

## RELIGION AND FEDERAL AID TO EDUCATION

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One of the most controversial questions which has beset the advocates of federal aid for the primary and secondary schools of the country has been whether non-public schools should be aided, and if so by what procedure and to what degree. The political record of the attempts to secure federal aid for primary and secondary education indicates rather clearly the nature and extent of these difficulties. Provisions dealing with this issue have been on several occasions of sufficient weight to tip the scales of political fortune. At times the positions of important groups on this question have become so inveterate as to make a solution by compromise appear impossible.

The advocates of federal aid for primary and secondary education have frequently called attention to the crucial nature of the provisions relating to aid for non-public schools and to the strength of the opposing forces which arrayed themselves on this issue. For example, Senator Blair, whose bill restricted the use of federal funds to non-sectarian public schools, in 1890 maintained that the mounting opposition to this bill arose largely from "Jesuit" groups. He felt that his bill furnished the arena in which the supporters of public education and the advocates of the "parochial or denominational system of schools" would reach a decision which would have much to do with "the fate of the public-school system in our Republic."<sup>1</sup>

From its inception the Federal Government has indicated great interest in education, but the problem of aid to private schools did not at first emerge. Prior to 1862 the policy of the national government was not, on the whole, designed to aid any special type of education, such as agricultural. Before the adoption of the Constitution, the Ordinances of 1785 and 1787 established a policy of disposing of the public domain so as to encourage education in general. The Ordinance of 1785 reserved lot number sixteen "of every township, for the maintenance of public schools, within said township." The Ordinance of 1787 provided: "Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged." The use of public lands in part for education helped to establish schools on a firm basis in many of the western states. Congress also on a number of occasions early in the history of the country granted land to public and to private institutions.<sup>2</sup>

The creation of a national university was widely advocated during the early years

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<sup>1</sup> 21 CONG. REC. 1546 (1890).

<sup>2</sup> FEDERAL RELATIONS TO EDUCATION, REPORT OF THE NATIONAL ADVISORY COMMITTEE ON EDUCATION, pt. II, 23-29 (1931).

of the American union. Dr. Benjamin Rush of Pennsylvania, who was surgeon-general during the Revolutionary War, member of the Continental Congress, signer of the Declaration of Independence, and member of the Pennsylvania Convention which ratified the Constitution, proposed the first plan for a national university to attract widespread attention. Rush's plan, which was contained in his "Address to the People of the United States," issued in 1787, envisaged an advanced institution rather than an undergraduate college.<sup>3</sup>

At the Constitutional Convention of 1787, Charles C. Pinckney, of South Carolina, proposed a draft of the Constitution which would have specifically authorized Congress to establish a national university. James Madison also favored such a provision, but they accepted Morris's assurances that this was not necessary as the power would derive from the exclusive jurisdiction of Congress over the district in which the capital was to be located.<sup>4</sup> Washington was extremely interested in the idea of establishing a national university.<sup>5</sup> John Adams was in sympathy with the proposed national university, and on two occasions Jefferson recommended its establishment to Congress. Madison thrice asked Congress to make provision for it, and Monroe was favorable although he thought a constitutional amendment necessary. In his first address to Congress, John Quincy Adams asked for the creation of a national university.<sup>6</sup>

Advocacy of a national university was not confined to the political leaders. Joel Barlow, member of that group of intellectuals known as the Connecticut Wits, who were attempting to express the spirit of New America in literature, was interested in the project, and wrote to his friend Thomas Jefferson on September 15, 1800:

I see by the testament of General Washington that he contemplated the establishment of a national university at the federal city, as he seems to have left something to the endowment of such an institution. Would it not be possible to take advantage of the veneration which the people have for the memory and opinions of that man to carry into effect a project of this sort? If so, could you not make of it an institution of much more extensive and various utility than any thing of the kind that has hitherto existed?<sup>7</sup>

Barlow outlined his ideas in a *Prospectus of a National Institution, To Be Established in the United States*, dated January 24, 1806. He contemplated a rather elaborate university which would have included

a military and perhaps a naval academy, a school of mines, schools of civil, hydraulic, and mechanical engineering, an assortment of trade schools, medical and veterinary schools, a school for training teachers, and an unusually broad curriculum of liberal arts.<sup>8</sup>

These various proposals came to naught. As Wesley says:

By 1820 the national university had become a tradition. Having been postponed, it continued to be postponed. Inertia rather than opposition prevented, as it still prevents, anything from being accomplished.<sup>9</sup>

<sup>3</sup> EDGAR BRUCE WESLEY, PROPOSED: THE UNIVERSITY OF THE UNITED STATES 3-4 (1936).

<sup>4</sup> *Id.* at 4-5.

<sup>5</sup> *Id.* at 5-6.

<sup>6</sup> *Id.* at 8-10.

<sup>7</sup> LEON HOWARD, THE CONNECTICUT WITS 327 (1943).

<sup>8</sup> *Id.* at 328.

<sup>9</sup> WESLEY, *op. cit. supra* note 3, at 11.

The Morrill Act of 1862<sup>10</sup> marks a definite change in the policy of the Federal Government, for it was the first subsidization of a special type of education. Just as federal activity before 1862 had been in the form of aid to general education, so all permanent programs since 1862 have been for the purpose of supporting some specialized educational activity. In order to promote the establishment of "colleges for the benefit of agriculture and mechanic arts," the Morrill Act of 1862 distributed land or land script to the states to be converted into stocks yielding not less than 5 per cent of the value of such stock. Further federal support was given to the land-grant colleges by the second Morrill Act of 1890.<sup>11</sup>

The Morrill acts blazed the path for federal aid to numerous special types of education. The next action after the first Morrill Act was the passage in 1887 of the Hatch Act, which established the agricultural experiment stations

in order to aid in acquiring and diffusing among the people of the United States useful and practical information on subjects connected with agriculture, and to promote scientific investigation and experiment respecting the principles and applications of agricultural science. . . .<sup>12</sup>

Similar federal aid was given by the passage of the Smith-Lever Act in 1914 "in order to aid in diffusing among the people of the United States useful and practical information on subjects relating to agriculture and home economics. . . ."<sup>13</sup> In presenting this bill to extend federal support for a cooperative extension service, Representative Lever of South Carolina spoke of the immense amount of information which had been accumulated in the state experiment stations, agricultural colleges, and the Department of Agriculture, which if made available to the farmers and used by them "would work a complete and absolute revolution in the social, economic and financial condition of our rural population."<sup>14</sup>

The Smith-Hughes Act of 1917 extended federal activity into the field of vocational education. It authorized a total of \$7,000,000 allotted to the states as follows: \$3,000,000 for salaries of teachers, supervisors, and directors of vocational education in agriculture . . . \$3,000,000 for the salaries of teachers of trade, home economics and industrial subjects . . . and \$1,000,000 for teacher training . . .<sup>15</sup>

The George-Barden Act, passed in 1946,<sup>16</sup> authorized an addition of almost \$20,000,000 to the vocational education appropriations.

During the depression, the Federal Government gave support to education in a variety of ways. All of these depression activities, however, were secondary to the main consideration of relief, whether for the benefit of the teacher or the student.

There now exists a variety of programs of federal aid for special types of educa-

<sup>10</sup> 12 STAT. 503 (1862), 7 U. S. C. §301 (1946).

<sup>11</sup> 26 STAT. 417 (1890), 7 U. S. C. §321 (1946).

<sup>12</sup> 24 STAT. 440 (1887), 7 U. S. C. §362 (1946).

<sup>13</sup> 38 STAT. 372 (1914), 7 U. S. C. §341 (1946).

<sup>14</sup> 51 CONG. REC. 1937 (1914).

<sup>15</sup> 39 STAT. 929 (1917), 20 U. S. C. §§11-28 (1946).

<sup>16</sup> 60 STAT. 775, 20 U. S. C. §15j (1946).

tion. These include nautical education, aeronautical education, the apprentice-training program, the school-lunch program, the programs designed to facilitate the education of veterans, the training of nurses during the war period under the Bolton Act, and a variety of grants to colleges and universities for research of various types. It appears likely that in the near future federal aid to science will develop on a large scale. Possibly there will be added labor education and an expanded business extension education program.

Even a casual examination of the educational activities of the Federal Government will impress the observer with the tremendous success which the advocates of special educational activities have scored. The stimulation which the Federal Government has given to special education has brought into bold relief the failure to provide aid for general education. It is not as though there have been no serious attempts to secure such federal aid. It has had serious devotees for the last seventy years who have campaigned arduously for its adoption. The success, however, of the proponents of the educational activities in which the Federal Government is now engaged is due in large measure to the fact that they have been able to escape some of the perplexing controversies which have marked the attempts to secure aid for general primary and secondary education. One of these controversies has concerned the use of public funds for non-public schools.

After the Civil War there were many proposals for federal aid to the states for primary and secondary education. At the time many northern states had a serious problem of educating great numbers of immigrants, and the southern states were developing a public school system for the white people and for the emancipated Negroes. The problem of aid to non-public schools did not, at first, prove troublesome.

The Morrill Act of 1862 was undoubtedly influential in molding attitudes toward further government support. If the Federal Government could donate lands or the proceeds therefrom for purposes of higher education, it appeared logical to many that it could do likewise for public schools. In 1872, a bill was introduced in the House of Representatives which would have set apart as a permanent fund "for the education of the people" the net proceeds from the disposal of public lands.<sup>17</sup> Although it failed to reach the floor of the Senate, the bill passed the House of Representatives.<sup>18</sup>

In 1880, Senator Morrill introduced a bill to create a fund the interest from which would be distributed to the states and territories for education. A portion of the income from the fund was also to be used for the further endowment of the colleges established under the Act of 1862.<sup>19</sup> The bill passed the Senate on December 17, 1880, by a vote of forty-one to six.<sup>20</sup> As was to prove true of later measures, the bill never reached the floor of the House of Representatives. A motion made on direction of the Committee on Education and Labor to suspend the rules and pass the bill was refused by the House, and no further action was taken.

<sup>17</sup> 45 CONG. GLOBE, 42nd Cong., 2d Sess. 535 (1872).

<sup>19</sup> 11 CONG. REC. 147 (1880).

<sup>18</sup> *Id.* at 903.

<sup>20</sup> *Id.* at 229.

On December 6, 1881, Senator Blair introduced the first of his bills which would have provided federal aid for general education. From this time until 1890, when the prospects for the bill became hopeless, Senator Blair<sup>21</sup> fought vigorously for its passage. His speeches were extended and able, and he approached the problem of southern illiteracy from a profoundly humanitarian point of view.

The bill as originally introduced by Senator Blair provided an annual appropriation from the Treasury of \$15,000,000 for the first year; \$14,000,000 for the second year; \$13,000,000 the third year; and thereafter \$1,000,000 less each year until ten appropriations were made, when the appropriations would cease.<sup>22</sup> The bill introduced in 1884 by Senator Blair contained the same provisions, but when it passed the Senate on April 17, 1884, it provided for a total appropriation of \$77,000,000 for eight years, distributed as follows: \$7,000,000 for the first year, \$10,000,000 for the second year, \$15,000,000 for the third year, \$13,000,000 for the fourth year, \$11,000,000 for the fifth year, \$9,000,000 for the sixth year, \$7,000,000 for the seventh year, and \$5,000,000 for the eighth year. This feature was retained in all later bills.

The first Blair bill provided that the money appropriated was to be allocated to the various states and territories in proportion to the ratio of their illiterate persons to the whole number of these persons in the United States based upon the census of 1880. The 1884 bill contained similar provisions, but when passed by the Senate in that year it placed the index merely on ability to write and eliminated ability to read. The Blair bill provided that the funds appropriated would be allocated only to public schools non-sectarian in character. Various administrative and fiscal controls of the Federal Government over the states in their use of the funds were specified. Separate schools for colored and white children were not considered to be a violation of any of the provisions of the proposed legislation, but the final Blair bill did set the pattern for later provisions respecting the allotment of funds between white and colored schools when it specified that where there were separate schools, the money received should

be apportioned and paid out for the support of such white and colored schools, respectively, in the proportion that the white and colored children between the ages of ten and twenty-one years, both inclusive, in such State or Territory, and in the District of Columbia, bear to each other, as shown by the said census.<sup>23</sup>

The predecessor of the Blair bill, the Morrill bill, passed the Senate on December 17, 1880 by a vote of forty-one yeas to six nays.<sup>24</sup> From that time until 1890, when the Blair proposal was defeated in the same chamber by a vote of thirty-one to

<sup>21</sup> He entered the House of Representatives in 1875 from New Hampshire, and served as senator from 1879 to 1891.

<sup>22</sup> The various bills introduced by Senator Blair in the 1880's varied somewhat as to their provisions. The text of the first (S. 151) may be found in 17 CONG. REC. 1283 (1886). For the text of S. 398, as reported in 1884 to the 48th Congress, see *id.* at 1282-1283, and for the text of S. 398 as passed by the Senate of the 48th Congress, see *id.* at 1282. The text of S. 185 is found at 21 CONG. REC. 771-772 (1890).

<sup>23</sup> 21 CONG. REC. 772 (1890).

<sup>24</sup> See note 20 *supra*.

thirty-seven,<sup>25</sup> the support for a program of federal aid for general education gradually faded away. Senator Blair and other Republican supporters of the bill frequently maintained that the Republican party was committed to the support of the proposal. Party lines, however, were never tightly drawn in the voting on the various Blair bills, although the Republican party was given credit for sponsoring the bill, and, generally speaking, Republicans gave more support to the bill than did Democrats. The bill passed the Senate first in 1884 by a vote of thirty-three to eleven with thirty-two members absent. Twenty Republicans and thirteen Democrats voted for this bill.<sup>26</sup> The bill passed the Senate by approximately the same vote two years later; thirty-six senators voted yea and eleven nay.<sup>27</sup> The bill again passed the Senate in 1888, but this time by the considerably reduced vote of thirty-nine to twenty-nine. Many senators who had formerly supported the Blair bills now voted in opposition. If the pairs are counted, the vote would be forty-three senators for the bill and thirty-three against it.<sup>28</sup> The bill met its final defeat in 1890, in the Senate. The Morrill bill, which passed the Senate in 1880, and the Blair bills never reached the floor of the House of Representatives for consideration.

Born of ideas conceived during and immediately after Reconstruction, the movement for federal aid to education developed as a result of the energies of humanitarians of both North and South. The main inspiration came from those who felt a necessity of preparing millions of freedmen to take a place in the political society of the South. As the great issues of the Civil War began to grow dim with the passage of time, northern zeal for improving the condition of the southern Negro faded. In the South during the decade of the Blair debates there began to develop and crystallize the southern "solution" of the political status of the Negro. Gone was the early inspiration of such senators as George, Lamar, Call, and to a degree Vance, who were intent on fitting the Negro for suffrage. The southern political fabric started to display the ultimate political pattern which meant that the Negroes would not participate as part of the political community. The southern economy showed signs of recuperation, and, sensing this recovery, opponents leveled charges of mendicancy on those who would be the beneficiaries of the legislation. There was considerable belief also that the educational situation in the South was being improved steadily. Although questions of constitutionality played a large role in the debates, particularly during the early stages, other conditions and objections were of more importance in affecting the ultimate disposition of the bills.

Senator Blair pushed vigorously for ten years this proposal which had such tremendous implications for American education. Senator Spooner paid great respect to him for the "superb industry, courage, ability, and constancy with which he has pressed this subject upon the consideration of the Senate and of the country."<sup>29</sup> The debate in and out of Congress served to awaken the public to educational

<sup>25</sup> 21 CONG. REC. 2436 (1890).

<sup>27</sup> 17 CONG. REC. 2105 (1886).

<sup>29</sup> 21 CONG. REC. 1865 (1890).

<sup>26</sup> 15 CONG. REC. 2724 (1884).

<sup>28</sup> 19 CONG. REC. 1223 (1888).

conditions and needs, and to develop a "spirit of shame which long ago began to apply a corrective."<sup>30</sup> Senator Blair passed from the scene of debate almost devoutly attached to a concept of public education for all American children regardless of color, and left a rich heritage of devotion to the cause of public education for the inspiration of succeeding advocates of federal aid.

The question of aid to non-public schools does not appear to have been as important in the determination of the outcome of the Blair bills as the other circumstances which have been outlined. The Blair bills did provide:

That the moneys distributed under the provisions of this act shall be used only for common schools, not sectarian in character, in the school districts of the several States, and only for common or industrial schools in Territories. . . .<sup>31</sup>

Senator Blair, however, did attribute to "Jesuit" influence the growing sentiment against his measure in 1888. He pointed to the change of policy of the *Chicago Tribune*, the *Boston Advertiser* and the *New York Times* from one of support to one of opposition, as due to the fact that "upon the staff of every great paper of this country to-day is a Jesuit, and the business of that man is to see that a blow is struck whenever there is an opportunity to strike at the common-school system of America. . . ."<sup>32</sup> In 1890 he bitterly charged the "Jesuits" of contributing mightily to the opposition. He maintained that if the South could be converted wholeheartedly to the public school system, it would serve as "the great bulwark of free institutions in all coming time."<sup>33</sup> This followed from the fact that the South was overwhelmingly Protestant and was free from "the vast influx of immigration which has overflowed and transformed the Northern States, in whose school systems the Jesuit has now as much power in all the great centers as the older element of our population and in many places much more."<sup>34</sup> As a matter of fact, he hoped that by developing and strengthening its public school system, the South would "by reflex action, hereafter, be enabled to aid to save us the public-school system of the North, now so threatened and in many places already controlled by Jesuitical craft and power."<sup>35</sup> He concluded that all of the articles against the education bill were the result of the "machinations of the Jesuit power or to the Bourbon Southern Democracy. . . ."<sup>36</sup> Senator Blair felt that the opposition of the Catholic groups to the Blair bill was so "inveterate and influential" that it contributed more than any other cause "to endanger its enactment into law. . . ."<sup>37</sup>

After the Blair proposal finally was defeated in 1890 and until the end of the First World War, attempts to secure federal aid had to do with special phases such as vocational education, agricultural education, extension service, and experiment

<sup>30</sup> *Ibid.*

<sup>31</sup> *Id.* at 772 (S. 185). There was a similar provision in S. 398, as passed by the Senate, 17 CONG. REC. 1282 (1886), and also in S. 151, *id.* at 1283.

<sup>32</sup> 19 CONG. REC. 1218 (1888).

<sup>33</sup> *Ibid.*

<sup>34</sup> *Ibid.*

<sup>35</sup> *Ibid.*

<sup>36</sup> 21 CONG. REC. 1546 (1890).

<sup>37</sup> *Ibid.*

<sup>38</sup> *Ibid.*

stations. Then the figures secured during the First World War draft called to the attention of the American people the startling extent of illiteracy in the country. Of course this fact had been recognized by many educators throughout the intervening years after the Blair bill discussions, but the great numbers of men turned down by the armed services brought home to many not only the gravity of the situation, but also the effects which illiteracy had upon a strictly national undertaking such as a major war. If mass illiteracy was capable of seriously handicapping a national endeavor, then, many thought, the Federal Government should aid in eliminating a condition which weakened it in its responsibilities.

Some persons would have alleviated this condition by attention to adult illiteracy, while others felt that the remedy was to be found in supporting the program of the public schools. The Kentucky experiment with "moonlight schools," the success of which owed so much to Mrs. Cora Wilson Stewart, brought nationwide attention to the problem.<sup>38</sup> Mrs. Stewart became chairman of the illiteracy commission of the National Education Association, in which capacity she was able to tell her story to people in various states. South Carolina established its Opportunity School in 1921 for the purpose of extending to illiterate and near-illiterate girls and women an opportunity for rapid learning in basic subjects, and in 1923 extended the facilities to men.<sup>39</sup>

This discussion of adult illiteracy found expression in the so-called "Americanization" bill which was introduced in 1919 in the House of Representatives by Bankhead of Alabama and in the Senate by Hoke Smith of Georgia for the purpose of promoting "the education of native illiterates, of persons unable to understand and use the English language, and of other resident persons of foreign birth. . . ."<sup>40</sup> It provided an appropriation of \$5,000,000 for the fiscal year ending June 30, 1919, and \$12,500,000 for each year thereafter until 1926, to be distributed among the various states in proportion to the number of illiterates and persons unable to speak, read, or write English.<sup>41</sup> The bill passed the Senate with little opposition, but failed to reach the floor of the House of Representatives for debate.

The discussion of the educational problem, and the federal interest in it, found expression in the Smith-Towner bill and succeeding bills which owed their parentage to this measure. On October 10, 1918, Senator Hoke Smith introduced a bill<sup>42</sup> for the aid of public schools, and for the establishment of a department of education with a cabinet member at its head. In January, 1919, Representative Horace Mann Towner introduced a companion bill.<sup>43</sup> This bill grew out of conferences held in 1917 between Senator Smith and "a committee of educators, composed of

<sup>38</sup> For the story of this program see *Hearings before the Committee on Education on Adult Illiteracy in the United States*, 63d Cong., 2d Sess. (1914).

<sup>39</sup> WILLIAM S. GRAY, WIL LOU GRAY, AND J. WARREN TILTON, *THE OPPORTUNITY SCHOOLS OF SOUTH CAROLINA II-12* (1932).

<sup>40</sup> 57 CONG. REC. 4563 (1919).

<sup>41</sup> *Hearings before the Committee on Education on H. R. 15402*, 65th Cong., 3d Sess. 18-19 (1919).

<sup>42</sup> S. 4987.

<sup>43</sup> H. R. 15238.



presidents of leading colleges and men prominent in educational work throughout the United States" who were interested in such a program.<sup>44</sup> As a matter of fact, Senator Smith had reference to a commission of the National Education Association which prepared the measure which he introduced.<sup>45</sup>

This bill followed closely the provisions of the Smith-Lever and the Smith-Hughes acts, and was criticized as providing for too much federal interference in the states' conduct of public schools.<sup>46</sup> Copies of the bill were sent to educators who were invited to make criticisms and suggestions. As a result of this consideration, the bill was revised and introduced by Senator Smith and Representative Towner in the Sixty-sixth Congress.<sup>47</sup> The bill was known in the Sixty-fifth and Sixty-sixth Congresses as the Smith-Towner bill. Again the bill was revised and introduced on April 11, 1921, by Towner in the House, and in the Senate by Senator Thomas Sterling of South Dakota. This bill was generally known as the Sterling-Towner education bill. This same bill was introduced by Reed of New York in the House on December 17, 1923,<sup>48</sup> and in the Senate by Sterling.<sup>49</sup>

Both the revised Smith-Towner bill and the Sterling-Reed bill provided for the establishment of a Department of Education headed by a cabinet secretary appointed by the President with the advice and consent of the Senate at a salary of \$12,000 a year.<sup>50</sup> In order "to encourage the States in the promotion and support of education," \$100,000,000 was to be distributed to the states annually. Both the Smith-Towner and the Sterling-Reed bills provided for research and reports by the Department of Education on illiteracy, immigrant education, public-school education, physical education (including health education, recreation, and sanitation), and such other subjects as the Secretary of Education thought required attention and study. Other appropriations were made for the education of illiterates; "the Americanization of immigrants"; the equalization of educational opportunities and the payment of teachers' salaries; "physical education and instruction in the principles of health and sanitation, and for providing school nurses, school dental clinics, and otherwise promoting physical and mental welfare"; and "to encourage the States in the preparation of teachers for public-school service, particularly in rural schools." The Smith-Towner, Sterling-Reed discussion had run its course largely by 1925. The next important proposals were the Curtis-Reed bill<sup>51</sup> and the Means bill.<sup>52</sup>

<sup>44</sup> 58 CONG. REC. 3236 (1919) (Speech by Senator Smith).

<sup>45</sup> THE TOWNER-STERLING BILL 13 (Legislative Commission Series No. 3, The National Education Association, September, 1922).

<sup>46</sup> *Ibid.*

<sup>47</sup> S. 1017 and H. R. 7.

<sup>48</sup> H. R. 3923.

<sup>49</sup> S. 1337.

<sup>50</sup> The revised Smith-Towner bill is S. 1017 and H. R. 7, and will be hereafter referred to as the Smith-Towner bill. A text of the bill may be found in the *Joint Hearings before the Committees on Education and Labor on S. 1017 and H. R. 7*, 66th Cong., 1st Sess. 6-10 (1919). A full text of the Sterling-Reed bill may be found in the *Hearings before the Committee on Education and Labor on S. 1337*, 68th Cong., 1st Sess. 3-8 (1923).

<sup>51</sup> S. 291, H. R. 5000, 69th Cong., 1st Sess. (1926).

<sup>52</sup> S. 2841, 69th Cong., 1st Sess. (1926).

Both proposals provided for the creation of a Department of Education with a Secretary of Education appointed by the President with senatorial approval.<sup>53</sup>

It was largely the fact that the Republican administrations of the 1920's generally did not favor either financial aid or a department of education that prevented any Congressional debate on the bills. Senator Walsh, for example, said that the "reason why no action was taken during the last Congress was because President Harding was known to be opposed to the measure."<sup>54</sup> Hubert Work, the Secretary of the Interior, in a letter dated February 13, 1926, expressed his disapproval of the Curtis-Reed and the Means bills. He thought that an expanded Office of Education would be able to perform the functions for which a department was advocated, and that there would be loss of efficiency resulting from the shorter tenure which a secretary would have as compared to the Commissioner of Education.<sup>55</sup> Secretary of the Interior Wilbur expressed similar disapproval of any measures for financial aid to public education. He called attention to the fact that American education had developed without the strangling hand of centralized control which he thought would be the result of federal aid.<sup>56</sup>

Of the organized groups which opposed the bills of the period, none did so with more effect and intensity than the Catholic Church and the United States Chamber of Commerce. The National Education Association in a report on the Towner-Sterling bill said that the opposition came primarily from a few great endowed institutions and from the private and parochial schools.<sup>57</sup> As early as 1919, Senator Hoke Smith called attention to the attacks which were being made on his bill, and attributed to certain Catholic organizations "the only discordant note of opposition. . . ."<sup>58</sup> He cited a resolution adopted by the Federation of Catholic Societies of Louisiana which claimed that the passage of the bill would rob "State and family and individual of their God-given rights. . . ."<sup>59</sup>

Senator Smith also quoted a baccalaureate sermon delivered by Dr. McDonnell, of Loyola College, Baltimore, before the graduating class of Georgetown University which labeled the proposed legislation as "the most dangerous and viciously audacious bill ever introduced into our halls of legislation, having lurking within it a most damnable plot to drive Jesus Christ out of the land."<sup>60</sup> Dr. McDonnell, according to Senator Smith, continued:

But there is another aspect of this bill which, for us Catholics and for every right-thinking American, must seem much more serious, for whilst the bill does nothing ostensibly against religion, in effect it aims at banishing God from every schoolroom, whether public or private, in the United States.

<sup>53</sup> *Joint Hearings before the Committee on Education and Labor and the Committee on Education on S. 291 and H. R. 5000 and S. 2841, 69th Cong., 1st Sess. (1926).*

<sup>54</sup> 65 CONG. REC. 308 (1923). <sup>55</sup> *Joint Committee Hearings, supra* note 53, at 7.

<sup>56</sup> 71 CONG. REC. 976-977 (1929).

<sup>57</sup> THE TOWNER-STERLING BILL, *op. cit. supra* note 45, at 7.

<sup>58</sup> 58 CONG. REC. 3238 (1919). <sup>59</sup> *Ibid.*

<sup>60</sup> *Ibid.*

This bill destroys all freedom of education, takes away the sacrosanct duty and right of parents to educate their own children and the right of the children to be so educated. It is a direct assault upon religion and it penalizes Jesus Christ, His faith, and all who believe and teach it.<sup>61</sup>

Senator Smith answered these charges in detail. He pointed out that the bill in no way denied the right of parents to send their child to a private or a denominational school. The charge that the bill would drive God from the school room could have been made, according to Senator Smith, only by one "who opposes public education conducted by the State or local authorities, and who opposes all schools, except denominational and parochial schools."<sup>62</sup>

The criticisms by Catholics who were to follow were based on much more logical grounds. Some objected to various provisions of the proposals which would, so they claimed, have established federal control of a state function. Others maintained the bills were unconstitutional and would bring education into politics. In 1926, a representative of a Catholic organization maintained that a Department of Education would "curtail State rights," "throw our education into politics with all its attendant evils," "destroy local initiative in the States," and "bring added taxation down upon an already heavily taxed people."<sup>63</sup>

Another witness maintained that there was "no failure of public education in this country." He repeated that it would "throw education into politics with all the attendant evils," and would "standardize education and would destroy local initiative and support of education," if "not expressly," "at least . . . by indirection."<sup>64</sup>

The representative of the archdiocese of Boston thought the bill, which had no provision dealing with federal subsidization of public education, but would merely have established a Department of Education, was a sinister plot eventually to "bribe the several States into conformity by means of these 50-50 sections with which we have been familiar for seven years . . ." He found the "real purpose of this proposed department without control and without subsidizing power is to make it the entering wedge of a policy which we of Massachusetts deplore and abhor, the policy of Federal support and Federal control of education."<sup>65</sup>

The representative of the Catholic Educational Association thought that a Department of Education "would endanger some of the best traditions of American education, injure the public schools of the country, and introduce a principle dangerous to some of our most cherished American liberties." Furthermore, educational research carried on by a strong department might "become the means of standardizing educational ideas and moulding educational processes," and might deprive

<sup>61</sup> *Ibid.*

<sup>62</sup> *Id.* at 3240.

<sup>63</sup> *Joint Committee Hearings, supra* note 53, at 179. Testimony of Mrs. Frank C. Horigan, President of the Baltimore District of the National Council of Catholic Women.

<sup>64</sup> *Id.* at 277-278. Testimony of Charles F. Dolle, Executive Secretary of the National Council of Catholic Men.

<sup>65</sup> *Id.* at 156-157. Testimony of the Reverend Augustine F. Hickey, Supervisor of Catholic Education, Boston, Mass.

"the individual teacher of the joy of solving his own problems in his own way. . . ."<sup>66</sup>

In May, 1929, Secretary of the Interior Ray Lyman Wilbur, upon direction of President Hoover, organized the first comprehensive study of the educational functions of the Federal Government. This committee, composed of fifty-two citizens interested in education, was financed by a gift of \$100,000 from the Julius Rosenwald Fund. Extensive conferences were held, and a large research staff collaborated in the study. The result of this research was a report published in October, 1931, which presented for the first time a critical analysis of the principles under which a system of federal aid should operate. In a sense this particular study marks the end of a period of agitation for federal aid. More significant than that, however, it furnished a body of principles agreed upon by a group of outstanding persons engaged or interested in education which could serve as a point of departure for those who were to frame bills in the future.

Catholic members of President Hoover's National Advisory Committee on Education were unable to agree with the very cautious findings and statement of principles, and found it necessary to file a minority report. This report was submitted by the Reverend Edward A. Pace (Vice-Rector of Catholic University of America) and the Reverend George Johnson (Secretary of the Catholic Educational Association). They maintained that a Department of Education was unnecessary, and if established would "bring about centralization and federal control of education."<sup>67</sup>

In the first place, they stated that nothing could prevent the Department "from taking on administrative and directive functions in the course of time, even though it would not be endowed with them in the beginning."<sup>68</sup> Since the Secretary would be a political appointee, he would be subject to all sorts of political pressure so that a "strongly organized group, even though it might represent a minority point of view in education, could be in a strong enough position politically to influence the administration in favor of a larger measure of federal control."<sup>69</sup> The Catholic minority also objected to the report's assumption that the Federal Government had some responsibility for education.

Although the report stated that the Federal Government should not control education, the Catholics were of the opinion that it was "not easy to conceive the practical possibility of any federal grants ever being made for education in general without some specific legal supervision of the manner in which such monies shall be used."<sup>70</sup> Since the Department would be a political institution, the "political bias and commitments of the administration would color its findings, and propaganda rather than truth would be the result."<sup>71</sup>

The crisis in the schools during the depression was handled by the Federal Government as a relief rather than an educational problem. Consequently, with in-

<sup>66</sup> *Id.* at 162-164. Testimony of Dr. George Johnson.

<sup>67</sup> FEDERAL RELATIONS TO EDUCATION, *op. cit. supra* note 2, pt. I, 103.

<sup>68</sup> *Ibid.*

<sup>69</sup> *Id.* at 104.

<sup>70</sup> *Ibid.*

<sup>71</sup> *Id.* at 104-105.

creasing recovery, the Federal Government gradually withdrew the various means by which it had bolstered the educational system. A movement for a permanent policy, however, was begun by the National Education Association and labor and agricultural organizations. Out of the discussions came the Harrison-Black-Fletcher bill, which was introduced in the Senate by Senator Pat Harrison of Mississippi and Senator Hugo Black of Alabama, and in the House by Representative Fletcher of Ohio. This bill provided for the appropriation of \$100,000,000 to be increased by \$50,000,000 annually until the sum of \$300,000,000 was reached, "to be . . . apportioned annually to the several States and Territories to be used by them for improvement of their public schools in the manner prescribed by their respective legislatures. . . ." <sup>72</sup> This appropriation was to be distributed to the various states and territories in the proportion that their population between the ages of five and twenty years bore to the total such population in all the states and territories.

Catholic representatives attacked the Harrison-Black-Fletcher bill of 1937, but their arguments were not consistent. Thus, the General Secretary of the National Catholic Welfare Conference objected to the bill on the ground that it had no provision which insured that the states would use the money effectively to improve schools. There were no means in the bill for the determination of the weaknesses of the school system nor any proposals for developing a good one. The states could do anything they desired with the money, including the building of "swimming pools, golf courses, football stadia, dormitories," and the operation of "free cafeterias." "Almost anything," he said, "is conceivable under the phrase 'for improvement of their public schools.'" <sup>73</sup> After criticizing the bill for lack of definition and restriction as to the uses which might be made of the funds, he went on to say that the bill was an invasion of states' rights in a field which traditionally belonged to the state and local governments. The witness then asked that the bill be amended so as to include parochial schools within the benefits of the act. <sup>74</sup>

The Reverend George Johnson continued his opposition to the federal aid proposals. He objected this time to the controls placed in the bill, to the provision which required the states to spend as much money as they did the previous year, and to the provision regarding compulsory education. He went on to say that the school system probably suffered as much from lack of intelligent leadership as it did from lack of money. It was foolish to expect that the mere expenditure of money would improve education. The bill "simply bestows great largess on those in control of the public schools and demands nothing of them in the way of a quid pro quo." <sup>75</sup> He did not understand why this group "should be singled out for such

<sup>72</sup> The text of this bill may be found in *Hearings before the Committee on Education and Labor on S. 419, 75th Cong., 1st Sess. 2-3 (1937)*, and *Hearings before the Committee on Education on H. R. 5962, 75th Cong., 1st Sess. 2-4 (1937)*. There were minor changes in the House bill to mollify Negro opposition.

<sup>73</sup> *Hearings on H. R. 5962, supra* note 72, at 87-88. Statement of the Very Reverend Msgr. Michael J. Ready.

<sup>74</sup> *Id.* at 89.

<sup>75</sup> *Id.* at 421. Statement of the Secretary General, National Catholic Educational Association.

preferential treatment" when "it is the children and young people of the Nation in whom we have a vital interest and not those engaged in the profession of education."<sup>76</sup> The teachers and superintendents were instrumentalities which of course should be improved, but the mere giving of federal money to educators "with no guidance save their own discretion" offered little toward the improvement of education.<sup>77</sup> In the bills in which "guidance" was outlined, however, the Catholic representatives usually objected that this meant federal control.

The Senate Committee on Education and Labor favorably reported the Harrison-Black-Fletcher bill, but while the bill was still before the House Committee, President Roosevelt requested a committee which he had appointed to study vocational education to enlarge its scope so as to include the relationship of the Federal Government to education generally. The President had appointed this committee in September, 1936, and in a letter dated April 19, 1937 to Dr. Reeves, who headed the committee, he asked that it "give more extended consideration to the whole subject of Federal relationship to state and local conduct of education. . . ."<sup>78</sup> The committee made a thorough study of the relationship of the Federal Government to education, and not only arrived at a number of principles which should govern such relationships, but also made definite proposals as to federal aid legislation. The report was transmitted by President Roosevelt to Congress on February 23, 1938. In a note concerning this report, he stated:

The principal result, so far, of this report has been the increased public discussion and attention given to the general problem of federal relations to education. The document will undoubtedly serve for many years to come to influence thought and action on the subject among educational groups and public bodies.<sup>79</sup>

After the Reeves Committee made its report, work began on a new bill based on its findings. Senator Harrison of Mississippi and Senator Thomas introduced the Federal Aid to Education Act of 1939,<sup>80</sup> which, as Senator Thomas said, was "drawn in keeping with the recommendations of the President's Advisory Committee."<sup>81</sup> Dr. Reeves, who was chairman of the Advisory Committee, also pointed out that the "broad outline" of the bill followed the committee's recommendations although some of the details had been changed as a result of further discussion and study.<sup>82</sup>

The bill was the longest and in some ways the most comprehensive that had received serious consideration since the agitation for federal aid began in 1872. It announced its general purpose as assistance "in equalizing opportunities for elementary and secondary education, among States and within States."

When the Harrison-Thomas bill was before the Senate Committee in 1939, the

<sup>76</sup> *Ibid.*

<sup>77</sup> *Ibid.*

<sup>78</sup> VI PUBLIC PAPERS AND ADDRESSES OF FRANKLIN D. ROOSEVELT 162 (1937).

<sup>79</sup> VII *id.* at 124 (1938).

<sup>80</sup> S. 1305.

<sup>81</sup> 89 CONG. REC. 8300 (1943).

<sup>82</sup> *Hearings before a Subcommittee of the Committee on Education and Labor on S. 1305, 76th Cong., 1st Sess. 30 (1939).* For the text of this bill, see *id.* at 1-16.

Catholic representatives once again raised objections. Dr. George Johnson appeared for the National Catholic Welfare Conference and insisted that the bill contain provisions which would specify that the states could decide whether federal money was to be used for non-public schools. On this occasion he called attention to the fact that there were over two million children enrolled in Catholic schools whose right of existence was insured by the Constitution. These schools prepared children for citizenship and were supported by Catholics throughout the United States. These Catholics also were taxed for the support of the public-school system, and bore this "double burden" because they felt that the only sound basis of citizenship was in religion. This followed because "men will recognize their obligations to one another only if they have an intelligent recognition of their obligations to God."<sup>83</sup>

In 1941, Senator Harrison and Senator Thomas introduced another bill<sup>84</sup> to provide federal aid for education. The Blair bill had been urged because of the enfranchisement of the Negroes, the Smith-Towner and immediately succeeding proposals because of illiteracy revealed by World War I draft statistics; the Harrison-Thomas bill of 1939 was the heir to depression and New Deal philosophy, and this new proposal made its appeal on the basis of national defense. The bill proposed an appropriation of \$300,000,000 for the fiscal year ending June 30, 1942, and each year following.<sup>85</sup>

Dr. Johnson again represented the National Catholic Welfare Conference in the hearings on the Harrison-Thomas bill of 1941, which restricted the use of federal funds to public education in the various states. On this occasion he objected to the introduction of "the principle of permanent Federal aid to education in the name of national defense. . . ."<sup>86</sup> He thought that the question of the problems in education created by defense areas should be handled separately from the larger problem of general federal aid. If any money, however, were given out for the first purpose, then he thought the non-public schools should receive some of it. "It is not enough," he said, "for the Government to refrain from legislation that would prohibit the existence of non-public schools."<sup>87</sup> A free choice in the matter of education was virtually impossible if the Catholic children had to depend "solely on the meager resources of their parents to obtain a Catholic education."<sup>88</sup>

No action was taken by Congress on this bill, and on February 4, 1943, Senator Hill of Alabama and Senator Thomas introduced another proposal.<sup>89</sup> This bill provided for an appropriation of \$200,000,000.

for the purpose of enabling States and their local public-school jurisdictions to meet emergencies in financing their public elementary and public secondary schools by providing funds for the payment of salaries of teachers to keep schools open, to employ

<sup>83</sup> *Id.* at 198-199.

<sup>84</sup> S. 1313.

<sup>85</sup> *Hearings before a Subcommittee on Education and Labor on S. 1313, 77th Cong., 1st Sess. 2* (1941). For the complete text of this bill, see *id.* at 1-6.

<sup>86</sup> *Id.* at 260.

<sup>87</sup> *Id.* at 261.

<sup>88</sup> *Ibid.*

<sup>89</sup> S. 637.

additional teachers to relieve overcrowded classes, to raise substandard salaries of teachers, and to adjust the salaries of teachers to meet the increased cost of living. . . .<sup>90</sup>

Another \$100,000,000 was provided for the purpose of "more nearly equalizing public elementary and public secondary school opportunities among and within the States. . . ."

The proponents of the Hill-Thomas bill hoped to ride to success on the dual issues of equalizing educational opportunities among the states and alleviating the teacher shortage and improving the conditions of that profession generally. As a matter of fact, the bill did proceed farther than any since the last Blair bill of 1890, for it reached the floor of the Senate for debate.

The method used to defeat the measure was somewhat devious, and apparently designed to embarrass its Southern supporters. The bill provided that the federal funds would be distributed so that no minority group, where separate schools were maintained, would receive less than the proportion which its population bore to the total population of the state. Senator Langer, however, introduced the following amendment:

*Provided*, That there shall be no discrimination in the administration of the benefits and appropriations made under the respective provisions of this act, or in the State funds supplemented thereby on account of race, creed, or color.<sup>91</sup>

This amendment of course meant that not only would the federal money be apportioned on an "equitable" basis between the two races, but also that "no discrimination" would be made in the use of state funds. Langer asserted that the reason the money was desired was so the Southerners "can discriminate more and more and more against the poor children of the South."<sup>92</sup>

Negro groups attempted to head off the Langer amendment, but to no avail. Senator Thomas made public two telegrams which he had received after the Langer amendment was proposed. One was from the president of the American Teachers' Association, composed of Negro teachers in the United States, and the other from Walter White, Secretary of the National Association for the Advancement of Colored People, both of whom called for the enactment of the bill without change.<sup>93</sup>

In spite of the obvious political effect of the amendment, and in the face of Negro objections to it, it was passed by a vote of forty to thirty-seven.<sup>94</sup> Those who voted for the amendment had objected to the bill on various other grounds. After the approval of this amendment, the bill became unacceptable to the southerners who had furnished the largest bloc of support. Senator Taft proposed that the bill be recommitted to the Committee on Education and Labor, and the motion was

<sup>90</sup> The text of this bill may be found in *Hearings before a Subcommittee of the Committee on Education and Labor on S. 637*, 78th Cong., 1st Sess. 1-5 (1943).

<sup>91</sup> 89 CONG. REC. 8558 (1943).

<sup>92</sup> *Ibid.*

<sup>93</sup> *Id.* at 8559.

<sup>94</sup> *Id.* at 8565.



passed by a vote of fifty-three to twenty-six. The yeas included most of the southern Senators who had supported the measure so vigorously.<sup>95</sup>

The Seventy-ninth Congress witnessed the introduction of two competing proposals on federal aid to education. Senators Mead and Aiken introduced one<sup>96</sup> which was sponsored by the American Federation of Labor. Senators Thomas and Hill<sup>97</sup> and Representative Ramspeck<sup>98</sup> introduced the other. The Thomas-Hill-Ramspeck measure was drawn up by the National Education Association.<sup>99</sup>

The Thomas-Hill-Ramspeck bill provided two funds. An appropriation of \$200,000,000 was authorized to help states

meet emergencies in financing their elementary and public secondary schools by providing funds for the payment of the salaries of teachers and other school employees to keep schools open, to employ additional teachers to relieve overcrowded classes, to raise sub-standard salaries of teachers and other school employees, and to adjust the salaries of teachers and other school employees to meet the increased cost of living . . .

This appropriation was to run annually, but was to terminate one year after the end of the war. A permanent program was contemplated with an annual appropriation of \$100,000,000 more nearly to equalize "public elementary and public secondary school opportunities among and within the States. . . ."

The Aiken-Mead bill authorized three funds. An annual appropriation of \$300,000,000 was provided for the following purposes:

(1) To eradicate illiteracy; (2) to keep schools open for a term of not less than nine months, or to make provisions for the education of pupils affected by closed schools; (3) to reduce overcrowded classes by the employment of additional teachers; (4) to make possible the payment of adequate salaries of teachers in public elementary schools (which may include kindergartens and nursery schools) and public junior and senior high schools and junior colleges . . .

At least 75 per cent of this fund was to be used to supplement state appropriations for the purpose of payment of teachers' salaries. Another \$100,000,000 was annually to be used

to promote the health, welfare, and safety of school children by providing for current expenditures for educational facilities and services, such as transportation for educational purposes, library facilities, textbooks and other reading materials, visual aids and other instructional materials, school health programs and facilities, and other necessary educational projects. . . .

Another \$150,000,000 was to be used to provide "needy persons between the ages of fourteen and twenty, inclusive, means and assistance to enable them to continue their education. . . ."

The Thomas-Hill-Ramspeck bill provided that the \$200,000,000 emergency fund

<sup>95</sup> *Id.* at 8570.

<sup>96</sup> S. 717.

<sup>97</sup> S. 181.

<sup>98</sup> H. R. 1286.

<sup>99</sup> The text of S. 181 may be found in *Federal Aid for Education, Hearings before the Committee on Education and Labor on S. 181 and S. 717, 79th Cong., 1st Sess., pt. I, 1-5 (1945)*. For the text of S. 717, see *id.* pt. II, 431-436.

would be apportioned in the same ratio as the total number of pupils attending all types of public elementary and secondary schools from kindergarten through the fourteenth grade bore to the total of such average daily attendance in the United States. Not less than ninety-eight per cent of the permanent \$100,000,000 equalization fund was to be so apportioned that each state was to receive "an amount which bears the same ratio to the total amount made available as the index of financial need of such States bears to the sum of the indexes of financial need of all the States." This index was to be computed in the same manner as provided in the Hill-Thomas bill of 1943. The Commissioner was to distribute not to exceed 2 per cent of the fund on the basis of need to Alaska, Hawaii, Puerto Rico, American Samoa, the Virgin Islands, and Guam.

The Aiken-Mead bill would have apportioned the \$300,000,000 equalization fund on the basis of need as determined by a National Board of Apportionment. The \$150,000,000 fund for needy youth was to be allocated in the proportion that the population of each state between the ages of fourteen and twenty bore to the total such population of the country. The \$100,000,000 fund for auxiliary aid to instruction was to be apportioned 50 per cent on the basis of need and 50 per cent on the basis of population.

The major difference between the two bills lay in the use of federal funds for private schools. The Thomas-Hill-Ramspeck bill provided that no funds would be used for non-public schools. The Aiken-Mead bill, however, authorized the Board to make allotments of funds to non-public schools directly in those states which were prevented by state law or constitution from subsidizing these schools. Other bills had left the decision to the states whether the federal funds should be allowed to non-public schools. This was the first bill to receive serious consideration which proposed that non-public schools would receive federal funds regardless of state policy on such matters. The National Board was to select from among three persons nominated by the governor of the state a trustee to receive and disburse the funds for non-public schools which were allotted to his state. In making the allotment, the Board was to "take into consideration the extent to which the burden of the educational needs of the State are borne by nonpublic schools." This provision of the Aiken-Mead bill created the greatest controversy in the hearings. It was challenged by the supporters of the National Education Association bill as a subterfuge whereby state educational policy would be avoided by a sidestepping maneuver. Furthermore, they maintained that the controversy as to the use of public funds for private schools should be contested in the states rather than decided in Congress.<sup>100</sup>

<sup>100</sup> The following exchange summarizes the opinions of most of those who opposed the measure: "Senator Smith. Does that imply you would leave it to the State educational boards to determine whether they would assist the public or private schools?"

"Dr. Zook. [President of the American Council on Education] I would leave it to the States in whatever manner they have to determine that matter."

As a matter of fact, the first and only bill of any importance which the Catholic organizations have supported was the Aiken-Mead proposal of 1945, sponsored primarily by the American Federation of Labor. This particular bill provided a device by which the parochial and non-public schools would have shared in the benefits of federal aid even though the policy of the state was opposed to this use of public moneys. The hearings on this bill and the Thomas-Hill-Ramspeck measure provide excellent material for an analysis of the Catholic position on federal aid to education, since the latter bill provided that the funds under the Act would be expended only "by public agencies and under public control."

The Director of the Department of Education, National Catholic Welfare Conference, Frederick G. Hochwalt, objected strongly to the Thomas-Hill-Ramspeck bill. He based his opposition largely on the proposition that the non-public schools were in effect serving a public function in those states where they existed. He argued that there were various groups in the country "who maintain their own schools because their conscience requires that they bring their children up according to the tenets and in the spirit of the religion that they profess."<sup>101</sup> Furthermore, the right to send children to those schools is constitutionally protected as freedom of religion. Freedom of religion means more than the right to worship in the manner of one's choice. It means also the freedom "to provide schools and means of education that accord with the dictates of their conscience."<sup>102</sup> But, he continued, this does not mean only that the government will refrain from passing legislation or taking action to "prohibit the existence of non-public schools," for if a program of education is to be developed in the United States, "then the real spirit of democracy and the true conception of general welfare should direct that this aid be extended to all children in all schools." He pointed out that Catholic citizens were "maintaining 2,119 secondary schools, 8,017 elementary schools, enrolling 2,399,908 children," while at the "same time paying their share of the taxes which support public education."<sup>103</sup>

"Senator Smith. If they had a constitutional provision preventing it, that is up to the State to determine that?"

"Dr. Zook. Yes, I may have an opinion as a resident of the State of Ohio, as I happen to be, about whether or not public funds should be used for the support of private schools, but I think that battle should not be fought out around this table or in Washington. This is a battle which I feel sure, in the spirit of the Constitution, should be fought out in each of the several States.

"Senator Smith. Does that imply, Dr. Zook, then, that the trustee provisions in S. 717 for getting around possible State constitutions would not meet with your approval?"

"Dr. Zook. They do not. I want to go further and say that it seems to me that the Federal Government is in partnership with the States of this Union and that, with respect to fiscal matters of this kind, it should not, especially in the field of education . . . [take over control because] education is so much a local and intimate matter that it seems to me the Federal Government ought not to do that." *Hearings on S. 181 and S. 717, supra* note 99, pt. II, 646.

<sup>101</sup> *Id.* pt. I, 303.

<sup>102</sup> *Ibid.*

<sup>103</sup> *Ibid.* The position of the National Catholic Welfare Conference was explained to be as follows: "The Department of Education of the National Catholic Welfare Conference maintains that aid given by the Federal Government for education should be distributed according to a law or plan that will bring this aid only to areas in which it is needed and where such need can be demonstrated; more-

In supporting the American Federation of Labor bill, the Executive Secretary of the National Council of Catholic Men, Edward J. Heffron, confirmed the above statement of present Catholic policy. He said that Catholics "believe that all Americans should be given reasonable opportunities," and that Catholics, who largely live in urban areas, had long supported state policy of diverting tax money to the rural areas less able to support schools.<sup>104</sup> "On the same principle," he said, "it seems to us that Federal aid to education on the basis of demonstrated need, provided it is divorced from Federal control of education, is in accord with the best traditions of our country and altogether consistent with the principles of our faith."<sup>105</sup> Catholics already supported public schools in the various states in both their own communities and in other sections of the state through state equalization funds. As far as the public schools go, the Catholics have no objections to them, but they do not go far enough. He said that the Catholics felt that the child would come to consider the secular subjects of considerably more importance than religious training, if the school which lasted five days each week taught only these subjects. The brief time which the child spent in Sunday school once each week or even the informal instruction which he received at home was not sufficient either to "overcome such an impression or to impart an adequate groundwork of religious understanding."<sup>106</sup> Consequently, the Catholics had no alternative except the establishment and maintenance of their own schools at their own expense. The Catholics recognized the interest which the states have in educating for good citizenship, and that they were entitled to ask Catholic schools to maintain certain requirements. But "since the State compels us to send our children to school, and taxes us for schools, it should enable us to send them to such schools as would accord with our consciences without laying upon us a double educational burden."<sup>107</sup> As for federal aid to education, which could be justified only on the basis of equalizing educational opportunities between the more needy and the less needy states, it would add a third educational burden if the money were distributed to the states in accordance with their public policy toward Catholic schools, and if the states, as most do, have a prohibition against the use of public moneys for such purposes. He explained:

The Catholic citizen of such a State is already digging into his pockets to maintain the over, this distribution should be equitable to all children in that area without regard to color, origin, or creed; finally, this distribution should be extended to the children in attendance at any school that meets the requirements of compulsory education.

"In stating its official position, the department of education is opposed to:

1. Senate bill 181 in its present form.
2. A Federal Department of Education.
3. Federal control of education.
4. Any form of Federal aid which cannot be demonstrated as needed to meet the minimum educational requirements in areas where resources are inadequate.
5. Any distribution of Federal funds which shall not be equitable to all children in the area of need without regard to color, origin, or creed, as long as they are in attendance at any school that meets the requirements of compulsory education."

*Id.* pt. I, 303-304.

<sup>104</sup> *Id.* pt. II, 649.

<sup>105</sup> *Ibid.*

<sup>106</sup> *Id.* pt. II, 650.

<sup>107</sup> *Ibid.*

schools that accord with his conscience. The State is compelling him to dig into his pockets again to maintain the public tax-supported schools which his conscience will not permit him to use—because they omit the most important of the four R's.

For this present injustice, such a citizen has no grievance against the Federal Government. But it seems to us that he would have a grievance if the Federal Government compelled him to dig into his pockets a third time for the purpose of benefits from which he would be almost completely excluded.<sup>108</sup>

When the hearings on the American Federation of Labor bill (the Aiken-Mead measure) were held, the Catholic representatives came out strongly for it. This measure would have guaranteed federal funds for non-public schools even in those states which by law did not permit state support for these schools. Supposedly, a fundamental principle of the Catholic position had been opposition to federal control of education. This point had been raised against bills on every other occasion by their representatives, no matter how the bills were drawn. Yet a proposal which would have meant the deepest penetration by the Federal Government into the fundamental pattern of the educational system received Catholic support.

Not only did the American Federation of Labor bill provide for the overriding of state policy as far as public support for non-public schools was concerned, but it contained other provisions which would have given federal agencies great authority that could have been used to exert a considerable influence on American education. Instead of containing a formula in the body of the bill by which the funds would have been apportioned to the various states, it provided for a National Board of Apportionment authorized to make the apportionment of part of the funds on the basis of need as determined by the Board.

Nor was this all, for the \$100,000,000 fund for auxiliary aid to instruction was to be apportioned not only on the basis of need but also, in part, on the basis of population. Another principle upon which the Catholics had insisted was that they were opposed to "any form of Federal aid which cannot be demonstrated as needed to meet the minimum educational requirements in areas where resources are inadequate."<sup>109</sup>

In justifying this allocation procedure, Dr. Reeves said:

When a State that could have afforded to have provided these services from its own tax receipts and has not done so through all the years, it seems to me and to the members of our commission that the Federal government has a responsibility to see to it that the children do not suffer from the neglect of that State.<sup>110</sup>

Catholics had never before supported a bill on grounds of national responsibility for education.

The determining reason for Catholic support of the American Federation of Labor bill is to be found in the following statement of Mr. Heffron, the Executive Secretary of the National Council of Catholic Men:

<sup>108</sup> *Id.* pt. II, 651.

<sup>109</sup> Point 4 of the "platform" of the National Catholic Welfare Conference, *supra* note 103.

<sup>110</sup> *Hearings on S. 181 and S. 717, supra* note 99, pt. II, 505.

S. 717 does honestly and openly provide a means whereby the Federal Government can distribute Federal aid to the States on the basis of need without creating grave dangers of Federal control of education, and without imposing an altogether unfair and discriminatory burden on the millions of Catholic Federal taxpayers. And it does recognize, as the Supreme Court has recognized, the right of every American child to receive an education that accords with his conscience. For these reasons, the National Council of Catholic men has authorized me to appear before you and support it.<sup>111</sup>

Senator Smith asked the witness for his opinion on the proposal that the states be allowed to decide the question of the use of federal funds for non-public schools. Mr. Heffron replied that when one considered the fact that forty-six of the forty-eight states had constitutional or statutory prohibitions against the use of public funds for non-public schools, he felt legislation which would benefit non-public schools in only two states would be "a discriminatory course of action."<sup>112</sup> As for the "by-passing" provisions, he would retain them until a "more satisfactory" device could be worked out. He thought it would be "fair" if the Federal Government passed an aid bill and said to the states: "This money will become available to you upon the basis of need when, as, and if you make it possible for your State educational authorities to benefit all of the approved schools in your State."<sup>113</sup> By "approved schools" he meant schools recognized as complying with the requirements for compulsory education. If such a provision were included, the Federal Government would "be saying that it would not be a party to any such discrimination that may be inherent in the State constitution or statutes—and it would be entirely within its rights."<sup>114</sup> Since there seemed little likelihood of passing such a measure and since there was such great need for federal aid, he added that "it seems to me entirely legitimate for you openly, without any covert concealment of the matter—altogether openly—to provide this trustee arrangement whereby the moneys can be used to help all the people who are entitled to its benefits."<sup>115</sup>

Mr. Heffron took a more extreme position than most of the Catholics. He not only opposed federal aid unless it went to Catholic schools; he was not even reconciled to state policy which did not provide state aid for such schools. The logical conclusion of his argument is to be noted in the final exchange between Senator Donnell and Mr. Heffron:

Senator Donnell. You think it is discrimination, as I understand it, against the individual that the constitutions of the great majority of our States do prohibit the use of public funds for teaching in a religious school, you regard that as discrimination against the individual?

Mr. Heffron. I do. It operates de facto as a limitation on the freedom of his conscience; because not all Catholics are people of means and, consequently, some find it most difficult and some perhaps impossible to maintain separate schools. Yet their conscience requires them to do it.<sup>116</sup>

<sup>111</sup> *Id.* pt. II, 651.

<sup>114</sup> *Ibid.*

<sup>112</sup> *Id.* pt. II, 658.

<sup>115</sup> *Ibid.*

<sup>113</sup> *Ibid.*

<sup>116</sup> *Id.* pt. II, 659.

Very similar ideas were expressed by the Reverend William E. McManus, Assistant Director of the National Catholic Welfare Conference. He found evidence that the educational standards in many parts of the country were inadequate, but more particularly he was impressed by the fact that the bill made federal funds available to non-public schools. He argued that parents who sent their children to non-public schools fulfilled "their duty to the State under existing compulsory education laws."<sup>117</sup> From this he maintained that since the government allowed them to send their children to non-public schools, it

. . . should not deprive them of benefits common to all which are granted by government for the general welfare of all citizens. There is no requirement in law that church membership should be a liability to parents and children who are at the same time citizens of this Nation and as such are entitled to the privileges and benefits extended by government for educational purposes.<sup>118</sup>

He added that it was "not consistent with the traditional American respect for the rights of the individual and of minority groups" to "straitjacket" all educational programs. If the parents were hindered "in the the exercise of their natural rights in education," it would lead "toward governmental domination over all schools."<sup>119</sup> He concluded that to avoid such a possibility, the Federal Government would have to support parochial schools. The witness said that frequently representatives of the National Catholic Welfare Conference had appeared before Congressional committees in opposition to federal aid to education bills. This opposition had been necessary, although it was realized that the position would be misconstrued. The Conference was therefore gratified that a bill had been presented which recognized "a principle of justice for all American school children" and hoped that it would "receive the objective consideration which it deserves."<sup>120</sup> He added, however, that the Conference was "absolutely opposed to any change in this bill which would exclude non-public schools from participation in the benefits of title II."<sup>121</sup>

One must conclude from the hearings on the Thomas-Hill-Ramspeck and Aiken-Mead bills that the Catholic representatives desire above all else a bill which will include appropriations for parochial schools. On this occasion they supported a measure that violated several of their previously expressed principles which they maintained should determine policy on this matter.

Early in 1945, Senator Taft indicated that he was preparing a federal aid to education bill which he would offer as a substitute for the Thomas-Hill-Ramspeck bill pending before the Senate Labor and Education Committee.<sup>122</sup> On March 27, 1946, the Taft-Hill-Thomas bill was introduced in the Senate as an amendment, but in effect it was a completely new proposal. In introducing this new proposal, Senator Taft said that he had opposed two years previously a federal aid bill which

<sup>117</sup> *Id.* pt. II, 592.

<sup>118</sup> *Ibid.*

<sup>119</sup> *Ibid.*

<sup>118</sup> *Ibid.*

<sup>120</sup> *Id.* pt. II, 592-593.

<sup>122</sup> N. Y. Times, Feb. 27, 1945, p. 23, col. 6.

would have provided "for a general passing out of Federal funds in aid for education." During the debate and hearings on these previous bills

one fact became apparent, namely, that in many States the children were not receiving a basic education; and that some of the States, although spending on education as much of a proportion of their income as the larger, wealthier States, were not able to provide such a basic education.<sup>123</sup>

The Taft-Hill-Thomas bill provided for a single appropriation of \$150,000,000 for the fiscal year ending June 30, 1947; \$200,000,000 for the fiscal year ending June 30, 1948; and \$250,000,000 for each fiscal year thereafter. Ninety-eight per cent of the appropriation was to be expended on the basis of computed need. The need of each state was computed on the basis of a formula, but there were further provisions designed to insure that each state make an average effort to support education.

No action was taken on the bill in 1946, but it was again introduced<sup>124</sup> in the first session of the Eightieth Congress in 1947 by Senator Taft for himself and Senators Thomas of Utah, Ellender, Hill, Smith, Cooper, Chavez, and Tobey. There had never before been a bill which had adhered so closely to the principle of apportionment only to those states actually in need of federal aid. From it were eliminated all objections except (1) those which might be raised by persons who had desired federal policy determination, if not by direction at least by financial encouragement, of special phases of education, and (2) those brought forth from Catholic representatives. The Taft compromise proposal would have prevented the use of federal funds for non-public schools unless matched by the states. It was to this point that Senators Murray, Walsh, Aiken, and Morse took exception in a separate statement of views in the committee report on the Thomas-Hill-Ramspeck bill.<sup>125</sup> It was largely out of this difference of views that there developed the Aiken bill of 1947.

Senator Aiken had sponsored the American Federation of Labor bill which would have by-passed the states in order to provide funds for non-public schools. It is not surprising, therefore, that the bill which he introduced in the first session of the Eightieth Congress<sup>126</sup> contained a provision establishing

a national floor under current educational expenditures per pupil in average daily attendance at public elementary and secondary schools and by assistance to non-public tax-exempt schools of secondary grade or less for necessary transportation of pupils, school health examinations and related school health services, and purchase of non-religious instructional supplies and equipment, including books.

Title II of the bill authorized an annual appropriation of \$60,000,000 for the purpose of "reimbursing non-public tax-exempt schools and school systems of secondary grade or less for not to exceed 60 per centum of their actual expenses in providing"

<sup>123</sup> 92 CONG. REC. 2645 (1946).

<sup>124</sup> S. 472.

<sup>125</sup> SEN. REP. NO. 1497, 79th Cong., 2d Sess. 16-22 (1946).

<sup>126</sup> S. 199.



these services. Title I of the Aiken bill provided for an appropriation increasing to \$1,200,000,000 or \$60 per pupil in average daily attendance after 1952 for the equalization of educational expenditures in all public elementary and public secondary schools. The distribution of this fund had no reference to need, but would have been apportioned to the states in the proportion that the average daily attendance at all public elementary and secondary schools bore to the total such attendance in the United States. The states were required to spend from all sources not less than was spent per pupil in the fiscal year ending June 30, 1946, or \$100 per pupil, whichever was the lesser amount, and by the end of the fiscal year ending June 30, 1953, not less than \$100 per child.

The hearings before a subcommittee of the Committee on Labor and Public Welfare of the Senate in 1947 pointed up the controversy relative to the use of public funds for non-public schools. The controlling philosophy of the bill presented by Senator Taft and the other sponsors was that education is almost, if not entirely, a function of the states. The role of the Federal Government was merely to furnish funds to those states which demonstrably did not have the financial ability to support an adequate level of education. The appropriation, therefore, would have been distributed entirely on the basis of financial need. Senator Taft pointed out quite clearly in the hearings that to distribute federal funds to the private and parochial schools in contradiction to state policy against such use of public funds, or to prohibit the use of federal funds by states for the promotion of education in non-public schools, was in fact to impose restrictions of the Federal Government which "would be clearly changing the educational policy of the State."<sup>127</sup> Senator Taft continued:

This bill is a State-aid bill, and the State should be authorized to use the Federal funds for the same educational purposes for which it uses its own State funds. If the State recognizes private and parochial schools as part of its State educational system, then the bill provides that it may use Federal funds in the same proportion in which its State funds are used for such schools. On the other hand, if the State educational policy is to operate only through public schools, Federal money can only be used for that purpose.

If we cannot maintain the principle of noninterference in State educational systems, I would be opposed to the whole bill. The question has nothing to do with the highly controversial problem whether States should appropriate public funds for parochial schools. One may feel strongly either way on that subject, but it is a matter for each State and the people of each State to determine.<sup>128</sup>

The Catholic position relative to the bills pending during the 1947 hearings was once again presented by the Reverend William E. McManus, Assistant Director, Department of Education, National Catholic Welfare Conference. Mr. McManus reiterated the position taken by Senator Aiken that the discussion of federal aid to

<sup>127</sup> *Federal Aid to Education, Hearings before a Subcommittee of the Committee on Labor and Public Welfare*, 80th Cong., 1st Sess. 41 (1947).

<sup>128</sup> *Ibid.*

education was not primarily concerned with the religious controversy.<sup>129</sup> As in the case of the bill sponsored by Senator Aiken on behalf of the American Federation of Labor in 1945, the Catholic representatives, so far as the 1947 Aiken measure was concerned, found themselves confronted by a bill which would provide for the distribution of some federal funds to the parochial schools regardless of state policy on that score. Mr. McManus, as representative of his organization, found himself supporting a federal aid to education measure, namely the Aiken proposal, which would have distributed federal funds for various services to pupils enrolled in parochial schools for transportation, school health services, and purchase of non-religious instructional supplies and equipment, including books. He appealed to the tolerance of Protestant taxpayers and of the nation generally to support this proposal. He expressed himself in these terms:

Is it not a travesty of religious freedom to claim that this Government of the people cannot furnish bus service for all children because in the process somebody's religious feelings might be offended? Must the school bus be a non-sectarian vehicle? Suppose that a parochial school child has been put off the school bus and is crushed under the wheels of a truck. Can the civic officials—the mayor, the coroner, and sheriff—look at the mangled body, shrug their shoulders, and absolve themselves of blame by saying, "The youngster was a non-public school child; if her parents had sent her to the public school, this would not have happened"?<sup>130</sup>

Following his discussion of the general position and attitude of the organization which he represented, Mr. McManus then made proposals for a compromise bill which would receive his support. This compromise would first "provide funds specifically allocated for raising the salaries of public-school classroom teachers in the poorer States of the Nation," and second would "provide funds so that the children attending all schools, public and nonpublic, would receive certain essential school services, such as transportation, nonreligious textbooks and supplies, and health and welfare services. These funds would be distributed according to the pattern of the School Lunch Act."<sup>131</sup> Mr. McManus felt that such a compromise would "reflect keen political sagacity because it is a fact for the record that the educational bills which have passed Congress are those which provided for funds for the direct or indirect aid of both public and private educational institutions, and the bills which died, Congress after Congress, are those which were discriminatory and unjust in their failure to count the children in nonpublic schools among the beneficiaries of the Federal Government's assistance."<sup>132</sup>

The position of the National Catholic Welfare Conference was further elaborated upon in an article reprinted in the 1947 hearings. In commenting upon the bills which were before the Eightieth Congress, McManus indicated that he thought Senator Taft's measure stood the best chance of passage. With one exception it met the requirements of the Catholic position, and that of course dealt with the

<sup>129</sup> *Id.* at 238.

<sup>130</sup> *Ibid.*

<sup>131</sup> *Id.* at 240.

<sup>132</sup> *Ibid.*

use of money for the parochial schools. It allowed the states to spend a portion of the federal appropriation on non-public schools provided that the states matched that amount from state or local funds which would have to be spent for the same purpose. To the claim that the Taft proposal gave the non-public schools the right to federal aid, McManus replied in these words: "There is no just point in giving a State permission to aid private schools when it is prohibited from doing so by its own basic laws."<sup>133</sup> A "simple amendment," however, to the Taft proposal would make it acceptable to the Catholic educators. This amendment would be similar to the provision for non-public schools in the School Lunch Act, and would make only some \$4,000,000 out of a total of \$150,000,000 available to the Catholic schools. He concluded by saying:

The public-school profession stands in opposition to a Federal aid bill if any of the funds go to nonpublic schools. The Catholic position is endorsement of a bill for Federal aid to both public and nonpublic schools. Which group is the obstructionist? Take your choice, but it appears to me that the public-school groups have themselves to blame for the delay in gaining Congressional approval of Federal aid.<sup>134</sup>

Seldom have representatives of other religious groups opposed federal aid to education. On many occasions, however, they have demanded that the bills specify beyond all shadow of doubt that the money not be devoted to private, religious schools.

Benjamin C. Marsh appeared before the Senate Committee on Education and Labor in 1937, 1939 and 1943 on behalf of the People's Lobby. In appearing before the Committee in 1939, he quoted from a communication which he had received from Mr. Samuel McCrea Cavert, General Secretary of the Federal Council of the Churches of Christ in America, as follows:

We note with grave misgiving the attempts which are being made in various quarters to secure subsidies from public funds for the support of parochial and private schools. We register the strong conviction that such proposals are contrary to the cherished American principle of the separation of church and state.<sup>135</sup>

Other groups have opposed any concession to the Catholic demands. The representative of the Supreme Council of the Scottish Rite Order, Southern Jurisdiction, opposed the Black-Harrison-Fletcher bill because of the possibility that it might be construed to allow the use of federal funds for parochial schools in states which allowed the use of public funds for such purposes. He thought that

the past two decades had witnessed a well-organized effort . . . to break down that liberty by attacking tax-supported public schools and seeking to divert funds raised for them to sectarian schools. This is seen in the demands that are being made by the sectarian schools in almost every State for free transportation, free textbooks, free gymnasium privileges, and the portion of public taxes paid by certain religious groups.<sup>136</sup>

<sup>133</sup> *Id.* at 257.

<sup>134</sup> *Id.* at 258.

<sup>135</sup> *Hearings on S. 1305, supra* note 82, at 252.

<sup>136</sup> *Hearings on S. 419, supra* note 72, at 88.

The Black-Harrison-Fletcher bill also met the opposition of other groups because of the possibility that federal funds might be used for religious, private schools. Representatives of the American Protestant Defense League, the Religious Liberty Association of America, and the American Christian Foundation registered their dislike of its failure to define clearly the terms "public education" and "public schools."

Southern Presbyterians announced their opposition to both the Taft and Aiken bills in 1947 as violations of the principle of separation of church and state.<sup>137</sup> Nor were such statements as these confined to spokesmen of the Protestant churches. Writing in *PM*, Max Lerner had this to say:

A Federal aid bill is greatly needed to raise the levels of our democratic education. But if it means the betrayal of the separation of church and state, as it does in the Aiken bill, it is a Trojan horse which will disrupt and destroy the citadel of American life.<sup>138</sup>

In the 1947 hearings before the Senate Committee, the representatives of a number of religious groups presented their views relative to the use of federal funds for non-public schools. The representative of the Seventh Day Adventist denomination stated that his group did not take a position for or against aiding the public schools, but did oppose the 1947 Aiken bill and the 1947 Taft bill because of their provisions dealing with the non-public schools. His group was "opposed to any kind of aid to religious schools."<sup>139</sup> Furthermore, his group did not look with favor upon the proposal to provide certain services to children in non-public schools. "We believe that every school ought to furnish its own lunches for its own children. We believe they ought to look after the medical care of their children, of the transportation, and every kind of aid we are opposed to of that kind, whether salaries for teachers, putting up buildings, as is proposed now in some of the State legislatures, for private and religious schools."<sup>140</sup>

The General Secretary of the Federal Council of Churches of Christ in America appeared before the Senate Committee, and requested federal aid for education under the following conditions:

- A. That no Federal funds shall be made available to States to be used in such a way as to discriminate against any minority racial group.
- B. That the administration of Federal funds made available to States shall be safeguarded against the imposition of Federal control in matters of educational policy and,
- C. That Federal funds shall be used only for such schools as the constitution or statutes of the several States make eligible for State support.<sup>141</sup>

The Chairman, National Committee on Education and Social Action, National Council of Jewish Women, Inc., said that it was supporting the 1947 Taft bill because several of the other bills contained provisions for the allocation of funds "to

<sup>137</sup> N. Y. Times, May 21, 1947, p. 4, col. 7.

<sup>138</sup> *PM*, May 18, 1947, p. 2.

<sup>139</sup> *Federal Aid to Education*, *supra* note 127, at 300.

<sup>140</sup> *Ibid.*

<sup>141</sup> *Id.* at 349.

nonpublic schools for transportation, health examinations, books and supplies. . . . The passage of any bill containing provisions which would permit public funds to be used for the support of nonpublic schools is a danger to the basic principles on which this country was founded.”<sup>142</sup> A representative of the Baptists of the United States said that

in opposing the application of that part of S. 472 which stipulates provision for use of a proportionate amount of Federal funds to support nonpublic schools in States which have provisions for use of public tax money for some form of nonpublic school support, I wish to make it plain that we are not intolerant; in no sense to be put down as bigots. But it is not in the interest of public welfare to be forced into silence under the guise of fraternity.<sup>143</sup>

The Legislative Secretary, Council for Social Action, Congregational Christian Churches of New York summarized his point of view as follows:

First of all, we believe that Federal aid is necessary and that it can be supplied to the States without Federal control.

Secondly, we object to any financial aid, direct or indirect, to private schools. We support health and safety protection for all children, including those that go to private schools, and States must recognize private schools if they meet certain standards, providing adequate education, but parents who choose to send their children to such schools must pay for this privilege.<sup>144</sup>

The spokesman, however, did conclude that although he was “unhappy about the provisions of 6(b) of S. 472, yet we will and we do want to support Senate bill 472.” Upon questioning from Senator Aiken, he said that if it should develop that the enactment of federal aid legislation depended upon the inclusion of this provision, he would not oppose it on that point.<sup>145</sup>

Before we conclude that the question of federal aid to the parochial and nonpublic schools is the only factor which has prevented the passage of legislation, it might be well to summarize briefly some of the other problems and dilemmas which have faced the advocates of federal aid. One of the most difficult problems to solve before an aid bill is acceptable is that of insuring that federal subsidies do not mean federal control. One of the strong features of American education is to be found in its diversity and dispersal among the states and communities of the land. It has allowed adaptation to local problems and needs. It has encouraged experimentation in new ideas and practices which, if successful, have been made available for emulation through journals, the press, conferences, and other media for the exchange of thought. A dispersed educational structure is a bulwark against the use of the school system for propaganda purposes of interest groups in a manner not in harmony with constitutional-democratic practices. It is to be expected that in any aid bill there will be some control provisions to insure fiscal compliance with the basic legislation, but fiscal controls do not necessarily mean education controls. The

<sup>142</sup> *Id.* at 353.

<sup>143</sup> *Id.* at 389.

<sup>144</sup> *Id.* at 93.

<sup>145</sup> *Id.* at 95.

record indicates that the education controls should be left largely to state determination if the bill is to have political success.

The restrictions placed in an act relative to the division of funds between the races in states which maintain separate schools are education controls. This phase of federal aid to education has been difficult to resolve in a satisfactory manner because it has brought forth so many emotional and sectional attitudes and differences. The basic motivation for any safeguards as to division of funds is to be found in the apprehension that the southern states would not, if left alone, make an equitable apportionment. This fear has been based on observation of the way in which the southern states divide their own funds between the two school systems. Interestingly enough, the present solution found in the Taft bills of 1946, 1947, and 1948 is not very different from that contained in the Blair bills of the 1880's. The Blair bills would have required that the state apportion the money received from the Federal Government to the minority race in at least the ratio of its population between the ages of ten and twenty-one to the total such population of the state. The Taft bill provides a similar apportionment based upon population ratios of all ages with additional guarantees that Negroes would receive a minimum expenditure per pupil in all educational jurisdictions.

One of the most plaguing problems in the whole history of federal aid to education has revolved around the method of allocating the funds among the various states. The way in which the framers of the bill approach the responsibility of the Federal Government determines to a considerable degree the type of allocation formula which will be used. The Reeves Committee, for example, seemed to feel that the Federal Government had an interest in its own right in the education of all the people. Consequently, the inadequacies of the state educational program were of more importance than the ability of states to support an adequate educational system. One political difficulty involved in an allocation formula is that of weighing the effect which the furnishing of federal money to a state will have upon the attitude of that state's representatives toward such a measure. In the 1943 debates, Senator Taft maintained that the reason why the bill did not distribute money on the basis of need was because "so few States would get money that the bill never could be passed."<sup>146</sup> Although not all of the federal aid bills have adhered strictly to the principle of fund allocation on the basis of fiscal inability, it is doubtful if the agitation would have been as persistent had there not been the conviction that certain states were too poor to maintain an adequate level of education.

Various organizations and groups have held definite and frequently conflicting opinions on the subject of aid. Generally, labor groups have favored federal aid, and the various management groups have been opposed. The teachers' organizations have frequently been in disagreement on the proposed provisions of legislation. The Negro groups have advocated aid under certain conditions. The Catholic

<sup>146</sup> 89 CONG. REC. 8303 (1943).

and Protestant churches have brought their pressure to bear, particularly in the matter of aid for non-public schools.

To summarize, a number of factors have blocked the passage of legislation for federal aid to education. The effect which federal aid would have upon the segregated school system of the South; the failure to secure agreement on the formula for allocating funds to the various states; the constitutional questions; the administrative arrangements to secure compliance by the states with the terms of the legislation; the emotional climate in which debate and discussion took place, particularly after the Civil War; the attitudes of the major political parties and their leaders; the fear that federal aid means federal control; and the inability to reach a solution of the controversy as to the use of federal funds for parochial schools—all have contributed to the failure to secure enactment of this legislation.