

My only answer to you on that is that our intent is the effective separation of church and state. If you are asking me whether or not it is our intention, our intention is established in the Horace Mann case.

Now, if you are asking me whether or not at a future time this would be changed, if the Court of Appeals reversed itself and did something else what would be the status, I cannot answer.

I can only tell you our intention was to establish a separation of church and state based upon what the present status of the law is in Maryland as enunciated by the Horace Mann case.

Now, I do not know whether that helps you or does not, but I am not going to try to conjecture as to what is going to happen in the future.

DELEGATE J. CLARK (presiding): Delegate Scanlan.

DELEGATE SCANLAN: I am afraid that does not help very much.

DELEGATE J. CLARK (presiding): The Chair recognizes Delegate Willoner.

DELEGATE WILLONER: During the debates of the Committee on this subject, was it not the intent of the Committee to freeze Horace Mann into the law of Maryland?

DELEGATE J. CLARK (presiding): Delegate Kiefer.

DELEGATE KIEFER: When you say was it the intention to freeze Horace Mann, it was the intention to freeze the concept set forth in the Horace Mann case, exactly.

Now, when you ask me was it the intention to freeze the specific facts, as such, I do not know whether it was or not, but the basic concept set forth, yes.

DELEGATE J. CLARK (presiding): Delegate Willoner.

DELEGATE WILLONER: And should the same fact situation, which we all recognize is impossible, but should the same fact situation arise and the Supreme Court hold that what the Maryland Court of Appeals held was unconstitutional, the Maryland rule would therefore be more restrictive, is that not the case?

DELEGATE J. CLARK (presiding): Delegate Kiefer.

DELEGATE KIEFER: It would be more restrictive unless the Maryland Court of Appeals again reversed itself, yes.

DELEGATE J. CLARK (presiding): Delegate Willoner.

DELEGATE WILLONER: If the Maryland Court of Appeals reversed itself, it would be going against the intent of the Committee, is that not correct?

It would be the intent of the Committee that Horace Mann should not be reversed by the Court of Appeals?

DELEGATE J. CLARK (presiding): Delegate Kiefer.

DELEGATE KIEFER: I cannot answer specifically other than to say that we accepted the tenets of the Horace Mann case, and I am not willing to say that if the Court of Appeals and the Supreme Court reversed itself unequivocally on this particular set of facts that we as a Committee would feel that we had been wrong.

What I am saying is that we, as a Committee, adopted the guidelines and the principles of the Horace Mann case.

Now, I am sorry if you feel that I am equivocating. When I say we froze the Horace Mann case into our concept, we used the Horace Mann case and its concepts of the law, yes. We were not so much concerned about the particular, peculiar set of facts as such as we were about the broad principles of avoiding any secular or sectarian involvement by the State.

When we get to specific instances, I have no answer. That is up to the individual courts.

DELEGATE J. CLARK (presiding): The Chair recognizes Delegate Mentzer.

DELEGATE MENTZER: Chairman Kiefer, was there any feeling on the part of your Committee that if and when the Supreme Court faces squarely cases raising the problem of public money to aid parochial schools that they will probably hold that the "no establishment clause" will not bar the states from assisting such students on some version of the pupil benefit theory even though the pupil benefit might work indirectly to aid the schools themselves?

DELEGATE J. CLARK (presiding): Delegate Kiefer.

DELEGATE KIEFER: I am not sure I understand your question.

DELEGATE J. CLARK (presiding): Could you put the question in a different way?