just say  
11 this in conclusion. We are very conscious as pastors  
12 --- I speak for the pastors now --- as how sometimes  
13 people come to us and want, of course, for us to help  
14 them solve their problems. And let me just illustrate  
15 that, if I can, very quickly in three ways. First of  
16 all, we have our own parishioners who have problems.  
17 And of course, we're shepherds, and we want to help  
18 them. But many times our greatest goal, our greatest  
19 need is to get them to understand that they can't work  
20 through their own problems without the help of someone  
21 else when that's the appropriate situation. Secondly,  
22 we would also face a situation when we have people who  
23 come from another church who come to us and ask us to  
24 help them solve a problem about their church. Now,  
25 again, we're talking about perhaps even churches that

1 are in and of themselves very independent. And we  
2 have to very tactfully and graciously try to lead them  
3 back to their own church and say this is not a matter  
4 of our concern. This is a matter that's between you  
5 and your pastor or your congregation, your particular  
6 fellowship.

7                   And we'd like to suggest that there's a  
8 parallel position that's appropriate, we would say,  
9 for legislators, too. In this case, we'd like to say  
10 and suggest that legislation and legislators can't  
11 solve everything for everyone, even as we pastors  
12 can't do that. But in this particular case, we  
13 believe the best action that you can take is to  
14 graciously tell the constituents that it's not the  
15 government's task to solve internal problems of a  
16 church. And that's the point. We believe the House  
17 Bill 2626 is a reaction to a matter that is best left  
18 to a particular church, the bishop here in this case,  
19 his counselors and the internal system that is party  
20 to the polity of the Church. We believe the  
21 government should stay out of it. Thank you very  
22 much.

23                   REPRESENTATIVE SHIMKUS:

24                   Thank you, folks, very much. And before  
25 I adjourn the meeting, I just --- a very quick

1 comment. First of all, I'd like to thank all of the  
2 people who testified, especially those who graciously,  
3 you know, abbreviated some of their statements. We  
4 appreciate a file filled with a lot of detailed and  
5 written out commentary. That will help us greatly.  
6 And I really appreciate the fact that you have stayed.  
7 It is some 20 minutes after 5:00. Obviously, this is  
8 a subject of great interest. I sincerely appreciate  
9 your attention and your involvement. And before we  
10 conclude, the author of the bill, Edward Day  
11 Pashinski, would you like to make a final comment?

12 REPRESENTATIVE PASHINSKI:

13 Sure. First of all, let me just say ---  
14 echoing the same words of Chairman Shimkus, thank you  
15 all for coming out here. I want you to know that we  
16 will very carefully deliberate on these issues. We  
17 know that regardless of what side you're on, you have  
18 deep convictions. And it's our job to go back, study  
19 these positions and discuss it and continue on trying  
20 to find a solution. The intense concern over this  
21 issue may even promote a third hearing, if necessary.  
22 But I can guarantee that we will do our homework. And  
23 we'll go back and we'll work on trying to bring all  
24 folks together.

25 For those of you that might not have been



1 here when I mentioned before, it is truly interesting  
2 how we as human beings think, how we react. Every  
3 attorney --- we have a great attorney that is on one  
4 side and another great attorney on an opposite side.  
5 Besides the attorneys, we have other folks that  
6 present their positions. And it's one of the great  
7 things about this country. We do have freedom of  
8 speech. You are exercising it today. Your government  
9 is working. It is not easy. And we are willing to  
10 take that challenge. But I thank all of you here  
11 today for coming out. And it is our sincere desire  
12 that we can come to an amicable agreement on this  
13 particular issue. Thanks very much.

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HEARING CONCLUDED AT 5:21 P.M.

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