

MARCH, 1949

RELIGIOUS LIBERTY WINS IN NEW MEXICO

(Telegram)

Albuquerque, New Mexico
March 14, 1949

Dr. J. M. Dawson
1628 - 16th Street, N. W.
Washington, D. C.

FINAL RULING IN DIXON CASE GREAT VICTORY ALL PETITIONS GRANTED EXCEPTING DEBARRING OF
SECTARIAN DRESS THANKS FOR YOUR MAGNIFICENT CONTRIBUTION.

Lewis A. Myers, Baptist New Mexican

The Executive Director of the Baptist Joint Conference Committee on Public Relations disavows any major responsibility for this gratifying victory. It is true that he went to New Mexico and conducted hearings in Santa Fe concerning the allegations made by the Dixon School Committee and assured those citizens of the full sympathy of the Committee if they undertook a suit for obtaining relief from the abuses in the public schools of New Mexico. At the time he was acting as Administrative Secretary for the new organization, Protestants and Other Americans United for Separation of Church and State. He was not in a position, however, at the time, to promise more than moral support. Eventually the organization did through widespread publication, letters and other communications succeed in assisting the valiant Dixon School Committee in obtaining necessary funds for the prosecution of the case by the efficient firm of young lawyers, Messrs. Bigbee and Kool. POAU also proffered the services of E. Hilton Jackson of Washington, D. C., a well known constitutional lawyer, to act in free counsel to the Santa Fe attorneys. He made two trips to New Mexico in fulfillment of his task. Of course it will be well understood that we in Washington, who strove to lend assistance in this case, rejoice immeasurably in the result because the decision will have far reaching application throughout the Nation in correction of flagrant abuses.

History and Outcome

The wire services and Religious News Service give the following account of the proceedings and outcome in regard to this case:

"District Judge E. T. Hensley, in a written judgment here, barred 143 Roman Catholic nuns, brothers, and priests from public school teaching posts in New Mexico.

"His ruling also prohibited the holding of tax-supported school classes in buildings owned by the Roman Catholic Church.

"The written judgment supplemented an oral decision from the bench on Oct. 7 in which Judge Hensley ruled that 'there is no separation of Church and State' in some New Mexico public schools, thus violating the state and national constitutions.

"At that time he indicated that his written judgment, to be released later, would rule 'generally in favor of the plaintiffs,' a group of Protestants seeking to bar Roman Catholic teaching in the New Mexico schools.

"The case arose from a dispute over the alleged teaching of Catholicism in the public schools at Dixon, a small community in northern New Mexico.

"Harry L. Bigbee, of Santa Fe, brought the suit on behalf of twenty-eight Protestant residents of seven counties.

"The written judgment decided a wide range of questions left unsettled by the verbal decision. One of the most important results of the judgment is that at least sixteen school buildings owned by the Catholic Church must be replaced with publicly-owned schools.

"Other declaratory judgments in the ruling specifically prohibited the following:

"Free state bus transportation for students in parochial schools;

"Purchase from public funds of textbooks for parochial schools and purchase of books especially for Catholic schools;

"Teaching of sectarian doctrine in any tax-supported school;

"Holding of public school classes in rooms where religious or sectarian symbols are displayed;

"Payment by the state of persons teaching sectarian doctrines.

"The ruling also stated that the 143 garbed Catholic teachers who taught in the twenty-eight schools 'be forever barred from receiving any school monies and employment in the public schools of this state.'

"The ruling was on specific issues only. It did not state that nuns as such could not teach or that garb of teachers is a religious influence."

Detailed Conclusions of Judge Hensley

Religious News Service affords the following account of the conclusions issued by District Judge E. T. Hensley:

"That the court has jurisdiction of the parties and subject matter herein.

"That the plaintiffs have no adequate remedy at law.

"That the administrative remedy provided by the statutes of the state of New Mexico is wholly inadequate and that the plaintiffs exhausted said remedy prior to filing this action.

"That the teaching of sectarian doctrine in the tax supported schools of this state violates Sect. LV, Art. XXI of the constitution of the state of New Mexico and Sect. IX, Art. XII, etc.

"That the teaching of sectarian doctrine in tax supported schools in the state of New Mexico is in violation of the First Amendment to the Constitution of the United States as made applicable to the states by the XIV Amendment to the Constitution of the United States.

"That the furnishings by the state of New Mexico of free school bus transportation to pupils of parochial schools is in violation of Sect. 3, Art. 12 and Sect. 14, Art. 9 of the constitution of the state of New Mexico and the First Amendment of the United States as made applicable to the state by the 14th Amendment to the Constitution of the United States.

"That the holding of tax supported school classes in buildings which have religious emblems such as grottoes, crosses, religious statuary and religious pictures all peculiar to a certain denomination violates the First Amendment of the United States Constitution.

"That the holding of tax supported school classes in a building owned by the Roman Catholic Church or an order thereof or an official thereof, part of said building being retained by said order, church, or official for use as a private or parochial school is in violation of the First Amendment of the U. S. Constitution.

"That the New Mexico state board of education has violated Sect. 17, Art. 20, of the constitution of the state of New Mexico by adopting a multiple system of free text books rather than a uniform system of text books.

"That the New Mexico state board of education by adopting sectarian indoctrinated text books and furnishing the same to the tax supported schools of the state of New Mexico violates Sect. 4, Art. 21 of the constitution of the state of New Mexico and First Amendment of the United States Constitution.

"That the furnishing of free text books to schools other than tax supported schools of this state violates Sect. 14, Art. 9 and Sect. 3, Art. 12 of the constitution of the state of New Mexico.

"That the furnishing by the state of New Mexico of sectarian indoctrinated text books to tax supported schools is in violation of the first amendment of the state constitution.

"That the furnishing by the state of New Mexico of sectarian and indoctrinated text books or text books for Catholic schools only, to private parochial schools is in violation of the First Amendment of the United States Constitution.

"That the defendants named as teachers have taught sectarian doctrines in the schools in violation of Sect. 55-1102, New Mexico statutes except as the defendants named as teachers for the schools at Tucumcari, Albuquerque, and Aragon, and should forever be barred from receiving any school monies and employment in the public schools of this state.

"That there is no separation between Church and State as contemplated by the First and 14th Amendments to the Constitution of the United States in the following named schools, all in the state of New Mexico:

"Santa Rita grade school, Carrizozo; Mt. Carmel, Socorro; St. Mary's School, Belen; Belen school, Valencia county; Cubero school, Valencia county; Cuba school, Sandoval County; St. Nicholas grade school, Sandoval county; Pena Blanca school, Sandoval county; Sacred Heart Academy grade school, San Juan county; Lumberton school, Rio Arriba county; Chama school, Rio Arriba county; Park View school, Rio Arriba county; San Juan school, Rio Arriba county; Pecos Independent school district, San Miguel county; Santa Cruz school, Santa Fe county; Penasco school, Taos county; Costilla school, Taos County; Villanueva school, San Miguel county; Ribera school, San Miguel county; Mora school, Mora county; Old Town Junior high School, Las Vegas; St. Frances school, Ranchos de Taos; Dixon school, Rio Arriba, and St. Joseph's school, Rio Arriba; Blanco grade school, San Juan county.

"That the plaintiffs are entitled to a declaratory judgment establishing the status of each school named in the plaintiff's complaint compatible with the final conclusions.

"That the plaintiffs are entitled to a declaratory judgment determining that the defendants who are the members of the state board of education and all boards of education which are defendants herein and the members thereof from renting, leasing or acquiring for use in any buildings or space in buildings for use as a public school or public school room when said building does not remain under the absolute control of the state or one of its subdivisions or when such building is of a nature to exert a sectarian influence.

"That the plaintiffs are entitled to a declaratory judgment against the defendants who are members of the state board of education prohibiting them from providing or authorizing free school bus transportation for pupils attending a parochial or sectarian school.

"That the plaintiffs are entitled to a declaratory judgment against the defendants who are members of the state board of education prohibiting them from providing or authorizing free text books for private, parochial or sectarian schools.

"That the plaintiffs are entitled to a declaratory judgment against the defendants who are members of the state board of education prohibiting them from buying, contracting for, providing for, or authorizing sectarian, indoctrinated text books as a part of the state's free text book system.

"That the plaintiffs are entitled to a declaratory judgment against the defendant R. E. Grisson, declaring unlawful the making or approving of any budget providing for the payment of public funds to any of the defendants herein who are teaching sectarian doctrine in the tax supported schools of this state.

"That the plaintiffs are entitled to injunctive relief enjoining and restraining the defendants and each of them from continuing such acts as have been concluded herein to be unlawful."

NOTE: Since the above was put in type a letter from Mrs. Lydia C. Zellers, Rev. Porfirio Romero and Miss Olive Brown, Secretaries Free School Committee of Dixon, is as follows:

"We have agreed to delay the declaratory judgment until the end of this school year so as not to disrupt classes too seriously.

"What our future action will be will depend to some extent on what the opposition does. There are rumors that they will appeal the points dealing with free textbooks and bus transportation. In that case we will counter appeal on the strength that Catholic nuns as a class have not been barred from teaching in the public schools, nor was the distinctive garb of the nuns and brothers banned from the classroom.

"The question in our minds now is whether or not we should appeal the case should they take no action. We have a very strong case now, and we feel that this decision, which on the surface appears like a complete victory, does not fully safeguard us in the future, in the event that other nuns should replace the present ones. A nun has vowed to propagate Catholicism; this should disqualify her as a public school teacher. Of course we must face the fact that an appeal will entail a great deal of expense and more work for us."

EXTRACTS FROM RADIO BROADCAST FROM WASHINGTON ON THE CLEVELAND CONFERENCE

Miss McLendon: I understand you attended the National Study Conference on the Churches and World Order. In what sense were you a delegate?

Dr. Dawson: I was invited by the sponsors to go as Executive Director of the Joint Conference Committee on Public Relations for Baptists of the United States.

M. Who is back of the Baptist Joint Committee on Public Relations?

D. Four Baptist bodies - the Northern Baptist Convention, the Southern Baptist Convention, and two National Negro Baptist Conventions, who comprise in their 14,000,000 membership practically the whole number of American Baptists.

M. Did you represent all these Baptists?

D. Strictly speaking, no. Actually no Baptist can ever speak outside of an official pronouncement by a given group of Baptists for any except himself. In respect to subjects on which the general attitude of Baptists is certainly known, however, it could be said truly I represented the Baptists. To be sure also, after common usage, it could be said, I represented the Baptists in exactly the same sense in which the 400 delegates present claimed they represented 35,000,000 Protestants. Two of the Conventions supporting the Joint Conference Committee affiliate with the Federal Council of Churches which sponsored the Conference at Cleveland.

M. Did the Conference include others than those affiliated with the Federal Council?

D. Yes. Published statements by the sponsors indicated representatives from fifty-seven denominations, whereas only twenty-three are reported in the Federal Council.

M. What were the objectives of the Study Conference?

D. The four hundred delegates first divided into three seminars to inquire into: (1) the situation in the Far East, (2) the United States-Russian relations in Europe, and (3) the United Nations. Following the study of two days in these sections all came together for two more days in plenary session to reach their findings.

M. Was this the first such assembly?

D. The first such held since the Second National Conference of the Churches on a Just and Durable Peace at Cleveland in 1945.

M. Perhaps it would be desirable for you to point out some of the most crucial questions considered and conclusions reached.

D. All right, I shall try to do so. First, the Conference was of one mind that war between the United States and Russia is not inevitable, and that armed force should not be our main reliance in dealing with the tensions which prevail between the two greatest national powers on earth. The Conference deplored the present hysteria raised by the newspapers, the Roman Catholics, and maybe our military, which contributes to the expectation of war. Second, the delegates gave it as their judgment that the United Nations constitute the best hope for bringing world peace and the establishment of justice in the world. The advocates of world government were in the Conference in Cleveland in large numbers, but a majority of the delegates insisted that world government remains somewhat of a dream, not practicable at the present.

M. What else?

D. Great anxiety centered in the proposed North Atlantic Pact. The Conference declined to pass upon it because the final text was not in hand, and there was not time for adequate study of its implications. And the delegates called upon the Senate of the United States to postpone action upon it until the Nation has had opportunity for full discussion of all its provisions and implications.

M. Did the Conference lay down any standards for guidance in acting upon the Pact?

D. Yes. It indicated the following: (1) No defensive alliance should be entered into which might validly appear as aggressive to Russia as a Russian alliance with Latin America would undoubtedly appear to us. (2) Regional pacts may make for common security and welfare provided (a) that they stay within the framework of the U. N.; (b) that they are based upon a natural community of interest; and (c) that they pursue this interest in ways that do not jeopardize world community. (3) Regional military alliances are of course no substitute for the relief of human distress and the meeting of human needs within the area; and they must not be allowed to take primacy, financial or otherwise, over such constructive programs.

M. With what did you personally have most to do in this Conference?

D. With the question of religious liberty. Although the Conference did not see fit to adopt my amendment offered to Dean Nolde's report (referred to the Executive Committee of the Federal Council for action) I was highly pleased with the adoption just before adjournment of this brief statement:

When threatened by autocratic or tyrannical power, Protestants will take their stand according to the dictates of conscience, and will protest against any earthly coercion, political or ecclesiastical, that assumes the prerogatives of God and attempts to prescribe the individual conscience.

M. Did the Conference have nothing to say about the situation in the Far East?

D. Certainly. It recognized that throughout the Far East there is a continuing struggle for national independence of government by and for the people and for improved living conditions. It noted the revolt against exploitation, and specifically condemned the Netherlands warring on Indonesia. It lamented the spread of Communism in China, but tried to take a hopeful view, believing that Chinese nationalism and reverence for the family may prevent Russian dictation after a revolution that was inevitable. Asiatic peoples see in America the most powerful nation on earth. We must make clear that U. S. power at its best derives from our experiment in democracy and our spiritual heritage. In fact, the central concern of the Conference was to enunciate THE MORAL USE OF POWER.

M. What of our government relations?

D. It must not relax its efforts to provide a treaty structure for the Far East that will (a) reflect due regard for the moral and material welfare of the peoples directly concerned; (b) safeguard the fundamental rights of the human person; (c) contribute to and be an integral part of a world settlement; (d) provide for that mutuality of interest and creative effort which can increase international understanding and fellowship; (e) encourage nations to share their scientific and technical resources with one another.

M. So much for a general statement of policy; but what of particular issues?

D. Well, while not naming the Judd bill pending in the House, the Conference insisted that there should be speedy enactment of immigration and naturalization laws, fully within the quota system, based upon the principle of equality for all peoples without any discrimination whatsoever on grounds of color or nationality. The Conference also urged the implementation of the "bold new program" as announced by President Truman in his Inaugural Address "for making the benefits of our scientific advances and industrial progress available for the improvement and growth of undeveloped areas." The aim of this program "should be to help the free peoples of the world through their own efforts, to produce food, more clothing, more materials for housing, and more mechanical power to lighten their burdens."

NOTE: After this broadcast was made the Executive Committee of the Federal Council of Churches, to which was referred the proffered report of Dean O. Frederick Nolde of the Lutheran Theological Seminary of Philadelphia, on Religious Liberty at the Cleveland Conference, decided to broach to the World Council of Churches the proposal for a conference with the Vatican to clear up present world misunderstandings of religious liberty. The Federal Council Committee put the matter in the hands of Methodist Bishop G. Bromley Oxnam, American President of the World Council of Churches. Nothing, however, may come of this, but it was felt that it was a desirable strategic movement to bring the Roman Catholic Church to define what it means by religious liberty and to declare its position with reference to persecution of religious minorities where Roman Catholics are predominant as in Spain and Latin America.

* * *

JOINT CONFERENCE COMMITTEE FORMER TREASURER PASSES

The death of Mr. William Wade Everett, age 78, retiring President of one of the nation's largest department stores, Woodward and Lothrop in Washington, and the first Treasurer of the Joint Conference Committee on Public Relations, plunged multitudes into profound sorrow. In addition to being an active member of the Calvary Baptist Church, he was identified with numerous religious, charitable and civic organizations in the Nation's Capital. He was among the foremost in helping to establish the Joint Conference Committee on Public Relations and supported its objectives heartily. The following telegram was read at the funeral when conducted by Dr. Clarence W. Granford, who is also a member of the Joint Conference Committee: "The Joint Conference Committee on Public Relations for the Baptists of the United States of which Mr. Everett long served as the first Treasurer, and whose marked interest in establishing this Committee and faithful support was invaluable, wishes on behalf of fourteen million Baptists in America, served by the Committee, to express a sense of profound bereavement."

* * *

THE 1948 CRIME RECORD IN AMERICA

The release of J. Edgar Hoover, director of the Federal Bureau of Investigation, concerning crime in the United States for the year 1948 furnishes a challenge to all good citizens to do something about it. Mr. Hoover says:

"With the passing of each day on the average thirty-six persons were feloniously slain, 255 were victims of aggravated assault or rape and 150 robberies were committed.

"During an average twenty-four-hour period, 1,032 places were burglarized, 463 automobiles were stolen, in addition to 2,672 miscellaneous larcenies."

The FBI report showed that crime in rural areas increased 4.3 per cent over 1947 and in urban areas, 0.3 per cent. Data on crime trends, based on reports from 373 cities with populations of more than 25,000, indicated that the only declines below the pre-war average of 1938-41 were in negligent manslaughter and auto thefts.

Aggravated assaults and rapes in larger communities reached peaks in 1948 of 68.7 per cent and 49.9 per cent respectively above the 1938-41 average. Other 1948 crimes exceeding the pre-war levels were: burglary, 16.7 per cent; murder, 14.1 per cent and robbery 8.9 per cent.

Although declining in the war years, larceny is now increasing and in 1948 was 4.6 per cent above the pre-war average.

The record of the National Capital is particularly disturbing. Washington leads the entire nation in assaults, is second only to Baltimore in the number of murders, second to San Francisco in number of robberies, second to St. Louis in number of burglaries, first in major and minor larcenies.

* * *

POAU PROGRESS

Following the highly successful meeting of the National Advisory Council of Protestants and Other Americans United for Separation of Church and State on January 27, and the large impressive gathering in Constitutional Hall in the evening with the address of Bishop Oxnham on "Alerted and Committed", the Executive Director, Glenn L. Archer, reports that headquarters building, 1633 Massachusetts Avenue, has been purchased and will soon be entered, where ample space will be afforded for varied activities.

On the purchase of this building the organization received a gift of \$10,000, and two gifts of \$1,000 each. Generous contributions are also flowing into the treasury, making a hopeful beginning toward the one million dollars voted as the financial goal to be attained within three years.

Secretary Archer went to Atlanta where with the assistance of the Chairman of the Executive Board, Dr. Louie D. Newton, and Bishop Arthur J. Moore, a member of the National Advisory Council, Georgia, the first state unit, was set up. Encouraging reports come from other states indicating that state units will soon be in operation.

All will recognize the satisfaction experienced by the leadership of POAU in the New Mexico school suits as announced by Judge E. T. Hensley who tried the cases. Other such particular undertakings by POAU will be announced soon. Adhering strictly to the policies announced in the original Manifesto, POAU presses forward for the revival in the public mind of a clear understanding of the Constitutional basis upon which religious liberty is guaranteed in this country, for redressing specific violations which have recently come into force, and for resisting further encroachments upon the Constitutional principle of separation of church and state.

* * *