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The Financing of Private Education in Certain Democratic Countries: A Comparative Study of the Systems in the United States, Canada, and India

Anthony J. Kurialacherry
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THE FINANCING OF PRIVATE EDUCATION IN
CERTAIN DEMOCRATIC COUNTRIES
(A COMPARATIVE STUDY OF THE
SYSTEMS IN THE UNITED STATES,
CANADA AND INDIA.)

by

Rev. Anthony J. Kurialacherry

A Dissertation Submitted to the Faculty of the Graduate School
of Loyola University in Partial Fulfillment of the
Requirements for the Degree of
Doctor of Education

February
1962
LIFE

Anthony J. Kurialacherry was born in Champakulam, Kerala State, South India, on July 20, 1922.

He was graduated from St. Joseph's High School, Pulincunoo in March, 1939 and joined St. Joseph's College, Trichy, a Jesuit college, in 1940. He completed two years of college and joined the St. Thomas Petit Seminary, Kottayam, in 1942. After two years of Latin and Syriac, he continued his priestly studies at the Papal Seminary in Kandy, Ceylon and was ordained priest on August 24, 1949.

From 1949 to 1951 he did pastoral work as assistant at St. Mary's Church, Pulincunoo. In 1951, he joined Loyola College of the Madras University and received the degree of B.A. Honors (Master's Degree) in Economics and Politics in March, 1954.

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CHAPTER I

INTRODUCTION

On September 6, 1945 the State Government of Travancore, South India gave notice to His Excellency Dr. James Kalacherry, Bishop of Changanacherry, to withdraw a Pastoral Letter he had issued, and to apologize publicly for the matter contained therein. The Bishop refused to withdraw the Pastoral and to apologize, as he pointed out in his reply that it was his duty to exhort his flock to oppose the government in its policy of nationalization of all private schools. This incident happened immediately after the Dewan, C.P. Ramaswamy Iyer, representing the government, announced in the State Legislative Council that the State Government had decided to take over all private primary schools.

This was the beginning of a major struggle between the government and those who considered it as their right to have private educational institutions in India. Travancore then was a "princely" state in South India, where Christians and Catholics were proportionately greater in number, compared to any other state in India. Out of the seven Christian members who were in the Legislative Council at that time, the writer's sister, Mrs. Thresiamma Kora, was one among the four who opposed this measure of the
government.¹ Travancore since then has become a part of the state of Kerala, one of the fifteen states of India.

On November 1, 1956, in the reorganization of the Republic of India on a linguistic basis, Kerala came into existence as one of the then fourteen states in India. Kerala, representing the Malayalam-speaking people of India, consists of the territories of the previous "princely states" of Travancore and Cochin. It also consists of the Malayalam-speaking areas of the former Madras State.

Private educational institutions in Kerala had two more major "education tussles" since India's independence in 1947, both because of the threat to curtail the rights and freedom of the "private management schools."

The participation of the Catholics and Christians, and the tremendous sacrifices they have made during these struggles, besides the sacrifice they are making in conducting their schools, have prompted the writer to make this study. After coming to this country, the author had the opportunity to study the merits and defects of a democratic system (writer has a Master's Degree in Political Science from the University of Notre Dame).

Later, as a student of education, the writer noted the contrast in the financing of private education in various democratic countries, including the United States and Canada.

¹Joseph Thaliath, Education Problem (Kottayam, S. India, 1945), p. 12.
The important problem to be dealt with in this thesis is with regard to the financing of private educational institutions. But the problem of financing private education has not arisen by itself. A careful study of the circumstances in which such a problem has evolved will show that behind the financial problem there are often other existing problems. An outsider notices the tremendous encouragement given to private initiative and enterprise in America, in contrast to the tendency towards "socialization" and "nationalization" in other countries. He sees with satisfaction how the American people oppose any such move on the part of the government. He notices diversity in many enterprises. It is not only, not the monopoly of the state, but laws are passed to check the monopolistic tendency on the part of any one agency or entrepreneur. The government encourages private enterprise, and people are proud that there are various and diversified private enterprises. Many consider America as the one country where ideals of a pluralistic society are proudly nurtured and encouraged.

However, at least in one sphere, namely in education, many feel that the state is showing a monopolistic tendency, which has become the crux of the entire problem of financing private education. At present, when the question of federal aid to education is seriously considered, Catholics have brought to the attention of the public, through the press and news media, the "injustice" shown to private educational institutions. Here not only the legality of giving aid
to such institutions is vehemently argued, but also the danger towards this monopolistic tendency is criticized.

This feeling of "injustice" is not something of the present day. The Catholics who always claimed the right to have their own schools have expressed this feeling from very early times. The beginning of this feeling is almost from the time of Catholic schools instituted in this country. We will treat this in a separate chapter later.

Today, this problem is being considered more seriously, as Fr. Blum points out in the following statements:

Educational problems are clamoring for solution throughout America. Public educators are demanding more classrooms, more teachers, and more money. Parochial school educators are building more classrooms, seeking more religious teachers, and hiring more lay teachers in the expectation that parents of parochial children will continue to be both willing and able to support two school systems.

Many parents of children attending church-related schools are finding this double burden excessively heavy. Besides the double tax, they do not like the crowded facilities that are all too common in our parochial schools. Furthermore, our educators and parents alike are disturbed by the all too persistent statements, even by Catholics, that we shall soon be forced, for want of sufficient money, to drop either our high schools or the first four years of our elementary schools.2

In the St. Louis Globe-Democrat of August 9, 1959, it was

reported that an organization has been formed in St. Louis to promote the idea of "Parents' Free Choice of Schools", under which the state would give tuition grants without discrimination to pupils in non-state schools, "for their fair share of the taxes levied for education." This non-sectarian organization is called Citizens for Educational Freedom. Members of the organization appeared before the General Subcommittee on Education in March, 1961, and expressed their views, some of which will be discussed later in this thesis when we deal with the United States of America. The writer also had contact with this organization through personal interviews.

**Problem**

In this thesis the writer attempts to make a comparative study of the financing of private education in three democratic countries, the United States of America, Canada and India. But before attempting to show the specific problems with regard to each of these countries, some general theories are explained, which is done in the first part of the thesis. The reason for dealing with this theoretical part is the following.

In almost all of the democratic countries, at some time or other, there were difficulties with regard to the conducting of

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private schools. These difficulties were specific to these private educational institutions. Many of them were, and are, closely related to financing. But analyzing these problems, one finds that it is mainly because of a lack of understanding on the part of the public or people concerned with regard to the rights of such institutions, and this caused refusal or restriction of public funds. This lack of understanding can be the result of many factors. As it will be explained in the third chapter, there is a tendency, some believe, towards "statism" or state monopoly, whereby the state is considered to have all the rights and responsibilities of education. The tendency towards socialization, knowingly or unknowingly, could be another factor which increases this dilemma. A second factor which brings about such a lack of understanding is due to the attitude of the different classes of people. It often happens that in a country where there are different religious groups of people, one or a small minority of religious groups consider it as their right and responsibility, based on their religious and cultural beliefs, to have their own private educational institutions. It may be a sincere lack on the part of the majority to recognize such claims as their rights, or it may be because of religious bigotry. In all these three countries, those who claim to have their own private educational institutions are permitted legally to have the same. But the responsibility on the part of the general public, the state, and other groups to encourage
such a claim seems to be questioned. This has become true with regard to the United States and India. In the case of India, those who claim for such institutions are a small minority.

We will begin our study with the theories of rights. Only on this basis can we proceed to find the problems of financing. It is necessary for people to understand our claims. This can be best understood when we make it clear on what bases we make such claims.

All the three countries have a "federal setup" in the Constitution and education is the "power of the state" ("power of the states" as distinguished from "powers of the center"). In contrast to what has happened in totalitarian states, these countries do not legally suppress or take over these institutions. Their rights to exist are guaranteed through Constitutional provisions or Court decisions based on Constitutional interpretations.

In the United States, at least until now, the private institutions do not receive direct public aid. Private institutions have legal existence. Although the state does not feel that they are doing anything anti-national or illegal, still these institutions feel that they are being "penalized."

In India, public funds are provided for private institutions through Constitutional guarantee and state laws. But as in the case of Kerala State, there were instances when such provisions were threatened to be stopped or restricted.

Canada has, in general, a better setup. The arrangement in
the province of Quebec is noteworthy and will be dealt with in detail so that this could be studied as a model for the rest of the provinces of Canada or other countries like India and the United States.

**Procedure**

In order to understand the full meaning of the general problem of providing public funds for private education, it is necessary to know the basis for such a claim. For this purpose, we deal with the general theories in the next chapter. It also deals with the rights of minorities, as special provisions are made in the Constitution of the Republic of India. This will have more meaning with regard to the right to conduct their own schools on the part of a minority community like the Catholics in India. In the third chapter, we discuss some of the factors which have brought about the present situation.

In the second part, in the three chapters which follow, we study each of these three countries in particular. It is necessary to explain the historical background of the financing of private education in order to understand it clearly. In the chapter dealing with India, special attention is given to the situation of Kerala. This is not only because it is the writer's native state, but also since it is often known as the "problem state" of India, whose problems in this matter, when solved, will have influence on other states.
The third part, which includes the last two chapters, deals with the advantages and disadvantages of the existing systems in these countries, and contains certain proposals for aid to private education.

Terms

The financial problems which are to be discussed in this study, as it was pointed out before, are closely connected to other matters and, therefore, it is necessary to treat them in that perspective. In the United States, the private institutions, except for "fringe benefits," do not receive any public funds. In India, the private institutions receive state aid under certain conditions. In Quebec, Canada, all denominational schools receive equitable share of public funds.

In this study, when we deal with private education, our main concern is with Catholic educational institutions. In India and the United States, private education includes Catholic institutions. However, in Quebec, Canada, Catholic and Protestant denominational schools are considered to be "public schools." There are a few private schools, which are of an entirely different nature. In other provinces of Canada, "private schools" are known as "separate schools." So in this thesis when we use the term "private education" or "private schools," our concern will be mainly with regard to schools conducted primarily by religious groups with the purpose of imparting an education based
on their religious and moral principles.

In the financing of private education, the two main sources of revenue are public and private funds. Public funds include any assistance in the form of direct grants or indirect benefits from federal, state and local taxes and assessments. Private funds include tuition and other fees, various kinds of contributions, and resources from endowments of a private nature. In Canada, the term "tax-rate" is used to denote local taxes collected for education.

In India, the educational institutions established or administered by the minorities in exercise of the rights conferred by Article 30 (1), might be classified into three categories: (1) those which do not seek either aid or recognition from the State; (2) those which want aid, and (3) those which want only recognition but not aid. As regards the second category, they are subdivided into two classes, namely, (a) those which are by the Constitution itself expressly made eligible for receiving grants, and (b) those which are not entitled to such grant, but nevertheless seek to get aid. ⁵

We are limiting our study to schools of the primary and secondary level. This is mainly because the problems dealt with,

at a lower level, generally will have meaning at a higher level also. Besides, it will be necessary to limit the scope of this study to such a level so that it can be done thoroughly.

Related Literature and Sources of Study

The sources which have helped the writer to make this study are of two general categories. There are books, magazines, periodicals, daily papers and letters which have been utilized. Equally important is the information received from discussions with several Catholic and other private school superintendents in the United States and Canada. With regard to India, the writer had to depend mainly on written materials. Also the writer utilized the information furnished by some of his countrymen now studying in this country, who were principals and administrators in schools. With regard to the latest changes, the writer had to depend on letters and newspapers from India.

Some of the written materials from India were in Indian languages, a number of them in Malayalam, the writer's mother-tongue, which, when needed, were translated and used in this study. So also some of the materials from Canada, especially with regard to Quebec, were in French. These again had to be translated.

In the three countries one main difference is evident. In India and Canada, public funds are given for private schools, whereas in the United States, this is still being disputed. This difference in these three countries, as it also becomes the basic
problem of financing, is given due importance. In order to clarify the problems related to this situation, it is necessary to explain the philosophy of the relationship between family, Church and State, and Education. We can proceed to analyze this on the basis of Catholic philosophy. For this, we have used the teaching of the Catholic Church found in the encyclicals of Popes, writings of Bishops and priests, and of lay people and organizations. The encyclical of Pope Pius XI, *The Christian Education of Youth*, is basic in this. Some of the other materials used are the encyclicals *Sapientiae Christianae* and *Rerum Novarum* of Pope Leo XIII, quoted by Pope Pius XI, Redden and Ryan's *Catholic Philosophy of Education* and *Catholic Education* by William J. McGucken, S.J. Some of the related materials with regard to the Catholic position are *Public Funds for Private Schools in a Democracy* by Benigno Benabarre, *Catholic Viewpoint on Education* by Neil McCluskey, S.J., and *Philosophy of the State as Educator*, written by Thomas Dubay, S.M. Father Benabarre's book was a dissertation presented to the Centro Escolar University in Manila in partial fulfillment of the requirements for the degree of Doctor of Philosophy. It is a comparative study of the theory and practice in education in fifty-one countries. Fr. Thomas Dubay's book also treats financing, but again deals mainly with the philosophy.

The theory of the relationship between Church and State, especially with regard to education, was best explained by John
Courtney Murray, S.J. in his book, *We Hold These Truths: Catholic Reflections on the American Proposition*. The writings of Virgil C. Blum, S.J., including his book, *Freedom of Choice in Education*, give insight into the present situation of the problem. Various periodicals, including *Ave Maria, America, Sign, Commonweal* and *Catholic World* were valuable sources, as they continuously up-dated related developments.

In order to look into the historical development in the United States, the following give sufficient data: *History of Catholic Education* by Burns and Kohlbrenner, *History of Education* by W. Kane, S.J., and *Essays on Catholic Education* edited by Roy J. Deffarari. Special problems in the United States are also treated by James M. O'Neill in his *Catholicism and American Freedom* and *Religion and Education Under the Constitution*, as well as *Historical Records and Studies* edited by Very Rev. Thomas J. McMahon.

The writer also used *Public Funds for Church and Private Schools* by R.J. Gabel, and *Parish School Problems* by Paul E. Campbell. Some of the decisions handed down by the Supreme Court are from *Cases Argued and Decided in the Supreme Court of the United States* (Lawyer's Edition). Arguments for and against federal aid to education stated in the *Congressional Records and Reports of Hearings of the Congress* are used.

C.B. Sissons' *Church and State in Canadian Education* is a historical study of the financial problems of Canadian schools.
Royal Commission Reports of the various provinces of Canada, and the Minority Reports contained therein were very useful in understanding the problems of "separate schools" in Canada. The Catholic Public Schools of Quebec by Canon G. Emmett Carter also gave valuable information.

The Constitutions of these three countries and some of their commentaries were basic in clarifying the legal position of the relationship between state and education.

Besides the written materials, the writer was also able to obtain first-hand information of related problems through interviews and discussions with officials of the N.C.W.C. and N.C.E.A. in Washington, D.C.

Limitations

There are some general patterns of procedure in financing private education in these three countries. However, even within the same country, differences are many. In the case of Catholic educational institutions, which are our primary concern, the procedures and problems of financing vary from state to state and from diocese to diocese. Therefore, greater importance will be given to the more significant facets of the problem.

As the study is made, there are many changes taking place from day to day with regard to the financing of private education. In the United States, there is a new development with regard to federal aid to education. With regard to India, special con-
sideration is given to the organizational and administrative setup of financing in the state of Kerala. This is mainly because the pattern existing in this one state is very similar to those in other states. The minor variations are many and constantly occurring. They cannot all be adequately treated in this limited study. In Kerala, India, since the democratic government came into power, after the Communists were ousted, the State Legislature is making new provisions. In Canada also, there are new developments. It will be difficult, therefore, to keep this study up to date as a result of these new and rapid changes. As far as possible we will include these developments.
CHAPTER II

RIGHTS OF CITIZENS

The rights of citizens are manifold. In a democratic state, citizens do have certain rights, some of which are "anterior" to their becoming members of the "civic society." They have rights as parents, as members of religious groups, and as members of other social and cultural organizations. It is important for us to discuss these rights of citizens related to Education.

Parents have certain rights with regard to the education of their children. These rights are prior to the rights of the State as educator. The State has rights and responsibilities with regard to the education of children. There has been, however, an amount of confusion in distinguishing these rights and responsibilities of the parents and the State.

The State by its very nature has to see to the well being of all its citizens. A democratic state has the responsibility to see that these rights of the citizens are guaranteed and effective. The State has to help them in every way to make it possible for them to practice these rights.

In this study we are concerned only with rights related to education. There are many instances of controversy concerning
the relationship between State and citizens, with regard to educational rights and responsibilities.

Today, the right to conduct private educational institutions is not denied, in principle, to citizens in a democracy, whether it is conducted on their religious, cultural, or any other basis. The right and desirability of receiving public funds has become one of the basic issues in conducting these educational institutions. The question of desirability will be discussed in a later chapter, when we discuss the advantages and disadvantages of the existing systems of financing. What we are mainly concerned with here, is the question of right, if any, on the part of such institutions to receive public funds and the responsibility on the part of the state to give such funds, because this has become the most important issue in the financing of private education. In the three countries we are concerned with, the main problem centers around this issue - the rights on the part of private educational institutions to receive public funds.

It is often taken for granted that there are no such rights, just because such rights were not given for some time. A certain amount of sacredness given to a traditional procedure in a democracy can not only prove a weakness in the system, but can prove to be harmful and unjust, as Dr. Brown points out:

That it has been the tradition of the majority for the past one hundred years to give little or no public funds for the benefit of those children who attend denominational schools is a fact, but who
established ecclesiastical authority. The Church, aiding the parents to fulfill their obligation of providing for the needs of their children, has established the parochial school system.

Rights and Responsibilities of the State

History tells us how totalitarian states have completely monopolized their educational institutions. Along with throttling the precious freedoms of speech, of worship, of the press, and of association, they made sure that it was the "sole right" of the state to "educate." Pope Pius XI, writing against Fascism in Italy in 1931 said, "We find ourselves confronted by a mass of authentic affirmations and no less authentic facts which reveal beyond the slightest possibility of doubt the resolve . . . to monopolize completely the young, from the tenderest years up to manhood and womanhood, for the exclusive advantage of a party and of a regime based upon the ideology which clearly resolves itself in a true, pagan worship of the State - the Statolatria. . . ."\(^{12}\) The reason for this was the totalitarian philosophy of Fascism. The Minister of Instruction of Mussolini's Fascist Government stated, "For Fascism, society is the end, the individual the means and its whole life consists in using individuals for its social ends. Individual rights are recognized only in as far as they are

\(^{12}\)Pope Pius XI, Quoted by Thomas Dubay, S.M., Philosophy of The State as Educator, (Milwaukee, 1959), p. 42.
implied in the rights of the State. . . Our concept of liberty is that the individual be allowed to develop his personality in behalf of the State."\textsuperscript{13} The totalitarian philosophy of Communism as practiced in Communist countries is in no way different. When the Russian Communists came into power they made the school system of Russia a compulsory system of Marxist indoctrination. Every child had to learn the same Marxist philosophy. Religion was to be destroyed, and this was easily done through education. The Communists enchained men's minds.

The Catholic philosophy of state as educator is one which respects the democratic ideals. This, as Pope Pius XI points out:

". . . in the matter of education it is the right, or to speak more correctly, it is the duty of the State to protect in its legislation the prior rights already described of the family as regard the Christian education of the offspring and consequently also to respect the supernatural rights of the Church in this same realm of Christian education. . . . it pertains to the State, in view of the common good, to promote in various ways the education and instruction of youth. It should begin by encouraging and assisting, of its own accord, the initiative and activity of the Church and the family, whose successes in this field have been

clearly demonstrated by history and experience." The Church does not question the right of the State to establish certain kinds of schools wherein the State has to see to the special formation of its citizens in certain fields. The examples of these are military and police schools. But the State has the duty to encourage and cooperate with the family and Church when they undertake the function of education when it is intended for the moral and spiritual values.

Fr. Dubay, in his study, The Philosophy of the State as Educator, deals in detail with the rights and responsibilities of the state as educator. "The state as subsidiary educator" is something which is fitting to democratic ideals, in contrast to what has happened in totalitarian states. The state can respect the rights of all when it accepts this principle of subsidiarity. As Fr. Dubay points out, when the state assumes responsibilities by doing more than encouraging private initiative, the tendency is towards socialization. The American people do not have to be taught the merits of private initiative and pluralism in enterprise. A monolithic educational system destroys healthy competition and growth. Neglect of the principle of subsidiarity on the part of the state, not only in education but in any field, results in a loss

14 Pope Pius XI, pp. 16-17.
of freedom for the citizens.\(^{15}\)

**Rights of Minorities**

Democratic constitutions have enumerated rights of citizens. If these rights were not included explicitly in the written Constitutions, they have been established through Constitutional interpretations and Court decisions. Thus, for example, the priority of the right of the family in education is not explicitly written in the American Constitution; whereas in the Oregon and Nebraska Cases, as we have mentioned before, the Supreme Court established this right of the parents.

The Constitution makers of India knew that the right to "freedom of speech" and the "right to form associations and unions" did guarantee religious freedom. But the Constituent Assembly was not satisfied with such provisions alone in its bid to infuse complete confidence in the religious minorities. It went a step further and adopted a separate group of articles dealing solely with the right to freedom of religion. Included in the Fundamental Rights of the Indian Constitution are this Right to Freedom of Religious and Educational Rights.\(^{16}\)

The religious freedom guaranteed by Articles 25, 26, 27 and 28

\(^{15}\)Dubay, pp. 15-53.

\(^{16}\)The Constitution of India (Delhi, 1958), pp. 15-16.
are enumerated in the most generous terms and to the complete satisfaction of religious minorities. They were, in fact, the result of an agreement almost unanimously arrived at by the Minorities Committee in the Constituent Assembly. An atmosphere of harmony and confidence in the majority community was created by this unanimity of the minorities. In addition, these articles embodied a detailed enumeration of the principle contained in the Preamble of the Indian Constitution: "to secure to all its citizens . . . liberty of faith, belief and worship."\(^\text{17}\)

These rights to freedom of religion include freedom of conscience and free profession, practice and propagation of religion (Article 25); freedom to manage religious affairs (Article 26); freedom as to payment of taxes for promotion of any particular religion (Article 27); and freedom as to attendance at religious instruction or religious worship in certain educational institutions (Article 28). Along with these rights to freedom of religion is included the right of minorities to establish and administer educational institutions (Article 30). Section (1) of Article 29 guarantees the right of any section of the citizens residing in any part of the country having a distinct language, script or culture of its own, to conserve the same. Section (2) prohibits any discrimination based only on religion, race, caste,

\(^\text{17}\)Pylee, pp. 252-253.
language or any of them in the matter of admission to State or State-aided educational institutions. Article 30, Section (1) provides that "all minorities, whether based on religion or language shall have the right to establish and administer educational institutions of their choice." According to Section (2), the State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.  

The education clauses (Articles 29 and 30) are complementary to Article 26. Article 26 guarantees to a minority the right to maintain religious and charitable institutions, whereas Article 30 guarantees them the right to establish their own educational institutions. Under Article 30 (1) a minority is given the right not only to establish educational institutions, but also to administer them. The Constitution makers have included the word "administer" with a special meaning. The power of administration includes "the power of control" of the schools.

Article 30, a charter of educational rights, guarantees in absolute terms the right of religious and linguistic minorities to establish and administer educational institutions of their choice. They also have the right to claim grants-in-aid and the

18 *The Constitution of India*, pp. 16-17.
State cannot discriminate them because of religion or language. The Constitution does not impose any express restriction with regard to this right, unlike most of the other Fundamental Rights included. This does not mean, however, that the state authorities cannot impose reasonable restrictions regulating the conducting of such institutions. The Supreme Court of India upheld this in their decision and said that "the power of the State to make reasonable regulations for all schools. . . or to prescribe a curriculum for institutions which it supports cannot be questioned. The 'choice' of the minorities to establish and administer educational institutions is not unfettered and the State can make reasonable regulations."\(^\text{19}\)

We discuss in detail later in the chapter dealing with Kerala, when and under what circumstances the state can restrict giving aid to minority educational institutions. Here we are concerned only with regard to what the Constitution makers had in mind when these provisions were made in the Constitution.

When the Constitution was being drafted, it was the purpose of the Constituent Assembly to respect the minority rights. This is evident from many of the Articles in the Constitution. Explanation I of Article 25 states "that the wearing and carrying of

Kirpans shall be deemed to be included in the profession of the Sikh religion." This provision was included as the minority religious group professed that the wearing and carrying of a kirpan was a tenet of their religion. In the very same way, especially when we know, immediately before the Constitution was enacted there was mass protest by Catholics and other minorities in the "princely" state of Travancore against the nationalization of educational institutions, the inclusion of this provision is understandable. This is the Constitutional background of the legality of the public financial aid for private schools in India.

Here it is important for us to make a comparison of the legal status of private schools in receiving public funds in these three democratic countries.

With regard to Canada, Mr. Stefan Hansen, Member of the Manitoba Royal Commission on Education (1959) points out the general setup in the following words:

In Canada all provinces except British Columbia and Manitoba have made arrangements of one kind or another to satisfy, either wholly or at least reasonably well, the wishes in education of the main minority group. In Quebec, Protestant separate schools are wholly financed by public funds - local and provincial. The Protestant school system in Quebec also has its own curriculum and examinations. In Ontario, Saskatchewan, and Alberta, Roman Catholic and Protestant separate schools are financed by local property taxes and provincial grants to schools. In Newfoundland, all schools are denominational. In the other three Maritime provinces other arrangements, more administrative than statutory, have been made to
satisfy the educational wishes of the Roman Catholic minority. There is no evidence that these arrangements, including outright public financing of separate schools, have undermined educational standards or the public school system in these provinces. Nor is there any satisfactory evidence that they have made for "divisiveness" or disunity. The population of Saskatchewan, having tax-supported separate schools, is no more disunited than the people of Manitoba, having only unsupported separate schools.20

In India, the Constitutional provisions, as we have stated, are in conformity with the ideals of democracy. It is admitted by all that these Constitutional provisions very satisfactorily provide for the minority claims. But as we will see later, how a state authority could attempt to legislate against these provisions of the rights of the minorities. When we deal with the State of Kerala, we will discuss how the Communist government in that state tried through an "Education Bill" to go against these guarantees of the Constitution. But here we will only compare what the minorities claim as guaranteed by the Constitution. The President of the Catholic Union of India, Mr. A. Soares, in a circular sent for the "Attention of the Heads of all Catholic Educational Institutions" stated the following:

As there seems to be considerable mis-apprehension in official and non-official circles regarding the constitutional rights of religious minorities and their implications, and as there have been calls from Catholic Associations and institutions for an authoritative clarification, I have thought it

necessary to make a statement to serve as a guide to the Associations and Catholic educationists all over the country. 21

This circular, written on June 15, 1960, was after the Supreme Court of India gave its clarification to the President of India with regard to the constitutionality of the Education Bill of the Communist government of Kerala. In this circular, Mr. Soares pointed out that the Catholic community, as a religious minority, has the constitutional right of setting up and maintaining schools and colleges for the use and benefit of Catholic children, wherever there is a need of such an institution and sufficient demand for the same. Any Educational Authority which refuses permission to establish such a school or to add to the classes or divisions in an established school, when there is a demand for the same from Catholic students, will be clearly acting in an unconstitutional manner.

Quoting the Articles from the Indian Constitution, it was also pointed out that no Educational Authority can refuse recognition or registration to a Catholic institution which satisfies the minimum educational requirements laid down in that regard, or discriminate in the matter of grants between Catholic schools and schools of the same kind, run by other private agencies. Any such refusal of recognition or discrimination in grants will be uncon-
stitutional.

Since this right given to a religious minority is obviously meant to safeguard the religion and culture of the children of the said minority, it would be clearly acting against the spirit of the Constitution, if any Educational Authority, as was done by the Communist Ministry in Kerala, were to circumscribe, as a condition of recognition, the freedom of the managers of minority schools in the choice of the teachers, or make it compulsory for them to choose a certain percentage of teachers belonging to other communities. The Educational Authority has the right to lay down the qualifications of teachers at various stages of education, primary, secondary, collegiate, but it cannot force minority schools to choose teachers from certain classes or communities, irrespective of their fitness to teach in minority schools by their character or religious views. Catholic schools must be free to choose as teachers members of other communities who may be trusted not to interfere in any way with the faith or ethics of the Catholic children.

While the Educational Authority has the right to control and supervise secular education in all recognized minority schools, it has no right to supervise or control religious education in such schools, provided these schools confine religious education to the children of the minority community for which the school exists, or act in conformity with the conscience clause laid down
by the Department. No such authority has a right to prevent religious education being given in Catholic schools to Catholic children, or object to any Catholic teacher giving such religious education, or claim to prescribe or proscribe text books in such religious education. This is in consonance with the basic principle and policy of State non-interference in matters religious.

While the Educational Authority may prescribe text-books for schools, it has no right to compulsorily prescribe text-books in minority schools which are offensive to their religion or subversive of their ethics. This holds good, not only of minorities, but of all religious communities.

While an Education Authority is entitled to exercise control and supervision over recognized schools, such control and supervision must be limited by the needs and demands of an efficient education, and must not transgress into the rights of the managers of schools so as to make them illusory, and bring about in fact, though not in name, the nationalization of minority schools. This was attempted by the last Kerala Government, and is obviously against the spirit and purpose of the constitutional rights of minorities in education.

Parents and guardians have the right to send their children to the schools of their choice. This holds good of children of all communities, not the minorities only. This right has been recognized by judicial decisions, as the circular points out, in The State of
In the United States, however, the picture is different. The receiving of public aid by private educational institutions is still being debated. There are several schools of thought regarding the legality of providing funds for private education. There are four different arguments regarding this principle: constitutional prohibition, legal prohibition, principle of separation, and principle of tradition.

(1) Those who assert that any such aid will be unconstitutional. Mr. Clarence C. Mershon, making a study of the arguments for and against federal aid, concludes that any aid for sectarian schools is contrary to our tradition of separation. In comparison to what is guaranteed in Canada and India, the situation in the United States is still debated. As most of the state constitutions deny aid to religious schools, we will not discuss this here. But with regard to other public funds, including federal aid, there are four different schools of thought. Here we are concerned only with the present situation of the legality of providing funds for private education. Factors which have prompted this attitude will be discussed in the next chapter. One of their major important arguments is that the principle of "separation of Church and State" requires such a prohibition. There are some who believe that this is still being debated. There are several schools of thought with regard to its legality. There are some who believe that this is unconstitutional. In the United States, however, the picture is different.
of church and state, a threat to our public school system, and a menace to our society. I believe the proponents of public aid for sectarian schools are either terribly misinformed, cleverly insincere, or hopelessly naive in their reasoning.23

(2) There are some others who feel justified in their demand of public aid, but they recognize the futility of the direct aid approach, as Will Herberg points out:

• • • Though I fully recognize the justice in principle of the Catholic claim to public support of parochial schools, even to the point of contributing to the tuition of pupils and the salaries of teachers, I would certainly not think it advisable to press such claims at the present time or in the foreseeable future.24

(3) There are some, like Arthur E. Sutherland, Professor of Constitutional Law at Harvard, who believe that it is constitutional for the Congress to make provisions to give loans to private schools. Professor Sutherland, interpreting the First Amendment and enumerating the examples of laws passed by Congress, asks the following question:

Suppose. . . that the Congress should decide to promote the national welfare in aid of these educational objectives by making loans. . . to such of our public and private nonprofit schools alike as attain reasonable standards. Would these loans violate the Constitution of the United States if a large number of the private schools to be aided should be church schools, including in their curricula, not only such standard lay learning . . . but also instruction in the doctrines of a religious faith?25

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He categorically affirms that it is not unconstitutional.

(4) There are other jurists who think that such aid is perfectly constitutional and justified, as explained by Wilbur G. Katz in the following statement:

No case in the Supreme Court has directly involved the question of the validity, under the First Amendment, of tax support for parochial schools. In the New Jersey bus fare case, however, both the majority and the minority clearly assumed that such support is unconstitutional. Until recently, it seemed to me that this assumption was a sound application of the "no aid" rule. It seemed to me that direct payment for educational costs was something more than action to avoid discrimination against religion. Two years ago, I suggested that to protect the freedom of parents in their choice of schools, a tax deduction of some kind for tuition paid to such schools would be permissible. It seemed to me, however, that affirmative aid to religion would be avoided only if religious schools were limited to the support of individuals paying tuition and voluntary contributions.

This position no longer appears to me to be tenable. The "no aid to religion" rule is a rule prescribing neutrality, forbidding action which aids those who profess religion as compared with those who do not. If one assumes that the religious schools meet the state's standards for education in secular subjects, it is not aid to religion to apply tax funds towards the cost of such education in public and private schools without discrimination. Like the dissenters in the bus fare case, I am not now able to distinguish between the minor payments there involved and payments for educational costs. I believe, therefore, that none of such nondiscriminatory uses of tax funds are forbidden by the First Amendment.26

In spite of the opinion of these jurists, we have seen that

there are many who believe that it is not right for the private schools to receive public aid. In the following chapter, we will look into some of the factors which helped to create this attitude.
CHAPTER III

RECENT TENDENCIES

Tendency Towards State Monopoly

It is a sad truth that even in some of the democratic countries, there is a tendency towards "statism," or "state monopoly" with regard to education. In the United States of America, it is surprising for an outsider to note that the state monopoly of education is on the rise. This monopolistic tendency has been criticized by many. Mr. Stanmeyer says:

The state monopoly, like a glacier, creeps forward, ever bigger. But its day-to-day movement is small, and we fail to notice. In 1950 more than 50 per cent of our college students were enrolled in private colleges and universities. In 1960, less than 40 per cent attended independent institutions; and if the present trend continues (and why should they change?) by 1970 the number in state-controlled schools will be 80 per cent.¹

Fr. Blum observes that, for many an outsider, it is surprising to note that the most unintelligible aspect of the American nation is the denial of full religious freedom to citizens who believe in a God-centered education. Americans believe that all men are endowed by God with equal rights and liberties. Yet, it is strange to see that the religious liberty of children who seek a knowledge

of God in education is abridged. In the Zorach Case, the United States Supreme Court declared categorically that the American people are necessarily a religious people whose institutions presuppose a Supreme Being. Yet, those who seek this knowledge, which is the foundation of democratic self-government, are penalized.  

Pluralism, as it is opposed to any kind of monopoly, is the mark of every democratic society. American society has its pluralistic diversity built into its institutions at every level of life. In economics, in politics, in culture, the Americans are proud of the pluralism and of the corresponding freedom it assures. There is one field, however, in which pluralism seems to arouse the suspicion, even the resentment of a considerable number of liberal Americans, and that is the field of education. In education, especially in education at the lower levels, many Americans otherwise committed to diversity seem to feel that uniformity is mandatory, and that pluralism is "divisive" and "undemocratic." In this area, government monopoly, otherwise so repugnant to the American genius, is felt to be right and proper, for it is held to be the "natural" function of the government to educate the rising generation so as to insure the unity and solidarity of the nation.

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Non-governmental education must, of course, be tolerated; but because of the threats to democracy alleged to be inherent in it, it is to be denied public support beyond the bare legal recognition guaranteed by the Supreme Court in the celebrated Oregon Decision.

History of educational philosophy in the United States clearly points out that governmentally sponsored education has increased in its importance. Aside even from that fact, one can scarcely fail to notice a strong stream of thought supporting a state monopoly in American education. James Francis Cardinal McIntyre has referred to a clearly enunciated policy to eliminate private education in the United States and to replace it by a universal common education, a phrase used by the Educational Policies Commission of the National Education Association, a public school organization. 3

The argument for the state to monopolize education is not new in the American educational history. At the time of the Oregon Case, this argument was clearly put forward in the briefs presented to the Supreme Court of the United States. The attorneys for the governor of the State of Oregon argued that "it is evident that a majority of the voters of Oregon believed that the general welfare of the state would be promoted by compelling all children (with some slight exceptions) to receive a certain amount of education in

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3 Thomas Dubay, S.M., Philosophy of the State as Educator, (Milwaukee, 1959), p. 43.
the public schools of the state." Even to this day, the argument for state monopoly of education is voiced under the pretext of some benefits or other. This is the line taken by James B. Conant, former President of Harvard, in his influential book, Education and Liberty. "The greater the proportion of our youth who fail to attend our public schools and who receive their education elsewhere," Mr. Conant asserts, "the greater the threat to our democratic unity. To use taxpayers' money to assist private schools is to suggest that American society use its own hands to destroy itself."  

To some, this tendency towards a state monopoly is the result of "secularization" of American culture. This "secularization," often claimed as the "separation of Church and State," is felt by many religious leaders to be the strengthening factor towards state monopoly.

Secularism and Democracy

Secularism in a modern democracy is considered to be a "sine qua non" for the effective and efficient operation of its principles. What is meant and expected as ideal, is that the State is impartial in its attitude towards all religions and religious beliefs. Very often, this "secularism" is misinterpreted and misunderstood. It

is important for us, therefore, to analyze the meaning of "secularism." The ideals of secularism are, in effect, the same as those established in the argument for the "separation of Church and State." But "secularism" or "separation of Church and State" does not mean that a democratic state has to be "secularistic" which means "non-religious" and even "anti-religious." This meaning of secularism as it is contained in a modern democratic constitution, is explained at length by India's Vice President, Dr. Radhakrishnan, in the following words:

When India is said to be a secular State, it does not mean that we reject the reality of an unseen spirit or the relevance of religion to life or that we exalt irreligion. It does not mean that secularism itself becomes a positive religion or that the State assumes divine prerogatives. Though faith in the Supreme is the basic principle of the Indian tradition, the Indian state will not identify itself with or be controlled by any particular religion. We hold that no one religion should be given preferential status, or unique distinction, that no one religion should be accorded special privileges in national life, or international relations for that would be a violation of the basic principles of democracy and contrary to the best interests of religion and government. This view of religious impartiality of comprehension and forebearance, has a prophetic role to play within the national and international life. No group of citizens shall arrogate to itself rights and privileges which it denies to others. No person should suffer any form of disability or discrimination because of his religion but all alike should be free to share to the fullest degree in the common life. This is the basic principle involved in the separation of Church and State. The religious impartiality of the Indian State is not to be confused with secularism or atheism. Secularism as here defined is in accordance
with the ancient religious tradition of India. It tries to build up a fellowship of believers, not by subordinating individual qualities to the group-mind but by bringing them into harmony with each other. 6

There are many who fear that this idea of secularism, knowingly or unknowingly, is often confused with "secularization" and, in the American scene, there is a tendency towards secularization. "The great paradox of American history," declared Harvard professor Christopher Dawson, is that "the separation of church and state which was intended to protect religious freedom has become the constitutional basis of the secularization of American culture." 7

The purpose of the adoption of the "religion clause" of the First Amendment was to protect the citizens' right to freely belong to any religion without suffering disabilities. Today, many fear that the amendment's "no establishment clause" is being interpreted to suppress the free exercise of religion and to enforce conformity to the "state-established religion of secularism."

Some, confusing the ideals of secularism in a democracy, and "secularization," have shown heated opposition to any form of state assistance to children attending semi-public schools under religious auspices in the United States. Discussing the basis of this opposition, Fr. Hartnett points out that the assumption they


7 Christopher Dawson, Quoted by Virgil C. Blum, S.J., "In Defense of Freedom," Ave Maria, XCIV (July 1, 1961), 5.
work on is that American democracy, for which the schools are preparing future citizens, has no religious roots, but is rooted in a secularistic, non-religious view of human life. 8

It is important for us to look into the background of this "secularization" in this country. "Congress shall make no law respecting an establishment of religion," were the words of the First Amendment to the American Constitution. These were the words meant to safeguard the principles of the "separation of Church and State." But these words have led the government into almost a "secularistic" or "non-religious" attitude. This, according to many, is true with regard to the relationship between State and Education.

This relationship started when Mr. Justice Black, in his Majority Opinion of the Everson Case, gave an explanation of the First Amendment in the following words: "The 'establishment of religion' clause of the First Amendment means at least this: Neither a State nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion to another." 9

Also, in the McCullom Case, Justice Black endorsed the absolute separation of Church and State when he declared that the


First Amendment is based on the premise that: "Both religion and government can best work to achieve their lofty aims if each is left free from the other within its respective sphere. Or, as we said in the Everson Case, the First Amendment has erected a wall between church and state which must be kept high and impregnable."  

There are many who believe that this explanation of the First Amendment was far-fetched and furthered the cause of "secularization."

As Dr. Brown points out, "The Supreme Court gave tremendous impetus to the march of secularism when it stated in the Everson decision in 1947 that neither a state nor the federal government can pass a law which aids one religion or all religions."  

As Fr. McCluskey points out, the result of the McCullom Case was far-reaching and to the surprise of many. "The McCullom decision precipitated a national reaction... There was a national cry of dismay. The Attorney General of the United States deplored it and the Journal of the American Bar Association editorialized against it. The American Catholic hierarchy and many Protestant Church groups criticized the decision which, in effect, decreed that 'the public schools must be not only nonsectarian but secular or godless' in Leo Pfeffer's words."  

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Let us examine here the circumstances in which this "no-establishment clause" was included in the Amendment. When the delegates met to draft the Federal Constitution, many different religious attitudes were represented. No religious test for federal office would satisfy Rhode Island, and no particular religious test would satisfy all the other states. Therefore, the Federal Constitution was drafted with the prescription that "no religious test shall ever be required as a qualification to any office or public trust under the United States." This was the only reference to religion in the Constitution as it was presented to the states for ratification.

The people were dissatisfied that the proposed Constitution did not contain assurance of religious liberty. Therefore, the First Amendment to the Constitution declared that "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof."

These circumstances, and the opinion expressed by Justice J. Reed, give us enough reason to wonder whether this absolute separation was what was meant by the First Amendment. It is important for us to note that Justice J. Reed, who was a Supreme Court Judge, gave us an entirely different explanation to the First Amendment in his dissenting opinion in the McCollum Case. Unfortunately, he was in the minority. Mr. Justice Reed, dissenting, said:
The decisions reversing the judgment of the Supreme Court of Illinois interpret the prohibition of the First Amendment against the establishment of religion, made effective as to the states by the Fourteenth Amendment, to forbid pupils of the public schools electing, with the approval of their parents, courses in religious education. . . . As I am convinced that this interpretation of the First Amendment is erroneous, I feel impelled to express the reasons for my disagreement. By directing attention to the many instances of close association of church and state in American society and by recalling that many of these relations are so much a part of our tradition and culture that they are accepted without more, this dissent may help in an appraisal of the meaning of the clause of the First Amendment. . . .

Justice Reed, in his lengthy dissenting statement, shows how the phrase "an establishment of religion" may have been intended by Congress to be aimed only at a state church. Quoting the Annals of Congress, he shows how "Mr. Madison said he apprehended the meaning of the words to be that Congress should not establish a religion, and enforce the legal observation of it by law, nor compel men to worship God in any manner contrary to their conscience." Justice Reed shows how Jefferson, one of the founders of the University of Virginia, who may have been taken by others as the one who favored "the wall of separation between Church and State," approved and encouraged the regulations of the University, which included provisions for religious instruction.

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13 Justice J. Reed, Cases Argued and Decided in the Supreme Court, Bk. 92 (Rochester, N.Y., 1952), pp. 720-724.
14 Ibid.
and worship. This university, from its establishment in 1819, has been wholly governed, managed and controlled by the State of Virginia.

Justice Reed also enumerates the many examples of the practices of the Federal Government which the state undertakes to aid religion. In all this, what Justice Reed wants to show is that the meaning of the First Amendment was not to "create a complete and permanent separation of the spheres of religious activity and civil authority." This elaborate explanation of Justice Reed gives us a fair idea of the meaning of the First Amendment.\(^\text{15}\)

As Professor O'Neill points out, the words of the First Amendment could not mean what Justice Rutledge and Justice Black said, considering, "1) that we had in America at the time the First Amendment was adopted and ratified five established Protestant churches in five of the states, 2) that the Constitution was so drawn at Philadelphia as to make the Federal Government a government of delegated powers only, 3) that no authority had been delegated to the Federal Government over such matters as the relation of government to religion, and 4) that some of the established churches in the various states continued for a number of decades after the ratification of the First Amendment."\(^\text{16}\)

\(^{15}\)Ibid.

\(^{16}\)James M. O'Neill, Catholicism and American Freedom (New York, 1952), p. 43.
Examining the history of the United States, one could see that the First Amendment did not uproot any establishment of religion anywhere, or prevent the constant use of federal funds to aid religion on a nondiscriminatory basis from 1791 to the present day. The men of the First Congress who wrote and adopted the First Amendment went on almost immediately to set up chaplaincies for Congress and in the army, to initiate the proceedings, under Washington's recommendation to spend government funds for the spread of Christianity among the Indians, and to ask the President to call a day of prayer and thanksgiving to Almighty God for His blessings on the young republic. It would look surprisingly strange if the men who adopted the First Amendment, meant, by that Amendment what was expressed by Justices Rutledge and Black, and then immediately started various undertakings to spend government money in aid of religious activity.

In 1952, in Zorach v. Clauson, the Supreme Court of the United States apparently "revised" the meaning of the First Amendment, contained in the revolutionary doctrine of Justice Rutledge and others, given at Everson and McCollum Cases. The "separation of church and state" theory was explained in the following words:

The First Amendment within the scope of its coverage permits no exception; the prohibition is absolute. The First Amendment, however, does not say that in every and all respects there shall be a separation of Church and State. Rather, it studiously defines
the manner, the specific ways, in which there shall be no concert or union or dependency one on the other. . . .

We are a religious people whose institutions presuppose a Supreme Being. We guarantee the freedom to worship as one chooses. . . .17

The Court upheld in this decision governmental "encouragement" and "accommodation" with religious life because the American "institutions presuppose a Supreme Being." The Court rejects unequivocally "partiality," "compulsion," "coercion" or "force" in favor of one religion and declares that it finds "no Constitutional requirement which makes it necessary for government to be hostile to religion and throw its weight against efforts to widen the effective scope of religious influence." As Fr. Costanzo asks, "Now, then, frankly admitting that religious education is an effort (perhaps one of its strongest) to widen the effective scope of religious influence, does governmental "encouragement" and "accommodation" allow the inclusion of federal financial aid to it?"18 This is a question which the future is going to answer. At least until today, the answer seems to be in the negative.

As we have noted before, the principle of "separation of church and state" contained as a safeguard in a Constitution, Amendment or Constitutional interpretation, is to bring about in

practice the ideals of democracy. Democracy is not rigid. One of the fundamental principles on which a democracy should grow is that the state is for the good of the people. This is evident when we compare the explanation given to the "no establishment clause" in the United States Supreme Court to what was elaborately written into a democratic Constitution like that of India. The makers of the Indian Constitution, after carefully studying for many years the merits and defects of all the existing Constitutions and Constitutional practices, wanted India to be a "secular" state. What they wanted by this is evident from the discussions that went on in the Constituent Assembly in India. They meant the democratic principle of "separation of Church and State", but not that India should be "anti-religious" or "secularistic."

As Mr. H.V. Kamath said in the Constituent Assembly: "When I say that a State should not identify itself with any particular religion, I do not mean to say that a State should be anti-religious or irreligious. We have certainly declared India to be a secular State. But to my mind, a secular State is neither a God-less State nor an irreligious nor an anti-religious State."

Dr. Ambedkar, Chairman of the Drafting Committee in the Constituent Assembly, for whose ingenuity the merits of the Indian Constitution are accounted, explained the concept of "secularism" in the Indian

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Parliament as follows: "It (secular state) does not mean that we shall not take into consideration the religious sentiments of the people. All that a secular State means is that this Parliament shall not be competent to impose any particular religion upon the rest of the people. That is the only limitation that the Constitution recognizes." This, as we have seen, is the same explanation given by India's Vice President, Dr. Radhakrishnan.

Divisiveness

In the foregoing comparison, we notice a tendency towards an absolute separation of Church and State in America. This tendency, as many believe, has affected the general outlook so much, that it has resulted in a "secularization." But this secularization is unwarranted in the ideals of a democracy. The impact of this is certainly evident in the attitude towards religious schools and religion in schools. But as we have seen before, it is not necessary for a democratic state, in order to keep up its ideals, to be secularistic. It can bring about the best from a separation of Church and State, and still be encouraging in its attitude towards religion and religious schools. This we have seen from the provisions included in the Indian Constitution. It will be surprising for an American who argues for this kind of "absolute

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20 Dr. Ambedkar, Quoted Ibid., p. 254.

21 See above, p. 41, n. 6.
separation" to see that today there are more than 50 countries in the world, which are democratic, where private education is encouraged and helped through public funds of some sort or other. 22

However, there are many in America who believe that by sponsoring Catholic and other denominational schools, a divisiveness is bound to occur in the American society. For them, the public school system is the only means to bring about a "uniformity" in the American people.

In an address delivered by Dr. James B. Conant to some 5,000 school educators attending the meeting of the American Association of School Administrators in Boston on April 8, 1952, he made a strong attack on the "dual system of education." For him, "our public schools should serve all creeds." Education outside the public school can only ruin "unity" which is his ideal of the public school. 23 He expressed the same view in his book, Education and Liberty, that those who fail to attend the public schools and who receive their education elsewhere become a threat to the democratic unity. According to Dr. Conant, "To use taxpayers' money to assist private schools is to suggest that American society use its own hands to destroy itself." 24 We may see that

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22 Benabarre, Appendix A and B.


24 Herberg, p. 127.
there are many others who sincerely take this attitude. They believe that in order to achieve the best training as an American citizen, the child should get his education in the public school. Let us here examine the background in which this "belief" has evolved.

There exist two philosophies which influenced the trend of education in this country. The first, which is the outcome of the Anglo-American social thinking, had influenced the system of education in this country. According to this philosophy, the function of the state falls under the principle of subsidiarity. By this principle the government is justified in taking over a general social function only if it is to be performed in the common interest and when it cannot be adequately performed by individuals or voluntary non-governmental agencies. In this philosophy, the government operation of schools is not something inherent in the very notion of democracy. In other words, the state is to take up this operation only because it had to meet a great and urgent public need where non-governmental efforts were inadequate. This again means only for the time being, and the other agencies, when they can, should be given the opportunity and encouragement.

But there is a second philosophy which originated on the Continent. There the advocates of public education have always seen things from the point of view of the state. According to them, education is a "natural" and intrinsic activity of the state,
designed primarily to inculcate a common doctrine and create a uniform mentality among the citizens. Thus the state, by its very nature, is a teaching institution and education is its proper and legitimate function.

This second philosophy, we can see, was the basis for many a totalitarian state. From the time of Louis XIV through the Enlightenment, up to the French Revolution, this philosophy of the state as educator had grown. In America, this philosophy had its influence tremendously, especially when the private educational system was unable to cope with the large influx of immigrants. It was also necessary, because of various factors, to make these immigrants, who were of different cultural backgrounds, "Americanized." Public education was expected and found to make "Americans" out of these children of immigrants. The public school system became the government's agency for creating a "uniform" American mentality.

We can understand the influence of this philosophy in America. However, the sad truth is that this function of the state, which was considered necessary for the time being, had grown in vigor and strength, that it had influenced educational and political philosophy. It had its influence in various fields, so that even to this day we see the monopolistic attitude on the part of the State. The explanation given to secularism, the fear of divisiveness, and the minor importance given to the rights of family and Church, are all results of this philosophy. This is clearly shown
in the article of Will Herberg. These factors also have influenced the general attitude, including constitutional interpretations, to an absolute separation of State and religion.

25 Ibid., pp. 118-147.
CHAPTER IV

FINANCING OF PRIVATE EDUCATION
IN THE UNITED STATES OF AMERICA

Most Rev. Lawrence J. Shehan, D.D., the then President General
of the Baltimore Catholic Education Association, addressing the
Members on March 31, 1959 in Atlantic City, New Jersey, said:

We should begin by noting that the overall commitments
of Catholic education are clearly stated in the general
legislation of the Church. Catholic education, free
from doctrinal error and from moral danger, is to be
provided for all the faithful from the days of their
childhood. Where Catholic elementary and high school
with a curriculum measuring up to this standard do
not exist, the bishop of a diocese has the obligation
to establish such educational institutions. Catholic
universities are to be erected on a national or a
regional basis when public universities are lacking
in Catholic teaching and Catholic attitude. The
Church, therefore, by her general legislation is
pledged to provide complete Catholic education to her
subjects insofar as this is possible.¹

The teaching of the Church which Bishop Shehan pointed out, has
given expression for the concern of the need of Catholic education
in this country.

History of the Development of the Catholic School

This concern of the need of Catholic education was shown from

¹Lawrence J. Shehan, Bulletin, National Catholic Educational
Association, Proceedings and Addresses, 56th Annual Meeting
the early days of the Catholic Church in this country. The historical development of the Catholic school system is important to show us how today the Catholic schools have come to face the tremendous problems of financing. We are attempting here only to give a brief history in order to point out that: (1) the Catholic Church from the very early days in this country has claimed the right to conduct schools which would impart Catholic religious education, (2) the parents' right to give their children an education with religious teaching was always claimed, (3) such schools claimed and received in certain instances, public funds, (4) the Catholics were ready to make any sacrifices, financial or otherwise, in case they had to conduct their schools without public funds, (5) claiming public funds is looked upon as a new position taken by the Catholics of recent years. But these instances show that the conclusion is not correct. References are made only to instances which will clarify these points. It is not possible to discuss here all the instances in the history of Catholic and private education in this country. Fr. Gabel explains the general view in the following words:

The Catholic position was essentially what it had been in the days of Bishop Fenwick of Boston, Archbishop Hughes of New York, Archbishop Purcell of Cincinnati, Bishop Spaulding of Kentucky, and what it always had been and is today: that education must be thoroughly religious and that catechetical instruction given once a week in Sunday schools was inadequate; that it was an injustice for the state to compel support of
only one kind of school which violated religious rights and duties by ignoring the proper training in religion; and that public schools, which either retained a strong Protestant bias and a proselyting motive or ignored religion, resulted in spiritual harm to Catholic children who were in attendance. The right of parents to determine the character of the school toward which they paid taxes and the right of the church to maintain schools were both upheld, but a compromise system of Catholic district schools under Catholic teachers and with religion taught before or after regular hours would have been acceptable, although not the ideal. 2

Lowell Plan

One of the early attempts made to receive public aid was in Lowell, Massachusetts. The town agreed to appropriate $50 annually for the maintenance of a separate school for the Irish Catholics under the district system. Four years later, another school was built and both these were adopted into the public school system. Terms of agreement were made as to the teaching of religion, etc., but the experiment failed and was abrogated in 1852.

School Controversy in New York City

In 1806 the Catholic schools of New York City uniformly requested and received appropriations from the school funds of the State. Other denominational schools also were aided. In 1824 the city council cut off appropriations to the religious schools as most of the money was given to the Public School Society. Bishop

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Hughes, defining the position of the Catholics as one of simple justice, claimed public support for the Catholic schools, not as religious corporations, but as groups of citizens, and in precisely the same capacity as that by virtue of which they were taxed for the school fund; his petition was turned down.

**Poughkeepsie Plan**

In 1873 the same position was voiced by the citizens of Poughkeepsie and put into effect successfully. There was agreement between the Board of Education and the Church by which the Board paid teachers salaries, etc. The schools were also allowed to include religious instruction in their curriculum.

**Faribault Plan**

Under the leadership of Archbishop John Ireland, the same kind of plan was put into practice in the Archdiocese of St. Paul.

In all these early attempts, it is necessary to point out that although the Catholics petitioned for public funds for Catholic schools, they were not willing to receive such funds at the expense of having to sacrifice Catholic ideals and principles, as well as the freedom to teach religion in their own schools, by their own teachers.

**Oregon Law**

The first of a major crisis was the Oregon Law of 1922, by which the very existence of Catholic schools was threatened. All through
history, as in this case, the Catholics defended their right to have their own schools. And history shows if public funds were refused, the Catholics were ready to make any sacrifice to conduct their own schools in following the teaching of the Church.

**Michigan Proposal**

In 1920 the state of Michigan attempted substantially the same proposed in the Oregon Law. Here it was a question of a proposed Amendment to the State Constitution rather than a new law. The people, however, defeated the proposition at the polls.

**Agitation in Ohio**

In the state of Ohio, substantial grants-in-aid were given for religion, for instance, to the Moravian mission among the Delawares. Others were the Ohio Company Purchase for support of churches around Marietta and the Symmes Purchase for the same purpose in southwestern Ohio. In 1933, the Ohio Legislature passed a bill providing for an emergency school fund. The Catholic Bishops petitioned the Governor so that the Catholics would be relieved from this taxation. The Attorney General rendered an adverse decision on the constitutionality of such procedure. The State Legislature also voted against the claim of the Catholics.³

Father Gabel points out that during the early period opinion was divided on the question of the use of public funds for religious education. There were two groups who opposed the advocates of Church-schools. There were "true secularists" on one hand and there were those who accepted "non-sectarianism" on the other. The catchwords of religious liberty, natural rights, separation of Church and State, etc., were brought as arguments, but it was the will of the majority rather than the principle which decided the issue, in each particular instance. 4

There was much controversy in many states over granting public aid to any type of private educational institution. It is significant, however, that in some states, private and church colleges and academies received public assistance.

Relationship Between State and Private Education

One of the arguments brought by those who favor private education and still are against public aid is that if the government aids schools financially, it will come to control these schools, and thus destroy their reason for existence. For "control of the purse-strings confers the power to dictate." This is undoubtedly a strong argument. We would all like to believe ourselves independent of our fellow citizens and free of any governmental controls. But as far as private schools are concerned, they do receive support

4Ibid., p. 284.
from the government in a few ways. And, the government has controls over these "independent" schools. We might call these institutions private, independent, denominational or non-public, but they do have a semi-public character. And the State has certain relationships to these institutions. These relationships are twofold: 1) regulatory, and 2) assisting. In the first category is included "supervision and requirements," and in the second all support and assistance.

Regulatory

As Professor McGarry points out, "the regulatory power of the state with regard to educational instruction is generally conceded. While the parents have a primary right to direct the education of their children, the state also has a secondary right to supervise that education, to require it to measure up to certain standards, and to supply the deficiency if the parents fail adequately to educate their children."⁵ Examining the history of the "private schools" of this country, in the matter of public supervision, a spirit of mutual cooperation and understanding has developed between public educators and directors of elementary and secondary parochial and private schools. In almost all the localities this kind of regulatory relationship exists between local authorities

and private schools. The basis of the "regulatory" requirements and supervision is held to be the "police power" of the State whereby public authority can safeguard its own welfare and that of the children against dangerous teaching, risk to life and health, etc. These regulatory requirements, in essence, are the same with regard to most of the States. Slight variations are found but these are mainly because of existing conditions.

These regulatory requirements and supervision are not considered unjust, as it is necessary for the welfare of the institutions and the community. Examples of control and supervision of a regulatory nature are in the following: (1) total class time per year, (2) requirement of teaching English, American History, Civics or Citizenship, and the Constitution, (3) patriotic exercise of the salute of the flag, (4) instruction in hygiene and fire prevention, and (5) firedrills. Some are common to public and private schools alike as one of the most important is the "Compulsory School Law." Records or reports on enrollment or attendance are required in many states.

Another important requirement is qualifications of teachers. As Father Gabel points out, "Conditions requisite for teaching certificates are laid down, although only four states, Alabama, South Dakota, Michigan and Nebraska, apply unreservedly the same conditions for teachers in private and public schools. Some states exercise further control over private schools through granting
official approval for purposes of accrediting secondary schools, or through recognizing any private school as satisfactory under the school laws. In 1928 direct state or local supervision was authorized in only four states and inspection in sixteen, but this method of control has been increasing.6 Besides, there are the usual regulations as to location, ventilation, heating, fire protection, and other health facilities. Already, as Dr. Hayes pointed out before the Subcommittee on Education, "the parochial schools must, of course, meet pace with the educational facilities, practices, and standards of public schools. . . to comply with the minimal requirements of governmental supervisory agencies and of private accrediting agencies."7

The question of the regulatory function of the state is accepted as necessary when it is done to keep a balance between private rights and public welfare. But it can also go to the other extreme as in Oregon, where the state attempted to outlaw all private schools.

Assisting

There are various kinds of public assistance given to the private schools today. These are local, state and federal. We


will deal with them in two categories: (1) local and state, (2) federal. Most kind of the assistance is closely related to financing, although direct grants are few. Direct financial aid either as grant or loans, is still debated. There are some, however, who even question the constitutionality of the so-called "fringe benefits." Even when it is local or state they question the validity of some of these aids.

(1) Local and State. Examining the historical development of the kinds of State Aid to private educational institutions from 1865-1936 Father Gabel classifies them into (a) "States with provisions that directly or indirectly favor some appropriations to church schools, or contain no express constitutional prohibition; (b) States that prohibit such appropriations entirely or partially." The Constitutions of Maine, Vermont, Connecticut, Rhode Island, Maryland, New Jersey, West Virginia, North Carolina, Tennessee, Arkansas and Iowa contain no express prohibition to aid church or sectarian schools. Most of the other states, however, explicitly prohibit state funds to church schools using the words like "sectarian." Thus, for example, the Constitution of Illinois of 1870 as amended says in Article VII, section 8: "Neither the general assembly nor any county, city... or other public corporation shall ever make any appropriation, or pay from any public fund whatever,

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8Gabel, p. 538.
anything in aid of any church or sectarian purpose, or to help support or sustain any school, academy, seminary, college, university, or other literary or scientific institution controlled by any church or sectarian denomination whatever."\(^9\)

The example of a Constitutional provision of the first category by which it does not explicitly prohibit the giving of state funds to private educational institutions, can be found in that of Maryland. The Constitution of 1867, as amended, says only the following in Article VII, section 3: "The school fund of the State shall be kept inviolate, and appropriated only to the purpose of education."\(^10\)

Today almost all the states either explicitly or implicitly prohibit both "direct" and "indirect" aid to sectarian institutions.

Most of the aid given at the state level is locally administered. It will be difficult therefore to separate them exclusively as local or as from the state. It is surprisingly noteworthy to see that various state Attorneys General, state legislatures and state courts, considering the constitutionality of the same services for children in religious schools, have given opposing interpretations to such provisions. For example, "non-religious textbooks are provided free by the states to all children in Louisiana, Mississippi, New Mexico and Oregon, but in Kansas and

\(^9\)Hearings, U.S. Senate, p. 1264.

\(^10\)Ibid., p. 1266.
West Virginia only to indigent parochial school children.\textsuperscript{11}

But in some other states when this question came to the courts or in the state legislature, this was considered contrary to state constitution, as it was taken to be "indirect aid," to sectarian schools.

Today there are 20 states where free transportation is provided for public and parochial schools alike. But here again, in some states it is considered unconstitutional and therefore denied. At the same time when the question of constitutionality was raised with regard to textbooks and free transportation, the U.S. Supreme Court upheld it as constitutional.

In 1946 the U.S. Congress passed the National School Lunch Act whereby the Federal Government provided funds for state governments in proportion to the population of all school children. The states have to match the amount dollar for dollar and many states are providing for this lunch program using state money which is benefited by parochial school children also. But 29 states consider this matching as "direct" or "indirect aid" to religious schools and therefore denied such matching. The federal Government had to make other arrangements in such cases which we will treat later under existing federal aid.

One of the most important aids received by the religious

schools is the "tax-exemption-benefit." As this important benefit is given by many states, it shows that such schools are not only recognized equally with state schools but they are also considered as contributing to the general welfare.

Here we will consider one state, as an example, to see the "assisting" the private schools receive locally or from the state. New York State Constitution, Article XI, Sec. 1, Par. 4 (1895) reads:

Neither the state nor any subdivision thereof, shall use its property or credit or any public money, or authorize or permit either to be used, directly or indirectly, in aid or maintenance, other than for examination or inspection, of any school or institution of learning wholly or in part under the control or direction of any religious denomination, or in which any denominational tenet or doctrine is taught.12

In New York since the Constitution was amended in 1938 school bus transportation for parochial school children has been permitted. In 1960 a law made it mandatory. This law does not apply to New York City because of the regular transportation system. The city, however, subsidizes the Transit Authority for the concession made to all school children. The Department of Education makes statutory provision for physical examination of all school children. In 1953 the legislature made it obligatory for home districts to pay for the cost of health services for children attending all

12Quoted Ibid., p. 155.
non-public schools outside those districts. In this state the parochial school children benefit in the school lunch program provided at public expense.

There are a few other benefits, the parochial school children receive, as pointed out by Father Costanzo.

In addition to the ordinary police and fire protection and sanitation service, local communities provide their school children with other welfare benefits of a socio-legal character, without discriminating between public and parochial schools. Thus, all school property is protected by zoning regulations because the community judges that school children might be harmed by the proximity of factory smoke, heavy trucking and taverns. The city will close off certain streets during part of the day to turn them into recreation areas for school children, public or private. In other words, public property is temporarily put at the service of a sectarian institution to supplement its recreational facilities. 13

Most of the states have provided these kinds of benefits either directly or through local governments.

(2) Federal. As we have seen before, that in a democracy, it can happen undue sacredness is given to a tradition, which can prove to be damaging to the very ideals of democracy. Thus, for example, there are some people who believe and argue this way. The private schools have existed in this country for so many decades. No public funds were given (directly) for their aid. That is the tradition. Therefore, it is not right to change that now. Besides, they would also bring the argument that in so many instances this

13 Ibid., p. 157.
policy was perpetuated through legal enactments or Constitutional interpretations. For this argument first of all, we are already seeing a change in the tradition. Looking back into the history, there was wide opposition to federal aid to education. A number of arguments were brought to justify this opposition. Today, not that there is no more opposition, but it is evident that this attitude has been changed considerably. The reason for this change, all admit, is because there is serious need. Secondly, there are examples where we see that as a democratic system is not perfect, changes are made when necessary. These changes are not only in traditions, but even through constitutional amendments. It may also be new interpretations to the same written laws. This is evident from the legal changes which have taken place in any democratic country. In America this is the same. Just one example will clarify our point. As Fr. Murray points out:

The Supreme Court has ruled that the doctrine of 'separate but equal' educational facilities for Negroes is incompatible with the present-day American constitutional concept of civic equality within the unity of the body politic. The decision is a good example of the way in which sociological alterations sharpen moral judgments and thus lead to legal changes.

From the moral point of view the 'separate but equal' doctrine was always unjust; racial discrimination cannot be defended on moral grounds. Nonetheless, the doctrine could once have been defended from a sociological point of view as necessary in the circumstances. . . .

As Father Murray points out, the moral judgment prevailed when the law had to conform itself to this judgment. Today, the doctrine of "separate but equal" facilities has no status in law. In the very same way, the doctrine that public aid was denied by law to certain schools simply on the grounds that they teach a particular religion was never in conformity with the moral of distributive justice. The principle of distributive justice, as seen in many fields - income tax laws, selective service, social security - would require that a proportionately just measure of public support should be available to such schools to serve the public cause of popular education.

Here we examine some of the benefits the private schools are receiving from the federal government now. These were included in a Memorandum submitted by the Administration to the Subcommittee on Education of the United States Senate, Eighty-Seventh Congress.15

(1) National Defense Education Act (NDEA Public Law 85-864) includes the following. Funds are made available by the Commissioner of Education under title II of the National Defense Education Act to enable public and private nonprofit institutions of higher education to make low-interest loans to needy students. Ninety per cent of the capital needed for a loan fund at an institution is given by the Federal Government. Graduate programs in institutions

15 *Hearings*, U.S. Senate, pp. 139-147.
of higher education are given quotes by the Commissioner of Education for the award of graduate fellowships. Under the same National Defense Act loans are given to non-profit private schools. The purpose is to strengthen science, mathematics and modern foreign language instruction in elementary and secondary schools. Twelve per cent of each appropriation for the acquisition of science, mathematics, or foreign language equipment is required to be allotted by the Commissioner of Education for loans to private, nonprofit, elementary, and secondary schools. Affiliation with religious organizations is not considered. Grants which are given to state educational agencies may be used for testing students in secondary schools, public or private. The Federal participation through the State grant is one-half the cost of such testing. In carrying out this provision during the 1960-61 school year, the Commissioner arranged for testing students in private secondary schools of 40 states, because of state regulations. This provision for the Commissioner to arrange testing was inserted in the law because it was known that in some states, the state educational agency would not have authority to make payments toward the testing of students in nonpublic schools, particularly those with religious affiliation. Some of the provisions of the same Act which benefited, directly or indirectly, private and parochial schools are in relation to the following. (a) Institutes for training secondary school counselors and modern foreign language
teachers. (b) Language and area centers. (c) Language fellowships. (d) Foreign Language research. (e) Research and experimentation in more effective utilization of television, radio, motion pictures and related media.

(2) Grants for Teaching in the Education of Mentally Retarded Children (Public Law 86-158). The grants are given both in connection with the cost of instruction and for establishment and maintaining fellowships.

(3) Cooperative Research on Problems in Education (Public Law 531). The Commissioner of Education is authorized to contract or make other jointly financed cooperative arrangements with institutions of higher education for studies and research on problems in education.

(4) Surplus Property Utilization Program (Public Law 152). Under the provisions of the amended Act the Secretary of Health, Education, and Welfare is authorized to allocate surplus personal property for transfer by the Administrator of General Services to State agencies for distribution to educational, health, and civil defense organizations. The institutions which receive real and personal property include public and private nonprofit elementary and secondary schools and institutions of higher education.

(5) Veterans' Administration (Public Law 85-857). There are three kinds of aids from which the private schools may benefit. (a) Vocational Rehabilitation. (b) Educational Benefits for World
War II and Korean Veterans. Previously a tuition payment was made directly to the school which the veteran attended. The present program authorizes provision for an education and training allowance directly to the veteran. (c) War Orphans Educational Assistance. This program provides educational opportunities for children of wartime veterans. Payments are made directly to the student to meet in part the expense of his tuition and subsistence.

(6) **National Science Foundation Act of 1950** (Public Law 507). Under this Act certain institutes are financed to improve the qualifications of high school and college teachers in science and mathematics. Stipends are paid without regard to the fact that the teacher is from a school with religious affiliation.

(7) The State Department supports educational activities to a considerable extent by a variety of programs for international exchange, improvement of cultural relationships and rendering of technical assistance to foreign countries.

(8) **National School Lunch Program** (Public Law 296). This program provides funds and foods for midday meals to children attending high school, grade and less. In states where it is permitted the state educational agency receives funds for this program and in turn are used to provide lunch for public and private school children. Where the state educational agency is not permitted to give away such funds to nonprofit schools the Secretary of Agriculture makes the payment direct to such schools.
(9) **Special Milk Program** (Public Law 690). Funds are used to increase the consumption of fluid milk by children in non-profit schools.

(10) **Use of National Forests.** The act of June 4, 1897 authorizes a group of persons residing in the vicinity of national forests to occupy not exceeding two acres of forest land for the erection of a school and not exceeding one acre for the erection of a church.

(11) The Bureau of Indian Affairs arranges for the placement of Indian children in schools and though it does not pay toward instructional costs, it does give welfare funds to pay the institution for other needs of the children.

(12) **College Housing Loan Program** (Public Law 475). Construction loans are provided to assist public and private non-profit institutions offering at least a two-year program of higher education.

These are some of the programs by which the Federal Government aids private schools or related institutions. 16

Some of the examples we have enumerated above do not pertain directly to private educational institutions of the primary or secondary level. However, there are certain important conclusions we can draw from these.

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(A) Most of these instances are related to Church-affiliated institutions. There are many other examples of assistance given in the local, state or federal level which are of the same nature, namely, aiding religious institutions, not only schools but also charitable and other institutions.

(B) Those which are directly related to private primary and secondary schools, show us how the financing of such institutions is helped by these. It does not solve the problems of financing, but it does help the financing to some extent.

(C) If the argument against public funds for private educational institutions is that it will aid religion, which is against the Constitution (as explained from the "no-establishment clause"), these are sufficient examples to show that such absolute prohibition is impossible.

(D) There are some who justify these instances, saying that these are given as "indirect aid" or on "child benefit theory" which is not unconstitutional or undemocratic. But here we have to point out that those who claim public funds for private education do not and cannot do so to help directly any particular religion. It is true that it might help religion indirectly, which is the case with all these examples and many more. Therefore, it is no reason to argue against such aid. Besides, however much a government might try to stop, as long as people believe in a religion, what they are benefiting is going to help indirectly religion also.
(E) There are many instances where the government gives aid directly to religion. "The tradition in America has been," as Fr. Murray points out from the words of the Zorach decision, "that government 'respects the religious nature of the people and accommodates the public service to their spiritual needs'."¹⁷ There are examples of this "accommodation" practically shown by the government in its dealings with religion and religious needs of the people. Fr. Murray, giving two examples, says that the American tradition has never been for government, in any of its agencies, to regard the spiritual and religious needs of the people as being entirely alien to it. "The two outstanding examples are, first, chaplaincies in the Armed Forces and the use of government funds for the construction of chapels for use by the military; and, second, the grant of tax exemption to properties of religious institutions."¹⁸

(F) In the early part of the Chapter, we have shown some of the regulatory powers the state exercises now in its relation to private educational institutions. These are enumerated to show that there already exists certain relationships between private schools and the State, which may be considered as some kind of "control." Besides, in the present, in giving the aid, the State and the Federal Government make certain requirements. As long as these

¹⁷Murray, p. 151.  
¹⁸Ibid., pp. 151-152.
regulations and requirements do not go against the fundamentals and ideals of such educational institutions, they cannot be considered as unwarranted.

Besides, what is sought as federal aid now, as Professor McGarry points out, "the amount of aid contemplated would not be enough to threaten governmental control, and would have built-in provisions to obviate the same. Why would the government control private schools simply because it contributed a fraction such as four or five per cent of their total expenses?"19

(3) Another important thing we notice is the apparent legal ambiguity considering these aids. Such aids as non-religious textbooks, free transportation, free school lunches and health services considered as "auxiliary aids" do not seem to be "constitutional" as to all States. Though the United States Supreme Court has ruled that some of these provisions violate neither the Federal Constitution nor the individual State Constitutions, state attorneys general, legislatures and state courts do not accept them as constitutional.

It was reported in the press on March 5, 1961 that the United States Supreme Court upheld the constitutionality of tax-paid bus transportation for private and parochial school students, again in another case. This case involved a challenge to a Connecticut

19McGarry, p. 4.
law that allowed private school children to ride buses free of charge after voters in a community gave their approval by referendum. The State Supreme Court had already decided that the law did not violate the State or Federal Constitutions. It said the measure "primarily serves the public health, safety, and welfare, and fosters education." The Supreme Court's action was consistent with its 1947 decision in the Everson Case. It was also reported that at least 17 states allow private school children to ride public school buses. The Supreme Courts of six states - California, Kentucky, Maryland, Massachusetts, New Jersey and Connecticut - have ruled that the practice is permitted under their state constitutions. In five other states - Delaware, Missouri, Oklahoma, Washington, and New York - courts have held that the practice is unconstitutional. New York has since made an amendment legalizing this practice.20

Question of Federal Aid to Private Education

On January 13, 1961, it was reported in the papers that a $9.3 billion program of federal aid was proposed to President-elect John F. Kennedy by one of his "task forces." By this program it was proposed that the public elementary and secondary schools would be given $5.8 billion in a four-year period. It was also reported that the non-public educational institutions would be aided only in the provisions to expand the College Housing Loan

20"U.S. Court Upholds Bus Rides for Pupils in Private Schools," The Register, XXXVII (Denver, March 5, 1961), p. 5.
Program, and in a proposal to begin a new program of loans and grants to aid college expansion. The task force also urged expansion and extension of the 1958 National Defense Education Act. 21

In his message entitled "American Education," delivered to the Congress on February 20, 1961, President Kennedy said:

Our progress as a nation can be no swifter than our progress in education. Our requirements for world leadership, our hopes for economic growth, and the demands of citizenship itself in an era such as this all require the maximum development of every young American's capacity. ... A balanced Federal program must go well beyond incentives for investment in plant and equipment. ... Without such measures the Federal Government will not be carrying out its responsibilities for expanding the base of our economic and military strength. 22

In order to achieve this goal, the Administration introduced Bill S. 1021 in the Senate. This Bill, called School Assistance Act of 1961, said in Section 102 that its "purpose was to authorize a three-year program of Federal grants to states to assist their local education agencies to construct urgently needed additional public elementary and secondary school facilities, to employ needed additional public school teachers and pay them adequate salaries, and to undertake special projects directed to special or unique educational problems or opportunities." 23

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22 Hearings, House of Representatives, p. 6.

23 Hearings, U.S. Senate, p. 19.
The previous Administrations had provided Federal Aid to the so-called "federally impacted" areas, and in a few other instances. But this was the first time a nationwide federal aid program was proposed. The general procedure proposed in the Bill was for the Federal Government to pay a certain amount per pupil in public grade schools and high schools of each State. This payment would vary from $15 a year to $29.67 depending on the per-capita income of each state. Each state would decide how much of this money would be spent for increasing salaries of teachers, and how much would be used to aid school construction.

The Hearings on this Bill, together with nine other Bills, all of them dealing with Federal assistance to Education, began on March 8, 1961 before a Subcommittee on Education of the Committee on Labor and Public Welfare of the U.S. Senate in Washington, D.C. The Administration Bill S. 1021 was introduced by Senator Morse, Chairman of the Subcommittee.\(^{24}\)

A similar Bill, H.R. 4970, was introduced on March 31, 1961 by Mr. Thompson of New Jersey in the House of Representatives when eleven other bills for Federal assistance to states for education and 20 other Bills, new and amendments, for construction of schools, were included for the Hearings before the General Subcommittee on Education of the Committee on Education and Labor of the House of

\(^{24}\)Ibid., p. 2.
Representatives.

Many interested in education appeared before the two subcommittees and testified; some submitted prepared statements; others sent their views through letters and telegrams, all of which are recorded in the Hearings. Examining these views, we can classify them into six general categories. We take into consideration only the views on questions directly or indirectly connected to private education.

(1) There were some who opposed any federal aid to education arguing that education was the responsibility of the individual states and the federal government should not interfere. Examples of this are the statements and testimonies of Dr. K. Brantley Watson, Chamber of Commerce of the United States of America and of W.W. Hill, Jr. on behalf of the Member State Chambers of the Council of State Chambers of Commerce. In a prepared statement, Dr. Watson said:

... (it is) the chamber's belief that public education is and should continue to be a State and local responsibility. It is our belief that the intrusion of Federal support and consequent control into the discharge of this responsibility is unwarranted. Furthermore, it would be contradictory to the principles of our democratic process and could well lead to a nationalized school system which is the antithesis of our American approach to education which has produced the highest educational level of any nation in history.25

25 Ibid., p. 338.
There were others who questioned the "federal interference" on the grounds that it may:

1. Open the way for federal rather than local control of public schools.
2. Tend to destroy the traditional Judeo-Christian ideal of individual responsibility and growth.
3. Encourage government control of the minds of American youth.
4. Through such government control increase the possibility of exposing our youth to educational, social, moral, religious, and political ideals distasteful to many American parents in local communities.
5. Encourage the further secularization of our schools.
6. Eliminate the measure of moral and religious influence over the lives of our children and youth which local control often encourages.²⁶

(2) Some strongly argued for federal aid, but did not express their views with regard to aid to private schools. When the representatives of N.E.A., Dr. William G. Carr, and Dr. Sam M. Lambert, and others, in their testimonies or statements did not treat the aid to private education, this was probably because the suggestion of a separate Bill for loans to private education was made later by Senator Morse. This is the same attitude taken by Clarence Mitchell, Director, Washington Bureau, National Association for the Advancement of Colored People, in his testimony on March 10, 1961. Mr. Sidney Sagri, Legislative Counsel of the International Brotherhood of Teamsters, when asked by Senator Morse for his

²⁶Ibid., p. 1027.
opinion of federal aid to private schools, answered that he was not in a position to give a definite answer, as this would have to be decided by a meeting of the Executive Board of the Union. 27

(3) Some expressed their views supporting federal aid to public schools, but opposed any legislation which would give assistance to private and parochial schools. For instance, the American Jewish Committee expressed the view, "... that public funds should be used for public education and must not be used, either directly or indirectly, to support nonpublic elementary or secondary schools." 28

The argument of those who opposed federal aid to parochial schools was based primarily on the principle of "separation of Church and State," as contained in the First Amendment.

In a Rebuttal Statement by "Protestants and other Americans United for Separation of Church and State," to Msgr. Frederick G. Hochwalt, the constitutionality of loans for Church schools was questioned. 29

(4) Some made a distinction in providing for federal aid to the existing institutions. Thus, Professor Walter Gellhorn of the Law School of Columbia University, in a statement to Senator Morse,

27 Ibid., p. 1058.
28 Ibid., p. 1206.
29 Ibid., p. 1259.
said, "Resistance to the use of public funds to support a religious organization or a religious activity need not invariably cause opposition to public support of nonreligious activities under religious auspices; the problem is to identify the nature of the activity rather than the nature of its sponsor. . . ."30 But as to Professor Gellhorn the existing elementary and secondary schools under religious direction are in general properly characterized as a phase of religious activity.

(5) There were some who favored federal aid but argued only for federal loans. Dr. John Cornelius Hayes, President, National Council of Catholic Men, appeared before the Subcommittee together with William R. Considine, Director, Legal Department, National Catholic Welfare Conference. In his testimony he said that he was voicing the same claim made by Msgr. Hochwalt in "urging the inclusion in S. 1021 for grants to public elementary and secondary schools, of a provision authorizing a proportionate fund for Federal loans to parochial schools at the same level for the construction of classrooms and other academic facilities, the loans to be for long terms and at interest rates established by the same formula as that used for the past several years to determine the interest rates on Federal loans for college housing, available to all colleges,

30 Ibid., p. 1279.
including Catholic colleges, under the Housing Act of 1950. 31

Monsignor Hochwalt's testimony demonstrated that parochial elementary and secondary schools need such aid to at least the same degree as do public schools. He further demonstrated that parochial schools deserve such aid since they render socially valuable public-purpose functions as the partner of public education in the joint enterprise of promoting the welfare and self-defense of this country through education.

In the next part, we will discuss the opinions expressed by three prominent jurists with regard to federal loans to parochial schools, when they replied to the question of the constitutionality of the same, asked by Senator Morse.

(6) Others argued vehemently in favor of federal loans and grants. Some had pointed out ways and means by which the federal government could circumvent the problem of constitutionality. One such method was proposed by Mr. LaDriere on behalf of the Citizens for Educational Freedom, of adopting a certificate or voucher plan of direct aid to parents to be spent in the school of their choice. 32

In the discussion of these bills, both in the Senate and House, Senators and Representatives brought Amendments in order to include parochial schools also. As there was opposition to these amend-
ments, there were also many who expressed their views in favor of including all schools in any general federal aid plan. Among these are the statements made by Fr. William O'Brien, S.J., Assistant Professor of Government and Constitutional Law, Georgetown University, and Joseph F. Costanzo, S.J., Professor of Political Philosophy and Historical Jurisprudence at Fordham University, whose article, "Federal Aid to Education and Religious Liberty," was recorded in the Hearings of the Committee.

Here we have tried to illustrate the various stands taken while the discussions were going on regarding federal aid Bills.

The constitutionality of the proposed bills was treated at length by three jurists, which is of great importance in our discussion. It will also have impact in the future proposals of federal aid. In the next part, we will treat their replies with regard to (1) federal loans to private and parochial schools, and (2) federal grants to private and parochial schools.

**Constitutionality of Federal Aid to Private Education**

In considering federal aid to private educational institutions, we have seen that there are four points of view. We will discuss here briefly some of the arguments brought forward to justify federal aid to private schools. Here we will consider the legality

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33 See above, pp. 34-36.
of (1) federal loans to private and parochial schools, and (2) federal grants to private and parochial schools.

(1) **Federal Loans to Private and Parochial Schools.** Senator Wayne Morse, Chairman, Subcommittee on Education, sent letters to three professors of law, asking the constitutional implications of the proposed federal aid Bill (S. 1021). In those letters, the second point raised was, "the constitutionality of a measure which would provide loans for construction purposes to private and parochial schools at both the primary and secondary school levels." These letters were sent to Professor Arthur E. Sutherland, Professor of Law, Harvard University, Professor Wilbur G. Katz, Professor of Law, University of Chicago, and Professor Mark DeWolfe Howe, Professor of Law, Harvard University.

We will discuss the reply of Professor Sutherland in detail. Let us here point out briefly the opinions of the last two.

**Professor Wilbur G. Katz** in his reply stated:

... My interest in this problem has related primarily to the first amendment's prohibition of laws "respecting an establishment of religion or prohibiting the free exercise thereof. . . ." In my opinion, inclusion of parochial schools with other private schools in the measure you propose would not violate this provision. I believe that the Constitution leaves Congress free to pattern its aid to education in a way which protects the freedom of choice of students and parents as to the schools in which Federal benefits may be enjoyed.  

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34 Hearings, U.S. Senate, p. 705.

According to Professor Katz this principle is supported by the decision in the Everson Case. He points out that Congress has previously admitted freedom in the choice of schools in the G.I. Bill for Veterans and in the law governing educational cost for congressional and Supreme Court pages.

Professor Howe in his reply stated:

... It seems to me quite clear that there is no constitutional barrier to Federal financing of the educational activities of private schools which are serving the public interest by providing that kind of instruction which the States prescribe for public schools. I see no reason, in other words, why Federal grants or loans might not be made... when the aid is directed toward the "public" aspect of their enterprise... 36

Professor Sutherland had already made a reply to Hon. John W. McCormack, Member of Congress, giving his views "on the constitutionality of federal legislation providing long-term loans of public funds alike to public and private non-profit schools for school purposes generally, even where the private schools aided are in many instances connected with or controlled by a church." We had quoted from this reply earlier. 37

In his reply to Senator Morse, Professor Sutherland has expressed the same view, namely that it is not unconstitutional to provide loans for construction purposes to private and parochial schools.

36 Ibid., p. 707.
37 See above, p. 35.
In both these questions, with regard to the constitutionality of (1) federal legislation providing long-term loans of public funds alike to public and private non-profit schools for school purposes, and (2) a measure which would provide loans for construction purposes to private and parochial schools at both the primary and secondary levels, Professor Sutherland answers in the affirmative. In his extensive replies, he uses the same arguments beginning with interpreting the meaning of the First Amendment. With regard to giving loans for school construction, he makes a parity to those provided by the Housing Act of 1950 (12 U.S.C., sec. 1749 and following). To him, if the Congress should be convinced that better elementary and secondary education was necessary to the general welfare of the United States, its capacity to produce necessary scientists and technicians to aid in our national defense, and to produce the necessary educated men and women to conduct our complex governmental and private economic system, this provision will be constitutional. According to Professor Sutherland, the first part of the First Amendment, "Congress shall make no law respecting an establishment of religion" does not limit the general grant of power of the Congress. Discussing the First Amendment, he takes into consideration (1) "the frame of mind of the Senators and Congressmen who proposed the first amendment, and that of the State legislators who ratified it." And, according to him, "one who engages in this research may begin to doubt whether the
Congress in 1961 should have its power delimited by an uncertain guess at the frame of mind of men who lived 170 years ago."\(^{38}\)

(2) "Another source of guidance as to the meaning of the establishment clause is study of the decisions handed down by the Supreme Court of the United States.\(^{39}\) Discussing this point, Professor Sutherland says, "Justices of the Supreme Court, in the course of opinions, have on various occasions expressed ideas having a general connection with 'establishment'; but American lawyers traditionally draw a rather sharp distinction between these things which a court actually decides, and those expressions made by the way, *obiter dicta*, off the immediate issue, not directly involved in the adjudication."\(^{40}\) After explaining in detail such dicta made by Justice Black in the *Everson* Case, Professor Sutherland concludes, "While all lawyers properly pay respect to such dicta, still statements of this sort, not directly relevant to the decision of the Court, do not carry the weight, as precedent, of an actual adjudication."\(^{41}\)

(3) Professor Sutherland discusses a third source of guidance which should give insight into the meaning of the First Amendment. This "can be found in the decisions of the Congress and the

\(^{38}\) *Hearings*, U.S. Senate, p. 709.

\(^{39}\) *Ibid.*

\(^{40}\) *Ibid.*

\(^{41}\) *Ibid.*
President of the United States appearing in the enactment and approval of legislation. Members of the Congress and the President are of course bound by oath to support the Constitution, and they conscientiously carry this out." Commenting on this, he gives a number of instances favoring this proposal. From these legislative enactments he makes the following conclusions:

In the first place it does not make grants or loans to churches, religious missions, etc. The benefits go either to students, or to institutions training students; the benefits go to public and private institutions alike; they go to private institutions regardless of their religious or nonreligious affiliation. The religious affiliation of a school or college receiving a loan, or of a school or college to which students resort under scholarships, is therefore incidental and is not singled out by the Federal legislation. In the second place, there is in each of these pieces of legislation an observable and other than the cultivation of religion. Federal funds go to strengthen the Armed Forces, to build up our national scientific or linguistic capabilities or, as in the grants under the Housing Act of 1950, to build up our educational system generally.43

In the replies these three jurists have made, it is clear that they consider it perfectly constitutional to legislate the provision of loans to private educational institutions.

(2) Federal Grants to Private and Parochial Schools. It is impossible to list all the arguments brought forward and opinions expressed with regard to this question. As we have mentioned above,

42 Ibid.
43 Ibid., p. 713.
in the words of Wilber G. Katz, "none of ... (the) nondiscriminatory uses of tax funds are forbidden by the First Amendment." The three jurists, whose opinions we have given above, were asked only with regard to Federal loans and not grants and, therefore, they have not treated Federal grants in their replies explicitly. However, Professor Katz has unequivocally asserted the constitutionality of grants. Professor Howe also considers "grants" as constitutional.

Public Opinion

We have mentioned before the arguments for and against federal aid to education, expressed before the Committee on Labor and Public Welfare of the United States Senate and the Committee on Education and Labor of the House of Representatives. The Hearings held in Washington on the proposed bills and the statements submitted are contained in the Reports of the same.

Here we will mention only a few statements of public opinion, some made by public figures interested in the subject which came in the press. These statements, we believe, will have influence on the attitude of the general public in the future.

(1) Sen. Kenneth B. Keating of New York: "... A deliberate policy of excluding from the benefits of general welfare legislation, schools with religious affiliations may raise substantial consti-

44 See above, pp. 35-36.
tutional questions. In our efforts to adhere to the limitations of the First Amendment, let us not forget the limitations of due process in the Fifth and Fourteenth Amendments and the provisions vouchsafing the free exercise of our religious beliefs. Fairness and balance in our approach to the subject of Federal aid-to-education may be a legal as well as a moral obligation." (Statement to the U.S. Senate, April 24, 1961).

(2) Life Magazine: "Congress clearly had the power to (aid education). Moreover, it has the duty not to 'prohibit the free exercise' of any religion and while discrimination is not prohibition, it is not equal justice either. Catholics have long felt a grave injustice in the fiscal segregation to which their schools are subjected by the states. Certainly education needs all the going concerns it can get: the greater the variety the better and more religious schools the better, too." (Editorial, March 17, 1961).

(3) Editor and columnist David Lawrence: "Nor can the public welfare benefits in aid-to-education legislation be granted to one group of citizens and denied to others. To do so would mean use of government funds to handicap religious activities. . . ." (U.S. News & World Report, March 27, 1961).

(4) Former Gov. Theodore McKeldin of Maryland: "... it is unrealistic, uneconomical and utterly absurd to contend that the Federal aid should be denied to any class or group of established and recognized facilities for the dispensing of education." (Address in
Altoona, Pa., March 14, 1961).

(5) Rep. Herbert Zelenko of New York: "If we are to achieve that excellence in education demanded by the President and a common aspiration to all of us, we may not disregard the extension of permissible assistance to the total educational community. The public and private schools are partners in the common educational effort of the United States. Each system should be permitted to make its full contribution to the common good." (Statement to the U.S. House of Representatives, April 19, 1961).

(6) Rep. John W. McCormack of Massachusetts: "There is certainly no constitutional question involved in the Federal government asking long-term loans at reasonable rates of interest for the construction or the renovation or the repair of private schools." (Statement during a radio and television interview, March 5, 1961).

(7) Dr. Robert K. Hutchins, former chancellor of the University of Chicago: ("If private schools are performing a public service) and if it is a service that would otherwise have to be supplied by the public, then there is no reason in the world why private organizations should not receive appropriate assistance from the government." (Address at the Women's National Democratic Club, Washington, D.C., April 13, 1961).

(8) C. Clyde Atkins, president of the Florida Bar Association: "(It is) contrary to principles of social justice... to provide money grants to public schools but to withhold any constitutional form
of aid to private, church-related schools. (Address to the Miami Diocesan Council of Catholic Women, April, 1961).

(9) Sen. Barry Goldwater of Arizona (opposing Federal aid to education, but saying it should be given to all schools if it is given to any): "It is my belief that both justice and morality require that all of our citizens receive such aid, and that no class, group or segment of our people who contribute to such program can rightfully be excluded." (Letter to Sen. Wayne Morse).

(10) Rabbi Morris Sherer, executive vice-president of the Agudath Israel of America: "We... respectfully request that Federal aid to parochial schools be included in any government program of school support. In our view this bears no relationship to the principle of 'separation of Church and State,' as this type of government support will merely return to the tax-payer the full benefit of his taxes to which he is justly entitled..." (Statement to an education subcommittee of the House of Representatives, March 29, 1961).

(11) James Reston, columnist and reporter: "The main reason for Federal aid in the first place was to see to it that the nation develops all the brains it has, and if this reason is valid, it surely needs Catholic brains as well as Baptist or Presbyterian brains." (New York Times, March 10, 1961).45

Future of Federal Aid and Bills

There are many Americans who believe that however much sanctity was given to the "absolutist" theory of separation of Church and State in the past, there is better understanding among the people now, and hence there is hope for the future with regard to receiving public funds.

No country is perfect in its working of its democratic system, and better systems of other countries should help to rectify the defects existent. There are some who see a future, because of the "accommodation" related in the Zorach Case, when public funds would be provided for private education.

It is not impossible for the federal government, Congress, or States to make such an accommodation. The possibility for Constitutional Amendments may not be easy. It is not necessary either. In the present legal setup, there is ample opportunity to make adaptations. It will be necessary to bring about better understanding to effectively achieve such adaptations or accommodations.

As Fr. Murray points out:

The appropriateness of developing this doctrine of accommodation in the matter of government aid to religion in education can hardly be denied. . . . Moreover, it is precisely in this area of education that the spiritual needs of a religious people are today being sharply felt. Government cannot ignore these needs, on peril of a certain danger to itself; for the fortunes of free government are intimately linked to the fact of a religiously informed and virtuous citizenry. There is, therefore, every reason for applying in the area of education the
fully developed principle of accommodation of the public service to the genuine spiritual needs of our religious people. 46

We have mentioned above the federal aid bills and the amendments introduced in the Eighty-Seventh Congress. Eight months of controversy this year on massive spending on behalf of schools - both public and parochial - ended with two extension programs. The 11-year-old "impacted areas" program, which gives money to public school districts enrolling children of federal employees, and the 1958 National Defense Education Act were both extended for two years.

Congress authorized $900 million for both of these programs and the amount was considerably small when compared to the more than $5.5 billion proposed by the President.

In this legislation, the Catholic Church has been intensely involved because of the effect it would have had if the bills were passed in the Congress as desired by the President. Over Catholic objections, Congressional leaders decided that the relief for private schools - a construction loan program - instead of being embodied in the public school aid measure, was to be kept distinct. Like all other major proposals in the Bills, the loan plan also "died" in the House Rules Committee.

The legislators have decided to avoid the controversy again until 1963 when President Kennedy is expected to make new proposals.

46 Murray, p. 153.
Whether there will be provisions for grants or loans for private schools is to be seen.

Present Situation

In the editorial of the Catholic School Journal of October, 1961, it was stated that:

Catholic education is facing serious problems in our country. These problems will be intensified if the Federal Government provides aid for the salaries of public school teachers and find no way of giving assistance to privately supported institutions. With the shortage of Sisters, Brothers and priests who contribute their salaries and with the reliance on an increasing number of lay teachers for our schools who must be paid a living wage, funds appear to be inadequate to provide for a total program of Catholic Education. 47

From the earliest times, when public funds were refused, the Catholics decided to conduct their own schools, making whatever sacrifices necessary. In order to understand how the Catholics have conducted schools in this country, Edward A. Fitzpatrick, the late editor of the Catholic School Journal, pointed out:

It may be helpful for guidance to go back to the Baltimore Councils (1791-1884) and particularly to 1884 and the Third Plenary Council to recall the foundations of Catholic Education in the United States as the basis... Mr. Fitzpatrick observes that the Catholic school should be supported by the entire parish within the voluntary system, in addition to the small fee of tuition. And the decree regarding

the laity of the Third Plenary Council concludes on this note:

... Let laymen also be given, in regard to the schools, certain rights and privileges to be determined more accurately by diocesan statutes, exception being made of the Church's regulations concerning the appointment or dismissal of teachers, also as to instruction and supervision of doctrines.48

The financing of Catholic schools in this country is carried on as it was suggested in the Plenary Council, through voluntary contributions of Catholics and a small tuition fee. This is the general procedure all over the country, although minor differences can be noted. With regard to most of the schools of the primary level, the parish is the unit, where members of the congregation, through Sunday collection, support the major expenses of the school. Equally important, to help finance these schools, is the services of the religious Sisters, Brothers and priests.

Already there are several problems affecting the modern setup. As it is in the case of all education, the magnitude of the present educational system is of primary concern. In the latest edition of Encyclopedia Britannica, there is an article entitled, "Roman Catholic Church," which shows that the outstanding fact in the internal development of the Catholic Church in the United States is in the field of education. Quoting the 1956 biennial survey of Catholic education covering the school year 1953-54, the article

relates that since 1920 the number of Catholic schools of all types increased by 39 per cent; the number of teachers by 142 per cent, and the number of students by 110 per cent. In that school year there were 4,176,673 pupils enrolled in 12,118 schools staffed by 131,713 teachers. These included 3,225,251 students in elementary schools, 623,751 high school students, and 281,999 in colleges and universities. Catholic higher education listed 31 universities, 51 four-year colleges for men and 21 junior colleges for women. Catholic school authorities estimated that more than $500 million in local taxes is saved to the public yearly for the grammar and secondary level alone by the existence of the Catholic school system. 49

Bishop Shehan, citing the statistics from the Catholic Directory for 1956, noted the problems Catholics are facing in financing these educational institutions.

. . . In two years the number of elementary students had increased by approximately 700,000 and the number of high school students by 160,000 with an increase of almost 16,000 teachers. . . . There are still at least 1,945,252 primary school pupils and at least 780,330 high school students who are not being educated in Catholic schools. Furthermore, these tables show that in 1956 the recorded infant baptisms had reached the total of 1,284,534 as against 705,557 ten years previously. That the size of our educational system will have to be not merely doubled but tripled within the next generation, if we are to offer Catholic education to all our young people, seems to be the clear indication of the figures which are available. 50


50 Catholic Directory, Quoted Ibid.
Financing Today

One of the most difficult things in discussing the financing of Catholic education today is the lack of exact figures with regard to how much is actually being spent and how these funds are being raised.

The Catholic Church in the United States is supporting one of the most complete, outstanding and unique programs of education in the world. The autonomous nature of the various units in Catholic Education complicates the task of securing an accurate, broad, and universal grasp of the total financial investment, annual contributions and/or total expenditures for Catholic education.51

As Brother Ryan points out, it is also important that diocesan authorities can answer the question with regard to "per-pupil costs." This writer had difficulties with regard to many dioceses in procuring this information from the superintendents of schools. In a discussion the writer had with Mr. Francis T. Casey of the Department of Education of the National Catholic Welfare Conference in Washington, D.C. recently, the figures received were an aggregate of all expenditures of all the dioceses which were given as the following: for the year 1959-1960 a total of $500 million were spent for all Catholic school construction. Including salaries and all other expenses, the total expenditure for the same year was $2.3 billion.52

51Leo V. Ryan, C.S.V., "Can We Determine Per Pupil Cost?", Catholic School Journal, LXI (Milwaukee, June, 1961), pp. 53-54.

52Information from a personal interview of the writer with Francis T. Casey, N.C.W.C. Department of Education, Washington 5, D.C.
It is important to have accurate comparable cost data. This could facilitate planning for the school authorities. It would also allow comparison between and among parish and private schools within a diocese and provide a sound basis for financial comparison with local public schools or school districts. Mr. Casey pointed out some of the difficulties in furnishing this data. In many parishes, there is often no separate account with regard to collections taken for school and church. It is common practice to have one bill for electricity, water, etc. for church, convent and school plant. Maintenance expenditures are also often calculated in one unit. It may also be noted that some of the buildings or rooms have dual functions, i.e., the school hall is often the parish hall also.

In a discussion with the Catholic School Board in Chicago, the writer realized this as the main difficulty in furnishing the financial data of the Archdiocese. These factors affect the financing of education in the United States. Some of these are directly related to financing and they do affect practically all the Catholic and other private schools. On the other hand, others have indirect relationship. While most of them are already great problems, it is going to present an even more serious problem in the future. The estimated figures are frightening to all concerned.

Information from a personal interview of the author with Rev. H. Robert Clark, Assistant Superintendent, Catholic School Board.
(1) **Lack of Public Funds.** We have seen all through this study that the most important problem is the lack of public funds. The private schools have to depend entirely on voluntary contributions, and the present magnitude, and requirements for the future, are causing great concern.

(2) **Disproportionate Increase.** The amount collected as voluntary contributions and tuition has not increased proportionate to the increase in expenditure.

(3) **School Enrollment.** Another factor is the increase of Catholic school enrollment, especially when compared to the increase in public schools.

**TABLE I**

**ENROLLMENT IN DIFFERENT KINDS OF SCHOOLS**  
**1960-1961**

<table>
<thead>
<tr>
<th>Public Schools</th>
<th>Catholic Schools</th>
<th>Other Church Schools</th>
<th>Non-Church Private Schools</th>
</tr>
</thead>
<tbody>
<tr>
<td>37,600,000*</td>
<td>5,276,000*</td>
<td>400,000*</td>
<td>900,000*</td>
</tr>
</tbody>
</table>

*estimated

## TABLE II
GROWTH IN SCHOOL ENROLLMENT

<table>
<thead>
<tr>
<th>Year</th>
<th>Catholic Schools</th>
<th>Public Schools</th>
</tr>
</thead>
<tbody>
<tr>
<td>1900</td>
<td>900,000*</td>
<td>17,500,000</td>
</tr>
<tr>
<td>1945</td>
<td>2,507,501</td>
<td>--</td>
</tr>
<tr>
<td>1954</td>
<td>3,849,002</td>
<td>--</td>
</tr>
<tr>
<td>1956</td>
<td>4,709,000</td>
<td>--</td>
</tr>
<tr>
<td>1959</td>
<td>5,087,197</td>
<td>--</td>
</tr>
<tr>
<td>1960</td>
<td>5,288,705</td>
<td>36,305,000</td>
</tr>
<tr>
<td>1970</td>
<td>6,500,000*</td>
<td>--</td>
</tr>
</tbody>
</table>

*estimated

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The percentage increase in the Catholic schools between 1900 and 1960 is about 620. At the same time, the increase in the public schools is only about 230 per cent.

Between 1945 and 1959 the number of children enrolled in Catholic schools increased 102 per cent. At the same time, in the public...
schools, the increase was only 52 per cent. This same trend seems to continue through the present day. This increase is on the national level and it is of concern for public as well as private schools. As Fr. McCluskey points out:

During the sixties, the projected population of the United States will rise from 180 million to 207 million, or a gain of 15 per cent. School enrollment will increase by 25 per cent with the high school part of the school population doubling. Now if Catholic school enrollment simply follows the national prediction, by 1970 you will have between six and seven million children in your Catholic schools.

The reasons for the increase of the enrollment in the Catholic schools are also related to the problem of financing. The general prosperity of the nation, together with the increase in population, made more children seek admission in Catholic schools. The religiosity of the post-war era, according to Fr. O'Neil C. D'Amour, is making the American parents seek a God-centered education. Large numbers of Catholic graduates, upon becoming parents, wanted a Catholic education for their children, recognizing the value of the education they received. There are many Catholic parents who are turned away when they make the request to have their children admitted to Catholic schools. While some Catholic parents use the

54 See above, (Table n. 2).
56 D'Amour, p. 69.
public schools by choice, many more do not. Catholic schools today can educate only about one-half of the Catholic children and hence there are almost as many Catholic children in public schools as there are in parochial schools.

(4) **More Teachers and Increase in Salary.** There are three related factors in the problem of teacher shortage. (a) First of all, the total number of teachers who are employed in all the Catholic schools has increased, all of whom are to be paid from the same voluntary collections and small tuitions. In 1945, the total number of teachers was 24,595 and in 1959 it increased to 40,708, an increase of about 70 per cent. One shortcoming in the Catholic schools is overlarge classes. This situation has been further aggravated by the rapid multiplication of students - 118 per cent since 1945. The average size of a class today is thirty-five, as compared to thirty in 1945, according to a survey made by the National Catholic Education Association. However, in some classes, there are well over fifty students. According to the United States Office of Education, the average class size of the public schools is twenty-six, and there is no state where the average runs over thirty.\(^\text{57}\) (b) Because of the rise in living costs the average stipend to be paid to the religious has increased in these years. The increase in the salaries for lay teachers has become considerably

\(^{57}\text{Ferrer, p. 7.}\)
higher. There are many who believe that nuns and teaching brothers receive no salary. However, today each religious teaching in parochial schools is to be paid an annual stipend averaging from $650 to $1,250, which goes to their religious orders to maintain them and give them room and board. But the lay teacher has to be paid at the same time three or four times that amount. The estimated average nationally for an elementary school teacher is $3,400 and $3,650 for a high school teacher. This is the biggest problem for the Catholic schools today, but even this additional salary is far below the average of public school teachers' salaries which, according to the National Education Association, was $5,215 in 1960-1961. In the Archdiocese of New York, for example, the 164 brothers teaching in 327 elementary schools receive $1,500 to $1,740 a year, while the 2,946 sisters in elementary teaching get $1,200 to $1,380. The 1,200 elementary lay teachers are paid $2,100 to $2,400. The average single salary-scale in New York City public high schools is from $4,800 to $8,300, whereas in the Catholic schools the pay is from $1,440 to $1,800.58 (c) The increasing proportion of lay teachers to religious teachers is another problem of immediate concern:

The tremendous increase in the number of lay teachers has added to the financial burden of the schools. There is every reason to believe that this increase will continue, with consequent financial problems. The present ratio in the elementary and secondary schools is one lay teacher to every three religious.

58 Ibid., p. 5.
It is believed that within the present decade this ratio will become one lay teacher for every two religious and that in the 1970's the situation will be reversed and there will be one religious to every two lay teachers.  

**TABLE III**

**TEACHERS IN CATHOLIC SCHOOLS - PAST AND FUTURE**

<table>
<thead>
<tr>
<th>Year</th>
<th>Religious</th>
<th>Number</th>
<th>Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>1945</td>
<td>XXXXXXXXXX</td>
<td>78,303</td>
<td>13 to 1</td>
</tr>
<tr>
<td></td>
<td>Lay X</td>
<td>6,039</td>
<td></td>
</tr>
<tr>
<td>1959</td>
<td>XXX</td>
<td>108,452</td>
<td>3 to 1</td>
</tr>
<tr>
<td></td>
<td>Lay X</td>
<td>34,878</td>
<td></td>
</tr>
<tr>
<td>1960</td>
<td>XX</td>
<td>--</td>
<td>2 to 1</td>
</tr>
<tr>
<td></td>
<td>Lay X</td>
<td>--</td>
<td></td>
</tr>
<tr>
<td>1970</td>
<td>X</td>
<td>--</td>
<td>1 to 2*</td>
</tr>
<tr>
<td></td>
<td>XX</td>
<td>--</td>
<td></td>
</tr>
</tbody>
</table>

*estimated

3 The statistics listed above are taken from Ferrer, p. 6, and L'Amour, p. 70.

(5) **More Schools - More Classrooms.** The need for more schools, more classrooms, and better facilities is affecting the financial burden of the Catholic school system. In 1945, there were a total

59 L'Amour, p. 70.
of 10,225 schools - 2,128 secondary and 8,097 elementary. In 1959, of the total 12,668 schools, 2,390 were secondary schools and 10,278 elementary schools. The increase in number of schools in this fifteen-year period is 25 per cent, while enrollment increased over 102 per cent. This situation is evidence of the increasing urbanization of the Catholic population, while placing the burden on relatively few parishes of maintaining extremely large schools. This is true especially on the elementary level.

In September, 1960 in the New York Archdiocese, Cardinal Spellman announced a $25 million drive for school-building funds. The Catholics of this Archdiocese showed their cooperation and enthusiasm by over-subscribing more than $13 million. In Brooklyn also there was a similar drive, and the Catholics there also over-subscribed more than $13 million--further evidence that Catholics are willing to make great sacrifices in order to maintain their own schools. In the new diocese of Rockville Center, Long Island, in the first four years of its existence, $43 million has been spent for twenty-eight new schools, 673 new classrooms, and two high schools, in addition to a college. Exact figures are not available, but the trend is identical in every diocese and archdiocese of the country.  

(6) Impact of Federal Aid. With the proposed federal aid, everything will be better in public schools - better equipment,  

60Ferrer, p. 5.
higher salaries, better schools. There will be less crowding and better teacher-pupil ratio. This will again affect Catholic and private schools, as there will be a necessity on their part to keep up with the "improved standard" of the public schools.

Since the principal support for parochial schools comes from Catholics, many of them argue that they are already paying a "double tax" - especially in fast-growing suburban districts. They pay for both new public schools and new parochial schools. And many of them feel, as one priest says, that a new Federal aid program excluding them would bring a "triple tax" since their Federal taxes would be used to finance a program in which they had no part. 61

(7) Financial Capacity. Because of the factors enumerated, as well as for the maintenance of the Church and charitable institutions, it is the Catholic parent who has to secure enough money. In addition, as anyone else in his community, he has the problem of "making both ends meet," as well as living up to a certain standard. There is an added factor to be taken into consideration, that many Catholic parents have a larger number of children to rear and educate. Of the more than 42 million Catholics in the United States, each man, woman and child is paying an average of $35 annually for Catholic education. He also has to finance new buildings at the rate of $175 million or more a year. On top of this, he is also compelled to support the public schools. 62

61 Ibid., p. 7.
62 Ibid., p. 12.
As to the limited capacity of the schools and school boards, Fr. D'Amour points out:

We do not know the total bonded indebtedness of all parochial schools across the country. Many dioceses do not release such figures. But we do know that most dioceses have exhausted their reserves. They can no longer borrow from diocesan funds to build schools or run them. They must now go to the banks. We also believe that bonded indebtedness is up everywhere. If the expansion of parochial schools continues on the present basis, the future financing of these schools will be impossible.63

(8) Changes in Neighborhoods. In many large cities, there is an influx of population from rural areas. More pupils are coming from Southern states, where there are fewer Catholic schools, into neighborhoods where Catholic schools are already crowded. Many of these formerly attended public schools. Among these, even some non-Catholic children seek admission into Catholic schools. Added to this is the problem of the change of neighborhoods.

(9) Transportation. In rural areas, primarily, Catholic schools have the added burden of providing transportation facilities. Many of these schools find it difficult to have special buses of their own to commute children.

Archdiocese of Chicago

The problems connected with Catholic schools are practically the same in every diocese throughout the country. The example of one

63 L'Amour, Quoted by Ferrer, p. 4.
Archdiocese like Chicago will give us an idea of the current problems in any other diocese. However, the children in the Archdiocese of Chicago have a better-than-average opportunity to attend Catholic schools.

When the national average of Catholic children attending elementary schools is 55 per cent and high schools 45 per cent, in Chicago 82 per cent of the Catholic children attend Catholic elementary schools and about 70 per cent in high schools. In 1960, of the 27,660 graduates from parochial elementary schools, approximately 20,000 were able to continue their education in Catholic high schools.

The shortage of teachers - especially religious - is the same grave problem here. The need for more lay teachers is felt practically in every school. "How can we compete for good teachers?," asks Msgr. McManus, Superintendent of Schools. "We pay $3,000 to start in elementary schools. The Chicago public schools pay $5,100 for beginning teachers." The Chicago Archdiocese needs an average of 400 new lay teachers per year. Of the 19,000 lay teachers in parish grammar schools, there is an ever increasing number of replacements needed resulting from many resignations due to marriage and pregnancy. While there will be 125 additional high school classrooms, only 20 additional religious teachers can be expected to staff them. The other 100 classrooms will need dedicated lay teachers who are willing to make personal financial sacrifices to work in the Catholic school system.
<table>
<thead>
<tr>
<th>Year</th>
<th>1958-59</th>
<th>1959-60</th>
<th>1960-61</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Schools</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Elementary</td>
<td>425</td>
<td>426</td>
<td>426</td>
</tr>
<tr>
<td>High</td>
<td>87</td>
<td>90</td>
<td>87</td>
</tr>
<tr>
<td>Total</td>
<td>512</td>
<td>516</td>
<td>513</td>
</tr>
<tr>
<td><strong>Teachers</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Elementary</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Religious</td>
<td>4,473</td>
<td>4,539</td>
<td>4,455</td>
</tr>
<tr>
<td>Lay</td>
<td>1,340</td>
<td>1,652</td>
<td>1,926</td>
</tr>
<tr>
<td>Total</td>
<td>5,813</td>
<td>6,191</td>
<td>6,381</td>
</tr>
<tr>
<td>High</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Religious</td>
<td>1,805</td>
<td>1,867</td>
<td>1,894</td>
</tr>
<tr>
<td>Lay</td>
<td>658</td>
<td>655</td>
<td>739</td>
</tr>
<tr>
<td>Total</td>
<td>2,463</td>
<td>2,522</td>
<td>2,633</td>
</tr>
<tr>
<td><strong>Pupils</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Elementary</td>
<td>258,459</td>
<td>266,658</td>
<td>272,249</td>
</tr>
<tr>
<td>High</td>
<td>56,877</td>
<td>57,367</td>
<td>59,868</td>
</tr>
<tr>
<td>Total</td>
<td>315,336</td>
<td>324,025</td>
<td>332,117</td>
</tr>
</tbody>
</table>

\(^4\) Data furnished by the Chicago Archdiocesan School Board.
The Catholic School Board finds it harder to secure lay teachers for grade schools since high school salaries are higher; however, college graduates who seek a position in public high schools are often unable to do so without previous elementary school experience, and therefore are willing to teach in Catholic high schools instead. Many, of course, are in Catholic schools because of their deep belief in the values of Catholic education. 64

In the six-year period from 1952 to 1958, the Catholic laity contributed over $14 million towards high school construction. These facilities accommodated 17,000 students and cost a total of $40 million. The remainder was partially paid by religious orders, and partially remains as an outstanding debt in this archdiocese. An attempt is being made to reduce the number of pupils per class from the national average of 35 to 26, the public school average. This educational policy was instituted by Msgr. McManus after the disastrous fire at Our Lady of the Angels School, where it was discovered that some classes ran as high as 60, and higher in some other Catholic schools. Also, there was need, because of fire hazards, to have new sprinkler systems installed. Also, some schools had to be remodelled, and these cost millions for the Catholic schools.

In an interview with the Catholic Board Officials of the Chicago Archdiocese, the writer received the following information. Catholic

grade school operating expenses are expected to exceed $52 million for the year 1961; for the high schools, $14 million, or a total of $66 million. If all pupils enrolled in Chicago's Catholic grade schools were transferred to public schools, the additional cost to Chicago taxpayers would exceed $62.5 million for operating expenses alone. The cost of new classrooms for the transferred pupils would add a minimum of $125 million to the taxpayers' bill. To educate pupils attending Catholic high schools in Chicago at public expense would cost taxpayers a minimum of $25 million for operating expenses, and at least $75 million for new classrooms. If all grade and high school pupils in Chicago schools outside Chicago were educated at public expense, the cost to the taxpayer for operating expenses would be at least $40 million and for new classrooms at least $75 million, a total of $115 million. If all pupils presently enrolled in the Archdiocese's grade and high schools were transferred to public schools, the total additional cost to the taxpayers would be in excess of $127.5 million for operating expenditures and $275 million for new classrooms, or a total of $402.5 million. Closing even one grade, the first grade, for example, of the Chicago schools which are Catholic would require the Chicago Board of Education to employ 700 additional teachers at a cost of $3.5 million, plus additional costs in excess of $5.1 million.  

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65 Information from a personal interview of the author with Rev. H. Robert Clark, Assistant Superintendent, Catholic School Board, Chicago Archdiocese.
From the discussions the writer had with Superintendents of Catholic schools in Archdioceses and Dioceses like Chicago, New York, Philadelphia, Washington, Milwaukee and St. Louis, the problem common to everyone of them is found to be the increased cost of Catholic education today because of the need of reduction of pupil-teacher ratio, employment of additional lay teachers, inflationary prices for equipment, supplies and other necessities.

It was reported that the Archdiocesan School Board of Chicago does not plan to discontinue any grades on an archdiocesan-wide basis. One or two grades in a few schools may be discontinued only if it should become impossible to secure teachers to staff them. Seniors of Catholic colleges responded well to a recent appeal for teachers, which gave encouragement to the School Board. In February of 1961 the school board made an archdiocesan-wide drive for teachers, which was reported successful.

In a report to the Catholic School Board, Msgr. McManus, the Superintendent, said that the Catholics in the Archdiocese are becoming "increasingly disturbed" about the high cost of public education and "somewhat skeptical" about the idea that "the more you spend for public education, the better are the schools." He pointed out, however, that as good citizens Catholics are willing to pay taxes in any amount needed to give the City's children high-quality education.

Msgr. McManus told the Board that Catholic schools have become
an "indispensable part" of Chicagoland's educational pattern and for that reason "every effort will be made to improve and expand Catholic schools for the good of the Catholic Church and the benefit of the Community."\(^6\)

A problem for the suburban parishes of the Archdiocese, which may be considered as common to many other places is the distance of the children's homes from the nearest Catholic high school and the great expense of transportation which sometimes is higher than the school tuition. Service by commercial carriers is so limited in some suburban areas that if a student needs transportation, it virtually has to be by chartered buses. The students are eligible to ride public school buses but the routes seldom coincide with the students' needs.

There are many Catholic high school students who help pay their school expenses through part-time employment, and thus relieve some of the burden of the parents. Freshmen and sophomores, however, are not able to take advantage of this because of their age.

There were several poor parishes where Sunday voluntary collections were supplemented through bingo games and annual carnivals. Since some of these are stopped, these parishes are finding it difficult to finance school and other expenses.

\(^{66}\)Ibid.
CHAPTER V

FINANCING OF PRIVATE EDUCATION IN CANADA

For an educator who extols a secularist philosophy as the ideal, Canadian educational system is for the most part, nothing to be praised. Most of it has developed from the religious sentiments of the people and the history of Canadian education is filled with instances when such sentiments, as insisted by the people, were to be given preference to a purely secular attitude.

To an outsider who visits the two nations of North America, the United States and Canada, the difference in the educational systems is something surprisingly noticeable. In the United States, when religious sentiments are expected to be completely outside the sphere of public education, this problem has been satisfactorily solved in the example of one province, Quebec in Canada.

In this chapter, we are dealing only with the financing of education in Canada. There are some, to whom all the shortcomings and defects of Canadian education, are due to this predominance of religious sentiments in the educational system. It is not our concern to discuss whether this is true or not. We are not concerned with the defects of the present system in the academic sphere, or their causes. We are dealing only with administrative setup in which
the private schools (or "separate schools" - as they are often called) manage the financing. Again, in the case of Quebec, we come across some who criticize the lack of "progressive" tendencies in its educational system. They probably lack in the understanding of the sentiment of the early settlers who, through such effort and sacrifice, have preferred this so-called non-progressive system. As Canon Carter points out:

Much criticism has been leveled at Quebec for being "behind" in modern educative trends. Much of that criticism has been from within the borders of the province itself. Without going into the question of the justification of the criticism, it is fair to say that Quebec has been very reluctant to move in the direction of central control and the predomiance of the Department of Education.\(^1\)

There are certain preliminary discussions we have to make before attempting to deal with the general financing of the private schools in Canada. First of all, we have to take into consideration the type of schools in Canada. In the discussion on Canadian schools, the term "public school" does not mean the same as it connotes in the United States. Often all the schools, including those owned and administered by religious or private bodies, are included as "public." This may be due to the fact that most of them receive public funds of some kind or other. It can also be that it performs a public function as they educate the child for the purpose of giving him the training to be good citizens. That in such schools religious instruction is

imparted, that the schools are conducted by religious bodies, and that there is a religious atmosphere, do not take away the "public" function of such schools. The only private educational institutions in such a distinction will be those which are established for the sole purpose of imparting a religious training, like the seminary or a theological college.

Many authors treat the minority schools as "separate schools." But to some, even this distinction is not realistic. Mr. Weir, in his book, The Separate School Question in Canada, points out the misunderstanding this term can create. Many believe that the so-called "separate schools" mean Protestant schools in Quebec and Roman Catholic schools in Ontario, Saskatchewan and Alberta. Such an impression, however, should be considerably qualified. Strictly speaking, there exist no separate schools in Quebec, but rather schools of the denominational minority, or "dissentient" schools.

Generally, the term "separate schools" is used interchangeably with "denominational schools" or schools of the "Protestant or Roman Catholic minority." In provinces like Ontario, Saskatchewan and Alberta, there are a few Protestant separate schools in districts where the majority of the ratepayers are Roman Catholics. In these cases, Roman Catholic ratepayers are supporters of the public school which is, generally, more denominational in character than the Protestant separate schools.

It is not altogether correct to assume that these separate schools
are denominational and public schools are secular. It is more accurate to speak of separate schools as "dissentient" schools established by the denominational minority, Roman Catholic or Protestant, in such cases as the minority prefer to support their own schools rather than support the public school.

Most of the separate schools are in Alberta and are supposed to be limited to the elementary or common school grades. However, in Ontario, certain separate schools conduct "5th classes" which, in a sense, are equivalent to the first year in high school. The high school grades are also included in the Protestant or dissentient schools of Quebec.²

Here in our study, we will use the term "separate schools." This would mean the schools which are conducted by the minority in any school district or any province. Thus, for example, it is often taken for granted that in Ontario, the separate schools are all Catholic. In general, this is true. In Ontario, as there is a Protestant majority in most of the school municipalities (districts), the separate schools are conducted by Catholics. But there are a few districts where the majority are Catholics and, therefore, the Protestants conduct the "separate" schools. But it really does not make too much of a difference, as in the case of Ontario, in any given school district most of the financial benefits received by all the schools, whether they belong to the "common" schools or "separate"

schools, are the same. Besides, the term "separate schools" is the one used in legal matters. For example, the legality of the "separate schools" is quite clear in the following court decision.

In the words of Mr. Justice Meredith, adjudicating the case, Ottawa Separate School Trustees Vs. City of Ottawa 1925, under Ontario's school law:

The right and privilege which the Separate School Act conferred when the Imperial enactment became law, and which the Separate Schools Acts have ever since conferred and still confer, was and is a right to separation, to separate public schools of the like manner, and maintained in the like manner, as the general public schools. The machinery may be altered, the educational methods may be changed, from time to time, to keep pace with advanced educational systems.

For an outsider, Canadian "separate schools" might appear to have only the legal status, e.g. of the Catholic and other private schools of the United States. It will be clear from our discussions later that this is not the case as these "separate schools" have the same legal position in receiving financial and other benefits as the "common schools."

Fulfillment of a Philosophy

The teaching of the Catholic Church, as expressed in the Encyclical of Pope Pius XI, The Christian Education of Youth, is fully practiced in the school system of Quebec. If there is one country

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where the principles of a Christian education were put as the basis of an educational system, on which the whole educational structure was built, we can see this being fulfilled in the attempt made by the early settlers of Quebec in Canada. The rights of the parent, the Church and the State were fully realized by the French Catholics and to have this perpetuated in their educational system was the attempt they made all through the history of Canada. As we will see, in the early history, when the French Canadians had the freedom, they put into practice these principles. But later, as we will see the differences, in other provinces, the differences took place because of the influences of other factors. The authority of the ruling power which was completely alien, if not opposing to such ideals, had its influence slowly but certainly in other provinces of Canada. A secularist philosophy from the neighboring nation, though not to a great extent, also had its influence. This Catholic philosophy of education from the history of the development of the educational system in Canada, is evident. If in the province of Quebec this was fully realized, we will see that there was to be a change in the practice in other provinces, so much so that in one out of the ten provinces, namely in the province of British Columbia, the status of the private or separate schools is almost the same as in the United States.

The predominance given to the right of the parent and the place of the Church and the state in the education of children, as contained
in the teachings of the Church, were fully realized from the beginning of the Canadian educational system. What was taken as ideal, the principle that "the child is not the mere creature of the state; those who nurture him and direct his destiny have the right, coupled with high duty, to educate him and prepare him for the fulfillment of his obligation,"\textsuperscript{4} from the Supreme Court Decision with regard to the Oregon Law, quoted by Pope Pius XI in his Encyclical, \textit{The Christian Education of Youth}, is fully realized in the educational system originated in Canada. As Canon Carter says:

\textit{...A hundred years before the Papal pronouncement of 1930, this teaching had its fulfillment in Quebec's educational struggle.}

Thus Catholic philosophy found its urgent application in the political battle surrounding the school question of the early 19th Century. It is true that the movement to Statism was only beginning in Europe at the time, but the political isolation of Quebec and the hostility of the first colonial governments taught the French Canadians ahead of time the danger of losing their rights as parents to any political organism.\textsuperscript{5}

Discussing the principles which sum up the current thinking on the organization and financing of education in Canada, Mr. H.P. Moffatt, Deputy Minister of Education of Nova Scotia, in a lecture, stated that one of these principles which was perpetuated in the educational philosophy of the Canadians is that education should be administered

\textsuperscript{4}Pope Pius XI, p. 14.

\textsuperscript{5}Carter, pp. 19-20.
by local bodies who are responsible to the people and especially to the parents of the children who are to be educated. Local administration was held important because people believed that only through it the religious influence and the tradition of parental responsibility could express itself in the amount and type of education to be given to the children. 6

It was necessary to make a reconciliation between this principle of parental right and the responsibility of the State, which, to many, is ideally settled in Canada. As Mr. P. F. Bergen points out, "from the perspective of natural law it may be argued that the prime responsibility for the education of children rests upon the parents; the courts have recognized this principle." 7 Mr. Bergen shows that the British North America Act of 1867 (Constitution of Canada) in permissive terms allocated education to the jurisdiction of the provincial governments, and the provincial legislature, therefore, is free to establish a system of education or it may refrain entirely from assuming such a power. As we will see later, to a great extent the provincial legislatures have recognized the right of the parents and assumed responsibilities for assisting this right of the parents.

Mr. Bergen points out that the state recognized this right in legalizing denominational schools to receive public taxation. The


state recognizes the fact that the religious denomination of a child's parents will determine, under certain circumstances, the type of education the child will receive. In order to prove this legal recognition, that the separate schools are not independent entities but form a part of the public school system, Mr. Bergen quotes from a Court decision.

In consequence of the religious desires of some classes of the community separation in schools is permitted and special separate school provisions were made for the great class of residents of the province described in the legislation upon the subject as Roman Catholics. But such separation in no way affects the public purposes of the schools or makes the one any more than the other, the less a public school in the sense and for the purpose I have mentioned. The trustees of all, alike, public officers having the like pains and penalties for misconduct in office, and the schools are all subject to control of provincial educational authorities; and all are alike entitled to share equally in the provincial grants of money made for public school purposes.8

The fundamental philosophy basic to all the endeavors and sacrifices made by the Canadian Catholics is expressed in the words of Joseph L. Page. Mr. Page states that all French speaking Canadians believe that true education is not complete without religion, and that the Church has the right to supervise religious education of Catholic children attending public schools; further, that those who do not belong to the religious majority have the right to conduct

8Ottawa Separate School Trustees vs. City of Ottawa, 1916, 24 D.L.R., Quoted Ibid.
their own schools, equally supported by public funds. He further asserts that education is primarily the function of the family, not the state. 9

Development of Canadian Education

As it is pointed out in the detailed history of Canada entitled Canada and its Provinces, in order to understand Canadian education in the early days, it is necessary to determine the degree of culture possessed by the ancestors of the French-Canadian people when they immigrated into "New France." As Taine illustrates in his great work, Les Origines de la France Contemporaine, before the French Revolution, little schools were many in Normandy, Picardy, Artois, and French Flanders, from where most of the immigrants came to Canada, which was their "New France." In about 37,000 parishes of France, there were approximately 20-25,000 schools. These schools were well attended and efficient, and in 1789, 47 per cent of men and 26 per cent of women knew how to read and write. The people were thankful for the help rendered by the clergy and the Church. In "New France," founded and peopled by Frenchmen and administered by a French government, it was natural that an attempt be made to reproduce manners, customs and institutions that were dear to the colonists, as faithfully as possible. Therefore, it is

not unreasonable to discover here the same zeal for education, the same programmes, the same methods and books as in the mother country. The Canadian government readily aided this important work and became the auxiliary of the Church. It not only encouraged efforts made by the clergy and people on behalf of education, but supported them in the form of financial aid and contributions. 10

Before 1634, there were few children in the colony of Quebec, which was the only place in Canada at that time where there was any group of colonists. However, new families arrived in that year and the Jesuits decided to start a new school. The Petit Ecole of the Jesuits was opened in 1635. This school seems to have been the only elementary one in existence down to the end of the 17th Century. Various other religious like the Recollects, and Christian Brothers imparted some kind of religious instruction and schooling for the Indian children.

But the Treaty of Utrecht of 1763, New France became the colony of the English. There was a disorganized group of about 50,000 French-Canadians on the shores of the St. Lawrence. By that time, the Church had organized several schools for the colonists, most of which were staffed by religious. By 1775, many restrictions were put on the religious and the Jesuit order was completely dissolved in Canada. Already in 1770 the people of Quebec had petitioned the King

of England for public instruction, but this was in vain.

The French-Canadians now realized that they should continue their fight against the British and the best battleground was schools. This they found as necessary as it was the only way they could be united as a well-informed people. In 1801 the British tried to pacify the French by establishing the Royal Institution. However, to the French-Canadians, this was "an extremely powerful means to increase the influence of the executive power and to modify gradually the religious and political sentiments of the Canadians."\(^\text{11}\) As Dr. L.P. Percival, Director of Protestant Education, points out in his book, *Across the Years*, "The Roman Catholics became openly rebellious because they knew that their language and religion would suffer if the Royal Institution were to flourish. . . ."\(^\text{12}\)

As Canon Carter points out, this opposition of the Catholics had resulted, though not immediately. Gradually through legislation, in 1824 and 1829, the rights of the parents with regard to education were recognized by allowing local commissions, parishes were made social units, and direct support from the state was given schools. One important principle which was recognized at this time was the need of schools based on religious difference.

By 1841 there were more Protestant settlers in Upper Canada, now

\(^{11}\) Carter, p. 9.

\(^{12}\) L.P. Percival, Quoted by Carter, p. 10.
known as Ontario, while Lower Canada, now Quebec, was inhabited chiefly by Catholics. These two provinces united and in 1846 the legislature passed an education Act which modified and corrected the original, setting down the foundation for the modern educational system. In fact, a comparison of this Education Act of 1846 and the current education acts will reveal that, while many amendments have been made to remove causes of friction and to bring about better administration, the main features remain essentially the same. 13

What the French Catholics achieved by this, in principle, was what they sought. Against powerful opposition, and fighting against the rulers themselves, they succeeded in attaining those rights in education, fundamentally the priority of the right of the parent, the cooperation of the Church and the State, and a system based on religious education, which they demanded.

By the Act of 1846, the Province was divided into school municipalities which were units for educational administration. A board of five school commissioners was elected in each municipality by qualified voters. The Board was empowered to divide the municipality into a convenient number of school districts, to provide a school house, and teachers. It also had to levy upon real estate sufficient tax to meet the necessary expenses. This tax levy could only amount to what was given as provincial aid. The same Act made provision for

13Shortt and Doughty, pp. 469-473.
a separate school board when the minority felt it necessary to have their own schools. This school board had the same powers and privileges and the schools they administered received the same benefits of public money. This privilege to establish separate schools was granted not only to Protestants but to each and every religious minority in every school municipality.

British North America Act of 1867

This Act may be considered as the Constitution of the Dominion of Canada, by which the then four provinces of Ontario, Quebec, Nova Scotia and New Brunswick were united, and provision was made for the later admission of other provinces. Section VI, Subsection 93, of this Act deals with education as follows:

Section VI, Distribution of Legislative Powers

Subsection 93, Education

In and For each Province the Legislature may exclusively make laws in relation to Education, subject and according to the following Provisions:

(1) Nothing in any such Law shall prejudicially affect any Right or Privilege with respect to Denominational Schools which any Class of Persons may have by Law in the Province at the Union:

(2) All the Powers, Privileges, and Duties at the Union by Law conferred and imposed in Upper Canada on the Separate Schools and School Trustees of the Queen's Roman Catholic Subjects shall be and the same are hereby extended to the Dissentient Schools of the Queen's Protestant and Roman Catholic subjects in Quebec:
Where in any Province a System of Separate or Dissentient Schools exist by Law at the Union or is thereafter established by the Legislature of the Province, an Appeal shall lie to the Governor General in Council from an Act or Decision of any Provincial Authority affecting any right or Privilege of the Protestant or Roman Catholic Minority of the Queen's Subjects in relation to Education:

In case any such Provincial Law as from Time to Time seems to the Governor General in Council requisite for the due Execution of the Provisions of this Section is not made, or in case any Decision of the Governor General in Council on any Appeal under this Section is not duly executed by the proper Provincial Authority in that Behalf, then and in every such Case, and as far only as the Circumstances of each Case require, the Parliament of Canada may make remedial Laws for the due Execution of the Provisions of this Section and of any Decision of the Governor General in Council under this Section. 14

It should be noticed, however, that there were some limitations with regard to this Act. It is true that a guarantee of the educational rights of religious minorities was well provided in the Act. But, as it can be seen, it is said in the Act "...where in any province a system of separate schools exists by law in the Union or is thereafter established by the Legislature of the Province,"...this restricted the right of the minorities, the provinces which joined the Union afterwards, to the good will of those Provinces. As it can be seen today, not every province of Canada has the same provision for the establishment of separate schools.

14 British North America Acts, 1867-1907 (Ottawa, Canada, 1913).
Present Situation

Canada is a self-governing nation within the British Commonwealth of Nations, having its federal government located in Ottawa. The Federal Government has jurisdiction over certain activities defined in the British North America Act. There are ten provinces in Canada, each with a provincial government which has jurisdiction over certain activities also defined in the Constitution.

Education is a provincial responsibility in Canada. Therefore, there exist ten provincial systems of education, similar in most respects, but different in others, each independent of any control by the federal government or other provincial governments with regard to education.

At the present time, the federal government does not give any grant to church-run schools. Whatever federal aid is given or claimed, we will discuss later. In nine out of ten Canadian provinces, the Church-supported schools receive public funds from local taxes and/or from provincial grants.

Five Provinces give religious organizations, usually Roman Catholic, the legal right to tax-paid support for their schools. Four others have unofficially achieved the same result. However, in one Province, namely British Columbia, religious schools are totally on their own.

The two main sources of public funds for the schools are available from taxes and provincial grants. Provincial support has become
increasingly important in recent years, rising from an average of 14.0 per cent of total education costs in 1938 to 41.7 per cent in 1958. Provincial grants are only for elementary and secondary schools. Universities, both public and religious, receive federal aid.\(^{15}\)

Provincial grants, both to common and separate schools, are paid, sometimes through specially earmarked funds to supplement teachers' salaries, etc. Other funds are used for school construction. Certain provincial governments help the schools through the school municipality, by giving them funds which may be used at the discretion of the school authorities.

In general, elementary and secondary schools are supported mainly through locally raised property taxes. This is supplemented by provincial grants and in some cases by pupil fees, and in cases of certain separate schools, through contributions from churches and private sources.

As a rule, Boards of Trustees or Boards of Education are elected by the voters of a local area. Formerly, boards of trustees were elected for each small rural school district. However, the recent trend has been towards a larger area of administration. Today, one board may include a number of small rural schools, as in the cities. However, sub-unit boards are usually elected, giving

equal representation to each of the smaller schools. These boards of education control the general financing and administration of the area. Although the sub-unit boards do not control the financing of the unit, they do assist in the administration of individual schools. These boards are responsible for the employment and discipline of teachers, the maintenance of local schools, and matters related thereto. 16

The above are general aspects of Canadian schools. However, there are variations from province to province and between common and separate schools. These variations cannot be discussed in great detail. The predominant differences will be dealt with as we outline the structure of education in each province.

One may conclude reading the provisions of British North America Act that the legal status of the private educational institutions in receiving public aid, was settled in every province. One may also expect fundamentally the same problems, if there are any, for the religious minority schools in every province. But as we have mentioned before, the provisions of the Act did not bring about a similar setup in all the provinces. Today, there are ten entirely different systems in the ten provinces varying from the full recognition of religious schools as public schools in Quebec to a tolerated existence of such in British Columbia.

In the following pages we will attempt only to show the main features of the status of the minority schools in each province, especially with regard to receiving public funds.

**Newfoundland**

The whole provincial system of Newfoundland is denominational, schools being under the jurisdiction of the Church of England, the Roman Catholic Church, the United Church of Canada, the Salvation Army and the Pentecostal Assemblies. The Education Council is the chief administrative body which is responsible for the educational policy of the province. The Council is headed by a Minister of Education (Chairman), the Deputy Minister of Education (Vice-Chairman) and five Superintendents of Education. All of the schools receive tax money in proportion to the school enrollment.

**Prince Edward Island, Nova Scotia, Manitoba, and New Brunswick**

In Prince Edward Island the Minister of Education and other Cabinet Members do not have the same powers exercised by Ministers of other provinces. The board educational policy is determined in cooperation with a Council of Education composed of the representatives of various organizations interested in education. These organizations act in an advisory capacity to the Minister of Education, who is Chairman of the Council.

The public schools of all these four provinces are supposed to be non-sectarian but actually churches run their own schools within
the public school system and get public funds on the same basis as other schools. As C.B. Sissons points out, with regard to Prince Edward Island, "...a liberal attitude towards religion in public schools and in the high school grades attached to public schools has served to keep Roman Catholics within the Provincial system. ..."

For more than half a century convent schools staffed by Sisters have been classed as public schools. The Sisters receive their licenses and the greater part of their salaries from the government, just as do other teachers. 17

In Manitoba, a commission that investigated education has recommended official provincial assistance for private schools, including Catholic schools. The Province has failed to make a decision as yet: however, the issue has stirred local factions into bitter disputes. 18

Saskatchewan and Alberta

In these two provinces, there is only one school system, but religious authorities have the legal right to establish "separate schools" and draw on public funds.

In Alberta, arguing against the trend of restricting the privileges of the separate schools, the Minority Report contained in the Alberta Royal Commission Report on Education says:


. . . according to the Annual Report, 1958, of the Department of Education, separate schools were cutting the costs of education some 38 per cent for every child attending there. Assuming the total education bill for 1958 to have been $291,650 for each of the 247,219 children in attendance at all schools ($72,000,000) the fact that 22,460 were attending separate schools saved the general taxpayers of this province almost $2,000,000 for that year alone. This is quite apart from the larger consideration of the fundamental advantages which the very fact that separate schools existed at all did effectively safeguard, namely, a democratic check upon an otherwise monolithic system and a reaffirmation of the prior right of parents to determine the kind of education which their children shall receive - not in the American but in the English and Canadian traditions.19

British Columbia

This is the only province in Canada today where separate schools are conducted receiving no public funds.

Ontario

We have seen briefly that the financing of the separate schools in each of the provinces is different. But, in general, we can say that the status of the separate schools in receiving public funds is better when compared to the status of the private schools of the United States. It may appear surprising to note the differences between the various provinces. There are several factors which brought about this difference with regard to the different provinces. In the first two provinces of this Union, namely Quebec and Ontario,

which were united and started a system of education almost simultaneously, it may look strange to see the difference in the legal status of the minority or separate schools today. Let us here examine briefly the historical development of the educational system of Ontario.

The origin of separate schools in Upper Canada (Ontario) may be traced in principle to an Act of the United Legislature passed in 1841. The term "separate" was not applied to these schools until 1843. Prior to 1841, the only publicly-controlled schools established in Upper Canada were called "common" and "grammar" schools. The reference to "public" appears in an Act passed in 1807. However, in an Act passed in 1816 to set up local boards of education with regulatory powers, the term "common" schools was restored. These schools were non-sectarian, although they provided for moral and religious instruction. At the time of confederation, there existed three classes of schools, namely common schools, grammar schools and separate schools.

In 1871, a very important Act was passed, which transformed the grammar and common schools. Through the Grammar Schools Act of 1853, instruction in the common schools extended to the higher branches of practical English and commercial education.

Under the Upper Canada Common School Act, Section 16 (1859), common and separate schools were left free to educate students up to the age of 21. Separate schools, while permitted to exercise many
privileges in grading and curriculum, were nevertheless subject to regulations by the provincial educational authorities, whose mandates sometimes altered the work in the common and separate schools.

The result of the Act of 1871, according to the Roman Catholic Minority, was to include the grammar schools in a new class known as "high schools," while the common schools became known as "public" schools which confined their education mainly to the elementary or pre-high school level. After this Act was passed, high schools seemed to be controlled by the former boards of grammar school trustees and administered "with the aid of the old grammar school grant and of contributions from local revenues by the municipal authorities."²⁰

The result of all these Acts was the general restriction on the separate schools, as to confine them in their legal status of receiving public aid, to the minimum possible. This seems to be the general attitude afterwards, in the Acts which followed and in legal interpretations. One of the most important and serious outcome was the separate schools could not receive public funds in conducting high schools. This is the sad situation even to this day.

One of the arguments brought against this refusal of public funds for secondary schools, or restricting the legal status of separate schools to elementary programs was that the Catholics did

²⁰Weir, pp. 118-149.
not claim funds for secondary schools before the Confederation. As the Minority Report points out, while Catholics in 1866 had requested a share in grammar school funds in accordance with their population, no claim was made with regard to secondary schools. This might seem strange when in principle the Catholic authorities always insisted upon Catholic education on all levels for Catholic children. The main reasons for the absence of this demand at that time were, first of all, the secondary schools as established after the Confederation had not existed then. The common schools were broad enough to include all general education necessary. Besides, Catholics were receiving substantial aid for a secondary education program in the grant of government allowances for their colleges.

Whatever might have been the arguments, the denial of this claim was fundamentally based on the principle of restricting the separate school program to the minimum.

When the Catholics feared that this was the trend, they brought the issue to the Courts in the 1920's. This led to the famous "Tiny Township Case" of 1927. The case went all the way to the Privy Council (Supreme Court of Canada) and the decision was against the claim of the Catholics. As the Minority Report points out:

The judgment, however sound legally, was a severe blow to Ontario Catholics who have historical proof that they do not now enjoy in their full scope the rights which they had at Confederation, and has understandably led to fear on their part that "regulation" could reduce even further their remaining rights. In the light of the decision of the Privy Council, it lies with the legislators of Ontario and those responsible for "regulations"
regarding education to take the action necessary in this regard and to demonstrate that the people of Ontario are no less generous and tolerant than those of Quebec where the Protestant Educational System, free from the burden and restrictions which hamper the Separate Schools of Ontario, has progressed along with the majority system.21

Most of the expenses of the public and separate schools of Ontario are met through local taxation. There are three different kinds of sources: (a) real estate, (b) taxes on business property, and (c) income taxes. The first two are collected locally and the third by the province. The taxpayers have the freedom to designate the schools to which their taxes shall go. In the rural areas, because of the shortage of local taxes, the schools receive assistance from the township council in the form of grants. Very often this is based on teachers' salaries. Public and separate rural schools receive aid in the form of a county grant. This is made upon the basis of equipment and accommodations in the schools. The secondary schools are aided by the county in the form of large grants which are based upon attendance and school expenditure for the previous year.

The public and separate schools receive aid from the provincial government. The Education Minister of the Province has the power to apportion these grants, which is done on the basis of school attendance, assessed valuation, school expenditure, and any other

21 Minority Report, Royal Commission in Ontario, pp. 874-880.
consideration, whereas in the secondary schools the apportionment is based on teachers' salaries, equipment of schools, etc. The Minister of Education also distributes a provincial grant known as the "assisted schools' grant" to needy schools. The fifth classes and continuation schools of less than two teachers receive aid from the public and separate school funds. Continuation schools of two teachers and more receive a provincial grant.

The Roman Catholic separate schools receive additional aid from the Clergy Reserve Fund. This Fund was derived from the sale of public lands given to the Church in early times. The Catholic schools, especially at the secondary level, are to be financed with private funds.\(^2\)

As we notice a tendency on the part of the majority in Ontario to restrict the privileges of the separate school to a minimum, it is interesting for us to compare it with what the majority in Quebec is doing to the minority there.

**Quebec**

The great majority of the population in the province of Quebec is Catholic and as they were the early settlers and always in the majority in the province, the Catholics have nobly respected the rights of other minorities. The result of this can be seen from the

\(^2\)Howard C. Allen, *The Organization and Administration of the Educational Systems of the Canadian Provinces of Quebec and Ontario* (Research Study), (Syracuse University, 1937), p. 98.
educational system existing in the province of Quebec.

The structure of education in the province of Quebec differs from that in the other nine provinces in that there exists a dual system of schools from kindergarten to teacher training and university level based on Roman Catholic and Protestant religious beliefs. The whole system is separated into two sections, each independent while operating under a common law, in such a way that both Catholic and Protestant parents have complete control of the education of their children. Roman Catholics outnumber Protestants by about seven to one. But today, the Protestants are more than satisfied with the system existing, and the rights guaranteed them.

In his book, Across the Years, Dr. W.P. Percival, Former Director of Protestant Education for Quebec, discusses an incident which had apparently created great inconvenience to the Protestants. When the property taxes were divided on the basis of the relative Roman Catholic and Protestant population, the Protestants sought to increase their income by dividing the taxes on the proportion of taxpayers instead of the whole population. This was first refused, "but to the eternal credit of the Roman Catholics," says Dr. Percival, "it must be told that they supported the Protestant plea on the ground that such was only just, as this was the basis of school support elsewhere in the province... The Protestants found that their revenue was more than quadrupled as a consequence."\(^{23}\)

\(^{23}\)Percival, Quoted by Carter, p. 42.
Canon Carter deals with an article, "The Grave Inequalities in our Separate Schools," which appeared in McLean's Magazine on May 28, 1955. In this article the writer, Blair Fraser, had said that many think that the division of schools on religious grounds should be abolished. Yet the law guarantees this freedom in five provinces. According to Mr. Fraser, only Quebec gives its separate schools a fair share of school taxes. Commenting on this, Canon Carter says, "the teaching of the Church is that the Catholic faith is a divine gift and that the free cooperation of the individual is necessary for its reception and its retention. . . . it is 'natural' that the French Canadians who had so much difficulty in establishing their own minority rights. . . . should understand and sympathize with the position of other minorities." 24

In the province of Quebec, the Council of Education takes the place of the Minister of Education in other provinces. This Council operates through two autonomous committees, the Catholic Committee and the Protestant Committee. The Head of the Department of Education is the Superintendent of Public Instruction, whose responsibilities include the administration of the department, public schools and normal schools. The Superintendent is "ex officio" the Chairman of the Council of Education, and a member of both committees. The two committees, Catholic and Protestant, are responsible for the organization, administration, and discipline of their respective public

24 Carter, p. 16.
schools, for departmental examinations, and concerning the duties of inspectors of schools; they are also responsible for the course of study and the authorization of textbooks.

Minorities in any community may dissent from the majority and form their own school boards when there are sufficient pupils to warrant the opening of a school and a sufficient number of ratepayers to form a board of school trustees. If the number of children belonging to the minority is not sufficient to justify the maintenance of a school, any parent professing the religious belief of the minority has the right to support a school in a neighboring municipality provided his children attend such a school.

In every school municipality, practically, there will be two boards of trustees, one for the Catholics and the other for Protestants. This board has the right and the duty to set a rate of taxation on all immovable property in its territory. Assessment is made according to municipal rolls but the rate of the school tax is under the jurisdiction of the Board of Trustees. Thus, every property owner, according to his religious denomination, pays a certain amount to the school board of his choice. At present, Jews pay their taxes and join with the Protestant group. Thus, all property belonging to Protestant or Jewish owners is directly taxed at a rate set by the various Protestant boards and the complete sum is collected and used by the Protestant school authorities without any interference whatever by the Catholic school boards.
With regard to corporation taxes and taxes of individuals other than Catholics, Protestants, and Jews, these are divided on a pro-rata basis in proportion to the number of children between five and sixteen actually in schools.

The same principle is applied when special taxes are levied. Recently, several commissions were unable to meet their expenses, and permission was requested to impose a one per cent sales tax in forty-six municipalities. In Montreal, for example, the permission was acted upon immediately, the result being that the Protestant Commission received its share based on a more than equitable division, namely the actual number of children attending public schools. Therefore, the Protestants suffered no loss through the transfer of children from one commission to another.

The main sources of income for the publicly controlled Catholic and Protestant schools of the Province of Quebec are the following: (a) local taxation, (b) provincial government grants, (c) loans, (d) pupil fees, and (e) contributions from churches and private sources. More than 80 per cent of the income is raised by local taxation. The school boards levy their taxes and either collect them themselves, or authorize the municipal authorities to do it. In the case of a school municipality where there are the two boards, Catholic and Protestant, each board levies and collects the rate from their own taxpayers. But the taxes of the corporations are collected by the majority board which, in turn, remits to the minority the amount due to
them, based on pupil enrollment. Either board may levy special taxes, but the corporations are compelled to pay only an amount equal to that which the school corporations would have been entitled to if the tax were a regular one.

The provincial government appropriates funds under the following grants: (a) public school fund, (b) superior education fund, (c) poor municipality fund, (d) elementary school fund, and (e) special grants. The superintendent of education is responsible for the distribution of these grants, and is free to decide who is eligible to receive such grants. The public school fund is apportioned according to the school enrollment for the previous year; in addition, the pension fund for teachers is deducted from this grant. The Catholics and Protestants (including all non-Catholics) receive funds from the Superior Education Fund according to the percentage of each based upon the latest census. To the provincial grant allocated to the Protestants are added monies collected from marriage license fees, and the distribution of these funds is left to the discretion of the respective committees. Aid is given to municipalities who are unable to maintain their schools, from the Poor Municipality Fund by the Superintendent of education after a recommendation of the committees or council of education, based upon the needs of each municipality.

Funds derived from the sale of public land is given to the Elementary School Fund. These monies are used to establish schools in the poorer communities of the rural areas and in certain sections of urban communities which are unable to support adequate schools.
Under special grants may be included aid to schools of agriculture, forestry, fine arts, and the normal schools.

Except for the mentally and physically handicapped children, all of school age may have to pay a monthly fee in this province, levied and collected by the local school boards.

In special cases, schools may be aided through voluntary contributions and also grants from churches and religious organizations. 25

It is not difficult to understand why the Catholics in Quebec are justly proud of their treatment of the minorities, and why the rest of Canada is taking note of this accomplishment. There is in Quebec, full autonomy and full equality. Dr. James Paton, Secretary of the Provincial Association of Protestant Teachers, says:

We're well treated here. We get our full share of tax money: the Catholics go out of their way to be fair and even generous to us. We're only embarrassed because the Roman Catholic schools in other provinces don't get the same break. 26

In the same article, Blair Fraser makes a comparison of the advantages received by the Protestants to what the Catholics receive in other provinces; "...among English-speaking provinces only Alberta and Saskatchewan come anywhere near giving Roman Catholic schools the treatment that Protestant schools get in Quebec." 27

25 Allen, pp. 48-49.

26 James Paton, Quoted by Carter, p. 43.

27 Blair Fraser, Quoted Ibid.
The Protestant schools in Quebec have definite advantages when compared to the separate schools of any other province.

(1) The Protestants determine their own rate of taxation, collect their taxes, and divide municipalities into districts. These districts are independent of the commissioners except in the levying of taxes on incorporated companies, and in these taxes, they receive a share in proportion to their school attendance. Through their board of trustees, they have absolute control of their schools under regulations made by their own independent provincial board of education, called Protestant Committee of the Council of Public Instruction.

(2) This Committee makes the rules regarding the organization of their schools, prescribes textbooks and courses of study, determines the condition for certification for their teachers, makes rules for the government of the Protestant Normal Schools, prescribes the duties of school instructors and recommends the distribution of certain legislative appropriations. It has the functions of a minor legislative body.

(3) The Lieutenant-governor in Council may now establish school municipalities or alter their limits with regard to each denomination. This way, one denomination has no undue influence on the other.

(4) The Protestant Inspectors are appointed only after receiving a certificate of qualification from the Protestant Committee.
(5) There is a Protestant Central Board of Examiners for determining whether the qualification of any teacher is sufficient.

Here we have seen briefly the historical development of the system of financing and administration of schools in the various provinces. It is not possible to go into detail of the financing structure of minority schools (separate) in each province. First of all, there is so much difference in each province. Secondly, where there is legal status they almost follow in a restricted sphere the same pattern of financing as the majority schools. Thus, for example, in Ontario in the elementary grades the Catholic schools are financed in the very same way as the majority schools. But Quebec is the only province where there is an absolute dual system in financing and administration, in which case both are self-sufficient and satisfied.

The problems of financing with regard to the minority schools in general are the same all through Canada. As in many provinces, these assume the same position as the public schools, the problems are the same for all schools. The few which are peculiar to some of the provinces, and especially with regard to receiving public funds, we have mentioned above.

The general setup of financing with regard to the religious schools of any one school commission, will be similar to any other. As these Commissions have legal status as public school commissions, their revenue and expenditure are of a public nature. Thus, for example, if we take the Catholic School Commission of Montreal, their
large proportion of revenue is from legally instituted taxes and grants. This will have no comparison to the income of the School Board of the Chicago Archdiocese, where the income of the schools will be from voluntary collections and tuition.

The following facts will give us a general picture of the financial setup of such a school Commission. This, in principle, will be similar to the Protestant Commission of Montreal or any other Commission of the Quebec Province.

The following table shows the salary paid by the Montreal Catholic School Commission, which is the largest Catholic school board in Canada. All Catholic schools in the city of Montreal are under its jurisdiction.

**TABLE V**

**COST OF TEACHING**

**MONTREAL CATHOLIC SCHOOL COMMISSION**

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>$21,055</td>
<td>$24,905</td>
<td>$28,793</td>
<td>$32,789</td>
<td>$39,663</td>
</tr>
<tr>
<td>Revenue*</td>
<td>(000)</td>
<td>(000)</td>
<td>(000)</td>
<td>(000)</td>
<td>(000)</td>
</tr>
<tr>
<td>Number of Children</td>
<td>119,345</td>
<td>123,421</td>
<td>130,609</td>
<td>137,385</td>
<td>147,535</td>
</tr>
<tr>
<td>Revenue Per Pupil*</td>
<td>$176.42</td>
<td>$201.79</td>
<td>$220.45</td>
<td>$238.67</td>
<td>$268.84</td>
</tr>
<tr>
<td>Total Expenditure*</td>
<td>(000)</td>
<td>(000)</td>
<td>(000)</td>
<td>(000)</td>
<td>(000)</td>
</tr>
<tr>
<td>Cost Per Pupil</td>
<td>$174.62</td>
<td>$198.26</td>
<td>$219.80</td>
<td>$235.00</td>
<td>$266.36</td>
</tr>
</tbody>
</table>

*estimated

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**TABLE VI**

EXAMPLES OF NET INCOME IN SALARIES*
MONTREAL CATHOLIC SCHOOL COMMISSION

<table>
<thead>
<tr>
<th>Year of Service</th>
<th>Salary</th>
<th>Bi-Weekly Income</th>
<th>Summer Cheque</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lady Teacher:</td>
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<td></td>
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</tr>
<tr>
<td>1st</td>
<td>$3200.</td>
<td>$90.40</td>
<td>$712.70</td>
</tr>
<tr>
<td>3rd</td>
<td>3400.</td>
<td>94.90</td>
<td>765.70</td>
</tr>
<tr>
<td>7th</td>
<td>4000.</td>
<td>110.35</td>
<td>880.45</td>
</tr>
<tr>
<td>Single Man:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1st</td>
<td>$3600.</td>
<td>$100.55</td>
<td>$732.45</td>
</tr>
<tr>
<td>3rd</td>
<td>3900.</td>
<td>107.15</td>
<td>810.45</td>
</tr>
<tr>
<td>7th</td>
<td>4500.</td>
<td>122.60</td>
<td>925.70</td>
</tr>
<tr>
<td>Married Man:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(no dependent)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1st</td>
<td>$4100.</td>
<td>$116.85</td>
<td>$871.05</td>
</tr>
<tr>
<td>3rd</td>
<td>4400.</td>
<td>124.65</td>
<td>921.05</td>
</tr>
<tr>
<td>7th</td>
<td>5000.</td>
<td>139.60</td>
<td>1,067.80</td>
</tr>
<tr>
<td>Married Man:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(2 dependents, under 16 years of age)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1st</td>
<td>$4100.</td>
<td>$120.30</td>
<td>$888.30</td>
</tr>
<tr>
<td>3rd</td>
<td>4400.</td>
<td>128.20</td>
<td>946.80</td>
</tr>
<tr>
<td>7th</td>
<td>5000.</td>
<td>143.45</td>
<td>1,087.05</td>
</tr>
</tbody>
</table>

*approximate

**N.B.** - (1) Twenty-one bi-weekly cheques shall be paid from September to June.

(2) All income tax deductions are based on present tables (January 1961) and are subject to change from fiscal year to another.

(3) Amount paid for hospitalization plan varies with plan selected.

(4) Cheques may indicate teacher's savings deposited in the Credit Union established by the Federation if the teacher so authorizes the Commission.

(5) The gross amount of the June cheque is found by subtracting from the annual salary the accumulated earnings during the school year indicated by the letter "X" on cheque stub and found by
multiplying the bi-weekly amount by twenty-one (21).

(6) All deductions made - pensions, insurance, income tax, etc., except variables such as Savings, Credit Union, Charitable Donations, etc.

6 Information received from a personal interview with Mr. M.L. O'Connell, Director of Studies, Montreal Catholic School Commission.

<table>
<thead>
<tr>
<th>TABLE VII</th>
</tr>
</thead>
<tbody>
<tr>
<td>AVERAGE SALARIES OF TEACHERS AND PRINCIPALS</td>
</tr>
<tr>
<td>IN CATHOLIC AND PROTESTANT SCHOOLS</td>
</tr>
<tr>
<td>PROVINCE OF QUEBEC - 1958-59</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Elementary</th>
<th>Secondary</th>
<th>Principals</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Average</td>
<td>Average</td>
<td>Average</td>
</tr>
<tr>
<td></td>
<td>Number</td>
<td>Number</td>
<td>Number</td>
</tr>
<tr>
<td></td>
<td>Salary</td>
<td>Salary</td>
<td>Salary</td>
</tr>
<tr>
<td>Lay Teachers</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>and Principals</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Catholic</td>
<td>21,958</td>
<td>$2,181.</td>
<td>1,917</td>
</tr>
<tr>
<td>Protestant</td>
<td>2,668</td>
<td>3,529.</td>
<td>880</td>
</tr>
<tr>
<td>Religious</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Teachers and</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Principals</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Catholic</td>
<td>4,919</td>
<td>$1,535</td>
<td>3,701</td>
</tr>
</tbody>
</table>

There are several new developments taking place in the administration and financing of schools in the province of Quebec. The new buildings needed, and necessity for many additional teachers will require huge additional funds. In the last ten years when the provincial budget trebled, the provincial allocation to education increased by 500 per cent. In the year 1958-59, 22.9 per cent of the total money spent by the provincial government was for education. In 1956 the provincial government assumed the debts of all the school boards because it had reached the highest level. New taxes had to be levied to help education. Some school boards were given authority to levy a 1 per cent sales tax and in 1960 this was raised to 2 per cent.

In 1953, the provincial income tax was established, the proceeds of which were to go in part for education. The average personal income per capita in Quebec is below that of the average personal income in Canada.

Quebec still is not receiving federal grants for universities and technical schools on constitutional reasons. The support of these institutions, therefore, becomes the added responsibility of the provincial government. 28

In the Second Session, 26th Legislature of the Legislative Assembly (Provincial) of Quebec, several new Bills were introduced affecting the financial setup. Some of them are directly related to the provincial grant to local school boards. These Bills (a) Bill

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50, an Act to institute schooling allowances, (b) Bill 83, an Act to amend the Classical educational institutions and other schools subsidy Act, (c) Bill 81, an Act to promote the development of secondary education, (d) Bill 82, an Act respecting free education and compulsory school attendance, (e) Bill 85, an Act to grant parents the right to vote at school elections, and (f) Bill 86, an Act to assist school boards to meet their obligations. These Bills were introduced in May, 1961 in the Provincial Legislative Assembly. The controversy is still going on in party lines. There was serious opposition to some of these bills as they would affect the traditional arrangement in the educational system of the province. We will discuss some of the provisions in Chapter VII, when we deal with advantages and disadvantages of the system.

One of the provisions contained in Bill 86 is giving more powers to the Minister of Youth. The tendency was criticized as to making him the Minister of Education. 29

After the Confederation, the Province of Quebec, like the rest of the provinces, had a Minister of Education. At that time, this portfolio was held by the Premier himself. The last of these educational ministers, Charles Boucher de Boucherville, one of the greatest of Quebec's premiers, seeing the danger of political interference in education, abolished the portfolio of education and transferred the powers to the Council of Education and to the superintendent,

29Bills published for First Reading (Quebec, 1961).
who was henceforth to preside over the Council.  

Youth Minister Paul Gerin-Lajoie stated on June 2 that it was the Quebec Government's aim to bring the field of education, and particularly its financing, under the control of the provincial government. He was speaking in the Legislative Assembly during a heated discussion over the Government Bill concerning the financing of capital investment programs of Quebec.

Premier Mr. Jean Lesage, intervening, said that never would a civil servant not elected by the people be put in charge of distributing taxpayers' money. The implication was to the powers of the superintendent. The Youth Minister told the Assembly that it was the Government's firm conviction that the direction of education in the province should come under the jurisdiction of the superintendent of public education but, according to him, the superintendent's attributions should cover education proper.

The Opposition Party under the leadership of Antonio Talbot vehemently opposed this move. Mr. Talbot voiced strong disapproval of the government's legislation. According to him, this move will effect in setting up a full-fledged department of education and a minister of education. He feels that this, because of political interference, would affect education adversely in the future.  

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30 Carter, p. 22.

TABLE VIII

EXPENDITURE ON FORMAL EDUCATION BY MUNICIPAL, PROVINCIAL AND FEDERAL GOVERNMENTS*

<table>
<thead>
<tr>
<th>Provinces</th>
<th>Municipal, including Tax &amp; Grants</th>
<th>Provincial</th>
<th>Federal</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Newfoundland</td>
<td>$---</td>
<td>$ 8,012</td>
<td>$ 275</td>
<td>$ 8,287</td>
</tr>
<tr>
<td>P. E. Island</td>
<td>731</td>
<td>1,273</td>
<td>122</td>
<td>2,126</td>
</tr>
<tr>
<td>Nova Scotia</td>
<td>9,658</td>
<td>11,219</td>
<td>824</td>
<td>21,701</td>
</tr>
<tr>
<td>New Brunswick</td>
<td>9,622</td>
<td>8,954</td>
<td>511</td>
<td>19,087</td>
</tr>
<tr>
<td>Quebec</td>
<td>74,748</td>
<td>65,827</td>
<td>6,619</td>
<td>147,194</td>
</tr>
<tr>
<td>Ontario</td>
<td>134,541</td>
<td>93,228</td>
<td>9,303</td>
<td>237,072</td>
</tr>
<tr>
<td>Manitoba</td>
<td>17,774</td>
<td>11,757</td>
<td>2,347</td>
<td>31,878</td>
</tr>
<tr>
<td>Saskatchewan</td>
<td>23,284</td>
<td>15,148</td>
<td>2,289</td>
<td>40,721</td>
</tr>
<tr>
<td>Alberta</td>
<td>31,284</td>
<td>25,244</td>
<td>3,812</td>
<td>60,340</td>
</tr>
<tr>
<td>Br. Columbia</td>
<td>33,493</td>
<td>25,867</td>
<td>3,748</td>
<td>63,108</td>
</tr>
</tbody>
</table>

1956 and 1956-57

<table>
<thead>
<tr>
<th>Provinces</th>
<th>Municipal, including Tax &amp; Grants</th>
<th>Provincial</th>
<th>Federal</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Newfoundland</td>
<td>$---</td>
<td>$ 9,600</td>
<td>$ 882</td>
<td>$ 10,482</td>
</tr>
<tr>
<td>P. E. Island</td>
<td>856</td>
<td>1,484</td>
<td>277</td>
<td>2,617</td>
</tr>
<tr>
<td>Nova Scotia</td>
<td>11,492</td>
<td>15,987</td>
<td>1,570</td>
<td>39,049</td>
</tr>
<tr>
<td>New Brunswick</td>
<td>11,808</td>
<td>9,527</td>
<td>1,882</td>
<td>23,217</td>
</tr>
<tr>
<td>Quebec</td>
<td>94,265</td>
<td>80,756</td>
<td>7,264</td>
<td>182,285</td>
</tr>
<tr>
<td>Ontario</td>
<td>164,563</td>
<td>110,412</td>
<td>14,557</td>
<td>289,532</td>
</tr>
<tr>
<td>Manitoba</td>
<td>21,438</td>
<td>13,105</td>
<td>5,213</td>
<td>39,756</td>
</tr>
<tr>
<td>Saskatchewan</td>
<td>29,707</td>
<td>18,982</td>
<td>3,824</td>
<td>52,513</td>
</tr>
<tr>
<td>Alberta</td>
<td>30,375</td>
<td>44,033</td>
<td>5,596</td>
<td>80,004</td>
</tr>
<tr>
<td>Br. Columbia</td>
<td>29,794</td>
<td>47,275</td>
<td>6,418</td>
<td>83,487</td>
</tr>
</tbody>
</table>

*Thousands of dollars

General Status and Problems of Canadian Education

In 1956, the total expenditure on formal education in Canada was $885,771,000. Compared with the expenditures for 1954, there was an increase of 27 per cent for formal education. Provincial governments paid for 39 per cent of elementary and secondary education. The general trend is towards more and more provincial participation.

For elementary and secondary education alone, both public and private, the total amount spent in 1956 was $763,000,000. This total was an increase of $174,000,000, or 30 per cent over that spent in 1954.

Expenditures of the federal government accounted for slightly over 4 per cent of all public expenditure on education at this level, and amounted to $31,000,000 for 1956. This sum was mainly spent on education of the Indians, for children on crown lands including those on Department of National Defense establishments, and on education in the Northwest Territories and Eastern Arctic.

Total expenditure, provincial and municipal, on the public school systems of the provinces increased from $549,000,000 in 1954 to $708,000,000 in 1956. This was $36 and $44 respectively per capita of population for all Canada. In 1956 it ranged from $22 per capita in Prince Edward Island to $61 in Alberta.

Local taxation for school purposes amounted to $334,000,000 in 1954 and $394,000,000 in 1956, an increase of nearly 18 per cent. For all Canada, school taxes have more than tripled and have more
than quadrupled in Ontario.\(^\text{32}\)

Canada's birth rate in 1957 was at the high level of 28.6 per thousand, higher even than India's. In the years following World War I the birth rate fell steadily until World War II, when it took the upward trend. After World War II, the heavy immigration also contributed as an additional factor. The number of children in Canada under 15 years of age has risen by 28 per cent since 1951, to a total of 5,443,000 or about a third of the total population. More than 3,190,000 children are now in the nation's schools and of these 2,700,000 are in elementary schools. Today there are about 2,000,000 children who are under the age of five, to whom school entrance is an immediate necessity.

This increase will hit the secondary schools hard, but not so hard in terms of cold figures as the elementary enrollment suggests. Compared with some other countries, the Canadian secondary school population is not large. About 65 per cent of the pupils drop out between grades 7 and 11. There is a heavy exodus after grade 10, in which most pupils become sixteen years of age and emerge from the period of compulsory school attendance. In some provinces compulsion ends at fourteen.

The enrollment statistics listed below show the number of children placed in upper grades.

TABLE IX
ENROLLMENT STATISTICS IN UPPER GRADES

<table>
<thead>
<tr>
<th>Grade</th>
<th>Number of Students</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grade 8</td>
<td>223,773</td>
</tr>
<tr>
<td>Grade 9</td>
<td>191,233</td>
</tr>
<tr>
<td>Grade 10</td>
<td>134,888</td>
</tr>
<tr>
<td>Grade 11</td>
<td>89,691</td>
</tr>
<tr>
<td>Grade 12</td>
<td>56,290</td>
</tr>
<tr>
<td>Grade 13</td>
<td>12,312</td>
</tr>
</tbody>
</table>


So long as this condition continues, the investment in secondary schools of all sorts will not have to be on the same scale as on the elementary level. Enrollment between Grades 9 and 13 will rise from the present 471,000 to between 550,000 and 650,000 by 1965, or from 40 to 60 per cent. Some authorities think the number of secondary students will nearly double the present enrollment by 1970.

Hundreds of millions of dollars will have to be spent to build at least 20,000 new classrooms. It is already difficult to get university educated high school teachers in sufficient numbers. It is pointed out that in 1952-53 there were more than 5,100 persons teaching in Canada who had no professional training and about 4,000
more who were below the prescribed minimum of training.

The cost of 38,000 more classrooms will be approximately $750 million in the next seven years.33

There are many who advocate, seeing these problems, that the federal government should take upon itself greater responsibility at the present time. As Mr. LaZerte points out, knowing that each province is autonomous in educational matters, one expects to find differences in schools and schooling among the provinces. In fact, differences among provinces are greater than differences among districts or any one province. Some of these differences result from the fact that some provinces are wealthier than others. For example, some may have twice the tax paying ability. Foundation programs cannot be worked out equitably always. Some programs will naturally be below an acceptable Canadian standard. In such cases, the only solution is to have the federal government make up this deficit in the form of equalization grants. The federal government is the only body which can tax wealth equitably. The tax base will broaden as an increasing number of people will directly share school support when more responsibility for the support of education moves from local to provincial, and on to federal taxpayers.34


CHAPTER VI
FINANCING OF PRIVATE EDUCATION IN INDIA

Before dealing with the financing of private education as such and the existing problems, there are certain preliminary considerations we have to make in this chapter.

In the introduction we have already seen some of the limitations with regard to this study. But in dealing with India, these limitations are more evident as they are related to other factors.

First of all, India is an infant democracy, and the educational system as established and systematized, when compared to the two other countries we have discussed, is relatively recent. In other words, the history of a nationwide educational system is comparatively limited. We also have difficulties in treating India where the comprehensive task of educating the masses was taken up by the national government only within the last decade or so, after India's independence in 1947.

A system of education on a nationwide basis was never attempted before, although even from early times the history of India reveals the existence of educational institutions from the primary all the way to university level. In the case of the United States and Canada, our treatment is of relatively recent times when compared to the history of education in India.
The magnitude of the problem increases when we realize that we are dealing with a sub-continent with a population of about 437 million people. Besides, we are also limited to a great extent by the absence of related data and statistics both of individual regions and of the whole country.

**Present Administrative Set-up**

According to the Constitution, education is the prerogative of the state governments. In every state there is a Cabinet Minister who is in charge of education. In most cases, there is a "Secretary of the Department of Education" who is appointed as the permanent head of the Department. Besides the Secretary there is "The Director of Public Instruction" (in some states known as the "Director of Education") who controls the inspecting staff of all the schools in the state and also the teaching staff of government "departmental" schools.

The authority of the state government in educational matters is in part shared with and in part delegated to universities and boards of Secondary and Intermediate education. In the case of primary education, in some states, local bodies such as District Boards, Municipalities and Panchayat Boards, share this responsibility. But there are a few district boards which have the local autonomy and responsibility with regard to the financing and administration of local schools, which can be compared to the district boards of the United States or Canada.

The Indian educational system is apparently more centralized.
UNION GOVERNMENT

Planning Commission

Ministry of Education

Finance Commission

STATE GOVERNMENT

Education Minister

Secretary of Education

Director of Public Instruction

Departmental Schools

Board Schools

Private Schools

Aided

Recognized

Religious

Non-Religious
First of all, the centralization is on a state-wide basis. It is also controlled by the federal government. There are several factors which bring about this centralization. The expenditure of the state schools and the financial aid given to private schools are both met by the state treasury. There are no local taxes earmarked for education. Though the schools are divided on a district basis, whatever financial aid they receive is either from the state government or the federal government.

All the schools are again controlled by the state with regard to curriculum and other matters. These schools have to prepare students for the state-wide examinations at different levels for which they are bound to teach subjects which are designed by the state authority. If the schools are divided on a district basis, it is only with regard to administrative and supervisory functions of a very superficial nature.

The Union Government (federal) is in charge of the administration of institutions of national importance. Besides, the Union Government controls the education of the states as it examines and approves State programs on the basis of their being in line with the All-India approved educational policy. The Planning Commission of the Union Government formulates the over-all financial policy of the federal government and in this respect allocates the financial obligations in the national educational policy between the federal and state governments.\(^1\)

\(^1\)M. Arokissamy, "Education in India," Catholic and Indian Education (A Symposium), (Trichinopoly, 1955), pp. 124-147.
Kinds of Schools

All schools can be classified into two categories: (a) departmental schools, and (b) private schools.

(a) Departmental schools are those conducted directly by the government on a state or regional basis, and are under the Department of Education of the state authority. There are some states where certain local bodies such as district boards, municipalities and Panchayats share the responsibility with the state government in conducting these departmental schools.

(b) Private schools are of two different kinds: (1) those established and conducted by religious or linguistic minorities, and (2) those conducted by private corporations, agencies, or individuals. As we have seen before, the Constitution of India, under Article 30(1) guarantees to "all minorities, whether based on religion or language... the right to establish and administer educational institutions of their choice," and Article 30 (2) prohibits the state "in granting aid to educational institutions, to discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language." In other words, this Constitutional guarantee to establish schools and receive aid is only for religious or linguistic minority schools. We are concerned only with schools of this nature here, especially religious schools. These schools might again be classified into three categories: (1) those which did not seek aid or recognition from the state, (2) those which wanted aid, and (3) those which wanted only recognition, but not aid.
This was the distinction made by Chief Justice Das in his reference to the Kerala Education Bill in 1957. 2

Religion and Schools

From the very early times, as we will see in the history, schools were related to religious sentiments and they had a prominent place in India. These schools, whether they received public aid or not, took a lead in educating the children. As we will see later, the receiving of government aid restricted these institutions to a certain extent; but still they kept up their religious character. This government aid limited these institutions gradually in their religious expression, and today, it is at a bare minimum. In the next chapter we will discuss the disadvantages of this relationship.

When comparing the religious minority schools like the Catholic schools in India with the Catholic schools of the United States or Canada, the freedom of these schools in teaching religion and in religious activities can be seen to be much less. This has happened mainly because of the dependence these schools had to have on government aid. Today, a Catholic school in any state of India is much more restricted in its religious sphere, compared to a Catholic school in any part of the United States or Canada. The Catholic school, for that matter, any private school in India, has to comply with the rules

2 Pylee, p. 270.
of the Education Department with regard to curriculum and textbooks, besides the usual requirements of teacher-qualifications, building facilities, sanitation, etc. The main difference one may find between a private school and a departmental school will be that the private school is owned by a religious group and usually taught by religious or lay teachers belonging to the same religious group. But in most of the schools, there are children belonging to other religious sects and teachers of different faiths. Thus, for example, what a Catholic child may receive is the same lessons, except the religious instruction he receives outside the class hours in a Catholic school. There is no religious instruction imparted in departmental schools.

Aid and Recognition

As education is controlled by the state government and in our system the schools have to prepare the student for the same statewide examinations so that he may be admitted to higher educational institutions which also have to comply with the state requirements of curriculum and the rest, the Catholic and private schools have to bring themselves into a certain pattern for state "recognition." There is no Catholic university to which our Catholic colleges are affiliated, and as they are affiliated to the state university, the schools who prepare students for higher education in such have to comply with the requirements of curriculum and the rest, of the State Department of Education.
The underdeveloped economy of the country and the lack of industrialization are making the government review the educational policy. As unemployment of the educated is increasing, the state is tempted to solve this problem by restricting the number of graduates at every level. Because of the shortage of openings in industries and the lack of a comprehensive curriculum in the high school, which should give the high school graduate sufficient training for a livelihood, more high school graduates are seeking college entrance. Today, the high school curriculum is designed, as critics say, only as a preparation for college entrance. Bishop L. Raymond of Allahabad, in his address at the Second National Congress of the All-India Catholic University Federation held in 1956, said:

The greatest defect in our educational system and therefore the greatest obstacle in our endeavor to produce an intelligentsia worthy of India, lies in secondary education. Too long has secondary education been dominated by the university, too long has it been regarded not as a stage complete in itself, but as a mere preparation for the university.3

The facilities of colleges, however, are not sufficient to accommodate all those who are seeking entrance. Also, the state is realizing that if they have to absorb all the high school graduates into college, the financial burden will be greater. Besides, the same problem is going to be repeated, as there will be more college graduates coming out without being employed. One way of solving

this problem, the state has found, is by restricting the number of schools. Today, when there is demand for more schools, either to be started as departmental schools or from the part of private agencies, the state is denying permission by refusing recognition and/or aid. Also, the state is attempting to solve the problem by restricting the number of high school graduates.

The typical example is what has happened in Kerala in the past few years. The problem is much more severe here, as we will see later. The following table shows how the state has restricted those who seek admission into colleges.

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage of Pass</th>
</tr>
</thead>
<tbody>
<tr>
<td>1948-49</td>
<td>51</td>
</tr>
<tr>
<td>1949-50</td>
<td>55</td>
</tr>
<tr>
<td>1950-51</td>
<td>54</td>
</tr>
<tr>
<td>1951-52</td>
<td>52</td>
</tr>
<tr>
<td>1952-53</td>
<td>45</td>
</tr>
<tr>
<td>1953-54</td>
<td>46</td>
</tr>
<tr>
<td>1954-55</td>
<td>46</td>
</tr>
<tr>
<td>1955-56</td>
<td>44</td>
</tr>
<tr>
<td>1956-57</td>
<td>45</td>
</tr>
<tr>
<td>1957-58</td>
<td>48</td>
</tr>
<tr>
<td>1958-59</td>
<td>35</td>
</tr>
</tbody>
</table>

*Figures prior to 1956 are from the Travancore-Cochin State Exam. Travancore-Cochin since then has become part of the state of Kerala.

In the past few years, there was an average of about 75,000 students who were appearing for the state-wide exams at the end of their high school program. As educational programs are state-controlled, the state could restrict the number of "passes."

In our discussion, we will be dealing with "aided schools," These are all the private schools which are recognized and aided by the government. These may be conducted by religious or linguistic minorities or by private corporations or individuals which receive aid from the state government. In most of the states these schools need recognition. This is mainly because of the educational setup in all the states. Today, in most of the states in the administrative division, there are mainly two kinds of schools: (1) schools which are conducted directly by the government - which are known as departmental schools, and (2) aided schools - which are conducted by any private agency, religious, linguistic or any other. In giving aid to this second category, the government does not make any distinction, whether they are conducted on religious, linguistic or any other basis. The important criterion is that such a school is qualified to be recognized as a public institution and in most of such cases, they receive the same financial aid in the form of grants, teachers' salaries, etc. With regard to the type of grant they receive, there are differences between states. Thus, some states give flat grants to each school at a particular level, and in other states, the state government pay fully or a proportion of teachers' salaries. Thus, in the state of Kerala, before 1950, the state was giving flat grants,
and since 1950, it is the salary of the teachers. This system will be discussed later.

In Kerala State, recently the government has permitted the private agencies to start certain "recognized schools" for which no aid is given. The reason given for this is lack of funds on the part of the government.

It is not necessary or possible to go through the setup of education in every state. The legal status of the private educational institutions, especially of the religious institutions, is almost the same in every state. There was a historical development which brought about the present status of these institutions, especially in its relationship with the public authority. We will discuss this when we treat the history of education in India. For our purposes we will deal with only those facets of this development which have affected private educational institutions.

Example of One State

With regard to the modern setup, we will discuss in detail the situation in Kerala State. There are several reasons for this. First of all, fundamentally the problems facing the private educational institutions are the same in every state. Secondly, Kerala State, having about half of the Catholic population of the whole of India, brings about clearly the problems of financing Catholic schools. Compared to any other part of India, Kerala had Catholic educational institutions from very early times, and still maintain larger numbers
of institutions. Besides, when compared to any other state, Kerala State is the one which had in the past more difficulties in the conducting of private schools. One of the worst which threatened the very existence of private schools was experienced recently when this state was ruled by the Communists. The Education Bill proposed by the Communists and passed in the State Legislature has given signs to future threats. To a great extent many believed that the guarantee assured by the Constitution was absolute and could not be violated by any state government. The Communist Bill and the after-effects of it have diminished the faith of the people in the "absolute" guarantee contained in the Constitutional provisions. Though some of the Articles of the Bill were proved to be against the Constitution by the Supreme Court of India, still there were provisions in the bill which could undermine the rights of the private schools. We will discuss in detail this bill as it shows that a state government could legislate in such a way as to diversely affect the rights of these schools.

Even to this day, the majority of educational institutions of the primary, secondary and college level of Kerala State are owned and operated by private agencies. Besides, the proportion of private institutions compared with state educational institutions is greater in Kerala than in any other state in India.

Kerala also stands as the highest in the rate of literacy. This means that there are comparatively more educational institutions. This also means that private educational institutions which are in the majority all the time have helped in this achievement of literacy among
the common people. Therefore, the problems of these institutions have greater impact as related to what could happen in other states. Kerala has a larger proportion of its private institutions conducted by religious minorities, especially Catholics and non-Catholic Christians.

**Historical Development**

In this part we will treat only those facets which are related to the financing of education directly or indirectly. From very ancient times, education in India was fundamentally related to religion. This is evident when we examine the history of all the early systems of education. As Archbishop Pothacamury points out,

> The schools of the past had their own distinctive features in our country... Children were taught in the precincts of the Hindu temples and Ashrams and Muslim mosques that reverence and the fear of God were the beginning of wisdom. Catholics and Christians of other denominations had the church and school in close proximity.  

One of our distinguished educationalists, the late William Meston, honorary Principal of the Madras Christian College in India, examining the history of education in India, wrote:

> The close association of education and religion has a historical support which long connection has allowed, and which the thoughtful parent desires to see maintained. It is woven into the texture of national life. ... They (parents) urge often with pathetic earnestness, that there may be a return to that form of

---

education which finds its support in religion.\(^5\)

India is proud of her age-long educational system. Dr. F.W. Thomas, one of the most distinguished indologista, writes:

Education is no exotic in India. There is no country where the love of learning has so early an origin or has exercised so lasting and powerful an influence. From the simple poets of the Vedic age to the Bengali philosopher of the present day there has been an uninterrupted succession of teachers and scholars.\(^6\)

This love of learning was always related to formation of the spiritual faculties of the students. Mr. C.M. Thacore points out how the well-known Arya Samajist reformer Swami Shraddhananda (then Mahatma Munshi Ram) being dissatisfied alike with the official system of education inaugurated by the British in India and the old Pathshala system, raised a voice in protest and emphasized the need for a revolution in educational methods. He set on foot a movement for the development of a new system of education which could revive the ancient Gurukula system and combine with it what was best in the modern official system.

Mr. Thacore, explaining the history and development of this Gurukula system, says that a university was founded by the executive committee of the Arya Pratinidhi Sabha and that this was an "institution...a religious body professing the Arya faith formulated by the Arya Samaj in accordance with the doctrines of Swami Dayananda


Sawaswati," One of the doctrines of the Gurukula system was "to provide an opportunity for the natural development of the physical, mental and spiritual faculties of students."\(^7\)

Catholic educational institutions existed in the state of Kerala from very early times, as Christianity originated in South India from Apostolic times. With regard to other parts of India, as it is pointed out in the historical development of Catholic Education in India:

Catholic schools as we know them today began to exist in India long before the dawn of any government policy of education. By the middle of the fifteenth century there were Catholic missionaries in several parts of India, chiefly in the South, with flourishing mission centres and large numbers of Christians. It was characteristic of the enlightened foresight of these early pioneers that they realized the necessity of sound and widespread education for the nascent Christian communities.\(^8\)

In the sixteenth and seventeenth centuries, missionaries who came from Europe enjoyed a free scope in the running of their schools, unrestricted by any state regulations. Besides conducting schools for Christian children, these missionaries were also pioneers in educating children of other religious faiths and especially of lower social classes.

After the founding of the British Empire in India, the Catholic missionaries had to fight against the opposition of the Protestant


traders and missionaries. The persecution of Catholics during the Reformation time in England had repercussions in India also. 9

The British Imperial Government, however, did not want to suppress the private and religious schools. This is evident from a Resolution issued by the Governor General in Council on March 11, 1904. The Government of India, declaring its educational policy in this resolution, said:

From the earliest days of British rule in India, private enterprise has played a great part in the promotion of both English and vernacular education, and every agency that could be induced to help in a work of imparting sound instruction has always been welcomed by the state. The system of grants-in-aid was intended to elicit support from local resources and to foster a spirit of initiative and combination for local ends. . . . Thus, the educational machinery now at work in India comprises not only institutions managed by Government. . . . but also institutions under private management. 10

In the same resolution, the government enumerated the number of schools at that time in India. There were 105,306 schools, of which 82,500 were under private management.

In 1883 the Education Commission recommended withdrawal of government competition in all levels of education with private enterprise. While the government recognized this advice, it nevertheless saw fit to maintain a limited number of institutions, "both as models for private enterprise to follow and in order to uphold a high standard of

9 Ibid., p. 2.

10 Indian Educational Policy, Being a Resolution Issued by the Governor General in Council, on the 11th March, 1904, (Calcutta, 1904), pp. 11-13.
education."\(^{11}\) The government retained a general control by means of efficient inspection over these institutions.

During the British rule, though, there were schools started both by local authorities of the government's education department and private societies, the encouragement given to education was poor. The situation was similar all through the country in British India. Only in a few native states education had progressed to some extent. Regarding the general conditions of British India, the following facts will explain. These facts and the following figures are given in the official documents of the Parliament during the British rule.

In July, 1828 a circular letter was issued to the several collectors under the Bombay Government, calling upon them to report annually to the Foujdarry Adawlut the number of schools in their collectorates, the number of boys attending each, and the mode in which education was conducted, as well as the mode in which printed tracts were sought after and disposed of. In October, 1829 these reports having been received, the Registrar of the Adawlut was instructed to forward to the government a general report of the state of education in the provinces of the Bombay Presidency.

In the suggestions given to improve education and the number of schools, the following were given: (1) a gradual extension of schools on an improved principle patronizing native schoolmasters, on condition

\(^{11}\text{Ibid.}, p. 14.\)
of improving their schools, (2) establishment of new schools by the government, and (3) by the gratuitous distribution of useful books. In all these early recommendations, the government found it beneficial to encourage the local agencies to improve education instead of monopolizing it. The table below shows the comparison between government conducted schools and village schools which were of a private nature.\(^{12}\)

### TABLE XI

**SCHOOLS AND ENROLLMENT IN BOMBAY PRESIDENCY IN 1832**

<table>
<thead>
<tr>
<th>Schools in which the Master is paid by the Government</th>
<th>Deccan</th>
<th>Guzerat</th>
<th>Concana</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>No. of Children</strong></td>
<td>11</td>
<td>9</td>
<td>5</td>
<td>25</td>
</tr>
<tr>
<td><strong>Village Schools</strong></td>
<td>580</td>
<td>382</td>
<td>722</td>
<td>1684</td>
</tr>
<tr>
<td><strong>No. of Children</strong></td>
<td>9167</td>
<td>11,285</td>
<td>13,386</td>
<td>33,838</td>
</tr>
<tr>
<td><strong>Total Schools</strong></td>
<td>591</td>
<td>391</td>
<td>723</td>
<td>1,705</td>
</tr>
<tr>
<td><strong>Total Children</strong></td>
<td>9724</td>
<td>11,740</td>
<td>13,689</td>
<td>35,153</td>
</tr>
<tr>
<td><strong>Population</strong></td>
<td>1,436,223</td>
<td>1,408,330</td>
<td>1,837,182</td>
<td>4,681,735</td>
</tr>
<tr>
<td><strong>Proportion Attending Schools</strong></td>
<td>1:166</td>
<td>1:142</td>
<td>1:142</td>
<td>1:133</td>
</tr>
</tbody>
</table>


All the three regions, Deccan, Gusserat and Concans had comparatively more village schools (of a private nature) but the figures show, what small proportion attended schools.

TABLE XII

"AN ACCOUNT OF ALL SUMS* THAT HAVE BEEN APPLIED TO THE PURPOSE OF EDUCATING NATIVES IN INDIA FROM THE YEAR 1813 TO THE LATEST PERIOD"...

<table>
<thead>
<tr>
<th>Year</th>
<th>Bengal</th>
<th>Madras</th>
<th>Bombay</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1813</td>
<td>4,207</td>
<td>480</td>
<td>442</td>
<td>5,129</td>
</tr>
<tr>
<td>1816</td>
<td>5,146</td>
<td>480</td>
<td>578</td>
<td>6,204</td>
</tr>
<tr>
<td>1819</td>
<td>7,191</td>
<td>480</td>
<td>1,270</td>
<td>8,941</td>
</tr>
<tr>
<td>1822</td>
<td>9,081</td>
<td>480</td>
<td>594</td>
<td>10,155</td>
</tr>
<tr>
<td>1825</td>
<td>57,122</td>
<td>480</td>
<td>8,961</td>
<td>66,563</td>
</tr>
<tr>
<td>1828</td>
<td>22,797</td>
<td>2,980</td>
<td>10,064</td>
<td>35,841</td>
</tr>
<tr>
<td>1830</td>
<td>28,748</td>
<td>2,946</td>
<td>12,636</td>
<td>44,330</td>
</tr>
</tbody>
</table>

*Sums expressed in pounds.

*Data compiled from Table given in Indian Education is Parliamentary Papers, Pt. I 1852, p. 143.

The above figures show how the British government was financing the education of the different provinces at that time. Bengal, Madras and Bombay were the important provinces of British India. Besides these, there were other provinces and "native states."

In the "native states", the Rajas were the rulers and they patronized education.

In an extract from the reply of Francis Warden, former Member of the Council at Bombay dated April 30, 1832, it is evident that
already at this time there were voluntary societies and corporations which were undertaking the education of children in different parts of India. In the letter of Francis Garden, special mention is made of the Bombay School Committee. This committee, after having provided for the education of the European and Christian children of both sexes, turned its attention in 1819 to the means best calculated for "extending that blessing to the native children of India." The plan met with the entire approbation of the assemblies or panchayats, as the letter points out, of two classes of "native inhabitants." In 1820, the number of children, according to the society's report, exceeded 800, and the expense, 2,500 pounds, was contributed mainly by private individuals.

In a "minute" of Sir Thomas Munro, Governor of Madras, dated March 10, 1826, the following can be seen. In the province of Madras also at this time of the British rule, the policy on the part of the government was to encourage private societies and agencies, to conduct schools. Giving some statistics of the state of education, the Minute says:

It is remarked by the Board of Revenue that of a population of 12 1/2 millions, there are only 186,000 as 1 in 67, receiving education. . . .If we reckon the male population between the ages of five and ten years, which is the period which boys in general remain at school at one-ninth, it will give 713,000 which is the number of boys that would be at school if all the males above ten years of age were educated; but the number actually attending the
schools is only 184,110 or little more than one-fourth of that number.\textsuperscript{13}

In the same "Minute" the total expenses of the schools were given as follows:\textsuperscript{14}

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Madras School - book society per month</td>
<td>Rs. 700</td>
</tr>
<tr>
<td>Collectorate Schools, Mahomeden (20 &amp; 15 Rs.)</td>
<td>Rs. 300</td>
</tr>
<tr>
<td>Collectorate Schools, Hindoo (20 &amp; 15 Rs.)</td>
<td>Rs. 300</td>
</tr>
<tr>
<td>Tahsildary Schools, (300 &amp; 9 Rs.)</td>
<td>Rs. 2700</td>
</tr>
</tbody>
</table>


In the "Minute," there was also suggestion to start public schools. The appointment of a Committee of Public Instruction in order to supervise the establishing of public schools was recommended.

Though we see these above-mentioned instances in British India, encouraging private education, at the same time there was an indirect influence discouraging religious schools. By 1882 the British Parliament was voting large sums of money for schools in India. This encouragement was mainly given to English medium schools. The "Minute of Macaulay" initiated a "downward filtration theory" which became law in 1837. By this he advocated the teaching of English to even a small number of people. This, he believed, would

\textsuperscript{13}Sir Thomas Munro, "Minute," \textit{Indian Education in Parliamentary papers}, Pt. I 1832, p. 189.

\textsuperscript{14}Ibid.
influence the rest of the people. Already the East India Company schools were becoming attractive as those who were educated in such schools were finding it easier to get jobs in the government. This policy indirectly compelled other schools to follow the same methods. The missionary schools also introduced substantial changes in their syllabus and mode of teaching. This was also necessary in order to receive grant-in-aid from the government.

"In 1852-53 there were less than 30,000 students in all the state schools of India while in missionary schools there were more than 300,000."15 The new system of degrees and examinations introduced by the British affected the progress of missionary education and their independent existence. There were already "regional" exams and the private schools, unless they had followed the curriculum of the government schools, found it impossible to have their pupils appear for these exams. For this, the schools were to be recognized by the government. It was also necessary for the private schools to follow the prescribed textbooks and syllabus of the state and to be submitted to state supervision in order to be recognized or to receive any aid. The private schools were still popular among the people but as the state schools were comparatively cheaper, because of lower fees, it affected the private schools adversely. Missionary bodies presented memoranda to the government

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15 Thekaekara, p. 4.
protesting against this policy. By 1882 a uniform scale of fees was introduced in both kinds of schools and the government undertook to defray partially the expenses of private schools by a system of grants-in-aid. This was the general system which extended all through India and are extant even to this day with minor changes. The importance of the "recognition" and the adverse effect of receiving these grants-in-aid will be discussed in the following chapter. 16

Independence and After

When India became independent in 1947, the problems facing the nation were numerous. Along with economic development, industrialization, self-sufficiency in food, and the rest, the government gave prime consideration to the educational needs of the people. Special provisions were made in the Constitution "for free and compulsory education for all children until they complete the age of fourteen years" (Article 45) and so that "the state shall promote with special care the educational and economic interest of the weaker sections of the people, and in particular of the Scheduled Castes and the Scheduled Tribes" (Article 46). These were two of the directive principles of state policy. Provisions were also made for the cultural and educational rights of minorities, which we have seen before (Articles 29 and 30). 17

16 Ibid., p. 4-6.

17 Constitution of India, pp. 16, 17, 26, 27.
In order to solve the many problems confronting the nation, the Planning Commission was formed, which "was based on the recognition that a co-ordinated effort of the Central and State Governments was necessary if the standard of life of the people was to be raised and the directive principles of the Constitution realized."\(^{18}\)

The Commission's function was to set down broad lines of policy in order to assess the material, capital and human resources of the nation and formulate a plan for their most effective use. Needs outnumbered available resources, and it was the responsibility of this commission not only to meet the most urgent needs first, but also to avoid any duplication of effort resulting in waste.

Already two Five Year Plans have been worked out, and the need for a comprehensive educational policy had been given due importance. The Planning Commission did not propose a socialization of all educational institutions. The First Five Year Plan says in the Draft outline prepared by the Planning Commission:

> Educational progress will be speeded up if the potential capacity for self-help which exists in any community, is brought into fuller play. This has special relevance in the field of pre-basic and social education and the provision of buildings for schools. Private agencies working in different fields of education should be given all possible encouragement and support by the State.\(^{19}\)


At the end of the First Plan, though the success was not as great as anticipated, still there was marked improvement in the situation. At the primary level, barely 30 per cent of the children of the age group 6 to 11 were in schools in 1947. At the end of five years, the number increased to about 40 per cent.

Importance was given in both Five Year Plans (1951-56) and (1956-61) to education at every level. But the money earmarked, as it was criticized by many, for educational development, was not sufficient. Mr. L. Mukherji, writing in Education, expressed the fear that the allocation to primary education under the Second Five-Year Plan was too meagre to cause any substantial expansion in facilities for mass education.20

In 1951 the Government of India, according to the Article 270 of the Constitution, set up the Finance Commission in order to "make recommendations regarding (1) the distribution between the Centre and the States of the net proceeds of taxes which are or may be divided between them and the allocation between the States of their respective shares of such proceeds, (2) the principles which should govern the Central Government's grant-in-aid to the States."21

The Commission made recommendations because of the restricted expenditure for functions like education by the State governments. It was necessary for the Federal Government to help the State

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20L. Mukherji, Ibid.

21Ibid.
Governments in their various undertakings. The following table shows the proportion of expenditure incurred by the government agencies in comparison with other sources for education in five states prior to the federal aid.

**TABLE XIII**

**EXPENDITURE ON EDUCATION**
**(1948-49)**

(In Millions of Rupees)

<table>
<thead>
<tr>
<th>States</th>
<th>Government Funds</th>
<th>Board &amp; Municipal</th>
<th>Fees</th>
<th>All other</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assam</td>
<td>7.6</td>
<td>1.3</td>
<td>3.0</td>
<td>1.5</td>
<td>13.5</td>
</tr>
<tr>
<td>Bihar</td>
<td>12.7</td>
<td>14.0</td>
<td>12.0</td>
<td>7.0</td>
<td>46.0</td>
</tr>
<tr>
<td>Bombay</td>
<td>85.4</td>
<td>20.7</td>
<td>35.4</td>
<td>16.0</td>
<td>157.0</td>
</tr>
<tr>
<td>Madhya Pradesh</td>
<td>24.6</td>
<td>6.2</td>
<td>6.7</td>
<td>3.9</td>
<td>41.2</td>
</tr>
<tr>
<td>Madras</td>
<td>86.7</td>
<td>27.6</td>
<td>34.5</td>
<td>22.9</td>
<td>171.7</td>
</tr>
</tbody>
</table>

*A Rupee is equivalent to approximately $0.20.*

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Because of this situation, the Finance Commission made recommendations to the Union Government. Besides the general grants-in-aid to the states, special grants for the next four years on a gradually rising scale, for the purpose of extending primary education, were to be given. This was to be done according to the needs of the States. Only the following states received these grants because of the economic and educational backwardness:
### TABLE XIV

**FEDERAL SUBSIDY FOR PRIMARY EDUCATION (1956-57)**

(In Millions of Rupees)

<table>
<thead>
<tr>
<th>State</th>
<th>Grants</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bihar</td>
<td>8.3</td>
</tr>
<tr>
<td>Madhya Pradesh</td>
<td>5.0</td>
</tr>
<tr>
<td>Hyderabad</td>
<td>4.0</td>
</tr>
<tr>
<td>Rajasthan</td>
<td>4.0</td>
</tr>
<tr>
<td>Orissa</td>
<td>3.2</td>
</tr>
<tr>
<td>Punjab</td>
<td>2.8</td>
</tr>
<tr>
<td>Madhya Bharath</td>
<td>1.8</td>
</tr>
<tr>
<td>P.E.P.S.U.</td>
<td>0.9</td>
</tr>
</tbody>
</table>

14 Ibid., p. 395.

### TABLE XV

**EDUCATIONAL EXPENDITURE UNDER THE FIRST AND SECOND FIVE-YEAR PLAN (RUPEES IN CRORES)**

<table>
<thead>
<tr>
<th>Item</th>
<th>First Plan (1951-56)</th>
<th>Second Plan (1956-61)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Elementary Education</td>
<td>93</td>
<td>89</td>
</tr>
<tr>
<td>Secondary Education</td>
<td>22</td>
<td>51</td>
</tr>
<tr>
<td>University Education</td>
<td>15</td>
<td>57</td>
</tr>
<tr>
<td>Technical and vocational education</td>
<td>23</td>
<td>48</td>
</tr>
<tr>
<td>Social education</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Administration and Miscellaneous</td>
<td>11</td>
<td>27</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>169</td>
<td>307</td>
</tr>
</tbody>
</table>

Approximate amount in Dollars: $338 million 614 million

*A crore equals 10 million and a Rupee is worth approximately $0.20. A crore of rupees is equivalent to approximately $2 million.*

15 Table compiled from S. N. Mukerji, *History of Education in India (Modern Period)*, (Beroda, India, 1957), p. 270.
As it is seen from the table, more importance was given to primary education in both the Plans, according to the directive principle in the Constitution. In the Second Plan, when compared to the first, secondary and university education were stressed.

**TABLE XVI**

**EDUCATION TARGETS OF THE THREE FIVE-YEAR PLANS**

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Primary State 6-11 years</td>
<td>43</td>
<td>51</td>
<td>60</td>
<td>60</td>
<td>40%</td>
</tr>
<tr>
<td>Middle 11-14 years</td>
<td>13</td>
<td>16</td>
<td>23</td>
<td>30</td>
<td>77%</td>
</tr>
<tr>
<td>High School 14-17 years</td>
<td>5</td>
<td>8</td>
<td>12</td>
<td>15</td>
<td>140%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Primary</td>
<td>209.7</td>
<td>278.1</td>
<td>354.9</td>
<td>500.0</td>
<td>69%</td>
</tr>
<tr>
<td>Middle</td>
<td>13.6</td>
<td>21.7</td>
<td>30.0</td>
<td>45.0</td>
<td>121%</td>
</tr>
<tr>
<td>High School</td>
<td>7.3</td>
<td>10.8</td>
<td>14.0</td>
<td>18.0</td>
<td>92%</td>
</tr>
</tbody>
</table>


Facilities for education, health and social welfare have increased substantially during the period from 1950 to 1961-61. It is expected that the percentage of children attending school in the
age level 6 to 11 will increase from 43 in 1950-51 to 60 by 1960-61.
The number of elementary schools will increase from 223,000 in 1950-51 to 385,000 in 1960-61. The total number in schools will go up by 75 per cent and in universities by 140 per cent.\(^{22}\)

The Constitution of India was enacted in an atmosphere of gloom after the assassination of Mahatma Gandhi, the father of our nation, India. This great leader, whose prime object was to give India a secular Constitution, had respected the spiritual values and religious beliefs of all groups and, in this respect, his aim was the full protection of the minorities with regard to their religious and cultural rights.

Archbishop Thomas Pothacamury of Bangalore in an address at the Educational Conference of the All-Kerala Catholic Congress on May 17, 1959 at Palai reiterated the views expressed by Mahatma Gandhi, that it is the duty of the Government to protect and foster these rights. In "The Harijan", written by Gandhi in 1940, he emphasized the need for religion both in social and political life, and he declared that even the existence of the world depends on religion. "To try to root out religion itself from society is a wild goose chase. And were such an attempt to succeed, it would mean the destruction of society. . . . imperfections creep in from age to age, and mar religion for the time being. . . . But religion

itself remains, because the existence of the world, in a broad sense, depends on religion."^{23}

Since denominational schools were doing supreme educational service, Article 29 and 30 were enacted to allay the fears of all minorities. These Articles were included in the Fundamental Rights. The Christian educational institutions have produced a very large number of non-Christian graduates, and the need for encouraging such institutions was felt by all.

From the time of independence, through the protection given by the Constitution and the encouragement given by State authorities, private education has grown to great proportions. In certain States, however, because of the monopolistic tendency of a few influential individuals and parties, or the bigotry of certain groups, problems arose in the conducting of private educational institutions.

After Independence, all the States had encouraged private schools through grants-in-aid and other financial help. But as we have mentioned before, there were a few cases when a tendency on the part of the State authority, knowingly or unknowingly, put restrictions on these institutions.

^{23}Mahatma Gandhi, Quoted by Thomas Pothacamury, Most Rev., pp. 7-8.
<table>
<thead>
<tr>
<th></th>
<th>Primary School</th>
<th>Middle School</th>
<th>Training (non-secondary)</th>
<th>Industrial and Technical Schools</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Number of Institutions</strong></td>
<td>2,774</td>
<td>658</td>
<td>51</td>
<td>137</td>
</tr>
<tr>
<td><strong>Priests or Religious on Staff</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>3,243</td>
<td>2,445</td>
<td>103</td>
<td>271</td>
</tr>
<tr>
<td>Per Cent</td>
<td>17.9</td>
<td>23.2</td>
<td>39.0</td>
<td>58.9</td>
</tr>
<tr>
<td><strong>Lay Catholics on Staff</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>12,448</td>
<td>5,682</td>
<td>80</td>
<td>149</td>
</tr>
<tr>
<td>Per Cent</td>
<td>68.3</td>
<td>54.1</td>
<td>30.2</td>
<td>32.0</td>
</tr>
<tr>
<td><strong>Non-Catholics on Staff</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>2,471</td>
<td>2,335</td>
<td>80</td>
<td>43</td>
</tr>
<tr>
<td>Per Cent</td>
<td>13.8</td>
<td>22.7</td>
<td>30.8</td>
<td>9.1</td>
</tr>
<tr>
<td><strong>Total Staff</strong></td>
<td>18,162</td>
<td>10,462</td>
<td>263</td>
<td>463</td>
</tr>
</tbody>
</table>

TABLE XVIII
EDUCATIONAL INSTITUTIONS UNDER CATHOLIC MANAGEMENT 1955
II. STATISTICS OF STUDENTS FOR ALL INDIA

<table>
<thead>
<tr>
<th></th>
<th>Primary School</th>
<th>Middle School</th>
<th>Training (non-secondary)</th>
<th>Industrial and Technical Schools</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of Institutions</td>
<td>2,774</td>
<td>658</td>
<td>51</td>
<td>137</td>
</tr>
<tr>
<td>Catholic Students</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>382,202</td>
<td>119,123</td>
<td>1,735</td>
<td>7,055</td>
</tr>
<tr>
<td>Per Cent</td>
<td>70.7</td>
<td>51.5</td>
<td>44.9</td>
<td>84.1</td>
</tr>
<tr>
<td>Non-Catholic Students</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>158,326</td>
<td>112,343</td>
<td>2,200</td>
<td>1,270</td>
</tr>
<tr>
<td>Per Cent</td>
<td>29.3</td>
<td>48.5</td>
<td>51.1</td>
<td>15.9</td>
</tr>
<tr>
<td>Grand Total</td>
<td>540,528</td>
<td>231,466</td>
<td>3,935</td>
<td>8,325</td>
</tr>
</tbody>
</table>

18 Ibid.

The above tables show us that in India the Catholic schools admit a large number of non-Catholic students and have non-Catholics teaching on their staff. Also, when we see that the Catholic percentage is only slightly over 1 per cent in the whole of India, it is surprising for an outsider to see the great magnitude of institutions conducted by the Catholic Church.
As we have mentioned before, the financing of private schools and its problems can be well studied from the example of one state. Here we are going to deal with the State of Kerala, in which the private schools in the last couple of decades had been faced with serious difficulties on three different occasions.

**Kerala State**

On November 1, 1956, the present state of Kerala was reorganized on a linguistic basis, including the former princely states of Travancore and Cochin, and Malabar, which was a part of Madras State formerly. Kerala is one of the smallest of the present fifteen states of India in its total area. It is situated on the Southwestern tip of the Indian peninsula. Kerala is one of the thickly populated states of India, with an average density of about 1,000 people per square mile. The population consists mainly of Hindus, Christians and Moslems. The Christians in the State are about one-fifth of the entire population, out of which more than two-thirds are Catholics. More than one-half of the whole Catholic population of India is living in Kerala State.

The increase of population in the whole of India in the last few decades is enormous, but the comparative rate of growth in the state of Kerala is even more than the national average. The following tables show this average growth.
### TABLE XIX

#### I. GROWTH OF POPULATION IN INDIA FROM 1901-1961

<table>
<thead>
<tr>
<th>Years</th>
<th>Persons</th>
<th>Percentage Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1901</td>
<td>235,478,813</td>
<td>---</td>
</tr>
<tr>
<td>1911</td>
<td>248,995,434</td>
<td>+ 5.8</td>
</tr>
<tr>
<td>1921</td>
<td>248,120,746</td>
<td>- 0.3</td>
</tr>
<tr>
<td>1931</td>
<td>275,468,432</td>
<td>+ 11.0</td>
</tr>
<tr>
<td>1941</td>
<td>314,804,664</td>
<td>+ 14.3</td>
</tr>
<tr>
<td>1951</td>
<td>336,879,394</td>
<td>+ 13.4</td>
</tr>
<tr>
<td>1961</td>
<td>437,000,000*</td>
<td>+ 23.0*</td>
</tr>
</tbody>
</table>

*Estimated

#### II. GROWTH OF POPULATION IN KERALA FROM 1901-1961

<table>
<thead>
<tr>
<th>Years</th>
<th>Persons</th>
<th>Percentage Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1901</td>
<td>6,396,262</td>
<td>---</td>
</tr>
<tr>
<td>1911</td>
<td>7,147,673</td>
<td>+ 14.0</td>
</tr>
<tr>
<td>1921</td>
<td>7,802,127</td>
<td>+ 9.8</td>
</tr>
<tr>
<td>1931</td>
<td>9,507,050</td>
<td>+ 22.0</td>
</tr>
<tr>
<td>1941</td>
<td>11,031,541</td>
<td>+ 15.7</td>
</tr>
<tr>
<td>1951</td>
<td>13,549,118</td>
<td>+ 22.7</td>
</tr>
<tr>
<td>1961</td>
<td>15,000,000*</td>
<td>+ 11.1*</td>
</tr>
</tbody>
</table>

*Estimated

---

Kerala state stands the foremost among the Indian states in literacy and educational advancement. The literacy of the state is worked out to be forty-two per cent. According to the census of 1951, the percentage of Travancore-Cochin was 53.7. Of these, the percentage of literacy among males was 64.4 and of the females 43.2. Kerala has at present 736 secondary high schools, 3,509 middle schools and primary schools and 152 single teacher schools.

### TABLE XX

**I. SCHOOLS AND ENROLLMENT IN KERALA STATE (1957)**

<table>
<thead>
<tr>
<th></th>
<th>Total</th>
<th>Private</th>
<th>Per Cent of Total</th>
<th>Departmental</th>
<th>Per Cent of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Schools</td>
<td>9,389</td>
<td>5,983</td>
<td>63.6</td>
<td>3,496</td>
<td>36.4</td>
</tr>
<tr>
<td>Pupils</td>
<td>2,608,823</td>
<td>1,457,639</td>
<td>56.0</td>
<td>1,151,184</td>
<td>44.0</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Private</th>
<th>Departmental*</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lower Primary</td>
<td>4,115</td>
<td>3,058</td>
<td>7,173</td>
</tr>
<tr>
<td>Upper Primary</td>
<td>1,206</td>
<td>367</td>
<td>1,573</td>
</tr>
<tr>
<td>High Schools</td>
<td>572</td>
<td>164</td>
<td>736</td>
</tr>
</tbody>
</table>

*includes Malabar District Board Schools.

---


24 Mampra, p. 3.
<table>
<thead>
<tr>
<th>STATE/ UNION TERRITORY</th>
<th>Persons</th>
<th>Total</th>
<th>PERCENTAGE OF LITERACY</th>
<th>Males</th>
<th>Females</th>
</tr>
</thead>
<tbody>
<tr>
<td>INDIA</td>
<td>5,92,51,001</td>
<td>16.61</td>
<td>24.87</td>
<td>7.87</td>
<td></td>
</tr>
<tr>
<td>STATES</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Andhra Pradesh</td>
<td>41,02,721</td>
<td>13.12</td>
<td>19.67</td>
<td>6.48</td>
<td></td>
</tr>
<tr>
<td>Assam</td>
<td>16,33,753</td>
<td>18.07</td>
<td>27.08</td>
<td>7.81</td>
<td></td>
</tr>
<tr>
<td>Bihar</td>
<td>47,11,967</td>
<td>12.15</td>
<td>20.46%</td>
<td>3.76</td>
<td></td>
</tr>
<tr>
<td>Bombay</td>
<td>1,04,45,240</td>
<td>21.64</td>
<td>31.70</td>
<td>10.99</td>
<td></td>
</tr>
<tr>
<td>Kerala</td>
<td>55,38,975</td>
<td>40.88</td>
<td>50.37</td>
<td>31.65</td>
<td></td>
</tr>
<tr>
<td>Madhya Pradesh</td>
<td>25,62,583</td>
<td>9.83</td>
<td>16.22</td>
<td>3.22</td>
<td></td>
</tr>
<tr>
<td>Madras</td>
<td>62,37,133</td>
<td>20.81</td>
<td>31.69</td>
<td>10.00</td>
<td></td>
</tr>
<tr>
<td>Mysore</td>
<td>37,43,457</td>
<td>19.29</td>
<td>29.08</td>
<td>9.16</td>
<td></td>
</tr>
<tr>
<td>Orissa</td>
<td>23,13,431</td>
<td>15.80</td>
<td>27.32</td>
<td>4.52</td>
<td></td>
</tr>
<tr>
<td>Punjab</td>
<td>24,57,496</td>
<td>15.23</td>
<td>21.03</td>
<td>8.47</td>
<td></td>
</tr>
<tr>
<td>Rajasthan</td>
<td>14,29,712</td>
<td>8.95</td>
<td>14.44</td>
<td>3.00</td>
<td></td>
</tr>
<tr>
<td>Uttar Pradesh</td>
<td>68,25,072</td>
<td>10.80</td>
<td>17.38</td>
<td>3.56</td>
<td></td>
</tr>
<tr>
<td>West Bengal</td>
<td>63,18,603</td>
<td>24.02</td>
<td>34.23</td>
<td>12.21</td>
<td></td>
</tr>
<tr>
<td>UNION TERRITORIES</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Andaman &amp; Nicobar Isls.</td>
<td>7,980</td>
<td>25.77</td>
<td>34.18</td>
<td>12.31</td>
<td></td>
</tr>
<tr>
<td>Delhi</td>
<td>6,69,073</td>
<td>38.36</td>
<td>42.99</td>
<td>32.34</td>
<td></td>
</tr>
<tr>
<td>Himachal Pradesh</td>
<td>85,509</td>
<td>7.71</td>
<td>12.59</td>
<td>2.37</td>
<td></td>
</tr>
<tr>
<td>Laccadive, Minicoy &amp; Amindive Isls.</td>
<td>3,204</td>
<td>15.23</td>
<td>25.59</td>
<td>5.30</td>
<td></td>
</tr>
<tr>
<td>Manipur</td>
<td>65,895</td>
<td>11.41</td>
<td>20.77</td>
<td>21.37</td>
<td></td>
</tr>
<tr>
<td>Tripura</td>
<td>99,197</td>
<td>15.52</td>
<td>22.34</td>
<td>7.98</td>
<td></td>
</tr>
</tbody>
</table>

21 Table compiled from data furnished by Dr. Katherine Kochno, Loyola University, Chicago.
The Church history of Kerala relates that St. Thomas, one of the Twelve Apostles of Christ Our Lord, came to India in 52 A.D. and preached the Gospel.\textsuperscript{25} This was the beginning of the Church in India. In the centuries that followed the Church flourished in Kerala, but it was not until the European missionaries came that Christianity spread to other parts of India. We do not have exact historical evidence of the Catholic educational institutions of the early times. One of the earliest records we have is the advice given by Fr. Cyriac Elias Chavara, the founder of the Carmelite Congregation and the Vicar General of the Syrian community in Kerala. He found that the Syrian community should concentrate on educational work.

The Maharajas of Travancore and Cochin were patrons of education and they encouraged religious and private agencies in conducting schools by giving them all possible help. There was also direct state effort to start schools. In 1834 Maharaja Swati Thirunal sanctioned the starting of an English School at Trivandrum which subsequently developed into Maharaja's College. As English education proved to be necessary and fruitful, the Catholics, led by the clergy, had to concentrate on this.\textsuperscript{26}

In 1894 the government of Travancore gave special consideration

\textsuperscript{25}Bernard, Rev., \textit{A Brief Sketch of the History of St. Thomas Christians}, (Trichy, India, 1924), p. 2.

\textsuperscript{26}Mampra, p. 26.
to the educational needs of the state and initiated a system of administration, inspection, and grant-in-aid for all schools. It was necessary to have a comprehensive system, including both English and Vernacular education, so as to secure unity of aim and method. A new code of rules known as the "Travancore Educational Rules" was formulated in 1894. This code prescribed the conditions necessary for receiving grants-in-aid. There were regulations with regard to teacher qualification, curricula, accommodation and sanitation of buildings, etc.

By the beginning of the Twentieth Century, the Church was taking greater interest in starting as many schools as possible attached to parish churches. This is evident from a Pastoral Letter issued on March 17, 1917 by Bishop Thomas Kurialacherry, the then Vicar Apostolic of Changanacherry. The parts pertaining to education have been translated by Fr. Mempra in his study. In this Pastoral, advice was given to all Pastors of the diocese to start schools attached to their churches and to see to the religious education of the children in the schools. Catholic teachers were to be appointed as far as possible.27

From about the middle of the 1940's there were already plans nation-wide, as India was soon to get independence. At this time, the State of Kerala (as it is today) was three political units in the princely states of Travancore and Cochin and the

27 Ibid., pp. 61-62.
parts called Malabar, which was in the Madras Presidency (British). The first serious education difficulty was experienced just before Independence, in 1945. Reference is made to this incident at the beginning of this study. 28

C. P. Ramaswamy Iyer, the then Dewan of Travancore, introduced a primary Education Act with a view to introducing compulsory primary education and also to nationalize all primary schools. But the attempts for nationalization failed because of the opposition of Catholics and others who strongly fought for their rights. From the early part of this century, among the private agencies who undertook the task of conducting schools, the most important were Christians. The different Christian communities, believing in the need for having their own educational institutions, where religious and moral instruction could be imparted to their children, established their own schools conforming to the curriculum and other regulations prescribed by the Government. The establishment of these institutions continued in accordance with the guarantee declared to religious minorities in the Constitution of independent India. With this aim in view, different Christian denominations in Travancore-Cochin invested considerable amounts in purchase of sites, construction of school buildings, furniture, scientific equipments and libraries.

One of the phenomenal things with regard to the Christian schools in Kerala, and for that matter in all India, is the fact

28 See Above, p. 1.
that non-Christian students were also admitted without distinction of caste or creed. The schools conducted by Christians of various denominations were the first to set an example of admitting the children belonging to Scheduled Castes and Scheduled Tribes and other non-caste backward classes who were debarred from attending the schools conducted by Hindus and even schools conducted by the Government. 29

The Constitution of India, in several of its provisions, has given special importance to helping these "backward classes." Mahatma Gandhi's great ideal was the uplifting of the socially backward classes. This ideal reflected in the views of the other national leaders and hence in the Constitution itself. Even to this day, special provisions are made for the benefit of these classes in the governmental and/or public undertakings.

The Christian missionaries and their schools were the pioneers for putting this principle into practice and hence this endeavor was respectfully recognized by our leaders.

Religious instruction was imparted only to students belonging to their own denominations and there was no obligation on the part of others to attend the classes for such instructions. This is the same system carried on to this day. These factors were given in the statement of the case of the Kerala Education Bill of 1957 by the

29 In the Supreme Court of India, New Delhi, Special Reference No. 1 of 1958 (In the matter of the Kerala Education Bill, 1957), (New Delhi, 1958), pp. 2-3.
Kerala Christian Education Action Committee and the Kerala School Managers' Association, submitted in the Supreme Court of India.\textsuperscript{30}

In this statement, it was argued that the conducting of such schools was in accordance with the Constitutional guarantee given to religious minorities. The Christian community taken as a whole is a minority in the state of Kerala, and in the whole of India.

\textbf{TABLE XXII}

\textbf{POPULATION OF THE VARIOUS COMMUNITIES IN THE STATE OF KERALA IN 1957}

<table>
<thead>
<tr>
<th>Communities</th>
<th>Number*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hindus including backward and Scheduled Castes</td>
<td>8,200,000</td>
</tr>
<tr>
<td>Christians</td>
<td>3,400,000</td>
</tr>
<tr>
<td>Muslims</td>
<td>2,500,000</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>100,000</td>
</tr>
<tr>
<td></td>
<td>14,200,000</td>
</tr>
</tbody>
</table>

*approximate

\textsuperscript{22} Statistics taken from: \textit{In the Supreme Court of India, New Delhi}, Special Reference No. 1 of 1958 (In the matter of the Kerala Education Bill, 1957), (New Delhi, 1958), p. 3.

In the State of Kerala the private schools did not receive any substantial aid until 1930 when the system of aid to lower

\textsuperscript{30} \textit{Ibid.}
primary schools was introduced. The Christian schools were built and maintained with funds belonging to Churches and from voluntary contributions. There was a system of fee collection in the upper primary and high school classes. From these fees, the schools were paying the salaries of teachers and non-teaching staff.

Most of the private schools are under "Corporate Management": thus, all the schools of a diocese are directly under the management of the Bishop. The system of Corporate Management is followed by many other Christian and non-Christian schools. The Travancore Education Code which came into force in 1909 recognized this system of corporate management and gave effect to it by prescribing special provision regarding such Management.31

This system continued until 1950, when teachers began to clamor for higher salaries. The government of Travancore-Cochin introduced a scheme known as the "Private Secondary School Scheme." First the government stipulated that the fee collection of the private schools should be credited to the government, and that the private schools should be credited to the government, and that the teachers will be paid a higher salary direct by the government. Also the government proposed that the teachers will either be appointed by the government or the government will prepare a list of teachers for the managements to choose from. But the managers fought for their rights of administration of their own schools.

31Ibid.
In utter disregard of the opposition, the Government issued an Executive Order in August, 1950, embodying all the provisions objected to by the Managements. The Managements appealed to the Central government. Realizing the justice of the stand taken by the Managers, the Government of India held an investigation directed by a Commission. In the light of the report submitted by this commission, the question was examined by the Union Ministry of Education and the Ministry of Law. A Directive was sent to the State government by the government of India in which the following statements were made:

It clearly denies effect to Article 30 (1) of the Constitution in that it deprives the Manager of a denominational school of the fundamental right to administer the school. It virtually deprives the Managers of their control over the finances of the school (by taking away 80% of the fee income), the right to select their employees and the right to exercise disciplinary powers with respect to them. Under the law as it stands the Public Service Commission of the State cannot be required and so has no power to advise as to the recruitment of the staff of a private school; and the scheme insofar as it involves the preparation of a list of persons eligible for employment as teachers in a private school is repugnant to the provisions of the Constitution.

The scheme imposes unreasonable restrictions upon Managers in the conduct of their institutions and upon persons who, although qualified are prevented from working as teachers, contrary to Article 19.32

In this directive the Central Government pointed out how the scheme would curtail the freedom and rights of the managers. There

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32 The Kerala Communist Government and the Education Controversy, (Private Schools' Rights: Defence Committee), (India, 1957), pp. 5-6.
was also the suggestion that any scheme which may be mutually agreed upon may be adopted.

This scheme, as it was proposed by the state government, would have mainly affected the rights of the school management in the financing of schools. Although it proposed a solution with regard to the demand of higher salaries for teachers, it would have taken away the rights of freedom of the private agencies.

In view of the directive given by the Central government, adaptations were made in November, 1951 in the form of a new scheme agreeable to both state government and private agencies. The following were some of the arrangements agreed upon. (1) The Managements had the freedom and right to appoint the teachers including the Headmasters, according to qualifications prescribed by the government. (2) The Manager was to deposit 80 per cent of the fees collected in his name in the government treasury; he could keep the remaining 20 per cent for contingent expenditure. (3) The Manager would draw the monthly bill for teachers' salary according to the new scale and after getting the approval of the "Inspector", pay the teachers. (4) If the amount deposited from the fees was not sufficient to pay the teachers, the government would meet the deficit. If there was a surplus, the Manager could use it for the school. 33

This arrangement was found to be agreeable as it satisfied

33Ibid., pp. 6-7.
all the parties concerned. The teachers were satisfied with their new salary, and they had no fear that the school authorities could set their pay arbitrarily. The state government had enough check on the schools to see to the well-being of the schools and teachers. By now, the state government was introducing free education in the higher grades also. By 1955-56 tuition fees were abolished, including Form III (8th Grade). Now the government had to pay a larger share of the teachers' salaries.

By now everyone believed that the problems were solved and the private institutions could carry on their services with freedom. About 85 per cent of the children of school-going age were receiving instructions at this time. This outstanding progress had been considered as the result of the untiring and selfless service rendered by the private agencies, foremost amongst whom were the Christian communities of the state. The highest percentage of literacy has been achieved in places where private schools of the state of Kerala were demonstrably superior to government schools in the matter of results, discipline, facilities and the rest.34 One example of this superiority of the private schools were verified in the "Exhibit B", submitted to the Supreme Court of India.

34 *In the Supreme Court of India*, p. 5.

<table>
<thead>
<tr>
<th>Percentage of Pass</th>
<th>Number of Private Schools</th>
<th>Government Schools</th>
</tr>
</thead>
<tbody>
<tr>
<td>Between 90 and 100</td>
<td>12</td>
<td>0</td>
</tr>
<tr>
<td>Between 80 and 89</td>
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<td>Less than 10</td>
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23Ibid., p. II.

That at this time there was greater attraction for parents to send their children to private schools is understandable from the above data. S.S.L.C. (Secondary School Leaving Certificate) Examination is conducted by the Department of Education of the State on a state-wide basis, supervised by state examiners.
The Communist Government and the Education Bill

Probably the first time in history that the Communist Party took the reins of a state through democratic elections, happened in the state of Kerala on April 5, 1957. In the ten years following the independence of India, the democratic parties of the state could not solve the many problems. The problems were such that they could not solve them, nor be solved by any government. Complicated as they were, including unemployment, especially of the educated, large population, shortage of necessities like food and housing, the people grew more dissatisfied with the parties in power until then. To this kind of dissatisfaction were added new factors of rivalry on the basis of religion, caste and economic status.

In the following state elections, as the democratic parties were divided, the Communists took advantage and, receiving only about one-third of the votes cast, they were able to form a government with the bare minimum. In the State Legislature, their members were less than one-half, but getting the support of a few independent members, they formed the State Cabinet. An analysis of the election results showed that it was the religious, social and economic backward groups who supported the Communist Party. The great propaganda about Russia and China attracted away ignorant and poor to work for them. The Christians as they were a minority (about 24 per cent), though they voted for democratic parties, could not win the elections for their parties.
Out of the 7,600,000 eligible voters in Kerala in 1957, 5,400,000 exercised their voting privilege in this election. Of these, the Indian National Congress (the party in rule in the Centre and all the other states) secured about 2,210,000 votes. But this obtained for them only 43 seats out of the 126 of the State Legislature. The Communists received about 2,059,000 votes but they were able to get 60 seats of the Legislature. This is the background in which the Communists took the reins of the state government.

One of their first "reforms" was the notorious Education Bill, published by an extraordinary Gazette on July 7, 1957, within three months of their assuming the power. Within a few days, when the State Legislature was scheduled to close its session, on July 20th, they introduced this Bill in the Legislature.

From the time that this Bill was published, the people of Kerala protested against some of its provisions, and complained to the Union and State authorities about the pernicious nature of those provisions. This agitation gathered force, and thousands of people gathered in the Capital to stage non-violent demonstrations. The objectionable portions were pointed out on several occasions by the Kerala Christian Education Action Committee, the Kerala School Managers' Association, the Kerala Catholic Congress, Catholic Union of India, and various other organizations and institutions of the State. A deputation representing the various sections of the people of Kerala led by Sri Thykad Subramonia Iyer, former Advocate-General,
waited upon the President of India, and presented a "Memorial" protesting against the Education Bill and its offensive provisions which at the time were being discussed in the State Legislature.

This Education Bill of the Communists did not only affect the financing of the private schools but virtually attempted to take away all the freedom and rights of the private agencies in conducting their schools. The Private Schools Rights Defence Committee, in its publications, has discussed in detail these objectionable provisions, which are summarized below.

(1) A perusal of the Bill will convince any one that the object of the Communist Government of Kerala was to hand over the educational structure of the State to their communist partisans and to regimentalize children on the communist patterns.

(2) The Communists were attempting to abolish all moral principles and national ideals preserved in the culture of India and in the various religious denominations of the Republic of India.

(3) It is evident that the Communists wished to firmly establish their party by enrolling the teaching staff under their banner and enlist as many people as possible as their partisans.

(4) The Communists were further attempting to modulate the State into a totalitarian regime, as all respect for democracy has been thrown out in the provisions of this Bill.

(5) The freedom of the individual, as well as all democratic principles, were ignored.
(6) Teachers in private schools were made virtually Government servants, according to the Bill, as the Government was their strict paymaster.

(7) Should this Bill be passed, private schools would either become defunct or pass into government's hands, as it would be impossible for them to survive.

(8) It is not understood why this drastic Bill is being adopted, or what major defect is found in the present system. In fact, it was found that the present system had resulted in greater efficiency of education and spread of literacy, and had ranked this state as first in these accomplishments. Therefore, sufficient reason should have been given and proved before shattering such a beneficial system.

(9) The government had all the power under the new Bill, while the Manager had no rights whatsoever and was "assumed to be a reprobate fit only for fines and penalties."

(10) The inexplicable refusal to publish the bill for public expression and opinion and indefensible hurry with which the Bill was proposed to be passed into law within seven days, loudly proclaim that the Kerala Government had no respect either for the Constitution or for the principles of democracy and that they had their own reason to adopt the procedure mentioned above.35

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Some of the provisions of the Act which were mainly objected to were the following:

(1) Clause 11 of the Bill restricts the powers of the Managements in selecting teachers for the school. The exercise of the administrative right of a school Manager is essentially in his right of selecting and appointing teachers. The purpose for which the school is established and administered is defeated if the Manager has no freedom to select and appoint the teachers. Clause (2) of this section completely deprives the Management of its right and results in practically vesting this right of appointment with the government.

(2) Clause 7 (1) of the Act provides that the appointment of the Manager of a school by the educational agency must be with the approval of the authorized officer. This, indirectly, gives the power to the government to choose who can conduct schools.

(3) Several clauses of the Bill compel the Manager to transfer the powers with regard to financing and payment of teachers, of the schools, to the government.

(4) Clause 9 (1) and (2). The salary of the teaching and non-teaching staff is to be paid by the Headmaster (Principal) and not by the Manager.

(5) Clause 9 (3) provides for a grant for the maintenance of schools, but the many conditions for receiving this grant make it almost impossible.
(6) Clauses 17 and 18 are provided as an innovation. In the Bill there were to be local authorities similar to members of school boards. But these local authorities were to have undue right even so far as to deciding the opening of new schools.

(7) Clause 19 provided for a new set of "recognized" schools but the conditions were so many that it almost equalled those for aided schools and still there was no financial aid to be given by the government.

As soon as the Bill was passed in the Legislature, it was forwarded to the State Governor for legal sanction. There was universal protest through Memorials, meetings, and demonstrations of all kinds. Most of the papers, with the exception of the Communist papers within the state and outside the state, wrote long Editorials expressing the shortcomings and drawbacks of this Bill. The Bill was to be submitted to the President of India for his assent because of certain of its provisions which empowered the state government to compulsorily acquire private property. The Constitution of India under Article 31 asserts that "a law made by a state legislature with regard to compulsory acquisition of property shall have no effect "unless such law, having been reserved for the consideration of the President, has received his assent."\(^{36}\)

The President of India, Dr. Rajendra Prasad, after examining

\(^{36}\textit{Constitution of India}, \text{ p. 81.}\)
the Bill, referred the Bill to the Supreme Court of India for their legal advice.

Under Article 143 (1) of the Constitution of India the President made this reference to the Supreme Court. We have to take a few factors into consideration with regard to this reference.

(1) The President did not refer the whole Bill with all of its clauses to the Supreme Court with regard to their Constitutionality. Only four points were referred to.

(2) The President did not refer many of the other provisions in the Communist Bill, which were apparently held to be unconstitutional. An example of this is Clause 11, which said that the public service commission of the State shall have power to select candidates for appointment as teachers in private schools. As to the other statement made by the Advocates on behalf of the Kerala Christian Education Action Committee, on the Kerala School Managers Association, this clause will offend Article 30 (1) of the Constitution of India. The reason given was that the managers of the schools of a minority community will not be free to appoint teachers whom they think best and desirable for educating children of a minority community in the manner that will further the culture of that religious or linguistic minority.

It was further submitted that Article 321 of the Constitution empowers the public service commission to select candidates for public institutions only. It was contended by the advocates for
Private schools that private aided schools were not public institutions within the meaning of the said Article 321 of the Constitution, and hence Clause 11 contravenes the provisions of Article 321 and the right of the minority guaranteed in Article 30 (1) of the Constitution of India.

(3) According to jurists, as the Supreme Court did not make a judgment on the rest of the clauses, as in cases adjudging the rights of individuals or parties, in actual cases these clauses could still be questioned with regard to their legality. According to them, whatever the opinion given by the Supreme Court to the President need not be the same in future cases with regard to such rights questioned in court.

(4) This reference did not have the same force of law as it would have had if it was given in the judgment of a Supreme Court case.

The following were the four questions about which the President asked for the legal advice of the Supreme Court.

The first question was regarding the provision made in the Communist Bill, namely: "after the commencement of this Act, the establishment of a new school or the opening of a higher class in any private school shall be subject to the provisions of this Act and the rules made thereunder and any school or higher class established or opened otherwise than in accordance with such provisions shall not be entitled to be recognized by the Government."37

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With this clause the President also questioned the legality of Clause 36 of the Bill, which pertains to rule-making powers. The question was whether these clauses offend Article 14 of the Constitution. This Article of the Constitution says that the states shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

The second question related to the validity of the Clauses of the bill pertaining to establishment of new schools, remittance of all school fees and other dues to the government, payment of salary to the teachers through the headmaster, government prescribing the qualification of teachers for appointment, etc.

The third question related to power to "acquire" any category of schools.

Question four referred to courts not to grant injunction or make any interim order restraining any proceedings which are being or about to be taken under the Bill.

In the reply of the Supreme Court in a six to one decision the court held that Clause 3 (5) of the Bill was invalid. This clause of the Communist bill restricted the establishment of new schools and new classrooms in any private school. Speaking for the majority on the content of Article 30 (1) Chief Justice Das said:

The first point to note is that the Article gives certain rights not only to religious minorities but also to linguistic minorities. In the next place, the right conferred on such minorities is to
establish educational institutions of their choice. 

... There is no limitation placed on the subjects to be taught in such educational institutions.\(^3^8\)

The Supreme Court held in its decision that the Article 30 (1) "gave all minorities, whether based on religion or language, two rights, namely, the right to establish and the right to administer" their schools.\(^3^9\)

Referring to the argument that no conditions could be imposed with regard to the administration of minority schools, the Chief Justice stated that the right to administer could not include the right to maladminister. The constitutional right to administer an educational institution did not necessarily militate against the claim of the State to insist that in order to grant aid the State might prescribe reasonable regulations to ensure the excellence of the institutions to be aided.

In their reply to the President, the Supreme Court judges, making a distinction of three kinds of schools, said that the state has to "recognize" the schools of the minorities which sought only recognition. The Chief Justice said that without such recognition the schools established or to be established by the minorities could not fulfill the real object of their choice.

\(^{3^8}\)Chief Justice Das, Kerala Education Bill (1957), In the matter of, quoted by Pylee, p. 269.

\(^{3^9}\)Ibid., p. 270.
"The right to establish educational institutions of their choice should therefore mean the right to establish real institutions which would effectively serve the needs of their community and the scholars who attend such institutions."\textsuperscript{40}

The Chief Justice, in this context, said:

We the people of India have given into ourselves the Constitution which is not for any particular community or section but for all. Its provisions are intended to protect all, minority as well as majority communities. There can be no manner of doubt that our Constitution has guaranteed certain cherished rights of the minorities concerning their language, culture and religion. These concessions must have been made to them for good and valid reasons.

So long as the Constitution stands as it is and is not altered, it is, we conceive, the duty of this Court to uphold the fundamental rights and thereby honour the sacred obligations to the minority communities who are of our own.\textsuperscript{41}

The President, because of this finding of the Supreme Court, denied assent to the Bill and returned it to the State Government for necessary modifications. The Communist Government made a few modifications with regard to what they thought best. The protest and agitation continued in the State. It gained more momentum because of the many totalitarian methods the Communist Government adopted to safeguard their party rule. The following are some of the atrocious measures they adopted to silence the opposition.

\textsuperscript{40}Pylee, p. 271.

\textsuperscript{41}Chief Justice Das, quoted Ibid.
Within the 27 months and 27 days of the "Red Rule" the democratic minded people had to undergo immense suffering.

Total number of arrests 149,341
(including nearly 60,000 women)
Number of political murders 21
Number of mass beatings 245
Number of police firings 7
Attempted murders, street fights and gang assault and battery 189

Several All-India leaders including Prime Minister Nehru himself visited Kerala and realized the emergency of the situation. As advised by the Prime Minister, the President of India, according to Article 352 of the Constitution, dismissed the "Red Government" and introduced "President's Rule" on July 31, 1959. In the ensuing election in February, 1960, the Democratic Parties united to defeat the Communists. All the Communist leaders including the Education Minister lost in the election, suffering a great defeat. The Democratic Parties made a coalition government according to their understanding during the elections. This government is still in power in Kerala (November, 1961).

The amended Bill in the meantime had got the assent of the President and therefore it had become the Act. There were only minor changes made as to the reference of the Supreme Court and as it was pointed out before, the Communists changed only the least necessary to save their face.
There were legal difficulties for the new democratic government to completely withhold the provisions of the Bill as it had legally become an Act. The State Legislature had passed it and the President had given the ascent. The democratic government is making slow changes in the Act as the private schools are still protesting the inequities contained in the Act.

One of the most protested clauses of the Bill, namely the appointment of teachers by the State Government, is removed, and the Manager is given freedom.

In a Memorandum submitted to the Chief Minister of Kerala by the President of the Kerala School Managers' Association, the following points were raised as still restricting the rights of the Managers and, therefore, requested them to be amended.

1. Restriction with regard to establishment and maintenance of schools.

2. Election of the Board members.

3. Inspection of Stock and Property Register.

4. Settlement in the case of a dispute between a teacher and the Manager, regarding salary or arrears.

5. Salary of teachers should be paid direct by the Government or Headmaster. The Manager wants this to be changed so that the payment bills should be countersigned by the Manager.

42Memoranda, Submitted to the Chief Minister of Kerala by the President, Kerala School Managers' Association, (Kottayam, India, 18th March, 1961), pp. 1-6.
(6) Payment of non-teaching staff. Managers wanted this power with, if necessary, supervision by the government.

(7) Maintenance grants.

(8) Regulations with regard to "recognized" schools.

(9) Grants-in-aid - the Managers requested on a per-pupil basis, per mensem.

(10) Arrears of grant.

(11) Grants for the expenses of Corporate Managements.

(12) Special fees - irregularities in the collection of special fees and therefore pointed out that the Managers be in custody of the same.

(13) Increments and Leave for Teachers - to be sanctioned by the Manager subject to the ratification of the controlling officer of the department. Casual leave to teachers and non-teaching staff may be sanctioned by the Headmaster.

(14) Age of appointment and retirement. Request was made to fix the age of retirement of private school staff at sixty irrespective of the date of appointment.

As it can be seen from the above matters, there are still several restrictions imposed on the school Manager, some directly with regard to the financing, and some indirectly. Most of these restrictions and some of them serious, are because of the grants-in-aid the schools have to receive.

Because of the backward economy there are not many regions in
India where Catholic schools could be conducted entirely on voluntary contributions. Grants-in-aid and "recognition" are important factors in the conducting of schools in India. In the next chapter, we will discuss some of the disadvantages of this system. Recently, after the democratic government came into power in Kerala, there was a new demand on the part of some agencies to have "recognized" schools. In a state government notification published in the papers July 24, 1961, the Kerala government sanctioned nine "recognized" schools. The report said that there were requests for about 200 schools and the government, after considering the applications, chose these nine as a trial. The government also expressed its willingness to sanction more in the next academic year if these schools proved successful.

In these "recognized" schools the Managers are allowed to collect tuition but a maximum is fixed by the government. The qualifications of the Headmaster and the teachers are stipulated to be the same in aided schools.

The present Chief Minister explained the education policy of his government in an address given at the Aided Primary Teachers' Union Meeting in Cannanore on January 22, 1961. He reiterated his government's intentions to gradually rectify the harm done by the Communist Government not only to the private schools but to the whole educational system in the state. Quoting Prime Minister Nehru, he said that it was his government's intention to carry out

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the Union Government's decision to extend "scholarship" to all needy students. Already in the State, education was "free" up to the 8th Standard (Grade 8). This was unique in the whole of India. The state was also planning to give free lunch to all the children in schools, but as the government was in short of funds, he requested the help of rich people. Regional committees were to be formed all over the state to undertake this successfully.44

Prime Minister Nehru announced in Calcutta on April 11, 1961 that it will be unfortunate if even one child could not carry on his education because of shortage of funds. He reiterated the urgent need to extend free education to all the regions possible.45

The government of Kerala published on May 18, 1961 the rules and instructions with regard to giving free lunch to all school children. The state had to provide lunch for about two million primary school children. The government was prepared to pay two-thirds of the expense and the rest was to be collected by regional committees from charitable institutions and individuals. It was reported on August 11, 1961 that the American CARE organization was prepared to help the state government in their endeavor to give free lunch to school children. They were willing to supply enough milk powder, butter, flour and corn meal for this purpose, which will greatly aid the state government in their aim.46

45Deepika (April 11, 1961), p. 3.
CHAPTER VII

ADVANTAGES AND DISADVANTAGES OF THE EXISTING SYSTEMS

Before dealing with the advantages and disadvantages of the existing systems of financing of private education in these three countries, we have to make some general conclusions.

First of all, in our analysis, we have found that the problem existing in all these three countries are such that the private educational institutions cannot carry on their work successfully without receiving public aid of some kind or other. Later we will analyze the defects of the present system in receiving this aid, and in the next chapter give suggestions as to new schemes or adaptations of present schemes to correct the inequalities and defects. We have seen that the existence of these institutions is important for various reasons. Their religious, cultural and social aspects are all important. Besides these considerations, we have to view them also as doing a public service in one of the needs of the society, namely, imparting knowledge. Often, if not for other considerations, this aspect may be appealing to the general public. The need for having these institutions is not the same for every individual or group. Very often the sacredness of the reason for which a group argues vehemently for such schools may not at all be appealing to others. But there is one reason which may appeal to them. This reason, in
fact, is equally important as the religious or cultural aspect of conducting such schools - and this is its public service aspect. Even those who oppose these schools receiving public aid, on the basis of religion, look favorably on them for their service to the community.

It is important, therefore, to have better understanding by the general public. There will be some who are always prejudiced and would oppose such institutions receiving public aid. But most of the people as they realize the public service of these institutions, should be made to understand that when Catholics or a religious minority claim for public funds, it is not for their religion, but for their children who should be educated in a religious atmosphere. The importance should be given to the educational aspect.

As we have pointed out before, no constitutional or legal prohibition can stop people from using, indirectly, public aid for religious purposes, as long as people have the freedom and are religious minded. But as we have seen, the purpose of the principle of "separation of Church and State," or "secularism," is to guarantee that public authority does not prefer and discriminate one religion to another. It should also be the public policy not to be entangled in religious matters so as to be unnecessarily involved in religious controversies. It is necessary, and more and more it is being realized now, that religion is necessary for people and the State, in looking for the welfare of its people, should do whatever it can to help the people in this need. Perhaps a tendency towards secularism, following the
catastrophic results of a union of Church and State, prompted the people to take the extreme opposite attitude and thus go far beyond what they had considered as ideal. Thus, as we have seen, knowingly or unknowingly, people compromise to a "secularistic" philosophy.

As we have seen in our study, the financing of private education is carried out in different ways. It ranges from a system almost exclusively financed through public funds in the province of Quebec in Canada, to an entirely voluntary contribution system in the United States. As we have indicated before, a complete prohibition of any benefit accruing from public funds is not carried out or possible. In the ideals of democracy, it will look surprisingly strange for one to notice that there is so much difference in these three countries.

We will treat the advantages and disadvantages, first of all, assuming that public funds should be available for the efficient conducting of these schools. Secondly, we will treat the merits and defects with a view of suggesting the best which can be adopted to the system in India. We will take each country, giving the general advantages and disadvantages, and discuss some of the aspects in particular.

The United States system, which has existed until now, may be considered to a great extent the very best, if this can be done in every country all the time. Here, though it may be noticed that there is a principle being sacrificed, practically speaking the private educational institutions have not received their share of public funds. It may be against the principle of justice; it may be because of a lack
of understanding or because of any other reason. The result is the tremendous sacrifice which the Catholics have made in the past. To this writer, however, it has several advantages, not from a practical point of view of financing, but in safeguarding the ideals for which such schools are being conducted. This is not only because these schools do not receive public aid and therefore they are not bound by restrictions of the public authority, but also because of the autonomy and freedom these institutions enjoy. Our concern will be to propose solutions, when they receive public aid, that they will still be autonomous and free, which is fundamental to the ideal for which they exist. In a general comparison, we notice that the Catholic schools in the United States have the freedom to put into practice the ideals of Catholic philosophy as these schools are conducted. Whereas in India when we receive public aid, because of this and also because of other factors which are related to this, they are being restricted to a great extent and thus may be considered not to achieve the best results.

One of the serious shortcomings which can be noticed with regard to the United States is the impact of the proposed federal aid on the Catholic schools. As we have pointed out before, the very plan of federal aid to education is necessitated because of the inability of the local financial structure to bring up the educational quality to the optimum level expected. President Kennedy himself had pointed out that this program of federal aid is to raise the educational standard and also as to the needs of the future. But as it can be noticed, if
this is done only to a proportion of the schools, the overall aim will not be achieved. As James Reston, columnist and reporter commented, "the main reason for federal aid in the first place was to see to it that the nation develops all the brains it has and if this reason is valid, it surely needs Catholic brains as well as Baptist or Presbyterian brains."¹ Money alone does not provide a good education but money definitely has a prominent part to play. So if the Catholic educational institutions do not participate in this program, in the long run Catholic schools are going to be affected in the adverse and it will be unfortunate that a large proportion of the American children will be bound to have an inferior education.

In the United States the present system has several advantages. So far, the Catholics, through their voluntary contributions, have financed an excellent system of private educational institutions. People were not very much concerned from a theoretical point of view of the justice in receiving public aid for the services they have done. Especially the Catholics who stood for an ideal of having a system to educate their children in a Catholic atmosphere, have made tremendous sacrifices in the past. As we have seen from the history, there were occasions from the very beginning when they claimed a just acknowledgment of their service, in the way of public aid. But they were not prepared to accept this aid if this would curtail the freedom and the principles

¹ James Reston, Quoted in What are they Saying about the Constitutionality of Federal Aid to Private Schools?, p. 5.
for which they stood.

Today, we have come to a situation when the future looks rather gloomy. It is not because the Catholics are not prepared to make sacrifices. There are some who feel that more sacrifices should be and could be made, which we will treat later. But it is evident from the figures we have quoted before, that to have a comprehensive system as the Catholics have now, will not be possible for long. The increasing number of Catholic children, the shortage of religious teachers, the magnitude of the educational expenses, etc., are making the leaders to take a different attitude. The demand for public aid, local or federal, has increased in these years, not because the Catholics had not realized the inequity of such a denial, but more because of the apparent fear of their inability to continue this spirit of sacrifice as to the needs of the future.

One of the important advantages of the existing system in the United States is the responsible relationship between the parents and the school authorities. When the Catholics support their schools they have the feeling that these are institutions of their choice. And as there is an immediate relationship between the people and the schools the people are naturally more interested in the welfare of such schools. If the schools are supported through governmental aid, this relationship is bound to be adversely affected. The school authorities neither would have the responsible dependence on the good will of the people. This dependence does help the people to seek the efficient performance of the schools and the authorities to put an effort to bring about the
best results. This close relationship is one of the important merits of the present system. In a wider sense, the success of a private enterprise when compared to a state undertaking, is reflected in this. The lack of this kind of responsibility is criticized not only with regard to systems in other countries, but also the public schools in this country.

It is evident from the past that the parents are willing to make sacrifices according to the needs of their children, and this voluntary sacrifice has more meaning to them and therefore they are willing to make greater sacrifices if needed.

There are, however, serious shortcomings in the present system. One of the most important defects of the present system is the entire dependence on the sacrificing spirit of the people. As we have pointed out before, the ability of the people is limited. This is adversely affected by the increase of the cost of education. Today, there is a general feeling that through increased taxation for governmental services, people are being overburdened. The Catholics, besides these governmental demands, are also bound to support the increasing needs of the public schools. And people feel that this will be on the increase as money is to be provided because of federal aid to public education.

As we have pointed out before, there is a larger proportional increase of children seeking entrance into Catholic schools. The school authorities, because of this demand, are forced to find means to provide facilities for such.
The average cost of education has increased in large proportion in these past years because of several other factors.

The proposed federal aid to public education, as we have pointed out before, is going to provide better facilities for public schools. This is going to influence the private schools to increase and upgrade their facilities also.

In looking into the demerits of the existing system, we also have to review the ability on the part of the Catholic parents to adequately provide for the needs of the schools in case no public aid is available. There are some who believe that the Catholics are able to do more to maintain their private educational system. But this will have to be more efficiently done than it is now. We will discuss some of the proposals in our conclusions in the next chapter. But, as it is shown:

It is unfortunate that Catholics today appear to be less willing to support their Church and its institutions during this period in history than were their forefathers, many of whom were on a very low level on the economic ladder. Parents feel that the payment of nominal tuition, (in some schools) nominal in terms of cost, satisfies their responsibility. Others whose children are educated feel that voluntary contributions of microscopic sums each Sunday and an occasional donation to a high school or college building fund discharges their obligation to Catholic education.2

The original theory of supporting an education through local 

finances is already being questioned with regard to its practicality. As we already see in the United States, there is a change of the theory in a great many people. We see that in the past the schools were conducted locally and there were earmarked taxes locally collected to support educational needs. But as educational costs increased, there was demand for new or increased taxes. And today, it has come to a position that people feel that whatever might have been the original theory of local autonomy, and local responsibility, it is being shifted. The responsibility itself has shifted from the local to the state, and now ultimately the demand is on the federal government. In the very same way, with regard to the Catholic schools, there should be better understanding of the responsibility in a wider sphere. This will bring about better results. Centralization to some extent, and planning and responsibility on a national scale is more and more considered. The same can be proposed with regard to Catholic schools.

One of the serious disadvantages existing in the present system is because of the rigidity of the theory of local autonomy and responsibility. This affects to some extent Catholic education as well as public education. This is especially true with regard to the Catholic public schools in Quebec, Canada. In the present system, local educational districts have a large responsibility in financing education and the kind of education, because of this theory, to a great extent is dependent on the local financial capacity. But as regions are different in their financial capacity, naturally one
locality will be able to provide for better educational costs than another. It often happens that certain districts or dioceses can give better salaries and this attracts better teachers to such regions. If education is an important need of every child, the quality of education imparted to every child should not depend on local financial ability. This should be corrected in the immediate future more on a national basis so that there should be a uniformity in the provision of funds for educational costs and thus every child is assured the equality of opportunity.

At least until now the financing of schools was viewed from a local level, often with the parish as a unit. But the tendency is more towards centralized planning at a diocesan level. Whatever might be the defects which may be pointed out, this will have better results. At least in the secondary school level, attempts are made in certain dioceses which we will discuss later. But the need even on a national level is being felt more and more and the services of the N.C.W.C. Department of Education and N.C.E.A. are commendable. Even on a diocesan level, it is often noticed that better financial setup is possible. As Bishop Shehan pointed out in his address, "Our Commitments and our Resources," before the National Catholic Education Association in Atlantic City:

Undoubtedly in some places the financial burden of our primary and secondary schools could be eased somewhat by more careful planning. The rapid shifts of population in our large cities are leaving some of our parishes with their educational plants almost depopulated. Before we incur great debts for new plants, especially in areas where a new
shift of population can be foreseen, we ought to make sure that our old plants continue to be used to full capacity.³

There are some defects in the present system which by all means should be corrected, especially when it is the choice of conducting schools without public aid. In this case, the maximum utilization of the available resources will be of immense importance. We will discuss this later in our conclusions, as proposals. Here we will only make mention of some of these factors which may be pointed out as defects of the existing system.

1. It was pointed out that on a national basis or even on a diocesan scale there are schools and school rooms which can be more efficiently and economically utilized, thus eliminating any waste.

2. There are matters undertaken by Catholic schools which can be otherwise done by other social service agencies and thus utilize the available resources, including manpower, for purely educational matters.

3. Better forms of contributions for the support of schools on the basis of ability, should be devised. As we have pointed out before, there are some who believe that even at the present economic status the Catholics of this country can support the additional costs of Catholic education. This is at least possible if a more efficient system of securing resources is envisaged. Today, besides the small

³Shehan, p. 39.
tuition collected in a few schools, the voluntary contributions given are on a general basis of parish support. People should be made to realize the importance of Catholic education and hence should take upon themselves the responsibility of participating in this cause. If people are able to pay more, they will be more willing to give when they realize the purpose and the importance of such contributions.

4. There are some who criticize the lack of sufficient professional planning for school construction. It has often happened, as it is pointed out, that because of other factors like shift of population, there was waste in classrooms and other facilities available.

5. Optimum encouragement is not being given in fostering religious vocations. Also, there is criticism with regard to not utilizing qualified lay teachers who might be willing to donate their services. One of the main problems of the present system is that it was planned with the confidence that a large proportion of the school teachers will be religious. This again was easy as their salaries were nominal. But the increase of the standard of living has brought about the problem of providing larger salaries not only to the increased proportion of lay teachers, but also to the religious. As we have shown before, the voluntary contributions have not increased according to this proportion.

6. Though it may not be of a serious nature, there are some fields in which more efficiency should be stressed. As it is the question of adopting every possible method to alleviate the immense
problem of financing, these small factors should be given attention. There are some who find fault with the position of pastors as "Managers" of individual schools. The lack of professional qualifications and independence on the part of a pastor and other school administrators can bring about inefficiency in the conducting of schools. Arbitrary salary arrangements and duplication of services are often found existing in Catholic schools.

7. There are some who feel that there is not enough lay participation in the conducting of Catholic schools. Parent-teacher associations are still in the beginning stage. There could be better understanding and cooperation from the lay leaders, not only on a regional basis, but even in the parishes.

In the Canadian system, with regard to the provinces where Catholic schools are financed entirely through voluntary contributions, the demerits are of the same nature. There are, however, other provinces where some kind of public aid is available. In the case of Ontario, for example, part of the school system only becomes the responsibility of being financed by voluntary contributions. Here the secondary schools face the same problems.

In the case of Quebec, there are not too many major problems in financing. The advantages of this system outnumber the possible disadvantages existing. Thus, not only the Catholics but even the Protestants, as a minority, do not find it hard to conduct their own schools in their own way.

The following are some of the shortcomings of the existing system
of financing Catholic schools in Quebec. Some of them are of a
general nature and are common to both Catholic and Protestant schools.
In fact, they are defects of the taxation structure which can be
pointed out with regard to any public school taxation system.

The main source of income for both Catholic and Protestant
schools is tax-money from all immovable property. Each school
commission or board of trustees has the right and duty to set a rate
of taxation. The actual evaluation is in accordance with the municipal
rules but the rate is set by the commission. This law has been
existing since 1869. As it was pointed out before, the division of
taxed money was based on the ratio of Roman Catholic and Protestant
populations of each commission. But as the Protestants sought a
revision of this system to be replaced on the basis of the religious
persuasion of the taxpayers, the Catholics conceded and this benefited
the Protestants. At the same time, the taxes of the Jewish community,
who at present own larger units of real estate, are paid to the
Protestant Commission. This is one of the reasons why we have found
the difference between the per capita income and expenditure of the
Catholic and Protestant schools. Thus, in Montreal, where the
Protestants are only 20 per cent of the total population, they are
able to spend $194.00 annually per pupil compared to the Roman
Catholics' $141.00.

There are some who find an inequity in this system, that the
Catholic majority should have less funds at their disposal than their
minority Protestant brethren. The Catholic teachers also had been
particularly bitter about the inequality of salaries.

But as it is pointed out by Canon Carter, there is "no one simple or single solution to this problem." 4 Canon Carter offers some suggestions to correct this situation, which will be discussed in the next chapter. We will mention here only the weakness of the present tax structure. The revenue factor is based not upon the educational needs of the community but upon land values. This can have some adverse effects on education. The income based on land value may not only not increase, but may decrease in the face of increased school expenditures. This basis of a single earmarked tax like the land tax may prove to be a major defect not only in the Quebec system but also in many similar systems.

The present system of educational financing of the Catholic schools in India has its weaknesses because of several factors. First of all, most of the Catholic schools in India are not able to maintain themselves through tuition and/or voluntary contributions alone. In most localities, including the state of Kerala where there is the largest proportion of Catholics, as the Catholics are only a minority, financing of educational institutions becomes a problem. In most of our Catholic schools a large proportion, sometimes up to 60 or 70 per cent or more, of the children are non-Catholics.

This inability to conduct Catholic schools purely for Catholics

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4Carter, pp. 43-44.
from the very beginning prompted the Catholics to admit non-Catholic children also. This was also done from a service point of view. In the early days, because of social distinctions, many of the children of the low castes were not admitted to government and other public schools. It was the Christian missionaries who opened their schools to these unfortunate groups of children and from the early times these schools were conducted largely from church and voluntary funds. But this was not always possible and therefore small tuition was collected from children. In later times, as the educational need increased, and as in many places it was not possible for the government to provide funds for all the expenses of education, these private agencies were encouraged through government grants.

These government grants in the beginning were in the form of flat grants. But from about the time of independence when it was the national policy to have education imparted, if possible, to all the children, there were new schemes proposed. Compulsory and free education was the ideal. Because of the plan for free education, certain state governments prohibited collection of tuition in lower grades of all schools and this reduced the income of the private agencies, and this had to be made up by increased state grants, which brought about more dependence on the state government of these agencies. At the same time, as it happened in the state of Kerala, the teachers, as they were paid low salaries, claimed for higher salaries and this could not be done by the private agencies alone. But the government was not prepared to give higher salaries in the form
of grants as there was fear that the teachers could still be paid by the agencies a low salary. This necessitated a scheme which ensured the government to be convinced that the money which was given for teachers' salaries was used for such.

The whole educational structure in India has a diverse effect on the private educational institutions. As we have pointed out before, the centralized system, even at the state level, with state-wide examinations, compelled the schools to be bound by many of the restrictions of the government. Thus, these schools do not have the freedom and autonomy existing in other countries. They can exist only with recognition necessary for schools to participate in the state-wide examinations, and these state-wide examinations are necessary for the educational qualification of the students that have to attend higher educational institutions. So this need of recognition curtails the freedom of all educational institutions, not only of the schools of the primary and secondary level, but also of the college and university level.

This centralization on a state level, either because of government grants and/or recognition, makes the private schools to fall into the very same pattern desired by the state, and this restricts not only the freedom of private enterprise but also the fundamentals for which these institutions stand. Thus, for example, the schools are compelled not only to teach certain subjects, but are prohibited from teaching subjects like religion during class hours.

As we have seen before, the Constitution and Court decisions
unequivocally declare the rights of private educational institutions. But in practice, it comes to that if these educational institutions have to exist, they have to abide by all the laws made by the state authority. As Chief Justice Das pointed out in his reference to the Kerala Education Bill of the Communists, "what the Article (30 (I) of the Constitution) says and means is that the religious and the linguistic minorities should have the right to establish educational institutions of their choice." But in practice, we have found that the state authority is capable of making laws in order to make these private agencies to conduct schools as they desire. The Chief Justice observed that the state might prescribe reasonable regulations in order to grant aid to private institutions. But the problem has come several times, who should decide the "reasonableness" of these regulations. In a democracy, as we have pointed out before, Court decisions are not the easy and desired means to insure the rights of people. It may be apparent to a student of the Indian Constitution and the Supreme Court decisions to conclude that the minority educational institutions in India have all the freedom they need in conducting their schools. But as we have pointed out, a state government can make regulations "reasonable" to themselves and "unreasonable" to the private agencies.

We will point out here in summary some of the disadvantages existing in the present structure.

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5Chief Justice Das, Quoted by Pylee, p. 269.
1. All private schools, whether they receive aid or not, have to be recognized by the state authority because of the existing laws. This need of recognition binds the school to all the restrictions put by the state authority. In schools where only recognition is given by the government, they are still restricted with regard to collection of tuition fees, salary of teachers, etc. They are also bound by the usual requirements of facilities, sanitation, etc.

2. There are very few dioceses or parishes where the schools can be conducted entirely on voluntary contributions. These again will be bound by the regulations for "recognition."

3. In the present setup, the whole educational structure is inter-related and this brings about a centralization which empowers the state authority to have more controlling power. The lack of a Catholic university to which all colleges could be affiliated makes it necessary for the schools to fall into this state system.

4. The present economic setup does not give even a high school graduate the training for a livelihood and there is a natural attraction for them to seek entrance into colleges and universities.

5. Even on the part of the children themselves, there are not many who can afford to pay tuition in recognized schools when free schools are available.

6. The Catholic school authorities realize the injustice in making greater sacrifices to conduct the schools, as in many cases the majority of the children who receive education in such institutions
are non-Catholics and non-Christians. This makes it difficult for
the authorities to demand more sacrifices from the part of the
Catholics, even if they could do so. The Catholics are making
sacrifices to build and maintain schools, but when they realize that
sometimes less than 50 per cent of the children are only Catholics,
they begin to question the propriety of making more sacrifices for
added costs.

Here we will give a few relevant facts to illustrate the
problems connected with the financing of schools in the state of
Kerala. This example of one state, though it has a few minor dif-
ferences when compared to other states, will demonstrate the general
structure.

1. The private agencies, like the Catholic Church, have to
build schools and provide all facilities according to the regulations
of the State Department of Education. Recognition and/or aid are
given only after the Department is satisfied.

2. There is periodical inspection by the Department of Education
as to the facilities, teaching, etc.

3. The teachers are appointed by the Managers of schools but
according to the qualifications stipulated by the Department.

4. The schools are allowed to collect tuition and other fees in
standards where the government has not declared "free education."

5. These fees are deposited in the Government Treasury in the
name of the Manager who, in turn, pays the teachers according to the
salary scheduled by the Department. Twenty per cent of the collection
is allowed for the "Management", to be used for maintenance of schools. This amount often is found to be inadequate and the parishes or the Management have to provide more funds.

6. The regulations with regard to facilities are often burdensome and the parishes and the school Managers are bound to find money for the same. There is very little provision of grant from public funds for these capital expenses. Most of the parishes have to spend a good deal of their income providing facilities of the school which is the responsibility of the school Manager, who often is the pastor of the parish. These sums are collected through voluntary contributions.

7. The Catholic Manager of a school finds it difficult to provide enough money through voluntary contributions from the Catholic parents of the parish, when often the majority of the children for whom such facilities are extended, are non-Catholic children.

As we have seen, the financing of private education in India is still in the making and there are not too many commendable aspects in the present system. One facet which may be considered advantageous is that it is still in the beginning state and modifications can be made after realizing the merits of other systems.

Centralization is not always defective. As we have seen from the history, a purely decentralized system as it was the original plan proved to be not so practical in course of time. Today, there is a tendency towards the need for planning education on a wider basis so that responsibility can be assumed even on a national level. A purely
Regional system has been found to have its shortcomings and defects and the educational system is viewed by many to have better results if responsibility is taken on a national basis. The centralized system in India has this advantage that a national planning could bring about certain advantages. Unnecessary waste and duplication resulting from a regional autonomy could be corrected with this centralized planning. Duplication of educational institutions or controlling and encouraging educational needs according to regional needs are possible in this system, though it may have certain disadvantages. But it can have its merits if the planning is done wisely and without a "totalitarian" policy.

Some suggestions for rectifying the present system will be given in the next chapter.
CHAPTER VIII

CONCLUSION

In this chapter, we will draw some conclusions from the comparative study we have made. We will also give some proposals for improving the present setup of financing private educational institutions in these three countries. But our proposals will be mainly with a view of adopting the best of such in the Indian system. We will make only general proposals with regard to the United States and Canada, as we have pointed out our main purpose is to find out the possibility of improving the system in India.

General conclusions with regard to the financing of private education in these three countries are few. The existing systems are not only different in each country but also unique as to even each state or province. It will be surprising for a student of democracy to observe the wide range of difference in three democratic countries. From this, one may be able to make the general conclusion, especially after studying the principles of democratic systems, that it is not the democratic theory which formulated and brought about any particular existing system of financing private education. As we have noticed, the one important principle of direct public aid to private education is viewed and practiced so differently in these three countries.
Again we realize that the existing systems are the results of different factors related to history and political philosophy, religion and culture, economics and social theory. In each of these countries, we have found that it was not one theory formulated at one particular time put into practice, continued in its integrity to the present day. Changes have taken place, for better or worse, as other factors influenced the original setup, in its continuance. As we have seen, like many other things, it has grown and it is changed and it will be the same procedure in the future.

We have seen that whatever might have been the apparent guarantees or prohibitions contained in a Constitution of a country, these have changed in later times through interpretations and Court decisions, necessitated by the needs of the times. This change is not unique in educational rights alone. In many other areas, a democratic system adapts itself for good or bad, on the merits of external influences. The change in a "theory" or attitude is not something unwarranted to the democratic minded people. Many factors, including lack of understanding, might have kept a certain attitude sacred for a long time. We will point out here just two examples of this kind of change in the American scene.

Father Murray, dealing with the school question today, shows a parity of the "segregation" solution given by the Supreme Court. The Supreme Court ruled that the doctrine of "separate but equal" educational facilities for Negroes was always incompatible with the American constitutional concept of civic equality. From the moral
point of view, the separate but equal doctrine was always unjust. The practice of "segregation" in schools was defended and probably could be justified from a sociological point of view because of the necessity of circumstances, "in view of the unenlightened state of public conscience, the temporary inferior cultural status of the Negroes, etc." However, Father Murray points out that as circumstances changed and the level of the public conscience rose above ancient irrational prejudices, the sociological defense of the doctrine was found no longer admissible. The result was that moral judgment prevailed and the law had to conform itself to this moral judgment. Thus, "the doctrine of separate but equal facilities which never had any status in morals no longer has any status in law." In the very same way, the doctrine that public aid should be denied by law to certain schools simply on the grounds that they teach religion, Father Murray points out, "was never in conformity with the moral canon of distributive justice."\(^1\) There will come a time, in the very same way, through better understanding, when there will be acknowledgment of the rights of private schools recognized through public aid.

Again, for an outsider, it was strange to conceive the idea that people in this country believed that a Catholic could not become the President of the United States. But today, we have seen that this attitude has changed through a better understanding.

\(^1\)Murray, pp. 145-146.
From these, we can logically conclude that a democratic system is and should be adaptable. It should adapt to the needs and circumstances when such are proved to be just. As we have pointed out, it may take time and it may need effort. Because prejudices of people are not easily changed, better understanding should be effectively sought for.

Secularism or separation of Church and State is necessary for the efficient function of a democratic government. This does not mean that the state has to be opposed to religion as much, or everything which is related to religion. As Dr. Radhakrishnan, Vice President of India, pointed out:

\[\ldots\text{(secularism) does not mean that we reject the reality of an unseen spirit or the relevance of religion to life. We hold that no one religion should be given preferential status.\ldots\text{for that would be a violation of the basic principles of democracy.\ldots\text{This view of religious impartiality of comprehension and forebearance has a prophetic role to play within the national and international life.}}\]

In our study, we have found that among these three countries it is in the United States that public funds are denied to private schools and this denial is often justified on the principle of secularism or "the principle of the separation between Church and State."

In making our proposals, we have to make two assumptions:

1. when public funds are not available for private schools, and

\[\text{\textsuperscript{2}Radhakrishnan, p. 202.}\]
2. when such funds are available. In our first assumption at the present, only the United States comes into the picture. As we have seen, direct aid is still disputed here, and the main argument again is based on the principle of separation of Church and State. But in our comparisons, we have seen that public aid can be made available and still the ideals of the "separation" can be preserved. The principles contained in the arrangement in Canada or India would be sufficient for us. Besides, as Fr. Blum points out:

The United States is virtually the only Western democracy that has not adopted such other means to enable it to achieve, more or less equitably, the education of its children in conformity with principles of freedom of mind and freedom of religion. Largely because of historical factors, we continue to demand the surrender of a constitutional right. . . .3

In a study made by Father Benigno Benabarre of the theory and practice of public funds for private schools in fifty-one democratic countries, he illustrates the arrangement in the provision of public funds for private education. 4 In UNESCO's publication No. 163 entitled Financing of Education, forty-five countries, including Yugoslavia, gave the arrangement these countries have made with regard to providing public funds for private education. In the question asked, "If in your country public financial assistance is given to private schools, kindly describe the way(s) in which this

3Blum, Freedom of Choice in Education, p. 43.
4Benabarre.
is done by the various public administrations," it may be surprising to note that the answer by Yugoslavia was the following:

The only independent schools existing in Yugoslavia are training schools for the priesthood, and in some cases the State has made and continues to make grants to the religious communities maintaining these schools.\(^5\)

For one who looks for leadership in the democratic ways, in the United States, it will be a surprise to note this incongruity existing between so many of the other democratic nations and even a Communist country, and the United States.

In the case of provision of public funds, we can point out the following with regard to the proposals.

1. First of all, it is important to see that the present freedom and autonomy of the private schools are preserved.

2. Secondly, provision should be made as far as possible to see that such funds are given for educational purposes only and not for religious purposes. This is important from the principle of separation of Church and state.

3. Next, we have seen in our discussions that there are jurists who do not consider it unconstitutional to provide direct aid or loans in the present system to religious and other private schools.

4. As there are some who still doubt the constitutionality of direct aid or loans, arrangements of the following kinds can be proposed. The funds could be given as aid in different ways direct to students or parents. The following may be some of the methods:

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a) certificate method
b) tax credit
c) direct subsidization of schools
d) tax deduction
e) allocation of a part of the taxpayers' taxes to the school of his choice.

In recent months there were many proposals made of this nature. There were others which related but were slightly different in content. These proposals included not only with regard to direct aid, but also to loans to private schools. Some of them were included in amendments to the proposed federal aid Bills. We have discussed them briefly before. Important suggestions and proposals which were published in the newspapers at that time stimulated public opinion. The Citizens for Educational Freedom also issued plans which are related in nature to the ones Fr. Blum has proposed in his Book, Freedom of Choice in Education. We have also seen that besides the indirect aid or "fringe benefits" the private schools are enjoying now, there are instances in the United States when public funds are being utilized for private schools. There is precedence of providing funds even in the existing legal structure.

Here we will briefly discuss one of the proposals offered by Fr. Blum as an example. This is the certificate plan. This plan was proposed several years ago by two University of Chicago professors. Professor Milton Friedman wrote:
Governments... could finance (education) by giving parents vouchers redeemable for a specified maximum sum per child per year if spent on "approved educational services. Parents would then be free to spend this sum and any additional sum on purchasing educational services, from an "approved" institution of their own choice. The educational services could be rendered by private enterprises operated for profit, or by non-profit institutions of various kinds.6

Professor Friedman pointed out in his discussion the similarity between this plan and the United States Educational program for veterans after World War II (G.I. Bill). Professor Proctor Thomson made almost identical proposals in an article in The School Review, in 1955.7

As Fr. Blum points out, this plan received the approval of the American Association of Land-Grant Colleges and State Universities. In its resolution adopted by the Association it was proposed that 1. payments be made to individuals, 2. no restrictions be made as to accredited institutions attended, and 3. the student be free to choose any areas of subject matter desired. This plan, though originally intended for higher education, is discussed in detail by Father Blum as to its application to all levels of education. In principle, it is the same which the President's Committee on Education beyond the high school recommended in its Second Report that "the Federal revenue Laws be revised... in ways which will permit deductions or credits on income tax returns by students, their parents, or others who

7 Ibid.
contribute to meeting the expenditures necessarily incurred in obtaining formal education beyond high school."  

Fr. Blum discusses the Bills which were introduced in Congress in the past few years, providing for a tax credit for tuition and fees paid to public or private institutions of higher education. The examples of such are the ones proposed by Congressman Eugene J. McCarthy of Minnesota (H.R. 765), Hale Boggs of Louisiana (H.R. 1064), and the bill providing for a tax credit for the tuition and fees paid to both colleges and high schools, proposed by Melvin R. Laird of Wisconsin.  

In this certificate or tax credit plan, the parents and students are enabled to pay tuition approximating the cost of education at the school of their choice. This "would also make possible the development of strong and healthy voluntary educational associations - thus establishing a bulwark of freedom against the powers of government."  

Basically, this credit plan allows the parents to deduct part of what they pay in school tuition from their income tax. This plan gives tax relief to a parent who is bearing the burden of tuition costs for their children in schools. This plan has several benefits. First of all, there will be no injustice of a double taxation. The parents have their choice of public or private schools. There is also the  

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8 Second Report to the President. The President's Committee on Education Beyond the High School (Washington, July, 1957), p. 11.


10 Ibid., p. 22.
advantage of the parent immediately related to the schools and this way the parents keep a responsible relationship to the conducting of schools. In principle, what the federal government had done through the G.I. benefits, paying millions of dollars for the education of ex-servicemen, is the same. The money has gone to the institution of the individual's choice, whether it be public or private.

One of the objections put up as a problem in giving government aid is the possibility of every religious group setting up its own schools and thereby resulting in a wasteful multitude of sectarian schools. For this, we have excellent examples of other countries, including Canada, to which we have made reference in this study.

Besides, in giving aid, the government should make necessary and just regulations to the efficiency of such schools. In a country where diverse enterprises have proudly grown, there is no need of a fear in finding out ways and means to help the situation. There is plenty of example of American legislation which helped the private enterprise to flourish in this country.

A good example of a certificate plan can be found from the legislation enacted in the state of New York recently. From the time of the Heald Commission Report, there were proposals and amendments in the New York State Legislature. On January 31, 1961, Governor Rockefeller sent a special message to the New York State Legislature in which he outlined his own recommendations for coping with the educational needs of the state. In a plan envisaging an expansion of available facilities, doubling of the state "Regents" scholarships and
a contemplated loan program, the Governor proposed a "New York State Scholar Incentive Program." By this program, each full-time tuition paying student attending an undergraduate college in the state, who is also a resident of the state and who makes an application, is provided with an annual grant up to $200.00 to help him pay his tuition in excess of $500.00 annually. In addition, there are also provisions for graduate studies. On March 16, 1961, the New York Times in an editorial called the plan "a setback for those who believe as we do on the absolute separation of church and state in accordance with the New York Constitution." Though this plan is for college students, with necessary modifications, this can be adopted for all schools.¹¹

Often there is the question of why federal funds should be available for private schools.

1. First of all, today there is increased demand and proposals of federal aid to education. As we have discussed above, the inability of local units and the state governments have increased this demand of federal participation. We have also seen the resourcefulness of the federal aid bills proposed in the past few years.

2. At the present, most of the state constitutions prohibit public funds being utilized for private education. So there will be many constitutional difficulties which may not be easily overcome.

3. As it is evident, the federal government is capable of providing for an over-all national program. Besides, the resources

¹¹Costanzo, p. 154.
and possibilities of the federal government are such, as Bishop John J. Wright of Pittsburgh, President General of the N.C.E.A., in his keynote address at Atlantic City, pointed out:

Most people will understand that the federal government has a priority over revenue and taxes which carries with it a tremendous power, usually justified by considerations of need, but operating always with a controlling power so vast, it predetermines any plans. . . (including) that American parents may have in the exercise of their God-given rights to nurture and prepare their children for their future destinies. ¹²

Here we will discuss briefly the plans proposed if public funds do not become available for private education.

Among the many plans proposed some are of the nature of restricting Catholic education to certain grades. This was the plan proposed by Bishop Shehan.

Since young children are more completely under the control of their parents, since it is common experience that during the younger years attention and interest can be held by extracurricular religious instruction, and since neither of these conditions holds true during the year of adolescence, thought might well be given to a plan to provide all children with Catholic education, say from the seventh to the twelfth grade. ¹³

Bishop Shehan also suggested that this could be experimented in areas where the full course of Catholic education cannot be offered at the present time to all Catholic children. The cutback in Catholic elementary schools in order to conserve resources for the operation


¹³ Shehan, Most Rev., p. 40.
of high schools was also suggested recently by Msgr. George W. Casey of the Boston Pilot. As might have been expected, these proposals caused a wide stir in Catholic circles. Many Catholic educators led by Msgr. F.G. Hochwalt, Executive Secretary of N.C.E.A. expressed shock and total disagreement with the point of view. The Catholic School Review in an editorial in October, 1961 strongly criticized this "cutback on Catholic education."\textsuperscript{14} This controversy is bound to continue and many fear this may be the only solution if the present difficulties continue.

Father Neil McCluskey, Editor of America, in a talk given at the 57th Annual Meeting of the N.C.E.A. in Chicago, suggested some plans to efficiently carry out the present administration of the Catholic schools.\textsuperscript{15} They are included among the proposals listed below.

1. All parochial schools should become diocesan schools. This means that pastors will have to yield control over their schools. There should be a diocesan school system instead of parish schools. Examples of these diocesan centralized systems are experimented in a few places, for example, Philadelphia and Harrisburg, Pennsylvania. The Harrisburg plan was discussed in the Catholic Educational Review. The general setup of these plans are included in the proposals listed below.

\textsuperscript{14}\textit{Catholic School Journal}, p. 4.

2. Planning of schools. A central planning board should allocate schools and priorities in building, would pass on additions, consolidations, and suppressions of schools.

3. Special schools should be located at strategic points in the diocese. In these schools the exceptional children should get their education. There should be special staff for the mentally retarded and physically handicapped.

4. There should be a special diocesan transportation provision for the handicapped.

5. College preparatory schools, terminal schools, pre-professional and technical schools should likewise be centrally located for the convenient use of all the children in the diocese.

6. Teacher contracts should be arranged by the diocesan office. Salary scales, assignments, transfers, replacements, and promotions should be handled on a diocesan level.

7. Curriculum planning and experimentation, teacher accreditation, standards for promotion, advance placement, and selection of textbooks should all come under a diocesan central office.

8. Tuition is now being abolished in many places. A better arrangement of a school tax levied on every wage earning family in the diocese should be adopted. This plan of an education tax may have difficulties but it will rectify the inequality of ability of parishes to provide enough for schools. The education of the youngsters in the rich suburban parish and the declining downtown parish will thus be paid for out of the same central fund.
9. In a centralized planning, economy is easier. Facilities can be shared as much as possible. Several neighboring schools can make use of expensive facilities like auditoriums, gymnasiums, high school home economics departments, and industrial arts wings. If needed, the central office can provide buses to bring pupils to these centrally located facilities.

10. Provisions should be made to utilize the resources of the school purely for the increased educational needs. The schools should not take upon themselves services which can be rendered by other agencies.

11. There should be better participation of the lay people. This can bring about better understanding and greater contributions in money and services.

In a television debate between Fr. McCluskey and Mr. Pfeiffer a few months ago, Mr. Pfeiffer suggested the feasibility of Catholic children attending public schools for certain subjects like sciences, and being "released" for classes of religion and social sciences to be imparted in Catholic schools. This plan has advantages insofar as Catholic children would receive a share of public funds, and Catholic schools would not have to provide as many teachers and gain by not being obliged to provide such things as laboratory and other facilities, textbooks, etc.

The same proposals came in the press recently. Chicago's American published a news item on October 6, 1961 under the title "Church-State Education Proposal Under Study." This article points out a plan under
way to effect church-state cooperation. Public schools would continue to offer a complete program of studies for all children who elect full time attendance. But they would also offer a shared-time arrangement, under which a child would take some of his courses in a church school and others in a public school. Boys and girls enrolled in Catholic elementary and high schools might go to public schools for instruction in such subjects as mathematics, physical education, industrial arts, and home economics. Protestants and Jewish children, while taking most of their academic courses in public schools, would have the option of spending a substantial portion of each school day in a religious school and receive full academic credit for any approved courses there. A Jewish child would receive the same credit for mastering Hebrew in a synagog school that he gets for learning Spanish or French in a public school. A Presbyterian youth could study the Bible or Church history under professional teachers provided by his church during periods of the regular school day when he might otherwise be taking elective courses in a public school. Protestant, Catholic and Jewish leaders have been exchanging views on the proposal for several months. Catholic leaders have responded to the proposal with interest. It also has enthused several major Protestant denominations who are concerned about the religious illiteracy of vast numbers of their children. 16

In the Canadian system, we have seen the merits of the arrangement in the province of Quebec. This arrangement may be proposed as a comprehensive system for the rest of the provinces of Canada as well as for the United States and India. As we have seen, this will eliminate the problem of injustice to minorities who believe in conducting their own schools and will bring about good results.

But we should point out that the defects of an earmarked tax existing in Quebec should be corrected. As we have seen, at present the quality of education depends on the availability of finances by this one tax.

With regard to making a comprehensive system of financing for private schools in India, we should make the following considerations.

1. As we have pointed out before, India is still in its initial stage and the possibility of correcting the defects existing is better.

2. India is a member of the British Commonwealth, and as Canada is also a member, the system followed in Canada, in the province of Quebec may be more acceptable to India.

3. As we have noticed before, we do not have the problem of constitutional prohibition with regard to providing public funds for private education. In fact, the Constitution guarantees such provision and prohibits discrimination in providing funds for minority schools.

4. As we have seen before, there are the defects of a centralized system. But this also has certain advantages. The present system of subsidies and subventions given by the federal government bring about a
dependence on the part of the state governments on the federal government. The federal government makes allocations as recommended by the Planning Commission. But this planning may be considered necessary because of the existing situation in India. The underdeveloped economy and the need to avoid any waste in financial and educational resources, may be considered as the reasons justifying the present centralized planning.

5. As we have pointed out before, the Planning Commission has recognized the importance of the private agencies when it declared "private agencies working in different fields of education should be given all possible encouragement and support by the state." This tendency in the policy of the Planning Commission is encouraging as we notice that in recent years the government of India has been moving towards a socialistic pattern.

6. At present, these subsidies are given through the state authorities. But arrangements should be made so that the state will encourage private agencies, as proposed by the Planning Commission.

7. We have seen that in the Constitutional guarantee and in the policy of the Planning Commission, the need for encouraging private agencies is stressed. But there were some instances when private agencies had to face many difficulties not only with regard to financing but even in their very existence.

8. At the present time, there are no earmarked taxes for educational purposes. Schools conducted on a local basis with the responsibility of financing are also few. There are proposals in
many states of adopting a plan of local boards having the responsibility of financing schools in their area. As we have seen the defects of one earmarked tax of any kind, we would propose to find means to correct such a shortcoming. The financial responsibility of conducting schools should not depend entirely on a region and on one kind of tax. Local autonomy and responsibility should be combined with better planning of providing funds necessary for a minimum program for every child. It should not be the responsibility of one kind of people, as it has happened in other countries, to bear the financial burden of education. People should be taxed for education not on the basis of how much real estate they possess but on the basis of their ability to support this important need of the society.

9. Organization of school districts is still to be undertaken. Consideration should be given to the size based on equality, efficiency, etc.

10. The main financial aid given by some states is in the form of teachers' salaries. As we have noted, though this alleviates the burden of the private agencies, it brings about problems for the efficient conducting of schools by the private Management.

11. Today, as we have seen, though there are not many differences between the functioning of private and departmental schools, teachers of departmental schools receive higher salaries and more benefits than teachers in private schools. The principle of "equal pay for equal work" is often found not practiced in this system. The objection very often pointed out is that a number of the Catholic school teachers are
religious. But for this we have to note that, first of all, such private agencies have provided funds for building schools and providing facilities. Besides, there is no reason why, if some are religious teachers, when they are equally qualified and do an efficient job of teaching, they should not be paid equal salaries.

12. The system which is followed in Quebec may be proposed with regard to states like Kerala where not only the Christians but also non-Christian denominations are taking great interest in having their own schools. The plan could be experimented in this state. Here we may propose to have a basic grant to be given to each school from the state government. This should be mainly for teachers' salaries. A part of the expenses of the school should be met by the proposed regional school board. This money should be collected in the form of taxes of two or three different kinds. It may be more commendable to have the taxes based on all income. The regional school board should divide this money in the form of grants to the different denominational and governmental schools according to the number of children of each denomination attending each school. The state authority should see that the teachers, according to qualifications, should be paid a minimum salary and other benefits. The requirement of qualifications of teachers should be strictly enforced by the state authority.

Periodical inspection should be done by the regional authorities. As it is reported, there are many charitable and religious organizations which are willing to take up the responsibility of providing school
plants and other facilities. They should be encouraged to a maximum as the state cannot still provide all the schools needed. The state authority can make regulations as to the minimum requirements in providing such facilities before recognizing such schools.

13. At present, educational expenses are paid from the state treasury. People do not pay any tax earmarked for education. All the taxes are collected, pooled together, and distributed according to the services on a state-wide basis. This has several disadvantages. People should be made to understand the responsibility with regard to providing this important service for the future citizenry of the country. Each one should pay according to his ability as he pays for defense, public works, governmental services, etc., so also for the cost of education. This would bring about better understanding and responsible relationship between the people and the educational institutions.

14. The policy of the government to provide free education to a certain level is commendable. This is important especially when many of the parents are unable to pay tuition and other educational expenses. But as the government is providing more scholarships for poorer students, there should also be recognized schools where those who can, should pay tuition.

15. The state governments should have a definite policy of encouraging private schools. This should be done through efficient provisions of school laws. It should not be that the private schools are just tolerated. This is not only because of a democratic principle
and the Constitutional guarantees, but also from the point of view of the service of such institutions in alleviating the government in its responsibility of providing education.

We have listed above only a brief outline of a plan. In the state of Kerala especially, there are plans to have a reorganization of educational districts. This will be with the purpose of making education, as in other countries, a responsibility of local districts. The above proposals, as it can be seen, can be put into practice only in case such a reorganization takes place. But as it should be pointed out, this reorganization might take some time.

We have seen that the arrangement which existed in Kerala until the Communists passed the Education Bill was to a great extent satisfactory. There were a few grievances on the part of the private agencies especially with regard to the financial arrangement. This could have been corrected as there were already proposals from the part of the Management, which were being considered by the state government. One of the main problems was that the private schools were not receiving enough funds for the maintenance of their institutions. The Private Secondary School Scheme (1950) had made provision for the private management to keep 20 per cent of all tuition collected in each school. But as more grades were made "free," this amount was reduced considerably, and the state was prepared to replenish for the deficit. There was also difference with regard to the salary and benefits of the departmental and private school teachers. The Private School Teachers' Association was clamoring for equality and
the government had made some proposals to correct the inequality. Grants for capital expenses were rare and the state was making proposals to distribute federal subsidies to private schools also under certain conditions.

As it can be seen, these minor problems could be amicably resolved before the Communists brought their notorious "reforms." This has brought about a lot of confusion, which will take some time to be remedied. As we have pointed out before, there are not only difficulties with regard to financing, but some of the provisions of the Communist Bill affect the very existence and the ideals for which the private schools exist.
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APPROVAL SHEET

The dissertation submitted by Reverend Anthony J. Kurialacherry has been read and approved by five members of the Department of Education.

The final copies have been examined by the director of the dissertation and the signature which appears below verifies the fact that any necessary changes have been incorporated, and that the dissertation is now given final approval with reference to content, form, and mechanical accuracy.

The dissertation is therefore accepted in partial fulfillment of the requirements for the Degree of Doctor of Education.

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Date                                           Signature of Adviser