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PRESENT LEGAL STATUS

NEW AND PROPOSED LEGISLATION CONCERNING RELIGIOUS INSTRUCTION IN PUBLIC SCHOOLS.

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No law has ever been passed by any state legislature specifically excluding the Bible by name from use in the public schools. In about one-half the states legislation exists forbidding the use of any books in the public schools which are calculated to favor the religious tenets of any particular religious sect, leaving it to the courts to determine in any particular case whether or not a given book is sectarian in its teachings. About ten states have provided by law that the Bible shall not be excluded from the public schools and still others either by specific legislation have made its use in the public schools to depend upon the wishes of local school authorities or else in the absence of prohibitive legislation have in practice left the matter to local discretion. In most of the state constitutions it is forbidden either to give sectarian religious instruction in public schools or to divert state funds to the support of sectarian schools. In this connection the constitution of Mississippi provides that such exclusion of sectarian teaching shall not be construed to exclude the use of the Bible in the public schools.

But few of the above citations are new. Most of them date back fifteen years or more for their enactment. There is but little new legislation on this subject, if by this term we limit our consideration to the enactments of the last two or three legislative sessions. Of proposed legislation there is practically no end. I shall limit myself to the enumeration of some instances of legislation within the last five years either by state legislatures or other state authorities and to some significant but unsuccessful attempts in the same period to secure action by these same authorities favorable to making religion a part of public education.

AGITATION FOR STATE LEGISLATION

A little over a year ago the State Association of High School Teachers assembled at Ontario, *California*, passed a resolution favoring the North Dakota plan of credit toward graduation for Bible study by pupils of the high schools of the state.

Early in 1915 there was introduced into the California legislature a bill allowing the use in the public schools of chapters from the Bible for their literary excellence. (H.B.340.) Two constitutional amendments seeking to pave the way for the use of the Bible in the public schools were likewise introduced. (H.B.23 and 24.) The Parents and Teachers Association of Long Beach petitioned the legislature in favor of the passage of Bill No. 430. (H.J.1915, p.874.)

Some thirty-four churches and religious societies, Protestant, petitioned in favor of proposed constitutional amendment No. 24. (H.J.1915, p.563.) The Roman Catholic people of Galt and Oak Grove submitted a protest against amendment No. 24. (H.J.1915, p.565.) The Redlands Ministers' Association, Protestant, petitioned in favor of amendment No. 24. (H.J.1915, p.693.) The Los Angeles Council of Jewish Women protested against constitutional amendment No. 24 on the grounds that they were opposed to the use of public funds in behalf of any sect or religion. (H.J.1915, p.607.) The Woman's Christian Temperance Union of San Diego county petitioned in favor of the proposed constitutional amendment No. 24. (H.J.1915, p.1334.)

The California legislature refused to take favorable action upon any of the proposed measures.

The State Superintendent of Public Instruction reports that during the past few months a goodly number of persons have been in his office to propose various plans for introducing Bible reading or study into the public schools. The State Sunday School Association has been especially interested and active in this regard. Under the present law the state superintendent considers it unwarranted. To an inquiry from the superintendent of Ventura county asking if it would not be possible to introduce the North Dakota plan in California, he replied, August first, 1915, that it could not be done; that the schools were presumed to be for Christians and unbelievers alike and that the law was against anything that might have a sectarian flavor.

In the State of *New York* there has been wide-spread agitation over the subject of Bible reading in the public schools within recent years.

In 1910 there was introduced into the assembly a bill, No. A. 715, providing that school districts should not receive public school moneys if religious doctrines of any particular sect were taught. It was provided, however, that this was not to prohibit the reading of the Holy Bible. The bill was referred to the committee on public education which never reported on it.

In 1911 there was introduced into the senate a bill, No. S. 1675, amending the penal law by adding a new section, No. 495, prohibiting the teaching of religious principles to children under the age of sixteen years without the consent of parents or guardians. This bill was referred to the committee on codes which never reported it out. A companion bill suffered the same fate in the assembly.

At the session of 1914 a bill (No. A. 697) was introduced into the assembly adding a new section to the education law, No. 568, requiring that at least ten verses from the Holy Bible should be read without comment at the opening of every public school upon every school day by the teacher in charge or by any teacher under her direction. Upon failure to read the Bible, any teacher was to be removed. This bill was referred to the Public Education Committee which reported adversely upon it. The report was adopted.

At the session of 1915 a bill (No. A. 313) was introduced into the assembly adding a new section, No. 568, to the education law. It provided that at least ten verses from the Holy Bible should be read or caused to be read without sectarian comment at the opening of every public school upon every school day by the teacher in charge; or by other teachers under her direction. Provided further that upon written request of the parent, a pupil should be excused from attendance during such bible reading. Any teacher failing or omitting so to do *should* upon charges preferred and proven before the governing board of the school district be discharged. First, the last sentence of this bill was amended so as to read that any teacher failing or omitting so to do *might* upon charges preferred and proven before the governing board of the school district be discharged. Then on third reading the bill was amended so as to read as follows: "Selections for scripture reading. The commissioner of education shall appoint, upon the unanimous approval of the board of regents, a committee of seven, representing various religious faiths, who shall make a list of bible references for use in the public schools. This committee shall make a report of such selections to the commissioner of education within a year from the date of its appointment. The commissioner of education shall transmit such report to the board of regents at its first meeting after receipt of such report. If such report is approved by the board of regents, the commissioner of education shall cause to be printed a leaflet containing such bible references, and a copy thereof to be placed in each public school of the state, from which one or more selections shall be

read each morning at the opening of each public school of the state." This again was further amended by adding to the last sentence:—"when directed by the local school authorities." In this form it was finally recommitted and lost. (No. A. 313, 756, 1974, 2128.) A companion bill was introduced in the senate and after a strenuous fight was finally lost. (No. S. 169, 553, 1731.)

The public school committees of the assembly and the senate of the New York legislature of 1915 to which were referred the immediately above mentioned bills in their original form, providing for compulsory daily reading of ten verses of scripture in all schools of the state, by the teachers thereof, under penalty of dismissal for failure to do so, sought the advice of the commissioner of the state of New York. His advice is found in the following communication, addressed to the respective chairmen of the Senate and the assembly committees on Public Education, under date of March 9, 1915:

"DEAR SIRS: Having been informed of the wish of your Honorable Committees to know the attitude of the State Education Department toward the bill providing for the compulsory reading of the Bible in the public schools, I conferred informally with the members of the Board of Regents at their meeting last week. That body, of distinguished membership, includes, as you are aware, men of varying religious and political beliefs. Indeed, it is and has been thought desirable that the personnel of the Board should recognize such differences. In order, however, to minister in the highest degree to that which is their common and supreme interest, the public schools of the State, they are careful to refrain from anything that could advance or give preference to the policies of any political party or the tenets and teachings of any religious organization. Such a policy has restrained the Board of Regents from making any official utterance in regard to this measure now under legislative consideration.

"And a Commissioner of Education is under like responsibility. He would not be true to the peculiar obligation of his office (which carries him to the very borders, though indistinct, of that field which, under the theory of our government, the State is not to enter), if he were to take advantage of the nearness and indistinctness in allowing any partisan or sectarian ends to be furthered, however high his motive. A State giving welcome to all creeds, can not in its public schools, which it taxes all to support and which it wishes the children of all to enter, impose any religious teaching without contravening the very principle of freedom that is at the foundation of this republic of diverse traditions, tongues and creeds. And even if it could without violence to this principle do so, there would be danger of engendering hatreds which might outweigh or defeat all the good sought to be achieved.

"But I have a positive suggestion to make, out of my sympathy with what is thought to be the honest and worthy purpose of this bill (namely the imparting of moral instruction), a suggestion growing out of my long and varied experience, and entirely in harmony, as I believe, with the attitude of the Board of Regents. I offer it hoping that it may intimate a way to prevent sectarian bitterness at the doors of our schools, where the children will hear and not forget, a way through which we can all, though of varying views, be united in vigorous support of a common policy and enable to keep all that is possible of that moral heritage from which our varied western civilizations have been nourished. I make this suggestion hoping that it may not only meet this present situation, but may also be a step in the direction of a more cordial cooperation between the two forces, the church and the public school, both making for the good of society, but expressing themselves in rigidly independent and separate organization.

"This suggestion is that the bill be so amended as to require the State

Board of Regents or the State Commissioner of Education, upon the unanimous approval of the Board of Regents, to appoint a committee representing various religious faiths, who shall make selections from the Bible, or from the Bible and other sources, for the contemplated use in the public schools. With the sanction of such a representative body, a compulsory measure would not, in my judgment, be necessary.

"I suggest as an alternative that the Legislature appoint such a committee to report at the next session.

"The first suggestion is made in intimation of a willingness to undertake this task for the State. Respectfully yours, John T. Finley."

That his advice was heeded by the committees is easily seen by comparing the bill in its original form with the form as finally submitted by the committee.

A public hearing on the merits of this bill as originally framed resulted in packing the committee rooms with representatives of various sects. The debates were spirited, heated and bitter. In general the move might be characterized as a Protestant one, though some Protestants united with Jews, Catholics, and others in opposition. (See N. Y. papers Feb. 17, 1915.)

In *Massachusetts* there has been for some time considerable agitation going on especially by the non-protestant elements of the population over the relation of the state and church-controlled educational institutions. The state constitution as amended in 1855 safe-guarded the public school revenues against diversion to sectarian schools. Other revenues of the state have from time to time however been granted by the state legislature to various religiously controlled charitable and educational institutions. Both Catholics and Protestants have from time to time benefited thereby. (See House Document 1915, No. 1995 appended.) With the growth of parochial schools in recent years claims have become more and more persistent that public revenues should be granted to them. This has resulted finally in the adoption by the state legislature in January, 1915, of a constitutional amendment which reads as follows:

"No law shall be passed respecting an establishment of religion or prohibiting the free exercise thereof, nor shall the state or any county, city, town, village or other civil division use its property or credit or any money raised by taxation or otherwise, or authorize either to be used, for the purpose of founding, maintaining or aiding by appropriation, payment for services, expenses, or in any other manner, any church, religious denomination or religious society, or any institution, school, society or undertaking which is wholly or in part under sectarian or ecclesiastical control."

This amendment is now before the people of the state for their decision. Its adoption would prevent the continuance of

the long established practice of legislative grants to church-controlled education and charitable institutions, and also effectually block any state or local appropriations of public money to parochial schools. On these latter grounds it is bitterly opposed by the Roman Catholic people of the state.

So far as systematic non-sectarian religious instruction in the public schools of this state is concerned there has been some thought and some attempts at agreement upon a program of action. To date, however, the Protestant forces interested therein seem to be unable to so harmonize their views as to enable them to agree upon any definite plan of action, to say nothing of agreement among Protestants, Jews, and Roman Catholics.

At the last session of the legislature of *Ohio* there were introduced in the assembly two bills, No. 526 and No. 540, having to do with Bible reading in the schools, the first making it permissive and the second making it compulsory. In addition the first provided that boards of education might give credit for Bible study done at home, and might excuse children from school either one-half day in the week or one period every day for the purpose of attending religious instruction in their respective churches or synagogues. The penalty to be imposed upon any teacher for not reading the ten verses required by Bill No. 540 was dismissal from her position. There was wide-spread and acrimonious discussion of these two bills. Both were defeated. To-day any board of education in Ohio may require the Bible to be read in its schools.

In *Pennsylvania* a law was passed in May, 1913, making it compulsory upon every teacher in a public school to read not less than ten verses from the Bible daily before her school without comment. Failure to do so makes the teacher subject to dismissal. This law is very similar in wording to recently proposed laws in Ohio and New York which were defeated.

There is in Pittsburgh an organization known as the National Reform Association whose purpose is to foster the use of the Bible in the public schools and instruction in non-sectarian religion. It publishes considerable pamphlet literature having these purposes in view.