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development of marriage counseling centers and programs of education as to the obligations of married life and the benefits to be gained from the adoption of methods and techniques borrowed from psychiatry and the social sciences.¹⁰⁷ But more effective than all these means is fidelity in practice to the ideal of marriage, as a life-long monogamous union, which the natural law presents to all reasonable men. For those who encounter difficulties in living up to the ideal, there is available the power of divine grace to strengthen their wills and sustain their efforts to obey the authority of the natural law.

THE NATURAL LAW, THE FAMILY AND EDUCATION

JAMES V. MULLANEY*

I. DEFINITIONS

A. *The natural law*

1. *Natural law considered in itself*

a. Each type, each species of natural thing has its determinate essence or nature which distinguishes it from each other species. That determinate essence or nature gives rise to characteristic ways of operating, of functioning. A frog croaks, a bird sings, a lion roars.

Now natural law is merely this normalcy of functioning, this correspondence between a determinate essence and its determinate way of operating.

b. Like all natural beings man has a determinate essence or nature, including determinate powers or faculties like intellect, will, emotion, imagination and speech. Each of these powers has its determinate mode of operation. Such normalcy of functioning is man's natural law. Man's natural law, then, is the use of his various powers according to their inner structure and resultant dynamism. Take the power of speech: its normal function, its natural law, is to communicate man's thoughts. Man's natural law could be phrased abruptly: use your powers according to their nature.

107. Gellhorn, *op. cit. supra* note 34 at 327, 359, 360, 364-366. For general reference purposes, See: LeClerq, *Marriage and the Family* (transl. by Hanley, 1941); Maritain, *The Rights of Man and the Natural Law* (1943); and Messner, *Social Ethics* (transl. by Doherty 1949).

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c. In man, natural law takes on a complication not found in infra-human things: a complication which arises from man's freedom.

This complication can be expressed in various ways. We might say that the operative verb in the vocabulary of natural law changes, in the case of man, from *must* to *should*. Perhaps the most direct way of expressing the complication is this: for man, natural law is violable; for all infra-human things, it is inviolable.

This means that man may, through the intervention of his freedom, use the powers of his nature in an *abnormal* functioning: he may use nature against nature. He may, for example, use his power of speech to deceive his auditors rather than to communicate his thinking. He may use his intellect, not to discover and submit to the truth, but to ingeniously build up a sophisticated justification for what he knows to be false. He can use a power contrary to the nature of that power. There are numerous instances of such perversions in human behavior.

d. In man, then, we find natural law, but we find freedom too. But to use freedom *against* law rather than *under* it is a swollen freedom, an insolent freedom. For in the case of man the right relationship between law and freedom is always law first, and freedom under the law. The reason for this relationship—and this is the pivotal point—is that man's free will is itself bound by natural law: the law of seeking what is genuinely and objectively good and right, rather than what is apparently good or subjectively satisfying. Given freedom which freely wills law itself there is no complication; there is only freedom's submission to law.

2. *Man's knowledge of the natural law*

a. Man's nature, I have said, is determinate: and since natural law arises from man's nature, being its normal way of functioning, natural law is also determinate. It is fixed, not progressive.

Many of our contemporaries experience a genuine intellectual difficulty at this point. The idea of a fixed, immutable, final law seems not only irksome but unenlightened, obscurantist, an arresting of man at one stage of his evolutionary development.

b. Intellectual justice must be done both to the traditionalist who insists on the fixity of natural law and to the progressivist who insists on the fluidity of the human situation. To achieve this justice it is imperative that we draw a distinction between natural law on the one hand, and the human knowledge of natural law on the other hand.

Natural law, considered in itself, is neither more nor less changeable than human nature itself, because it is only the normalcy of functioning of that nature. But the human knowledge of natural law *is* progressive, *is* subject to development even, presumably, to indefinite development over the whole course of human history. Thus primitive man was, in the

matter of sexual ethics, aware at least that sexual union between humans should not be as completely casual as it is in the case of many animals. But only men of the Judeo-Christian West are aware that natural law itself requires that this non-casualness should take the specific form of a monogamous and life-long marriage; and not even all of them live out this awareness.

c. An interesting corollary follows from this view that although natural law is not progressive or developmental, still man's knowledge of it is. That corollary is this: man is not bound, at a given point in time, by those portions of the natural law of which the species is, at that time, invincibly ignorant. For one element in a binding law is that it be promulgated. Now the only way in which the unwritten natural law can be promulgated is by being discovered by human insight into the implications of manhood. Undiscovered natural law is non-binding natural law.

3. *Law and rights*

The word "rights" appears nowhere in the title of the present paper, yet I must examine it. For I wish to speak of various natural rights in the field of education.

a. The English term "right" is almost as rich as the related Latin term "*jus*." We speak, on the one hand, of "*the right*" in the sense of the righteous as opposed to the evil. So we say that man is obligated to do the right as he sees it. In this sense "right" means the morally sound, the morally correct and obligatory.

b. But we speak also of "*a right*" as "a right to life," "a right to reputation" and so on. Now what is the connection between these rights and *the right*?

c. Every "*a right*" is simply a claim to pursue "*the right*." I have, for example, a right to worship God according to my conscience because that worship is *the right*, the righteous thing to do, relatively to God.

d. How does *the right* give rise to *a right*? Through law. The function of natural law is to make *the right* obligatory, binding on the human person. Now when law commands some phase of *the right*, it gives rise to a duty in the persons so commanded. And duty in turn gives rise to *a right*, a moral claim to the means necessary to fulfill the duty. The sequence is as follows: (1) *the right* (2) is made obligatory by law (3) which gives rise to a duty in those bound by the law (4) which postulates in those so bound *a right* to the means necessary to fulfill that duty. *The right*, law, duty, *a right*: such is the sequence. My rights, then, spring proximately from my duties, intermediately from law, and ultimately from the claims of righteousness, *the right*, the moral universe, upon me.

e. Since rights spring intermediately from law, there are different

kinds of rights as there are different kinds of law. Natural rights spring from natural law, and man-made rights spring from man-made law.

B. Education

1. Definition

a. The term "education" is used in three distinct, though related, senses. In one sense it means the sum total of all those processes through which a human person is led toward fulfillment of any and every kind. It is in this sense that it is correctly said that education is life-long, and that one's school days are the least part of one's education. "Education" so understood is co-extensive with human life, if not synonymous with it, and is too vast for discussion this afternoon.

b. "Education" is used less extensively to mean every type of formation which adults undertake with regard to young people. In this sense the term includes intellectual, moral, emotional, religious, physical, esthetic, social, cultural, political, military and every other kind of formation. So understood "education" is co-extensive with childhood, adolescence, and young maturity, if not identical with them. Significant discussion of so vast a topic is impossible within this paper.

c. Finally—and it is in this final sense that I use the term—education means the specific task of intellectual formation undertaken by elementary and secondary schools, and by colleges and universities. In the restricted sense "education" is the name of the function of the school, as "sanctification" is the name of the function of the Church.

d. I said that the school undertakes *intellectual* formation. For as the family is especially responsible for the child's emotional and moral formation, and the Church for his religious or supernatural development, so the school is especially charged with his intellectual growth. Confusion on this point is almost universal in our time. The simple fact that schools, colleges and universities exist to train not the heart, not the will, not the taste, not the body, but the *intellect* has been lost sight of. No one agency can do all of these things: that is why the family invented the school to carry part of the load—the intellectual part.

2. Aims of education

a. The *direct* aim of education is intellectual excellence. Its indirect aims are (1) the formation of moral character; (2) preparation for a profession or job; and (3) preparation for coöperative friendship and for membership in numerous societies, including especially that society which is the State.

b. By "direct aim" I mean what education intends first, last and always; its specific job. By "indirect aim" I mean goods which education actively seeks, but seeks through achieving its direct aim. Thus a trial

lawyer has, I assume, as his direct aim, the winning of a judgment for his client. But he has at least two indirect aims: (1) to serve the common good through helping to establish the rule of justice; and (2) the support of his family. Obviously he can do this last only through winning his cases: for the lawyer who loses every case he tries won't support his family long. But he can also help establish the rule of justice only through winning his cases, for it is part of justice itself that any litigant has a right to the most excellent counsel he can obtain. Directly, then, the lawyer intends to win; but indirectly, that is through winning, he intends to serve the common good and to take care of his family.

Similarly the teacher intends, by every legitimate means, to refine, to purify, to bring to the highest possible pitch of development, the intellect of each of his students. Through this intellectual development he intends also to help form the moral character of the student. How? By leading, through intellectual means, the student to see the majesty of the moral realm, so that he may freely choose to live according to it. Through the same intellectual development the teacher intends to prepare the student for his professional life. How? By leading the student to see that the sons of Adam are not made for aristocratic leisure, but for the doing of a job, for the love of excellence in work, and for the perception that every form of work is a service to one's brother, and therefore a fulfillment of the commandment to love one's neighbor. Finally, the teacher intends, through intellectual excellence, to lead the student to social coöperativeness by perceiving that every person is as important as he himself is, and that the common good always transcends the individual good in the same order. Thus intellectual development may lead to the formation of a devoted friend, colleague, citizen.

But all these aims—moral excellence, professional excellence, social and civic excellence—the school can seek not directly, but only indirectly through seeking that intellectual excellence which will enable the student to perceive the reasons for devotion in all these other spheres.

c. We must take no mean view of this intellectual excellence which is the direct aim of the school. For this excellence is the pure passion for truth. And truth in turn is being as knowable. Intellectual excellence then is the conquest of being, the progressive realization of the significance of knowledge already attained, and the progressive attainment of new knowledge. Intellectual excellence is the humble placing of oneself in the infinitely rich context of what is, of the universe of reality, and the reverent examination of all that is. It is man's entry into his predestined place: that of being the one inhabitant of the universe who can, through knowledge, perceive the complexity but also the connectedness of what is, and through that perception transform the teeming realm of brute fact into

spiritual significance. He conquers the universe to utter it in a new way, the way of spiritual re-creation, the way of knowledge.

d. I have said, then, that education has only one direct aim, which is intellectual excellence, the pure passion for truth, the personal conquest of being. But it has three indirect aims: moral character, professional competence and social coöperativeness. Corresponding to these four aims are four dispositions to be fostered in the student.

i) If the student is to pursue intellectual excellence then there must be kindled in him the simple love of knowing the truth. This means openness of soul in the face of the whole of reality, a rejoicing in existence—his own existence, of course, but also in the existence of God and of the universe; a welcoming into his being of the whole of being; a saying “yes” to all that is.

ii) If moral character is to be formed, then there must wax strong in the student a love or righteousness and even a special love of the heroic to which unspoiled young people respond so generously.

iii) If education is to care, even indirectly, for professional competence, then it must instill a respect for work well done; a sense of responsibility for the task at hand; a knowledge that success or failure *does* matter, *does* make a difference; that today’s job is to be done today because tomorrow’s job will take up all of tomorrow. One must begin to learn in youth that the shorter one’s life is, the more it hurries away, the more important it is to get done all that one sees it is his to do. This pure love of work is rare in our dissatisfied society, and we are the poorer for its absence. Perhaps we can rekindle it in our young people.

iv) If coöperativeness, love of others and consideration for them is to be an aim of education, then the spirit of group activity must be fostered. Through group activity the student learns early the most valuable of all practical lessons—the spirit of legitimate compromise over means in order to attain valued ends; the hard, precious lesson that half a loaf is better than no bread at all. He learns how to do his horse trading without sacrificing his good humor or his good morals.

II. THE RIGHTS OF THE FAMILY IN EDUCATION

A. Rights of the parents

1. The family does not exist merely to generate children—promiscuity would achieve that. The family exists to beget *human* beings: to give children not life, merely, but a specifically human life, a civilized life—intellectual, moral, spiritual, emotional, esthetic, social; life having depth, breadth and restraint.

Put the matter another way. Those who are responsible for the *being* of the child are responsible also for his *well-being*. This includes his intellectual well-being, his command of those arts and sciences which are the

common patrimony, the common wealth, of civilized men; and his command too, over those specialized techniques necessary for his life's work.

2. In the discharge of these crushing obligations parents call upon other agencies; and for his intellectual well-being they call upon the school. The parent has the fundamental duty, and therefore the fundamental right to educate his children. Hence the school acts as the *agent* of the parent. So long as the child is indeed a child, the teacher stands in the place of the parent having such authority as the parent delegated to him.

This conviction that the fundamental right to educate pertains to the parents was given classical formulation by the Supreme Court of the United States, when it spoke as follows, through Mr. Justice McReynolds, in the *Oregon* case: "The child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations." These words are enshrined not only in the history and the practice of our country, but also in one of the most official pronouncements of the Roman Catholic Church, for Pope Pius XI made them his own in his encyclical letter "*On the Christian Education of Youth.*"

3. But it must be noted that to say that parents have the fundamental right to educate does not deny the existence of surrounding and limiting rights on the part of others: indeed the phrase "fundamental right" implies others have rights which may be less fundamental but no less real. A *fundamental* right is not an absolute, unconditional and unlimited right.

4. As a necessary means to implementing their educational rights, parents have also a right to such amounts of property as will enable them to exercise decent freedom in the selection of the school. This is, of course, only one of the several grounds which make it clear that property is the guardian of freedom, at least when the ownership of property is so widespread that each family has modest, unostentatious resources.

B. Rights of the student

1. The very first right of the student is to be treated by his teacher as a human person, not as an automaton. This means the student has the right to expect that appeals be made to his reason and his good will, and not to his fears and his passions. It means, too, that he has a right to expect, gradually and according to his years and his capacity, to be trained to do his own thinking. Docility, teachableness, so highly prized by the teacher, easily degenerates into passivity, suggestibility, parroting. He who is willing, in his early years, to parrot his lessons without asking any whys will be willing in adulthood to sop up uncritically the message of any imposing propaganda movement. The student has a right to be trained in critical reflectiveness, in intellectual self-reliance. Not subservience to

teacher's opinions, but independence of mind, tractable to and humble before evidence, but healthily reserved in the face of opinion—this is the right of the student and the protection of every society against imposing subverters. For even a child is a *rational* animal, and rationality is the root of decent self-reliance.

2. But rationality is, of itself, a mere capacity, and like any other capacity it must be fed. On what shall it be fed except on the products of human reason itself? And what are these products of reason? The collective name for them is civilization, culture. This word, civilization, is the name of the life of reason as realized in history. Is it not self-evident, then, that every person has, simply by virtue of his rationality, a natural right—it is the student's second right in education—to share in the fullest measure his capacities permit, in the fruits of civilization? Each generation stands on the shoulders of its predecessor. Hence the life of reason, in each of our young people, must be quickened and nourished by being fed on the achievements of that social reason which is civilization.

The most efficacious means of achieving personal possession and appropriation of the intellectual treasures of civilization is collegiate training in the liberal arts. From which it follows that each young person has a natural right to such training before entering upon vocational or professional studies provided, of course, that he has both the desire and the capacity for it.

3. Naturally there are those who dispute the existence of the right here alleged. Liberal collegiate education they hold is the exclusive privilege of some élite, which usually turns out in practice to mean the members of a given economic group. But every right, newly discovered is contested; and I remind you that man's knowledge of the natural law, and therefore of natural rights, is progressive or developmental, and that this right of all to liberal education is one of the most recently realized natural rights. The right of working men to unionize, of the people to select their own government, of slaves to be free men—all these rights were bitterly contested and won with difficulty. But they were, and are, genuine rights. So man's right to knowledge, to civilization, to the liberal arts is a genuine, though newly recognized right.

4. But to recognize the right is not to deny the difficulties which accompany its implementation. One should not press too hard, too quickly for the implementation of this right. To do so at this time would jeopardize higher goods; for the great problem is the financial one. At this moment in history much of the common funds of our society must go to survival which surely has a priority over genuine rights of a less elemental kind. We have recognized the right to such education and we are moving towards its achievement by all. The day has by no means passed when finances present no barrier to capable young people who wish such education; but

it is slowly passing. We have taken to heart the recognition that because liberal education is the sort that enables each man to think as well as his abilities permit, that it is therefore appropriate to each young person who is both capable of and willing to undertake it.

5. I cannot pass over this right to liberal education without brief reference to its social and political implications. Specialization not grounded on general intelligence is the specific mark of the beast. Only an animal is the perfect specialist, totally concentrated on the single task peculiar to the species: dam-building in the case of the beaver, honey-gathering for the bee. Technical specialization unaccompanied by liberal knowledge is a brutalization of man; and that is one reason why the totalitarianisms of our time are so keen on it. Such specialists are a profound threat to any democracy. For democracy is a daring act of faith in the general intelligence and good will of the persons who compose it. It affirms their ability not merely to perform a specific operation or technique but to pass rational judgment on that which concerns the general welfare, the common good. Democracy rests squarely on the intelligence and the virtue of its citizens, on the spiritual, enlightened freedom of man. The unenlightened technician, the illiberal specialist is, potentially at least, the totalitarian man. There can be "government of the people, by the people, for the people" only where the people are capable of governing. And the people are capable of governing only if the intellect has been developed, strengthened, liberated from prejudice, stupidity and superstition through that liberal education which is the recapitulation in the life of each of the historical civilizing of the species. Democracy withholds man's natural right to liberal learning at a dreadful risk to itself.

6. It is, I trust, unnecessary to add that criticism of the illiberal specialist is no defense of the sophist, the dilettante, or the esthete who sometimes parade themselves as liberal artsmen. These delicate fellows who have never soiled their hands with technology nor their minds with practical obligations to other human beings are the parasites of our society, as the illiberal specialists are its unconscious subverters. What is needed is a man who can use his head to think, his heart to love, and his hands to work—an arrangement which seems to approximate what the Creator had in mind.

C. Rights of the teacher

1. The teacher, we have agreed, is the agent of the parent, having authority to teach this student by way of delegation from the parent: that is why I include his rights under the rights of the family. For the teacher has been delegated the right and the authority to spark and to direct the intellectual life of his students. He must have therefore the means necessary to exercise this right; namely, that professional freedom which every

professional man must jealously guard; a freedom arising from his professional competence, his special experience and his personal endowments. Legitimate parental concern as expressed by interest in the personnel and the policies of school boards, by participation in P.T.A., by conferences with the teacher, is admirable and necessary. But there is an area, the specific area which is the cultivation of the intellectual life, which is specially reserved to the teacher. His efforts are sterilized by parents who fail to respect the authority they themselves have delegated to him.

2. The first right of the teacher, the right to determine how to implant and foster intellectual excellence in the student, implies a further right of the teacher: the right to lead an adult intellectual life himself. The teacher is society's custodian of the intellectual life, as the doctor is society's custodian of health. Now no one can give what he hasn't got. If the teacher is to lead the student to the intellectual life, then he must live it himself. If there is no flame of intellectuality in the teacher, there will be none anywhere: our society shall have ceased to be intellectual, and therefore human.

3. This means that the teacher must be free to pursue the truth, to investigate ideas. The first qualification for the teacher is, as Whitehead used to say of philosophers, to be genial, to be even-tempered, in the face of any idea no matter how foreign, false, or outrageous. He must be left free to live out his simple enchantment with ideas as such. It is an addiction which he can no more explain than "whodunit" enthusiasts can explain the strange hold of detective fiction over them. The teacher simply experiences an enduring fascination with the little vestige of truth in every human thought: that is what makes him tick. Other people may, should they choose, live in a black and white world where every human idea is either true or false. But the teacher must be left free to locate exactly, and to treasure, the little fragment of truth in the blackest of errors; and to see and reject the little blot of error in the truest of human judgments.

4. Our society has become suspicious of this preoccupation with ideas. It has become impatient of the intelligence which is critical as well as creative—as though intelligence could ever be uncritical. It is indeed true as one famous American had drily phrased it: "*Via ovicipitum dura est*" (the way of the egghead is hard).

One of the common slogans by which it is sought to limit the intellectual freedom of teachers is this: "Error has no rights." The trouble with this particular dictum is that it proves too much. Why has error no rights? Because error is a quality of a judgment and no judgment or quality of a judgment ever has rights: only persons have. But is not truth also a quality of a judgment? It is. Has it then any rights? None whatever, if error has no rights. But persons *have* rights including, paradoxically, the right to be wrong.

This right to be wrong exists on two levels. Morally, and in the natural order, one has the duty and therefore the right to hold as true what conscientious research and reflection suggest as true, even though subsequent study show it to be objectively false. So astronomers had the moral right to teach that the sun moves around the earth until the researches of Copernicus established that the earth moves around the sun.

Civilly, one has a more extensive right to be wrong, however silly it may be to exercise it. For the state has no competence to decide theoretical issues, and therefore any citizen has, from the point of view of the state, as much right to hold scientific or philosophic errors as to hold scientific or philosophic truths.

5. Speaking just a year ago to a group of Italian jurists, one great religious leader, Pope Pius XII, expressed this point by emphasizing that there is often a civic duty to tolerate error, even religious and moral error, for the sake of the public peace. Often, he pointed out, we have neither the duty nor the right to impede or repress what is clearly erroneous and false. Every group must be prepared to put up with a large margin of error in every other group. If it happens to be blessed with modesty, each group may also safely assume that a healthy percentage of error enters into its own natural thinking.

6. The teacher's right to investigate ideas, to search out the truth, is, of course, limited by the virtue of prudence. No man should give his mind to an area of investigation which he knows to be morally dangerous to himself. One should not, for example, study alcoholism in such a way that one becomes an alcoholic himself. Yet I must add that we should not be too ready, in this matter, to legislate for each other. What is dangerous for one person due to his personal weaknesses, may be quite innocuous for another.

7. I have defended the right of the teacher to intellectual freedom on the ground that unless the light of intellectuality burn brightly, and therefore freely, in his mind, it cannot be communicated to the mind of the student. But freedom to investigate ideas is not the same as unrestricted freedom to teach. However noble intellectual values are, still there are higher values. To the degree that teaching a given subject matter might reasonably be expected to upset these higher values, that subject matter should not be taught. "Never dig a ditch that you can't fill up" was a dictum of Aquinas. It is a warning against being a sophist instead of a teacher. But it is a warning too against reporting to the young disturbing reasearch which has not yet been harmonized with established knowledge. Thus the Kinsey Reports seem to me valuable sociological research, however problematic may be the statistical theory employed. But the indiscriminate distribution of these reports is indefensible. Teaching, like every art, is selective. We are not obligated to teach everything we know,

and at times we are obligated by the virtue of prudence not to teach something we know.

III. THE RIGHTS OF THE STATE IN EDUCATION

A. General Rights of the State

1. The rights of the family in education are, we have agreed, primary, but not absolute or unlimited. Like all human things they are limited. Specifically they are limited by the rights of others, notably of the state. For the state has a high stake in education, and particularly the democratic state.

2. The state exists to promote the general welfare, to provide for the common good; the good not of some, nor of most, nor of all collectively, but of *each*. By virtue of this commitment to the common good the state is committed first to insuring, to fostering, the educational rights of the family and of those groups which are the agents of the family in education. For it pertains to the common good to secure the legitimate rights of each person and each society within the state. This is the primary, but indirect, role of the state in education.

3. More directly the state has the duty and the right to do in education whatever the family and its agents cannot do. Hence the state normally, in our time, institutes a public school system by drawing through taxation on the resources of all citizens, whether or not they have children to be educated in these schools. The specific form which such a school system takes legitimately varies from country to country.

4. In addition to providing a public school system the state also has the duty and the right to set minimum standards for all schools, public and private, secular and religious. It pertains to the common good, which is the province of the state, to see that its citizens achieve a certain minimum cultural level. This minimum level must be much higher in a democracy than is necessary in an authoritarian or totalitarian state, for the democracy must insure the competence of the citizenry to reflectively decide their collective destiny. Finally, the state has a clear right to establish a monopoly in certain areas of training, such as the military.

5. The state must be aware that its rights are no more absolute than those of the family and its agents, whose rights are prior to and limiting of the rights of the state. The very first task of the state is to reaffirm the rights of the family even against the state itself, and to continue respecting those prior rights in its subsequent tasks, such as establishing a public school system. This means that the reasonable wishes of the parents must be respected by the public authorities in determining the character of the public school.

B. The Problem of Religious Education

1. That last sentence—that the state must respect the reasonable wishes of the parents in determining the character of the public schools—leads us to one of the bitter controversies of our time, the problem of religious diversities and the public schools. Unhappily the controversy has generated passion on both sides, and slogans have replaced sober thought. These factors—emotion and slogans—embitter and lengthen the debate.

Now it is unlikely that you and I shall bring any significantly calming oil to these troubled waters, but we can at least make the effort to conceive the problem in a cool and generous spirit.

2. In a religiously diversified political society like our own there are fundamentally only two alternatives for the state in establishing a public school system: to provide a religiously neutral school system, or to provide a religiously pluralistic school system; that is, a Protestant school system, a Catholic school system, a Jewish school system and, for those of no religious convictions, a neutral or secular school system. America has chosen the former solution; England, Scotland, the Netherlands, and the province of Quebec in Canada have chosen the latter. What would be intolerable in a religiously diversified country would be public schools of one denomination only.

3. Now the first alternative—a religiously neutral public school system—has the obvious merit of giving preferential treatment to no religious group. In this precise sense of avoiding preferential treatment it can be said to be in the spirit of the first amendment to our federal constitution. Yet it has the obvious demerit of being a clear case of injustice. For the citizens in general provide the means for the public school system; and the parents have the right to determine the character of the education of their children in that public school system. Parents of no religious conviction have every right to expect a religiously neutral education for their children. But religious-minded parents have an equal right to expect a religious education for *their* children, Protestant, Catholic, Jewish as the case may be.

4. The second alternative—a religiously pluralistic public school system—would provide schools of every character: Protestant, Catholic, Jewish, secular or neutral. In theory, this should be ideal. At least it has the obvious merit of being just, of respecting the prior rights of the parents. But mere justice is insufficient for any practical program: that program must also be expedient, workable. It happens that the pluralistic system, which operates satisfactorily elsewhere, has been found highly unsatisfactory in this country, to officials of both state and church.

5. Americans are insufficiently aware of the degree to which this experiment of secular and religious public schools has been tried in the

United States. There is scarcely one of the forty-eight states which has not at one time or another experimented with it, usually on a small scale and without too much publicity. The reaction has almost invariably been the same: citizens object on the ground that public funds are being used for private religious purposes, and churchmen object on the ground that they have lost control of religious schools to public officials. Both groups are discontented. Religious discontent with religious public schools in America was symbolized about sixty years ago when the Holy See, in the person of Pope Leo XIII, determined that in America parochial schools should be pushed, and that Catholic action for religious public schools should be dropped. It would, therefore, seem that the atmosphere of the present debate might be clarified if Catholics at least would publicly acknowledge that while they find one fundamental solution unjust, they find the only other fundamental solution inexpedient, since they will not yield control of Catholic schools.

6. When basic solutions are both ruled out, one naturally turns to compromises. There would seem to be two theoretically possible compromises. The first would be the establishment, as at present, of a religiously neutral school system, but complemented by a system of state subsidies to religiously controlled religious school systems. This compromise, however, would seem impossible on two grounds. First, if citizens generally find publicly financed, publicly controlled, religious schools unacceptable, much more would they find unacceptable publicly financed and privately controlled religious schools. Second, even though religious minded parents would gain financially, they would probably themselves object that public funds should not subsidize private aims. There would seem to be a lurking injustice here.

7. The only remaining compromise would seem to be the establishment of a religiously neutral school system, as at present, plus a system of subsidies, not to private school systems, but to the child whose parents cannot conscientiously enroll him in the public schools. This subsidy would, of course, go to the school of the parents' choice, but it would be a subsidy of the child. It was in this way that the Veterans Administration subsidized the education of veterans after World War II. Educational equality is given to all, yet the prior rights of the parent are respected; direct subsidies to any private group are avoided; the child, and not the system, is the center of attention. All this is as it should be. Whether actual experimentation would reveal flaws not now discernible I do not know.

8. If even this compromise proved unworkable and religious-minded Americans continue to find their legitimate wishes unjustly frustrated, then for the sake of public peace it would be well for religious-minded