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## Editorial Comment

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# Editorial Comment

It is pleasing to report the enthusiastic and widespread response which followed publication in the Summer *Catholic Lawyer* of the first half of a two-part article on the *Engel v. Vitale* decision, commonly known as *The Prayer Case*.

Reader interest was particularly centered in the new constitutional law arguments advanced in the article which augur well to break important ground in the controversy over federal aid to education. Tersely stated, the novel thesis which attracted so much attention was that the Supreme Court of the United States has recognized secularism as a "religion" within the meaning of the first amendment and therefore, if schools which teach secularism may be publicly supported, so also may schools which teach theistic religion.

The author, constitutional lawyer William B. Ball, maintained further that the *Engel v. Vitale* decision has implications reaching far beyond prayers composed by government and dictates the exclusion of all religious practices and indoctrination in the public schools. Its chief point is to show that since secular humanism has been raised to the status of a "religion" by the Supreme Court, secular humanist programs in the public schools must also suffer the effects of court decisions banning promotions of religion in the public schools. "If Ethical Culture and Secular Humanism," so the first half of the article stated, "are to enjoy the benefits of free exercise (because they are religions) they cannot avoid the rigors of disestablishment. There is no possibility, under the Constitution, for giving preference to nontheistic religions over theistic religions. . . ."

The second half of the article, which is featured in this issue, explores solutions to this court-created dilemma of disestablishment. Considering the alternatives of an overruling decision, a constitutional amendment, and teaching "about" religion as a part of culture, Mr. Ball finds none of these totally satisfactory. Arguing that the public school must now be regarded "as a species of sectarian school," and that "there can be no selection by government of a particular sectarian school as the sole object of its bounty," the author urges a fourth alter-

native to the constitutional dilemma: that government give aid on a nonpreferential basis to all institutions which "responsibly carry out citizen education."

Although Mr. Ball is not in complete agreement with the alternative of constitutional amendment as a remedy, it is nevertheless under serious consideration in present Senate committee hearings. Mr. Cusack's article is therefore included in this issue as it presents the arguments for the adoption of the amendment solution and suggests a model amendment which has met with the approval of many constitutional law authorities.

In view of the fact as brought out above that the *Engel v. Vitale* decision so obviously affects the present federal aid to education controversy, it is particularly unfortunate that some readers were under an erroneous impression, as evidenced by their letters, that Mr. George Reed's article in the Summer *Catholic Lawyer* centered about this case. Actually Mr. Reed was invited to submit an article on the "permeation" issue in federal aid to education. His article was completed at the time *The Prayer Case* was decided but he amended it to incorporate a brief reference to *Engel*. Since the permeation theory is undoubtedly one of the main issues in the whole field of public aid to private education, Mr. Reed's article should be considered as only incidentally relating to *The Prayer Case* and primarily concerned with aid problems arising from the integration of religious principles to a whole curriculum.

Elsewhere in this issue are two very excellent articles on morality and natural law. The first, by Professor Pedro Entenza-Escobar of the Catholic University of Puerto Rico, is concerned with natural and moral obligations in the civil law. The second, by Dr. Mark MacGuigan of the University of Toronto, treats of the same basic topic from the point of view of the common law. The articles may well be called companion pieces.

A handwritten signature in black ink, reading "Edward Tegen". The signature is written in a cursive style with a long horizontal line extending to the right.

EDITOR