

THE LISTENING POST

The Biggest Issue in Federal Aid to Education

THE BITTER ISSUE of church and state in the 81st Congress overshadows federal aid for general education. Whatever arguments there may be in behalf of federal funds for public education, they all fade into insignificance when compared with the proposals which would also permit such funds to be used in aid of parochial school services.

It is amazing that countless thousands of Americans who believe in federal aid for education are unaware that current proposals for federal aid for general education now before Congress would open the door for the use of federal aid in support of school services in parochial schools; that the present subtle provision of what is commonly known as Section 6 of such current bills on this subject will play into the hands of proponents of federal aid for parochial schools; and that by reason of such provision the proponents of parochial schools have joined in support of the federal aid for education proposal.

Are you one of the countless thousands who say, "I am in favor of federal aid for *public schools only*" or who say, "If I thought that the current proposal for federal aid for education would open the door for aid to parochial schools I certainly would not be in favor of it?" If this is the way you feel, you owe it to yourself to examine and reflect upon the involvements in S. 246 and H.R. 400 now before the current Congress—particularly Section 6. The Section, on first thought, may sound simple enough. Unfortunately, it is subtle enough to trick millions who believe that public school funds should be used in aid of *public schools only*. This Section expressly allows federal funds "for any current expenditures for elementary or secondary school purposes for which educational revenues derived from state or local sources may legally and constitutionally be expended in such state." Already in approximately twenty states, state or local

school funds are being used to provide transportation, books, or tuition for children attending private schools.

The principal claims which have been resorted to justify the wording of this Section are: (1) that federal funds for education should be free from federal control; (2) that federal funds should be spent in accordance with state constitutions and laws. There can be no disagreement on these. However, they are too general and utterly inadequate to meet specific constitutional questions arising in the states based upon denial of privilege or rights *on account of religion*, and for this reason Section 6 does not satisfactorily meet the issue of separation of church and state. Any question arising in the states wherein it is claimed that a certain right is being denied on account of religion may not ultimately be determined by state authorities. In questions involving abridgment of rights on account of *religion or creed* the state is not the final arbiter. Hence, the federal proposal for local or state option is legislatively unsound and ignores recent judicial extension of the meaning of the First and Fourteenth Amendment of the federal Constitution. It proposes to transfer a vital educational issue from the legislative to the judicial branch of the government.

To those who have given much thought to the educational, religious, and constitutional involvements in the current legislative proposals for federal aid, it becomes obvious that a constitutional issue in the state courts *touching upon religion* is not finally settled in the state; that Congress cannot successfully return that type of issue back to the states. If Congress does not say what the law is with respect to the use of federal funds in connection with parochial schools it will simply temporarily refer it to the states but only for so long as it takes to bring a test in the courts. Since it involves a *federal ques-*

tion, it will soon rebound to the United States Supreme Court. Hence, the claim for local or state option with respect to religious issues fades out of the picture. They simply result in federal determination and control by the Supreme Court. In this connection it is pertinent to bear in mind that the Supreme Court has sustained the use of public funds in aid of services in connection with parochial schools *in all the cases which have been submitted where that question was in issue*, namely:

Reuben Quick Bear v. Leupp, Commissioner of Indian Affairs. 210 U. S. 50 (1908) Sustained the use of public funds in paying tuition of Indians attending a private Catholic school.

Cochran v. Louisiana State Board of Education. 281 U. S. 370, 50 S. Ct. 335, 74 L. Ed. 913 (1930) Sustained the use of public funds to furnish textbooks for use in private Catholic schools.

Everson v. Board of Education of the Township of Ewing. 67 S. Ct. 504. (Decided February 10, 1947) Sus-

tained the use of public funds to pay for transportation of children attending a private Catholic school.

The Supreme Court has accepted the theory usually held by proponents of parochial schools that the aid is for the child and not the school. Obviously, if this philosophy is to be followed to its logical conclusion it would lead to public aid to all educational services in parochial schools. It should be remembered that public schools, open to all regardless of creed, are for the benefit of the child and not the schools. Why should tax payers be forced to maintain two systems of education—a nonsectarian public school system open to all *regardless of creed*, and a private sectarian school system?

If the present bill is passed without modification by the time this goes to press, public school people over the nation will be faced with another grave problem. It will probably be greater than the achievement of the Federal Aid Bill itself. It will involve the continued existence of public education throughout the nation.

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