



REPORT FROM THE CAPITAL

★ RELIGIOUS LIBERTY ★ BAPTIST PRINCIPLES

★ PUBLIC AFFAIRS

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BAPTIST JOINT COMMITTEE APPROVES POSITION PAPER ON FRINGE BENEFITS IN AID TO EDUCATION

At the March meeting of the Baptist Joint Committee on Public Affairs a position paper on fringe benefits in aid to education was approved. The pronouncement is in harmony with previously established positions on religious liberty taken by various Baptist conventions in the United States.

The current proposals before Congress relating to Federal aid to education, along with the firm position of the Kennedy Administration for separation of church and state and the efforts of the Roman Catholic bishops for Federal aid for parochial schools, gave rise to the urgency for the Baptist pronouncement.

The position paper was the basis of testimony by C. Emanuel Carlson, executive director of the Baptist Joint Committee on Public Affairs, at hearings before the education subcommittees of both the House of Representatives and the Senate. The complete text of the paper is as follows:

Position Paper on Fringe Benefits in Aid to Education

The Baptist Joint Committee on Public Affairs has been pleased by observing a rising public discussion on the proper separation of church and state. Since these issues are inextricably interwoven with the continuation of freedom in America and with its extension in the world at large, the Joint Committee urges Baptists of all fellowships to give themselves to studies and discussions, and to a careful stewardship of their civic influence.

The attention given to the several issues by the presidential candidates was a significant contribution to this public discussion, enabling the American voters to have a share in the formulation of Federal administrative policy on the subject of church-state relations. In the light of the political experiences of 1960 it now seems desirable that this discussion shall also include all legislators, and state and local administrators.

The support for the constitutional principles of American government at the point of church-state relations, which President Kennedy has frequently expressed, are worthy of special commendation. Fur-

thermore, his efforts to practice these principles in a legislative program are worthy of recognition. We believe that the President speaks on this point for the great majority of the American people.

We especially commend President Kennedy for his frequently expressed support of church-state relations. We are confident that Baptists in the United States are overwhelmingly in agreement with the views of the President to the effect that aid to sectarian institutions is clearly unconstitutional. Baptists regard such aid as also unwise, undesirable, and unfavorable to our best national interests. Such aid would be a disservice to freedom and justice. It would start us on the road back into the tragic entanglement of church and state that has produced so much anguish and confusion in the course of human history. With profound gratitude we see in President Kennedy clear evidence of recognition of the basic importance of the principle of separation of church and state.

As Baptists, however, our thinking must penetrate beyond the constitutional principle to the basic principles and values which underlie the Constitution. All instruments of government are living and changing instruments, constantly being made applicable to current issues, and constantly being challenged by other values and other philosophies. A thoughtful appraisal, we believe, will bring our people to a clear awareness of the importance of separation of church and state for the best interests of freedom, and of justice, as well as for the furtherance of true religion and true education. Accordingly, we urge careful study of the following considerations and lines of thought.

I. Education for a free people is not a welfare program.

The rise of democracy in the United States, including the idea of popular sovereignty based on popular suffrage, required also popular education. The rights of the people to be literate, to have free access to information, and to develop civic competence in a free community that is rich with facilities for personal development, gave rise to the public school system. The public schools were never designed to monopolize the child's learning opportuni-

ties. Neither were they designed as pauper relief, nor as "child welfare aid." The original vision of an informed people who can think for themselves is still a valid basis of democracy and freedom.

The present day proposals to change our educational viewpoints and to treat educational funds as aids to a person are to be regretted and to be analyzed in terms of the far reaching dangers to free community life. The right of Federal and State governments to provide for special categories of needy people by grants to individuals or to families is an inappropriate basis for the provision of educational funds. The extension of the philosophy of the welfare state so as to provide an educational dole would lead to a wide variety of unfortunate results.

Under such a program the educational fragmentation of the Nation would be unavoidable. Religious, political, economic, and fraternal groups in large numbers would normally wish to advance their particular viewpoints through instructional programs. These could be organized as schools supported at least in part by "child welfare" funds contributed from the public treasury. This would be intolerable educational chaos developed in the face of enormous educational advances by means of new public systems of instruction in other parts of the world. The American national interests would demand close regulation of all educational institutions with all the unfortunate compromises of freedom which occur whenever a government directs the thought and life of a church or church institution.

We hope that the application of the welfare concept of "aid to the person" would be judged as unconstitutional by the Administration, by the law makers, and by the courts, as a device for distributing public educational funds. The fact that some special educational compensation was distributed to the returning G.I.'s at the close of the war is in no wise a constitutional precedent for current legislative suggestions. On the contrary, the current suggestions are transparent devices for trying to avoid the clear constitutional principles at Federal and State levels.

In order to avoid confusion of the constitutional principles we recommend that wherever child welfare benefits of any kind are provided from public funds for private or parochial students (e.g., (a) school lunches, (b) bus transportation, (c) health or dental services) these programs be administered in their proper departments (e.g., (a) welfare agency, (b) public transportation, (c) public health) and accordingly excluded from educational programs and budgets.

II. A clear distinction must be made between bona fide loans and various forms of sub rosa "aid."

When FHA legislators decided that the Nation's housing needs included housing for the returning G.I. students and for the teachers who would instruct them, they inadvertently started a long series of developments. The latest chapter in this development is the decision of the Roman Catholic prelates to ask their people to oppose any program of Federal aid to education unless it also provides some assistance to the schools run by the bishops.

The time has come for Congress to settle this question of "loans" on the basis of the desirable content for the Government's participation in the banking business. To insert a "loan" provision into an "education aid" bill is to confuse two separate but important public issues. If the Government involvement in our economy includes the handling of long-term loans by Federal agencies then this policy should be legislated with precision. The legislation should avoid discrimination, permitting all categories of institutions to be eligible. If it includes credit to religious institutions it should stipulate interest rates which protect the taxpayer from a coerced religious participation, and it should include appropriate guarantees against forgiveness and power manipulations in church-state relations.

Such credit legislation does not belong in a Federal-aid-to-education bill, and was properly ruled out of order when offered as an amendment during the sessions of the 86th Congress.

That the bishops of the Roman Catholic church failed to see this distinction led them to the strange inconsistency in their recent statement. Having stated their viewpoint regarding aid to the person for Roman Catholic parochial students, they used this premise as grounds for asking institutional loans. This self-contradiction indicates that they are really aiming not at bona fide "loans" but a credit relations which involve immediate or future aid. Apparently the insights of many Roman Catholic laymen, for whom Sen. Kennedy spoke in the election campaign and continues to speak for now as President of the United States, are clearer on these constitutional points than are those of the clergy who run the schools.

Should the Federal Government set up an aid program, which, even under the guise of "loans," tries to build up the private and parochial schools with taxpayers' funds, it thereby becomes party to the parochial system in competition with the public educational programs of the several states. A Federal-parochial system of schools will not help the total cause of education, but it does represent an obvious violation of separation of church and state. Furthermore, additional fragmentation is bound to come until we have what could be listed as "Federal-Baptist schools," "Federal-Methodist schools," "Federal-Roman Catholic schools," "Federal-labor schools," "Federal-Jewish schools," "Federal-white supremacy schools," and many more.

III. Churches and church operated institutions can be free only if they carry forward their programs on the basis of their own concern.

Historically, a spiritual powerlessness has come upon churches when they have become tools for the use of public policy or government. The repetition of such errors must be the more carefully guarded at those times when the churches seem most important to public interests. It is at such times that the temptation arises to undergird the churches with well intentioned motivations which are extraneous to the churches themselves, and which actually weaken the churches.

One of the more popular suggestions for increas-

ing attendance at parochial schools and the payment of tuition to them is to offer additional tax "deductions" or "credits" for parents making such payments. Apart from the Government's role in undertaking such encouragement, two major problems arise.

Presently the Internal Revenue Service views tuition payments as payments for "services rendered." They are not "contributions" to the schools. If the clear distinction between "purchase of services" and "contributions" is blurred by enactment of provisions as now proposed, the new tax reducing device should also apply to other types of service which are purchased. Surely all health expenses, many if not all of the person's recreational expenses, as well as efforts at betterment, would be eligible for consideration. If recognition were given only to those services that have strong "lobbying" power this would be clear discrimination. That a new line could be drawn which is better than the one presently applied by the Internal Revenue Code is hard to see. The total effect on the U. S. Treasury is also hard to estimate.

After a full discussion of the church-state issues included in these proposals the Baptist Religious Liberty Conference of 1960 said:

"It is our strong feeling that the Government is not concerned with the motivation or quality of the individual's stewardship. The Church of Christ has the responsibility of trying to develop this quality of an individual's stewardship. But we do deplore the tendency in some quarters to use the deduction idea in order to collect funds for church purposes. We believe this is a part of the secularization process going on in America today."

Furthermore, the Conference concluded, that

"...we believe that no tax deduction should be granted for tuition for education, and that no Government grants should be made to privately owned, operated, or sponsored schools. Further, we believe that religious training or private education is a personal responsibility and prerogative."

SURVEY OF EDUCATIONAL DEBATE REVEALS INTERESTING CHURCH-STATE DEVELOPMENTS

At the time of this writing no education bill has been reported out of committee either in the Senate or the House of Representatives. However, many events have taken place and there has been much national discussion on both Federal aid to education and possible public aid to parochial schools. This is a good time to survey the scene.

Shortly after the election President-elect Kennedy appointed an educational task force to study the Nation's educational needs and to recommend legislation to meet those needs. The conclusion of this task force was that Federal aid to education is necessary if American education is to measure up to the demands of the modern world.

It was significant that the recommendations were for aid to public schools only. When President

Kennedy sent his message on education to Congress, he likewise did not include parochial schools in his proposals.

Immediately there was reaction from the parochialists, because for the first time it appeared that an education bill had a chance of passage, and their schools were not included. The Roman Catholic bishops announced that if parochial schools were not included in an education bill, at least for long term, low interest loans, this would constitute discrimination and they would have no choice but to oppose such discrimination.

According to newspaper reports the White House bristled with anger to think that the bishops would put the first Roman Catholic President on the spot in such a way in less than two months after he was in office. He was even more angry to think that the bishops would adopt the attitude that if they could not have a piece of pie they would not be willing for anyone else to have any pie. The President's educational program was in jeopardy at the hands of his Roman Catholic bishops. His campaign position was being put to the test right at the beginning of his administration.

When it became apparent that the pressure from this hierarchy on the President was so intense, many people wondered if he would keep his campaign promises on separation of church and state and opposition to public aid to parochial schools. Sources close to the President have given assurance that he intends to stand firm. Every public act and every public utterance of the President that is related to this problem indicated that he has no intention of backing down. We can hope that the political climate of the Nation will continue to be such that the President will hold fast to his intentions.

An interesting coincidence took place on March 7 and 8. The Roman Catholics had issued their ultimatum. The President's program of education was in trouble. The position of Baptists and others on loans was unclear. On March 7, the Baptist Joint Committee on Public Affairs faced the issue of loans to parochial schools and adopted a position paper on fringe benefits in aid to education. (See the text of this paper elsewhere in this issue of the "Report.") The

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BJCEA press release was issued that evening. The next day the President in his press conference recommended that the problem of Federal aid to public schools and loans to parochial schools be considered as two separate issues.

The President knew that if parochial school aid were attached to his education bill it would almost surely spell defeat for his entire program. The BJCEA knew that if the two proposals could be separated, then loans would be considered in the light of their true nature as genuine "aid" to parochial schools. Although the BJCEA cannot take credit for the President's proposal, it is quite interesting that his proposal and theirs were so nearly synonymous and simultaneous.

Hearings in both the Senate and the House were conducted on the Administration's education proposals. The parochialists insisted that their schools should be included in any general aid to education bill. The Administration leadership made it clear that they would not favor the inclusion of parochial school aid in the education bill. However, Senators Morse and Clark and Rep. Thompson assured the hierarchy that they would do what they could to see to it that Congress would have opportunity to vote on loans for parochial schools in a separate measure. This was not satisfying to the bishops because they have insisted all the way through that their schools be considered as a part of the public educational program of the Nation.

During the hearings intense debates took place between expert constitutional lawyers as to whether or not loans to parochial schools would be constitutional. Equally expert men took opposing views on this question. The result was that the real arguments for or against aid to parochial schools boiled down to whether or not it should be acceptable public policy, whether or not it is wise for the Nation to change its educational program.

An interesting development took place during the hearings that has had the effect of crystallizing the real issues involved in the debate on loans. Sen. Morse requested Secretary Abraham Ribicoff of the Department of Health, Education and Welfare to submit an opinion of the constitutionality of loans and other aids to parochial schools. The study was made by the attorneys in the HEW department in consultation with the attorneys of the Department of Justice. The

conclusion was that across the board grants and across the board loans to parochial schools, and tuition payments for parochial school pupils were all unconstitutional. However, it was the opinion that grants or loans for special projects of public interest could be made to parochial schools.

This opinion immediately had its effect on the demands being made by the hierarchy. The Catholics began to say that if grants and loans are the same, then they are asking for grants and not for loans. Although the Catholics have not made public at this writing their new position, it is expected that when the hearings are conducted on loans to parochial schools, they will reverse themselves, will abandon their request for loans, and will make a clean break for grants for their schools.

An important matter involving a church-state problem in education developed during the discussions of aid to parochial schools, but it did not attract the public attention to any great extent. This was the Administration's proposal to aid schools of higher education. The Administration has proposed an extensive loan program for colleges as well as a scholarship program for students. Under the scholarship program not only are the students given grants to be used at the school of their choice, but the school will be given \$350 per year to assist in defraying the expenses involved in teaching him. Thus there is the double problem of loans and grants involved in the proposals for higher education. No distinction is made between public and church-related schools.

Very little opposition from church groups has been expressed to the aid to higher education proposals. This may be because attention was focused on the other problem, or because there may be a distinction between higher education and elementary and secondary education, or because precedents for aid to higher education have already been set. If the proposals for aid to higher education should become law, however, it is quite likely that the next question will be: What is the difference between public aid to a church-related college and to a church-related high school or elementary schools?

Senators Clark and Morse have introduced a bill to provide loans for parochial schools to be considered as separate legislation from the education bill. Hearings on this bill have been postponed indefinitely.

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