

# THE Non-Sectarian

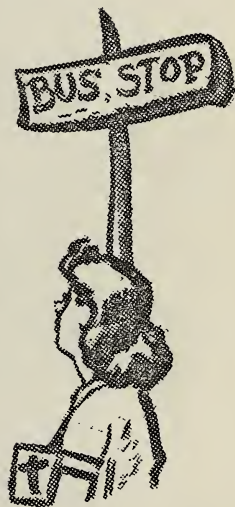
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by William E. McManus

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# THE NON-SECTARIAN BUS

By WILLIAM E. McMANUS

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THE rain was coming down in torrents. A gray deluge of water fell on fields and roads as the little groups of children waited at the school bus stop. Together—all but one little girl who stood apart from the others—they huddled beyond the muddy puddles which the fast-moving cars and trucks splashed along the edge of the highway. Sharp flashes of lightning and sudden clashes of thunder terrified them; and the groups drew closer together, leaving the lone little girl farther apart from them.

As she stood alone, she fought against the tears that blurred her eyes. Everything came at once, she thought—her ninth birthday, her first day at a new school, the awful storm, and these children whom she had never met before. For a moment Marjorie Ryan was tempted to go home; but there was in her spirit a sense of duty which held her. She waited as a huge diesel-motored truck rumbled past; then she saw the school bus coming in the rain.

The children pushed back toward the highway fence as the Sutton County Public School bus pulled over to the side of the road. The youngsters cheered. One by one, they boarded the vehicle. Marjorie was at the end of the line.

“Where do you go to school?” asked the driver. Raising her little head proudly the child said, “I’m a new pupil at St. Peter’s.” The driver rose from his seat and put his arm across the aisle. “Wait a minute. You can’t ride in this bus, little lady. We only carry public school kids. This is a non-sectar-

ian bus!" The other children laughed. One boy said, "Aw, let her ride today." "It's against the law," said the driver. "Off you go, little girl. Sorry."

Marjorie stepped off the bus. She wanted to cry, but the tears wouldn't flow. She felt hurt all over, like someone had punished her for something she didn't do. Should she return home? Mother and Dad were going away to buy furniture for the new house. They'd be gone by this time. She couldn't go home. She must walk to school—three miles away. She ran across the road to walk against the trucks and cars rushing down the hill which led into town. Most people driving by must have figured that she had missed the bus, but nobody stopped to offer her a ride. It's risky business to pick up children.

At the top of the hill the three-tracked mainline of the railroad crosses highway 36. Marjorie saw the wig-wag warning lights flicker. She wanted to run across. It would be terrible to be late for school the very first day. Anyway, she thought, the freight wasn't moving very fast. Luckily she waited. The Flyer, a little late because of the rain and fog, roared past the freight and across the highway.

Now Marjorie was in town. At last—sidewalks. Marjorie ran. She hoped she wouldn't be late. Around the corner and there they were—one across the street from the other—the Sutton County Public School and St. Peter's Catholic School. Marjorie was so excited that she didn't even see the school bus parked in the alley. She rushed up the stairs to the school office. "I'm the new pupil," she gasped. "I hope I'm not late." A nice lady said, "Don't worry, little girl. Just give me your transfer slip." Marjorie fumbled in her school bag until she finally produced a very damp envelope. "There it is," she said. "Oh, my!" the nice lady exclaimed, "You belong across the street. This" she said, "is the public school. I wondered why you were soaking wet. I suppose you had to walk. I'm so sorry that only public school children are allowed to ride on the public bus. Well, run along!"



Again Marjorie wanted to cry, but she didn't. Daddy had told her that she should never cry unless she was a bad girl. She hadn't done anything bad.

The Sister Superior of St. Peter's welcomed Marjorie. Off came the wet shoes and stockings. Sister had a supply of stockings and slippers for such emergencies. "Well," Sister said, "Daddy will have to drive you to school in the future. Three miles walking is far too much for a little girl. Or else,"—and Sister hesitated to say it,—"you'll have to go to the public school so that you can ride on the bus."

"Sister," Marjorie asked, "what's a non-sectarian bus?"

"Ask your Daddy," Sister said, smiling, for she could see the ridiculous humor of calling a bus non-sectarian. "Meanwhile," Sister continued, "I'll telephone your father and ask him to drive you home from school this evening."

Marjorie's father sells groceries for a wholesale house in a territory which covers ten counties surrounding Sutton County. James Ryan is a successful salesman; his cronies say that he has a "good line of gab" which pleases his customers. So when Marjorie asked her father for the definition of a "non-sectarian bus," Mr. Ryan decided he'd better have a word to say at the next public meeting of the Sutton County School Board. "Perhaps," he mused. "I can sell a short order of justice to the School Board."

That night he drove into town for the School Board meeting. No one paid any attention to him as he found a place. The president of the Sutton County School Board was already talking.

"Now," said the president, "we must consider several resolutions authorizing appropriations of county funds for certain extraordinary school expenditures. But before we go on, let me say that the meetings of the board are conducted in a democratic manner, because we believe that the public schools in this county are the property of the tax-payers. The first resolution authorizes an appropriation of \$3,200.89 for the

operation of the school bus along highway 36. I expect no opposition to . . .”

“Just a minute,” said Mr. Ryan. “I’m new in this neighborhood, and I must say that the taxes are, in my opinion, excessive. Why, Mr. President, must Sutton County spend \$3,200 a year, an amount double a teacher’s average salary, for the operation of a bus? When I was a boy, I walked to school. Yes, sir, 3½ miles every day. I’m healthy. Walking never hurt me. Why can’t these youngsters walk to school?”

“My dear sir,” replied the president, “you must not forget that times have changed. Let me give you some facts.” He read from a paper:

“(1) Children along highway 36 live, on an average, 2¾ miles from school. Some children live 8 miles from school.

“(2) There is only ½ mile of sidewalk along highway 36.

“(3) During the pre-school and after-school periods the average density of automobile traffic along highway 36 is 285 vehicles an hour.

“(4) Children living along highway 36 must cross one of the most dangerous grade crossings in this area. During the periods when the children travel between school and home, there is an average of eleven trains an hour over the tracks. The crossing is protected only by automatic crossing lights.

“(5) Last year, before this county purchased a bus, three children were killed, two by automobile, one by train.

“(6) Since we have had this bus attendance during the winter months and during inclement weather has increased 20%.”

After this recital of facts and figures, the president of the board continued, “I’m sure that no reasonable taxpayer will seriously object to any expenditure which protects the lives of the children in this county. Times have changed, my friend. When you were a boy, there weren’t so many traffic hazards. Now a child risks his life every time he walks down that highway.”

Mr. Ryan was chuckling, but he kept a serious appearance. "Well, then, Mr. President," he said, "this appropriation is a measure for public safety. How does it concern the school board which is supposed to restrict its interests to education?"

The President, now somewhat perturbed, leaned over the desk and with a great deal of emphasis, said, "I'm a lawyer, and I've investigated this question thoroughly. You are right in saying that the authorization to operate schools does not carry with it the right to provide transportation. However, the State has delegated to this county board two important and closely associated responsibilities: (1) the enforcement of the compulsory education law, and (2) the operation and regulation of pupil transportation. The two must go together. There is no point in authorizing this board to compel parents who live 8 miles from school to send their children to school unless at the same time we have the power to give them transportation."

"Well, Mr. President," Mr. Ryan said, "I must confess that I am won over to a favorable attitude toward this resolution. I am the father of three children. One of them goes to school. Certainly, I wouldn't want any child in this county exposed unnecessarily to the dangers of the highway. But I have one question. This morning my daughter Marjorie was put off the Sutton County School bus. She was told that it was a non-sectarian bus. There must be some mistake. I'm sure . . ."

"Now, sir", interrupted the president, "this board is opposed to a union of church and state. Our bus is reserved for children who attend the classless, free, non-sectarian school open to all. If you wish to send your child to St. Peter's School, you may do so, but your daughter cannot ride on our *public* bus."

By this time the crowd at the board meeting was becoming somewhat excited. Taxpayers rarely challenged the president, who prided himself in his legal ability to detect fallacies in his opponent's arguments.

"Mr. President", Mr. Ryan continued, "you recited facts. Let me ask a few questions:

"(1) May a parochial school child use the *public* sidewalks leading to the nonpublic school?

"(2) May the parochial school child wash her hands in water which will be drained from the parochial school into the *public* sewer?

"(3) May the parochial school child borrow books from the *public* library for supplementary reading in connection with her school work?

"(4) May a parochial school child play in the *public* playground located on *public* school property?

"(5) May the *public* school doctor vaccinate the parochial school children?

"(6) May a parochial school child be admitted into the *public* hospital for injuries received on parochial school premises?

"(7) Does the same attendance officer arrest all truants regardless of what school they attend?"

"And, Mr. President," Mr. Ryan continued, "let me ask one more question. Is it less a crime for a careless driver to kill a parochial school child than it is to kill a public school child?"

The President tried to be calm. "My dear friend, you are asking questions for which the answers are obvious. Apparently you want me to break down and confess that this board in doing an injustice to your child. My dear man, your child can ride on the bus if you will send her to the public school. It's your fault, not ours, that she didn't ride to school this morning. You have *withdrawn* her from public education and you have placed her in a private school. That's your business, not ours, but don't come to us looking for *public* help when you have your daughter in a *private* school."

"Mr. President," replied Mr. Ryan, warming up to the argument, "I did not withdraw my child from public education, nor have I withdrawn my tax support from the public schools. You seem to imply that any parent who exercises his constitu-



tional right in selecting a non-public school for the education of his children is a traitor to public education. You infer that because I exercise my rights to select a school for my child, I forfeit my claim to public benefits provided in the interest of public health and safety.

“Mr. President, you and I as parents of children of school age, are bound to obey the compulsory education law. I obey it by sending my child to the parochial school. You do the same by sending your children to the public school. But what both of us must remember is that you and I are free to select whatever qualified school we please. Mr. President, the State has authorized this Board of Education to help parents comply with the compulsory education laws by providing bus service for children whose homes are a long distance from school. Because I choose to send my child to a parochial school this Board of Education refuses to help me get my child to school. Either I must arrange for transportation at my own expense, or else expose my child to the hazards of the highway. The position of this board is unreasonable and unfair. It is clear violation of equity. It penalizes me for the free exercise of my constitutional rights.”

One of the board members arose. “Mr. President, may I just say at this point that transportation service not only helps the child but it also helps the school. I don’t want this board to violate the principle of separation of church and state by using public money for a sectarian purpose.”

Mr. Ryan could perceive that his line of argumentation was being disregarded. The board member was resorting to a slogan to escape facing the facts. Mr. Ryan decided to treat this objection lightly.

“Oh, yes”, Mr. Ryan said, “there’s a serious danger that the transportation of my child on the public school bus will lead to a union of the Catholic Church and the County Commissioners”. Mr. Ryan’s broad smile betrayed the irony of his remark. The crowd began to chuckle. “Yes, indeed, some day the Pope himself might drive this bus over to Rome, prob-

ably through one of the tunnels that were built during the Al Smith campaign". In an embarrassed way, the crowd laughed.

"Seriously", Mr. Ryan continued. "I don't favor a union of Church and State. Like all other loyal Americans I believe that the church and state should not be controlled by each other. Christ Himself enunciated the principle which guides us, 'Render to God the things that are God's, and to Caesar the things that are Caesar's'. But I fail to see how the separation of church and state can be used as an excuse for putting my child off the public school bus. Is not the principle of separation of church and state strained beyond all reason when it makes church membership a liability for an American citizen? I want you gentlemen on this board of education to understand that I send my child to St. Peter's School because of my religious convictions. Catholic education is as much a part of my religion as saying my prayers or having my children baptized. If you gentlemen make it impossible or difficult for me to send my child to a parochial school you are restricting my religious liberty, the very freedom which the separation of church and state is supposed to protect. May I point out, Mr. President, that the religious training of my child will not be increased because she comes to school on public wheels rather than private shoe leather?"

By this time the crowd was becoming intensely interested in the debate, and little groups began subdued discussions of their own. The president rapped his gavel and called for order. "My friend", he said, "this board has the greatest respect for your religious convictions. We have no criticism of your decision to send your child to a parochial school. You have the right to select any school for the education of your child."

"Mr. President", Mr. Ryan said rather heatedly, "there's no point in laboring the obvious. Of course, I *have* the right, but what interests me is the *exercise* of this right. In the South the Negroes have the right to vote *if* they can pay the accumulated poll tax. In the same sense, I have the right to send my child to a parochial school, *if* I can arrange for her trans-

portation at my own expense. It's not democratic to give citizens rights with strings attached. Democracy in education does not mean that parents who send their children to parochial schools are merely to be tolerated. Democracy is the right not only to be one, but to be many in the pursuit of a common good. If you, Mr. President, and I choose to educate our children in different ways, there is no good reason why you or I should be denied the benefits common to all citizens of the state and county. On the contrary, in a *functional* democracy the government in all its branches should aim to help all citizens of both majority and minority groups to *exercise* their fundamental civic rights."

Another board member raised a new difficulty. "Transportation of parochial school children is unconstitutional."

"Mr. President," Mr. Ryan said wearily, "I'm a grocery salesman, not a lawyer. I'm not familiar with the technicalities of constitutional law, but . . ."

"Just a moment, please." The crowd turned around to look at old Judge Perkins. Everyone knew he would have the facts. "Mr. President," Judge Perkins continued, "I do know a little about the legality of transporting nonpublic school children. Not long ago I made a study of this question. Here are some facts:

"(1) Fifteen states have statutes explicitly authorizing the transportation of nonpublic school pupils. They are California, Illinois, Indiana, Kansas, Kentucky, Montana, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, Oregon, Rhode Island and Washington.

"(2) Four states give implicit authorization in their general transportation legislation. They are Connecticut, Louisiana, Maryland, and New Mexico.

"(3) The courts in California, Kentucky, Maryland, New Jersey, and Washington have upheld the constitutionality of statutes authorizing bus service for nonpublic school children. The decisions in California and Washington are being appealed. The courts in Delaware, New York, and Oklahoma

have declared such statutes unconstitutional. The Supreme Court of the United States has ruled that the transportation of children to parochial schools does not violate the First and Fourteenth Amendments of the Federal Constitution.

"Therefore," the Judge concluded, "I don't think this board can decide one way or another concerning the constitutionality of the practice of giving transportation service to nonpublic school children. If the legislature of this State decides that it wants to protect all school children from the dangers of the open highway, it seems to me that it would be carrying out its exercise of police power in the interest of the general welfare. Perhaps a taxpayer may protest that public funds are being used for a private or sectarian purpose. Then the courts of this State will decide the matter. But remember this,"—the Judge paused to take off his glasses,—“the people will have the last word. If the people really are convinced that parochial school children are entitled to protection from safety hazards, they will bring about the enactment of legislation appropriate for this purpose.”

Once again Mr. Ryan arose. "Gentlemen," he said, "I don't want to delay the progress of this meeting. But may I say that I am confident that if this problem were presented to the citizens of this county, they would agree that my child and the other parochial school children along highway 36 should ride on the Sutton County Bus. They would realize that as long as these youngsters are compelled to walk along the open highway any citizen of this county who happens to be driving on highway 36 may become involved in a dreadful accident. If my daughter had been killed this morning while she was trudging along the edge of the highway, would any citizen in this county absolve himself from the shameful guilt of exposing a little child to the perils of the highway? And, Mr. President, if one of the board members struck down my daughter and crushed her to death under the wheels of his automobile, would he excuse himself by saying that she was a parochial school child?"



“Sir,” the President nervously glanced at the clock, “I’m sorry this board can’t help you. I am afraid we must go on to our own business.”

“Thank you, Mr. President.” Mr. Ryan sat down, knowing from long experience that on this deal he could register “no sale.”

As the meeting went on, authorizing appropriations for a new drinking fountain, repairs of the public school roof, a new series of textbooks, visual aids, James Ryan sat in puzzled silence. What was he to do? His work took him away so much that he couldn’t plan to drive Marjorie to school every day. He couldn’t let her walk six miles a day to and from the Catholic school. Would he send her to public school?

This was the easy solution; but the faith of his fathers rose in James Ryan’s soul, “I’m an American citizen,” he told himself, “I know my rights, I’ll fight for them.”

He is still fighting; but meanwhile little Marjorie walks to St. Peter’s on the days when her father cannot drive her into town. In rain or in sunshine she tramps along highway 36 while the big trucks and fast-moving cars roar by. She waits at the crossing of the three-tracked mainline of the railroad. And, as she reaches the edge of the town, she sees the non-sectarian school bus, paid for by Sutton County taxes, roll by, taking the children to the public school.



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