

CAPE OUTLOOK

Number 88

January-February 1983



New Congress, New Agenda?

The new school year usually begins right after Labor Day, but it will be well after New Year's Day before the members of this year's freshman class of the 98th Congress take their seats. There are 86 members of this class, 81 in the House and 5 in the Senate. 57 newcomers to the House are Democrats, bringing the tally of that body to 269 Democrats and 166 Republicans. The Senate roster remains as it was in the 97th Congress at 54 Republicans and 46 Democrats.

Washington observers expect that the new House will turn renewed and sympathetic attention to the so-called "social issues," including education. It is also said that Administration efforts to change federal education policies will be met with increased resistance.

A less clear policy shift is anticipated for the Senate, but *Education/USA*, a publication of the National School Public Relations Association, noted shortly after the election, "Lobbyists believe the Senate will include two more opponents to tuition tax credits. Both (Jeff) Bingaman (D-N.M.) and (Pete) Wilson (R-Calif.) are said to be against them."

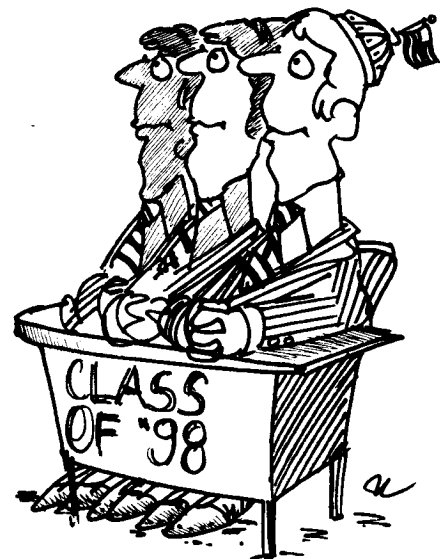
There will not be many new names to learn on the rolls of the key education committees of Congress. The House line-up will remain fairly static, while only one significant change will take place in the Senate.

Sen. Harrison (Jack) Schmitt (R-N.M.), former chairman of the Senate Appropriations Committee's Labor, Health and Human Services and Education Subcommittee, met defeat last November. There seems to be widespread agreement among Washington education reporters that Sen. Lowell P. Weicker (R-Conn.) is the primary contender for the post.

The composition of the Senate Committee on Labor and Human Resources remains as it was at the end of the last session, with Sen. Spark Matsunaga

(D-Hawaii) filling the seat left by former Sen. Harrison Williams (D-N.J.) who resigned in the wake of Abscam. With its composition and leadership intact, the committee most likely will not change the thrust of its legislative activities. A staff member told *Outlook*, "Senator Stafford (Chairman of the Education Subcommittee) will continue to work on whatever changes he has made in the last two years."

Over on the House side, it will also be pretty much business as usual. All the members of the Labor, Health and Human Services and Education Appropriations Subcommittee were re-elected, and 26 of the 31 members of the Education and Labor Committee were returned to office. Republicans who will not be back in service are Arlen Erdahl of Michigan, Eugene Johnson of North Carolina, Wendell Bailey of Missouri, Laurence DeNardis of Connecticut and Millicent Fenwick of New Jersey. One Democrat—Peter Peyser of New York—lost to a Republican colleague in a redistricting shuffle, and another—William Ratchford of Connecticut—has transferred to the Appropriations Committee to fill a slot caused by the death of Rep. Adam Benjamin.



The Democratic Steering and Policy Committee, meeting after January 3, will make appointments to the Education and Labor Committee. It may add another panelist to reflect the party's increased power in the House. Counsel Jack Jennings predicted to *Outlook*, "The interest in the new Congress will be in science, math and high technology. The new members and the Committee will probably want to focus on that next year."

Parental Choice Bibliography for NIE

A "literature review of significant research" on parental choice in education has been compiled for the National Institute of Education's School Finance Project by the management consulting firm of E. H. White and Company. The review seeks to find answers to the following:

Who makes choices about schooling and residential location and what factors influence these selections?

How would decisions about schooling and residential location affect the supply and demand for private education?

How would changes in the supply and demand for education affect and be affected by federal financial assistance to private schools or families?

How do choices of schooling and residential location affect federal concerns with equal educational opportunity, with educational quality, with legal issues raised by efforts to promote choice, and with other important policy issues?

E. H. White researchers point out that answers to these questions do not lie neatly within the confines of any particular discipline but rather scatter themselves throughout literature in education, economics, political science, sociology, demography, and public policy. The investigators conclude, however, ". . . that the vast increase in the exercise of choice in education in the past decade is here to stay in one form or another."

For further information, contact Ted Allen at E. H. White and Company, 1025 Vermont Ave., N.W., Suite 710, Washington, D.C. 20005.

Legislative Update

Congress reconvened on November 29 and took the following action on private education bills:

—House refused to pass amendment to Treasury appropriations bill which would have denied funds to IRS to implement its ruling altering tax-exempt status of discriminatory private schools.

—House refused to pass amendment to Treasury bill denying funds to IRS to implement ruling disallowing charitable deductions for "general purpose contributions which are used for educational purposes by a (tax exempt) religious organization."

Capelog

Among its recent activities on behalf of its constituency, CAPE:

. . . has conferred with the staff of and contributed to the work of the National Commission on Excellence in Education concerning practices in private schools. The Commission's report is expected in April.

. . . has written a response to a *New York Times* article by Albert Shanker in which it explained the private school perspective on teacher accreditation.

. . . has met with Senator Dole and his staff to discuss the legislative efforts to pass the Administration tuition tax credit bill.

. . . has become a "sponsoring organization" for the March 24-25 National Conference on Single Parent Families and the Schools sponsored by the Home and School Institute.

. . . has alerted its state CAPE representatives to its interest in private school compliance with federal asbestos regulations. CAPE will be asking for data on asbestos compliance after June 28, on which date school reports to the government on asbestos detection and correction are due.

Commonality and Contention at ED: Koffee Klatch #4

Ignoring the maxim that polite people do not discuss religion and politics (not to mention the inclusion of education in such a discussion), the latest Private/Public School Leadership Koffee Klatch held by the Department of Education got to conversing about exactly those topics and how they serve to unite or divide the education community.

The meeting began with an examination of the successful association between private and public education in the states of Pennsylvania and Florida. Although they are markedly different (Pennsylvania has a strong regulatory program and gives significant financial aid to private school children while Florida has no aid system and pretty much leaves its private school associations to police themselves), it became apparent in the course of conversation that there are common factors inherent in good state/school relationships.

As identified by Dr. Charles O'Malley, convenor

COUNCIL FOR AMERICAN PRIVATE EDUCATION/1625 Eye Street, N.W., Washington, D.C. 20006

(202) 659-0016

A coalition of 15 national organizations serving private schools (K-12)

[ISSN 0271-1451]

Robert L. Smith, *Executive Director*; Carla Gelband, *Editor*; Jay Roudebush, *Art Editor*; Tara Kalagher, *Reporter*

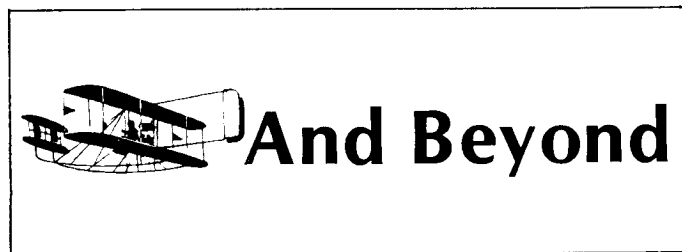
OUTLOOK is published monthly (September through June) by the Council for American Private Education. Annual subscription \$8. Council members: The American Lutheran Church • American Montessori Society • The Association of Evangelical Lutheran Churches • Association of Military Colleges and Schools of the U.S. • Christian Schools International • Friends Council on Education • Lutheran Church-Missouri Synod • National Association of Episcopal Schools • National Association of Independent Schools • National Association of Private Schools for Exceptional Children • National Catholic Educational Association • National Society for Hebrew Day Schools • Seventh-day Adventist Board of Education, K-12 • Solomon Schechter Day School Association • U.S. Catholic Conference • Associated state organizations in Arizona, California, Connecticut, District of Columbia, Florida, Georgia, Indiana, Kansas, Maryland, Michigan, Minnesota, Missouri, Montana, Nebraska, New Mexico, Oregon, Puerto Rico, Rhode Island, Tennessee, Texas, Virginia, Washington and Wisconsin.

of the Koffee Klatches and Executive Assistant to the Secretary for Private Education, they are: the presence of a nonpublic school contact person on the state commissioner's or state superintendent's staff; the existence of a strong, broad-based private school association in the state; the interest of state education officials and private school leadership in solving problems at a very early stage; and, perhaps, the awareness on the part of a state legislature of the political clout possessed by private school groups.

The Koffee Klatch also addressed the areas of contention that can drive a wedge between public and private school interests. Describing these issues as "value conflicts with legitimacy on both sides," Dr. Paul Salmon, Executive Director of the American Association of School Administrators, said, "We are trying to define 'what is education? What is religion?'—and these are contentious matters. We are also dealing with the continuous conflict between the individual right of freedom of religion and the state's interest in insuring its people the kind of schooling that will obviate the necessity for later public support of its citizenry."

Disagreement was also evident on the significance that should be attached to the use of public funds in aid of private education. While Dr. Salmon contended that "the more public money that goes to private schools, the more regulation you get," another Koffee Klatcher demurred, countering that "the absence of public financial assistance is no guarantor of the absence of governance problems."

The next Koffee Klatch is scheduled for January 11.



Private School Suit Dismissed

A suit against a private elementary school for breach of contract, fraudulent misrepresentation and deceit was dismissed by the Appellate Division (intermediate level) court in New York State. In the case of *Paladino v. Adelphi University Waldorf School* decided on October 12, 1982, Judge Richard Brown referred to a series of precedential cases involving public schools in which the courts had declined to involve themselves with educational malpractice claims and determined that the same policy of noninterference should apply equally to a private educational institution.

Frank Paladino, whose son Michael had attended the Waldorf School for seven years and had transferred to a public school after failing to be pro-

moted to the sixth grade, had charged that the Waldorf School had "breached its agreement by failing to provide quality education, qualified and expert teachers, necessary tutorial and supportive skills, (and) accurate and factual progress reports; and that it furnished false and misleading progress reports which reflected that Michael was making satisfactory progress in his studies and promoted him each year to the next grade."

Judge Brown's decision articulated the belief shared on his bench that professional educators, rather than judges, should evaluate teaching methods and curriculum content in schools both public and private: "Simply put," he wrote, "the courts should refrain from becoming overseers of the learning process." He further concluded that educational quality in a private school, as opposed to a public school, does not become "more amenable to attack in the courts" but instead can adequately be monitored and controlled by standards imposed on such schools by state legislatures.

Had the Waldorf School accepted Michael's tuition and made no attempt to educate him, or had it agreed to provide specific services and then had not done so, the court might have found a breach of contract action viable. But since the charges brought against the school cited failure to provide a "quality education," they "entail an analysis of the educational function" and require "the fact-finder to enter the classroom and determine whether or not the judgments and conduct of professional educators were deficient. . . . The quality of the education and qualifications of the teachers employed by the private school are concerns not for the courts but rather for the State Educational Department and its commissioner."

Reporting Requirements in New England

Church schools in Massachusetts must submit the names, ages and residences of their children to local school committees. At present, such schools in Maine do not.

Massachusetts

Church school officials in Massachusetts had asked the U.S. Supreme Court to overturn a decision of the Supreme Judicial Court of Massachusetts which held that the First Amendment rights of those associated with the Grace Bible Church Christian School in Dracut had not been violated by the state's reporting requirements. "The State's need for the required information outweighs the incidental burden on the right of the defendants, parents and children to practice their religion," it said.

The school, still claiming infringement of its constitutional rights of freedom of association, free exercise of religion and freedom from the establish-

(continued on page 4)

(continued from page 3)

ment of religion, maintained to the Supreme Court that "the state must not only show a compelling interest which justifies the infringement but also that no less restrictive alternative means of satisfying that interest exists."

While the state acknowledged that a burden was, in fact, being placed on the school, it contended that it was not caused by the reporting requirements *per se* but rather "by the threat that the state will enforce its truancy laws" against the non-approved school.

On November 1, the U.S. Supreme Court denied the school's petition to review *Bailey v. Bellotti*, thus leaving in place the earlier state court ruling against the schools.

Maine

Supervision of private schools in Maine is a bit more stringent than in Massachusetts. Schools there must meet "basic state approval"; they must adhere to health and safety standards; they must demand certain curricular requirements for graduation; they must make their attendance and transfer records available to the state; and their teachers must be certified.

The Maine Association of Christian Schools filed suit against the state in 1981, objecting to the teacher certification and basic approval demands. Maine officials countered with a request that the suit be dropped, claiming that the issues involved had already been addressed in other states. U.S. District Court Judge Conrad Cyr disagreed with the state, and ruled on October 26 that the schools were entitled to a trial in which they could try to prove that the school regulations offended their religious principles and burdened their religious beliefs and practices. The trial in *Bangor Baptist Church v. State of Maine* is set for late February.



Grolier Audio/Visual/ Resource Lending Library

**Grolier Educational Services proudly presents
its expanded 1982/1982 program featuring:**

A series of over 100 programs created to assist every member of your school community in meeting the challenges they face as educators and families in the Eighties.

-In-Service Training.

-Parenting Programs and Workshops.

**-Brand new this school year, over 60 Disney
Filmstrips, featuring the Fantasy Classics.**

All on loan to participating schools through Grolier Educational Services. For more information contact Sam Rosen, Senior Vice President, Grolier Educational Services, 707 Westchester Avenue, White Plains, New York 10604. In New York call collect: (914) 682-4700. Out of Town call toll free: (800) 431-1256.

Grolier Educational Services
"Your Partner in the Pursuit of Educational Excellence".

CAPE OUTLOOK

COUNCIL FOR AMERICAN PRIVATE EDUCATION
1625 Eye Street, N.W.
Washington, D.C. 20006

First Class Mail
U.S. POSTAGE
PAID
Rockville, MD
Permit No. 129

FIRST CLASS