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## Trends in Educational Legislation

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# Notes and Comment

## *Trends in Educational Legislation*

AMONG the many bills pending with the Fourth Congress are educational bills of varying degrees of interest. They range from simple innovation—like Congressman Raquiza's bill which seeks to include the teaching of taxation in the high schools (H. 131)—to radical transformation—like Congressman Abordo's which seeks the abolition of the Bureau of Private Schools and the Bureau of Public Schools (H. 462). If these bills may be considered symptoms of a definite legislative tendency, more educational bills may be expected to crop up during the three remaining sessions of the Fourth Congress. This brief note will attempt a review of the more important bills from the viewpoint of the relationship between the government and private schools.

### GOVERNMENT CERTIFICATION OF TEACHERS

Among the more significant bills is H. 378 introduced by Congressman Delfin D. Albano (Isabela). The bill, now pending second reading, is entitled: "An Act Authorizing the Secretary of Education to Prescribe Rules and Regulations Governing the Selection of Applicants for Enrollment in Teacher-Education Institutions Public and Private." The purpose of the bill is clearly stated by the author in his Explanatory Note:

Many non-governmental teacher-training institutions do not select students on the basis of future competence or fitness...As a result, the quality of the teachers who have graduated therefrom and whose principal end-employer is the public-school system, leaves much to be desired from the standpoint of public welfare....

...It is the purpose of this bill to clothe the Department of Education with sufficient authority to apply a consistent and uniform standard for the selection of those who will study for the teaching profession.

Of a similar nature is H. 948, introduced by Congressman Manuel E. Enverga (1st District, Quezon). Section 1 of the bill reads: "No teacher shall be permitted to engage in the practice of the teaching profession unless a previous permit or authority to teach is secured from the Secretary of Education." Section 2 further provides that in granting the permit or the authorization "the Secretary shall take into consideration the academic preparation, civil service qualification, integrity, and loyalty to the Republic of the Philippines of the teacher concerned." In his Explanatory Note the author writes:

The teaching profession is one of the important fields of governmental activity where the public has paramount interest. The teachers mould the character and attitude of young minds towards the society in which they live. In this, the State has a vital role to perform or accomplish. It must preserve the integrity of schools, more particularly the students enrolled therein. There can be no doubt that under the broad constitutional power to supervise or regulate, the State, through its agencies, have the duty (sic) to screen the school officials, teachers and employees as to their fitness, character, and integrity, to the extent of keeping away young minds from undesirable and immoral influences.

The execution of the proposed measure will undoubtedly be along the lines followed with regard to doctors and lawyers, that is, by government examinations in subjects specified by the government. It may reasonably be supposed that the measure will to a certain extent elevate the standards of the teaching profession, perhaps, to the extent that Bar Examinations have "elevated" the standards of the legal profession! And, as Bar Examinations and the like do not strike terror among the more serious students and Law Schools, so also government examinations for teachers, if not unreasonable, should not arouse fear among the better schools. If indeed there should be fear among the less scholarly, it should be a salutary fear. Since, however, these measures are another sign of the growing tendency of legislators to multiply the already abundant mass of rules and regulations governing private schools, a question of principle should be raised.

The proposed measures seek constitutional justification in Art. XIV, Sec. 5 of the Constitution which empowers the state to super-

wise and regulate all schools, public and private. In an earlier article in this review<sup>1</sup> the present writer tried to show that the power of supervision and regulation is a subsidiary power, a power meant to enable the government to fulfill its constitutional obligation of giving aid and support to parents in the rearing of their children for civic efficiency, and that Art. XIV, Sec. 5 and Art. II, Sec. 4 cannot be construed independently of each other. One gets the impression however from the Explanatory Notes of the bills under consideration that their authors see only the "supervision and regulation" clause of Art. XIV, Sec. 5 and conveniently forget that the power it gives is subsidiary to a prior natural right guaranteed by Art. II, Sec. 4. When these measures come up for debate the question will be asked whether they constitute an incursion into the domain of prior parental natural rights.

It is not easy to determine where governmental powers over private schools end since the constitutional provision sets a more or less flexible line of demarcation dependent upon the amount of aid and support needed by the parents in the exercise of their natural right and duty. The problem is further complicated by the fact that private schools differ in the degree of supervision and regulation they need. There are some private schools whose standards go far beyond the minimal government requirements and who exercise such a degree of effective self-supervision and self-regulation as to need hardly any government supervision at all. There also are, however, private schools whose only title to fame is a government certificate of recognition perilously held on to by the strength of one little finger. Hence, a certain amount of government supervision and regulation is admittedly necessary.

To what extent will the proposed measures, particularly H. 948, supervise and regulate private schools? H. 948 equivalently says to parents: "Your choice of teachers, whether you send your children to public or to private schools, is limited to those teachers who are approved by the government." And what is the reason for this curtailment? The Explanatory Note answers: "The teachers mould the character and attitude of young minds towards the society in which they live. In this, the state has a vital role to perform or accomplish."

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<sup>1</sup> "State 'Supervision' and 'Regulation' of Private Schools" PHILIPPINE STUDIES VI (August 1958) 295-314.

The proponent seems to forget that the primary right and duty of "moulding the character and attitudes of young minds towards society" or, as Art. II, Sec. 5 puts it, of "rearing the youth for civic efficiency," belongs to parents. They are free to exercise this duty and right in the manner that best pleases them. They are free to choose the kind of teachers they want. Parental discretion in the choice of teachers can be curtailed only if legislators can show that, in the choice of teachers, private schools, the representative of parents, actually, directly or indirectly, act in a manner subversive of and inimical to the state. H. 948, not yet satisfied with the present rules and regulations governing private schools, seeks to curtail parental discretion by proposing to control the very heart of our private educational system—the teachers. Legislators will have to show that the training in civic efficiency which private school children receive is harmfully inferior to the training that public school children receive *from present government-approved public school teachers*. The burden of proof lies with those who wish to curtail parental freedom.

#### NATIONALIZATION BILLS

The other more significant bills reflect the magic word of the hour, nationalism. Pending with the committee on education of the House of Representatives are four bills which propose the nationalization of educational institutions. Senator Roseller Lim's bill (S. 38) for the nationalization of certain positions in educational institutions now awaits second reading.

H. 222, presented by Congressman Enverga is entitled: "An Act Requiring That the President or Head of Any School, College, or University Shall Be Filipino Citizen (sic) and That at Least Sixty Percent of the Members of the Board of Trustees of Governing Body Shall Be Composed of Filipino Citizens, Except in Certain Cases." The proposed measure will not apply (1) to religious institutions whose sole objective is purely religious, (2) to institutions covered by a special charter or by treaties, and (3) to schools wholly and exclusively specializing in languages. Institutions existing prior to the effective date of the Act are required to comply with the requirements of the Act within a period of five years following its effective date.<sup>2</sup>

<sup>2</sup> A similar bill, H. 381, has been presented by Cong. Jacobo Z. Gonzales (1st District, Laguna). Senator Lim's bill does not give the five year marginal period for "adjustment."

Another bill also authored by Congressman Enverga (H. 223) extends nationalization not only to heads of schools but also to teachers. Section 1 reads in part:

In order to encourage and promote assertive Filipinism and dynamic nationalism, so essential for the healthy growth of our country, teachers in all schools, colleges, and universities in the Philippines shall, unless otherwise provided, be given or vested to Filipino citizens (sic)...

Exceptions similar to those of H. 222 are also made.

Senator Lim's bill is grounded on the fear that "if aliens or naturalized Filipino citizens are made heads of our educational institutions they may not care about the nationalistic aspect of the policies thereof." The bill moreover proposes that social science subjects be taught only by natural born Filipino citizens, since "the spirit of pro-Filipinism running in their blood" will guarantee an "impartial and truthful" approach to such subjects. Foreign teachers on the other hand will be greatly tempted "to slant their teaching in a manner more favorable to their fatherlands" and may even "teach communist propaganda."<sup>3</sup>

Congressman Enverga's reasons run along a similar vein:

The encouragement and promotion of assertive Filipinism and dynamic nationalism so essential to a healthy citizenry, specially to the generation to come, now more than ever, becomes an imperative necessity. And it is believed that this all-embracing need and want may best be attained by preserving precious Filipino heritage, consigned as it is to the teachers; the first vanguards and trustees of our country for the full realization and conservation of a distinct way of life (sic).<sup>4</sup>

He adds moreover: "Time is now also (sic), when we should have graduated from the idea that we cannot handle our educational institutions as effectively and fruitfully as others."<sup>5</sup>

When these nationalization bills come up for debate, the storm center will not be nationalization in itself. The gradual and spontaneous nationalization of schools is universally admitted to be a desirable end. The storm center will be *nationalization by legislation*. (It is doubtful if "amor propio" will allow debate on our educational self-sufficiency.)

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<sup>3</sup> S. 38, Explanatory Note.

<sup>4</sup> H. 223, Explanatory Note.

<sup>5</sup> H. 222, Explanatory Note.

Nationalization by legislation is another attempt at legislative curtailment of the discretion of parents with regard to the selection of means and methods needed for the performance of their natural prerogative and responsibility of training their children for "civic efficiency." It is a curtailment of parental powers of discretion guaranteed by Art. II, Sec. 4. (The next step will perhaps be to prohibit studies abroad!) The curtailment is grounded on an unhealthy attitude of suspicion towards foreigners and on the questionable presumption that foreign teachers undermine the civic efficiency of Filipino students. To justify the curtailment of the freedom of choice of parents legislators will again have to prove that when parents choose to send their children to study under foreign teachers they perform, directly or indirectly, an act subversive of and inimical to the interests of the state. Again, the burden of proof lies with those who wish to curtail that freedom.

#### CLOSER SUPERVISION OF SCHOOLS

The desire of our legislators to elevate the standards of our educational system is indeed commendable. Moreover, the actualization of this desire may necessarily be through a closer supervision and regulation of schools. This however must come from the proper source and, in the case of private schools, the proper source is not Congress but the private schools themselves. Self-supervision and self-regulation, government encouraged, if need be, is the answer. Any further tightening of government rules and regulations will only result in the deadening of private initiative. Nothing stifles private initiative more effectively than an unwelcome excess of supervision and regulation coming from above. On the other hand, nothing quickens initiative so much as the consciousness on the part of the private educator that he has a creative and guiding part in the organization and functioning of the educational system. Educational legislation must therefore allow for an educational system which recognizes a hierarchy of social units and a hierarchy of authority and functions harmoniously coordinated and subordinated. It must allow for an educational system where natural rights logically and chronologically prior to those of the state are respected and protected. A German writer has very well summed up the social role of the state:

The right of authority in the great society, though it is comprehensive, is only one right among the equally elementary rights of the individuals and communities. Its function is subsidiary in the sense

that it is restricted to providing help for the individuals and the lesser communities so that they are enabled to fulfill their essential task in life in self-responsibility and self-determination.<sup>6</sup>

J. G. BERNAS

### *Cultural Calendar*

THE GREAT EVENT of the quarter was the dedication of the metropolitan cathedral of Manila, a tribute to the energetic efforts of Manila's Archbishop Rufino J. Santos. The ceremonies were presided over by the papal legate a *latere*, His Eminence Gregory Peter XV Cardinal Agagianian. The dedication ceremonies (December 7-8) climaxed a whole series of cultural and social events beginning in October with a ₱50-a-couple dinner at the Skyroom, a fashion show featuring film celebrities, a presentation of the *Bayanihan* and the Manila premiere of Cecil B. de Mille's *Ten Commandments*. Some of the events took place in the cathedral itself: Verdi's *Requiem* by the Manila Symphony Orchestra and Chorus, William Strickland conducting; T. S. Eliot's *Murder in the Cathedral* reenacted by the Aquinas Theatre Guild (but renamed *Archbishop of Canterbury*); an organ recital by Flor Peeters, director of the Royal Conservatory at Malines. The electro-pneumatic organ of the Manila cathedral, incidentally, is the largest in the Far East. Built by Pels and Son of Alkmaar, Holland, and Lier, Belgium, and assembled in Manila by Peter Andriessen and José Loinaz, it will have, when finally completed, 5,599 pipes and 70 stops, four manuals, 10-ton weight, and 20 kilometers of wire. Other events took place outside the cathedral: an exhibit of religious art at San Agustín; two recitals at St. Paul's College auditorium by the Sistine Choir which had been brought, with their director, Msgr. Domenico Bartolucci, to Manila for the occasion; and a symposium on the history of the Manila cathedral, organized by Father Thomas B. Cannon S.J. and held at the U.S.T. college of medicine auditorium. The papers read at that symposium are found elsewhere in this issue.

Taking advantage of the presence in Manila of so many prelates (16 archbishops, over 70 bishops, vicars and prefects

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<sup>6</sup> Joannes Messner "Freedom as a Principle of Social Order: An Essay in the Substance of Subsidiary Function" *The Modern Schoolman* XXVIII (January 1951) 103-104.