LEGAL STATUS OF HIGH SCHOOL ASSOCIATIONS IN THE UNITED STATES

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ABSTRACT

Kroon, Ralph V. Legal Status of High School Associations in the United States

As the athletic programs of the high schools developed, competitive activities among the various high schools evolved as a natural outgrowth. Often these activities just emerged without pre-planned programs for their initiation. As they grew, however, direction became an absolute necessity and as a result, state high school associations came into being to exercise some control oger the interscholastic phases of the athletic programs.

It was the purpose of this study to search into the legal status of these high school associations in the United States and try to find out on what legal grounds they perform the services which they render.

The literature in the area was reviewed, state high school association officials were contacted, and court cases dealing with the problem were scrutinized.

In general, competition between schools in athletic activities came into being through the sponsorship of community agencies other than the schools which were represented in the activities. These programs, which no concern high school associations, passed through roughly three periods in their development: one of opposition by the schools, a second of toleration by the schools, and a third one of cooperation by the schools.

The high school associations which were developed to direct, supervise and partially control these rapidly expanding programs can be classified into three types:

1. High school associations affiliated with state departments of education.
2. High school associations which are university or college direct
3. High school associations which are purely voluntary organizatio

The first of these types has a clear source of legal authority. It is the same as that of the state central agencies directing education. The second type also has a rather distinct legal basis--that under which the state university or college with which it is affiliated operates. But the third type, the purely voluntary organization, has had a much less clear an much more turbulent legal development background.

The present legal status of this third type has literally evolved o of a succession of court decisions in the various states. The general prec dent which has come out of these decisions is that since these associations are voluntary organizations, the courts will view them as they do lodges, fraternal groups and other voluntary organizations, will affirm their right to function and will not interfere with their operation as long as their actions are proper and reasonable.

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CHAPTER I

INTRODUCTION

It was not by accident that high school athletics came into existence. They have closely followed the trends of the times and have emerged in their present form through rather well defined periods.[1]

Athletic competition in our high schools has come to be an American tradition and institution. In no other country have intercollegiate and interscholastic athletics developed to the same extent as in the United States.[2]

Like most of the changes in policy, in curriculum addition, and in educational emphasis, athletics have come into the schools, from the outside. Communities, generally, have been instrumental in adding such courses as commerical work, industrial arts, physical education, music, and other similar offerings to the curricula of their schools. Likewise, communities because of student interest have added competitive athletics to high school programs.

When this new phase of school activity came into being, it was not accepted alike by all school authorities. Many schools,

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[1]Charles E. Forsythe, "Administration of High School Athletics," p.1.

[2]Ibid., p. 2.

in the smugness of their historical backgrounds, had no time for this new and nonacademic orphan. Others welcomed the idea as a means to bolster their institutions and to improve public relations.

As a result of these different points of view, schoolmen themselves throughout the country set up organizations to control the activities as well as to settle their athletic problems. This movement dates from the end of the nineteenth century, but it received its real development in the early 1900's.

The Problem

The basic problem with which the writer was concerned was the legal status of high school associations. More specifically, has their authority been delegated illegally? As the activities which the high school associations supervise have grown in scope and in number the associations have been called upon in increasing frequency to rule on controversies among member schools. This policy-setting role has resulted in a gradual increase in authority of these agencies.

Procedures

To secure the information which would make possible an understanding of the problems involved in the authority of high school associations, the literature in the field was reviewed. Information from the Montana High School Association and American Federation of High School Associations as well as court decisions

pertinent to the subject were studied.

Limitations

This study of the legal status of high school associations was limited to information made avilable from the American Federation of High School Associations and a review of court cases made avilable through the Montana High School Association.

CHAPTER II

HISTORY AND PRESENT STATUS OF HIGH SCHOOL ASSOCIATIONS

Primitive man early came to recongize the necessity for teaching the younger members of his family the ability to run, swim, climb, fight, hunt, and in other ways to protect himself because his very existence depended upon these activities.

Harry C. McKown's, in his book on Extracurricular Activities states that physical education, the oldest of organized teachings, gradually emerged and became established from war purposes and grew to the present day interscholastic athletics.

> Physical education, the oldest of organized teachings, gradually emerged and became established. Centuries later, this education was specialized and formalized by the Athenians, Spartans, and Romans, somewhat for purposes of public competition and recreation but mainly for military ends. Still later, the invention of new types of war machinery and equipment eliminated the old-fashioned weapons; sword, shield, club, ax, and spear but it did not eliminate the soldier himself; so that even as late as a hundred years ago we find Jann and Ling, and their less well-known imitators, developing and promoting gymnastics, calisthenics, military drill, and remedial and corrective work still for the purpose of producing husky soldiers. These activities found their way into American colleges, and to some extent into secondary schools. And out of them, more or less, came the comparatively recent development of athletics, at first somewhat intramural, and soon thereafter interscholastic. Thus athletics, like several other extracurricular activities, "sneaked into the school through the back door."[1]

Period of Opposition

In the first period of its history, interscholastic athletics

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[1] Harry C. McKown, "Extracurricular Activities", p. 272.

were ignored by many school authorities because these men considered education to be chiefly mental and moral in nature and purpose. "However, despite this attitude the students played interscholastically under the name of the school, the teams being coached and supported by townsfolk who were interested in exciting competitions and in boosting local enterprises."[2] There were no training rules or eligibility requirements, and few other regulations or restrictions existed. The results weren't accepted by school authorities. So the school authorities began actively to oppose these activities. Some of the reasons school authorities opposed these activities were:

1. They were believed to cheapen education.
2. They took time and attention from regular schoolwork.
3. They occasionally brought disgrace upon the school.

During this period of much opposition school authorities were unsuccessful in curbing interscholastic athletics.

Period of Toleration

In this second period the school authorities, still uninterested in the games and events themselves, merely attempted to protect the school's good name by setting rules and regulations, mostly concerning eligibility.[3] They assumed no responsibilty for

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[2] Ibid., p. 274.

[3] Ibid., p. 273

coaching, scheduling, and promoting. Many of the activities were looked after by students, alumni, or town sportsmen. But this arrangement of split authority was not successful. The teams paid little or no attention to the school authorities, violated the rules and regulations set, and continued to frequently embrass the schools they represented.

Period of Cooperation

After the periods of opposition and toleration with their resulting lack of success, the school authorities began an aggressive campain for control. The schools began to employ coaches as regular members of the school staff. The school authorites began setting and enforcing rules and regulations, handling finances, and doing other things to make and keep the games respectable. Associations were formed, and these helped to set and enforce the rules and so promote healthy and desirable interscholastic programs.

Beginnings of State Associations.

There is some question as to which was the first state-wide organization for the control of interscholastic athletics. The state of Wisconsin was one of the first to organize an association when a committee was appointed in 1895 in that state to formulate rules to govern interschool athletic contests. Michigan also in 1895 had a state field day in which schools competed under what were considered more or less uniform rules.

"A committee of the state teachers' association was appointed at that time to further the organization of the Michigan Interscholastic Athletic Association."[4] The beginnings of state-wide athletic associations were made in most states either in the years immediately preceding 1900 or within the decade thereafter.

Purposes of State Associations

Most of the state associations have clear cut purposes in promoting the organization of state associations as may be found by examing their constitutions.

The Montana High School Association's statement of purpose which follows, is a good illustration of such delineations of functions:

> "The object of this Association shall be to promote clean amateur high school athletics and to provide for and control athletic contests and all other inter-school participation contests or programs, sanctioned by the Association, among the high schools of Montana as Members of this Association, and to assist in the local promotion of such other activities and interests of the Montana High Schools as the Association may from time to time vote to undertake."[5]

The main purpose of most of the state high school associations is to promote clean amateur high school athletics and to control the activities through the rules and regulations set by the high school association.

Types of State Associations

State Athletic or activity associations fall into three

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[4]Charles E. Forsythe, "Administration of High School Athletics," p. 34.

[5]Montana High School Association Handbook, p. 9.

general classifications or types. The great majority are strictly voluntary in nature. The three types of state associations are:

1. State associations affiliated with state departments of education.

2. University-directed state associations.

3. Voluntary state associations.

State Associations affiliated with state departments of education. Michigan and New York are outstanding examples of this type of organization. The Michigan High School Athletic Association has been affiliated with Michigan's State Department of Public Instruction since 1924.[6] The state superintendent of public instruction is in charge of the athletic association. All junior, senior, private, and parochial high schools of the state are eligible for membership in the state association. A legislative body is elected by schools on a geographical and school enrollment basis. Two of the members of the legislative body represent physical education teachers and coaches with the remainder representing school adminstration. All of the regulations are made, and all the activities are conducted, by the state association with the approval of the state superintendent. The office of the State Director of Athletics is in the State Department of Public Instruction.

In 1938 New York through the action of the New York Board of Regents formulated regulations governing Health and Physical Education activities through the Commissioner of Education.[7]

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[6]Charles E. Forsythe, op. cit., p. 42.

[7]Ibid., p. 42.

These regulations made athletics in New York a definite part of the physical education program of the schools. The state athletic association actually is a voluntary organization in that schools of the state are not compelled to belong unless they wish to engage in interscholastic competition. This organization has a central governing committee of five members serving in an executive capacity. Since the basic athletic code has been given the status of law by action of the Board of Regents, it is the responsibility of that body, through the proper state education department officials, to enforce it.

University-directed state associations. The state of Texas presents a unique example of the university-directed type of organization. "Any public white school (sic) in Texas that is below collegiate rank and that is under the jurisdiction of, and receives apportionment from, the State Department of Education is eligible to membership in this League: except schools for defectives and corrective institutions."[8] The governing body of the league is a state executive committee appointed by the president of the University of Texas.

The South Carolina and Virginia state associations also are similarly affiliated with state institutions of higher learning. Most of the affairs of the athletic associations are administered

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[8]Texas University Interscholastic League, Constitution and Rules, University of Texas Bulletin, August, 1953.

by the extension divisions of those universities.

Voluntary state associations. State associations of voluntary type, are the most numerous. Membership is voluntary but is usually dependent upon member schools meeting specified requirements such as financial support of the association, its plan of organization, status of its coaches, and the payment of annual dues. The competition is generally limited to member schools. These associations have established well-regulated requirements for the administration of athletic contests and eligibility of contestants. In most states, membership is open to public secondary schools accredited by the state departments of education. Some states allow private and parochial schools to join provided they meet the membership requirements. Usually the association has an elected board of control composed of representatives of the member schools. Frequently this representation is based on size of school or geographical location. In most cases there are the usual officers; president, vice-president, secretary, and treasurer. Often the secretary is the executive officer of the association.

Summary

There are three types of state athletic or activity associations.

1. State associations affiliated with state departments of education.

2. University-directed state associations.

3. Voluntary state associations.

The great majority are strictly voluntary in nature.

Functions of State Associations

Many of the state associations supervise activities other than athletic events.

Activities in addition to athletics. Activities in addition to athletics have increased the administrative duties of the high school associations. In Texas, for example, has the following activities which are supervised by the association: Shorthand, slide rule, picture memory, playground ball, ready writing, typewriting, and story telling.[9] Nebraska and Kansas call their associations the activities association instead of athletic associations. In Montana music, speech, and debating are included in the activities under the jurisdiction of the Montana High School Association.

Interpretations of playing rules. This service has resulted in more uniformity in methods of play and officiating. In many states, rules committees have been set up and interpretation meetings are held for coaches, officials, and players. Football, basketball, baseball, track and swimming are the most common sports for which such arrangements are made.

9Ibid., p. 9.

Registration and classification of athletic officials.

Michigan was the first state to establish a plan for registration and classification of athletic officials. It began its program in 1927.[10] Similar plans have been set up in several other states. The feeling exists that the providing of athletic officials should be included as a definite and necessary part of the athletic program. The important consideration is the fact that the right to license implies the right to refuse to license, and thus it is possible to dispense with officials who do not meet standards or codes of ethics commonly established.

Publications. Many of the state associations publish monthly printed bulletins during the school year. One important feature they carry is the accounts of executive and legislative meetings. Decisions in eligibility cases as they are published often perform a double service in that they establish precedents as well as permanent records and provide schools with information regarding interpretations of state association by-laws. Many states also publish handbooks and yearbooks containing general interpretations, lists of officials, constitutions, committees, and records of activities. Records, reports, and general eligibility blanks, contracts, etc., are some of the materials furnished by the state high school association.

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[10]Charles E. Forsythe, op. cit., p. 47.

Conducting tournaments and meets. In most of the states with strong athletic associations there are extensive programs of meets and tournaments managed by state associations. The income from tournaments and meets represents the chief source of revenue for operating the state associations.

The problem of state championships crops up from time to time also. Some of the states have done away with these, while others still have state championships. If state championships, or variations of them, are to remain, they must be so established and conducted that their purposes, methods, and results are educationally, physically, and financially sound.[11] Many states have found that a greater share of management by state associations has resulted in an improvement in the program.

Establishment of athletic standards. High school associations have performed valuable services to schools of their states by setting standards for the conduct of athletics.

These standards are for the purpose of improving conditions and raising local standards of the high school associations.

Standards often are established by state associations in the areas of schedules, sanitation and safety, school-official relations, sportsmanship, relations between schools, scholarship, respect for and proper treatment of officials and coaches winning of games, interscholastic-intramural relations, conduct of students, and similar matters.

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[11] Ibid., p. 51.

Athletic accident or insurance plans. Several states have athletic accident or insurance plans, while others have established contracts with commercial insurance companies because they have felt that they should not, or by local state laws could not, become involved in any form of insurance business. The Wisconsin association has more data available and probably has made greater progress in the formation of an athletic accident benefit plan than any other state association.

The judicial function. The high school associations make rules and regulations for the member schools to follow. Many times the question of the rules, or interpretation of the rules, have to be settled by the association board of directors.

This last function mentioned in this chapter is one of the most important functions of the high school associations and of major service to the schools.

Summary

In this chapter the writer has traced the history and the development of the state high school associations. The history is traced through three periods: one of opposition, one of toleration, and one of cooperation. During the last of these periods, the period of cooperation, the high school associations fall into definite classifications or types: state associations affiliated with state departments of education, university-

directed state associations, and voluntary state associations. The writer has pointed out in this chapter the various functions of state high school associations: activities in addition to athletics, interpretation of playing rules, registration and classification of athletic officials, publications, conducting tournaments and meets, establishing athletic standards, athletic accident or insurance plans, and the judicial function.

In the third chapter the writer will review several court cases that will show the definite steps the courts have taken which have affected the legal status of high school associations.

THE IMPACT OF COURT DECISIONS ON THE LEGAL STATUS OF HIGH SCHOOL ASSOCIATIONS

The pattern of development of these high school associations and of their source of authority have in part been determined by court decisions. The writer will review several court cases and trace their impact on the associations. The final case will deal primarily with the legal status of high school associations and what the courts have said concerning this matter.

Indiana State High School Association v. Lawrence Circuit Court of Lawrence County, Indiana. This case pertains to the authority of the Indiana State High School Association. Prior to the first day of August 1958, two brothers resided with their parents in a small community in Illinois on the Ohio River, near the town of Cairo. On or about that date the family moved to Seymour, Indiana and the boys enrolled in Shields High School at Seymour, Indiana.

The athletic association issued a ruling to Shields High School that it could not use these boys in association sponsored activities as members of its competitive athletic teams, and specifically its basketball team under the eligibility rules of the association.

An injunction was filed in the Jackson Circuit Court by their parents and close friends against the athletic association of Indiana and the court issued a restraining order temporarily

enjoining the association from enforcing the order or ruling.

"An injunction was filed in the Jackson Circuit Court by Billy Joe Stevenson, and Frank Stevenson, two students fourteen and sixteen years of age, in the Shields High School of Seymour, Indiana, by their parents and next friends Joe Stevenson and Pearl Stevenson. The action was brought to enjoin relators L. V. Phillips and other members of the Indiana High School Athletic Association, and unincorporated association, from enforcing any of its orders, rules, or restrictions, declaring plaintiffs to be ineligible for competitive athletics and in particular preventing them from playing on the basketball team representing Shields High School in contests with other member schools within said Athletic Association. An injunction was also sought to prevent Shields High School, a member of said Athletic Association from obeying any order or rule of said association which would have the effect of preventing said plaintiffs from participating as a representative of Schields High School in athletic events of said association."

"The Jackson Circuit Court issued a restraining order without notice as prayed for, in substance temporarily enjoining relators from enforcing any order or ruling rendering plaintiffs ineligible from participating in interscholastic athletic competition as students of said Shields High School."[1]

The Indiana High School Athletic Association appealed to the Supreme Court of Indiana. The supreme court upheld the authority of the high school association.

"The state supreme court held that because the rule of the association had not been shown to be invalid, the association was entitled to enforce it against Shields High School without interference by the courts. Consequently, it made permanent the writ of prohibition against the Lawrence circuit court, which had the effect of denying it jurisdiction to hear the injunction suit brought by the boys."[2]

The boys based their plea on the ground that the statutes

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[1] State High School Athletic Association et al. v. Lawrence Circuit Court of Lawrence County, Indiana, 102 N.E. (2d) 250 (Ind.).

[2] State High School Athletic Association et al. v. Supreme Court State of Indiana, no. 109.

and constitution entitled them to attend public school including the Shields High School, and to utilize the study and training including physical education and athletics and that the association was attempting to interfere with this right. The association, on the other hand, based its action on the ground that the court was without jurisdiction to restrain it from enforcing its rules, as it was a voluntary incorporated association of public, parochial and private schools and it was acting within its powers and authority.

In noting the relationship between physical education and athletics, the court also saw fit to quote from authoritative opinion by Sen. John W. Bricker when he was attorney general of Ohio.

> "In the light of the holdings and reasoning of these courts, I am of the opinion that the term physical education, which the statutes of Ohio direct shall be included in the curriculum of the public schools of Ohio, does not include what is commonly called interscholastic athletics, that is, the playing of games in competition by picked teams representing the several schools. Interscholastic athletics is not a proper public school activity within the scope of physical education as the term is used in our statues."[3]

The essence of this decision is that in as much as the association is a voluntary one, membership in it binds the member schools to any reasonable rules and regulations of the association.

The supreme court of Indiana also stated that interscholastic sports and games cannot properly be included in the proper education and training of students.

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[3]Sen. John W. Bricker, Opinion of Attorney General of Ohio, 1933, Vol. I, p. 552.

"The right of plaintiffs under the Indiana constitution and statutes to go to the public schools and receive education and training cannot properly be said to include interscholastic sports and games, viz: interschool basketball as may be engaged in between picked teams of the various schools constituting the membership of the athletic associations."[4]

A second case bearing upon this problem is the following:

Morrison et al. v. Roberts (1933) Oklahoma. The plaintiff, a high school student and member of the football team, violated a fixed rule of the Oklahoma High School Athletic Association in accepting an award of a gold football of the value of a few dollars. The Board of Control ruled the boy to be ineligible to play football for a period of one year for the violation, and his parents brought action in mandamus to set aside the action of the board.

The Supreme Court of Oklahoma in ordering the dismissal of the suit stated that the plaintiff had many rights as a citizen and as a high school student but he had no vested right in the eligibility of high School Association. The court found nothing unlawful or evil in the rules of the association.

"If it be said that the rule involved and the fixed penalty is arbitrary, that may be so. The same might be said also as to the arbitrary rule that "three strikes" retire the batter, not more nor less."

The plaintiff has many rights as a citizen and as a high school student, but he has no vested right in "eligibility" as dealt with at such great length in the rules of the Oklahoma High School Athletic Association.

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[4] State High School Athletic Association et al. v. Supreme Court State of Indiana, no. 169.

"There is nothing unlawful or evil in any of those rules nor in the provision resting final authority in the Board of Control."[5]

The effect of this decision was to add weight to the court findings in the Ohio case, mentioned earlier, establishing the right of a voluntary organization to make its regulations binding upon all members.

Still another case dealing with the matter is the case of Sult v. Gilbert. The case of Sult v. Gilbert, involved the validity of the suspension of Palmetto High School by the Florida High School Athletic Association, a voluntary association. Palmetto and Sarasota High Schools, who were members of said Florida High School Athletic Association, agreed to play a football game in 1939, but later Palmetto severed relations with Sarasota and there was a dispute as to whether the contract included the 1939 game. The executive secretary of the Florida High School Athletic Association decided against Plametto who, without appealing the decision within the association as provided by the association's constitution, filed suit in circuit court, resulting again in a decision against Palmetto. A suspension of Palmetto for one year was ordered by the Florida High School Athletic Association for the violation of its constitution. Plametto sued for an injunction against its suspension which was denied and the denial was affirmed on appeal.

The Supreme Court of Florida stated that the courts will

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[5] Morrison et al. v. Roberts (1938), 183 Okla. 359, 82 Pac. 2d 1023.

not interfere with the internal affairs of a voluntary association. The members must agree to the constitution and by-laws of a voluntary association when they join.

> "The law is settled in this State that the courts will not take congnizance of a case arising from the expulsion of a member of a voluntary Association unless some civil or contractual right is involved."
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> It was purely an internal affair of the Association and there is no showing of mistake, fraud, collusion or arbitrariness in the proceedings.
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> The law is well settled that the constitution and by-laws of a voluntary Association when subscribed or assented to by the members becomes a contract between each member and the Association and if they so provide a member may be expelled for insubordination to the Association."[6]

It is clear in this decision that the courts will not interfere with the decisions of an voluntary association.

The refusual of the courts to intervene in the legitimate dealings of voluntary associations is again brought out in the action of the State of North Dakota v. North Central Association of Colleges and Secondary Schools. In the case of State of North Dakota v. North Central Association of Colleges and Secondary Schools, an injunction suit was brought against the Association, a voluntary association, to enjoin the suspension of two colleges from the accredited list.

Because the offices of the North Central Association of Colleges and Secondary Schools are in Chicago the case was heard

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[6]Sult v. Gilbert, et al. (1941), 148 Fla. 31, 3 So. 2d 729.

in Illinois. The Illinois court denied the injunction stating, the courts will not interfere with the internal affairs of a voluntary association.

> "In churches, lodges and all other like voluntary associations each person, on becoming a member, either by express stipulation or by implication, agrees to abide by all rules and regulations adopted by the organization, and courts will not interfere to control the enforcement of by-laws of such associations but will leave them free to enforce their own rules and regulations by such means and with such penalties as they may see proper to adopt for their own government."[7]

Again the courts have stated they will not interfere with the internal affairs of a voluntary association.

Another case which had minor bearing of the status of interscholastic athletics was an Oregon case in which the courts refused to recognize lack of competence in coaching teams for interscholastic competition as grounds for dismissal from a teaching position on the grounds of incompetence.

Rockwell v. School District No. 1. The distinction between curricular and extracurricular activities, was pointed out in the case of Rockwell v. School District No. 1 in Oregon, wherein a teacher employed for ten months on a written contract as a high school and athletic instructor was discharged one month later because of his inability to coach the football team. In his suit to collect his salary the court rejected the defense

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[7]State of North Dakota v. North Central Assn., (1938), 23 F. Supp. 694, 99 F. 2d 697.

of the school district that he was unable to coach a high school football team, saying there was no authority to expend public money for the instruction or coaching of high school football teams, nor of making the qualifications of a teacher in the public schools dependent on his ability as a coach of a football team. The court further stated that under the Oregon statutes school boards were authorized to employ teachers competent to give physical education instruction and require such instruction, but that physical training was not coaching high school boys in the art of playing football.

> "The physical training contemplated by the statute is a course of training for all of the pupils of a school and not for the training of a few. Physical training is required to be given in order to better the physical condition and welfare of all pupils, and under the statute, such physical training shall conform to that prescribed by the State Superintendent of Public Instruction. This prescribed course does not include the playing of football, nor the coaching of pupils for competition in football playing with other teams. The defense pleaded, therefore, is insufficient to justify plaintiff's discharge."[8]

The court ruled that physical training was not the art of playing football for competition with other schools.

Of all of the court cases reviewed in this study, however, there is none which more clearly portrays the present legal status of state athletic associations and the peculiar legal advantages they enjoy as voluntary associations than the Ohio case involving

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[8] Rockwell v. School District No. 1 (1923), 109 Ore. 430, 220 Pac. 142.

The unethical recruitment of football players.

State of Ohio v. Ohio High School Athletic Association. This case involved the right of a state high school athletic association to displine a member school that did not abide by the association's rules. In August, 1961, the Superintendent of Schools of Portsmouth, Ohio, reported to the Commissioner of the Ohio State Athletic Association, complaining that Canton McKinley High School stole one of their football players. The Commissioner, as was his duty, investigated the situation and reported to the Board of Control. As a result, it was found that two boys who were members of the Portsmouth Football team had moved to Canton, Ohio, immediately before the 1961 football season. The board interpreted this as a violation of one of its rules, which provided that the use of undue influence by any person connected or not connected with the school to secure or retain a student or the parents of a student shall cause the student to be ineligible and shall jeopardize the standing of the school in the association. In the light of its finding, the board suspended Canton McKinley High School from participating in interscholastic football for the school year 1962-63. In addition, it declared the two boys ineligible for interscholastic athletics at the Canton McKinley High School. When the board's ruling was questioned, the Commissioner granted a rehearing which was held in November, 1961, and at which time the Board reaffirmed the action it had taken previously.

Shortly thereafter an action was brought in the Common Pleas Court of Stark County by the prosecuting attorney of that county, and the court issued a temporary injunction indoining and restraining a number of school boards in Ohio, all of whom were members of the association, and nine individuals who were officers or members of the Board of Control, from enforcing the order which the Board of Control had handed down. It directed them to take no action that might result in impairing of interfering with the contractual obligations of the Canton McKinley High School with respect to interscholastic football. This action was then brought by the association for the purpose of obtaining a writ of prohibition directed to the Common Pleas Court of Stark County to cease the enforcement of its restraining order.

The main question before the court, in actuality, was whether a board of education had the discretionary authority to permit a high school under its direction to become a member of the state high school association. There was no specific statute governing this matter, on the ground that it could not substitute its judgment for that of the board of education.

In summary the Supreme Court of Ohio stated:

1. Courts will not interfere with the action of voluntary associations unless their is collusion or fraud.

2. The respondents complaint is that the penalty imposed by the association is too harsh. The court said that there is no indication that in any way was the action arbitrary.

3. The court rejected the contention made by the respondents and suggested by the Attorney General that government regulation of interscholastic athletics in the public schools is desirable and a virtual necessity. It further argued that the associations have done an excellent task in the supervision and control of interscholastic athletics.

4. Membership in an association carries with it the agreement that Canton McKinley High School as well as any other member school, will conduct its athletics in accordance with the constitution, rules, by-laws, interpretations and decisions of the association.

> "It does order Canton McKinley High School not to carry out its contract to play football with certain other high schools in the fall of 1962. However, these contracts were made by Canton McKinley School with full Knowledge of and subject to the rules of the association, of which it was a member."
>
> "Under these circumstances, a court has no jurisdiction to enjoin the association or its members from enforcing this lawfully imposed penalty."[9]

The preceding court cases are illustrative of the development of high school associations legal status and clearly affirm the courts' unwillingness to interfere with their operation.

A summary, conclusions, and recommendations are contained in Chapter IV.

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[9]State of Ohio v. Ohio High School Athletic Association, case no. 37342.

CHAPTER IV

SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS

As the activities which the high school association supervise have grown in scope and in number, the associations have been called upon in increasing frequency to rule on controversies among member schools. This policy-setting rule has resulted in a gradual increase in authority of these agencies.

SUMMARY

1. The activities which high school associations set to regulate existed before the institution of the associations.

2. The program of activities which now concern high school associations passed through successive periods of:

   a. opposition

   b. toleration

   c. cooperation

3. The purpose of state high school associations is primarily to promote and control high school inter-scholastic activities.

4. High school associations are generally of three types:

   a. State associations affiliated with state department of education.

   b. University-directed state associations.

   c. Voluntary state associations.

5. While the line of legal authority in state department affiliated associations and university-affiliated associations is relatively clear, the actual authority of voluntary state associations is not as plainly deliniated.

6. Voluntary state associations have gained their present legal status largely through a succession of court decisions affirming the right of such associations to operate without court interference as long as their actions are proper and reasonable.

CONCLUSIONS

The present legal status of the voluntary state associations has literally evolved out of a succession of court decisions in the various states. The general precedent which has come out of these decisions is that since these associations are voluntary organizations, the courts will view them as they do lodges, fraternal groups and other voluntary organizations, will affirm their right to function and will not interfer with their operation as long as their actions are proper and reasonable.

RECOMMENDATIONS

The writer feels further studies should be made in the area of the legal status of high school associations. The writer also feels that all court cases involving the legal status of high school associations should be made availavle to the high school associations and their member schools.