

Church-State Relations



What are the Biblical standards and guidelines for Church-State Relations particularly as they apply to our Educational Program?

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CHURCH STATE RELATIONSHIP

PARTICULARLY AS IT APPLIES TO THE FIELD OF EDUCATION

A very common phrase used both in church life and in government life is the phrase "a wall of separation between church and state". Thomas Jefferson, our third president was the author of this phrase. Jefferson's classic phrase is found in a letter written by him, dated January 1, 1802. It was dispatched in reply to an address sent to the President by a committee of the Danbury Baptist Association of Connecticut. In his reply to the matter brought to his attention by these Baptists, Jefferson wrote: "Believing with you that religion is a matter which lies solely between man and his God, that he owes account to none other for his faith or worship, that the legislative powers of government reach action only, and not opinions, I contemplate with solemn reverence that act of the American people which declares that their legislature should 'make no law respecting an establishment of religion or prohibiting the free exercise thereof' thus building a *wall of separation between church and state*." This phrase has been used by many in the sense that there is or should be a high wall between church and state so that none of their activities, programs, or interests overlap. Of course, history proves that this is an ideological dream. While Bible lovers will always insist that neither the church or the state interfere with the functions and purposes which are outlined for each in Scripture, they also recognize that there are areas where church and state serve the interest of each other. Our program committee recognized this and therefore requested a paper on theological guidelines to church state relations, posing such questions as: "Is government aid to education an adiaphoran or is doctrine involved? If government aid is allowable under certain conditions and limits; what are those conditions and limits; in other words what principles do we follow? To what extent if at all, does government have the right to regulate our private education, teacher pay and teacher accreditation, and related things?" Under the following headings, we shall offer information on this subject both from Scripture and civil law, which we are bound to obey when and if it does not conflict with our faith.

I. WHAT SCRIPTURE SAYS ABOUT THE FUNCTION OF THE CHURCH

Elsewhere in this folder you will find the paragraphs on "*THE CHURCH AND THE STATE*" reprinted from our Synod's pamphlet "*This We Believe*". If we adapt the scriptural principles relating to the church which are enunciated there and in other "official" writings we can say the following about the church. The church is a divinely instituted body to which God has assigned the responsibility of calling sinners to repentance, or proclaiming forgiveness through the cross of Christ (Luke 24:47-48), and of encouraging believers in their Christian living (Eph. 4:11-13; Rom. 12:1). As part of this assignment our risen Lord has commanded His church to "*Feed my lambs*" (John 21:15) and to "*teach them to observe all things whatsoever I have commanded you.*" (Matt. 28:20.) Our confessions say: "Our teachers assert that according to the Gospel the power of the keys or the power of bishops is a power and command of God to preach the Gospel, to forgive and retain sins, and to administer and distribute the Sacraments. (John 20:21-23) In this way are imparted not bodily but eternal things and gifts, namely eternal righteousness, the Holy Spirit, and eternal life. These gifts cannot be obtained except through the office of preaching and administering the holy sacraments...." (From Book of Concord: Muhlenberg Press, 1959 Pp. 81-82).

The only means that which God has given the church to carry out its assigned purposes and functions is God's revealed and inspired Word. (Mark 16:15; Acts 20:27) which consists of Law and Gospel. The LAW is to serve in its threefold function as a mirror, revealing man's sin; as a curb, restraining man's wickedness; and as a guide, directing Christians in their sanctification. The Gospel in Word and Sacrament is to function as a means of grace, conveying to sinners God's gracious gifts of forgiveness, life, and salvation. Article XXVII of the Augsburg Confession entitled "Of Ecclesiastical Power" states that the work of the church is to be done by God's Word alone, and not by human power; that if bishops teach,

introduce, or institute anything contrary to the Gospel they are not to be obeyed. (Matt. 7:15; Gal. 1:8; II Cor. 13: 8-10).

II. WHAT SCRIPTURE SAYS ABOUT THE FUNCTION OF THE STATE

From God's Word we learn that the State is also a divinely instituted power or organization. *"The powers that be are ordained of God."* (Rom. 13:5) God's Word makes it clear in an Old Testament passage that governments exist by His sanction and are judged by Him accordingly: *"By me kings reign, and princes decree justice. By me princes rule, and nobles, even all the judges of the earth."* (Prov. 8: 15-16) From Ephesians 1: 20-23, we learn that Christ is ruler of all nations. When governments forget this it is the solemn duty of Christian patriots to remind the State of its origin and responsibilities.

All of us must remind ourselves that the type of government may vary ranging all the way from a monarchy to an oligarchy, from a benevolent or malevolent dictatorship to a democratic republic, or from a kingdom to a socialistic state. And whatever type of government there may be on the face of this earth, not one government or "establishment" is perfect even though it exists by the active or permissive will of God.

To the State God's Word has assigned the responsibility of keeping good order and peace in human society. It is to protect law-abiding citizens and restrain and punish evildoers. Paul describes the State as *"a minister of God to thee for good"* and as *"a revenger to execute wrath upon him that doeth evil."* (Rom. 13:4) that this might be done effectively Paul urges us to pray for those in authority, *"that we may lead a quiet and peaceable life in all godliness and honesty."* (I Tim. 2:12) To the State God's Word has also assigned the functions of arranging all civil matters among men for their self-preservation (Rom. 13:3) and here education is a means by which the State equips its citizens to make a wholesome contribution to their temporal well-being. In the interest of preserving civil justice and peace the State regulates such affairs as marriage and divorce (Mt. 19:7-8), money matters (Mt. 22: 19-21) property and other conflicts (Lk. 12:14; Acts 19:38; I Cor. 6:1-8), compensation or punishment for injury (Ex. 21:22-25), war and peace (Lk. 14:31-32) and all such matters as affect the temporal well-being and safety of its citizens.

In order to enable the State to fulfill its distinct and different purpose the Lord has given it tools which differ from those used by the Church. To the State God has given the sword or what we know as "law enforcement agencies" to regulate obedience to its laws (Gn. 9:6; Rom. 13:4) the power of the sword involves the right to take human life. But most generally the State imposes lesser penalties for infractions of its laws, such as imprisonment, fines, or probation (Ex. 21:22,30; Mt. 5:25). In its assigned duty of being a power for good to the citizens the Lord has given the State the tools of force and civil law, set up and used according to the light of human reason (Rom. 13:4). The light of reason includes the natural knowledge of God, the inscribed law, and conscience.

Our confessions have the following to say about the State in Article XVI of the Augsburg Confession: "It is taught among us that all governments in the world and all established rule and laws were instituted and ordained by God for the sake of good order and that Christians may without sin occupy civil offices or serve as princes and judges, render decisions and pass sentence according to imperial and other existing law, punish evil doers with the sword, engage in just wars, serve as soldiers, buy and sell, take required oaths, possess property, be married, etc."

"Christians are necessarily bound to obey their magistrates and laws except when commanded to sin, for then they ought to obey God rather than men. (Acts 5:29)"

In its summary statement on the functions of the State our WELS has said (Proceedings 1967, p. 170): "When government uses the inscribed law, conscience, and the natural knowledge of God as a means for promoting and maintaining civic righteousness in its legislative, executive, judicial, and educational functions, it is still within its realm, and is using its God-entrusted means." Whatever the civil laws may be, whether they apply to building codes, sanitation, health, traffic, school attendance, educational standards, certification, etc., as long as they do not go contrary to God's truth, we as Christians are to obey them. Scripture asks us to submit ourselves to every ordinance of man for the Lord's sake without pre-
scribing the specific ordinances I Peter 2:13. The matter of using due process to get rid of impractical and burdensome civil laws and regulations is another subject!

III THE GOD-PLEASING, BIBLICAL RELATIONSHIP OF CHURCH AND STATE

In Article VIII of the WELS tract *"This We Believe"* the God-pleasing delineation of the relationship of Church and State is outlined: "We believe the proper relation is preserved between the Church and State and the welfare of all is properly served only when each, the Church and the State, remains within its divinely assigned sphere and uses its divinely entrusted means. The Church is not to exercise civil authority nor to interfere with the State as the State carries out its responsibilities. The State is not to become a messenger of the Gospel nor to interfere with the Church in its preaching mission. The Church is not to attempt to use civil law and force in leading men to Christ. The State is not to seek to govern by means of the Gospel. *On the other hand the Church and the State may participate in one and the same endeavor as long as each remains within its assigned place and uses its entrusted means.*" (Italics ours) In our WELS Proceedings of 1967, Pp 171-172 the Synod states "That the functions of Church and State are to be kept distinct lies in the Savior's statement Matt. 22:21: *'Render therefore unto Caesar the things that are Caesar's; and unto God the things that are Gods'* That the Church and the State have their individual functions and means is set forth by the Savior's statement to Pilate, St. John 18:36: *'My kingdom is not of this world, if my kingdom were of this world then would my servants fight and I should not be delivered to the Jews: but now is my kingdom from hence.'* Also in the following verse: *'To this end was I born and to this cause came I into the world, that I should bear witness unto the truth.'*" But then our Synod goes on to affirm in the same position paper "There is not necessarily a mixture of State and Church when both participate in one or the same endeavor but each participates in this endeavor only in the sphere of its own function and restricts itself to its own means. We have such examples in the Christian pastor's performance of marriages. We have such examples also in the conduct of our Christian day schools. Insofar as our Christian day school teachers teach subject matter which also belongs in the realm of the State and apply approved teaching methods which have been devised by human reason, the State is pleased to have them perform a function and to use means which the State would otherwise carry out and utilize. The Christian day school teachers at the same time perform the functions and use the means of the Church as they utilize this teaching situation and its entire program to train Christian children with the Gospel and the whole counsel of God in Christian faith and life."

A good look at Article 28 of the Augsburg Confession will show from both Jesus' words (John 18:36) and Paul's words written by inspiration, (Phil. 3:20; II Cor. 10:4) that the functions and tools of Church and State are distinct and there is not to be a mixture in these. However, we dare not forget that even then the reformers recognized that there was no absolute separation of Church and State in those areas which did not militate against their respective functions. Martin Luther grew up in the State Church of his day. Luther the Romanist and Luther the Reformer both worked within the framework of the medieval union of Church and State. Luther received earthly support and protection from the princes until his

death. However, he stated emphatically in a treatise on "Secular Authority: To What Extent It Should Be Obeyed" - 1523: "These two kingdoms must be sharply distinguished, and both be permitted to remain; the one to produce piety, the other to bring about external peace and prevent evil deeds; neither is sufficient in the world without the other:" For a series of statements by Luther on Church and State the reader may refer to the book "What Luther Says" by Ewald Plass, Concordia 1959, Pp. 292-295.

Realizing that in the basic functions and means there may be no mixture of Church and State, but also realizing in the areas of common interest there can be a working together, our Synod adopted this "Summary" or position statement at its 1967 convention at Saginaw, Michigan:

"From this delineation of basic principles we see that there is a wide realm of contacts in Church and State relations, which lie in the area of adiaphora and are not in themselves necessarily a confusion of Church and State. Nevertheless it needs to be borne in mind that actions and decisions in just this realm call for very cautious and discerning judgment in order that in the handling of these adiaphora neither the interests of the Church or of the State may actually suffer. Also here particularly is it vital to heed the admonition of I Cor. 6:12 '*All things are lawful unto me, but all things are not expedient; all things are lawful unto me, but I will not be brought under the power of any.*'" WELS Proceedings - 1967 p. 173.

IV. A CAPSULE HISTORY OF CHURCH STATE RELATIONSHIPS

CHURCH & STATE IN BIBLE TIMES - God's people in the Old Testament from the time of Moses lived in a divinely established theocracy, or a government by the immediate direction of the Almighty. Beginning with the call of Abraham, through the time of Moses and on, God taught and guided His people by revelation and through a holy, separate nation. Moses, transmitter of the 10 commandments, which are still followed by the Jewish and Christian people, was also the political and military leader of his nation. He was followed by other God-appointed leaders such as David, "sweet Psalmist of Israel," who ruled and led Israel for 40 years.

The Savior Himself told His disciples, "*The scribes and Pharisees sit in Moses' seat. All, therefore, whatsoever they bid you observe, that observe and do; but do not ye after their works, for they say and do not.*" (Matt. 23:2-3)

The establishment of Christ's New Testament Church marked the end of the Old Testament theocracy, the eventual destruction of Jerusalem, and the beginning of a new order in Church and State. (Judaism has persisted throughout the centuries until today but as a religion far different from pre-Christian times. No sacrifices are offered in present day Israel). Christ came from within Judaism. While He fulfilled the ancient sacrifices and promises, He refused to overthrow the established civil rule of His time.

The record speaks for itself. Christ firmly declined to become a revolutionary leader. "*When Jesus therefore perceived that they would come and take Him by force to make Him a king, He departed again into a mountain, Himself alone.*" (John 6:15) Our Lord subjected Himself to legitimate earthly authority and paid His temple tax as a loyal Jew. (Matt. 17:27) In His well known statement, "*Render unto Caesar the things which are Caesar's, and unto God the things which are God's,*" He recognized both the needs and the importance of supporting the secular and spiritual realms. Brought before the Roman governor Pontius Pilate and charged with making Himself a king, the Savior distinctly said, "*My kingdom is not of this world.*" Neither He nor any of His followers had any pretension to earthly power or influence.

THE EARLY CHURCH & THE STATE - Christ's apostles recognized that they were members of an earthly realm and a heavenly kingdom. As believers they possessed a double citizenship and allegiance. Just as men have a body and a soul, so they lived as Christians in the State and the Church. Though Caesar was tyrannical, oppressive, to the point of slavery, we hear them speaking of submission to the powers that be. In their lives the early Christians recognized Christ alone as absolute Lord and Ruler. He was the Head; His church was His body on earth. The apostolic church was so poor and despised that it could not make any claims to power typical of the medieval church.

Since Christ was their absolute Ruler, early Christians defied governmental authority when they were commanded to become idolaters or do other wrongs. Peter boldly told the Jewish authorities that *"We ought to obey God rather than men."* (Acts 5:29). Paul, who highly prized his Roman citizenship, still said, *"But our commonwealth is in heaven, and from it we await a Savior, the Lord Jesus Christ."* (Phil. 3:20-RSV). Christ alone was recognized as *"the blessed and only Potentate, the King of Kings, and Lord of Lords."* (I Tim. 6:15) Thousands of Christians died as martyrs in the early centuries rather than perform a simple act of worship which would honor the emperor as god. The first 300 years of Christian history tell a story of great persecution and suffering because of loyalty to Christ and His will.

CHURCH & STATE IN PRE-REFORMATION CENTURIES - A great change in relations began in 313 A.D., when Constantine the Great, "first Christian" emperor, recognized Christianity and initiated policies favorable to the Church. The Edict of Milan, the first edict of religious toleration, opened a new era. Roman authorities began to regard the Church as the one power which could unify, stabilize, and salvage the crumbling empire. Now the Church took its place in society as an owner of property and as a recognized institution. Its clergy became semi-official servants. The emperor himself summoned the bishops to the Council of Nicea and presided at its sessions. This great council, convened only 12 years after the Edict of Milan, gave us one of our three ecumenical creeds contained in our hymnals. Masses of people were soon attracted by the Christian church after its recognition by the government. It was a real status symbol to be a Christian, for some sincerely so, but for others there was selfish motivation. The problem of being *"in the world but not of the world"* posed questions with which Christians have struggled ever since.

It did not take long for papcy^a to develop, and with its development and growth medieval popes and churchmen tended to exalt the Church over the State because the spiritual is superior to the physical -- this line of thought is still a powerful force in Romanism to this day. Famous names and shameful scenes illustrate the struggle for power between Church and State. Just to mention two: We think of Emperor Henry IV bowing before Pope Gregory VII in the snow at Canossa in January 1077...Or we recall an excerpt from the infamous Bull Unam Sanctum (1302) by Pope Boniface VIII in which he said: "Both swords, the spiritual and the material, are in the power of the Church." Roman Catholic historians seek to justify this abuse of power by the Church with the argument that the Church was the needed strong and stable agency in those tumultuous and dangerous times, but it was an unScriptural abuse nevertheless.

Then came the Reformation which made possible a new and God-pleasing way. Old Christian truth in the Bible was uncovered. It was again apparent that the nature of the ~~Church~~^{STATE} was essentially secular and worldly. Earthly government was to care for the bodies of men and guarantee earthly well being. The Church, on the other hand, had a spiritual mission dealing with repentance, faith, salvation, and sanctification. The Biblical understanding of the functions of Church and State, and their relationship to each other, were incorporated in the Augsburg Confession, particularly Articles 16 & 28.

CHURCH & STATE RELATIONS BEFORE THE FOUNDING OF OUR NATION - The great truths that were restored in the Reformation were soon lost in the Church. What our founding fathers looked back on was not only the pre-Reformation bloody crusades and the use by the papacy of the dungeon and the rack to coerce conformity and of the fiery fagot to exterminate "heresy" but the post-Reformation abuses such as the hanging and jailing by Protestant kings of England of Catholics for abiding with the faith of their fathers; the hanging and jailing by a Catholic queen of the English Protestants for reading English Scriptures and saying Protestant prayers; the hunting down and slaying of Covenanters upon the crags and moors of Scotland; the killing of half the people of Germany in the "Thirty Years War" between Catholics and Protestants; the massacre of the Huguenots of France; the pogroms and persecutions of the Jews in many lands; the banishing of the Baptists and the execution, jailing and branding of Quakers by Puritan Massachusetts; and hundreds of other atrocities committed in the name of religion. Our founding fathers were acutely aware of religious tyranny, much of it in the name of a mis-applied Christianity.

V. WHAT OUR U.S.A. CONSTITUTION STATES ABOUT CHURCH STATE RELATIONS

Because our founding fathers knew of the Church-State abuses of the past they placed two provisions relating to religion in the Constitution of the U.S.A. and its amendments. The first of these provisions appears in Article VI and declares that "*no religious test shall ever be required as a qualification to any office or public trust in the United States.*" These men knew that even during their own lifetimes those who did not conform to the doctrines and practices of the churches established by law in the places where they lived, such as Scotch-Irish Presbyterians in Ulster, Catholics in England and Ireland, and dissenters in various American colonies, had been barred from civil and military offices because of their faiths, had been compelled to pay tithes for the propagation of religious opinions they disbelieved, and even had their marriages annulled and their children declared illegitimate for daring to speak their marriage vows before ministers of their own faiths, rather than clergymen of the established church. They did not want any of these tragic historical events repeated in the nation they were creating.

The second provision relating to religion appears in the First Amendment and states that "*Congress shall make no law respecting an establishment of religion, or the prohibiting the free exercise thereof.*" A review of early American history will provide an answer to the genesis of this amendment. At the time of the settlement of the Thirteen Original Colonies, every nation in western Europe and the British Isles had what were known as establishment clauses. Their churches were established by law, and the law compelled all persons, including those who dissented with their religious beliefs, to attend their services. The law furthermore required all persons to pay taxes for the construction of church buildings and the support of the program of the established churches.

An overwhelming number of the colonists who came from Europe to America came primarily to secure religious liberty and freedom of taxation for the support of established churches. Unfortunately, when they came to America, they found that in many of the colonies predominant groups had set up established churches here, and that in consequence they were compelled, in such colonies, to pay taxes for the support of churches whose religious doctrines they disbelieved. The First Amendment was adopted to guarantee religious liberty, or the right of all men to worship God according to their own consciences, and to effect the disestablishment of financial and legal support of religion by government. At the time of the adoption of this amendment, the only States maintaining any financial and legal relationship to religion were Maryland, Connecticut, New Hampshire, and Massachusetts. The last of these States to dissolve such relationship was Massachusetts, which did so in 1833.

After the Civil War (1868) the Fourteenth Amendment was adopted which made all liberties, including religious liberties, a principle to be enforced not only by the Federal Government but also by the individual States. It reads: "*All persons are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; etc.*" Because of these constitutional provisions we know that we to this day have religious liberty even though American law often relates to areas of our church's work and program in a way that does not compromise our faith. For this religious liberty we must thank Almighty God in this bi-centennial year for it was He who led founding fathers of various faiths and philosophies to give us this blessing!

VI. HISTORIC DECISIONS ON THE BASIS OF THE U.S. CONSTITUTION

Intimately related to the freedom of religion is the freedom of religious education. In the early colonies, State and Church, town and parish, secular and religious matters were not kept separate. The public school was the church school. The secular public school system arose during the twenty years preceding the Civil War. Since the States were committed to two important principles, 1) universal education and 2) religious liberty, the elimination of religious instruction in the public schools became an unavoidable consequence. The change from religious to non religious instruction was gradual and varied depending on the location of the public school, but it has taken place nevertheless. To provide children with Christian education, the Catholic Church, the Lutheran Church, and other denominations, have from before the turn of the century conducted schools of their own. It is in connection with these Christian Day schools that landmark decisions have been made by State and Federal courts. A chart of these decisions is recorded on another page. We will highlight a few here:

THE BENNETT LAW: This law, passed by the Wisconsin Legislature in 1887 was an attempt to disfranchise the Christian Day School. This law stated: "No school shall be regarded as a school, under this act, unless there shall be taught therein, as part of the elementary education of children, reading, writing, arithmetic, United States history, in the English language." It also established a mandatory school term of not less than 12 nor more than 24 consecutive weeks. It gave local authorities the power to levy fines on violators. The subtlety of this Bennett Law was its reference to the English language to promote public education for much of the instruction in Christian schools was in the German language. At a meeting held in St. John's school in Milwaukee on Dec. 28, 1889, representatives of the Missouri Synod and other interested parties joined our Wisconsin Synod's representatives in forming an organization to mount a state-wide campaign for repeal of the law. As a result of this campaign, which included public addresses, lectures, debates, and widespread publicity, the Republican Party, which supported the law, suffered a crushing defeat in 1891. The objectionable law was repealed and a new one more favorable to the churches was enacted.

MEYER V. NEBRASKA - In the emotional, anti-German climate of World War I the state of Nebraska passed a law forbidding any subject to be taught in a modern foreign language in elementary schools. This posed a threat to parochial schools because German was the language in which religious instruction was given. In 1923 in Meyer v. Nebraska the Court ruled however, that the liberty guaranteed by the Fourteenth Amendment included the right to control the education of one's children. It stated also that the Amendment guaranteed the right of an individual "to worship God according to the dictates of his own conscience."

EVERSON V. BOARD OF EDUCATION - On the basis of the so-called "child benefit" argument the Court in 1930 ruled in Cochran V. Louisiana State Board of Education that children attending parochial schools could be made beneficiaries of the State's free textbook law. This decision influenced later decisions. In 1947 in Everson V. Board of Education the Court declared, "The First Amendment has erected a wall of separation between church and state. That wall must be kept high and impregnable. We could not approve the slightest breach." Nevertheless this decision approved of the busing of students to non public schools if a state permitted this. It is based on the "public purpose" argument. The state, the Court said, has a legitimate interest in getting the children to school safely.

MCCOLLUM V. BOARD OF EDUCATION - In this case in 1948 the Court declared the use of public school facilities for religious instruction in released time classes unconstitutional. According to the 1952 Zorach v. Clauston decision such classes were permitted, however, when not held in public school facilities.

ENGEL V. VITALE - The New York State Board of Regents had composed a supposedly non-demonstrational prayer, which was to be recited at the beginning of each school day. The prayer read, "Almighty God, we acknowledge our dependence upon Thee, and beg Thy blessing upon us, our parents, our teachers and our country." The Court held that it was a violation of the First Amendment to require such a prayer and stated, "It is no part of the business of government to compose official prayer for any group of American people to recite as a part of a religious program carried on by the government."

In these and subsequent decisions, such as the voiding of parochial legislation in Pennsylvania and Rhode Island in a 1971 decision, the Court has shown its determination not to violate the religious liberties or convictions of the U.S. citizens. What is distinctive about more recent cases is the emphasis on the entanglements factor, which now seems to be emerging as an independent and event-controlling criterion. The Church and the State must not become entangled in each other's affairs. This is perhaps the most basic aspect of the separation idea. Even if a government program achieves a valid secular purpose and meets the requirements of neutrality, the program may still be invalid if its administration requires substantial governmental surveillance, supervision, and inspection of religious bodies.

VII THERE IS NO ABSOLUTE SEPARATION OF CHURCH AND STATE

When both our Constitution and our Lord's command to give unto Caesar and unto God the things that are theirs (Matt. 22:21) speak of the separation of Church and State, we understand the statements to mean that there is a high wall of separation in the functions, the support, the tools, and the program goals of each. Yet in the areas that do not affect their basic functions, and serve the best interests of each, there is no absolute separation. The Church and the State are not enemies. Between the two there are many points of contact and cooperation.

For the well being of its citizens and the preservation of good order the State has made many laws and decisions relating to the Church. Here are a few of them! The President issues a Thanksgiving proclamation each year calling upon citizens to go to their accustomed houses of worship in order to thank God for His blessings. Gifts for Church and charitable contributions are stipulated as allowable deductions by income tax laws. The State recognizes all marriages performed by ministers, priests, rabbis, or other appointed sect officials. (Many European nations require a civil ceremony in addition to the religious rite.) Churches and religious schools are exempt from the heavy burden of property taxes. Clergymen have been exempted from the military draft in past years. The specific right of parents to send their children to a parochial school was affirmed by the Supreme Court in the momentous decision of 1925 (Pierce v. Society of Sisters). In addition, "Child Benefit" or

"Auxiliary Service" legislation has brought parochial school children such services as busing, subsidized school lunch programs, health and nursing aid, psychiatric counselling, and crossing guards in hazardous traffic.

American law has much to say regarding the organization and the conduct of churches, the duties of church officers, the duties and privileges of clergymen, the rules that govern the holding of property, the rights and responsibilities in the field of education, and the building codes for church-related schools. Never will the author forget a meeting in Lansing with the State Fire Marshal in which the architect of a school building addition was threatened with severe legal penalty for not permitting the boiler room to have the specified 2/3 outside wall space in his plans. The State Fire Marshal, of course, is under obligation to protect children from fire and explosion.

Churches and Christian schools have recognized the fact that there is no absolute separation by accepting benefits which serve the mutual interest of each and do not imply control, and by abiding by federal and state laws which also do not imply or insist on control. Churches, that are faithful to God's will, also have shown their relationship to the State by teaching patriotism, obedience to just laws, and the active involvement of individual Christians in the process of government. In our Day Schools we do this, most generally, when we treat the Fourth Commandment. and speak of superiors in government.

To say that there is uniformity of practice among churches relating to government is an overstatement. Some churches with schools, such as the Seventh Day Adventists, strongly resist government aid and regulations. Since the Catholic Church has the largest school system, and the greatest needs, it has fought for financial aid and favorable legislation, particularly through its arm the (CEF) Citizens for Educational Freedom. In our Wisconsin Synod the double warning has been sounded often enough -----one that we "*Prove all things; hold fast that which is good.*" (I Thess. 5:21), and the other that we be aware of the dangers of control and of compromise in our unified, Christ-centered educational program. These warnings have resulted in a practice in our circles which is consistent with the important 1967 resolutions of the Synod convention.

VII. THE PRESENT DAY AREAS OF TENSION BETWEEN CHURCH AND STATE

GOVERNMENT AID - If we would list the present day areas of tension between the State and churches with schools, financial aid would be one, but not the worst. The high water mark was reached in Michigan about 1970 when a parochial bill was sponsored and defeated. On a federal level the high water mark was reached with the passing of The Elementary and Secondary Education Act of 1965 which authorized 1.3 billion dollars to bolster public and private education. A statute of limitations was placed on the five titles of this Bill and a legal watchdog alone can tell us which of these titles and which other aid bills are still in force. What churches must recognize is that the federal, state, and municipal treasuries are not only low, but some of them are skating on the edge of bankruptcy. Because of the heavy cost of public education (In 1975 the total U.S. bill being 119 billion dollars), there could well be less and less aid to private schools. From time to time one hears of the elimination of such benefits as busing. The decrease in aid could work to our advantage. Programs which we work, sacrifice, and struggle to support are appreciated far more than programs which are subsidized by an anemic goose with robin-sized golden eggs.

TEACHER CERTIFICATION - Our teachers are well aware of the requirements of our State for the granting of provisional and permanent teaching certificates. Our District Board of Education keeps our schools informed on these matters. The new Senate Bill No. 912 has recently crossed my desk. This is a new Michigan bill to "license and regulate teachers; to create a teacher standards and licensure board; to prescribe its powers and duties; to prescribe penalties; and to repeal certain acts and parts of acts." A cursory reading of this bill leaves the impression that the requirements for teacher certification in Michigan might be going up. It is reported that final legislation on this bill is still pending.

CURRICULUM ACCREDITATION - As you know the 1975 Convention of Synod permitted Northwestern College to explore the accreditation process with the North Central Association of Colleges and Secondary Schools. When permission was requested, Pres. Toppe said he shared the fears of those who said this action would compromise our Scriptural principles, but he added, "we have few options. If we do not wish to penalize our student who discontinues, and if we do not wish to hamper our student recruitment program, we must at least take this first step." In authorizing Northwestern to examine the possibility of being accredited, our convention added a provision that "the exploration with North Central Association cease if the college finds any conflict with the Synod's Scriptural principles, or philosophy of education, or if the college finds any conflict with its purpose in the program."

FAIR EMPLOYMENT ACTS - After an investigation of some of our schools in the Milwaukee area by the Department of Labor, our Synod was charged with violation of the Fair Labor Standards Act in that it discriminated against female teachers by not giving them "equal pay for equal work." As a result our 1975 Synod convention adopted a resolution that concurred "in the application of the principle of equal pay for equal work" in the salary schedules and housing allowances of synodically subsidized congregations and synodically supported schools. Self-supporting congregations were asked to follow the same principles if not in force. In its actions our Synod made no concessions to the Department of Labor in which it acknowledged its jurisdiction over our teaching or preaching ministries. If there would be an effort on the part of government to press the equal opportunity provision of The Equal Opportunity Act of 1972, and to tamper with the divine call of lady teachers in an effort to admit them to the pastoral ministry, then the government would have a "First Amendment" battle on its hands which it would lose hands down. Efforts to regulate our ministries would be "prohibiting the free exercise of religion."

EQUAL RIGHTS AMENDMENT - As we well know, the Equal Rights Amendment needs the vote of only a few states to reach the needed majority and to become an enforceable amendment to our federal Constitution. There isn't much to the wording of the amendment. It reads as follows:

EQUAL RIGHTS AMENDMENT TO THE UNITED STATES CONSTITUTION

Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

Section 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

Section 3. This amendment shall take effect two years after the date of ratification.

On the basis of God's Word, particularly I Cor. 14:34-35 and I Tim. 2:11-15, our Synod has held that God loves women and elevates and protects their position in the home and society; but He forbids women to publicly administer the Means of

Grace in the Church, that is, they are not to publicly preach or teach the Word of God to men. On the basis of the two passages mentioned above and other passages we also hold that God forbids the exercise of any female authority over men in the church.



"I see you received my letter."

If the Equal Rights Amendment becomes law, together with the Equal Opportunity Act of 1972 it could provide many tensions for our schools. Here are some real possibilities:

- Our church could be required to admit women to the pastoral ministry
- Our teaching staffs could not exclude or discriminate against any person on the basis of pregnancy, childbirth, termination of pregnancy (Abortion), or a homosexual relationship.
- Women's rights to privacy would be severely weakened. E.R.A. could legalize the sharing of the same restrooms in schools for men and women. Sound fantastic? How about co-educational dorms on many campuses today? The list of possible involvements is endless!

IX. OUR CRITERIA FOR RELATIONS WITH THE STATE

OUR CRITERIA FOR GOVERNMENT AID - A look at our Synod's position in the 1963 Proceedings (Pp 122-124) and in the 1967 Proceedings will show how carefully our church body has weighed the matter of Church-State relations and what an agonizing process it has been to establish criteria for action in these relations. The matter of determining our course of action for accepting or rejecting government aid was most difficult. We would not be honest if we would deny that a number of our churchmen outspokenly declared themselves against all aid. Your essayist has a letter, a press release, and filings from within Synod circles which speak of rejecting all aid.

After many preliminary discussions on the subject of government aid by our officials in the educational department of Synod, including the drafting of a position paper (WELS Proceedings 1967 - pages 166-174), our Synod resolved the following on government aid:

WHEREAS, Government aid is at present being offered to church related schools, and

WHEREAS, The Advisory Committee on Education in its report and the Board of Education in its Supplementary Statement Re Government Aid for

Education have presented a scripturally sound analysis of the wide realm of contacts in Church and State relations which lie in the area of adiaphora and are not in themselves necessarily a confusion of Church and State (BoRaM p. 18 Summary); therefore, be it

RESOLVED, That the Wisconsin Evangelical Lutheran Synod endorse these statements, based on Scripture (Romans 13: I Peter 2:13-17; Matthew 22:17-21) and

WHEREAS, The Church nevertheless should be alert and concerned about the impact that any given aid may have upon the Church and its educational program (I Cor. 6:12); therefore, be it

RESOLVED, That we urge all our church supported schools to heed the warnings to 1) avoid any aid that would hinder our Christian schools from carrying out their objectives, 2) avoid any aid that would lead to dependency upon the government and would undermine our Christian stewardship, 3) avoid any aid that would bring with it improper government control, and 4) avoid any aid that would jeopardize our unified Christian education.

1967 WELS PROCEEDINGS - page 186

In our Synod's pamphlet entitled "*This We Believe*", Article VIII states our position on Church and State by thesis and antithesis. In the antithesis portion of this article we state: "We reject any attempt on the part of the Church to seek financial assistance of the State in carrying out its saving purpose." (Emphasis ours) This article frowns on lobbying for aid and support in the carrying out of the church's saving purpose.

Our Synod's churches which plan or maintain Christian Day Schools should realize that these programs involve much funding, but they are part of the Great Commission which asks the Savior's followers to "*Teach them all things whatsoever I have commanded you.*" Since these are the words of Him who sacrificed Himself for our eternal release, His followers should predispose themselves to God-pleasing, proportionate, and even sacrificial support of Christian education.

OUR CRITERIA FOR GOVERNMENT LAW AND REGULATIONS - The subject of obedience to civil laws is not quite as difficult to resolve in our minds as the subject of government aid. As Christians we are under obligation to obey the Federal, State and Municipal laws relating to education. Our duty is outlined in these passage of Scripture: "*Let every soul be subject unto the higher powers. For there is no power but of God: the powers that be are ordained of God.*" (Rom. 13:1) and "*Submit yourselves to every ordinance of man for the Lord's sake: whether it be to the king, as supreme; or unto governors, as unto them that are sent by him for the punishment of evildoers, and for the praise of them that do well. For so is the will of God, that with well doing ye may put to silence the ignorance of foolish men: As free, and not using your liberty for a cloak of maliciousness, but as the servants of God. Honor all men. Love the brotherhood, Fear God. Honor the king.*" (I Peter 2: 13-17)

Article XVI of the Augsburg Confession states: "Christians are necessarily bound to obey their magistrates and laws except when commanded to sin, for then they ought to obey God rather than men. (Acts 5:29)"

The final sentence in the article on Church and State in "*This We Believe*" states: "We reject any views that hold that a citizen is free to disobey such laws of the State with which he disagrees on the basis of personal judgment."

In the case of impractical, burdensome, or even oppressive legislation, our churches and schools can use the course of due process for their repeal. In the case of laws which compromise our faith, we can appeal as did the Amish minority in the State of Wisconsin. With the help of a LCA pastor from Livonia, Michigan, who became an amicus curiae, this group won their case. If we would lose an appeal in matters relating to our faith, we would have no other course but civil disobedience for conscience sake.

In conclusion, as you can see from this overview of the principles, the history, and the tensions, relating to Church-State relations, this is a subject which demands careful study and discerning, sanctified judgments. Our forefathers studied the whole subject and took their stand! Loyalty to the Sacred Scriptures demands that each succeeding generation do the same. To paraphrase a well-known proverb: "Eternal vigilance is the price of religious liberty and faithfulness to God's saving Truth."

Pastor Winfred Koelpin

Acknowledgements and References:

Sacred Scriptures - Old and New Testament
Lutheran Confessions - Book of Concord
Wisconsin Evangelical Lutheran Synod's Proceedings
American Church Law, by Carl Zollmann
United States Constitution
Church and State Under God, by Albert Huegli
Essay: The Separation of Church & State as it Relates to our
Christian Schools, by Prof. Wilbert Gawrish - (Apr. 28, 1975)
Various and Sundry filings

LANDMARK DECISIONS

REGULATING RELIGION

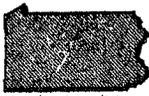
Church-State Decisions by the Supreme Court

1815



Upheld incorporation rights of religious organizations in Virginia. (Serrett v. Taylor)

1844



"... the Christian religion is a part of the common law of Pennsylvania." (Vidal v. Girard's Executors)

1871



Ruled that federal courts have no power to determine controversies of religious dogma. (Watson v. Jones)

1879



Sustained conviction under act of Congress which made bigamy a crime. (Reynolds v. United States)

1892



"... we are a Christian people... this is a Christian nation..." (Church of the Holy Trinity v. United States)

1899



Upheld federal aid for church-supported hospitals. (Bradfield v. Roberts)

1925



Invalidated Oregon law outlawing parochial schools. (Pierce v. Society of Sisters)

1930



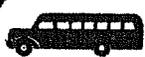
Ruled that states could provide parochial schools with secular textbooks. (Cochran v. Board of Education)

1943



Jehovah's Witnesses refusal to salute flag legalized. (West Virginia Board of Education v. Barnette)

1947



Tax money for parochial school bus fares upheld. (Everson v. Board of Education)

1948



A released time plan is nullified. (Illinois ex rel. McCollum v. Board of Education)

1952



A released time program is sustained in New York state. (Zorach v. Clauson)

1961



Sunday laws upheld (3 cases)

1962



Governmentally composed school prayers ruled unconstitutional. (Engel v. Vitale)

Atheists authorized to hold public office. (Torcaso v. Watkins)

PAROCHAID

Box Score of Supreme Court Decisions on Public Funds for Non-Public Education

UPHELD	DENIED	NO RULING
BUS TRANSPORTATION		
	CHAPEL CONSTRUCTION	
	DIRECT SUBSIDIES	
		DUAL ENROLLMENT
HEALTH SERVICES		
LUNCH PROGRAMS		
"NON-RELIGIOUS" BUILDINGS		
SECULAR TEXTBOOKS		
		TAX CREDITS
	TEACHER SALARIES	

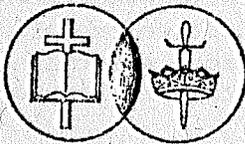
KEEP YOUR OWN SCORE:

1.
2.
3.

4.
5.
6.

THIS WE BELIEVE

*A Statement of Belief
of the
Wisconsin Ev. Lutheran Synod*



VIII. THE CHURCH AND THE STATE

1. We believe that not only the Church, but also the State, that is, all governmental authority, has been instituted by God. "The powers that be are ordained of God" (Rom. 13:1). Christians will, therefore, for conscience' sake be obedient to the government that rules over them (Rom. 13:5) unless the government commands them to disobey God (Acts 5:29).

2. We believe that God has given to each, the Church and the State, responsibilities that do not conflict with one another. To the Church the Lord has assigned the responsibility of calling sinners to repentance, of proclaiming forgiveness through the cross of Christ, of encouraging believers in their Christian living. The purpose is to lead the elect of God through faith in Christ to eternal salvation. To the State the Lord has assigned the keeping of good order and peace, the arranging of all civil matters among men (Rom. 13:3,4). The purpose is "that we may lead a quiet and peaceable life in all godliness and honesty" (1 Tim. 2:2).

3. We believe that the only means God has given to the Church to carry out its assigned purpose is His revealed Word in the Holy Scriptures (Mark 16:15). Only by preaching the Law and the Gospel, sin and grace, the wrath of God against sin and the mercy of God in Christ, will men be converted and made wise to salvation. We believe that the means given to the State to fulfill its assignment are civil law and force, set up and used according to the light of reason (Rom. 13:4). The light of reason also includes the natural knowledge of God, the inscribed law, and conscience.

4. We believe the proper relation is preserved between the Church and the State and the welfare of all is

properly served only when each, the Church and the State, remains within its divinely assigned sphere and uses its divinely entrusted means. The Church is not to exercise civil authority nor to interfere with the State as the State carries out its responsibilities. The State is not to become a messenger of the Gospel nor to interfere with the Church in its preaching mission. The Church is not to attempt to use the civil law and force in leading men to Christ. The State is not to seek to govern by means of the Gospel. On the other hand, the Church and the State may participate in one and the same endeavor as long as each remains within its assigned place and uses its entrusted means.

5. We reject any attempt on the part of the State to restrict the free exercise of religion.

6. We reject any views that look to the Church to guide and influence the State directly in the conduct of its affairs.

7. We reject any attempt on the part of the Church to seek the financial assistance of the State in carrying out its saving purpose.

8. We reject any views that hold that a citizen is free to disobey such laws of the State with which he disagrees on the basis of personal judgment.

This is what Scripture teaches about the Church and the State. This we believe, teach, and confess.

EMANUEL LUTHERAN CHURCH
(WISCONSIN SYNOD)

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Principal of Day School

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February 11, 1966

St. Paul's Lutheran Church
15218 Farmington Rd.,
Livonia, Michigan

Dear Fellow-Christians,

This letter is in answer to your letter of January 4, 1966. Since receiving the letter I have spoken to your Pastor about the matters mentioned in your letter. Also I have reported at the recent Southeastern Conference, where a summary was given of recent federal and state school legislation. You perhaps have received that report and noticed the three points which we are advising our schools to follow at this time in regard to these matters.

Just this morning I sent a number of items to your principal. I thought, as I was writing to him that I should give a formal answer to your letter, also.

Just in case the three points, referred to above, were not noted, let me point them out once more:

- 1) Any proposal (from any government source) that does not fall directly into the area of health, safety and the physical or earthly welfare of pupils should be first very thoroughly checked;
- 2) Outright money grants should at this time not be accepted until the studies produced by our Synods Boards are forthcoming;
- 3) Whatever would be an outright encroachment by the state upon the spiritual and religious functions of the church should be avoided; whatever would put you under an untenable obligation would be bad;
- 4) A good procedure to follow is to form a committee in each area of our District to provide a uniform approach to the many proposals offered.

Sincerely,

Jerome Spaude, Chairman
Jerome Spaude, Chairman

REPORT OF FLOOR COMMITTEE NO. 13 - 1961 CONVENTION WELS
(Report of the Board of Education - Proceedings pages 112-113)

RE: Letter to President Naumann from Pastor Herbert Lemke
Reports and Memorials relating to Federal Aid to Parochial Schools

RESOLUTION NO. 3

Subject: Federal Aid to Parochial Schools

WHEREAS, The matter of federal aid to parochial schools is receiving much public attention, and

WHEREAS, Members of our Synod are looking to the Synod for guidance; therefore be it

Resolved, That we recommend that the Conference of Presidents formulate a statement on federal aid to church-related schools for the information of the constituency of the Synod.

Richard A. Gensmer, Chairman

W. Otterstatter, Secretary

ACTION by the Convention: The Report was adopted.

STATEMENT RE FEDERAL AID TO CHURCH-RELATED SCHOOLS

(Adopted by the 1963 Wisconsin Ev. Lutheran Synodical Convention)
Proceedings, pages 122-124

Education is an activity in which three divinely appointed institutions share an interest: the home, the Church, and the State.

The prime responsibility in the training and education of children is that of the parents. Neither the Church nor the State can in any way remove it. Children have been entrusted to parents by an act of grace and are God's own by the triple tie of creation, redemption and sanctification. Since children are "an heritage of the Lord" (Ps. 127:30) and since "it is not the will of the father which is in heaven that one of these little ones should perish" (Matt. 18:14), parents have been given very specific directives in the Scriptures: "And these words, which I command thee this day, shall be in thine heart and thou shalt teach them diligently unto thy children" (Deut. 6:6,7); "And, ye fathers, provoke not your children to wrath, but bring them up in the nurture and admonition of the Lord" (Eph.6:4).

Christian parents often cannot meet the high standards set by God in His Word and so may rightfully turn to the Church for assistance in such Christian training. Christian education in the broadest sense is also the one task of the Church. Not only is the Church extended thereby, but through it, it is preserved. Together with the home the Church has been given the command to feed the lambs of Christ and has been warned specifically not to despise the little ones. The education of its children is a matter of great concern to the Church, which realizes that not only the mind, but also the heart must be educated, that true education is not only for time, but also for eternity.

The State also shares a legitimate concern in the welfare of its children. Luther recognized this when he wrote to the mayors and councils bidding them to exercise the greatest care over the young, "for", wrote Luther, "since the happiness, honor, and the life of the city are committed to their hands, they would be held recreant before God and the world, if they did not, day and night with all their power, seek its welfare and improvement. Now, the welfare of a city does not consist alone in great treasures, firm walls, beautiful houses, and abundant munitions of war; indeed, where these are found and reckless fools come into power, the city sustains the greatest injury. But the highest welfare, safety, and power of a city consists in able, learned, wise, upright, cultivated citizens, who can secure, preserve and utilize every treasure and advantage" ("Letter to the Mayors and Aldermen" in F.V.N. Painter's Luther on Education, p. 180f.). Christian parents and the Church, in carrying out their responsibilities in the education of the youth, should be ready to supply that in education which is of vital interest to the State. It is in this spirit that the schools of our Synod have been conducted throughout our history. We have always sought to supply that in education which is desirable and wholesome

in the social, economic, and political environment in which our children will take their place in life, even as we seek to give our children a thorough and unified Christian training.

The same Lord who has pointed out the objective of Christian education has also indicated the means through which it is to be accomplished. In II Timothy 3:16 the Apostle Paul writes to Timothy: "From a child thou hast known the holy Scriptures, which are able to make thee wise unto salvation through faith which is in Christ Jesus." Through the media of the Means of Grace, Word and Sacraments, the Lord comes to us, remains with us, and finally brings us to our eternal home. The Gospel, therefore, is the most important factor in the child's education, the essential part of it. It has to do with its eternal life. The educational means in a Lutheran education are the Means of Grace and human knowledge properly combined everywhere, in the homes and life as well as in the schools. These alone can secure for the child the citizenship of heaven and fit him for a God-pleasing sojourn in this world.

According to the Scriptures, therefore, the education of the children "in the nurture and admonition of the Lord" and with respect to the children's spiritual and eternal welfare is the obligation of the parents and of the Church, the possessors of the Means of Grace in the home and in the Christian school. God never intended the State to be the educator of our children in this respect. It is the protector of our health and physical safety and the preserver of peace and order. It is also the arbiter of that which is "good" and "evil" (Rom. 13:3,4) within its own God-appointed sphere; namely, in such areas as the temporal, social and civil matters of this life. In carrying out its functions the State may also find it necessary to train and educate, but the State is restricted to its own temporal sphere and should not encroach upon the functions of Christian parents or of the Church in their God-given responsibility to train the young in things spiritual and relating to God's eternal kingdom.

Therefore, recognizing our God-given responsibility and gladly assuming it, we neither want nor request the assistance of the state in carrying out our educational endeavors. We hold that such assistance invites the intrusion of the State into an area not assigned to it by God, and that such assistance also violates the constitutional principle of separation of Church and State, using tax monies gathered from all citizens for the promulgation of a specific religion or faith. We hold furthermore that we would thereby be yielding to the State the direction and control in the training of our children. The State would be shirking its duty if it were not to determine and to supervise the manner in which its monies are used. We should always cherish the freedom of rendering unto Caesar that which is Caesar's and unto God that which is God's (Matt. 22:21).

O. J. Naumann, President

Hugo Fritzi, Secretary.

STATEMENT ON GOVERNMENTAL AID TO EDUCATION BY
THE ADVISORY COMMITTEE ON EDUCATION - NOW CALLED CHE OR THE
COMMISSION ON HIGHER EDUCATION

(1967 Proceedings of WELS pages 166-174)

Preamble

To encourage education, governmental aid is at present being offered in our country to educational endeavors on every level. Current legislation no longer restricts such governmental aid to public educational institutions, but extends benefits of one kind or another to private and church-related schools as well.

As a result also our individual Lutheran congregations, associated groups of these congregations, and our Synod itself, insofar as they are engaged in conducting schools on the elementary, secondary, college, and post-college level, are constantly being confronted with the question: Should we avail ourselves of the governmental aid that is offered through legislation which is not in effect? Both our Synod's Advisory Committee on Education and the Board of Education - Wisconsin Synod have been repeatedly asked to supply guidelines for answering this question.

After having given considerable time and attention to this matter through committee work, through consultation with the Board of Education - Wisconsin Synod, and in plenary session, the Advisory Committee on Education reached this basic conclusion: In order to make sound decisions and recommendations in the matter of accepting governmental aid to education, it is most essential to be clear, first of all, on the underlying principles concerning church and state, their respective functions and means, and their proper interrelations. These Scriptural principles do not change. Carefully set forth they supply the proper approach for guidelines which responsible boards and committees may from time to time see fit to draw up in order to evaluate individual items of legislation as they affect various levels of our educational endeavors. The Advisory Committee on Education has endeavored to set forth these unchanging Scriptural principles in the following document:

CHURCH AND STATE RELATIONS

Ever since man fell into sin and brought God's temporal and eternal wrath upon himself, life here on earth is to serve mankind as a time of grace. Instead of immediately ending man's earthly life, the Lord permitted fallen mankind to sojourn here on earth that He might carry out His plan of redeeming all sinners through His incarnate Son and of proclaiming the Gospel of this redemption to sinners, in order to make them partakers of pardon and salvation. As God brings sinners to faith, He unites them with Himself and with one another to form the church.

The State, Its Function, and Its Means

To make the gathering of the church to salvation possible among men at least a measure of outward decency, peace, and order needs to be established so that men can live and dwell together here on earth, each for his appointed time, as his time of grace. God maintains this outward peace and order even though man by nature is utterly depraved and this depravity permeates all of his thoughts, words, and actions.

For this purpose God has above all ordained and established human government, civic authority.

The state, as a term with which we designate all such governmental authority beyond the home, is indeed a divine institution. In Romans 13 St. Paul admonishes the Christians in Rome to be subject to the higher powers. He instructs them that God is the source of all governmental authority and power among men. There is no such power in any shape, form, or manner, but of God. No specific kind of government is prescribed by God, nor any specific manner of establishing it. The point to be considered is the actual existence of such power. In time of war and revolution, it may be a question of judgment as to which is the existing control over my affairs and availed myself of its blessings. I am obligated to it as my divinely instituted government. Matthew 22:17-21. Romans 13:2: "Whosoever therefore resisteth the power, resisteth the ordinance of God."

In Romans 13 the Apostle Paul also sets forth God's purpose in establishing civil authority among men. He outlines its God-given function. With threats of punishment, government is to act as a deterrent, checking and restraining the evil designs of the wicked, preventing crime and violence. On the other hand, government is to protect the law-abiding citizen that he may be benefited. Romans 13:3-4. This divine function of government is corroborated by other statements of Holy Writ. When Pilate boasted of his judicial and executive power, of his power to crucify or release Jesus the Savior reminded him: "Thou couldst have no power at all against me except it were given thee from above." Speaking of arrangements for the regulation of human affairs, the Apostle Peter says: "Submit yourselves to every ordinance of man for the Lord's sake: whether it be the king, as supreme; or unto governors unto them that are sent by him for the punishment of evil doers, and for the praise of them that do well." I Peter 2:13, 14.

This outward peace, decency, and order which God maintains through governmental authority, and which is the function of government to maintain, we can sum up as civic righteousness. In its function of maintaining civic righteousness government is not interested in motives as such, in their spiritual value, but merely insofar as motives promote certain outward deeds and restrain others, namely, the deeds which make for peace and outward decency and order. Augsburg Confession, Article 28, Trigl. 84,11: "For civil government deals with other things than does the Gospel. The civil rulers defend not minds but bodies and bodily things against manifest injuries and restrain men with the sword and bodily punishments in order to preserve civil justice and peace."

God has also entrusted human government with sufficient means to maintain a measure of civic righteousness. Our Luther Confessions sum up these means with the term "human reason," thereby meaning the full scope of the abilities which Scripture ascribes to natural man and which are sufficient for maintaining a measure of civic righteousness."

"Human reason" includes:

A. A measure of ability to distinguish in purely earthly and secular affairs between that which is beneficial and that which is detrimental. Scripture acknowledges this ability by bidding the Christian to submit to every ordinance of man for the Lord's sake without prescribing what these ordinances should be. I Peter 2:13, (We think of such ordinances as health rules, sanitation ordinances, traffic laws, building codes, banking rules, zoning ordinances, tax measures, school attendance laws, educational standards, teacher certification policies, etc.)

B. Various natural impulses and emotions, such as the impulse of self-preservation, patriotic love of country, natural love between parents and children, and between husbands and wives, humanitarian interests, God has caused the institution of marriage and the home, established in Paradise, to remain in effect even after the fall. The government is to enlist these divine institutions with the natural bonds that characterize them in their work of maintaining civic righteousness.

C. The ability to discern in a measure as far as outward deeds are concerned what is morally good and evil. This ability comes from the inscribed law. In Romans 2:14, 15 the Apostle Paul asserts that also the Gentiles, which do not have the revealed law of God, do the things contained in the law. He does not say that they always do them, nor even that they regularly do them; even much less does he say that they do them properly, so that God's law would be satisfied from a spiritual point of view. This inscribed law is not the result of their speculation, something at which they arrive by the laborious process of reasoning through the trial and error method. The inscribed law is not the result of experience and observation, a summary of what has proved expedient. It does not consist of conventions which through usage and training have gradually acquired the force of law. The same God who created man is also the author of the inscribed law. Government is to use it in carrying out its function.

D. "Human reason" also includes a realization of the divine authority of this inscribed law, a realization of man's accountability before God to act according to this inscribed law. This is the voice of conscience. In Romans 2:15 Paul speaks of conscience joining hands with the inscribed law in corroborating its testimony. In

other words, conscience is a consciousness of God which confirms the inscribed law as the law of God and the demands of this law as divinely binding. This inborn knowledge of God, manifesting itself in the activity of the conscience, can be deepened and developed by a study of nature (Rom. 1:20) and of history (Acts 14:15-17; 24-27).

This natural knowledge of God, together with the inscribed law and the testimony of conscience, performs a function in promoting civic righteousness. This enables man to establish civic authority and to exercise the functions which God would have it perform of punishing the evil doers and of protecting the law-abiding. It enables human government to enact suitable laws and statutes and to acknowledge the criteria of common law and equity as a basis for judging ethical acts. At the same time it leads men to show a measure or respect for such laws and to guide their conduct according to it.

Also these endowments of human reason, the inscribed law, conscience, and the natural knowledge of God, do to a certain degree serve to hold most people back from gross crime and vice and to incite them to outward decent living. Apology, Article 18; 335,71: "Since there is left in human nature reason and judgment concerning objects subjected to the senses, choice between these things, and the liberty and power to render civic righteousness are also left. For Scripture calls this the righteousness of the flesh which the carnal nature, i.e. reason, renders by itself without the Holy Ghost. Although the power of concupiscence is such that men more frequently obey evil dispositions than sound judgment. And the devil, who is efficacious in the godless, as Paul says, Eph. 2,2, does not cease to incite this feeble nature to various offenses. These are the reasons why even civil righteousness is rare among men, as we see that not even the philosophers themselves, who seem to have aspired after this righteousness, attained it." When government therefore uses the inscribed law, conscience, and the natural knowledge of God as means for promoting and maintaining civic righteousness in its legislative, executive, judicial, and educational functions, it is still within its realm, and is using its God-entrusted means.

The Church, Its Function, and Its Means

The church is the communion of saints, the spiritual body of all those who have been brought to faith in Christ as their Savior, whom the Holy Spirit has called by the Gospel, enlightened, sanctified, and kept in the true faith. The outward mark by which the presence of the church is recognized is the use of the Gospel in Word and Sacrament. Thus the term church is also properly applied to those who profess Christian faith in gathering about the Gospel Word and the Holy Sacraments. This is the only way in which we can deal with the church here on earth, the church as we think of it over against the state.

The church is the communion of saints and thus also the church as we apprehend it on the basis of its marks has only one entrusted task and function: it is to preach the Gospel, it is to proclaim the whole counsel of God in Christ to men for their salvation. Its function is to convert sinners and bring them to salvation for time and eternity. Luke 24:47-48; Mark 16:15; Matthew 28:19,20. This is the whole duty of the church unto the end of time to all men.

The means with which the church is to do its one function of saving sinners is the Gospel, and together with the Gospel the entire Word and counsel of God. The entire Word of God which the church is to proclaim to men stands in close relation to the central message of pardon and salvation in Christ. In proclaiming any part of God's Word to men the church is ever to keep it in close relation to this message and to divorce no part from this message and its purpose. Only thus will the testimony of the church remain a part of its one function which has been assigned to it. Faithfulness in its function means ever keeping the purpose in mind for which Christ asks His church to proclaim the Gospel, the whole counsel of God, and not supplanting it in any way with a purpose of its own conceiving. It is not bidden to reform sinners, to induce them merely to lead outwardly decent and orderly lives. It is not called to instruct and direct human government in performing its functions. It may indeed by supplying such instruction and direction, but it does so properly only when it supplies them as byproducts in the performance of its real task.

In performing its one function toward the unregenerate world, its purpose is that of making disciples of all nations, that is, that through its testimony the Holy Spirit might bring ever more sinners to saving faith in Christ. This function and purpose the church can carry out in part even through the testimony of its life.

The function of the church to preach the Gospel to all creatures also includes preaching this Gospel and the whole counsel of God to those who have already come to faith. It is to do so for the spiritual purpose of edifying the believers, the body of Christ, of building up the believers in Christian faith, joy, comfort, understanding, hope, and in a sanctified life.

In the interest of winning sinners to faith and of perfecting them in faith, the church is also to preach the law, God's holy will, to all men. As far as the unregenerate are concerned, the only purpose for which the church is to proclaim the law to them is this that through it the man may be brought to the knowledge of their sins and thus be prepared for the comforting proclamation of the Gospel.

To those who have already come to faith the church is to preach the law as a mirror, curb, and guide, yet always in the interest of edifying the believers in Christian faith and life.

Because of the flesh still clinging to the believer, because of the bitter battle which the Christian must wage with his Old Adam in his daily life of sanctification, his flesh must be terrified and restrained in its evil lusts by God's dire threats against sin. For this reason the church must proclaim the law to Christians as a curb.

Lest our flesh deceive us and lead us to think lightly of sin and thus lightly also of the Savior who delivered us from sin and its curses, we Christians need to hear the holy will of God that we may continue to realize our own sin and helplessness and cling all the more firmly to our Savior and His Gospel.

Because the Christian here on earth still has his sinful flesh clinging to him, darkening his understanding and confusing his judgment, he needs to have the holy and immutable will of God set before him also as a guide so that in every station and relation of life he may express his faith-born fear and love of God in a manner pleasing to the Lord. Only the Gospel can supply the motivating power.

Mixture of State and Church

A mixture of state and church takes place when either state or church presumes to perform the functions which God has assigned to the other.

Church and state are also confused when the church seeks to do its work, seeks to perform its function, through the means of the state; or when the state directly seeks to do its work through the means which the Lord has assigned to the church.

A Scriptural proof for the fact that this involves an improper and unwholesome mixture of church and state is already found in the clear testimony of Scripture that church and state each have their unique and specific functions and means. That the functions of church and state are to be kept distinct lies in the Savior's statement Matthew 22:21: "Render therefore unto Caesar the things which are Caesar's; and unto God the things that are God's." That the church and the state have their individual functions and means is set forth by the Savior's statement to Pilate, St. John 18:36: "My kingdom is not of this world. If my kingdom were of this world then would my servants fight that I should not be delivered to the Jews: but now is my kingdom not from hence." Also in the following verse: "To this end was I born and for this cause came I into the world, that I should bear witness unto the truth. Everyone that is of the truth heareth my voice." "The church is not to exercise civil authority nor to interfere with the state as the state carries out its responsibilities. The state is not to become a messenger of the Gospel nor to interfere with the church in her preaching mission. The church is not to attempt to use the civil law and force in leading men to Christ. The state is not to seek to govern by means of the Gospel." (Doctrinal Statement VIII, about the church and state).

Augsburg Confession, Article 28, Trigl. 85, 10-17: "Therefore, since the power of the Church grants eternal things, and is exercised only by the ministry of the Word, it does not interfere with civil government; no more than the art of singing inter-

feres with civil government. For civil government deals with other things than does the Gospel. The civil rulers defend not minds, but bodies and bodily things against manifest injuries, and restrain men with the sword and bodily punishments in order to preserve civil justice and peace.

"Therefore the power of the church and the civil power must not be confounded. The power of the church has its own commission to teach the Gospel and to administer the sacraments. They do not break into the office of another; let it not transfer the kingdoms of this world; let it not abolish lawful obedience; let it not interfere with judgments concerning civil ordinances or contracts; let it not prescribe laws to civil rulers concerning the form of the Commonwealth. As Christ says, John 18,36: 'My kingdom is not of this world;' also Luke 12:14: 'Who made me a judge or a divider over you?' Paul also says, Philippians 3:20: 'Our citizenship is in heaven;' II Corinthians 10,4: 'The weapons of our warfare are not carnal, but mighty through God to the pulling down of strongholds, casting down of imaginations.'

There is not necessarily a mixture of state and church when both participate in one or the same endeavor but each participates in this endeavor only in the sphere of its own function and restricts itself to its own means. We have such examples in the Christian pastor's performance of marriages. We also have such examples in the conduct of our Christian day schools. Insofar as our Christian day school teachers teach subject matter which also belongs in the realm of the State and apply approved teaching methods which have been devised by human reason, the state is pleased to have them perform a function and to use means which the state would otherwise carry out and utilize. The Christian day school teachers at the same time perform the functions and use the means of the church as they utilize this teaching situation and its entire program to train Christian children with the Gospel and the whole counsel of God in Christian faith and life.

Religious Freedom

The principle of religious freedom and that of the separation of church and state (understood in the sense of avoiding confusion of their functions and means) are not fully identical concepts, though they certainly cover common ground.

The principle of religious freedom approaches the matter from only one side, bidding the state to refrain from going beyond the scope of its God-assigned function or means and also to resist the pressures of any religious body which in its own interests wants the state to go beyond its realm.

The principle of religious freedom is larger in its scope of application than the principle of the separation of church and state. It serves notice to the state also not to meddle with the affairs which lie in the realm of that religion which cannot properly be covered by the Biblical concept of the church, and which has no true understanding for the real function or means of the church.

The principle of religious freedom is not violated when the government operates with the natural knowledge of God, the inscribed Law, and conscience for its own function of maintaining civic righteousness. E. g. governmental use of oath.

Summary

From this delineation of basic principles we see that there is a wide realm of contacts in church and state relations, which lie in the area of adiaphora and are not in themselves necessarily a confusion of church and state. Nevertheless, it needs to be borne in mind that actions and decisions in just this realm call for very cautious and discerning judgment in order that in the handling of these adiaphora neither the interests of the church or the state may actually suffer. Also here particularly is it vital to heed the admonition of I Cor. 6:12: "All things are lawful unto me, but all things are not expedient; all things are lawful unto me, but I will not be brought under the power of any."

Respectfully,

THE ADVISORY COMMITTEE ON EDUCATION

SUPPLEMENTARY STATEMENT ON GOVERNMENT AID
IN REGARD TO SYNODICAL SCHOOLS.
Advisory Committee on Education

Using the A.C.E. adopted study as a basis which carefully delineates the means and functions of both church and state, one would be hard-pressed to state categorically that all governmental aid per se is wrong or contrary to the clear teachings of Scripture. The fact of the matter is that the government does have a stake in education, particularly in a democratic orientated society.

It is necessary for us to study all governmental aid programs with all their stated implications carefully. We believe it to be the better policy to avoid governmental aid dealing with grants or loans for facilities, at least until the Supreme Court has reviewed their constitutionality. Nevertheless, we should keep ourselves conversant with the various pieces of legislation in this area.

The most pressing need at the moment in this area is a thorough and objective study of state and federal aid which benefits directly the individual student-citizen. Good examples would be the various kinds of legislation dealing with student loans.

The fore-going studies lie in the province of the Policy Committee of A.C.E. and should be undertaken as soon as possible. If the institutional board as a result of such studies is of the opinion that it wants to avail itself of the benefits of a particular program, such steps should be taken only if they have been first endorsed by the Advisory Committee of Education and by the Conference of Presidents who have the assignment of concerning themselves with doctrine and practice.

It goes without saying that there is need for exercising considerable caution. At the same time we ought not to be ignoring the issue. As individuals we must be careful not to confuse Scriptural principles and our individual political beliefs. As a Synod we must be careful not to be guilty of adopting a political philosophy.

If we have a clear understanding of the means and functions of both church and state, any decisions made will be in keeping with the teachings of Scripture.

Reference: BoRAM--pp. 7-20; 67-69
Resolution No. 13
Subject: Government Aid to Education

1967 WELS PROCEEDINGS

WHEREAS, Government aid is at present being offered to church related schools, and

WHEREAS, The Advisory Committee on Education in its report and the Board of Education in its Supplementary Statement Re Government Aid for Education have presented a scripturally sound analysis of the wide realm of contacts in Church and State relations which lie in the area of adiaphora and are not in themselves necessarily a confusion of Church and State (BoRAM p. 18 Summary); therefore, be it

RESOLVED, That the Wisconsin Evangelical Lutheran Synod endorse these statements, based on Scripture (Romans 13; I Peter 2:13-17; Matthew 22:17-21) and

WHEREAS, The Church nevertheless should be alert and concerned about the impact that any given aid may have upon the Church and its educational program (I Cor. 6:12); therefore, be it

RESOLVED, That we urge all our church supported schools to heed the warnings to
1) avoid any aid that would hinder our Christian schools from carrying out their objectives, 2) avoid any aid that would lead to dependency upon the government and would undermine our Christian stewardship, 3) avoid any aid that would bring with it improper government control, and
4) avoid any aid that would jeopardize our unified Christian education.

Rev. M. Liesener, Chairman
Prof. J. Birkholz, Secretary