

JANUARY 1950

IS GOVERNMENT TAX MONEY FOR DENOMINATIONAL HOSPITALS ILLEGAL?

Widespread interest has developed in the question raised by the stand taken by the Southern Baptist Convention, and almost all the Baptist state bodies cooperating with that Convention, in declining government funds for their denominational hospitals. It is the opinion of the Executive Director of this Committee that if a test case should be brought in the courts that it would be found that such use of government funds is contrary to the ruling of the Supreme Court. In support of this position is the following opinion rendered by one of the recognized law firms in Washington, D. C., known as qualified Constitutional authorities.

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Washington, D. C.  
December 12, 1949

At your request, Mr. W. B. Hampton, one of our ablest constitutional lawyers, has been good enough to cooperate with me, in view of the urgency, in the preparation of a memorandum opinion upon the general question as to whether or not the Hill-Burton Act is violative of the First Amendment of the Constitution of the United States. The memorandum opinion deals with a single inquiry and is as follows:

OPINION

QUERY: Is a grant, or gift, or allocation of tax funds by a state, or by the Federal government, to a hospital, owned, controlled and operated by a sectarian religious organization, a violation of the First Amendment to the Constitution of the United States, as interpreted by the Supreme Court of the United States? Specifically, is a grant, or gift, or allocation of tax funds under the provisions of the "Hospital Survey and Construction Act", sometimes referred to as the Hill-Burton Act, passed by Congress and approved August 13, 1946, to a hospital, owned, controlled, and operated by a sectarian religious organization, a violation of said Amendment as interpreted by the Supreme Court

It is our opinion, after careful consideration of the decisions of the Supreme Court that a grant, or gift, or allocation of tax funds by a State, or by the Federal government, to a hospital, owned, controlled and operated by a sectarian religious organization as contemplated or permitted by the Hill-Burton Act, is a clear violation of the provisions of the First Amendment to the Constitution of the United States. This conclusion is inescapable in the light of the decisions of the Supreme Court in *Everson vs. Board of Education*, 330 U. S. 1; 91 Law Ed. 711, and *McCullom vs. Board of Education*, 333 U. S. 203; 92 Law Ed. 649.

In the *Everson* case, and repeated in the *McCullom* case, the Court said:

"No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion. Neither a State nor the Federal government can, openly or secretly, participate in the affairs of any religious organizations or groups and vice versa".

It is undeniable that a hospital, owned, controlled, and operated by a sectarian religious organization is a religious activity, which the Supreme Court clearly says cannot be supported by tax funds. Such hospital is an integral part of the ministry of a religious organization, and is one of its most persuasive and effective means of propagating its faith. It is as much a part of the plans and objectives of a religious organization as are its parochial schools, orphan asylums and homes for the aged. It has a double mission - healing the sick and forwarding the purposes and programs of a particular religious faith. As a distinctive religious activity, it falls clearly within the inhibitions of the Supreme Court with regard to its support or aid by tax funds.

The Supreme Court has decisively answered the query propounded at the outset of this opinion. We are of the opinion that, if the use of tax funds by a State or by the Federal government in aid or support of hospitals, owned, controlled and operated by religious organizations, is challenged, the Supreme Court, in line with its previous decisions, will hold such use to be in violation of the First Amendment to the Constitution.

(Signed) E. Hilton Jackson

(Signed) Wade B. Hampton

#### ROMAN CATHOLICS PERTURBED

Our editorial in the November issue of REPORT FROM THE CAPITAL, entitled, "Pope Instructs Public Officials Administer Law In Behalf Of The Church", apparently created keen apprehensions in Roman Catholic ranks. The National Catholic Welfare Conference demanded proofs of charges made in the article and shouted that there must be no more name-calling. The Archbishop declared his people, as a result of what Protestants and Other Americans United for Separation of Church and State has done, "are in a very precarious position". They are indeed as to their demands on the Government! We replied proofs had been shown the public and would continue to be offered. Instead of calling names, which we have never indulged in, we merely refuse to allow free speech to be silenced and Constitutional action to be killed by our being called "bigots", and proceed to press for decisions which are in harmony with the American system. Whereupon Archbishop Cushing and the Jesuit Weekly America really lashed out by calling us "KLUKERS", "dishonest" and "notorious".

Alarmed over this turn, Father Thomas J. McCarthy, Executive Director, National Catholic Welfare Conference Bureau of Information, in a requested conference with the Executive Director of the Baptist Joint Conference Committee on Public Relations, urged that in the face of Protestant-Catholic tensions, name-calling and emotional appeals contribute nothing toward a right decision in the present nation-wide debate on church-state relations, and that the debaters should confine themselves strictly to the issues and on a high Christian level. Wonderful that the light is breaking at last! We stated to him that a frank and full public discussion of the issues at stake is the only true democratic process for reaching decisions in America. We further stated that his Church, however sincere, holds to radically different conceptions of church-state relations from us, and that he could not expect us to budge from our own sincere convictions.

Public opinion is the court of real resort. It controls legislation, influences administration and even is reflected in judicial decisions. The hope of maintaining the traditional, Constitutional American principle of separation of church and state lies in an informed public opinion. We are merely trying to contribute our share in the eminently desirable mission of letting the people know.

TESTIMONY ON LANGER BILL

Washington, D. C., January 12, 1950

HONORABLE MEMBERS OF THE COMMITTEE ON INTERSTATE  
AND FOREIGN COMMERCE, UNITED STATES SENATE:

This is Joseph M. Dawson, Washington, D. C., Executive Director of the Joint Conference on Public Relations for the Baptists of the United States. This Committee has been set up by the four national Baptist Conventions of America, namely the Southern Baptist Convention, the Northern Baptist Convention, and the two country-wide Conventions of Negro Baptists, which according to the Yearbook of the Federal Council of Churches include a total membership exceeding 16,000,000. The Joint Committee, of which I am Executive Director, has been instructed by official action of these Conventions to make known their findings in respect to the issues involved in the Langer Bill, S. 1847.

The Northern Baptist Convention in its 1949 session in the city of San Francisco said:

"WHEREAS, The manufacturers and dispensers of alcoholic beverages are engaging in a subtle, false and damnably clever campaign of advertising designed to mislead the people of this country and particularly our youth as to the effect of their habit and disease-forming product; therefore be it

"Resolved, That the Northern Baptist Convention go on record as favoring the elimination of all forms of liquor advertising."

The Southern Baptist Convention through its Social Service Commission, after its 1949 session held in Oklahoma City, citing the staggering facts about beverage alcohol, had this to say:

"The manufacturers of beverage alcohol are spending more and more of their advertising money in the attempt to convince the American public that they believe in moderation for all who drink their products.

The latest sales promotion techniques of the United States Brewer's Foundation in the advertising field is the use of their 'Home Series' of pictures. One trade journal has pointed out that outstanding artists have been employed to produce the pictures, they are painted on location in various parts of the country, local models are used, and as much authentic detail as possible is included.

The object is to associate beer with the home and show it as an accepted part of American life. The scope of advertising as officially announced to the trade will reach a combined circulation of 18,000,000 with an estimated reader potential of 72,000,000. It is claimed that these beer advertisements will touch one out of every two homes in America."

I may be permitted here to summarize the reasons given in some fifty Baptist periodicals published throughout the country and urged from more than fifty thousand Baptist pulpits, as well as earnestly expounded in scores of Baptist colleges and universities, as to why the Baptists feel the Congress of the United States should forbid interstate advertising of alcoholic liquors. They are as follows:

1. Such advertising is against the public interest. Any reasonable citizen, not personally interested in the sale of intoxicating liquors, knows that increased sales of these liquors add enormously to the alarming increase of juvenile delinquency, traffic accidents, mental diseases, divorces and crimes of all kinds.

2. Such interstate advertising of intoxicating liquors is distinctly against good taste. It makes many preposterous false claims, to the effect that drinking is in the American tradition, improves the drinker's social standing and advances the drinker's chances of success in life. By pictures, slogans and other devices it makes low, sensual and disgusting appeals to purchasers, which can only serve to develop deplorable depravity in large sections of the public.

3. Such widespread advertising of intoxicants should be prohibited in protection of the children and youth of the Nation. By the most insidious, beguiling means, the immature, who are incapable of discriminating between the vicious and true in subtle advertisements, and so are grievously misled into habits of drinking, ruinous to health and fortune. We are informed by the daily press of steps now being taken by many of the largest employing concerns to arrest the serious results of alcoholism, and if possible, effect cures among their employees. Surely it is time our Government added some sensible measures for lessening the evils of increasing alcoholism.

4. Such unfair and costly advertising of intoxicating liquors overrides the expressed will of the people in large areas of the Nation which have excluded the sale of intoxicants by popular vote. These tempting advertisements are persistently circulated in these areas with the obvious result of inducing many to violate the law and of seeking to influence everyone to despise the law. This is an intolerable abuse and should be corrected by the speedy enactment of such an Act of Congress as that proposed in S. 1847.

I beseech this Committee of the Senate to recommend the earliest possible enactment of the Langer Bill.

Respectfully,

Joseph M. Dawson, Executive Director  
Joint Conference Committee on Public Relations  
Baptist of the United States

#### WHAT OF FEDERAL AID TO EDUCATION?

As Congress reassembled one of the questions in which the whole country is making the most insistent inquiries is that of Federal aid to education. Chairman Lesinski of the House Education and Labor Committee, where this matter now rests, announces that the entire month, February 6 to March 6, has been set aside for closed session of the Committee for the purpose of considering what bill may be offered in the House. It is reported by Representative Richard M. Nixon, Republican of California, a member of the committee, that the "most suggested" was S. 246 "with a rider providing for bus transportation for all non-public school pupils". The exact status of the Barden bill, against which the Roman Catholics raised such a furor last year, is unknown. The Californian expressed surprise as Congress opened at the strength of the opposition to the proposed amendment in favor of free buses for church groups. He said not only Protestants but educational forces argue against it. He was of the opinion that the Democratic majority of sixteen on the Committee might go along with the Republican minority in accepting some bill that would limit Federal aid to the neediest States only. The Executive Director of this Committee has signed a statement with John Dewey, Bishop Oxnham, Leo Pfeffer and others, insisting that any Federal aid bill "must be limited to tax supported and publicly controlled educational institutions whether or not state constitutions or laws permit use of state funds for sectarian educational institutions."

Even in religion any act contrary to public welfare is banned by government.