

that your testimony has been some of the finest and I compliment you both for it.

I would like to ask a question or two to follow the subject dwelled on previously in regard to Dr. Mattheis on page 4, on title II.

You have misgivings in regard to title II and perhaps even its constitutionality in regard to the affiliation and entanglement of church and state, is this true and if so in what respect?

Dr. MATTHEIS. Yes, sir. I think in the matter of the loan of the books, the materials to the teacher and the child. I think in actual fact the word loan is open for an awfully lot of discretionary judgment and use. I think it is used in many ways and many of them I think could be challenged very, very seriously.

What a loan means to one individual I think might be different from what it would mean to another. I think in actual practice and in fact the loan is such, as it is being implemented might not fit what many people call to be a loan and perhaps the courts might rule to be a loan.

Mr. SCHERLE. Do you believe then in your own mind that there is a possibility that the money allowed to you in the form of Federal aid is being given to parochial activity that is not entitled to it?

Dr. MATTHEIS. Only in this regard, Mr. Congressman. I think in the implementation of the act where a public school district in cooperation with the nonpublic school purchases these resource materials and then loans them to the teacher and child I think this is the area of the great discretion and perhaps discrepancy, where, in fact, I think in many of these cases then initially or ultimately it is working out to be a permanent loan situation and I think there are many who would question whether this is within the constitutionality of our State.

Mr. SCHERLE. In your State of Minnesota, do you bus children?

Dr. MATTHEIS. We do not. I think the Minnesota constitution has been indicated to be one of the strictest in this area of expenditure of public funds for nonpublic schools. We do not provide textbooks or other material for them either.

Mr. SCHERLE. Do you anticipate any kind of litigation to challenge this Federal act?

Dr. MATTHEIS. I don't know that I would say I would anticipate it, Mr. Congressman, but I am not encouraging it though.

If I may, Mr. Congressman, I should now interject because that might be taken to be too negative. The relationship we have had with the public schools in Minnesota, and I think Dr. Byrne is knowledgeable enough to speak to this, has been excellent and both in title II the way things have worked out.

I have not heard anything particular about voicing questions of it or desire to put it through the court procedures.

There are many people in our State who are aware of the fact that it is working its way through the courts in some other States and they are concerned about it, but I don't think overly so at this point.

Mr. SCHERLE. Dr. Byrne would you like to comment on this?

Dr. BYRNE. I don't think I would really have too much to add to what Mr. Mattheis said. We know for example that there is a question of litigation in Pennsylvania and some other States. I have never heard the topic raised at all in the State of Minnesota.