

FROM WASHINGTON OFFICE
W. BARRY GARRETT, REGIONAL EDITOR
1628--16th St., N. W., Washington, 9, D. C.
Telephone: ADams 2-1760

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Baptist Leader Hits Church-State Snafu

WASHINGTON (BP)-- Theological education is beyond the proper scope of Government programming, according to a Baptist spokesman here.

C. Emanuel Carlson, executive director of the Baptist Joint Committee on Public Affairs, testified before the Senate subcommittee on education, of which Sen. Wayne Morse (D., Ore.) is chairman. Hearings were held on the extension and amendment of the National Defense Education Act.

Carlson's testimony supported a strong program of public education, and asked for elimination of two provisions in the NDEA which raise serious church-state problems.

According to Carlson, the Baptist Joint Committee on Public Affairs voted to request elimination of those parts of the NDEA which allow theological and religion graduate fellowships and provide Federal loans for private schools for equipment to teach science, mathematics and foreign languages.

Under the NDEA graduate fellowship program there have been three fellowships in Biblical studies granted to students in Emory University, Atlanta, Ga., a Methodist school, and five fellowships to students in Union Theological Seminary, New York, N.Y.

Carlson told the Senate committee that "when a 'National Defense Education Act' undertakes to train theologians or specialists in the church-related disciplines for the sake of national security, a confusion develops both as to the ultimate commitments and the appropriate means."

In opposing the loan program to private schools in the NDEA Carlson pointed out that this was one of the lesser used portions of the Act, that an extension of such loans to include classroom construction would further erode proper church-state relations, and that if the Government is to be engaged in the loan business with private schools it should be in the context of bona fide credit rather than aid.

A continued proliferation of loan programs to church institutions will not be good for "the future of our principles of freedom and inter-faith goodwill," Carlson indicated. Also the elimination of such loans "would largely avoid the complications of religious interest blocs and religious pressures for forgiveness or interest rate adjustments."

The Baptist Joint Committee on Public Affairs is not primarily concerned with the method of financing public education, Carlson concluded. But, he added, "we are concerned that adequate educational facilities be freely available to all the people without religious differentiation and under the administration of freely elected public officials."

State Education Leaders
Against Parochial Aid

WASHINGTON (BP)-- Top education administrators in the States are opposed to Federal aid to parochial schools, according to testimony prepared for hearings before a Senate subcommittee on education.

Edgar Fuller, executive secretary of the Council of Chief State School Officers, testified on the extension and amendment of the National Defense Education Act before the subcommittee of which Sen. Wayne Morse (D., Ore.) is chairman.

The Council is composed of the State Superintendents and State Commissioners of Education of the 50 states and the Chief School Officers of Puerto Rico, the Virgin Islands, the Canal Zone, Guam and American Samoa.

One of the amendments that may be proposed for the National Defense Education Act is to expand Title III, which provides loans to private schools for equipment to teach science, mathematics and foreign languages. The new proposal would include classroom construction for teaching these subjects.

The basic principle espoused by the Council of State educators is "that public funds should be used for public schools and colleges and that private funds should finance private schools and colleges."

The Council's testimony said that their policy "is based on the conviction that it describes the best course of action for the welfare of the Nation, for religious denominations, and for the public schools."

Fuller said that most of the Chief State School Officers favor restriction of Federal funds for elementary and secondary education to the public schools because:

- (1) Federal funds for private schools require the exercise of Federal discretion in a way that easily results in Federal controls or Federal favors;
- (2) Federal funds for private schools would be detrimental to public education in many areas of the country by causing a proliferation of new private schools by splinter groups of various kinds and by Federal financing of a very limited number of large church-controlled systems of religious schools openly competing with public schools; and
- (3) Federal funds for private schools would make the Federal Government more closely associated with sectarian local schools than with public local schools; more closely associated perhaps than is good for either public or private schools.

Although the testimony of the Council on private schools was not discussed before the Senate subcommittee, it was included as part of the permanent records of the hearings on the National Defense Education Act.

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Lutherans Oppose Aid
To Parochial Schools

(5-16-61)

WASHINGTON (BP)-- A Lutheran spokesman appealed for a strong public school system for the Nation, and opposed Federal aid to parochial schools.

Robert E. Van Deusen, Washington Secretary of the Division of Public Relations of the National Lutheran Council, testified before the Senate subcommittee on education on extension and amendment of the National Defense Education Act.

Van Deusen opposed proposals for construction loans to parochial schools "whatever the legislative context in which it is considered."

Various methods have been proposed to attach such loans to existing legislation or to expand current programs.

The Lutheran spokesman said, "We feel that the principle involved is a basic one, and deserves to be discussed and decided on its own merits rather than being attached to another bill in which its importance for the future of American education is obscured by other considerations."

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The National Lutheran Council is a cooperative agency of six Lutheran bodies having a total membership of over five million. These bodies are:

The United Lutheran Church in America, The American Lutheran Church, The Augustana Lutheran Church, The Lutheran Free Church, The Finnish Evangelical Lutheran Church, and The American Evangelical Lutheran Church.

The Lutheran churches have the largest Protestant parochial school system in the United States. Their position has consistently been opposition to Federal aid to parochial schools.

In his testimony before the Senate committee Van Deusen made several observations. They are summarized as follows:

- (1) The traditional American pattern of elementary and secondary education is that of public support of public schools.
- (2) Is it in the public interest to change church-related schools into quasi-public schools by supporting them with tax funds?
- (3) The main question (Should church-related schools receive public aid?) should not be avoided by breaking the problem down into minor considerations, such as loans or grants, "across the board" or for special purposes, in a separate bill or buried in the National Defense Education Act.
- (4) Each new proposal for additional public aids for private schools is but another step toward the ultimate Roman Catholic objective of substantial public support for its schools.
- (5) The time to stop and look at the basic trend is now.
- (6) Emergency "national defense" legislation should not be used as an umbrella under which a basic long-range change in national educational policy would take place.
- (7) Van Deusen expressed the hope that the insistence of the Roman Catholic Church will not result in "a form of anti-clericalism, from which our country has been happily free."

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Catholic Schools Ask
Further Aid in NDEA

(5-16-61)

WASHINGTON (BP)-- A Roman Catholic spokesman has asked for additional benefits for Catholic parochial schools in the National Defense Education Act.

William H. Conley, educational assistant to the president of Marquette University, Milwaukee, Wis., and editor of the Catholic School Journal, appeared before the Senate subcommittee on education at hearings on the National Defense Education Act.

Expressing general approval of the NDEA and its operation the past two years, Conley asked for consideration of Roman Catholic parochial schools on three points-- forgiveness of loans to students who may teach in private schools, a stipend of \$75 a week for teachers from private schools attending institutes on counseling and guidance training, and a similar stipend for private school teachers attending institutes on language.

The NDEA as now written provides a partial forgiveness of loans to students who become teachers in public schools.

Conley claimed that this subsidy for public school teachers is discriminatory against private school teachers. He asked for the same subsidy for the private schools.

The Catholic spokesman also claimed that such a practice discriminated against Catholic parents because of the limitation imposed on private schools by the shortage of teachers.

The practice also imposes a teacher recruitment problem on the Catholic schools, Conley said.

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The NDEA provides for a stipend of \$75 a week for teachers in public schools who attend counseling and guidance training institutes or who attend language institutes and foreign study language institutes. Private school teachers are excluded from the stipend but are not excluded from the institutes.

In his argument for further public aid to parochial schools Conley ignored any considerations of separation of church and state, but based his contention on the theory that the parochial schools constitute an essential part of the "multiple school system" of the Nation.

He pointed out that 14.9 per cent of all children in elementary schools are in Catholic schools and that 9.3 per cent of all high school pupils are in Catholic high schools.

Conley concluded, "Legislation which fails to recognize one out of seven children should be revised. The education of these children is as important to national defense as is the education of those in public schools."

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FOAU, Senate Leader
Clash On School Aid

(5-16-61)

WASHINGTON (BP)-- A Senate leader and a spokesman for Protestants and Other Americans United for Separation of Church and State (FOAU) tangled over a suggestion for a change in the United States Constitution.

C. Stanley Lowell, associate director of FOAU, in testimony before the Senate subcommittee on education, challenged the Roman Catholic bishops to repeal the first amendment and substitute a new one in order to legislate their demands for grants to parochial schools.

Immediately Sen. Wayne Morse (D., Ore.), chairman of the subcommittee, challenged Lowell by saying that he was not in favor of running to the country for a referendum to change the Constitution on questions that have not been decided by the Supreme Court.

Morse's opinion is that final Court decisions concerning the constitutionality of Federal aids to church-related schools have not been made. Lowell contends that the decisions in the Everson and McCollum cases have decided these issues.

Asserting that there is "a direct and forthright way to resolve the question of constitutionality" of Federal aids to church schools, the FOAU spokesman said, "we challenge the Roman Catholic bishops to take the direct approach. Let them put their demands before the American people in an honest plebiscite. It is our opinion that they would be overwhelmingly defeated."

"The first amendment could be repealed," Lowell continued, "and a new amendment could be sought which would specifically empower Congress to legislate in this area of financial aid to church schools."

This is such an obvious way to resolve the difficulty, Lowell said, "that we confess surprise that to our knowledge it has never been proposed in these discussions."

The FOAU testimony opposed the continuation or extension of the NDEA program of loans to private schools for equipment for teaching science, mathematics and foreign language. Graduate fellowships for theological and religious studies were also opposed.

A unique proposal for the administration of the National Defense fellowship program was advanced by FOAU. Under this program the fellowships are for \$2000 a year plus \$2500 a year to the institution chosen by the student.

In cases where the student chooses a church-related college, the FOAU spokesman proposed that the \$2500 cost for educating him be paid directly to the student and he could then pay it to the school. This would eliminate the problem of direct grants to church colleges, according to Lowell.

Morse again disagreed and said that this would not make any substantive change in the problem, that it was merely a procedural matter.

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Court Action Upholds
Vermont School Decision

Special to Baptist Press

WASHINGTON--It is unconstitutional for a public school district to pay tuition for students to attend parochial high schools or religious academies.

The United States Supreme Court has refused to review a decision by the Vermont State Supreme Court holding that such payments, made by the South Burlington school district, violated the U. S. Constitution.

The school district does not maintain a high school of its own, but pays tuition for its students to attend public high schools in nearby Burlington. Pursuant to a 1956 amendment to the Vermont school code, which provided that it could pay tuition for students attending any "approved school," it began sending students to a Catholic diocesan high school in Burlington and Mount St. Mary's Academy, a convent school for girls.

C. Raymond Swart, and a group of taxpayers began a suit, charging violation of separation of church and state, and were granted an injunction. The Vermont Supreme Court upheld the injunction.

Paul M. Butler, former chairman of the Democratic national committee, serving as attorney for a group of Catholic parents, pointed to the significance of the present controversy over Federal aid to parochial schools, in asking the Supreme Court to review the Vermont decision.

"It would seem manifest," he declared in his brief, "that a decision by this Court not to review the court below would be taken by President Kennedy and perhaps by a majority of members of Congress as an indication that the Vermont Supreme Court construed the first amendment to the Constitution correctly and in a manner which the President believes that the Court already has done."

The Supreme Court may have taken note of Butler's argument, for it ruled unusually quickly on his petition. Without comment--and apparently unanimously--it ruled simply that "the petition for writ of certiorari (certification for review) is denied."

The case takes on unusual significance because the Vermont court ruled out the State's law on the basis of its conflict with the U. S. Constitution, not the Vermont State constitution.

The court of chancery in Burlington which first heard the case took note of the fact that there were no guiding precedents under the Vermont constitution on this question, but that the U. S. Supreme Court had made pertinent comments in a number of its decisions.

The first amendment to the Constitution prohibits only Congress from making laws "respecting an establishment of religion" but the 14th amendment, adopted after the Civil War, has been held with respect to "due process of law" and "equal protection of the laws" to make applicable to the States all of the prohibitions of the Bill of Rights.

Accordingly, Vermont's Supreme Court looked at its State law solely from the standpoint of conflict with the Federal Constitution.

That portion of its decision which will now be regarded as a ruling precedent by legal scholars is an eloquent statement of principle. Speaking on the question of public support of Catholic schools, the court said:

"The Roman Catholic Church is the source of their control and the principal source of their support. This combination of factors renders the service of the church and its ministry inseparable from its educational function.

"That this is a high and dedicated undertaking is not to be questioned, and deserves the respect of all creeds. Yet, however worthy the object the first amendment commands that the States shall not participate.

"Equitable considerations, however compelling, cannot override existing constitutional barriers. Legislators and courts alike cannot deviate from the fundamental law."

"We conclude," the Vermont court declared, "that the defendants (South Burlington school board) while acting within the provisions of State statute, have exceeded the limits of the United States Constitution."

Said Butler in his petition for a review, "surely this Court, regardless of the respect which it holds for decisions of State tribunals...will not allow the Vermont Supreme Court to have the final say on a constitutional issue that is of importance to all 50 States...."

However, the law firm of Vermont's youthful Gov. F. Ray Keyser, Jr., (who was original attorney for the protesting taxpayers) in its responding brief said that the Supreme Court had already ruled on the pertinent questions and that the Vermont court had correctly interpreted these precedents.

The U.S. Supreme Court agreed, dismissed the petition for review--and let Vermont have the last word.