

PUBLIC AID/PRIVATE SCHOOLS

REFERENDUM QUESTION #2: NO!

The question of governmental aid to parochial/private schools has long been a labyrinth of moral, constitutional, and emotional issues. Referendum Question 2 on the November, 1986 Massachusetts ballot will be no exception.

The question in the coming election is whether to accept or reject an amendment to Article 46 of the state constitution. Article 46 (approved by referenda in 1917 and 1974) forbids the use of public money for any "charitable or religious undertaking," including religious-sponsored "primary or secondary schools." The proposed amendment will enable new forms of governmental aid to non-public schools. Except for supplements to the clause on discrimination in admissions, the proposed amendment is the same as the one rejected decisively (62% to 38%) by the voters in 1982. The new proposal reads as follows:

This amendment [Article 46] shall not be construed to prevent the Commonwealth or any of its political subdivisions from providing aid, material or services to a pupil in a private school, which does not discriminate in its entrance requirements on the basis of race, color, national origin, religious belief, sex or physical handicap, to the full extent permissible under the First Amendment to the Constitution of the United States ...

A prime intent of Article 46 was to ban aid to religious schools in order to minimize inter-religious conflict. But the clear purpose of the proposed amendment is to permit every constitutionally possible form of public assistance, through state coffers and/or local budgets. Article 46 is now less ambiguous and more restrictive than the First Amendment to the United States Constitution. But the proposed amendment will tie state aid to the First Amendment and, therefore, to U.S. Supreme Court decisions. Court decisions, however, are changeable. A shift in the balance of the Court could lead quickly to new forms of aid being declared constitutional and legislated in the Commonwealth.

Thus, the proposed amendment is ominously comprehensive - an open door permitting whatever forms of aid are approved by the legislature and declared constitutional by the Supreme Court.

The likely effect of the proposed amendment will be to increase the aid already given to non-public schools. According to the League of Women Voters, non-public schools in Massachusetts now receive at least \$14 million annually in constitutionally allowable state and federal dollars for transportation, lunches, health services, block grants, special education services, and some construction assistance. Few persons interpret the law so absolutely that they would want to withdraw the present benefits. Instead, the basic concern is additional forms of public aid. If the 1986 referendum question is approved, the loan of textbooks almost certainly will be started imminently. Moreover, other forms of aid -- including equipment, tax deductions/credits, and even a voucher system -- will be legislatively possible if the Supreme Court sanctions them.

The short-term financial results of this constitutional change will likely be minimal -- a couple million dollars for textbook loans in the first year. But the long-term consequences could be costly. In either case, the public schools will not be strengthened. With inflation, Proposition 2-1/2, and federal cutbacks, public schools in many communities are hurting financially. Teachers have been laid off,

courses eliminated, and the purchase of supplies and equipment reduced or postponed. In this educational setting, where the public schools need every possible buttress to provide quality education, the diversion of public dollars to private schools will be another setback for public schools. This effect is a key reason for opposing Question 2.

Moreover, the arguments in favor of public aid are unconvincing. True, for instance, private schools have provided some "public benefits", by educating some children (about 12% in Massachusetts) who otherwise would be in public schools. They thereby have saved taxpayers' dollars in some communities. These undeniable facts, however, do not justify public aid to these schools. Many private institutions -- including churches -- are socially beneficial, but public support does not logically follow. Even though private religious schools foster many public values, their fundamental reason for being is to serve the private purposes of their sponsors -- especially religious formation and transmission. That private role is a right to be cherished; it is also a major factor in denying the justice of public aid to these schools.

Similarly, the claim of "double taxation" -- namely, that parents with children in private schools pay both public taxes and private tuition -- is a weak argument. Tuitions are not taxes. The decision to pay tuition and send children to private schools is strictly voluntary. There is no deprivation of rights, since all children have equal access to public education.

No more persuasive is the claim that private schools should be aided to keep them open, so that private school closing and transfers will not overburden public school systems. The potential economic trauma of private school decline is real in some communities, but aiding private schools is not the best solution. Providing more state aid to the public schools in these communities is the more appropriate way to ease the burden.

The most offensive argument for public aid, however, claims that the present constitutional provision is an expression of religious bigotry, a tainted residue from the Know-Nothing period in the 1850's. The anti-aid position allegedly has a discriminatory intent. This claim is indefensible. In reality, the present provision was approved in 1917 and 1974, with strong support from participants in all the major religious communities. Moreover, the effort to repeal the present provision was rejected in 1982, again with strong backing from participants in all the major religious communities. The charge of religious bigotry is an ad hominem fallacy, designed to circumvent the merits of the opponent's case by attacking his/her motives.

Contrary to these claims, however, one basic reason for opposing public aid involves a moral stance on issues of public policy and religion. The real intention is not to preserve historical discrimination, but rather to prevent future discrimination. A critical concern in the United States has been how to maintain social harmony and public fairness in a religiously pluralistic society. The general solution -- forged historically when nearly every religious group sometimes sought unfair advantage for its own kind -- has been a governmental policy of "benevolent neutrality." Every religious group is guaranteed the opportunity to practice and propagate its faith, without special powers or favors for one or all.

This peacekeeping policy arises from a yearning for fairness. Its non-discriminatory intention depends upon equal inaccessibility to public treasuries. On this ground, most advocates of neutrality argue that the proposed comprehensive amendment to Article 46 penetrates beyond acceptable bounds. Such public assistance seems to bestow preferential benefits on some religious groups at the expense of all others. It, therefore, would damage the policy of neutrality and the social peace which that policy fosters.

The Massachusetts Council of Churches, reflecting widespread convictions in its member-denominations, has opposed public aid to non-public schools since at least 1951. That opposition continues. THE MCC URGES A NO VOTE ON QUESTION 2.