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THE NORTH DAKOTA ANTI-GARB LAW

CONSTITUTIONAL CONFLICT AND RELIGIOUS STRIFE

LINDA GRATHWOHL

In a little known but apparently not uncommon practice in twentieth-century American education, public school systems across the nation, lacking teachers or money, employed Catholic nuns as teachers. Those opposed to employing sisters as teachers challenged their right to wear their habit, or religious garb, while teaching in a public school.¹ This paper provides the constitutional and religious background to this legal controversy and explores the issues in depth through a case study of sisters teaching in the state of North Dakota from the 1930s to the early 1960s.

After World War II, rapid political, economic, and geographical changes influenced

an increase in institutional participation in religion. Issues such as deteriorating school buildings and lack of funds plagued most school districts. Most acute of their problems was the lack of qualified teachers.² At the same time, an ongoing debate over aid to nonpublic schools, originating in religious feuding, had found expression in the organization of the Protestants and Other Americans United for the Separation of Church and State (POAU) in November 1947. This organization's stated goal was to maintain the separation of church and state in the United States, but this objective was expressed in attacks on Catholicism, primarily on Catholic schools.³

POAU's most eloquent proponent was Paul Blanshard, a lawyer and Congregational minister, who depicted the Catholic Church as the enemy of American freedom. Blanshard believed the struggle between democracy and the Roman Catholic hierarchy could only be won through the promotion of the public school system, because public schools promoted democracy and national unity through the mixing of faiths. He compared Catholic schools to Communist schools, "[s]ince indoctrination is the primary aim of the system."

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Blanshard especially feared the influence of the Catholic Church on public schools, and spoke of the hiring of sisters to teach as “grafting” a parochial school onto a public school.⁴

Blanshard was not the only one concerned about this phenomenon. A 1946 National Education Association study, *The State and Sectarian Education*, included the issue of sisters teaching in public schools. At that time sixteen states and territories employed garbed sisters as public school teachers, six states forbade the practice, and an unknown number effectively prohibited it by regulation. Eleven states had no law or regulation concerning the employment of sisters in public schools. The authors of the study noted that teachers wearing religious garb could constitute sectarian influence in the public schools, but they drew no definitive conclusion.⁵

Court challenges to the employment of sisters in public schools began in 1894 and sprang from the tension between the constitutional principles of religious liberty and the separation of church and state. In general these cases are divided into two groups. When there is no prohibiting statute or constitutional provision, courts have generally held that sisters employed as public school teachers were entitled to wear garb as part of their free exercise of religion guaranteed by the First Amendment. On the other hand, the courts have upheld as constitutional statutes or regulations prohibiting the wearing of religious garb resulting from the doctrine of separation of church and state.⁶

Those who argued in favor of employing garbed nuns as teachers based their reasoning on Article 6, Section 3, of the Constitution—“[N]o religious test shall ever be required as a qualification to any Office or public Trust under the United States”—and on the “free exercise” clause of the First Amendment. Denial of employment to someone because of her religious beliefs was seen as a direct violation of her religious liberty. In this context, it would make religion a condition for public employment. In general, the “degree or mode of religious life outside the school or public office may not be substituted as a test for the holding

of public office if a religious life itself may not be made such a test.” Thus, unless there was some other sectarian influence, such as teaching of religious doctrine or requiring student participation in religious activities, and if the sisters were qualified, their employment in public schools was to be permitted.⁷

Opponents of garbed nuns as public school teachers argued that the sectarian influence of the garb violated the principle of the “establishment” clause of the First Amendment. The wearing of religious garb provided a conspicuous reminder of the religion and dedication of the sister, and thus “taught” the religion of the wearer. The practice could unduly influence children by supplying a context in which religious indoctrination could occur and thus deny the student freedom of religion. Some also feared that the employment of sisters as teachers would lead to a sectarian take-over of public schools.⁸ Within the framework of this legal debate, and in the context of the conflicts and changes in religion and education nationally, the stage was set for controversy in the state of North Dakota.

THE CASE OF GERHARDT V. HEID

North Dakota began to employ nuns as public school teachers around 1918. Little documentation of the practice exists until the first official protest, *Gerhardt v. Heid*, a 1936 case filed in Dickinson, North Dakota, against three Benedictine nuns teaching in the Gladstone public school. The plaintiffs were electors and taxpayers of the Gladstone school district who wanted to prohibit teachers from wearing religious garb and to stop payment of the sisters from school district funds. Upon appeal, the North Dakota Supreme Court determined that the Gladstone school was neither sectarian nor under sectarian control, for the school was directed by the public officers of the state. The court found no evidence that religious instruction had been given or that any religious exercises or proselytizing had occurred. Sisters contributing earnings to their order did not violate the constitution because no state employee

was prohibited from contributing money to any religious body. This was part of the right of religious liberty guaranteed by the constitution. The court commented:

the wearing of the religious habit described in the evidence here does not convert the school into a sectarian school, or create sectarian control within the purview of the constitution. . . . The laws of the state do not prescribe the fashion of dress of the teachers in our schools. Whether it is wise or unwise to regulate the style of dress to be worn by teachers in our public schools or to inhibit the wearing of dress or insignia indicating religious belief is not a matter for the courts to determine. The limit of our inquiry is to determine whether what has been done infringes upon and violates the provisions of the constitution.⁹

The North Dakota Supreme Court affirmed the judgment of the trial court and upheld the employment of sisters in public schools in North Dakota. The Catholic press reported the decision, and the practice continued.¹⁰ Despite the court ruling, opponents of nuns in the public schools continued to charge that religious instruction sometimes occurred. Asked about a recent ruling of the state superintendent of public instruction in 1945, the North Dakota attorney general cited *Gerhardt v. Heid* "that the wearing of a religious garb is not a bar to teaching in the public schools of North Dakota." By May of 1947, the state superintendent of education reported that 74 nuns and 8 priests were teaching in 20 school districts in 11 counties in the state.¹¹

THE ANTI-GARB INITIATIVE

The *Gerhardt* decision ended legal challenges to sisters teaching in public schools but launched a new challenge in the legislature. In 1944 a group of legislators introduced an antigarb bill, but, in the face of much antagonism, withdrew it the next day. A similar measure was introduced in January 1947, but a coa-

lition of Catholics and Protestants forced its withdrawal after its introduction in the state senate.¹²

In January 1948 the Committee for the Separation of Church and State, a group including twenty-nine Protestant ministers, one school superintendent, and the secretary of the state Masonic Lodge, formed to pass an "initiated statute." They needed 10,000 signatures on a petition to get the measure on the ballot for the June 1948 primary and collected substantially more.¹³ After getting the requisite signatures, the Committee for the Separation of Church and State approached Bishop Vincent J. Ryan of Bismarck, North Dakota, on 8 March 1948 and told him that if he did not sign an agreement to withdraw all sisters from their public school positions by June 1950, the Committee would file the petition for the anti-garb initiative. Bishop Ryan refused to sign. He had not asked the sisters to teach in public schools, he said, and he had no authority in their hiring. The employment of the sisters was a matter for the school boards and parents.¹⁴

Bishop Ryan announced Church policy as he saw it:

The Church does not seek to increase the number of Sisters now teaching in the public schools—its policy is exactly to the contrary; as lay teachers become available, many of the Sisters now teaching will withdraw as their services are needed badly elsewhere; objection by any responsible patron of any district will result in a withdrawal of any Sisters now teaching in such district as soon as such withdrawal can be arranged.

Bishop Ryan offered to negotiate further with the Committee's members, but received no response.¹⁵

The Committee for the Separation of Church and State filed the petition for the initiated measure with the secretary of state on 29 March 1948. According to the *Bismarck Capital*, they announced that they were "trying to keep church and state separate in North Dakota, and keep our public schools free from

sectarian channels. . . . It is regrettable at this time that the Roman Catholic Church chooses to divide the state on a religious practice."¹⁶

The campaign for the initiative began. According to newspaper accounts and public speeches, the debate focused on the passage of the anti-garb law, but the conflict encompassed many more issues. Specifics included the teacher shortage in North Dakota, the separation of church and state, and the value of religious liberty, but these issues surfaced in the context of charges of Communism and lack of patriotism and the general distrust between Catholics and Protestants.

In response to the filing of the initiative by the Committee for the Separation of Church and State, a group calling itself the Committee for the Defense of Civil Rights formed. According to a Catholic source, the Defense of Civil Rights group "enlisted non-Catholics as well as Catholics to fight the antigarb bill, condemning it [the antigarb bill] for dragging religion into politics and for deliberately fostering hatred and dissension within the country." The chair of the Committee for the Separation of Church and State, however, avowed that the opposition group consisted "of just two men. . . . The name served as a front behind which the two North Dakota Catholic bishops directed an energetic campaign." The Committee for the Separation of Church and State described itself as an interdenominational group of thirty-one persons composed of members from the North Dakota Interchurch Council, the eight Lutheran synods, and from a number of smaller religious denominations, with members of Masonic and educational groups participating as unofficial representatives. The opposition, however, believed the movement relied on supporters outside the state, noting that a promotor at the January organizational meeting of the Committee for the Separation of Church and State was from Madison, Wisconsin. The Committee for Defense of Civil Rights maintained, "It is significant that not one member of the committee which is sponsoring the anti-garb law comes from a district where the sisters are teaching. All the objectors are outsiders."¹⁷

A major issue for both sides was the teacher shortage and quality of education in North Dakota. The teacher shortage, a national problem, was especially severe in areas such as North Dakota. Teacher Laura Noy recalls seeing some of her students graduate from high school, receive one year of training, and then go out to teach.¹⁸

In response to the teacher shortage, many Catholic communities hired qualified sisters, having the necessary degrees and certificates, to teach in their public schools. The schools used the state curriculum and were controlled by the district superintendent and school board. The Catholic community saved money because they did not have to maintain a separate school system but also because sisters were paid less than lay teachers and usually taught in church-owned buildings rented to the local school district.¹⁹

The two sides disputed the actual number of sisters teaching in public schools in the state. According to the Committee for the Separation of Church and State, there were only three sisters teaching in the public schools in 1936, but by the 1946-47 school year, there were 74 sisters and 8 priests teaching in 20 districts in 11 counties. The Committee for the Defense of Civil Rights contested the 1936 statistic with its implication that public schools had rapidly increased the hiring of sisters. They maintained that there were 44 sisters teaching in 13 public schools in 1936 and that sisters had taught in North Dakota for 34 years. They agreed that 74 sisters taught in the public schools in 1947, but they emphasized that they were a negligible proportion of the 6528 public school teachers statewide.²⁰

The two sides also disagreed on the effect of the anti-garb initiative on the teacher shortage. The Committee for the Defense of Civil Rights saw the proposed law as prohibiting the hiring of qualified teachers. If passed, the law "would contribute to the mental delinquency of our children." They also argued that employing sisters in 19 of the 3588 public schools posed no threat to the public school system in a state controlled mostly by Protestants.²¹

The Committee for the Defense of Civil Rights saw employing sisters as a benefit for poor school districts, an opportunity to spend educational monies on needs other than teacher salaries. Citing the statistics of their opponents they noted that the \$78,000 a year paid to the 84 sisters and priests averaged about \$900 per person, much lower than average lay public school teacher's salary of \$1300 per year in 1945. The Committee for the Separation of Church and State saw the employment of sisters as undercutting the attempts by professional educational associations to improve the education of public school teachers. School boards had no motivation to raise salaries in order to attract competent lay teachers when they could hire sisters for less. The Committee for the Separation of Church and State also suspected the motives of the Roman Catholic Church, believing that the employment of nuns would lead to sectarian influence in the schools and that the Catholic Church would eventually gain control of the public schools. A campaign brochure asked, "Unless stopped now where will it end?" The three goals of the Committee for the Separation of Church and State were:

1. Keep Church and State separate.
2. Keep public schools free from sectarian influence.
3. Keep public school tax money *from* going into sectarian treasuries and *for* public schools only.²²

Concern about sectarian influence took many forms. Anti-garb law supporters perceived paying nuns with state funds as a direct, tax-supported contribution to the Roman Catholic Church. They also worried about the personal influence the sisters would have on the children. The Reverend Mr. C. A. Armstrong maintained:

The presence of the nun's garb in the school-room predisposes the mind of the child toward the religion of the wearer. Nuns will never have children of their own. This dep-

rivation leads them in many cases to lavish their affections on their pupils to a degree not matched by teachers with the ordinary family ties. The children respond, and this gives the garb much more sectarian influence that [sic] it might otherwise be expected to have.²³

The Committee for the Defense of Civil Rights denied these allegations. They maintained that Catholics did not want a union of church and state, but just "equal rights for all religious groups." They wanted no special favors, and suspected that "separation of church and state" applied only to one church—the Roman Catholic Church. Sisters' salaries were not a subsidy to the church. Would the objection to paying sisters extend to paying Protestant ministers who taught in public schools?, the Committee asked. Would the minister's salary also be seen as a contribution to his church?²⁴

To counter Armstrong's worry about the garb itself, the Committee for the Defense of Civil Rights referred back to the 1936 *Gerhardt v. Heid* decision stating that the wearing of religious garb did not make a school sectarian. The Committee also asserted that an anti-garb law would limit the sisters' First Amendment rights to free exercise of religion. According to their pamphlets:

It is likely that the framers of our American constitution would have strenuously objected to an anti-garb law as an invasion of the freedom of religion and a denial of equal rights to all. At the time the American constitution was written there were sects in which all the members were known by their distinctive garb. There are sects that regard a certain garb as part of their religion. To disqualify them from any office because of their garb would be an infringement of religious freedom.²⁵

Both sides in the dispute leveled charges of disloyalty, communism, and the creation of a religious war against their opponents. An East

Coast magazine entitled *New Age*, apparently favoring the passage of the anti-garb law, declared that

[E]very Roman Catholic priest, sister and lay teacher has a dual citizenship, one to the Vatican and the other to the state of North Dakota, and there is plenty of evidence in the Roman Canon Law and the Encyclical pronouncements of the Pontiff to show that the Vatican must come first in their allegiance.

The Committee for Separation of Church and State maintained that "This is not an anti-Roman Catholic campaign as so many think," but their leader, Armstrong, clearly feared Catholic domination. He believed that the employment of sisters as public school teachers was a "camel's nose technique" that would eventually lead to Roman Catholic control of the public schools.²⁶

Fear of Catholicism seems to have been linked to post-war fears of foreign influence in the United States. Some Protestants viewed Roman Catholicism as a totalitarian threat to American freedom and apparently linked the loss of constitutional rights to economic decline. The Committee for Defense of Civil Rights framed the struggle in anti-Communist language. According to Bishop Ryan of Bismarck:

If those who believe in God are divided, communists will dictate. This is the lesson for all. Some of our non-Catholic friends sensed this. One of them, who put up a strong fight against the measure, said, "We have enough to do to fight communists without fighting among ourselves."

According to the Committee's own literature, "Neither Catholics nor Protestants want or desire anything of this kind [a union of church and state] in the United States. The communists, however, are seeking a union of creed and state." An editorialist in the Fargo diocesan newspaper queried the "Gentlemen of the anti-

garb bill, why do you do such things? Don't you know there's enough hatred in the world already? . . . Don't you know that the Communists chortle with glee at the first sign of religious discord and put in their own two-bits worth to make the enkindled sparks of strife break into a blaze?"²⁷

The campaign was waged through leaflets, pamphlets, and meetings. Despite the best efforts of the anti-garb forces little on the issue made the radio or newspapers. The Committee for the Separation of Church and State sent copy for advertisements, with checks for payment, to the ten dailies and most of the 126 weekly papers in the state. Seven dailies and four weeklies returned the checks. Three dailies and fifty weeklies carried three advertisements each. Nine of eleven radio stations approached by the Committee for the Separation of Church and State refused to sell time to the group. Seemingly of their own volition, virtually all the state's newspapers limited reports of the campaign to two stories on each side, or a total of four articles, in a state-wide campaign lasting about three months. The Committee for the Separation of Church and State saw this as a "virtual conspiracy of silence" by which the press avoided discussing a constitutional issue, while a Catholic spokesperson saw it as an indication "that the issue never should have been raised."²⁸

The Committee for the Separation of Church and State produced leaflets that it distributed to churches and fraternal societies and through direct mailing. There were conflicting reports about the type and extent of public meetings regarding the issue. Armstrong, the leader of the Committee for the Separation of Church and State, said no public meetings were held, only discussions in Masonic group meetings and ministers speaking about the issue with their congregations. A Catholic editorialist, however, asserted that thirty-eight county conventions, called "Greater Days Through Better Ways," had been held to gain support for the law.²⁹

The Committee for the Defense of Civil Rights also conducted an extensive pamphlet

campaign, and the Catholic press discussed the issue and gave instructions on how to vote. Since only 20 percent of North Dakotans were Catholic, the Committee for the Defense of Civil Rights urged its supporters to persuade Protestants and the unchurched to vote against the initiative. This technique, when tactful, was effective, but over-zealous methods solidified the opposition.³⁰

On election day, 29 June 1948, the anti-garb initiative was passed. Different sources reported different vote totals. The *New York Times* reported that 83,370 people in 1846 precincts voted for the passage of the anti-garb initiative, 78,031 against. Armstrong stated the vote as 93,469 to 83,038 in July 1948, while in March 1949 the *Catholic Digest* reported 104,133 votes for the law and 92,771 against.³¹ Each side interpreted the outcome differently. A POAU editorial proclaimed victory, assuming that the passage of the law would force sisters out of public schools. *The Christian Century*, also affiliated with POAU, noted that the vote would increase school costs and opined that “[i]t is reassuring to see American citizens willingly assuming heavier tax responsibilities in order to keep sectarian teaching out of their public schools.”³² According to the Committee for the Separation of Church and State, the total vote was 10,000 more than had been cast for governor at the last general election, making the issue one of the most hotly contested in the state’s history. Some Committee members thought voters had been confused by an “affirmative vote on a negative issue,” causing some supporters of the cause to vote against it by mistake. Armstrong concluded: “[A]t one time the Catholics announced that they had enough votes pledged to win the election. From the final results they evidently overlooked the fact that one thing the United States guarantees to its citizens is the secret ballot.”³³

The Catholic press viewed the situation quite differently. One editorialist named it a “hollow victory” and noted that 50,000 non-Catholics voted to allow the wearing of religious garb. Another Catholic newspaper observed that the law “carried by a narrow margin

of less than 6 to 5 in a state where Protestants outnumber Catholics more than 2 to 1.” In the largely Catholic districts where sisters actually taught in the public schools, voters opposed the measure.³⁴ Some Catholic teachers also believed the wording of the proposed law had confused some opponents of the measure into mistakenly voting for the initiative.³⁵ A Jesuit editorialist commented that the “vote was close, and shows that many fair-minded Protestants registered their disapproval of the measure.” This commentator also called for the testing of the constitutionality of the measure, and speculated that it would not be applied to bar Protestant ministers from teaching in public schools.³⁶ Any possibilities of quickly ending the animosity seemed slight.

THE CONSEQUENCES OF THE ANTI-GARB LAW

After the passage of the law, negotiations were promptly started in order to determine the fate of the sisters employed as teachers in the public schools. The bishop of the Bismarck diocese, Vincent J. Ryan, had already started discussion with the Vatican, and in May 1948, the Vatican’s Sacred Congregation of Religious authorized him to permit sisters “to wear modest lay garb, if necessity demands it, while they are occupied in teaching in the public schools, which garb they must remove when they return to the religious house.”³⁷ Within two weeks of the election, the various bishops had contacted the leaders of the congregations of sisters involved to persuade them to allow the sisters to stay in the public schools in North Dakota, wearing secular garb to comply with the new law.³⁸ Evidently the bishops thought quick action with strong arguments would overcome any possible opposition by the sisters.

The experience of one religious order, the School Sisters of Notre Dame (SSND), illustrates these negotiations. Within one week of the election Bishop Ryan had visited the SSND Commissariat in Milwaukee, Wisconsin. On 5 July 1948, the bishop asked Commissary

General Mother M. Fidelis to allow the sisters to modify their habits in order to remain in the North Dakota public schools. They discussed possible modifications, which the bishop thought would only have to last for one year. A receptive Mother Fidelis wrote the Provincial Superior, Mother M. Annunciata, in Mankato, to encourage her cooperation with Bishop Ryan.³⁹

Within the same week, Archbishop Moses E. Kiley of Milwaukee wrote Mother M. Fidelis about the passage of the law in North Dakota. He noted that in Mexico, western Canada, and Europe, religious orders had also had to make changes in their habits "in order that they may continue to carry on the work of saving souls." Archbishop Kiley emphasized that if the sisters cooperated, they would be helping to defeat "the enemies of religion" and appealed to the sisters' vow of obedience and their loyalty to the Church. "I feel that under these extraordinary circumstances you would be carrying out the will of the Holy Father who has authorized this change if you will devise some special head dress to be worn in schools, while the Sisters will wear their regular habit at home." Bishop Ryan also asked Bishop Leo Binz of Winona, Minnesota (the diocese where the motherhouse of the Mankato province was located), to write Mother M. Annunciata in Mankato. Bishop Binz spoke of Bishop Ryan's concern "to retain a united Catholic front in North Dakota and to maintain every Catholic work there without retreating at any point."⁴⁰

Still in question was how much the sisters would have to alter their dress. Bishop Ryan and Mother M. Annunciata also exchanged letters, and in July, Mother Annunciata promised Ryan that the School Sisters of Notre Dame would cooperate with the bishops in North Dakota; those sisters teaching in public schools would wear some type of secular garb. Bishop Ryan gratefully acknowledged her consent. By the end of the month Ryan had contacted the rest of the religious orders in the diocese. Six orders had agreed to wear secular garb and continue teaching in the public schools. Ryan suggested that Mother Annunciata contact them

about substitutes for the religious habit. He stressed the importance of avoiding any semblance of uniformity, and reassured the sisters that their cooperation would "be helpful to the Church not only in North Dakota, but throughout the nation." By strict compliance with the law, Bishop Ryan wanted to make it a "dead letter" and avoid future conflict over the issue.⁴¹

The bishop also issued a general "Memorandum for Sisters," reminding them of the permission from Rome, the precedent in other countries, and the sacrifice needed in order to carry on the work of the Church. There seemed to be some apprehension on the part of the bishop, for he included this admonition:

When the Holy See issues a rescript, it is intended that this rescript be used. By cooperating in the plan approved by the Holy See, the sisters will be doing a great service in nullifying the triumph of the enemies of the Church not only in North Dakota but throughout the nation. If the sisters do not cooperate, they will be doing just what the enemies of religion hope they would do and just what the enemies of religion want them to do.⁴²

In the midst of these behind the scene negotiations, the two diocesan bishops of North Dakota, Bishop Ryan and Auxiliary Bishop Leo Dworschak of Fargo, announced that the sisters teaching in public schools would remain, wearing secular garb to comply with the new law. The bishops stated that

we are informed by competent legal authority that no law can, under the protection of our constitution, discriminate against any teacher on account of religious membership or belief. . . . Consequently, we announce that in such school districts where the people and the school boards find it necessary and desirable to retain the services of the sisters, the sisters will continue to teach, attired in a manner which is in strict compliance with the law.⁴³

Each side reacted quickly. One member of the Committee for the Separation of Church and State, the Reverend Mr. Opie S. Rindahl of Bismarck, denied that the law was aimed at preventing employment of sisters, but only to stop the wearing of clothing "which would denote a particular religious conviction." *The Christian Century*, which supported the Committee for the Separation of Church and State, commented favorably on the change to secular dress in an editorial, adding some words of caution.

This will satisfy the requirements of the new law, and if the nuns who follow this direction are educationally qualified, have been chosen by school boards on the normal basis of merit, make individual contracts with the school boards and are paid individually, pay income tax like other teachers, and refrain from sectarian teaching, there will be no important objections from North Dakota or anywhere else.

The same conditions were suggested by the POAU, but no group seemed to take any steps to require such conduct in the affected school districts. One of the POAU editorialists thought it strange that the bishops, after fighting the passage of the law, declared they were satisfied with the outcome.⁴⁴

The Catholic press responded with enthusiasm, especially noting the heroic sacrifice of the sisters who would wear secular garb while teaching. In one article Bishop Aloisius J. Muench, of Fargo, explained that the sisters, by wearing secular garb, were doing "something unusual but not unprecedented," since sisters in other countries had also modified their dress for the sake of continuing their work. The bishop praised the sisters, for their actions "have focused in a most dramatic manner the eyes of the nation on a system of education that has isolated itself from religion. . . . [W]e hope the courageous action of our Sisters will help to call attention to these perils and give to American youth the knowledge of God and His holy things to which they have a right claim." A Jesuit

editorialist did not believe that this would be the end of the battle but anticipated that groups like POAU would continue the fight to the Supreme Court, although they would risk excluding Protestant ministers from teaching in public schools. The best expression of the Catholic view on the sisters' actions is found in Bishop Ryan's comment, couched in language familiar to the post-war mentality.

The victory of the antigarb group is an empty victory. However, the Sisters are compelled to make a great sacrifice. They prize their garb as much as a five-star general prizes his uniform and his stars. The garb is something sacred to a Sister. . . . The substitution of the garb is painful to Sisters; but when it is a question of depriving little children of the opportunity of education, they show themselves ready to make the sacrifice.⁴⁵

For the 1948-49 school year, sisters remained in twelve of the nineteen public schools in which they had been teaching. Five of the other seven became parochial schools, and in the remaining two the sisters resigned and were replaced with lay teachers. A total of sixty-five sisters were affected by the anti-garb law.⁴⁶

The experiences of the School Sisters of Notre Dame at Strasburg and Mantador demonstrate the law's effect on the actual lives of students and teachers in North Dakota public schools. All the sisters at the two schools were transferred elsewhere, and Mother Annunciata sent in new sisters who, she thought, could more easily make the transition to secular garb. The Bishop's announcement that sisters would wear secular garb surprised everyone. A sister destined to be assigned to North Dakota a few years later reacted to her assignment with, "I had signed up to go to Guatemala, and when they asked me to go to North Dakota, I thought that was a kind of a mission field, too."⁴⁷

The sisters wore secular clothes to church and school during the week, and after school and on the weekends they wore their habit. Initially the secular clothes were green Women's Army Corps (WAC) uniforms, but



FIG. 1. School Sisters of Notre Dame (Front row: S. Richard Anthony Schutte [Grace], S. Thomas Aquinas Schmit, S. Isabel Kathrein, S. Kathleen Rother. Back row: S. Mary Thomas [Mary Catherine Caven], S. Lucida Kunz, S. M. Celine Koktan, S. M. Josepha Forster.) prepare to teach in secular garb at the Strasburg public school in 1948. Courtesy of Archives of the School Sisters of Notre Dame, Mankato, Minnesota.

these were *too* uniform. Despite the general acclamation of the sisters' "heroic sacrifice," the sisters' opinions about changing to secular garb were diverse. For one sister, it was the "hardest thing I ever did. The habit was just so sacred to us." Another sister commented that taking off the habit was a sad thing, for the feeling of the time was that it was holy, and one should even be ready to die for it. Another sister said she was self-conscious the first day, but after that she liked her freedom to organize and participate in her pupils' games. One sister reflected, "I donned secular clothes each morning in obedience not only to the Order, but also to the State. It was both a penance and a privilege to be able to make this sacrifice. It has only

made the habit dearer than ever to each one of us."⁴⁸

The sisters laughed about the unusual results of the law. Weekends were different than normal convent life at the time, for the sisters had to maintain two sets of clothes and make sure they curled their hair on Saturday. When the schools faced closing for a snowstorm, the sisters had to ask the Superior what clothes they would wear. One sister, wearing her habit to a meeting, needed to go back to her classroom for something she had forgotten. In observation of the law, she stopped at the classroom door and sent someone in to retrieve the item.⁴⁹

The reactions of the students were also mixed. There were many inquisitive eyes and

stares the first day; the students were attentive, but surprised, especially as all the sisters were new to the faculty. One student told a teacher that he knew she was a sister "by your shoes." A first grader wanted to go home because "[s]he wanted to go to school to a Sister." When a high school teacher discussed the law with the students, "Without exception all pupils expressed their indignation over the present conditions, but also their gratitude toward the sisters, who did not leave them uncared-for." To junior high students who thought the law did not make sense, their teacher responded, "I want to teach you to be a law-abiding citizen, so I have to be a law-abiding citizen." The younger students referred to the habits as "holy clothes." Community people supported the sisters and were surprised the law had passed. Many Strasburgers regretted the sisters' loss of their habits. One woman told the sisters she cried the first time she saw them in secular attire, and one Protestant high school graduate remarked "that she was glad to have finished last year, since she preferred remembering her teachers in their religious attire."⁵⁰

During the first week of the fall 1948 school term, a state official visited the Strasburg school to inquire if the sisters were following the law. When a Protestant minister came to visit, according to the principal, Sister Mary Celine Koktan, "[W]e were disturbed that he had the nerve to come. It wasn't a pleasant visit, because this was forced on us." Apparently no officials visited the school in Mantador. A more welcome September visitor to Strasburg was Bishop Ryan, who personally expressed his gratitude to the sisters and assured them that the situation would not last long. If the law were not repealed, he said, the school would become parochial.⁵¹

The school remained public for twelve more years, until in 1959, when the grade school became parochial; one year later the high school followed. The Commissary General, Mother Hilaria, had visited the sisters and given an ultimatum to the pastor: if the sisters were to remain as teachers, the school had to be operated as a Catholic school.⁵²

CONCLUSION

North Dakota law still states "No teacher in any public school in this state shall wear in said school or while engaged in the performance of his or her duties as such teacher any dress or garb indicating the fact that such teacher is a member of or an adherent of any religious order, sect, or denomination."⁵³ Sisters no longer teach in the state's public schools. Either they were replaced by lay teachers or a dual system of public and parochial schools expanded. Also, as a result of the reforms initiated in the Roman Catholic Church by Vatican Council II, many sisters no longer wear a uniform habit prescribed by their congregation.⁵⁴

Laws similar to North Dakota's exist in Oregon and Pennsylvania and have been challenged unsuccessfully in the last several years.⁵⁵ In the 1986 case *Cooper v. Eugene School District No. 4J*, Janet Cooper, a special education teacher in Eugene, became a Sikh. While teaching her sixth and eighth grade classes, she wore white clothes and a white turban. Although she was tenured, she was suspended from her position and had her Oregon teacher's certificate revoked. The Oregon Supreme Court upheld the revocation, stating that the state could regulate actions performed in fulfillment of the function of teaching and that the compelling state interest in preserving the appearance of religious neutrality in the schools justified the burden on Cooper's free exercise rights. The United States Supreme Court dismissed the appeal for want of a substantial federal question.⁵⁶

U.S. v. Board of Education for the School District of Philadelphia (1989) concerned Alima Delores Reardon, a devout Muslim, who was three times refused employment as a substitute teacher when she arrived at school, following Muslim practice, dressed in a head scarf and loose dress. An 1895 Pennsylvania statute prohibited teachers in public schools from wearing any religious mark, emblem, or insignia. The federal district court held the statute violated Title VII of the Civil Rights Act of 1964, but, since the Commonwealth of Pennsylvania did

not consistently enforce the statute, the district court found no "pattern or practice" of discrimination to sustain a Title VII violation, and judgment was entered for the Commonwealth. In the appeal, the Third Circuit Court reversed in part and affirmed in part. The court held that it would be an undue hardship for the Philadelphia School Board to accommodate a public school teacher who wanted to teach while wearing religious garb. The court affirmed the district court in not finding any pattern that would support a Title VII violation. The Pennsylvania "Garb Statute" remained a valid law.⁵⁷

Despite these current court battles, a confrontation of the magnitude of North Dakota's is not likely to happen in quite the same manner. The debate over sisters teaching in public schools and the campaign surrounding the anti-garb law are local examples of the social change experienced in the post-war United States. National issues such as the debate over funding public and nonpublic schools, the political need to be considered patriotic and anti-Communist, and the general distrust of foreign entities and control were all part of the anti-garb dispute. The religious conflict in North Dakota was a natural outgrowth of the national debate over aid to religious schools and the anti-Catholic prejudice fostered by the POAU. The conflict in North Dakota was a local part of a national cultural pattern.

A national debate about religion and public schools still rages, however, and it spawns many local controversies. Pat Buchanan, speaking at the 1992 Republican National Convention in Houston, defined terms with rhetoric similar to that in North Dakota in the 1940s.

There is a religious war going on in this country for the soul of America. It is a cultural war as critical to the kind of nation we shall be as the Cold War itself, for this war is for the soul of America.⁵⁸

The local level on which the "war" is being fought focuses on such issues as prayer in public

schools and tax-supported aid to parochial schools.

One of the North Dakota teachers observed that when a building was converted from a Catholic school to a public school, "We had to take the crucifixes down, but the walls were so old, the cross was still on the wall."⁵⁹ This image illustrates the tension between religion and a secular constitution and symbolizes the many anomalies of this story. The North Dakota anti-garb law attempted to ensure that the First Amendment was protected in North Dakota, but the First Amendment contains two partially contradictory rights to religious freedom. However successful the law was in keeping church and state separate, prohibiting sisters from wearing of religious garb when they taught in public schools probably diminished their free exercise of religion. The Roman Catholic Church, by allowing and encouraging the sisters to dress in secular garb while remaining in the public schools, won a victory for religious liberty. The compromise allowed a mixing of religion and government that crossed boundaries and blurred the distinction between the two institutions.

NOTES

This manuscript was originally written for a Constitutional History seminar at the University of Iowa College of Law. I am especially grateful to Professor Mary Dudziak, who taught the seminar.

1. Members of Catholic women's religious orders are commonly referred to as "nuns" or "sisters," terms used interchangeably in this paper. The correct term for apostolic women religious, meaning those who are involved in active ministry, is "sister." "Nun" refers generally to women who have taken solemn vows and live in cloistered communities. John Deedy, *The Catholic Fact Book* (Chicago: The Thomas More Press, 1986), p. 381. The habit, or religious garb, has varied in detail among religious orders throughout history. In women's communities, the wearing of uniform clothing began around the seventeenth century, when European orders adapted the widow's dress of the time. The habit has essentially remained a black or brown floor length dress with a wimple and veil. R.M. Sermak, "Religious Habit," *New Catholic Encyclopedia*

12 (New York: McGraw-Hill, 1967): 286; Sister Fides, "Dressed For Work" *America* 105 (20 May 1961): 312.

2. Sydney E. Ahlstrom, *A Religious History of the American People* (New Haven: Yale University Press, 1972), pp. 951-52. Diane Ravitch, *The Troubled Crusade: American Education 1945-1980* (New York: Basic Books, 1983), pp. 7, 26, 28. A 1947 national survey conducted by Benjamin Fine, education editor of the *New York Times*, and cited by Ravitch (p. 7), reported that that 70,000 teaching positions were empty, resulting in the closure of 6,000 schools. Of the teachers that remained, 60,000 had a high school education or less.

3. Lawrence Creedon and William D. Falcon, *United for Separation: An Analysis of POAU Assaults on Catholicism* (Milwaukee: Bruce Publishing Co., 1959), pp. 1, 34; Michael Schwartz, *The Persistent Prejudice: Anti-Catholicism in America* (Huntington, Indiana: Our Sunday Visitor, 1984), pp. 111-12.

4. Paul Blanshard, *American Freedom and Catholic Power*, (Boston: Beacon Press, 1949), pp. 3-6, 97; Blanshard, "The State and Catholic Power in the United States," *Hibbert Journal* 52 (April 1954): 231, 237-38.

5. "The State and Sectarian Education," *National Education Association Research Bulletin* 24 (February 1946): 24, 34, 36. The sixteen jurisdictions employing sisters as public school teachers were Alabama, Arkansas, Colorado, Illinois, Kansas, Maine, Michigan, Missouri, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, and the Territory of Hawaii.

6. The following is a list of cases involving such school issues as financing, display of religious symbols in the classroom, and the teaching of religious doctrine, but the focus is on the wearing of religious garb. *Moore v. Board of Education*, 4 Ohio Misc. 257, 212 N.E.2d 833 (1965) (absent prohibiting statute, public school teachers allowed to wear religious garb); *Rawlings v. Butler*, 290 S.W. 2d 801 (1956) (upheld practice of sisters wearing religious garb while teaching in public school); *Zellers v. Huff*, 55 N.M. 501, 236 P.2d 949 (1951) (among other issues, barred wearing of religious garb by public school teachers); *Berghorn v. Reorganized School District No. 8, Franklin County*, 364 Mo. 121, 260 S.W. 2d 573 (1953) (public schools found to be operated as religious schools; court commented on wearing of religious garb, but did not rule on issue); *New Haven v. Torrington*, 132 Conn. 194, 43 A.2d 455 (1945) (public school district could employ sisters to teach in a school operated in Catholic orphanage); *Harfst v. Hoegen*, 349 Mo. 808, 163 S.W.2d 609 (1941) (public school operated as a religious school; not allowed to pay sisters as teachers); *State ex rel. Johnson v. Boyd*, 217 Ind. 348, 28

N.E.2d 256 (1940) (upheld hiring of sisters as teachers for public school); *State ex rel. Public School District No. 6, Cedar County v. Taylor*, 122 Neb. 454, 240 N.W. 573 (1932) (public school found to be operated as religious school, funding cut off; part of evaluation was garbed sisters as teachers); *Knowlton v. Baumhover*, 182 Iowa 691, 166 N.W. 202 (1918) (public funds could not be used for operating a religious school; part of plaintiff's complaint was that some teachers wore religious garb); *Commonwealth v. Herr*, 229 Pa. 132, 78 A.68 (1910) (statute barring wearing of religious garb constitutional); *O'Connor v. Hedrick*, 184 N.Y.421, 77 N.E.612 (1906) (state superintendent has power to order public school teachers not to wear religious garb); *Hysong v. Gallitzin School Dist.*, 164 Pa. 629, 30 A. 482 (1894) (practice of hiring sisters as teachers in public schools upheld as constitutional). See L.S. Tellier, "Wearing of Religious Garb by Public-School Teachers," A.L.R. 2d 60 (1958): 300, 301; anonymous, "Religious Garb in the Public Schools—A Study in Conflicting Liberties," *University of Chicago Law Review* 22 (Summer 1955): 888, 891.

7. "Religious Garb" (note 6 above), p. 891; Donald M. Hall, "Constitutional Law—Freedom of Religion—Members of Religious Orders in Public Schools," *Tulane Law Review* 31 (June 1957): 676, 677; Virgil C. Blum, "Religious Liberty and the Religious Garb," *University of Chicago Law Review* 22 (Summer 1955): 875, 887; Charles Fahy, "Religion, Education, and the Supreme Court," *Law and Contemporary Problems* 14 (1949): 73, 89-90; Le Roy Peterson, Richard A. Rossmiller, and Marlin M. Volz, "The Law, Religion, and Public Education," *School and Society* 96 (7-21 December 1968): 466, 469.

8. "Religious Garb" (note 6 above), p. 892; Hall "Constitutional Law" (note 7 above), pp. 677-78; Paul Blanshard, *Religion and the Schools: The Great Controversy* (Boston: Beacon Press, 1963), p. 163.

9. 66 N.D. at 459; 66 N.D. 444, 267 N. W. 127 (1936); C.A. Armstrong, "What Happened in North Dakota," *The Christian Century* 65 (25 July 1948): 754.

10. "Court Holds Nuns May Teach In State Schools," *The Catholic Bulletin* 18 April 1936.

11. Alvin W. Johnson and Frank H. Yost, *Separation of Church and State in the United States* (New York: Greenwood Press, 1948), p. 123; "Schools—Teachers—Wearing Religious Garbs," *Report of the Attorney General of North Dakota* (25 August 1945): 262-63; Armstrong, "What Happened" (note 9 above), p. 754.

12. Margaret McEachern, "Nuns Carry On in North Dakota," *Catholic Digest* 13 (March 1949):

95; Armstrong, "What Happened" (note 9 above), p. 754.

13. McEachern, "Nuns Carry On" (note 12 above), p. 94; Armstrong, "What Happened" (note 9 above) p. 754, reports that 18,800 signatures were on the petition. The number was listed as 16,000 in "Both Anti-Garb and Liquor Petitions Are Filed Monday," *The Bismarck Capital*, 30 March 1948 (clipping, archives, Good Counsel Motherhouse [GCM], Mankato, Minnesota).

14. McEachern, "Nuns Carry On" (note 12 above), p. 94; "Both Petitions" (note 13 above); "Anti-Garb Law to Close Some North Dakota Schools—Rural Districts are Victims of Bigot Measure," *The Catholic Bulletin* 10 July 1948.

15. "Bishop Ryan Answers Sponsors of Anti-Garb Bill" (quoted), *The Bismarck Capital*, 30 March 1948 (clipping, archives, GCM); McEachern, "Nuns Carry On" (note 12 above), p. 94.

16. "Bishop Ryan Answers" (note 15 above); "Both Petitions" (note 13 above). The text of the initiative read:

Section 1. No teacher in any public school in this state shall wear in said school or while engaged in the performance of his or her duties as such teacher any dress or garb indicating the fact that such teacher is a member of, or an adherent of, any religious order, sect, or denomination.

Section 2. Any public school teacher who shall violate any of the provisions of this act shall have his or her certificate suspended by the State Superintendent of Public Instruction for one year, and upon the conviction of such teacher for a second such offense, his or her teacher's certificate shall be permanently revoked and annulled by the State Superintendent of Public Instruction as provided for by law.

Section 3. All acts or parts of acts in conflict herewith are hereby repealed.

Committee for the Separation of Church and State, *North Dakota Protestantism Challenged at the Primary Election June 29, 1948* (archives, GCM).

17. McEachern, "Nuns Carry On" (note 12 above), p. 95, quoted; Armstrong, "What Happened" (note 9 above), p. 754, quoted; Committee for Defense of Civil Rights, *Facts About Sisters Teaching in Public Schools In North Dakota*, 1 April 1948, pp. 3, 11, quoted.

18. McEachern, "Nuns Carry On" (note 12 above), p. 93; Laura Noy (teacher at Mantador, North Dakota, 1954-55; teacher at Strasburg, North Dakota, 1955-59), interview with author, St. Paul, Minnesota, 22 December 1989.

19. Committee for Defense, *Facts* (note 17 above), pp. 7-8; McEachern, "Nuns Carry On" (note

12 above), pp. 93-94; Armstrong, "What Happened" (note 9 above), p. 754; Editorial, "Protestant Ministers in Public Schools," *America* 79 (24 April 1948): 47.

20. Committee for Separation, *Protestantism* (note 16 above); Committee for the Defense of Civil Rights, *In Union There Is Strength—Vote No on the Anti-Garb Measure and Preserve Peace*, undated campaign pamphlet (archives, GCM).

21. George Mehok, "Anti-Garb Sponsors Contest Civil Rights," *Dakota Catholic Action*, June-July 1948, quoted; Committee for Defense, *In Union* (note 20 above); *Protestants Look at Anti-Garb Measure*, undated pamphlet, written by four non-Catholic North Dakota lawyers who supported the Committee for the Defense of Civil Rights (archives, GCM).

22. Committee for Defense, *Facts* (note 17 above), pp. 17-19; Elwyn B. Robinson, *History of North Dakota* (Lincoln: University of Nebraska Press, 1966), p. 483; Armstrong, "What Happened" (note 9 above), p. 754; Committee for Separation, *Protestantism* (note 16 above), quoted.

23. Armstrong, "What Happened" (note 9 above), p. 755.

24. Committee for Defense, *Facts* (note 17 above), p. 21; Editorial, "Ripples in North Dakota," *America* 79 (24 July 1948): 364; Committee for Defense, *In Union* (note 20 above).

25. Committee for Defense, *Facts* (note 17 above), p. 17.

26. *New Age*, quoted in *Ibid.*, p. 5, also in McEachern, "Nuns Carry On" (note 12 above), p. 95; Committee for Separation, *Protestantism* (note 16 above); Armstrong, "What Happened" (note 9 above), p. 755.

27. Loraine Boettner, *Roman Catholicism* (Philadelphia: Presbyterian and Reformed Publishing Company, 1962), pp. 3-4; Bishop Ryan quoted in McEachern, "Nuns Carry On" (note 12 above), p. 96; Committee for Defense, *Facts* (note 17 above), p. 21; Mehok, "Anti-Garb Sponsors" (note 21 above), p. 2.

28. Armstrong, "What Happened" (note 9 above), pp. 754-55; "Anti-Garb Law to Close" (note 14 above); Editorial, "Our Timorous Press," *The Christian Century* 65 (2 June 1948): 533; Editorial, *Church and State* 1 (No. 3, 1948): 3. This publication was the official newsletter of POAU. Although POAU was technically not affiliated with the Committee for the Separation of Church and State, it encouraged and linked local organizations of similar ilk throughout the United States.

29. Armstrong, "What Happened" (note 9 above), p. 754; "Protestant Ministers" (note 19 above).

30. "All Should Vote at June 29 Election—Vote No," *Dakota Catholic Action*, June-July 1948, fea-

tures a photograph of a ballot with an arrow pointed at the correct box to mark when voting. See Armstrong, "What Happened" (note 9 above), p. 755.

31. "Clerical Garb Barred—North Dakota Voters Prohibit It in Public Schools," *New York Times*, 2 July 1948; Armstrong, "What Happened" (note 9 above), p. 754; McEachern, "Nuns Carry On" (note 12 above), p. 93.

32. "Victory! North Dakota Bans Wearing of Religious Garb by Public School Teachers," *Church and State* 1 (No. 2, 1948): 2; "As We Go to Press," *The Christian Century* 65 (14 July 1948): 699.

33. Armstrong, "What Happened" (note 9 above), pp. 754-55.

34. Editorial, "What Happened in North Dakota," *Extension* 43 (November 1948): 24; "Anti-Garb Law to Close" (note 14 above); "Ousting of Teaching Sisters Just First Skirmish in Fight Against Church, Says Bishop," *Catholic Bulletin*, 10 July 1948.

35. Sister Marie Eicher (teacher at Strasburg, North Dakota, 1950-59), interview with author, Mankato, Minnesota, 20 December 1989; Sister Lucida Kunz (teacher at Strasburg, North Dakota, 1948-49; teacher and principal at Mantador, North Dakota, 1955-57), telephone interview with author, 11 February 1990; Sister Mary Myles Schwahn (senior at Strasburg High School, 1948-49), telephone interview with author, 10 February 1990; Sister Mary Louis Pihaly (teacher at Strasburg), to author, 3 April 1990; Noy interview (note 18 above).

36. Allen P. Farrel, "Underscorings," *America* 79 (1948): 341.

37. L.E. Pasetto, secretary, Sacred Congregation of Religious, Rome, to Bishop Vincent J. Ryan, Ordinary of Bismarck, 14 May 1948 (GCM).

38. This action seems to contradict Bishop Ryan's statement in March 1948 asserting he had no authority concerning the hiring of sisters in the public schools of North Dakota.

39. As structured in 1948, the government of the international community of the School Sisters of Notre Dame was centered in the Generalate in Munich, headed by Mother General Mary Almeda. In North America, the intermediate level of government was the Commissariat, located in Milwaukee, Wisconsin, and headed by Commissary General Mother M. Fidelis. The School Sisters of Notre Dame teaching in North Dakota were members of the province of Mankato, Minnesota. Mother M. Fidelis, SSND, Commissary General, Milwaukee, Wisconsin, to Mother M. Annunciata, Provincial Superior, Mankato, Minnesota, 10 July 1948 (archives, GCM).

40. Moses E. Kiley, Archbishop of Milwaukee, to Mother M. Fidelis, SSND, Commissary Gen-

eral, Milwaukee, 7 July 1948 (archives, GCM); Leo Binz, Coadjutor Bishop of Winona, Minnesota, to Mother M. Annunciata, SSND, Provincial Superior, Mankato, Minnesota, 10 July 1948 (archives, GCM).

41. Vincent J. Ryan, Bishop of Bismarck, North Dakota, to Mother M. Annunciata, 17 July 1948 (archives, GCM); Vincent J. Ryan, to Mother M. Annunciata, 31 July 1948 (archives, GCM). The other five orders were the Sisters of St. Francis of Assisi, Milwaukee, Wisconsin; Sisters of the Holy Family of Nazareth, Des Plaines, Illinois; Benedictine Sisters of the Sacred Heart, Minot, North Dakota; Benedictine Sisters, Yankton, South Dakota; and Sisters of St. Benedict, Crookston, Minnesota. No documentation was discovered concerning whether any religious orders refused to cooperate.

42. Memorandum for Sisters from Bishop of Bismarck, undated, (archives, GCM).

43. "North Dakota Nuns to Adopt Civilian Dress In Order To Teach Under New State Curb," *New York Times*, 12 July 1948; "ND Nun Teachers, Obeying Law, Will Don Civilian Dress," Associated Press, (undated clipping, archives, GCM), quoted; "Nun Teachers in North Dakota to Wear Conventional Garb Next Fall," *Emmons County Record*, (undated clipping, archives, GCM).

44. "ND Nun Teachers" (note 43 above); "Nuns May Teach in Secular Dress" (quoted), *The Christian Century* 65 (4 August 1948): 774. "Our Timorous Press," (note 28 above), p. 533; "North Dakota Be Vigilant," *Church and State* 1 (No. 4 1948): 2.

45. Muench quoted in "Unusual But Not Unprecedented, Bishop Muench Says of Secular Dress Used by Nun-Teachers," *The Catholic Educational Review* 47 (February 1949): 132-33 (Bishop Muench, although officially head of the Fargo diocese at this time, was working in Germany as the representative of Pope Pius XIV, leaving Auxiliary Bishop Dworschak to administer the diocese. Robinson *North Dakota* [note 22 above], p. 542); "Ripples in North Dakota" (note 24 above), p. 364; Ryan quoted in McEachern, "Nuns Carry On" (note 12 above), p. 96.

46. "Decrees and Decisions: Religion in Public Schools," *The Jurist* 8 (October 1948): 475; Unknown School Sister of Notre Dame (Strasburg Public School stationary) to Mother General M. Almeda, Munich, apparently late December 1948, (archives, GCM).

47. Unknown to M. Almeda (note 46 above); Sister Pauline Fritz (teacher at Mantador, 1951-52), telephone interview with author, 22 December 1989; Sister Mary Joyce Pietsch (teacher at Strasburg, 1949-53), interview with author, 21 December 1989; Noy interview (note 18 above); Schwahn interview (note 35 above).

48. All interviewees mentioned the WAC uniforms. Eicher interview (note 35 above); Fritz conversation (note 47 above); Noy interview (note 18 above); Pietsch interview (note 47 above), quotation from paper written by Mary Joyce Pietsch in 1953.

49. Pietsch interview (note 47 above); Noy interview (note 18 above).

50. Unknown to M. Almeda (note 46 above); Eicher interview (note 35 above); Noy interview (note 18 above). All interviewees mentioned the students' surprise.

51. Sister Lucida Kunz to author, 1 November 1990; Koktan quoted in Peter Stoddart, "1948 North Dakota Laws Made Sisters Kick Habits Early," *The New Earth* 9 (July 1989): 13; Mary Louis Pihaly to author (note 35 above); unknown to M. Almeda (note 46 above).

52. Sister Marie Eicher, "History of the School Sisters of Notre Dame in the Diocese of Bismarck" (undated, archives, GCM), p. 4.

53. N.D. Cent. Code Section 15-47-29 (1948).

54. In 1955 North Dakota had 51 Catholic elementary and 17 Catholic secondary schools. By 1961 this number had increased to 54 and 20, respectively. *The National Catholic Almanac* (Paterson, New Jersey: St. Anthony's Guild, 1956), p. 470; *Catholic Almanac* (1962), p. 510; Vatican II, *Perfectae Caritatis* (Decree on the Up-To-Date Renewal of Religious Life) par. 17 (28 October 1965).

55. Or. Rev. Stat. 342.650, 342.655; Pa. Stat. Ann. tit. 24,11-1112 (Purdon 1982).

56. 301 Or. 358, 723 P.2d 298 (1986), *appeal dismissed*, 480 U.S. 942 (1987).

57. DC EPa. N-87-2842, USLW 2748, 50 Fair Empl. Practice Case (BNA) 71; 50 Empl. Prac. Dec. P39,146, (17 May 1989); 911 F.2d 882 (3rd Cir. 1990).

58. Pat Buchanan quoted in Mike Royko (syndicated column), *Albert Lea Tribune*, 21 August 1992, p. 4A.

59. Noy interview (note 18 above).