

# GOVERNMENT AID TO EDUCATION 1

## Federal Support Is Intrusive

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History surely affords no clearer lesson than this: that through the facile and liberal use of money, the centralization and power of government is advanced; and, with such advancement, freedom of thought, conscience, and action within the body politic may be proportionately shackled and ultimately destroyed.

The progressive intrusion of the government into the field of religion (protected from such violation, until recently, by the First Amendment) is aided by some denominational spokesmen who call for "cooperation" between church and state. Because large sums of tax funds are said to be available for certain denominational projects through such "cooperation," these spokesmen join in the attack on the doctrine of church and state separation as a "shibboleth of doctrinaire provincialism." This attack has been successful to such extent that the entire structure of the wall of separation is threatened with collapse.

Are there sufficient reasons to resist such attacks? What should be the attitude of concerned Americans who value freedom as a whole? What should be the position of a church that values religious freedom and at the same time aspires to maintain church-related schools that are loyal to Christian principles and that are of high academic excellence?

The answers to these questions, in my opinion, are to be found in the recognition of at least eight postulates.

1. *Religious freedom and the separation of church and state are basic biblical doctrines.*

Speakers and writers on the subject of church and state relations commonly treat religious liberty and the separation of church and state as

different and distinguishable concepts. Although theoretically it is possible to distinguish between these two ideas biblically, they seem inseparable historically and practically. Complete religious freedom, as distinguished from mere toleration, has never existed apart from the separation of church and state. To destroy or alter religious liberty, therefore, one must first destroy the doctrine of church and state separation. "Cooperation" is a first step in that direction.

Those who question the essential identity of religious liberty and the separation of church and state assert that the former is a biblical or religious concept, whereas the latter is a purely political device. Since space does not permit an exhaustive study of the abundance of biblical thought demonstrating the irreconcilable natures of the church and the state, I refer the reader to *The State in the New Testament*, a book by Oscar Cullman, the noted Swiss theologian.<sup>1</sup>

In the Bible, as in experience, the child of God finds himself in tension between two worlds, the physical and temporal on one hand and the spiritual and eternal on the other. He is a citizen of both and has responsibilities to both. In the Old Testament, the Jewish commonwealth tended to merge the two in the concept of its original theocracy. Even there, however, the ever-present conflict flared into the open in the demand of the people for an earthly king. Also, in the history of the northern kingdom, after the division of the nation on Solomon's death, the revealed religion was discarded and replaced with false priests, false prophets, and centers of worship competitive to the temple at Jerusalem.

Civil government is regarded in the New Testament as a valid, divinely ordained system (Romans 13:12) but only as a temporary expedient. Over against this temporal order stands the eternal kingdom of Christ. The Christian has inescapable obligations to both. He is to be obedient to the civil powers (Romans 13:1; Titus 3:1), but only as long as such obligation does not contravene his higher responsibility to God (Acts 5:29).

This relationship is carefully observed by Christ in both instances in which he deals with "tribute" or taxation. In Matthew 17:24-27 Jesus raises the question as to who should pay tribute, and in Matthew 22:21 ("Render therefore unto Caesar the things which are Caesar's; and unto God the things that are God's"), he stresses the legitimate claims of both realms, at the same time clearly distinguishing between the two.

Far more irreconcilable than oil and water are these two elements, the spiritual and the physical. The irreconcilable juxtaposition of church and state as dramatized in the crucifixion of Christ by the Roman state is for-

ever fixed and focused in that supreme conflict. The cross, therefore, is far more than a historic event; it is an eternal truth that the essential natures of church and state are mutually exclusive, the former being that of a redeemed and transformed society and the latter that of a temporal expedient geared to the condition of fallen man. This divergence is basic in Paul's instructions forbidding the use of civil courts to settle differences between Christians (1 Corinthians 6:1-8) and in Jesus' renunciation of the use of force in the achievement of his objectives.

Unless it be war itself, nothing is backed by all the power of the state more than taxation. Let one neglect to pay his taxes if he doubts this! To coerce a citizen to pay taxes to support the work of a church or denomination, even his own, is contrary to Christian doctrine, therefore, as well as to our American principles.

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*2. Since complete religious liberty has never been achieved apart from the separation of church and state, it is imperative that the strictest observance of the latter be maintained.*

The greatest struggle of the human race across its long history has not been the struggle of one economic class against another, as Karl Marx asserted, but the far mightier conflict of the masses of mankind in their effort to achieve freedom from all forms of tyranny. As Thomas Jefferson said, "Uniformity of conscience is coercion, and coercion is the greatest of all tyrannies over the mind of man."<sup>2</sup>

The most dismal chapters of man's history have been written in the centuries-long struggle, first, of the state to dominate the church and, then, of the church to dominate and control the state for its own purposes. The concept of union became a reality shortly after the close of the third century A.D., when the Roman emperor Constantine, in political expedience, "legalized" Christianity as the official religion of the Roman empire.

A study of man's struggle for liberation would take one through the events surrounding such milestones of freedom as the Magna Charta, the Protestant Reformation, the Acts of Toleration of England and Virginia, the colonization of the new world, and the enormous effort in America to achieve disestablishment and religious liberty. Such a study would reveal that man's tortuous upward climb toward the light of freedom found its culmination in the First Amendment to the Constitution of the United States, which erected a "wall of separation between Church and State."

The unparalleled progress and prosperity of all denominations, including the Roman Catholic, across the intervening centuries attest to the

wisdom and superiority of this American system. And across those intervening centuries also comes the warning of those glorious champions who won this freedom at such fearful cost to resist mightily the slightest encroachments of either church or state on the territory that separates the two.

3. *Just as man's complete freedom was not won until religious freedom and the separation of church and state became a reality, so the loss of all freedoms is threatened when religious liberty and the separation of church and state are jeopardized.*

The separation of church and state, therefore, is the keystone of all other freedoms. To quote Jefferson: "I know of no example in history in which a priest-ridden people has been able to maintain a free civil government."<sup>3</sup>

4. *A grant or contribution to a church-related school is a contribution to the church or denomination that owns or sponsors that school.*

There are those who point out that the curriculum of any church-related college contains secular elements, that such schools thus perform a public service, and that therefore such secular curricular programs can be subsidized by tax funds without violation of the principle of church and state separation.

Of course there is a public service performed by the church-related college, and even by a parochial school, just as there is by such services as funerals and weddings. No less important to the public weal is the emphasis of the church on honesty, good citizenship, social service, and justice. Should government therefore subsidize the church and the minister?

Actually, it is impossible to separate the "secular" programs of a truly church-related college from its "religious" programs to the extent that support may benefit one without at the same time benefiting the other. This was the position taken by the Maryland Court of Appeals in the now famous Horace Mann League Case and upheld in principle by the United States Supreme Court when it refused to review the Maryland court's decision. It is well to listen to Justice William O. Douglas, who said in his concurring opinion in the 1963 Supreme Court ruling:

Financing a church either in its strictly religious activities or in its other activities is equally unconstitutional, as I understand the Establishment Clause. Budgets for one activity may be technically separable from budgets for others. But the institution is an inseparable whole, a living organism, which is strengthened in proselytizing when it is strengthened in any department by contributions from other than its own members. What may not be done directly may not be done indirectly lest the Establishment Clause become a mockery.<sup>4</sup>

5. *The acceptance of tax support would bring with it inevitably such a measure of governmental control and influence as would alter radically the basic concept of Christian higher education.*

Good stewardship of public funds requires that some type of governmental control be exercised. "This money is not simply handed out in the pious hope that it will be put to good use. Each of the education laws — the Elementary and Secondary Education Act, the Higher Education Act, and the rest, old and new — is quite specific. Categories and conditions of aid have been established to insure that these funds are spent in an efficient and prudent manner."<sup>5</sup>

Much more specific, however, are the provisions for overt control that are written into the law governing federal grants under the Higher Education Facilities Act of 1963. Although there is a disclaimer against any attempt on the part of the government to exercise control over an institution that accepts such funds, the control provisions are nevertheless numerous and rigid:

a. The institution cannot charge admission fees to any event scheduled in a facility constructed with these funds.

b. No facility thus constructed can be used for athletic or recreational activities.

c. Extreme restrictions are placed on the use of such facilities by schools of medicine, nursing, or health.

The greatest threat to a Christian college, however, is the restriction that reads: "The term 'academic facilities' shall not include any facility used or to be used for sectarian instruction or as a place for religious worship or any facility which is used or to be used primarily in connection with any part of the program of a school or department of divinity."<sup>6</sup>

This provision in effect places the school that accepts such funds under the same provisions that govern public tax-supported institutions, at least with respect to those facilities constructed with such funds. It is quite evident that the government has no choice, since it must be neutral in matters of religion; but the point is that this is a control of the most serious character for a church-related school. Such an institution must decide whether it chooses to introduce into its academic philosophy and program a dichotomy that results in the construction of some facilities on its campus where religion may be taught and others where religion may not be taught.

That the government is serious about enforcing this provision was made clear in the case of Ohio Valley College, Parkersburg, West Virginia. This junior college affiliated with the Church of Christ had constructed a new

auditorium with funds that included a federal grant of \$76,000. When federal auditors visited the campus for a routine financial check-up, they were cordially invited to attend daily chapel services. When they discovered that such services, and apparently also some Bible classes, were conducted in the new auditorium, the college was faced with a government ultimatum that it must either discontinue using the building for chapel services, Bible teaching, and any other type of religious service, or refund the \$76,000 to the government. Greatly embarrassed, the college chose to do the latter and to conduct an extremely difficult fundraising campaign.<sup>7</sup>

6. *The acceptance of federal aid would not solve the financial problems of church-related schools.*

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The law limits government aid to not more than one-third of the cost of any facility to be constructed, the balance to be provided from other sources. In attempting to qualify for such a grant, many a college has impoverished some departments in order to provide the matching funds for a facility for one particular department, thus producing both a general financial crisis and an unbalanced academic program.

Those who oppose federal aid within the supporting denomination are inevitably offended at the institution for accepting tax funds. Several denominational schools that have had this experience have suffered serious loss of financial and other support from church and denominational sources.

That federal aid is not the panacea some seem to think it to be is demonstrated by the fact that the actual amounts available for the average church school are much less than imagined. Even under the Johnson administration, when the federal government was reported to spend more money in higher education than all of the fifty state governments combined, the picture was not as rosy as it seemed.<sup>8</sup> "Life Without Uncle," an article published by La Salle College of Philadelphia, points out these facts of life: "Uncle Sam's 'educational gusher' has not, however, meant proportionate royalties to all institutional relatives. One hundred of the larger universities receive about 90% of the federal money available."

7. *Church-related schools that have tried federal aid have found that it brings havoc on both the spiritual and the general liberal arts emphasis.*

My friend teaches in the arts at a denominational school. When asked if I would like to look around the campus, I replied airily: "Take me to the towering temple where science is taught, then to the quonset huts where you people work." I was so right it hurt! There was an entirely new concept on that campus. Federal aid was responsible for it.

Government officials had not moved in with hostile tread. All they did was build one building. That is something like the way it happens. Watch the religious distinctives dissolve on any campus as the government moves in.<sup>9</sup>

The robbing of various departmental budgets in order to bolster one, as I have already mentioned, renders the institution vulnerable to interdepartmental and interdisciplinary jealousies and strife and to serious loss of faculty morale. Ultimately a radical alteration in institutional philosophy and policy results.

8. *To accept grants of tax funds would place both a church-related school and its supporting denomination in legal jeopardy.*

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This jeopardy has now been dramatically demonstrated in both state and federal fields. On November 14, 1966, the Supreme Court of the United States declined to review the decision of the Maryland Court of Appeals in the Horace Mann League Case. The Horace Mann League, champion of the public schools, had filed a suit in a lower court against the state of Maryland for granting tax funds to four private colleges, all originally church-related. The contention of the League was that these grants violated the church establishment clause of the First Amendment to the Constitution.

The lower court ruled against the League and in favor of the state, whereupon the League appealed to the highest court in Maryland, the Court of Appeals. In this case, the judge set up six criteria by which to decide whether the four colleges involved were truly church-related. Three of them, two Catholic and one Methodist, were adjudged to be so closely church-related that a gift to them was equivalent to a gift to their supporting churches. The fourth was found to have moved so far away from its original religious ties and program that it was now, in effect, a secular school. The three, therefore, were required to refund the grants, and the one was allowed to retain the grant. The three colleges thereupon appealed the decision to the United States Supreme Court, which, as noted, refused to review.

The case involving a grant of federal funds, that of Ohio Valley College, has already been examined.

Perhaps a concluding word should be added about possible alternatives to federal aid for church schools. These alternatives involve the development of a two-way street.

1. On the part of the schools, there should be a reevaluation of their educational programs, a reaffirmation of their spiritual objectives, and a

determined process of readjustment to the legitimate needs and aims of the denominations that own and support them. At the same time, such schools should devise, intensify, and vigorously prosecute the most extensive development programs of which they are capable.

2. On the part of the supporting denominations, there should be a renewed recognition of the indispensable nature of these schools in supplying trained church and spiritual leadership both for denominational objectives and for society at large. Then, recognizing the indispensable nature of their schools, these denominations should increase their subsidies so that their institutions will be in a financial position to compete successfully with tax-supported and tax-assisted schools.

REFERENCES AND NOTES

- 1 Oscar Cullmann, *The State in the New Testament* (New York: Scribner and Sons, 1956).
- 2 Engraved on the Jefferson Memorial in Washington, D. C.
- 3 Joseph M. Dawson, *Baptists and the American Republic* (Nashville, Tennessee: Boardman Press, 1956), p. 36.
- 4 William O. Douglas, in his concurring opinion in a ruling of the United States Supreme Court.
- 5 Harold Howe II, *Education '65; a Report to the Profession* (Washington, D. C.: Office of Education, United States Department of Health, Education, and Welfare, 1966), p. 3.
- 6 Higher Education Facilities Act of 1963, Title IV, Section 401, (a) (2).
- 7 Mort Juberg, Wanted: \$76,000 to Repay Uncle Sam, *Liberty* 63, 8 (November-December 1968).
- 8 Life with Uncle, *The 1967 Moonshooter Report* (Baltimore, Maryland: Editorial Projects for Education, American Alumni Council, November 1966), p. 1.
- 9 C. Stanley Lowell, *The Changing Climate in Church and State* (Washington, D. C.: Americans United, 1968), p. 7.