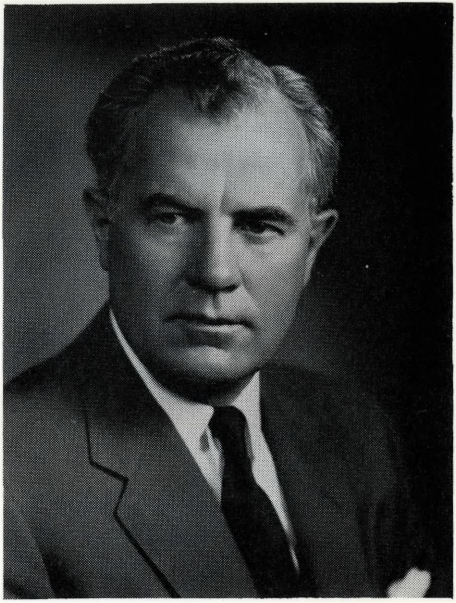
# WITHOUT FEAR OR FAVOR

*A statement to the Senators and Representatives of the United States, and to the American people*

by GLENN L. ARCHER



**Glenn L. Archer**

## Foreword

*The publication of this pamphlet has been occasioned by the sudden announcement on September 30, 1955, that the Senate Subcommittee on Constitutional Rights was "postponing" public hearings on religious liberty which had been scheduled to open in Washington on October 3, and the further announcement a few days later that the subcommittee had decided to cancel the hearings altogether and rely on written answers to a previously-distributed questionnaire to serve as a sort of "hearing" on paper. Although no adequate explanation of the abrupt change in plans was offered by subcommittee spokesmen, the press reported it as an open secret that a major factor in the cancellation was* fear—*the fear of some political leaders that they might get involved in a controversy with "sectarian" overtones, the fear of some church or lay*

*groups that testimony might reveal them in an unfavorable light, the fear of some thinkers that the public is not capable of facing up to the real challenges presented by American church-state relations today.*

*POAU Executive Director Glenn L. Archer had been one of the leading spokesmen invited to testify. When the last-minute "postponement" was announced, he pleaded with Senators Hennings, Langer and O'Mahoney of the subcommittee to refuse to allow "the vital subject of religious freedom to be shunted aside" as an issue "not . . . to be frankly discussed in this free country of ours," and to "let the investigation proceed without fear or favor." Because of the subcommittee's failure to heed this plea, the text of the statement prepared by Archer for presentation at the hearings is herewith printed so that the people shall not be denied their opportunity to discuss the issues.*

## WITHOUT FEAR OR FAVOR

My name is Glenn Archer, and I am Executive Director of the national organization known as Protestants and Other Americans United for Separation of Church and State. We represent more than 50,000 American citizens who are dedicated to the task of preserving the First Amendment's principle of church-state separation. Many of these citizens are leaders of civic, fraternal and religious groups.

We recognize the fact that in a complex society like ours many sincere believers in religious freedom cannot agree upon an exact or absolute boundary line between church and state. But we believe that the primary principle of church-state separation has been clearly and forcefully stated by the Supreme Court itself, and we are prepared to support that interpretation with all the power at our command. In 1952 the Supreme Court, in the "released-time" Zorach case, speaking through Justice Douglas, said, "Government may not finance religious groups nor undertake reli-

gious instruction nor blend secular and sectarian education nor use secular institutions to force one or some religion on any person."

### We Stand With the Supreme Court

This firm statement of a great constitutional principle is good enough for us, and we do not see the need for re-arguing it. Any general appropriation for churches or church schools or for sectarian enterprise is outlawed by our Supreme Court. We accept that decision, and we have pledged ourselves to fight for its strict enforcement. We believe that the only serious question which really needs debate about this principle of church-state separation is the location of the frontier between church and state, and the extent of cooperation between them which is legally permissible. We realize that in regard to the location of this frontier there is still some room for difference of opinion, but we believe that on the main point—no public money for the promotion of sectarian enterprise—the issue has been decided. Now it is the duty of every citizen to see that the Constitution is enforced.

Our organization, known as POAU, was founded to meet the current challenge to the religion clause of the First Amendment and to defeat that challenge

by educating the public. Our original manifesto, which announced this purpose, said

> POAU does not concern itself with the religious teachings, the forms of worship, or the ecclesiastical organization of the many churches in our country. It is no part of our purpose to propagandize the Protestant faith, or any other, nor to criticize or oppose the teaching or internal practices of the Roman Catholic Church or any other. We have no connection or sympathy with any movement that is tinged with religious fanaticism. Our motivation arises solely from our patriotic and religious concern for the maintenance of the separation of church and state under the American form of government.

We look upon the maintenance of the state's neutrality in religious matters as a necessary guarantee for the maintenance of religious freedom in a plural society. A state which favors one religion or any religion ceases to be a tolerant state. In the long run, it is bound to limit or compromise the religious liberty of some of its citizens. We believe that the only sure way to guarantee religious freedom to all people is to keep the state and church separate.

## A Neutral State Need Not Be Hostile to Religion

This does not mean that public officials should be irreligious or anti-religious, or that the state should be hostile to religion. Such an interpretation of the gospel of church-state separation is a grave distortion. Most of our members are themselves deeply religious citizens who belong to churches and respect the ideals and principles of organized religion. Our officers include many of the most prominent officials of America's largest Protestant denominations, and a considerable number of Jewish leaders and non-churchmen. Of course we are not hostile to religion, but we believe that if religion is to be established in American life it must be by voluntary devotion to its institutions and principles and not through government favoritism or support.

We believe that the place to promote religion is in the church, the home, and the market place of public discussion, and not in the public schools, the legislature or the public treasury. We reject the idea of a state church, and we also reject all plural forms of favoritism. We believe that the non-churchman should have exactly the same rights as the churchman, to worship or not to worship, and to withhold his money

from religious enterprises or to support them voluntarily by personal sacrifice.

You have asked us whether we have observed any significant instances in recent years of a denial of the rights expressed in the religious clauses of the First Amendment. Yes, we have. We have observed hundreds of significant instances in almost every part of the country.

For the most part these violations are not encroachments upon the freedom to worship or the freedom to teach religion. In general, Americans are well-protected in these freedoms. The religious freedom which is most commonly violated in the United States today is the citizen's right to be free from sectarian exploitation or sectarian discrimination. In the 8 years since our organization was founded, we have discovered a growing tendency to permit and encourage the state to intervene in the life of American citizens in behalf of ecclesiastical interests.

I wish to cite three types of violations of this kind. The scope of these violations is so extensive that I cannot attempt to cover them all in the short time which has been allotted to me, but if the Committee will permit it, I shall file with your counsel a detailed

memorandum of fact and law supporting the main items which I propose to outline in this brief summary.

**Promoting Religion in Public Institutions**

The first type of violation which I wish to call to your attention is the unconstitutional promotion of sectarian religion in tax-supported institutions. This type of violation is very widespread in the United States and is indulged in by both Protestants and Catholics, especially in those communities where they constitute the great majority in the population. It takes the form of sectarian teaching or promotion in the public schools in defiance of the clear prohibition of the Supreme Court in the McCollum and Zorach cases. In those decisions the court also made it quite clear that sectarian religion could not be taught in public school buildings or as a part of the regular school curriculum. It was permitted only in exceptional circumstances on a so-called released-time basis away from school property.

In spite of these rulings, churches in several states, both Catholic and Protestant, continue to teach religion on school time and school premises. Extensive Protestant violations have occurred and some of them are still continuing in Kentucky, Vermont, Virginia

and North Carolina. The Kentucky violations by Protestants exist in the mountain counties where there are almost no Catholics and where Protestant missionary societies have built schools and turned them over in part to the counties, while they retained Protestant religious classes in the curriculum. We have protested these practices, and they are being rapidly reduced.

In Virginia, we helped to eliminate many Protestant violations in Arlington and Fairfax counties, but throughout the state the law and the Constitution are being violated by Protestants under a bizarre opinion handed down by the Attorney General, which gives a personal twist to the decisions of the Supreme Court in this matter. About 40,000 Virginia school students, mostly Protestants, are being taught religion in public school buildings by church teachers, mostly Protestants, under the technical legal excuse that Virginia practice is slightly different from the Illinois practice condemned by the Supreme Court in the McCollum case. The Virginia teachers are chosen by religious bodies outside the school system, whereas the Illinois teachers were chosen by the school superintendent. We do not believe that this technical difference should be allowed to destroy the principle.

In North Carolina several questionable religious practices are in operation in the public elementary and high schools. In the high schools optional religious classes are given on school time and on school premises by teachers who are paid by Protestant church councils. I believe that some of these practices are unconstitutional, and both POAU and the North Carolina Association of Jewish Rabbis have protested. It is estimated that last year about 3,000 students took the elective classes in forty-five public high schools. This is clearly an evasion of the spirit and the letter of the First Amendment, since it tends to establish Protestantism in the school system of the state.

To cite another Protestant example, Vermont allowed Protestant evangelical classes to be held in public schools until a few months ago when the Commissioner of Education and the Attorney General stopped the practice on complaint of a member of our organization.

### The Semi-Public Schools

The Catholic violations are of a somewhat different type, and they are very extensive, partly because the Catholic school system itself is so extensive. There are

literally hundreds of public schools in the country which are public in name only, and actually Catholic in practice. They are semi-public schools, supported by tax payments and operated by sisters in conjunction with adjoining Catholic churches. Sometimes these captive schools—one Catholic authority has called them "so-called Catholic schools"—observe the letter of the law by taking their children to a neighboring Catholic church for religious instruction, but very often they do not bother to do this. They simply violate the Constitution openly by teaching their sectarian religion in so-called public classrooms. Simultaneously the teaching sisters draw their full salaries from the public treasury, and the other costs of the schools' operation.

Sometimes these Catholic schools are in the same building with public schools, with imaginary lines in the corridors dividing the public from the Catholic part of the enterprise. I have here a picture of such a school in Lima, Wisconsin, owned and operated by the Catholic church. The dotted lines, drawn by a local journalist, show which parts of the building are alleged to be Catholic and which public. The school was owned by the church, and the children were taught


MINNEAPOLIS STAR AND TRIBUNE PHOTO

**"PUBLIC" SCHOOL AT LIMA, WISC.—Dotted lines show how building space was divided between parochial and public school classes. The building was owned by the Holy Rosary (Roman Catholic) parish, and, according to Father Charles Wolf, pastor, five garbed nuns and three lay teachers comprised the entire instructional staff.**

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by sisters. They attended Catholic religious exercises each day in the Catholic part of the structure.

Occasionally such split-personality schools are Protestant in management—that is the case in some counties in Kentucky—but usually they are Catholic, and sometimes the Catholic authorities are quite frank about the situation.

Frequently the Catholic semi-public schools are listed by the state as public schools and by the local Catholic directories as Catholic parish schools. A 1926 study of these semi-public schools estimated that there were 340 of them in the country, and that there were more than 18,000 pupils enrolled in less than half of the schools. The Louisville *Courier-Journal,* in March, 1953, estimated that there were 20 public elementary schools and 4 public high schools, in the Louisville Archdiocese alone, operated by the Catholic Church and receiving public funds. In 1946, the state superintendent of education in Michigan discovered 19 such parochial schools receiving public revenue, listed by the Catholic Church on the diocesan records as parochial schools, while the sister-teachers, teaching sectarian religion in the classroom, received their salaries from the state. The practice in Michigan was discontinued, but there is no doubt but that it is going on now in many parts of the country.

There is no way to estimate the exact total of such current violations. In Kansas, an area committee of the Methodist Conference, after a 1952 state survey, reported that there was documentary evidence to prove that 51 schools in 29 counties were indulging in prac-

tices which violated the church-state separation principle. Over $450,000.00 of public money was going to these school districts, of which about half went to garbed sisters in the form of salaries.

In 1953, the American Civil Liberties Union reported that Illinois had about 30 of these so-called public schools supported by the taxpayers and simultaneously listed as parochial schools in the Official Catholic Directory. One of the most famous violations of this type occurred two years ago in the town of Johnsburg, Illinois, where a public school had been entirely taken over by six sisters in direct violation of the principle of church-state separation. The textbooks were written by members of one church, and the pictures on the walls were denominational in character. The children were taught Catholic songs and prayers, and the school was shut down on Catholic holidays. A Lutheran mother sued to recapture this school and she won without a trial of the issues when the Attorney General of the state handed down a ruling outlawing the unconstitutional practices. The six sisters then left the so-called public school and took most of the children with them into a parochial school paid for by Catholic parents.

## Nuns Are Not Free Agents

We believe that the teaching of Roman Catholic sisters in costume in such semi-public schools is a violation of the First Amendment, even when the state law technically allows it. We would also object to costumed Protestant deaconesses as public school teachers if they were bound by as narrow a denominational code. In our experience the line of demarcation between church and state is not observed in practice in those educational institutions which are conducted by sisters. It is not always possible to prove the erosion of the church-state separation principle in a court, but anyone who is familiar with the operation of these semi-public schools knows that the letter and the spirit of the law are violated.

The sister's costume is only one factor in such a situation. Her mind is much more important. Her mind, under the principles of her church, cannot be open or neutral on matters of the separation of church and state. This has been clearly pointed out by a court in Missouri, in one of the cases which our organization fought. The court found—and the decision was later upheld unanimously by the Missouri Supreme Court

—that the teaching sisters in the so-called public schools of Franklin County which were operated by religious orders were not free to accept the American policy of church-state separation in good faith. It said that "in case of conflict between the directions and the orders of the defendant school directors . . . with the obligations, orders and directions of the superiors in their respective religious orders of the Roman Catholic Hierarchy, the nuns and each of them by virtue of their oaths of obedience be required to ignore the orders of the secular authorities and obey the orders of the religious superior and the Church Hierarchy." The court also found that the "policies of the State of Missouri and the Roman Catholic Church (with respect to the separation of church and state in the public educational system) cannot be effectuated in any single school at the same time."

In the Dixon, New Mexico, case, where we won a suit to forever bar 143 Catholic sisters and brothers from public classrooms because they were misusing their positions to promote sectarian faith, we found that the sisters habitually evaded the law because of their training and discipline. One sister from Penasco told on the witness stand how the Catholic catechism

was taught in a classroom under the heading of "Sociology." Another told how the regular report cards in the 5th grade gave the grades for catechism, although catechism was not supposed to be taught in a public classroom.

Under the rules of her church, the sister must advocate a boycott of the public schools by Catholic children since her church teaches, in Canon 1374 and in papal encyclicals, that the Church has the supreme right to rule over the education of all Catholics, and that American children of the Catholic faith, to quote Canon 1374, "may not attend non-Catholic, neutral, or mixed schools, that is, those which are open also to non-Catholics, without special permission from their bishops." (See *Appendix* of this statement for official Catholic utterances on public money and education.) The sister is also committed by the teachings of her church to the belief that all school training must be "permeated with Christian (Catholic) piety." These are the words of Pius XI on the subject.

We are happy to say that both Protestant and Catholic violations of this type have been discontinued in many states without the necessity of going into court. But violations are still common. In Wisconsin, in 1952,

the State Superintendent of Schools shut off state aid to 14 semi-public schools taught by sisters under the direction of the Roman Catholic Church because they selected teachers on the basis of a religious test and because they included sectarian instruction in their curriculum.

### Tax Funds for Denominational Hospitals

The second type of violation to which I wish to call your attention is the direct or indirect payment of public money to religious institutions. This chiefly occurs in religious hospitals and religious schools. We hold that the Constitution is opposed to any such subsidy at taxpayers' expense, even when the motives of those who receive the subsidy are praiseworthy.

We admit that hospitals constitute a kind of borderline area in matters of church-state separation. But denominational hospitals are built and maintained like all other church institutions for the development of the church's influence in society and the extension of its message. The medical codes of some hospitals receiving federal and state money are narrowly denominational and discriminatory. When a hospital systematically promotes one sectarian faith and denies freedom

to its patients, nurses and doctors in such matters as contraception, therapeutic abortion, and sterilization, it is not actually a public institution. It is a part of a church establishment, and contributions to such an institution help to promote the medical code of that particular church at public expense.

The chief federal violations of this sort occur under the Hill-Burton Act, which was passed before the Supreme Court had carefully analyzed—in the McCollum and Zorach cases—the limits of the use of public funds for religious enterprises. We believe that many of the appropriations made to denominational hospitals under that act would be outlawed under a strict application of the Supreme Court rulings. The Supreme Court, you will remember, said that "Neither a state nor the Federal Government . . . can pass laws which aid one religion, aid all religions, or prefer one religion over another. . . . No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion. . . ."

We believe that this rule should apply to all denominational hospitals. It applies with special force to that church which now receives about 80 per cent of the

federal appropriations going to denominational hospitals. That church definitely forbids many medical measures which are permitted in non-Catholic hospitals. Frequently it discharges from its staffs doctors who do not conform to this denominational code. In such denominational hospitals certain established medical practices are definitely subordinated to canon law. The books of instruction for denominational nurses instruct them to discriminate in a specific way against patients who request the services of non-Catholic clergymen.

Of course, these violations are not exclusively Catholic. Some Protestant denominations accept public money for their hospitals under the Hill-Burton Act. We respect their motives, but in all consistency we oppose such appropriations as violations of the First Amendment. Some of the largest Protestant denominations, we are happy to say, notably the Southern Baptist churches, now reject such support for their hospitals from the public treasury as a violation of the First Amendment. Moreover, it should be pointed out in analyzing these violations, that Protestant hospitals, unlike Catholic institutions, do not have distinctly denominational medical codes. They do not discharge doctors for

failing to follow the Methodist line on birth control, nor instruct Presbyterian nurses to refuse to call non-Presbyterian clergymen for the benefit of non-Presbyterian patients.

### Bus Funds for Parochial Schools

We also consider that public appropriations to denominational religious schools for bus transportation are violations of the First Amendment, although these appropriations have been technically legalized under certain circumstances by state law in some seventeen states. We are aware that in the Everson decision, by a vote of 5 to 4, the Supreme Court permitted the use of local funds for parochial school buses to reimburse Catholic parents for such costs, under carefully restricted conditions.

But the wisdom of such a concession can still be debated, and in the light of later decisions, even the legality. We believe that the decisions in the McCollum and Zorach cases, made after the Everson bus decision had been handed down, indicate that the 4 judges who dissented in the Everson case applied the First Amendment more rigorously and reasonably than the majority. We believe that if the issues should be re-

argued in the light of all the local facts and all the principles enunciated in the McCollum and Zorach decisions, the appropriation of public funds for parochial-school bus transportation would be outlawed.

After all, bus-transportation money for parochial schools is not like lunch money or expenditures for medical care. It is much more than a personal service to children as children. It is part of a competing school system which in turn is an organic and obligatory part of a church system. Of course it is argued that the supplying of bus transportation to school children of religious schools contributes to their welfare, but it also contributes to the establishment of a church which has incorporated its religious schools into the church structure itself. To treat bus transportation for children in parochial schools as a detached welfare service is to be completely unrealistic. We would not spend tax money to transport people to church just because it contributed to their personal welfare. We would say that such use of public funds for religion violated the Constitution. So, when we consider appropriating public funds to parochial schools for bus transportation we should not think of the phenomenon in isolation. We should ask whether in making such payments we

are really breaching the wall of separation between church and state.

I think that this breach has been made and that bus appropriations are being used as a beachhead for a general invasion of the church-state separation principles of the First Amendment. We cannot ignore the fact that the largest church in America, which is the chief beneficiary of bus appropriations at the present time, openly teaches that this concession in the granting of public revenue is a precedent for complete state aid in support of its schools. A leading religious magazine, *The Catholic World,* came out in April with an appeal to President Eisenhower, in which it called the wall of separation between church and state "a legal pipe dream," and used the payment of public money for parochial-school bus transportation as a specific precedent for the demand for public money for new buildings for church schools. The editor argued that one concession without the other was illogical and discriminatory. In asking for public funds for Catholic school buildings he declared that "there is nothing sectarian about heating equipment, windows and a roof over the children's heads." It is because bus transportation for parochial school pupils is being used in this manner

as an argument for the annulment of the establishment clause of the First Amendment that we regard bus appropriations as contrary to the constitutional principles of church-state separation.

### How Religious Favoritism Works

The third type of violation which we wish to discuss is religious favoritism in the administration and enforcement of the law. In many cases this favoritism violates the rights of citizens under both the First and Fourteenth Amendments. It is especially prevalent in the field of education.

In many states laws are written on the statute books requiring that denominational schools must give their pupils the equivalent of the education given in public schools. The equality of education is supposed to be a condition of acceptance of denominational schools under our compulsory education laws. In general these laws are not well enforced. The subject is too long for adequate treatment here, but we wish to file with the committee a survey which our organization made in 1954, which shows that many religious schools in the country are not being compelled to live up to the standards prescribed by law. Of course, we do not question

the right of churches to operate their own school systems, but we believe that if the education in these private systems is accepted as satisfactory under our compulsory education laws, the parochial school authorities should be compelled to live up to the law. At the present time they are the beneficiaries of studied favoritism and continuing laxity on the part of state school officers who are supposed to see that they meet the standard requirements for public schools.

Another type of violation based on religious favoritism occurs in the discriminatory administration of the income-tax laws. Protestant and Jewish public school teachers do not receive the same income-tax exemptions as Catholic sisters. The sisters are not compelled to pay an income tax on their salaries as public school teachers; Protestant and Jewish teachers in parallel circumstances are compelled to pay. In Frenchburg, Kentucky, for example, nine public school teachers of United Presbyterian faith received their salaries from the county, turned their checks over to the Presbyterian missionary society which operated part of the school, and took back just enough for their living expenses. Seven teachers of the same church affiliation in the Ezel school in Morgan County, Kentucky, did the

same thing. All 16 of these teachers were compelled to pay full income tax on their full salary checks. They have discontinued the practice of turning over their pay checks in this manner, but so far as we know, they have not received refunds for past payments.

We do not know what the total national loss from this discriminatory practice amounts to because there are no national statistics on teaching sisters in public schools, but we can estimate the loss in some regions. In Dubois County, Indiana, for example, there are 65 sisters on the public school payroll teaching in schools that are Catholic in personnel and spirit, and public in name. The government's loss in that one county because of income-tax discrimination is estimated at more than $32,000.00 a year.

But one of the oddities of the present situation is that in some parts of the United States public schools make deductions for income taxes from the salary checks of sisters, and in most parts of the country they do not. We are told, for example, that in Huntingburg, Indiana, one of the towns in Dubois County, such deductions are made. We think that this committee should make a careful investigation of this situation to see whether teaching sisters are quietly receiving refunds

of these deductions without any public disclosure of the practice.

We contend that the legal excuse for this system of tax discrimination is absurd, and that the reasoning of the United States Department of Internal Revenue on the subject is clearly discriminatory. A sister who is employed as a teacher by an American public school must be employed as an independent contractor for her own labor. A state or city cannot possibly employ a religious order directly without violating the law. The teaching sister's income must legally come to rest, for at least an instant, when she endorses her pay check over to the head of her religious order. At that instant, by all normal interpretations of law, she owes a federal income tax to the government on her public-school salary. A sister cannot be an independent contractor for the purpose of employment and at the same time be treated solely as an agent for her church when the income-tax collector arrives.

### Give Us Protective Laws

I believe that the three types of violations which I have summarized should be met by both court action and legislative action. Of course, many of the abuses

I have cited can be rectified by state legislatures and local courts. But there is also a challenge and an opportunity for action by Congress. Since you have specifically asked our organization to indicate the nature of any Congressional remedies which we favor, I should like to suggest that the three following legislative remedies are worthy of your consideration:

1. We believe that every federal law appropriating money for education should contain a specific provision that no portion of the funds voted may go to sectarian religious institutions, either for buildings, salaries or bus transportation.

2. We believe that the Hill-Burton Act should be amended to prevent appropriations to any denominational hospitals.

3. We believe that in appropriation bills for the Executive branch of the government and for the State Department, specific provisions should be included prohibiting any employment of a public or secret fund for either a personal representative or an official ambassador to the Vatican. This would prevent the president from circumventing the will of Congress and the American people by giving distinctive recognition to one church.

## Appendix

Here is the official documentary evidence to prove that the Roman Catholic Church, in its own publications, (1) attempts to enforce a boycott of public schools; (2) demands full support out of the public treasury for its own schools as a matter of "distributive justice"; and (3) promotes its own teachings in tax-supported institutions.

1. *The boycott of public schools.*

Canon 1374 of Roman Catholic Canon Law (with comment from Bouscaren and Ellis' *Canon Law*, p. 704):

> Catholic children may not attend non-Catholic, neutral or mixed schools, that is, those which are open also to non-Catholics, and it pertains exclusively to the Ordinary of the place to decide, in accordance with instructions of the Holy See, under what circumstances and with what precautions against the danger of perversion, attendance at such schools may be tolerated.

Instruction of the Holy Office, Nov. 24, 1875, concerning Catholic parents who refuse to send their chil-

dren to Catholic schools, as quoted in *Canon Law,* p. 706:

> Parents who neglect to give this necessary Christian training and education to their children, or who permit them to attend schools where spiritual ruin is inevitable, or finally who, although there is a suitable Catholic school properly equipped and ready in the locality, or, although they have means of sending their children elsewhere to receive a Catholic education, nevertheless without sufficient reason and without the necessary safeguards to make the proximate danger remote send them to the public schools —such parents, if they are contumacious, obviously according to Catholic moral doctrine cannot be absolved in the Sacrament of Penance.

The *Brooklyn Tablet,* published the following answer on the sin of sending Catholic children to public schools (*Brooklyn Tablet,* April 24, 1954, Question Box of Father Raymond J. Neufeld):

> Q. Is it a sin for Catholic parents not to send their children to Catholic schools?
>
> A. Catholics are excused from this obligation only when there is no way of fulfilling the law. The Code

of Canon Law (1372) obliges all Catholic parents, as well as those who take their place, to provide for the Christian education of their children. In elementary school, all children, according to their age, must be instructed in Christian Doctrine. Furthermore, those who attend the higher schools are to receive further religious training. In addition, the Code forbids Catholic parents sending their children to non-Catholic schools, even public. Attendance at these schools can only be tolerated.

Every practical Catholic parent wants to see his children educated according to the provisions of the Code. The big problem in recent years is one of numbers and crowded conditions in our Catholic schools, both elementary and high. Therefore, parents who have to send their children to public schools are not guilty of a violation of the law. They must, on that account, be more watchful and conscientious about the religious training of these children, seeing to it that they attend the parochial confraternity classes for both elementary and high school pupils.

2. *The demand for public funds for Catholic schools.* Statement of National Catholic Welfare Conference

to subcommittee of House Committee on Education and Labor on Federal Aid to Education, 1947, pp. 310, 311.

> The financing of schools through public taxation is a responsibility of government, especially of local and State governments. This responsibility entails an obligation to observe the norms of distributive justice in distributing tax funds among the schools within the community. Since government itself has nothing to teach, and because government receives a full return from its educational investment when a school produces well-trained citizens, therefore, every school to which parents may send their children in compliance with the compulsory education laws of the State is entitled to a fair share of tax funds. Local and State governments which refuse to support schools not under the control of the local school board are guilty of an injustice against other qualified schools within the community.

*Canon Law:* A Text and Commentary, by T. Lincoln Bouscaren, S. J., and Adam C. Ellis, S. J., p. 574:

> State laws which result directly or indirectly in depriving Catholic children of Catholic education are

against the natural law. Catholics should be so instructed in this matter that they will exercise all legal means to remedy this grave injustice. The system of taxation which burdens Catholic citizens with the support of so-called "public" schools which Catholics may not in conscience attend, is an evident violation of fundamental justice.

The 1952 *National Catholic Almanac*, p. 357:

In the United States the use of local, state or federal tax funds to support denominational schools is prohibited by law. State constitutions and laws explicitly forbid state tax aid to any school giving sectarian instruction. The United States Supreme Court has ruled that the First Amendment to the United States Constitution prohibits federal aid to sectarian schools.

Catholic authorities maintain that these two laws are unjust and discriminatory because they arbitrarily deny tax aid to schools, which, like the public schools, prepare for the responsibilities of American citizenship. They see no reason why the inclusion of religious instruction in a school's curriculum should deprive it of tax support as long as the school

complies fully with all the requirements of compulsory education laws.

Pope Pius XII, "Address to Teaching Sisters," September 15, 1951 (text in *Brooklyn Tablet*, November 3, 1951):

> Therefore, we may add, and not only in regard to Italy but speaking in general: from those who have a part in drawing up school legislation, we must expect that determination for justice, that, so to speak, democratic sense which corresponds to the will of the parents in such a way that the schools founded and directed by religious institutes be not placed in a worse condition than the State schools and that they be given the freedom which is necessary for their development.

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CHURCH AND STATE
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