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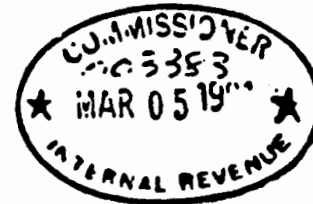
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Internal Revenue Service
memorandum



date: MAR 5 1981

to: Commissioner-Designate

from: Assistant Commissioner
(Employee Plans and Exempt Organizations)

A handwritten signature in dark ink, appearing to be "S. [unclear]", written over a horizontal line.

subject: Private Schools - Legislative and Administrative Options

In order to provide uniform nationwide interpretation and enforcement of the tax laws with regard to the exempt status of private schools, we offer the following legislative and administrative options for your consideration and discussion at the Policy Committee meeting:

OPTION 1

Remove the Appropriations riders and amend section 501(c) (3) to allow the Service to issue guidelines for determining loss or denial of tax-exempt status on grounds of racial discrimination consistent with modifications to the February 79 revised proposed revenue procedure such as:

—"Nothing in these rules should be interpreted as requiring religious schools to accept students, hire teachers, provide special curriculum or facilities for those who do not subscribe to the school's religious tenets and beliefs or to proselytize for adherents to their faith in order to obtain minorities."

—"If a school was formed or expanded for religious purposes, and not for the purpose of excluding minorities, the formation or expansion coinciding with public school desegregation in its area will not be considered as related in fact to such desegregation order."

—"However, if a school is operated with the intent to racially discriminate against minorities or preclude their full participation in the school's program, it will not be exempt from Federal income tax under section 501(c) (3) nor will donors be entitled to deductible charitable contributions for its use."

PRO

The Service would be allowed to administer the racial nondiscrimination requirement uniformly in accordance with Congressional approval. Also, Congressional sentiment may be building for the tax-writing committees to assert their jurisdiction in this area.

Commissioner-Designate

CON

Based on past experience with Representative Gibbons' Oversight Subcommittee and other efforts, it may not be realistic to assume that Congress could agree on appropriate guidelines in this area.

OPTION 2

Remove the Appropriations riders, implement the February 79 revenue procedure, and enact legislation requiring that the Service initiate litigation before revocation or denial of tax-exempt status. (See, for example, Helms Bill S.995 introduced 4/24/79, copy attached.)

PRO

Initiation of litigation and assumption of burden of proof by Service might facilitate Congressional removal of riders.

There are precedents in other tax areas for imposing on the Service the burden of proof in civil litigation. See sections 162(c)(1) and (2) and 7454(b).

CON

Legislation requiring the Service to institute or initiate litigation is contrary to present procedures involving civil litigation by IRS.

Recommendation

If there are indications of a willingness on Congress' part to deal with this matter substantively, then Option (1) should be tried. Option (2) could be undesirable and unwise from both an administrative and legal standpoint.

Attachment

cc: Chief Counsel

96TH CONGRESS
1ST SESSION

S. 995

To amend the Internal Revenue Code of 1954 to require the Secretary of the Treasury to obtain a judicial finding of racial discrimination before terminating or denying tax-exempt status to a private school on the grounds of racial discrimination.

IN THE SENATE OF THE UNITED STATES

APRIL 24 (legislative day, APRIL 9), 1979

Mr. HELMS (for himself, Mr. FORD, Mr. SCHWEIKER, Mr. STEVENS, and Mr. ZORINSKY) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1954 to require the Secretary of the Treasury to obtain a judicial finding of racial discrimination before terminating or denying tax-exempt status to a private school on the grounds of racial discrimination.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. FINDINGS; DECLARATION OF CONGRESSIONAL
4 POLICY.

5 (a) The Congress finds that--

1 (1) discrimination based on race in the public
2 schools violates the Constitution and Acts of Congress,
3 including title VI of the Civil Rights Act of 1964, and
4 the elimination of discrimination based on race in all
5 educational opportunities is a fundamental national
6 goal;

7 (2) the Supreme Court has held under the Civil
8 Rights Act of 1866 that a private elementary school
9 may not discriminate on the basis of race in the admis-
10 sion of students, but the Congress has failed to provide
11 guidance as to the tax-exempt status of such schools;

12 (3) revenue rulings and procedures adopted by the
13 Internal Revenue Service which deny tax-exempt
14 status to private schools that discriminate on the basis
15 of race are not based on a specific statute but rest on
16 broad grounds of fundamental public policy as deter-
17 mined by the Service;

18 (4) the financial viability of many private schools,
19 including scholarship programs, rests on the assurance
20 that contributions to the school are deductible under
21 the Internal Revenue Code, and any action by the In-
22 ternal Revenue Service affecting the tax-exempt status
23 of a school threatens its existence;

24 (5) revenue rulings and procedures adopted by the
25 Internal Revenue Service have not been sensitive to

1 private schools which limit, prefer or grant priorities in
2 admissions to students which are members of religious
3 organizations;

4 (6) many private schools operated by a particular
5 religion or religious association form an integral part in
6 carrying out the religious mission of the affiliated
7 churches or associations in the free exercise of religion
8 by their members;

9 (7) various Acts of Congress which condition Fed-
10 eral financial assistance to grantees, such as title VI of
11 the Civil Rights Act of 1964 and title IX of the Edu-
12 cation Amendments of 1972, do not apply to organiza-
13 tions simply because they are tax-exempt;

14 (8) the Congress has provided in title VI of the
15 Civil Rights Act of 1964 that a public elementary and
16 secondary school system is entitled to notice and a full
17 evidentiary hearing on allegations of racial discrimina-
18 tion including the right to appeal an adverse decision
19 to the Federal courts, prior to the termination of Fed-
20 eral funds; and

21 (9) neither the Congress nor the Internal Revenue
22 Service has provided for impartial adjudication of alle-
23 gations of racial discrimination prior to withdrawal of
24 the advance notice of deductibility with respect to con-

1 tributions to, and the determination of the tax-exempt
2 status of, a private school.

3 (b) Therefore, the Congress determines that a private
4 school which in fact racially discriminates as to students
5 should not be entitled to tax-exempt status, and contributions
6 to such schools should not be deductible under the Internal
7 Revenue Code of 1954, and further determines that the Sec-
8 retary of the Treasury should be required to bring a declara-
9 tory action in the Federal courts to adjudicate whether a pri-
10 vate school in fact racially discriminates as to students prior
11 to any action which affects the tax-exempt status of, or de-
12 ductibility of contributions to, such school.

13 SEC. 2. SHORT TITLE.

14 This Act may be cited as the "Private School Non-Dis-
15 crimination and Due Process Act of 1979".

16 SEC. 3. DECLARATORY JUDGMENT PROCEDURE ESTAB-
17 LISHED.

18 (a) IN GENERAL.—Subchapter A of chapter 76 of the
19 Internal Revenue Code of 1954 (relating to civil actions by
20 the United States) is amended by redesignating section 7408
21 as 7409, and by inserting after section 7407 the following
22 new section:

1 "SEC. 7408. ACTION TO REVOKE OR DENY TAX-EXEMPT
2 STATUS OF PRIVATE SCHOOL ON BASIS OF
3 RACIAL DISCRIMINATION.

4 "(a) GENERAL RULE.—The Secretary may not—

5 "(1) revoke or change the qualification or classifi-
6 cation of a private school as an organization described
7 in section 501(c)(3) which is exempt from taxation
8 under section 501(a),

9 "(2) deny, withhold approval of, the initial qualifi-
10 cation or classification of a private school as such an
11 organization, or

12 "(3) condition acceptance or approval of an appli-
13 cation for qualification or classification of a private
14 school as such an organization, or

15 "(4) revoke the advance assurance of deductibility
16 issued to a private school,

17 on the grounds that the school discriminates on the basis of
18 race as to students unless a court of the United States, in a
19 civil action for a declaratory judgment brought by the Secre-
20 tary in accordance with the provisions of this section, has
21 found that the school has a racially discriminatory policy as
22 to students.

23 "(b) PROCEDURE TO BE FOLLOWED BY THE SECRE-
24 TARY.—Whenever the Secretary has reason to believe that a
25 private school has a racially discriminatory policy as to stu-
26 dents, the Secretary shall file a civil action for a declaratory

1 judgment in the United States district court for the district in
2 which the private school is located.

3 **“(c) LIMITATIONS.—**

4 **“(1) EVIDENTIARY STANDARD.—**No finding that
5 a private school has a racially discriminatory policy as
6 to students shall be made unless the Secretary, by a
7 clear and convincing preponderance of the evidence,
8 shows that the school has had a practice of deliberate
9 and intentional racial discrimination in fact.

10 **“(2) NO ADVERSE ACTION UNTIL SCHOOL HAS**
11 **EXHAUSTED APPEALS.—**In the case of a private
12 school with respect to which a court has found under
13 subsection (a) that it has a racially discriminatory
14 policy as to students, the Secretary shall not take any
15 action with respect to the initial qualification or contin-
16 ued qualification of the school as an organization de-
17 scribed in section 501(c)(3) which is exempt from tax
18 under section 501(a) or as an organization described in
19 section 170(c)(2)(B) until the school has exhausted all
20 appeals from the final order of the district court in the
21 declaratory judgment action brought under this section.

22 **“(d) RETENTION OF JURISDICTION; REINSTATEMENT**
23 **OF STATUS.—**The district court before which an action is
24 brought under this section which resulted in the denial of
25 initial qualification or revocation of qualification of a private

1 school as an organization described in section 501(c)(3) which
2 is exempt from tax under section 501(c), or as an organiza-
3 tion described in section 170(c)(2)(B), shall retain jurisdiction
4 of such case, and shall, upon a determination that such
5 school—

6 “(1) has not had a racially discriminatory policy
7 as to students for a period of not less than a full school
8 year since such denial or revocation became final, and

9 “(2) does not have a racially discriminatory policy
10 as to students.

11 shall issue an order to such effect and vitiate such denial or
12 revocation. Such an order may be appealed by the Secretary,
13 but, unless vacated, be binding on the Secretary with respect
14 to such qualification.

15 “(e) AWARD OF COST AND FEES TO PREVAILING
16 SCHOOL.—In any civil action brought under this section, the
17 prevailing party, unless the prevailing party is the Secretary,
18 may be awarded a judgment of costs and attorney's fees in
19 such action.

20 “(f) DEFINITIONS.—For purposes of this section—

21 “(1) PRIVATE SCHOOL.—The term ‘private
22 school’ means any privately-operated school which
23 meets the requirements of State law relating to com-
24 pulsory school attendance other than a school offering
25 care or instruction for students solely below the first

1 grade, nursery schools, schools for the blind or deaf, or
2 schools operated solely for the handicapped or emotion-
3 ally disturbed.

4 “(2) RACIALLY DISCRIMINATORY POLICY AS TO
5 STUDENTS.—The term ‘racially discriminatory policy
6 as to students’ means that a school does not admit stu-
7 dents of all races to all the rights, privileges, pro-
8 grams, and activities generally accorded to or made
9 available to students at that school, and that the school
10 discriminates on the basis of race in administration of
11 its educational policies, admissions policies, scholarship
12 and loan programs, athletic program, or other school-
13 administered programs. Such term does not include an
14 admissions policy of a school which limits, or grants
15 preferences or priorities to, its students to members of
16 a particular religious organization or belief and does
17 not include any policy or program of a school which is
18 limited to, or required of, members of a particular reli-
19 gious organization or belief.

20 “(g) SECTION TO APPLY ONLY TO SCHOOLS WITH
21 PUBLICLY ANNOUNCED POLICY OF NONDISCRIMINA-
22 TION.—Subsection (a) shall not apply with respect to any
23 private school unless that school has adopted a policy of non-
24 discrimination on the basis of race as to students and has

1 published, in such manner as the Secretary may require,
2 public notice of that policy.”

3 (b) The table of sections for such subchapter is amended
4 by striking out the last item, and inserting in lieu thereof the
5 following:

“Sec. 7408. Action to revoke or deny tax-exempt status of private school on basis
of racial discrimination.”

“Sec. 7409. Cross references.”

6 **SEC. 4. EFFECTIVE DATE.**

7 The amendments made by section 3 of this Act shall
8 apply to actions of the Secretary of the Treasury taken with
9 respect to the initial qualification or continuing qualification
10 of an organization as an organization described in section
11 501(c)(3) of the Internal Revenue Code of 1954 which is
12 exempt from taxation under section 501(a) of such Code, or
13 which is described in section 170(c)(2)(B) of such Code, after
14 the date of enactment of this Act.

○

Internal Revenue Service
memorandum



date: MAR 5 1981

to: Commissioner-Designate

from: Assistant Commissioner
(Employee Plans and Exempt Organizations)

A handwritten signature in black ink, appearing to read "S. [unclear]", written over a horizontal line.

subject: Private Schools - Green v. Regan

In a companion memorandum, Counsel discusses whether the Service can and should take any action in this case which might result in Appellate review of the supplemental injunction. Counsel concludes that supporting the movant-intervenor's appeals before the Court of Appeals poses no legal obstacle. Counsel notes there are some negative considerations because of the lack of timeliness and the impression that could be created with regard to this change in litigating position. On balance, however, and after careful consideration of these factors, it is our judgment that this case presents the most timely and satisfactory vehicle for obtaining judicial guidance with regard to church-related school issues.

The 1971 and 1980 Green injunctions were entered and decreed on statutory grounds. The movant-intervenors claim a constitutional status under the Religion Clauses of the First Amendment with regard to the status of their interests. Since no church or other religious person is a party to the action, the movants claim their interests are not represented at all.

There is merit to the movants' claim that their specific interests have not been advanced and represented. We think it is preferable to have these constitutional claims adjudicated and resolved within the framework of the Court's injunction rather than through case-by-case litigation. There is an opportunity to address the Court of Appeals next week when the appeals brief for the movants is due, and we recommend that the government use that opportunity to encourage the court to let the movants become a party to the suit.

cc: Chief Counsel

TREASURY DOCUMENT PROFILE

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- TO:
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 - D/SECRETARY (D)
 - U/SEC. (MA) (M)
 - OTHER (Specify)

FROM: Commerce
Miki, Robert T.

- CLASSIFICATION
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REFS: _____

SUBJECT: Excessive regulations by the IRS in the tax exemption of private schools

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ACTION REQUIRED

DUE DATE 3/19/81

APPROPRIATE ACTION DIRECT REPLY COME BACK COPY TO EXEC SEC (SE)

MEMO TO: _____ REPLY FOR SIG. BY: _____

COMMENTS/SPECIAL INSTRUCTIONS
Please prepare draft reply and return to George Cross (thru Exec. Sec.)

SUBSEQUENT ROUTING/ACTION

DATE	FROM	TO	SUBSEQUENT ACTION TAKEN/REQUIRED	DUE	COPY TO

DISPATCH INSTRUCTION

DISPATCH TO _____ NOTIFY: _____

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- WHITE HOUSE ALPHA
- TREASURY CONGRESS
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UNITED STATES DEPARTMENT OF COMMERCE
The Assistant Secretary for Policy
Washington, D.C. 20230

March 4, 1981

*George Cross
Treasury Dept.*

Mr. Charles W. Glenn
President
Mottley Construction Company, Inc.
Post Office Box 245
Farmville, Virginia 23901

Dear Mr. Glenn:

Secretary Baldrige has asked me to thank you for your letter and to followup on your concern about Internal Revenue Procedure 71-447.

At the meeting of the Task Force on Regulatory Relief Working Group this morning, I submitted a copy of your letter to the Treasury Department representative and requested that they consider the issue for Treasury Department review.

Within the Task Force, the Commerce Department is the focal point for business on regulatory matters and will plan an active role to reduce unnecessary, burdensome, and costly regulations.

Sincerely,

Robert T. Miki

Robert T. Miki
Deputy Assistant Secretary for
Regulatory Policy (Acting)

MOTTLEY CONSTRUCTION COMPANY, INC. DEPT. OF COMMERCE
OFFICE OF THE SECRETARY

P. O. BOX 245
FARMVILLE, VIRGINIA
23901

Phone:
392-3137

C. W. GLENN
President

February 13, 1981

Mr. Malcolm Baldrige
Secretary of Commerce
Commerce Building
14th Street
Washington, D. C. 20230

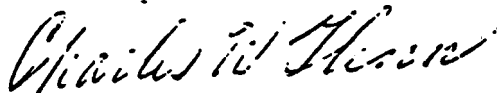
Dear Mr. Baldrige:

I am pleased that you were selected to serve on the distinguished commission, The Presidential Task Force on Regulatory Relief, to study excessive governmental regulations and make recommendations to the President as to their disposition. The American people spoke loud and clear in November, 1980 for a change in government and for reduced governmental interference.

Enclosed is a copy of a letter to Vice President George Bush, chairman of the Task Force, in reference to excessive regulations by the Internal Revenue Service in the tax exemption of private schools. The letter points out clearly that the I. R. S. is now in the "regulatory business" for which they have no congressional authority.

I sincerely trust that you and other members of this distinguished commission will study this area of over regulation carefully and that you will make appropriate recommendations to prevent the I. R. S. from destroying our private schools.

Sincerely yours,



Charles W. Glenn

CWG:swa

MOTTLEY CONSTRUCTION COMPANY, INC.

P. O. BOX 245
FARMVILLE, VIRGINIA
23901

Phone:
392-3137

C. W. GLENN
President

February 12, 1981

The Vice President
The United States Senate
Washington, D. C. 20510

Sir:

I am pleased to note that you are chairman of a distinguished commission to review excessive government regulations with the responsibility of making recommendations to the President pertaining thereto. Your task is a formidable one brought about by the growing bureaucracy of recent years.

I should like to call the commissions attention to one particular regulation created by the Internal Revenue Service that has truly become a monster. This regulation is known as Revenue Procedure 71-447, which was expanded and revised to Rev. Proc. 75-50 and later proposed as the 20 per cent ruling. It was the latter proposed Revenue Procedure that attracted nationwide attention in 1979 with more than 100,000 letters to the I. R. S., a House committee hearing, and finally a hearing by a Senate committee. Legislators at these hearings generally agreed that the I. R. S. had gone too far in interpreting a congressional statute pertaining to tax exemption for private schools. Technically, however, both Rev. Proc. 71-447 and Rev. Proc. 75-50 are also beyond the authority of the I. R. S. since they too amend or change the congressional intent of the statute.

The I. R. S. has brazenly and knowingly usurped the powers of Congress as indicated by a public statement of I. R. S. Commissioner Jerome Kurtz on January 9, 1978. In discussing the proposed regulations pertaining to tax exemptions for private schools, Mr. Kurtz admitted that the I. R. S. has "almost no specific statutory guidance" in this area.

A brief review of section 501(c)(3) of the 1954 Internal Revenue Code provides clear meaning of congressional intent. This section states that organizations are exempt which are "organized exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purpose." Even I. R. S. rulings that deal with section 501(c)(3) are clear:

(d) Exempt Purposes - (1) In general
(i) An organization may be exempt as an organization described in section 501(c)(3) if it is organized and operated exclusively for one or more of the following purposes:

- (a) Religious,
- (b) Charitable,
- (c) Scientific,
- (d) Testing for public safety,
- (e) Literary,
- (f) Educational, or
- (g) Prevention of cruelty to children or animals.

. . . (iii) Since each of the purposes specified in subdivision (1) of this subparagraph is an exempt purpose in itself, an organization may be exempt if it organized and operated exclusively for any one or more of such purposes.

26 C.F.R. Sec. 1.501(c)(3)-1(d)(1). (2).

These references fully describe the intent of the statute created by Congress in reference to tax exempt purposes of 501(c)(3). The only additional reference of significance to private schools is the exemption definition of an educational institution which must contain three basic elements:

1. a body of students
2. qualified teachers
3. a regular site and schedule for the pursuit of educational purposes

Section 501(c)(3) was unchallenged and unamended for several decades but then came the I. R. S. attempt at "law making" for the purposes of social engineering under the authority of so called "public policy." It is historically true that the I. R. S. is one of many administrative agencies and that such agencies operate through those delegated powers from Congress. Thus, their power to act comes from specific statutes, and not from the bureaucracys will. The Supreme Court in a case known as Manhattan General Equipment Co. vs. Commissioner provided the last word in setting the limits of an agency's power:

The power of an administrative officer or board to administer a federal statute and to prescribe rules and regulations to that end is not the power to make law - for no such power can be delegated by Congress - but the power to adopt regulations to carry into effect the will of Congress as expressed by the statute. A regulation which does not do this, but operates to create a rule out of harmony with the statute, is a mere nullity.

The Vice President
Page 3

Again the Supreme Court spoke in *McCrary vs. Runyan* stating that a private school may not discriminate on the basis of race or ethnic origin in its admission policies. Clearly, this is the present law of the land and it needs no further review or modification by the I. R. S. Thus, Revenue Procedure 75-50, its predecessor 71-447, and its successor (20% ruling) not only goes beyond the intent of Congressional Statute, but beyond the intent and directive of the United States Supreme Court.

Judge Chapman in the Bob Jones University case stated:

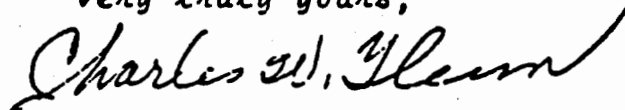
"It is the province of Congress, not the I. R. S., to make the federal tax laws. The law that Congress has passed in this instance is clear and unambiguous, and this court will give it effect. Should Congress desire to change the law, it may so do in keeping with the Constitution. This court cannot, and will not, approve changes in the law by an administrative agency that completely bypasses the legislative process."

Sir, the private school, like private business, plays a vital role. Over regulation destroys them both and prevents the proliferation of great ideas, excellence, and diversification so desperately needed in the restoration of quality, dignity, and soundness to the American way of life.

I am indeed thankful that your commission is investigating excessive government regulations and we pray that the activities of this commission will provide some of the spark and hope desperately needed to restore this great nation.

I respectfully request that you and the commission give high priority to removing I. R. S. Revenue Procedure 75-50 and others that are unjustified, without congressional intent, beyond the dictates of the Supreme Court, contrary to section 501(c)(3) of the 1954 Code, and detrimental to the continued operation of private schools.

Very truly yours,



Charles W. Glenn



Department of the Treasury
Washington, D.C. 20220

MEMORANDUM

Date: February 26, 1981

To: John E. Chapoton
Assistant Secretary - Designate (Tax Policy)

From: Theodore S. Sims
Attorney-Advisor

Subject: The attached letter to the Secretary from the
Mississippi Congressional Delegation

Congress, by riders to the most recent Treasury appropriations bill, has prohibited the Internal Revenue Service from implementing a Revenue Procedure originally proposed in 1979 under which the tax exempt status of a number of private schools country-wide would have been reexamined. Despite the appropriations riders the Service is now under an injunctive order issued by the United States District Court for the District of Columbia requiring it to review the exemptions of a number of Mississippi schools.

The Mississippi letter deals with steps initiated by the Service in response to that order. The letter argues that the litigation that led to the District Court order was essentially collusive, that it did not give the adversely affected schools an opportunity to be heard, and that in light of the appropriations riders the Treasury therefore should reconsider its willingness to proceed in compliance with the order.

I discussed this letter with Bill DeReuter of Legislative Affairs, who has advised me that the Mississippi delegation was pressing for a meeting promptly on this matter. Initially, I informed Mr. DeReuter that, in view of the visibility and sensitivity of the issue, it might be imprudent for the Treasury to meet with the Mississippi delegation without participation by appropriate officials of the Service as well as of the Justice Department. Thereafter I ascertained from Stan Koppelman of the Commissioner's office that this issue already has been raised with the Commissioner by one of the signatories to the letter (Lott). Evidently the Commissioner or his office has indicated to the Hill that there are a number of procedural steps that would



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have to be taken before any school's exemption might actually be revoked, that such procedures will take time, and that the Commissioner is willing to brief interested Congressional officials after he has been confirmed.

In light of those discussions I asked Mr. DeReuter if he would ascertain from those on the Hill with whom he has been discussing this issue whether, in light of the probable delay before any school's exemption is revoked, they too would be willing to wait until you, the Commissioner and the appropriate Justice Department official (I am not certain whether it would be the head of the Civil Rights Division or the Tax Division) have been confirmed. Mr. DeReuter advised me that this appears to be agreeable to those with whom he has been in contact.

cc: Mr. McKee
Mr. DeReuter
Mr. Koppelman
Ms. Goodman
Mr. Yecies
Ms. France

THAD COCHRAN

United States Senate
WASHINGTON, D.C. 20510

January 26, 1981

The Honorable Donald Regan
Secretary
Department of the Treasury
15th and Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Handwritten note:
1/27/81
1/27/81
1/27/81

Dear Mr. Secretary:

We are writing concerning recent actions by the Internal Revenue Service to revoke the tax-exempt status of private and religious schools in Mississippi.

In May 1980, Judge George L. Hart, Jr., of the Federal District Court for the District of Columbia ruled in Green v. Miller against the tax-exemption accorded private and religious schools in Mississippi when it is determined by the IRS that the schools:

have in the past been determined in adversary or administrative proceedings to be racially discriminatory; or were established or expanded at or about the time the public school districts in which they are located or which they serve were desegregating, and which cannot demonstrate that they do not racially discriminate in admissions, employment, scholarships, loan programs, athletics, and extra-curricular programs.

Subsequent to that decision, the IRS has submitted over 300 questionnaires to Mississippi schools, has surveyed 51 schools and has audited six. All six of those audited have received notice of proposed revocation of their tax-exemption.

We urge that the Department of Treasury reconsider its previous position in this matter. Several factors support such a reconsideration.

① First, insofar as the church-related schools are concerned, the constitutional ramifications are extremely significant. Pursant to the district court's order, the tax-exemption would be revoked not only for the schools but also for the organizations which operate them. In other

The Honorable Donald Regan
January 26, 1981
Page 2

words, in the case of a church-related school, the church itself stands to lose its tax-exemption. And not only would the church be taxed on any unexpended income, the congregation members--many of whom do not send children to the school--would no longer be able to deduct their contributions to the church since it would no longer be a qualified organization.

The historic tax-exemption for churches and for their members has been consistently, unwaveringly maintained under the first amendment principle of separation of church and state. The revocation involved here is absolutely unprecedented. Its significance cannot be overstated.

② The second issue involved here is that, in considering the Fiscal Year 1980 appropriations for the Department of Treasury, Congress specifically withheld appropriations from the IRS which it might have used to:

formulate or carry out any rule, policy, procedure, guideline, regulation, standard or measure which would cause the loss of tax-exempt status to private, religious or church-operated schools.

The constitutional propriety of agency action which flies in the face of congressional intent remains to be resolved. Underscoring the uncertainty about this issue is the fact that in Wright v. Miller, a virtually identical suit which was dismissed only six months before Green, Judge Hart ruled that the IRS was precluded by the 1980 Treasury Appropriations from such action as is involved here.

Another significant issue is that if the IRS should persist in this effort, one law will be applicable in Mississippi and another law applicable in the other 49 states. This must be avoided in the interest of fairness and uniformity, especially in a matter so significant and sensitive as this.

Finally, this case was brought by a private litigant against the Treasury Department. At no time has any affected school been given an opportunity to be heard. This "sweetheart" case was decided with complete absence of representation for the schools and churches involved.

In Judge Hart's earlier decision in Wright v. Miller, in addition to ruling that the plaintiffs lacked standing for failure to show injury traceable to IRS that would be remedied by a ruling in their favor, it was ruled that the case lacked an "adversary context."

The Honorable Donald Regan
January 26, 1981
Page 3

In Green, as in Wright, there was no "adversary context." The Treasury Department utterly failed to represent the interests of the schools. This failure of representation is clearly reflected by the department's refusal to appeal the lower court's decision and by their supine acceptance of an order which places the burden of proof on the schools to demonstrate their lack of unlawful discrimination.

Pursuant to Rule 24 of the Federal Rules of Civil Procedure, two church-related schools have moved to intervene in Green. These motions are on appeal in the D.C. Circuit Court of Appeals, and a third motion to intervene is expected to be filed in the near future.

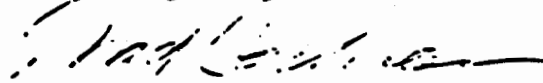
Given the extremely important constitutional implications of this case, given the fact that the affected schools have been denied due representation, and given the conflict between the instructions of the court and the refusal of Congress to permit the expenditures of funds to carry out those instructions, we strongly urge that the department immediately reexamine its previous position in this matter. Toward this end we would appreciate a meeting with you at your earliest convenience.

Thank you for your consideration of this important matter.

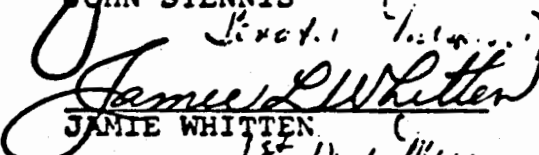
Sincerely,



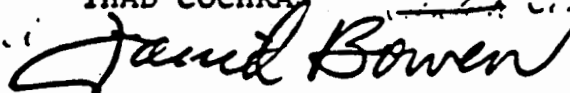
JOHN STENNIS



THAD COCHRAN




JAMIE WHITTEN



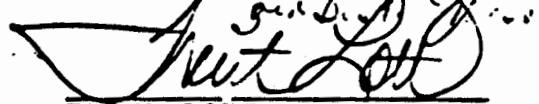
DAVID BOWEN



G. V. MONTGOMERY



JON HINSON



TRENT LOTT

TC/cbp

Enclosures

QUESTIONNAIRE FOR PRIVATE SCHOOLS EXEMPT FROM FEDERAL INCOME TAX UNDER SECTION 501(c)(3) LOCATED IN MISSISSIPPI

Please furnish the following information. If additional space is needed attach additional sheets. Please send the completed Questionnaire to: Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attn: E:EO:T:R:2:4-PS, using the enclosed envelope.

If you have any questions, contact Jay Rotz or Charles Barrett at (202) 566-3839 or 566-4754, collect.

If the name or address used in the accompanying letter is incorrect, please provide the correct name and address.

- (1)(a) Name of tax-exempt entity _____
(b) Address _____
(c) Date of IRS exemption letter (if any) _____
(d) School's name if different from (a) _____
(e) If you are exempt under a group ruling, give the Group Exemption Number _____
(f) If you are exempt because you are an activity of a tax exempt organization, give the full legal name of that organization and the date of its exemption letter (if any). _____
(g) County in which school is located _____
(h) Counties from which students are drawn _____

- (2)(a) The date your school first opened and the grades served upon opening.
Date _____ Grades _____
(b) The dates additional grades were added.
Dates _____ Grades _____

- (c) Annual student enrollment since the school opened or 1964, whichever is later.

1964 - 65	1972 - 73
1965 - 66	1973 - 74
1966 - 67	1974 - 75
1967 - 68	1975 - 76
1968 - 69	1976 - 77
1969 - 70	1977 - 78
1970 - 71	1978 - 79
1971 - 72	1979 - 80

- (3)(a) Has your school ever been determined by any Federal, state, or county judicial or administrative proceeding to be racially discriminatory? YES [] NO []

If yes, explain and furnish all relevant information.

- (b) Was the school established or expanded at or about the time the public school districts in which the school is located or which it serves were desegregating? YES [] NO []

Under the penalties of perjury, I declare that I am authorized to sign this questionnaire on behalf of the above organization and I have examined the information contained herein, and to the best of my knowledge and belief it is true, correct and complete.

(Signature)

(Title or authority of signer)

(Date)

Signature Requirements - A principal officer or trustee of the organization must sign this questionnaire. If it is signed by an employee specifically authorized to do so by the organization's governing instrument or by valid board resolution, it will be regarded as signed by a principal officer or trustee. An attorney or agent specifically appointed to sign the questionnaire by a valid power of attorney may sign it instead. If authority to sign is based upon a board resolution, send a conformed copy of the resolution with the questionnaire. If the authority to sign is based upon a power of attorney, the original power must accompany the questionnaire. Any power of attorney must be signed by the person or persons having authority to sign the questionnaire.

FILED

MAY 5 1980

JAMES F. DAVEY, Clerk

Civil Action No. 69-1355

WILLIAM H. GREEN, et al.,

Plaintiffs,

v.

G. WILLIAM MILLER, et al.,

Defendants.

ORDER AND PERMANENT INJUNCTION

This matter having come before this Court on plaintiffs' motion for an order to enforce the decree in Green v. Connally, 330 F. Supp. 11 (D.D.C.), aff'd sub nom. Coit v. Green, 404 U.S. 997 (1971), and for further declaratory and injunctive relief, and the plaintiffs having moved for summary judgment, and the defendants having moved for summary judgment, and this Court having considered the entire record including depositions, answers to interrogatories, requests for admissions, pleadings and other documents submitted by the parties, and oral argument thereon, and it appearing to this Court that there is no genuine issue of material fact, and it further appearing to this Court that the defendants have not violated the order of June 30, 1971, but that said order requires supplementation and modification, it is hereby

ORDERED, that the permanent injunction entered by this Court on June 30, 1971 remains fully in effect but is supplemented and modified

Deponents G. William Miller, as Secretary of Treasury, and Jerome Kurtz, as Commissioner of Internal Revenue, their agents, servants, employees, attorneys, and successors, are enjoined and restrained from according tax-exempt status to, and from continuing the tax-exempt status now enjoyed by, all Mississippi private schools or the organizations that operate them, which:

(1) which have been determined in adversary or administrative proceedings to be racially discriminatory, or were established or expanded at or about the time the public school districts in which they are located or which they serve were desegregating, and which cannot demonstrate that they do not racially discriminate in admissions, employment, scholarships, loan programs, athletics, and extra-curricular programs.

(2) The existence of conditions set forth in Paragraph (1) hereinafter raises an inference of present discrimination against blacks. Such inference may be overcome by evidence which clearly and convincingly reveals objective acts and declarations establishing that such is not proximately caused by such school's policies and practices. Such evidence might include, but is not limited to, proof of active and vigorous recruitment programs to secure black students or teachers, including students' grants in aid; or proof of continued, meaningful public advertisements stressing the school's open admissions policy; or proof of meaningful communication between the school and black groups and black leaders within the community concerning the school's nondiscriminatory policies, and any other similar evidence calculated to show that the facilities of the private school and all facilities and programs therein are indeed open to students or teachers of both the black and white races upon the

In order to ensure that defendants have information upon which they can make a preliminary judgment as to whether a private school is actually practicing racial discrimination, the following modifications are made to this Court's 1971 Permanent Injunction:

(3) Provision 11(A)(2) of the Permanent Injunction is amended to require that printed notices must be published on a regular basis no less than four (4) times annually for a period of three (3) years in a newspaper of general circulation serving the area from which the school draws its student body.

(4) Provision 11(A)(2)(a) is further amended to require that any radio advertisements used by a school to publicize its policy of nondiscrimination must be broadcast with sufficient frequency to be reasonably designed to reach its intended audience in the minority community. A school employing this method of publicizing its nondiscriminatory policy must supply the IRS with the dates and times of transmission; the radio station used; the tape and a written transcript of the announcement; and both the number of times the message was broadcast on a particular day and the number of times it was broadcast during the year.

(5) Provisions (11)(B)(1)-(3) are amended to require that the information required must be supplied by each school as set forth in Paragraph (1) herein on an annual basis for a period of three (3) years. The IRS shall not approve or continue the tax-exempt status of any such Mississippi private school which fails to supply any of the required data or other information.

(b) Provisions 11(B)(1)-(3) are further amended to require that the following information be supplied on an annual basis for a period of three (3) years:

- (a) the race of board members;
- (b) the grades served by the school from its inception to the present;
- (c) the date the school opened for the first time and grades served upon opening;
- (d) the dates additional grades were added;
- (e) whether the school is presently recognized as exempt from federal income taxes;
 - (1) the date on which the exemption was granted;
- (f) whether the school received textbooks from the State of Mississippi under the State's textbook program;
 - (1) whether the school ever withdrew from such program or whether it was held ineligible to receive textbooks in any judicial or administrative proceeding;
- (g) whether any tuition due the school has been waived,
 - (1) if so, the number of students by race, granted such waiver during each school year.

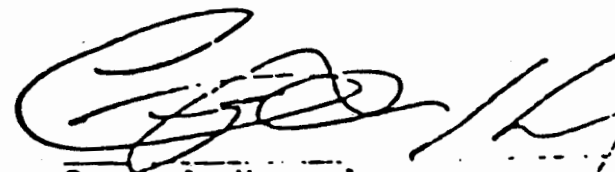
(7) The defendants are enjoined from continuing in effect any ruling recognizing tax-exempt status of any Mississippi private school as set forth in Paragraph (1) herein unless the showing and information required by the Permanent Injunction as amended shall be made and supplied within 120 days from the date of this Order, or such additional period, not to exceed 120 days, as defendants may provide on cause shown in order for the school to make a

(8) The defendants are further enjoined to conduct a survey of Mississippi private schools as set forth in Paragraph (1) herein, including all such church-related schools, obtaining the information required by the permanent injunction, as amended, described herein, which shall be collected and maintained on an annual basis for each year for a period of three (3) years.

(9) The defendants are enjoined to take all reasonable steps to determine which, if any, church-related schools in Mississippi would come under Paragraph (1) herein.

(10) The defendants are further enjoined to make annual reports to this Court specifying the steps taken to implement the injunctive decree. The first report is to be made at the expiration of six (6) months from the date of this order, and thereafter on July 1 of each succeeding year for a period of three (3) years. It is further,

ORDERED, that, except for the modifications herein, the plaintiff's motion for summary judgment be, and the same hereby is, denied; and the defendants' motion for summary judgment be, and the same hereby is denied.


George L. Hart, Jr.
UNITED STATES DISTRICT COURT

Dated: MAY 5 - 1980

QUESTIONNAIRE FOR PRIVATE SCHOOLS EXEMPT FROM FEDERAL INCOME TAX UNDER SECTION 501(c)(3) LOCATED IN MISSISSIPPI AS REQUIRED BY ORDER OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA IN GREEN V. MILLER, MAY 5, AND JUNE 2, 1980.

The following information must be furnished. If additional space is needed attach additional sheets. Please send the completed Questionnaire to: Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attn: E:EO:T:R:2:4-PS, using the enclosed envelope.

If you have any questions, contact Jay Rotz or Charles Barrett at (202) 566-3839 or 566-4754, collect.

If the name or address used in the accompanying letter is incorrect, please provide the correct name and address.

- (1)(a) Has your school ever received textbooks from the State of Mississippi under the State's textbook program?
 YES [] NO []
- (b) If not, explain and furnish all relevant information.
- (c) If yes, has your school ever withdrawn from such program, or been held ineligible to receive textbooks in any judicial or administrative proceeding? YES [] NO []
- (d) If yes, explain and furnish all relevant information.

(2) Racial composition for the current academic year (1979-80) and the projection of the racial composition for next year (1980-81) of your:

	<u>1979/80</u> (actual)	<u>1980/81</u> (projected)
(a) <u>Student Body:</u>		
White:	_____	_____
Black:	_____	_____
Other:	_____	_____
(b) <u>Applicants for admission:</u>		
White:	_____	_____
Black:	_____	_____
Other:	_____	_____

(c) Faculty:

White:	_____	_____
Black:	_____	_____
Other:	_____	_____

(d) Administrative Staff:

White:	_____	_____
Black:	_____	_____
Other:	_____	_____

(3) If any scholarships, loans, or grants-in-aid have ever been awarded, or if any tuition has ever been waived, please provide the dates, amounts and race of the recipients.

(4) The names of your:

(a) Incorporators

(b) Founders

(c) Donors of land or buildings, whether individuals or organizations

(d) Current board members and their race

Do any of the above have an announced identification as an organization having as a primary objective the maintenance of segregated school education, or have announced identification as officers of or active members of such an organization?

Yes [] NO []

(5) Provide any evidence of active and vigorous recruitment programs to secure black students or teachers.

(6) Provide any evidence of continued meaningful public advertisements stressing the school's open admissions policy. Enclose copies or transcripts.

- (7) Describe any meaningful communication between the school and black groups and black leaders within the community concerning the school's nondiscrimination policies.
- (8) Provide any other similar evidence calculated to show that the doors of the private school and all facilities and programs therein are indeed open to students or teachers of both the black and white races upon the same standard of admission or employment.
- (9) Provide any other information that you feel demonstrates that you do not racially discriminate in admissions, employment, scholarships, loan programs, athletics, and extra-curricular programs.
- (10) If, despite your school's stated policy of racial nondiscrimination, you have still been unable to enroll significant numbers of black students, describe any facts and circumstances you feel would explain your inability to attract these students.

Under the penalties of perjury, I declare that I am authorized to sign this questionnaire on behalf of the above organization and I have examined the information contained herein, and to the best of my knowledge and belief it is true, correct and complete.

(Signature)

(Title or authority of signer)

(Date)

Signature Requirements - A principal officer or trustee of the organization must sign this questionnaire. If it is signed by an employee specifically authorized to do so by the organization's governing instrument or by valid board resolution, it will be regarded as signed by a principal officer or trustee. An attorney or agent specifically appointed to sign the questionnaire by a valid power of attorney may sign it instead. If authority to

Department
of the Treasury

Office of the
Secretary

Handwritten scribble

room _____ date 4/8

!istat hupp...

Deputy
Assistant Secretary


room 3122
phone 566-8248

CONG. ROBERT H. MOLLOHAN

FROM LEGISLATIVE AFFAIRS	DOCUMENT	DATE OF DOCUMENT 2/25	DATE RECEIVED 3/2	CONTROL NUMBER LA/81- 0658
		CLASSIFICATION	DATE DISPATCHED 3/3	DUE DATE 3/11/81

INQUIRY FROM: CONG. MOLLOHAN	INTERNAL ROUTING	TO	DATE	TO	DATE
		1.		4.	
		2.		5.	
		3.		6.	

ACTION TO: IRS	
REFERENCE/SUBJECT Consti: Dr. Eugene Burg: Tax exempt status of private schools.	ACTION <input type="checkbox"/> Appropriate Action <input checked="" type="checkbox"/> Direct Reply <input type="checkbox"/> Copy of Reply or Memo to Files <input type="checkbox"/> Provide Information <input type="checkbox"/> Other (Specify) _____ A copy of this form should be returned to L. A. when letter is signed.

REMARKS: 

REPLY SIGNED BY (Type/Print name and title of individual signing reply) Jerome D. Sebastian, Acting Chief Counsel Internal Revenue Service	DATE OF REPLY 6/5/81
--	--------------------------------

CONG. ROBERT H. MOLLOHAN

FROM LEGISLATIVE AFFAIRS	DOCUMENT	DATE OF DOCUMENT 2/25	DATE RECEIVED 3/2	CONTROL NUMBER LA/81- 0658
		CLASSIFICATION	DATE DISPATCHED 3/3	DUE DATE 3/11/81

INQUIRY FROM: CONG. MOLLOHAN	INTERNAL ROUTING	TO	DATE	TO	DATE
		1. CC:LR	3/5	4.	
ACTION TO: IRS	INTERNAL ROUTING	2.		5.	
		3.		6.	

REFERENCE/SUBJECT Consti: Dr. Eugene Burge Tax exempt status of private schools	ACTION	<input type="checkbox"/> Appropriate Action	A copy of this form should be returned to L. A. when letter is signed.
		<input checked="" type="checkbox"/> Direct Reply	
		<input type="checkbox"/> Copy of Reply or Memo to Files	✓
		<input type="checkbox"/> Provide Information	
		<input type="checkbox"/> Other (Specify) _____	

REMARKS:
ACK. A. TOWNSEND Rm:NR 3/5

REPLY SIGNED BY (Type/Print name and title of individual signing reply) <i>KATHY KALNASKY</i>	DATE OF REPLY <i>6/5</i>
--	-----------------------------

ROBERT H. MOLLOHAN
1ST DISTRICT, WEST VIRGINIA

COMMITTEES:
ARMED SERVICES
HOUSE ADMINISTRATION

PLEASE SEND CORRESPONDENCE TO
WASHINGTON OFFICE:

ROOM 339
CANNON HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515
(202) 225-4172

Congress of the United States
House of Representatives
Washington, D.C. 20515

February 25, 1981

DISTRICT OFFICES:
ROOM 209, POST OFFICE BUILDING
CLARKSBURG, WEST VIRGINIA 26301
623-4422

ROOM 603, DEVENY BUILDING
FAIRMONT, WEST VIRGINIA 26334
363-3356

ROOM 1117, FEDERAL BUILDING
PARKERSBURG, WEST VIRGINIA 26103
428-0493

ROOM 318, FEDERAL BUILDING
WHEELING, WEST VIRGINIA 26003
233-3390

Mr. Robert E. Moss
Acting Assistant Secretary
for Legislative Affairs
Department of the Treasury
15th & Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Dear Mr. Moss:

I have been contacted by Dr. Eugene Burge, President, Mountaineer Association of Christian Schools, Route 1, Box 44, Parkersburg, West Virginia, concerning the tax exempt status of private schools.

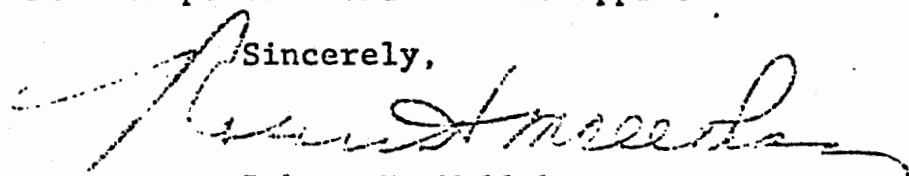
Dr. Burge is distressed about the decisions in two Mississippi Court cases (Wright v. IRS and Green II v. IRS) Therefore, he particularly would like to know the following:

1. Since the Ashbrook amendment to the 1980 Treasury Appropriations bill prohibits funds for the new IRS efforts in Mississippi, where is the IRS getting the money for this action?
2. What basis of authority does the IRS have for their actions in Mississippi? Does the IRS hold that a Federal District Judge can order them to undertake action which Congress has specifically forbidden by funds limitation legislation?

3. Would the IRS, as defendants, request that Judge Hart open the Green II case to intervenors so that the people most affected--the churches, schools, parents and students--may be represented?

Your providing me with a response would be most appreciated.

Sincerely,



Robert H. Mollohan

RHM/ksmj

CONG. ROBERT H. MOLLOHAN

FROM LEGISLATIVE AFFAIRS	DOCUMENT	DATE OF DOCUMENT 2/25	DATE RECEIVED 3/2	CONTROL NUMBER LA/81- 0658	
		CLASSIFICATION	DATE DISPATCHED 3/3	DUE DATE 3/11/81	
INQUIRY FROM: CONG. MOLLOHAN	INTERNAL ROUTING	TO	DATE	TO	DATE
ACTION TO: IRS		1. CC:LR	3/5	4.	
REFERENCE/SUBJECT		2.		5.	
Consti: Dr. Eugene Burge Tax exempt status of private schools.	ACTION	<input type="checkbox"/> Appropriate Action <input checked="" type="checkbox"/> Direct Reply <input type="checkbox"/> Copy of Reply or Memo to Files <input type="checkbox"/> Provide Information <input type="checkbox"/> Other (Specify) _____			
REMARKS:	A copy of this form should be returned to L. A. when letter is signed. ACK. A. TOWNSEND Rm: N1F 3/5				
REPLY SIGNED BY (Type/print name and title of individual signing reply)				DATE OF REPLY	

The Honorable Robert H. Mollohan
United States House of Representatives
Washington, DC 20515

Dear Mr. Mollohan:

This is to acknowledge the receipt of your inquiry dated February 25, 1981, in behalf of Dr. Eugene Burge of Parkersburg, West Virginia.

We are requesting that this matter be reviewed and a response be sent to you as soon as possible.

Sincerely yours,

Amos Townsend
Chief,
Communications and Transportation
Management Section

RM:N:FM/Jones/bcm/566-5550/810305/
LA 81 0658 CC:LR

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname							
Date							

Congress of the United States

House of Representatives

Washington, D.C. 20515

February 25, 1981

RECEIVED
COMMITTEE ON INTELLIGENCE
1981

Hon. Roscoe Egger, Jr., Commissioner-Designate
Internal Revenue Service
1111 Constitution Avenue, N. W.
Washington, D. C. 20224

Dear Mr. Egger:

Congratulations on your appointment. As you make your way through a complex and challenging transition, I hope you will give early attention to the issue of IRS-mandated racial quotas for private schools.

I suspect this issue was the last thing on your mind when you took this job. The IRS exists in order to collect revenue, not to make sensitive decisions about social policy. But unfortunately, the legacy of the previous Administration includes a deliberate and systematic effort to use the mechanisms of your agency to harass independent schools. Congress took action in both 1979 and 1980 to slow down this unconstitutional vendetta, but as a practical matter only the new Administration can really stop it.

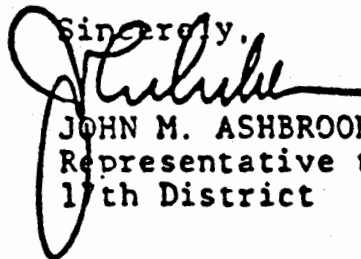
Enclosed is a copy of the Reagan transition team's report on this subject, which discusses both the historical background and a full range of possible Administration actions. Everyone of these action options is worth at least considering, but my recommendations would be as follows:

1. As soon as possible; formally revoke the proposed Revenue Procedures of August 1978 and February 1979. This action would be mostly symbolic, since Congressional action has already prevented these proposals from taking effect; but it is a signal worth sending. It would be analogous to the February 2 action of Education Secretary Bell, revoking Carter-proposed bilingual-education regulations which had also been blocked by Congress.
2. Mount an honest and vigorous court defense against the plaintiffs in the Green and Wright cases. (This would be the first such defense since 1977.) In particular, support the motion by the First Presbyterian Church Day School in Jackson, Miss., to intervene in the Green litigation, and future similar motions by other religious schools.

3. Launch an internal investigation to determine the extent of unethical or illegal "sweetheart" relationships between IRS attorneys and the Green and Wright attorneys. Government attorneys who worked to advance the interests of the plaintiffs, at the expense of government interests and in defiance of Congress, should be disciplined.
4. Stop enforcing the May and June 1980 Green orders in Mississippi, which violate the Constitutional prohibition on the expenditure of Federal funds in ways forbidden by Congress. The Ashbrook amendment to the Treasury-Postal Appropriations Bill in 1979, which was re-enacted as part of the continuing appropriations bill in 1980, is clearly in conflict with the court order. (For legislative history, see the Congressional Record of June 18, 1980, pages H-5198 to H-5200. This legislative history makes it crystal-clear that the Ashbrook amendment was intended to bar IRS implementation of the 1980 Green orders.) The U.S. Constitution (Article 1, Section 9, Clause 7) makes it equally clear that Congress, not the courts, controls the power of the purse -- a control which was reaffirmed by last year's Supreme Court decision on the Hyde abortion-funding amendment.

Before the Carter Administration, the Internal Revenue Service enjoyed a well-deserved reputation for sticking to the jobs Congress assigned to it, and for doing those jobs honestly and efficiently. I know you will work to restore that reputation. In my opinion, IRS policy toward independent schools is an ideal place to start.

Sincerely,



JOHN M. ASHBROOK
Representative to Congress
17th District

JMA/lau

Enc.

PHILIP M. CRANE
MEMBER OF CONGRESS
12TH DISTRICT, ILLINOIS

Congress of the United States
House of Representatives
Washington, D.C. 20515

WAYS AND MEANS COMMITTEE

SUBCOMMITTEE:

HEALTH

PUBLIC ASSISTANCE AND
UNEMPLOYMENT COMPENSATION

81-1250 OFFICE
SUITE 1038
LONGWORTH BUILDING
WASHINGTON, D.C. 20518
202/225-3711

SUITE 101
1430 SOUTH NEW WALKER ROAD
ARLINGTON HEIGHTS, ILLINOIS 60008
812/384-0780

SUITE 308
747 DEERFIELD ROAD
DEERFIELD, ILLINOIS 60015
812/345-8422

January 28, 1981

The Honorable Donald T. Regan
Secretary of the Treasury
Department of the Treasury
Fifteenth Street and Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Dear Secretary Regan:

For the last two years, Congress has enacted an amendment to the Treasury Department appropriation bill prohibiting the Internal Revenue Service from expending any funds to enforce regulations or rulings depriving private schools of their tax-exempt status. This amendment remains in force in the current continuing appropriation.

On May 5, 1980, Judge George Hart of the D.C. District Court ordered the IRS to implement the regulations on private school admission policies in direct contradiction to the Dornan amendment mentioned above. The Carter Administration was moving to obey the court order and ignore the law approved by Congress. At this time when the Reagan Administration is working to promote a climate of cooperation with Capitol Hill, the majority of legislators who supported the Dornan amendment in both the House and the Senate would be delighted to learn of Treasury's determination to adhere to the clear language of these limiting amendments.

From my vantage point on the Ways and Means Committee, I rejoice that we will have a sound Republican philosophy at the Treasury Department.

Sincerely,



Philip M. Crane, M.C.

PMC/kk