



# REPORT FROM THE CAPITAL

★ RELIGIOUS LIBERTY ★ BAPTIST PRINCIPLES  
★ PUBLIC AFFAIRS

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## FEDERAL ASSISTANCE FOR PAROCHIAL SCHOOLS COMES INTO SHARP FOCUS IN 85TH CONGRESS

Federal aid to parochial schools had a close call in the Senate, Feb. 4, with the passage of the \$1,834 million aid to education bill. An amendment to authorize \$75 million annually for two years in loans to nonprofit private schools for construction purposes was defeated by a narrow margin of 49 to 37.

Although the House has not yet considered its pending education bill, and although it is anticipated that the Administration will veto the Senate bill, the effort to provide more federal assistance for religious schools has not ended. There remain the possibilities that an amendment to aid parochial schools may be passed by the House, that in the conference committee of the House and Senate the provision may remain in the bill, and that the President might sign the compromise measure into law if it should reach his desk.

The education bill passed by the Senate provides \$917 million a year for two years in grants to the states for use in school construction or teachers' salaries or both. The grants are to be made on the basis of need.

The Administration proposal would have provided \$600 million a year for five years for loans to needy school districts on a matching basis for construction purposes only. The Administration favors a loan

measure for construction purposes only. This plan would provide for federally guaranteed bond issues in school districts, thus spreading the Federal costs over a period of decades. Neither the Senate-passed bill nor the House-proposed bill contains the Administration's plan.

Predictions are that unless drastic changes are made in the House education bill and unless these changes are approved by the Senate-House conference committee, the President will veto any measure that is placed on his desk.

The House education bill (H. R. 22), which has been pigeonholed since last June by the Rules Committee after approval by the Education and Labor Committee, provides for \$25 per school-age child in each of four years for support of school construction and teachers' salaries. Grants would be unmatched by the States. The total cost of the program is estimated at \$4.4 billion. As it presently stands there is no proposal in the House bill to aid private or parochial schools. However, such amendments may be attempted from the floor.

### Would Shift Responsibility To States

During the debate on the Senate education bill two attempts were made to extend its benefits to private and parochial schools. The first was made by Sen. Warren G. Magnuson (D., Wash.) who introduced an amendment that would make the Federal grants to the

## WELCOME TO NEW READERS OF THE 'REPORT'

Increasingly the "Report From The Capital" is attracting wider attention and is being received with a deepening significance. The Baptist Convention of New Mexico is sending the "Report" to every pastor in the state. An inquiry from the Baptist General Conference has indicated a desire to do likewise. Churches are making this information available to their members.

Professors of political science, ethics and related subjects in Baptist institutions are asking their classes to study the "Report" as a regular part of their courses. Schools now receiving the "Report" in bundles for classes are American Baptist Theological Seminary, Nashville, Bethel Sem-

inary, St. Paul, Golden Gate Baptist Theological Seminary, Mill Valley, Calif., North American Baptist Seminary, Sioux Falls, and Northern Baptist Theological Seminary, Chicago.

This particular issue of the "Report" contains information that should be the subject of discussions in church Brotherhoods, women's organizations, pastors' conferences, class rooms, and church training groups.

Convention or college groups wishing to make the "Report" available to pastors or students are requested to make inquiry at the above address for special arrangements.

States to be used for educational purposes according to the laws and practices of the individual States. He pointed out that the educational needs vary from State to State. He said, "In many States, school construction is by far the greatest need. In other States, there is a great need for increased salaries for teachers or for more teachers. Other States have other educational needs."

In a letter to other Senators prior to the introduction of his amendment Sen. Magnuson wrote: "It is the intent of this amendment to allow each State to determine on an individual basis its own needs for improving the capacity and quality of the State educational system. While I recognize that school construction and teachers' salaries are at a critical point, it is to be remembered that a classroom without proper books and internal facilities is almost as inoperative as one that's not built."

It should be remembered that several States make provision for public transportation of parochial school pupils, provide textbooks for parochial schools, and make other benefits available.

In his remarks before the Senate in introducing his amendment, Sen. Magnuson made it clear that it was his intention to shift the responsibility for the use of public funds for private schools from the shoulders of the United States government to those of the individual States. He said that his amendment "will solve the problem in regard to the parochial or private schools, to the extent that the amendment will permit the States to do as they wish. If the States wish to do as some States now do, and if they have sufficient funds, they will be able to proceed in that way."

The Magnuson amendment was defeated.

#### Asked For Loans To Parochial Schools

The second and more strenuous effort to extend Federal help to parochial schools was made by Sen. Wayne Morse (D., Ore.) and eight other Senators. Those who co-sponsored the Morse amendment were Sens. E. L. Bartlett (D., Alaska), Dennis Chavez (D., N. M.), Joseph S. Clark (D., Pa.), Prescott Bush (R., Conn.), Thomas J. Dodd (D., Conn.), Mike Mansfield (D., Mont.), James E. Murray (D., Mont.) and Thomas E. Martin (R., Iowa).

The Morse amendment provided that an amount not to exceed \$75 million a year for two years be made available as loans to private nonprofit elementary and secondary schools for construction of school facilities. The rate of interest proposed was  $2\frac{3}{4}$  per cent per annum and the length of the loans was not to exceed 40 years.

On Feb. 1 when Sen. Morse introduced his amendment his remarks indicated the line of argument he would follow in seeking help for parochial schools. He asserted that his amendment was an extension of the principle Congress applied to the National Defense Education Act of 1958, namely, that where grants are made to public schools for improvements of their facilities, loans should be made to the private schools for the same purposes. He declared that the educational system of the United States must be considered as a whole and strengthened as a whole. Since at

least 15 per cent of the nation's elementary and secondary school children are being educated in private schools they deserve public help, the Senator said.

Morse cited previous Congressional policies as precedents that should be applied in the educational field. Specifically he named the policies of lending to private, nonprofit institutions in the Hill-Burton hospital construction program, the college housing program, and the National Defense Education Act. He then denied that such policies violate the doctrine of separation of church and state.

He furthermore used the economic argument that since the private schools are lifting a burden from the taxpayers and are rendering a public service by providing education, they should receive benefits from the public. He also used the "welfare" argument and applied it to education. He said that "we need to recognize that wherever little boys and girls are going to school it is in the interest of the American taxpayer and in the interest of preserving the human resources of America that they get a decent education." He asserted that "when the money goes to the education of our boys and girls, there is no conflict with the traditional doctrine of separation of church and state."

Later on Feb. 4 when Sen. Morse took his stand for his program of Federal help for parochial schools he revealed that he and his assistants had done extensive research in the attempt to establish his position. Although his amendment was defeated, his arguments made a significant impact and they will be cited in future efforts. It is well to review at length his discussion in order to understand the approach that is being made to secure more public funds for private religious institutions. Even though Morse did not succeed in getting his amendment passed, he did succeed in narrowing the margin of votes to a difference of only 12, which could have been changed easily by the presence of a few more Senators when the vote was taken and by a change of opinion of only a few. He also succeeded in producing a document that will have to be faced and whose arguments will have to be answered by equally convincing arguments if the traditional position of separation of church and state is to be maintained.

#### Unity Of American Educational System

Sen. Morse went to great lengths to establish the theory that private schools are an integral part of the educational system of the United States and, therefore, are entitled to public help. He bemoaned the fact that educational bills do not consider the needs of "all" American education. He then sought to establish the principle of public help for private schools because parents have the right to educate their children in schools of their own choice.

Citing the Oregon case of 1925, *Pierce v. Society of Sisters*, in which the U. S. Supreme Court found compulsory public school education to be "an invasion of the liberty established by the 14th Amendment," Morse concluded that "since that time, traditionally and juridically, every private school, attendance at which satisfies compulsory education laws of the States, is an integral part of the American educational endeavor."

Another court case used by Morse was *Cochran v. Louisiana State Board of Education* in which the court upheld the right of Louisiana to spend public funds for textbooks for private school children. Commenting on this decision, Morse said, "This tradition is one which should be preserved. We know that the public schools have serious problems...But the private schools are in serious financial straits, too, and we must not forget that fact when we deal with proposed legislation to raise and improve education standards in America."

The Senator dwelt at length on the contribution that private schools are making to American education. He posed the problem that would be created "if by some wave of the hand all the private elementary and secondary schools now in operation could be caused to disappear, so that all the youngsters attending them today were compelled to show up tomorrow morning at the public schools to continue their education." He asserted that there are more than 5 million such pupils, that private schools provide more than 170,000 classrooms, and that they are saving the taxpayers \$1,185 million a year by relieving the public schools of 15 per cent of the educational responsibility of the nation.

Morse then asserted that, even though the Supreme Court had established the right of parents to send their children to schools of their choice, we are forcing them to attend public schools if we provide public school facilities but neglect private schools that are unable to build enough buildings and make adequate provisions. Thus, according to Morse, we would "require little boys and girls to go to a public school because no private school facility is open to them."

#### Already Established Congressional Precedents

Contending that Congress has already established effective precedents, Morse paraded an impressive array of illustrations to prove that public aid for private and religious institutions is appropriate. Pointing to the school lunch program he said, "Not only has the Department of Agriculture distributed food to them, but it has also administered a very small grant program to enable schools to construct the kitchen and cafeteria space and facilities needed to feed the children in private schools as well as public schools."

The constitutionality of the college housing program has never been challenged, Morse said. This program makes government loans available for college dormitories, for church schools as well as for public schools. "Apparently," Morse jibed, "it is all right to provide a place for them to sleep, but not a place for them to learn."

The National Defense Education Act provides loans to private schools for science facilities and minor remodeling. Morse pointed out that the constitutionality of this provision has not been challenged.

The loan provision of the Hill-Burton Act came in for lengthy discussion by Sen. Morse. In 1958 Congress provided that sectarian hospitals that refused to accept government grants could receive the same funds as loans. Morse pointed out that "this change

was made at the request principally of the Baptist hospitals."

"The Baptists took the position that they could not accept grant money," Morse continued. "Therefore, I now take the Senate through a very interesting bit of history as to what happened in the administration of the Hill-Burton Act." He pointed out that several members of Congress, affiliated with the Baptist denomination, reported that "grants for Baptist hospitals conflicted with their traditions, but that a loan program would not." He also quoted at length from testimony given by Dr. John H. Buchanan, representing the Alabama Baptist hospitals, given before the House Committee on Interstate and Foreign Commerce in 1956, in which Buchanan contended in favor of a loan program. Morse then said:

"It is interesting to note here that no question was raised as to the constitutionality of extending or accepting a grant for hospital construction on the part of a church organization.

"But those groups which had their own objections to the grants, came before Congress asking for a loan program so as to remove their objection to accepting grants.

"Let me say, Mr. President, that neither has any question of constitutionality with respect to the loan program been raised in connection with hospitals. Now let us get this premise of my argument clearly understood. There is no difference as a matter of law whether we lend money for use by hospitals or lend it for use by schools....

"What Congress did in connection with the Hill-Burton program for meeting the health needs of the American people now needs to be done in regard to our education needs."

#### Court Rulings And The First Amendment

Morse turned from what Congress has done for church schools and hospitals in Federal programs of assistance to the general welfare, and discussed what the Supreme Court has said on the subject. He pointed out that there are no Federal judicial precedents on the exact points of Federal grants or loans, but he used other cases to bolster his position.

In 1946 in the *Everson v. Board of Education* case the Supreme Court ruled that "the granting of 'aid' could not be construed so narrowly as to cut off welfare services for children attending private schools, even if they are church-affiliated schools."

Morse referred to the 1948 case of *McCullum v. Board of Education* which ruled that released time classes in public school buildings violated separation of church and state. He said this case was not pertinent to the proposed loan program for private schools.

He cited the 1952 case of *Zorach v. Clauson*, another released time case, to illustrate that although church and state must be separate they must not be hostile.

Morse then took up the history of the First Amendment and pointed out that historically the point of

the amendment was to prohibit the establishment of a national church. He then concluded that it was the duty of the Federal government to provide for the general welfare of the people, but that this did not mean that it was to be done only through public agencies. His conclusion was that the loan proposal for private schools was not to be construed as financing of religious groups but that it was to be a contribution toward the general welfare.

#### The Dilemma Of The Loan Program

The Roman Catholic Church had a clear cut position on the proposal for loans to parochial schools. The position of the Catholic educators was that if any federal aid to education legislation was to be enacted it must include loans to parochial schools. If this provision were not included, they were to oppose the whole bill, even if it meant the defeat of the whole federal aid to education program.

Other groups were equally positive on the other side. The legislative committee of the Unitarian Fellowship for Social Justice passed a forthright resolution on the Morse amendment. It is as follows:

"The Morse amendment to the school construction bill violates the spirit of the Constitution because it would use the Government's financial facilities to aid religious schools at the level of compulsory school attendance. The Government has never before gone so far in the direction of aid to parochial schools, and we believe that this creates a dangerous precedent. Loans can easily lead to grants, and soon the taxpayers may be asked to pay all the expenses of sectarian schools.

"More than 90 per cent of the pupils attending such schools in America are in Catholic parochial schools. Since the Catholic bishops want full public support for such schools, any move in that direction should be resisted by citizens who believe in the American tradition of church-state separation.

"We also believe that this amendment is dangerous because it may provide an opening wedge for segregationists to obtain public money for private, segregated schools in the South. If Southern states abolish their public school systems, they might secure some Federal loans for private schools through this amendment.

"Coming at this moment, this raises a divisive church-state issue and a divisive race issue. We hope that you and your associates will be persuaded to withdraw it in the name of civil rights and the separation of church and state."

Although a complete round-up has not been made, we are aware of opposition to the Morse amendment by the National Council of Churches, the AFL-CIO, the American Jewish Congress, B'nai B'rith, and Protestants and Other Americans United for Separation of Church and State (P.O.A.U.).

Robert E. Van Deusen, Washington representative of the National Lutheran Council, writing about the proposed amendment for loans for parochial schools said:

"This is not as clear-cut a violation of separation of church and state as outright grants to parochial schools would be. In fact, the pattern of loans to church-connected colleges and hospitals is already widely accepted. But extending this to the elementary school level may cause some re-thinking of the whole principle of government loans to church groups for capital investment purposes."

C. Emanuel Carlson, executive director of the Baptist Joint Committee on Public Affairs says:

"This office views the prospects of government loans to elementary and secondary sectarian schools as outright aid rather than normal credit."

Carlson continues, "Loans to dormitory projects on sectarian college campuses have already blurred the clear lines of the independence of the churches and their agencies. However, these are loans to self-amortizing business projects and do not represent the same degree of compromise of church-state relations as is proposed by the Morse amendment.

"Educational projects of many varieties are planned by all churches as a vital part of their ministries. The currently proposed government involvement by loans is such as to be obviously a form of aid. Inter-church rivalry and friction, coerced religious participation of the taxpayer, the weakening of the nation's system of public instruction, and the development of religious lobbies focused on advantages in interest rates, etc., are some of the unavoidable and undesirable fruits of the proposal."

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