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Louisiana Catholic Conference

October 20, 1982

Emile Comar ✓
Executive Director
Office of Governmental
Programs and Planning
523 Natchez St.
New Orleans, La. 70130

Monsignor Daniel F. Hoyer
General Secretary
U. S. Catholic Conference
1312 Massachusetts Avenue, NW
Washington, D.C. 20005

RE: IRS controls over Catholic schools

Kirby J. Ducote
Associate Director
Office of Governmental
Programs and Planning

Dear Msgr. Hoyer:

I write to you at the suggestion of Frank Monahan on a question I consider to be urgent. It is in regard to the continuing resolution under which the federal government is now operating in the absence of a true budget. The matter is complex and I will try to summarize.

The continuing resolution as passed by Congress in the hectic days before the recent recess is stripped of the Ashbrook-Dornan amendments which have, since 1979, protected our schools from IRS oversight and controls.

That control -- which is extensive and would permit IRS to determine the admission policies and employment practices of Catholic and other religious and independent schools -- was apparent in proposed revenue procedures advanced in 1978 by IRS and opposed at that time by USCC. May I refer you to the memo from General Counsel's office issued by George Reed on Oct. 19, 1978 to the Commissioner of Internal Revenue.

Earlier (on Sept. 5, 1978) George had alerted state conference directors and others around the country of the dangers inherent in the IRS proposal. The Louisiana Catholic Conference accepted a major role in opposition to IRS, an effort which paid off in defeat of the proposed regulations through passage of the Ashbrook-Dornan amendments.

Our role in this matter, I should point out, came about not only because of our deep felt concerns but because we were called upon to win and hold the support of Sen. Russell B. Long, then chairman of the Senate Finance Committee. He became a primary mover in the opposition to IRS, not only within the confines of Congress but in his public declarations.

In 1979, USCC negotiated with IRS and a revised set of guidelines were adopted. We were not consulted and joined other organizations in mounting a campaign to retain the protection of Ashbrook-Dornan against the entanglement of IRS in our school operations. Our argumentation is contained in essence in two attachments to this letter. We had the full and complete support of Louisiana's bishops and Catholic school superintendents, who took an active role in bringing this matter repeatedly to the attention of our Louisiana delegation. We testified, as USCC did, at hearings in Washington.

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Msgr. Hoyer

The Ashbrook-Dornan protection has been provided in 1980, '81, '82, but in the rush to get out of Washington recently, Congress took a number of short-cuts on the continuing resolution and Ashbrook-Dornan language fell by the wayside.

In the past, the protective language has been restored through floor amendments, if my recollection of the legislative process is correct. But we must again restore the language, this time in a climate already charged with conflict over similar "segregation" arguments used to set us back on tuition tax credits.

I asked Frank at our Oct. 12 meeting if USCC were going to be directly involved in the effort to restore the language advanced originally by the late Congressman Ashbrook and by Congressman Dornan. Frank pointed out that USCC, having been satisfied with the proposed compromise language of 1979, has adopted a "no position" posture. George Reed's memo of March 6, 1979, should be read.

Since a considerable amount of time was spent at our Oct. 12 tuition tax credit meeting over the degree of IRS control we could or would permit of church schools, I pointed out that the controls we may fight on the "credit" front already are in force by reason of a complicated parliamentary procedure. Frank points out that it is unlikely that the Reagan administration would move through IRS against religious schools. But we cannot rely on the bureaucracy, which has a life of its own, nor can we deal with this matter on that basis.

It is my understanding that the Reagan administration has never revoked the revenue procedures and that such procedures were held in check only through the prior existence of Ashbrook-Dornan.

Time is important and Frank suggested I write directly to you. I know that others are gearing up for the fight and I have no reason to believe that our Louisiana position of opposition to IRS controls will change when the continuing resolution comes again before the Congress in late November-December.

I have two bulky files on this matter and will do some digging if you need more material. But I am sure your files are more than adequate. I do enclose a brief, perceptive look at the IRS role as viewed by the Subcommittee on Oversight of the House Ways and Means Committee. The statement was issued in 1979.

I appreciate your time in reviewing this letter and your consideration of our concerns. I look forward to hearing from you.

Sincerely,



Emile Comar
Executive Director
Governmental Programs & Planning

EC:js

cc: Frank J. Monahan

Louisiana Catholic Conference

FOR YOUR INFORMATION

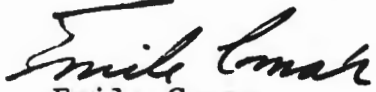
April 18, 1979

Commissioner of Internal Revenue
Attention: E:EO
Washington, D.C. 20024

Dear Commissioner:

As Executive Director, Louisiana Catholic Conference, I file the following statement in behalf of the Archbishop of New Orleans and the Bishops of Lafayette, Baton Rouge, Alexandria-Shreveport, and Houma-Thibodaux. The Louisiana Catholic Conference is the civil agency of the five Catholic Dioceses of Louisiana.

Yours very truly,


Emile Comar
Executive Director

* * *

STATEMENT OF OPPOSITION

to.

PROPOSED INTERNAL REVENUE SERVICE PROCEDURES ON STUDENT ADMISSION AND EMPLOYMENT PRACTICES OF 501(c)3 SCHOOLS

Representatives of the Catholic Schools Committee of the Louisiana Catholic Conference testified in Washington, D.C., during Internal Revenue Service hearings which began on Dec. 5, 1978. They spoke in opposition to the proposed procedures involving 501(c)3 schools, presenting certain positions and legal citations which we submit are adequate argumentation against new IRS rules and regulations governing the operation of schools by religious bodies.

Following that hearing, the IRS revised its proposals, which our Catholic Schools Committee had held were unnecessary and an intrusion on the religious nature of Catholic schools. We were among numerous religious bodies making such representation to the IRS.

Revisions have now been made to the original IRS proposal. But we find in the changes nothing that would diminish our opposition to this unwarranted interference by government with the operation of schools founded, operated, and controlled by Catholic and other sectarian bodies. If we are

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to believe what the United States Supreme Court has said with regard to First Amendment rights of religious freedom, then we must believe that religious schools have the right to govern their own destiny.

The IRS is failing to recognize the constitutional rights of churches and parents to operate schools and educate children free from unnecessary conflicts.

We make no argument that schools should be permitted to discriminate on the basis of race, for the public policy of the Church and the practices of the Church are consistently against racial discrimination.

Here in Louisiana, the Catholic schools have had open admission policies for years and in at least one of the dioceses the 50-50 black-white enrollment ratio of elementary schools far exceeds what IRS seeks to impose by its regulations.

The IRS is incompetent to judge the "community" which a Catholic school serves, but "community" ratios of black-white enrollment in public schools is a governing factor in the new IRS procedures which would be imposed on Catholic schools.

Does "community" mean church parish? Or does it mean the public school district in which the Catholic school may be located? Or does it mean a metropolitan area, a civil parish (county), or some other governmental subdivision. If within that "community" there are insufficient Catholic minority students or teachers to fulfill the IRS regulations, do church-oriented schools then accept children assigned to them by IRS?

We are disturbed, also, by IRS' proposed new rule of legal procedure. We refer to the definition of "reviewable" school, contained in the IRS proposal.

Schools which were founded or substantially expanded at the time of public school desegregation in a "community" are presumed to have a racially discriminatory policy with respect to students. In other words "guilty until proven innocent," a 180-degree turn from "innocent until proven guilty."

More than adequate legal citations on the above point have been presented by Mr. George E. Reed, General Counsel, United States Catholic Conference, in testimony submitted to the Subcommittee on Oversight, Ways and Means Committee, United States House of Representatives, on Wednesday, February 21, 1979.

No degree of amendment, we feel, will correct the ill-conceived and unwarranted procedures which IRS now seeks to impose upon religious schools. For the basic problem is one of government interference with religion, in violation of the Constitution.

The application of the procedures would mean that government could force religious schools to actively recruit students and teachers who are not of the faith which operates the schools. This would be a clear First Amendment violation.

Even from a common sense, practical standpoint the new procedures are unworkable. Parents paying tuition for their children's education in Catholic schools and paying their equal share of taxes for children in the public schools cannot now be told by government that they must pay for other children, perhaps not even of their own faith, to attend Catholic schools in accordance with IRS dictates.

The unnecessary harrassment and burdens that could be put on individual schools or entire systems by lengthy review of hiring practices and enrollment procedures will be more than many schools can bear, thus forcing, through economic pressure, the closure of church-related schools which parents desire for the education of their children.

In view of the mass of testimony against the procedures; in view of the clear conflict with United States Supreme Court decisions; and in view of violation of First Amendment guarantees, we urge that the proposed IRS procedures be withdrawn immediately.

Testimony

Howard J. Jenkins

Superintendent of Schools, Archdiocese of New Orleans

Before

Commissioner of Internal Revenue

Washington, D.C., December 5, 1978

I am Howard Jenkins, Superintendent of Schools of the Archdiocese of New Orleans. With me is Brother Felician Fourrier, S.C., coordinator for Catholic schools, Louisiana Catholic Conference. We speak in behalf of the superintendents of schools of the five Catholic dioceses of Louisiana, by authority of their action at a committee meeting on October 31, 1978. The Catholic schools of Louisiana, the first of which was founded in 1725, presently educate 120,000 students.

The following comments address themselves to the five criteria set forth by the Internal Revenue Service, four of which must be met if the school is to avoid revocation of exempt status by demonstrating that it is operated in good faith on a racially nondiscriminatory basis.

Under the good faith test, schools are required to make significant changes in educational programs and employment practices. I refer you to Farrington vs Tokushige (273 U.S. 284 (1927)), in which the Court decided that reasonable regulation does not include detailed and intimate regulation of private-school curricula, texts, and personnel, (emphasis added), since this would in effect eliminate alternatives to public schools.

In the same vein, I would refer you to Griswold vs Conn., 1965 (381 U.S. 479). Justice Douglas who wrote the majority opinion in the

Griswold case, had this to say:

In other words, the state may not, consistently with the spirit of the First Amendment, contract the spectrum of available knowledge. The right of freedom of speech and press includes not only the right to utter or print, but the right to distribute, the right to receive, the right to read (citations omitted), and freedom of inquiry, freedom of thought, freedom to teach (citations omitted) Without these peripheral rights the specific rights would be less secure. And so we affirm the principle of the Pierce and Meyer cases. (381 U.S. at 482)

The second procedure sets the dividing line between significant and insignificant minority enrollment at the figure computed by multiplying the percentage of the minority school age population in the community served by the school by twenty percent. No reason is given to support the twenty percent figure. It is wholly arbitrary and has no relationship to the wide variety of communities served by schools in the nonpublic sector.

In Louisiana, the matter of minority enrollment in nonpublic schools was addressed in the case of Brumfield vs Dodd (1975) in the United States District Court, Eastern District of Louisiana. At issue was the supplying of state aid to children attending nonpublic schools, such as free textbooks, transportation, etc. The Court ruled that the defendants, and their agents (State Department of Education) are permanently enjoined from distributing or otherwise making available textbooks, library books, transportation, school supplies, equipment, and any other type of assistance, to children attending any racially discriminatory private school or to any racially segregated private school.

Further, the Court directed the State Department of Education to require each private school to complete, under oath of an authorized representative of the private school, the "Certification and Background Information Form" and return it to the State Board of Elementary and Secondary Education within two weeks.

It is interesting to note that in the Order issued by the Court, "The Court retains continuing jurisdiction of this cause for the purpose of issuing such further and supplementary orders as may be necessary to effectuate the intent of the foregoing." In fine, the Federal District Court, in the case of Louisiana nonpublic schools, reserves to itself the right to declare such schools discriminatory or nondiscriminatory. The IRS in the second procedure arrogates to itself a matter of judicial review which constitutionally belongs to the Courts. (Attached is a copy of the form mandated by the Court, entitled "Exhibit A".)

The third factor that I will address myself to is the "Availability of and granting of scholarships or other financial assistance on a significant basis to minority students." The thrust of the "scholarship" requirement would seem to mandate that the schools set up scholarship funds. The directive does not indicate how such a program is to be funded. I would presume, therefore, that the patrons of the school are to be forced to capitalize such a fund subjecting them now, to a third "taxation" in addition to supporting the public schools and the nonpublic school which they patronize. Compliance with such a program would involve the IRS in a day-to-day surveillance of all of the nonpublic schools in this country and would fly in the face of the "excessive entanglement" prohibited in Lemon.

In order to put our position in proper focus, I would like to remind the Commissioner that nonpublic education in the Archdiocese of New Orleans goes back over two hundred and fifty years. The first Catholic school in New Orleans was founded by the Ursuline nuns to educate the mulattoes -- the wealthy planters were able to send their children to France to be educated. The desegregation of our school preceded the Civil Rights Act of 1964 by two years. The dualism which existed for years was done away with by consolidation programs even in violation of state statutes. We deeply resent the implication in the proposed regulations that we must now, after sixteen years of efforts to promote social justice in the operation of our institutions, prove that we are not guilty.

I am submitting to the committee an extension of these remarks which could not be covered in the 10-minute verbal presentation.

W. HENSON MOORE
6TH DISTRICT, LOUISIANA

COMMITTEE ON WAYS AND MEANS

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Congress of the United States
House of Representatives
Washington, D.C. 20515

December 3, 1979

Mr. Emile Comar
Executive Director
Louisiana Catholic Conference
Post Office Box 52948
New Orleans, LA 70152

Dear Mr. Comar:

This letter is to update information I sent to you earlier on efforts I have joined in Congress to prevent the Internal Revenue Service from denying private schools tax-exempt status for a lack of what amounts to a racial quota system of enrollment.

On November 27, the Subcommittee on Oversight of the House Ways and Means Committee, on which I serve, met to consider the enclosed report directive to the Internal Revenue Service to refrain from imposing any regulatory tax restrictions on private schools due to its racial mix while agreeing that the IRS could engage in judicial proceedings involving a particular school and set of circumstances. I supported this report language and enclose a copy of it for your reading. The Subcommittee will likely meet again to consider this report about March 1, 1980.

We believe this report, while it will not legally prevent the IRS from implementing their regulations, will cause them to delay them and may precipitate legislation which will.

Should further developments occur on this issue, I will pass along news of it to you.

With kindest personal regards, I remain

Sincerely yours,

A handwritten signature in dark ink, appearing to read "W. Henson Moore".

W. Henson Moore
Member of Congress

WHM:cu
Enclosure

Proposed Revenue Procedure regarding
the Tax Exempt Status of Private Schools

In February and March of 1979, the Ways and Means Oversight Subcommittee conducted five full days of hearings on the IRS proposed Revenue Procedure concerning the tax-exempt status of private schools. In addition, the Subcommittee has received considerable amounts of supplemental information and submissions from interested parties covering the entire spectrum of views on this difficult issue.

The testimony and exhibits received by the Subcommittee made it immediately apparent that the question of how to determine if a privately established school discriminates on the basis of race and, if so determined, whether its tax-exempt status represents a form of federal aid which should then be revoked, brings two fundamental and deeply held American beliefs into direct conflict.

Clearly, it is unquestioned public policy that the Federal government should not financially aid any educational institution that discriminates on the basis of race.

Equally clearly, the separation and independence of religious organizations from governmental authority is a basic founding principle of our nation.

Since the completion of the Subcommittee's hearings, the IRS has refrained from issuing "the Revenue Procedure" at the request of Chairman Gibbons. Many bills have been introduced in the House proposing permanent solutions to the question of IRS authority to remove a private school's tax-exempt status, and the House and Senate

have adopted an amendment to the Treasury Appropriations bill prohibiting the IRS from spending any funds to formulate the proposed revenue procedures for Fiscal Year 1980. This amendment was adopted by the House by a vote of 297 to 63, with a majority of this Subcommittee in support of the provision.

The Subcommittee, after taking all these matters into account, makes the following recommendations: that a ban prohibiting the IRS from formulating any rule, policy, procedure, guideline, regulation, standard or measure which would cause the loss of tax-exempt status to private, religious, or church-operated schools under Section 501(c)(3) of the Internal Revenue Code, using racial discrimination as a basis, be made permanent.

It is not the intention of this Subcommittee (nor do we feel it was the intention of the Congress) to prohibit the IRS from defending itself in court cases, pending or otherwise, or from carrying out a specific court order. However, we feel that IRS actions should be limited to complying with court orders, and, to criteria in existence prior to August 22, 1978. The Subcommittee further recommends that the IRS make legislative recommendations to the Congress if it finds the existing law to be inadequate to carry out its proper duty.

By permanently prohibiting the IRS from taking the initiative in developing policies with regard to the tax-exempt status of such schools, we can make it clear that the Congress wishes to have the IRS follow, not lead, in formulating policies in this highly sensitive area and that the Congress looks to the courts--not the IRS--to spell out the approach to be taken in balancing our time-honored opposition to segregation and our support for religious freedom.

THE WHITE HOUSE
WASHINGTON

December 2, 1982

TO: BILL BARR

FROM: DANNY BOGGS

Lead
data
x. 456
2734

Citizens FOR THE Republic

Ronald Reagan, Founder/Chairman Emeritus
Lyn Nofziger, Chairman
Curtis Mack, Executive Director

November, 1982
Vol. VI, No. 11

Staying The Course



Reagan Review

In 1980 ethnic Americans overwhelmingly voted for Ronald Reagan. Now, one and one-half years later, the ethnic community more than ever is behind President Reagan. He has kept his promises. Interest rates and inflation are down, and economic progress has been started.

Here are the views of several ethnic businessmen and women on how President Reagan's policies have affected their business.

George Havelka is "very optimistic" about the economic future under President Reagan. Havelka, who is of Czechoslovakian heritage, is president of Association Convention and Travel Ltd., an international company that plans conventions and meetings for professional and trade associations. He employs seven full-time staff members.

"While my business has felt a drop," said Havelka, "since companies are trying to save money by picking closer locations for their meetings, and shorter durations (six days instead of ten), I can't blame that on President Reagan."

Continued on page 5

Once again, the election season proved to be a very busy time for Citizens for the Republic. CFTR continued its tradition of identifying and helping conservative Republican candidates around the nation. In fact, CFTR made \$527,079.44 in direct contributions to conservative candidates, making it the largest conservative direct-cash contributing organization in the nation.

For anyone who has worked with the new crop of conservative candidates, as we have, it's clear their battle cry is "Stay the Course." Here is some information on just a few of the candidates CFTR helped in this election.

**Congressman-Elect
Michael Bilirakis (R-Florida)**

The gratitude to CFTR is honestly there. We ran a grassroots campaign, on a shoestring, and we have been expounding conservative philosophies and received a warm response from the people.

Michael Bilirakis believes a balanced budget will restore our nation's economy and the public's faith in government. He supports the plan to pay off the existing national debt. Bilirakis believes that Congress can provide strong leadership in controlling the growth of federal government.

Continued on page 2

The Struggle for Democracy

The following are remarks presented to the Conference on Democratization of Communist Countries by Secretary of State George Shultz on October 18, 1982.

*By The Honorable
George Shultz
Secretary of State*

Last spring in a speech to the British Parliament President Reagan announced that our country would redouble efforts to promote the international growth of democracy. That speech, the centerpiece of the President's European trip, provides important clues about the character of the United States.

Support for democracy is not simply a policy of the American government. It is basic to our history and our world view. The leaders of the American Revolution fought to establish our right to democratic self-determination. The

American Civil War reaffirmed that this nation, conceived in liberty, will forever be dedicated to personal and political freedom. And during the last forty years, as our nation became more active in international affairs, we made the spread and defense of freedom our central foreign policy goal.

Our efforts, and those of our democratic allies, have borne remarkable fruit. The cause of political liberty has made great strides since the end of World War II. Scores of colonies won independence and a remarkable number embraced democracy. Elsewhere, vestiges of the authoritarian past disappeared.

The UN Charter and Universal Declaration of Human Rights established international obligations with respect to personal and political liberties. Today,

Continued on page 6

Education Like It Ought To Be

Four years ago, students in the Baltimore public schools, grades 2 through 11, lagged far behind the national average in math and reading aptitude. In reading, they averaged 20.2 months behind the norm and in math 17.4 months behind. The test scores had been on a steady decline for several years.

Then something happened to turn things around. Baltimore's students suddenly began to improve their scores on the standardized tests. And this spring, they had closed the gap to within 5.7 months of the national average in reading and to within only three-tenths of a month in math. According to Baltimore school superintendent John Crew, the reason for the improvement is simple: The city schools tightened up on their educational standards and re-emphasized the "basics."

"We had our teachers establish 'learning expectancies' in reading, writing, and math for each grade," explained Crew. "This way, each teacher knew exactly what was expected of their class." Also, said Crew, "we made it a matter of policy that every child would have homework. Then we began placing our children according to their test

results. Students who scored less than 40 percent on the reading proficiency test, for instance, were assigned to a reading clinic in addition to their regular language arts program."

The superintendent credits about one-third of the improvement to tightened standards and another one-third to improved instructional leadership. The other third of the credit he assigns to an improved attitude on the part of the faculties, parents and the community at large. This, he calls "a renewal of belief in the system." Crew says little could have been achieved without a changed public attitude toward education, particularly among Baltimore's black population. "I'll be very honest," said Crew, himself a black, "a lot of things I'm doing now, I could not have done in the 1960's. In the '60's, everything was 'develop-at-your-own-rate,' 'whole-child,' 'progressive education' and 'relevancy.'" "As educators," Crew went on, "we are learning that you must have structure and objectives, or your program simply won't work."

Crew concedes that it's easier for a black superintendent like himself to develop greater responsibility among

black students than for a white educator, who might be accused of racism. Nonetheless, he sees in Baltimore's experience an important lesson for all big-city school systems. And that lesson is that inner-city children CAN learn if they are held to high standards and given the necessary help.

Staying The Course

Continued from page 1

Governor-Elect

George Deukmejian (R-California)

George Deukmejian has worked his way up the political ladder. In 1962, Deukmejian was elected to the California Assembly; four years later, to the State Senate; and twelve years later, to the office of California's Attorney General. Deukmejian's partnership with Ronald Reagan goes back a long way. In 1966, when Reagan first ran for Governor, Deukmejian served as his Los Angeles County Co-Chairman. Later, Deukmejian acted as the Chairman of then-Governor Reagan's Legislative Task Force. Now George Deukmejian has the opportunity to take over in Sacramento, California's capitol, where Reagan left off.

Senator-Elect

Chic Hecht (R-Nevada)

A prominent feature of Chic Hecht's career has been in the legislative/political realm. Elected to the Nevada State Senate in 1966, Hecht is the only Republican to represent Clark County (Las Vegas) in the past 25 years.

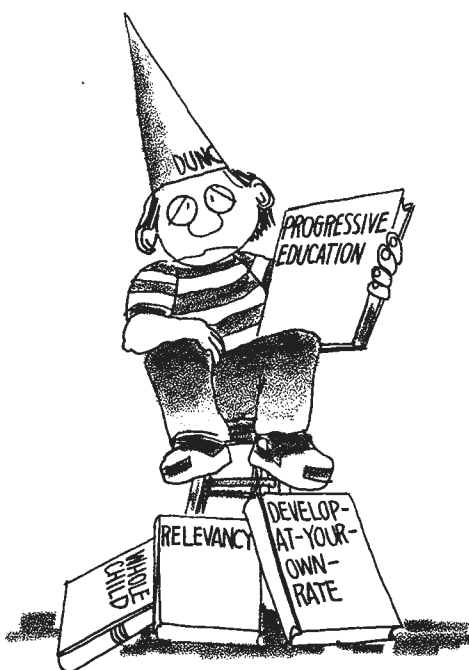
In 1968, after two years in office, Hecht became the Senate Minority Leader, working closely with Paul Laxalt, who was then Governor of Nevada. A dedicated believer in conservative principles, Hecht was an early and active supporter of Ronald Reagan. In 1968 he was the Deputy Director in Nevada of the Reagan for President Committee.

Congressman-Elect

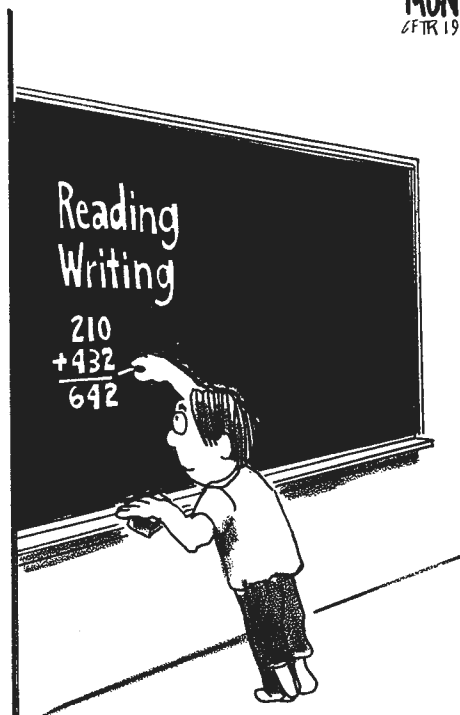
John Kasich (R-Ohio)

I'd like to thank Citizens for the Republic for their support in my election

Continued on page 6



WHY JOHNNY CAN'T READ.



WHY JOHNNY CAN.

MONO
CFT 1982