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REPORT ON PENDING FEDERAL LEGISLATION

JAMES ROBINSON*

My task here is to give an overview of the 98th Congress as it has developed in the short time that it has been in session and legislation of special interest to the United States Catholic Conference and to the Catholic Church in general.

The preface to that: I will speak of an exercise we went through at the Conference. At the beginning of this year the General Secretary decided to have all of our various offices spend a few hours talking about priorities and issues that will be coming before the Congress of special interest and of high priority to the Catholic Church and to the Conference. When we finished we produced a list consisting of 42 issues. These were just issues—not a particular piece of legislation. I am going to reduce it considerably from that and not attempt to give you an overview of 42 issues that are pending before the Congress.

This Congress is, in membership, slightly different from the previous Congress, the 97th, which was the first of the Reagan Administration. But the basic issues before the Congress are not greatly different. The 97th Congress spent most of its time in both the first and second sessions debating the question of the federal deficit, the economy and revenue of the federal government.

The first session passed a three-year tax cut reducing domestic spending considerably and embarked on an expansion of a defense program or military buildup which had actually begun even in the 96th Congress. This followed what President Reagan thought was the mandate of his election to reduce taxes, improve the national security and national defense, and pay for this by cutting waste and fraud.

The second session of the 97th Congress pretty much just held the line. They made a few additional cuts in the area of domestic social spending and continued the defense buildup and then of course discov-

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ered that the first session had maybe gone a little too far in reducing revenue and they passed a major tax bill, general revenue bill, restoring some of the revenue to the federal government and then put on a major increase in the gasoline tax.

I suspect this Congress is pretty much going to follow the same pattern, at least in the first session. The House has already passed a budget resolution which calls for a \$30 billion increase in federal revenue and new taxation and a \$30 billion increase over the domestic spending requests of the President. They have also reduced his requested increase in defense buildup from an overall growth of 10 percent to 5 percent.

The Senate also opened debate on the first budget resolution. What appears to be shaping up in the Senate is pretty much along the same line. The argument appears to be over how we are going to have to raise revenue, how much we are going to slow down the defense expenditure buildup or how—it is not a question of arguing as to whether, at this stage, there are going to be any reductions in the defense spending. The Senate is talking in terms of 7½ percent of real growth after inflation adjustments while the House was talking in terms of 5 percent in defense buildup. The Senate is talking about restoring maybe \$11 or \$12 billion in domestic spending as against the House's \$30 billion and the Senate is talking about something in the nature of \$10 billion in additional revenue as against \$30 billion in the House.

With those kind of figures we are still talking about a \$200 billion federal deficit. I think it is fairly easy to come to the conclusion that in the area of domestic legislation where the Church has its greatest interest, the social programs of the federal government, the funding for the poor, for welfare programs or for such things as, for example, food stamps and so forth, the money is not there and they are not talking about making it available. The only way the cuts that have been instituted in the last two years can be restored is to increase the federal deficit because there is no sentiment at this point of restoring all of the revenue that has been dropped in the last two years.

That is the beginning—to set the stage to get into the areas of specific legislation in which the Conference and the Church have special interest. I will mention just four areas of concern, but I will initially indicate that perhaps the most important legislation from a domestic social standpoint and in many respects from an economic and financial impact on the nation has already passed the Congress and been signed into law by the President, and that is the revision of the financing of the Social Security System. For the Church, aside from the general concern about the welfare of the elderly and the disabled and the survivors under the OASIA part of the program as well as the Medicare program, the major change that will confront the Church and confront you is in the area of the option which is currently available for non-profit exempt organiza-

tions. That will end in January 1984.

The bill will bring mandatory coverage of all employees of all 501(c)(3) organizations as of January 1, 1984. I do not believe this is going to have a major impact on the dioceses or the Catholic institutions. The last reports we had out of Baltimore from the Social Security Administration was that well over 90 percent of the employees of the Catholic dioceses and Catholic institutions were already covered by Social Security under the voluntary waiver procedure that has been in effect for some time. One particular point is that a few of our institutions in recent years had filed notice of an attempt to withdraw from FICA coverage. Those notices will be wiped out by the bill the President signed. Institutions or organizations that have gone through the two-year period for cancelling their election will find themselves swept back in under the mandatory coverage.

In the area of abortion and right-to-life, I took the trouble to read over what I said to this same group about a year ago in the area of constitutional amendment on the subject of abortion. At that time, when we were in Washington, I said it looked as though the long-awaited debate over the Supreme Court's decision was definitely going to take place in the Senate, and that there would be a vote sometime last year on the question of a constitutional amendment. Well, I was quite wrong. I had not expected Senator Helms to get into the act to the extent he did and as a result, the Hatch Amendment never came to a vote. It got out of committee and reached the floor of the Senate, but never came to a vote. What Senator Hatch did get was a commitment from Senator Baker, as majority leader, that he could have his debate early in the 98th Congress on a constitutional amendment and since the Congress has returned, Senator Baker has several times pointed to this commitment which he made to Senator Hatch, and says that he intends to fulfill it and that whenever Hatch is ready there will be a debate in the Senate on a constitutional amendment.

Well, Senator Hatch had made some changes in the amendment that he plans to take to the floor of the Senate for this debate. He has come to the conclusion that he can do best if he confines it to the first sentence of the Hatch amendment of last year and has managed to get a bill out of committee without recommendation, on a nine-to-nine tie vote. The new Hatch amendment simply contains one sentence which says a right to abortion is not secured by the Constitution. What I said a year ago, I would guess that even though the amendment has changed, it would be about as far as I would want to go in saying what is going to happen. I think our best indications are that there is a majority of the Senate in favor of some constitutional amendment and probably in favor of an amendment of the type that Hatch is now talking about. Now some predict a majority currently exists, but you hear all sorts of estimates from

senators, from various right-to-life groups, from pro-abortion groups. I would not want to predict. I think there is a majority in favor of an amendment. Whether there is a two-thirds majority we will know when they call the roll.

In the area of education this Congress has two major issues before it of particular interest to the Catholic Church and our parochial schools. First, of course, is a repeat of an issue that has been around before, the proposal of President Reagan to grant tax credits for tuition paid to private schools. The President has again submitted his bill. The Senate Finance Committee has held one day of hearings. The indications are that it is the intention of the Senate leadership to bring this to a vote in this Congress. Exactly when, I do not think that decision has been made. There are some indications that the Senate leadership would prefer to see this delayed until there is some decision out of the Supreme Court in the pending cases, one out of Minnesota and in the *Bob Jones* case because it may have some effect upon the action of the Congress what the Supreme Court says in those cases.

There also, I believe, is a practical consideration unrelated to that. The Senate will be resolving sometime this month with the House the question of whether or not there is going to be, or, I should say, I think the question is really what size revenue bill will be passed in this Congress. It looks as though there is going to be a revenue bill and the issue is going to be how large a revenue bill it is, whether they are going to repeal the President's third year 10 percent tax cut or take a different approach to increasing revenue to offset increasing his budget. I expect the issue may be held back by the Senate leadership until they see whether they are going to have a major tax—or what kind of a major tax bill and whether it will be appropriate or possible to combine a tax credit with such a revenue bill.

The other area showing much greater signs of action and approval in the Congress is a new program to deal with the problem of mathematics and science education in the elementary and secondary schools of the nation. Now, the House has already passed a bill which concentrates primarily on providing teacher training programs, summer institutes, providing funds to colleges to improve the teaching of mathematics and science at the elementary and secondary school levels.

The Senate Committee currently has a bill in front of it. I expect it will be approved. Both the President and the Democratic leadership in the Congress have agreed that they want to do something to deal with this problem of American education. There is not much money involved in the bill, as a start, but it is the type of program that I think can grow immensely in future years if federal funds are available and if the concern in the nation over educational excellence continues and the demand out of both the public and industry to reform the whole system of teaching

math and science continues.

The bill does have provision for participation of the parochial schools in it as passed by the House and the bill under consideration by the Senate does also. Essentially the provision for the parochial schools follows the established procedure under the Elementary and Secondary Education Act of 1965. Catholic school teachers will participate along with public school teachers in teacher training and seminar programs. In any programs that the public schools institute at the elementary and secondary level, they will have to provide comparable services to the children in the parochial and other private schools.

In the area of concern for the unemployed, the poor in our society, in relation to the budget, there is a restoration of some of the cuts apparently in the offering, cuts that were made in the last two years. In terms of individual programs, I do not think these restorations in most cases will amount to much because of the increase in demand as a result of unemployment and recession of the last three years.

The major area in which there could be some action out of this Congress, I think, is in the area of low-income housing which has been delayed by arguments over budgets and programs for the last couple of years. This Congress could attempt to adopt a new low-income housing program. The exact nature of it is hard to describe at this point. There is considerable difference between the congressional committees and the administration on what form low-income housing assistance should take. It probably will continue to have a role for the non-profit sector as sponsors of low-income housing projects.

Another area this Congress, I think, may well take some action of rather far reaching consequence to our nation and of great impact on the Catholic Church and its institutions is in the area of immigration. Last year after several years of study and Presidential proposals which Congress was never able to come to grips with, a major effort was made to pass an immigration reform act. A bill passed the Senate by a very large margin but failed in the House. In the closing days it reached the floor of the House. But in the lame-duck session following the election, it died for lack of time and lack of consensus. I think that on the part of the Democratic leadership and some of the interest groups it was decided it would be better not to have a bill passed by the 97th Congress and to wait for the new Congress. It is very high on the agenda of this Congress. The Senate essentially can be expected to pass virtually the same bill it passed last year. The bill is already out of committee.

There are differences between the House and Senate bills and I will not try to go into those because I do not think we have time for all the detail involved. Both the Senate and the House bills have three major elements in them. First, both bills in essentially the same form impose sanctions on employers who knowingly hire illegal aliens or aliens who

have entered this country or remained in this country without legal authority to take up employment. There is very little difference in the sanctions provision between the two bills. Both bills provide for a program of legalization of illegal aliens who are in this country.

There is a considerable difference, however, developing in the two bills. The Senate bill which follows a pattern of last year's House bill and the Senate bill of last year would establish or grant permanent residence status to aliens who have resided in this country illegally since January 1, 1977 and a temporary resident alien status to those who have been in the country illegally since January 1, 1980. Those given temporary resident alien status would become eligible for permanent status after a three-year period which would supposedly clean up the situation because the sanctions are supposed to stop attracting illegal entrance into the United States during a three-year period in which they will come into force.

This year's House bill in this legalization area would treat all of the illegal aliens who are eligible for legalization the same and grant them permanent resident status. Congressman Mazzoli was successful in getting a cutoff date moved up one year so that all illegal aliens in the country since January 1, 1981, would become eligible—with some conditions, of course, on eligibility—for permanent resident status immediately and without going through any transition of a temporary resident alien status. This is one of the things the bishops of the Catholic Church and the Conference have been arguing for rather strongly—a one-tier approach. Part of the reason being that it is expected to be rather difficult to get some of the illegal aliens to come forward to disclose their identity for a temporary period of legalization and a fear on their part that once the government finds out how many there are of them in this country that Congress might take away the second step of legalization into permanent resident status.

We are hopeful that that will be the final version of the bill and that the illegal aliens who do qualify for legalization will be able to secure permanent resident status. This should encourage them to come forward and get themselves legalized.

I'll just very briefly describe the third major area of the bill. It is a reform in the adjudication process for immigration cases. Both bills would establish a new board of immigration appeals and set up a system of administrative law judges, some of them specially trained to hear asylum cases, to handle immigration matters.

There is very little dispute or difference in this area between the two bills. I think the major difference is the Senate bill allows the attorney general to appoint the board of immigration appeals, while the House bill provides for a board to be appointed by the President with the advice and consent of the Senate.

The two areas in the bill that will have the most immediate impact

on the Catholic Church, I think, are the legalization and sanctions portions. On legalization, there is provision in the bill for voluntary agencies to assist the Immigration Service in the immense task they will face processing applicants for legalization. No one knows, of course, how many illegal aliens there are in the United States. One of the directors of the INS was asked that question several years ago, and he said, "What do you mean, how many are there? If I could count them, I could catch them." So, one thing we may find out if we ever get legalization is how many there were. Estimates vary from the Hesburgh Commission, the Presidential commission, that determined an estimate of between 3½ and 6 million illegals in the United States in 1978. The same Commission also came up with the estimate that the net increase in illegal aliens each year is running around 500,000 which is about equal to the inflow of legal immigrants to the United States, including refugees, over the last few years. If they are correct and you had a net increase since 1978 of 500,000 per year then you would have to say that their estimate should be revised to where it would be somewhere between six and eight million illegals in the United States.

The bill, as I say, provides for voluntary agencies to participate in the legalization process. I know many dioceses have already begun some planning as to how the Church can help the illegals secure their rights under this bill. One of the important things is that it is perceived that a very large portion of the illegal aliens in the United States are Catholics, primarily from South and Central America and Mexico. It is expected that many of them, before they will venture to approach the Immigration Service to secure legalization, will turn to an institution that they trust a little more securely, namely the Catholic Church, and that the Church will have a large role to play in assisting these people to better their legal condition in the United States and hopefully, over a period of years, their economic and family condition.

The sanction section of the bill will also affect the Church as a large employer. I think we can anticipate that the problem of sanctions will apply to the Church as employer as well as to the Church's interest in the legalization.

The sanctions provision basically says it is unlawful for any employer knowingly to hire for employment or to recruit for a fee any alien not authorized to work in the United States. Employers with four employees or more will be required to have all prospective employees show them, as a condition of hiring, two documents: a United States passport or a United States birth certificate or Social Security card, and a driver's license or a state-issued I.D. card or an alien identification document. The intent is that these documents which currently exist will be used for a three-year transition period while the President and the Immigration Service develop a more secure system of identification. The importance of

the sanctions is that the employer, that is the employer with four or more employees, will have to attest in writing, under penalty of perjury, that he has seen the necessary documentation and will require the prospective employee to attest in writing and also under penalty of perjury that he or she is authorized to work in the United States. There are civil and eventually, for repeated violations, criminal penalties provided in the Act, and there is also an increase in the penalty for the use of fraudulent documents to obtain employment or the manufacturing of fraudulent documents that are used by persons to obtain employment.