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## Introduction

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# INTRODUCTION

ROBERT R. HAMILTON\*

Possibly at no time in the development of the educational system of this country would a symposium on Education and the Law be more timely. At no time in our history has the volume of legislation and judicial decisions vitally affecting education been greater. That the course of education in both public and private schools is being very greatly influenced by the law is obvious. There is no reason to believe that this influence will not increase as the problems of education become more complex as they appear destined to do.

Of course, any symposium on Education and the Law can deal with only a very small number of the legal problems affecting the schools. I am sure the editors of this symposium make no pretense that the topics considered are other than representative ones in which the respective authors are interested and in which they are knowledgeable. For this and possibly other reasons many extremely important areas have been considered very briefly or not at all. Among them are those represented by such landmark decisions as *McCullom*, *Barnette*, *Everson*, *Cochran*, and others which readily come to mind. I hasten to say that the absence of consideration of such important topics in no way detracts from the importance and significance of those treated by the various authors.

It is interesting to observe that three authors deal with the matter of public funds for church affiliated schools. Possibly the recent *Horace Mann League* case decided in Maryland inspired these discussions since Professors Costanzo and Davidow and Senator Ervin consider the case in their discussions. It is interesting to compare the views of the Maryland case of these three writers since one is a professor in a large Catholic university, one a United States Senator and the third a professor of law in a state

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supported university. In discussing federal influence over education possibly Professor Newton Edwards, the "Grand Old Man" of school law doubtless intended to make a gross understatement when he said that "there are those who feel that federal influence over education has become too great."

Variety is given to the symposium by other articles which deal with timely topics of educational administration on which there is little or no law. The matter of the release of grades of college students to draft boards certainly falls in this category as does the article of Professor Money Penny. No symposium on education and the law would, of course, be complete without a discussion of the developments in the tort immunity area. Professor Linn centers his discussion around the famous *Molitor* decision and, in common with most writers and an increasing number of courts, criticises the immunity doctrine.

There is not the slightest indication that any author considers his the final word on the topic he discusses. The articles are all thought and discussion provoking and expressions of individual points of view. As in all symposiums, there is much more here with which the average reader would agree than with which he would disagree. By the same token, the reader may not be willing to accept completely and without qualification all the conclusions or views expressed. For example, there are those who might question the conclusion of Professor Costanzo that denying federal aid to church affiliated schools makes the State an adversary of religious education. On the other hand, it is not, I think, seriously contended that education in church schools does not serve a public purpose, assuming the requisite standards are maintained in these schools. Doubtless few would disagree with Professor Costanzo on this point. Or, one might not agree completely with all of the criticisms of the Supreme Court expressed by Senator Ervin although it is believed that by far most of his points are well taken. However, each author has made a significant contribution to the literature of the law as it relates to and affects education.