



REPORT FROM THE CAPITAL

★ RELIGIOUS LIBERTY ★ BAPTIST PRINCIPLES
★ PUBLIC AFFAIRS

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BAPTISTS IN THE POLITICAL PROCESSES

By C. Emanuel Carlson

The election of 1960 came at the close of a very lively campaign in which the name "Baptists" received unprecedented publicity. The pictures spread before the nation were not all taken of deliberate poses, nor were all taken of graceful positions.

Nevertheless, an overall image of Baptist concern has undoubtedly emerged in the awareness of the nation, and several important political insights have come into much clearer focus. The Baptist tradition and its current expressions may be entitled to more credit than the public media have so far recognized.

No Religious Test

First and foremost, it is the Baptist insight that a nation's morality is a matter of its total culture, not specifically derived from some one religious faith, which is basic to our no-religious-test-for-public-office clause in the Constitution. Baptists have long fought for the principle of equal civil rights for all regardless of religious affiliation.

Many spokesmen had fears regarding the political freedom of some candidates, but I know of no one who would eliminate the no-religious-test principle. The solidarity of the American public in supporting this provision is demonstrated by the effectiveness with which religious "attacks" could be turned to the advantage of the candidate.

No Church Interference

Closely related to this observation is the evidence that churches and church leaders ought not to try to interfere with the free operation of the democratic processes. The most overt instance of attempted intervention was the case of the pastoral letters by the bishops in Puerto Rico, and the results were decisive. It may be that other churchmen played on the bank of that same river. Or should one say they played with the same fire?

This does not mean that churches should not carry forward sound educational work in producing effective Christian citizens, nor does it prevent clear proclamation of the broad principles and insights of a faith even during the heat of a campaign. It is

the intervention in the free processes of political life which is out of order. No church leader has the right to use his spiritual position to say "You must or must not vote thus or so."

The campaign has left some scars and some embarrassments. Some strains also remain within Christian fellowships. These can be valuable teachers if they are rightly understood, and then permitted to heal.

No Regulation Of Conscience

The right under American law of a candidate to declare his own conscientious position without the approval of spiritual "superiors" has also come into focus in this campaign. When the 165 Roman Catholic public leaders called for more careful study of the "relationship between religious conscience and civil society," they declared themselves in favor of the "inviolability of the individual conscience."

Among the fundamentals of religious liberty they listed "the freedom of a church to teach its members and the freedom of the members to accept the teachings of their church." While these statements need clarification showing that freedom to accept necessitates freedom not to accept, and that freedom for a church to teach implies freedom from coerced financial support, yet the statement was an encouragement to hope that our positions may soon be understood. Undoubtedly, Baptists have been influential in bringing the analysis to its present point of progress.

No Tax Exemption For Politics

The taxability of contributions to political campaigns, or to lobbying projects, has also become more clearly understood. Gifts to church work are deductible but contributions to political campaigns are not.

The necessity and the rightness of this law become apparent when it is considered in its application to businesses or special professional interests. Abuses in this area are part of the long story of the corruption of politics by economic aspirations.

The corrective laws have been in line with the political ideals of the churches, as well as being a

normal provision in the separation of church and state. It is not known that any proper religious work has been impeded by the laws, but a clearer knowledge of the law might relieve any tension or uncertainty.

No Dodging Of Public Issues

The importance of identifying the areas of Christian concern and of inquiring about the candidates' positions have also been demonstrated in the campaign. Not a few positioned themselves first, and asked the questions afterwards. There may be some arguments in favor of this order of events, but the changing of one's position also has some inconveniences and at times a price tag.

It is not clear whether the right people were asked the right questions in recent months. The matter of the use of Federal funds for sectarian education was often discussed with candidates for the administration, but perhaps less often with the candidates

for Congress who will vote the policies of the future in this matter.

No End To Our Task

A new high concern for proper church-state relations has found expression in Baptist ranks. It is neither ignorant nor bigoted.

On the contrary, a sound new beginning has been made toward the implementing of our spiritual insights through the democratic processes into policies which are helpful to the whole cause of freedom and congenial to the American public when properly understood.

In the years ahead we Baptists will draw heavily on what we have learned during the past election campaign. Perhaps the most important lesson is that we must do our educational work consistently and carefully without waiting for the challenge or the excitement of a crisis.

RELIGIOUS LIBERTY ISSUES IN CASES BEFORE THE SUPREME COURT

The United States Supreme Court is expected to rule on a number of cases involving religious liberty. Now before the Court are 26 cases of direct interest to church groups, several of which have to do with religious liberty and civil rights.

Among the cases to be ruled upon are several dealing with Sunday laws, Bible reading in public schools, religious tests for public office, distribution of birth control information, censorship and zoning laws. A brief review of some of the above-mentioned cases will be helpful.

Laws On Sunday Observance

The Court has six appeals pending which challenge the constitutionality of laws that prohibit commercial activities on Sunday. The laws of Massachusetts, Pennsylvania and Maryland are being attacked on the ground that they impose upon Jewish merchants and others observance of the Christian Sabbath, thus discriminating against religious groups who observe a different day of rest and imposing a religious doctrine upon citizens in a manner that violates freedom of conscience.

Four of these appeals will be heard by the Court and the decision it renders could, on one hand, be so sweeping as to wipe off the books of every state and municipality all laws that set Sunday apart as different from any other day, or, on the other hand, uphold the constitutionality of such laws. The majority of state courts have held through the years that state legislatures could require a day of rest from business activity as a matter of health and welfare, could select the day most acceptable to the majority of citizens, and could make such exceptions as the lawmakers saw fit for "necessary services" to meet the convenience of the public.

Until this year, the Court has repeatedly refused to review such state decisions, but, faced with conflicting opinions in recent cases, will now attempt a definitive ruling to guide all courts.

The constitutionality of South Carolina's state law forbidding the exhibition of movies on Sunday has been challenged by the Carolina Amusement Co., Drive-in Theaters of South Carolina, Inc., and other exhibitors in Greenville and Spartanburg Counties. These are asking the Supreme Court to review a decision of the South Carolina State Supreme Court upholding their conviction for Sunday law violations.

Four courses of action are open on the South Carolina appeal. The Court (1) could agree to hear it and add it to the other Sunday law cases for combined argument and decision, (2) could hear it as a separate case, or (3) could refuse to review the case--as it does with four out of five appeals filed--on the ground that the constitutional issue is not sufficient. The Court may also in its discretion, (4) let the appeal lay dormant until it has disposed of the other cases and then dispose of the South Carolina case in light of its decision on the other state laws.

Arguments For And Against Sunday Law

The arguments of the plaintiffs in the South Carolina case against the Sunday law are as follows:

(1) The law is repugnant to the 1st and 14th amendments to the Constitution prohibiting the establishment of religion by state law and guaranteeing religious freedom.

(2) "No reason is advanced (by the South Carolina Court) as to how this Blue Law could be said to protect the health, safety, morals, or public welfare of the people of South Carolina by prohibiting this innocent recreational activity on Sunday.

(3) "If those who believe it irreverent and wrong to engage in innocent and otherwise legal recreational activities on Sunday are correct in their belief, they should be content with logical, moral, and spiritual persuasion to convince others and not resort to punitive police action in the name of the State."

(4) It is claimed by the plaintiffs that religious liberty and separation of church and state are vio-

lated by the South Carolina law by establishing a state religion, by the favoring of one sect over another, and by denying the individual religious liberty of the patrons of the theaters.

(5) The plaintiffs further ask the protection of freedom of speech and press, arguing that movies are a media for expression of ideas exempt from governmental control.

The South Carolina Supreme Court, on the other hand, argued in favor of the Blue Law by saying in part: "Nowhere in (this) law are the rights of free speech and free press impinged upon....Cessation of commercial exhibition of motion pictures for one day of rest out of seven, in the exercise of the police power of the state, is not an invasion of appellants' constitutional rights....Following the appellants' argument, they might invade the room of a court which is in session or a church with worship in progress, to exhibit a film in the name of their freedoms."

The South Carolina Court further said: "Of course, they are subject to the reasonable regulations of the police power, of which we think our Sunday sports and amusements law constitutes one....If revision or repeal is desirable in the public interest, that should be addressed to the legislature, not to the courts."

Bible Reading In Public Schools

A law in Pennsylvania requiring the reading of a selection from the Bible at the opening of each session of the public schools has been challenged and has made its way to the Supreme Court. The Court has thrown the issue back to the lower courts because the Pennsylvania legislature has re-drafted the law since a Federal 3-judge court declared it unconstitutional 13 months ago. The new law adds a section allowing any child to be excused from attending the Bible reading if his parents or guardians request it.

The District of Columbia and numerous states require daily Bible reading in the public schools, although the practice has long been under a constitutional cloud. There have been conflicting lower court opinions as to the constitutionality of such laws, but the Supreme Court has never ruled on the issue.

This Bible-reading test case is only the forerunner of several that are expected to reach the nation's highest court this term or next, decisions which may go far toward resolving the controversy over what role, if any, religion may play in public schools. Pending in Miami, Fla., is a court test that challenges all religious observances, including Christmas and Easter pageants, which plaintiffs, backed by the American Jewish Congress, assert they will take to the highest court.

In other areas of the country, similar test cases are brewing and the Supreme Court will soon have to start the long job of resolving them.

Religious Tests For Public Office

The U. S. Supreme Court has agreed to rule on the question whether a man must declare belief in God to be eligible to administer legal oaths. The Court

noted "probable jurisdiction" over an appeal filed by Roy R. Torcaso of Silver Spring, Md., an avowed atheist who was denied a notary public commission by Maryland because he would not swear that he believes in God.

He contends that the state by its action has established an illegal "religious test" for public office which is contrary to the U. S. Constitution.

Last June in ruling against Mr. Torcaso, the Maryland Court of Appeals said: "It seems clear under our constitution that disbelief in a Supreme Being, and the denial of any moral accountability for conduct, not only renders a person incompetent to hold public office, but to give testimony or serve as a juror."

The court said then it based its decision on Article 37 of the Maryland State Constitution which requires candidates for public office to declare a belief in God.

Mr. Torcaso's challenge on the constitutional issues involved is so broad that it may compel the Supreme Court to rule on the legality of the ancient practice of having witnesses in court swear to tell the truth "so help me God."

Hundreds of state and Federal laws, as well as the historic practice in American courts of invoking the name of the Deity in oaths, will be affected by the Supreme Court test.

Distribution Of Birth Control Information

The Supreme Court earlier in the year agreed to rule on another very controversial subject, the constitutionality of Connecticut's state law forbidding the dissemination of contraceptive information of any kind, forbidding its practice, and barring physicians from prescribing it.

Dr. C. Lee Buxton, eminent Yale University medical professor, is the complainant in one suit and two married couples in another. The wives, patients of Dr. Buxton, assert that their health would be harmed by pregnancy and their constitutional rights have been invaded. The Court has agreed that they have a case and will hear it.

All but eight states have restrictions of some kind against contraceptives. Five states prohibit sale and advertisement. Massachusetts and Connecticut prevent their sale and the distribution of information about them. Connecticut law prohibits their use.

These bills were enacted by Protestant-dominated legislatures in the last century. However, Catholics in this century feel no obligation to work for their repeal, since in their opinion the use of artificial means to prevent conception violates a natural law as well as church doctrine.

The birth control issue, with all its divisive religious and political overtones, has been before the Supreme Court before. In 1943 the Court dismissed, on technical grounds, a challenge to the same Connecticut statute.

The present appellants are asking the U. S. Supreme Court to declare the Connecticut laws "unconstitutional on their face" as an undue exercise of state authority, interfering with individual liberties, as protected by the Constitution.

Censorship Of Movies Before Exhibition

Does a community have a right to censor a movie before its exhibition? Upon the answer to this question depends the circulation not only of so-called obscene movies but of other movies that may be objectionable to a community.

The United States Supreme Court has heard arguments on the case of the City of Chicago against the Times Film Corporation involving the movie "Don Juan." A decision is expected some time this year.

The plaintiffs applied to Police Commissioner Timothy J. O'Connor for a permit to exhibit the film at a Chicago theater and were told that such a permit could be granted only after the film had been presented at his office for examination. This the exhibitors refused to do and the permit was denied.

Counsel for the movie company charged that the Chicago ordinance is unconstitutional on its face as an a priori restraint of freedom of speech and press. They rely on the Supreme Court's finding in "The Miracle" case that movies are entitled to the same constitutional privileges as extend to books and newspapers.

Counsel for Chicago told the court that the city had a good law that prohibited obscene, immoral movies as well as those which contribute to depravity and the contempt of the races and religions. They argued that it is essential to enforcement of this ordinance to have films before public exhibition submitted to the Police Commissioner for a permit.

A middle-of-the-road policy is sought by the city of Chicago, according to the attorney. That road is flanked, he said, by two precipices. "One drops off to moral debasement, the other to witch-hunting, thought strangulation, puritan regimentation."

Neither course is for America," he added. "The court must take the helm and lead us--both sides of this controversy--down the middle path where motion

pictures will be subject to only such prior restraint as may be necessary to prohibit the obscene, the immoral, and those motion pictures which tend to produce a breach of peace and riots."

Zoning Laws On Church Parking

A church parking lot problem in reverse in the case before the Supreme Court is presented by James McIntyre, Roman Catholic Archbishop of Los Angeles, on behalf of Santa Felicitas and Perpetua church.

Here are the questions: "Is it essential in this automobile age for a church to have a parking lot for the use of persons desiring to attend worship services and does the prohibition of parking on church-owned land, through zoning laws abridge freedom of assembly and worship?"

The appeal to the Supreme Court brings to a climax long litigation between the city of San Marino, Calif., and the church over the issue. The church bought the lot in 1939, and in 1948 built a new church near it and in 1950 a parochial school. For ten years it has been used as a parking lot on Sundays and Holy Days of Obligation and as a playground for school children on other days.

While acknowledging that use of the lot is at variance with zoning regulations in the populous Los Angeles suburban residential area, the church contends that such use has been condoned and has now become essential to the operation of both the church and the school.

Counsel for the Archbishop asked the Court in his appeal if "where other religious denominations and commercial establishments (in the area) were granted the precise zoning variance here denied to petitioners...there is discriminatory enforcement in violation of the due process and equal protection clauses of the Constitution?"

He also asked the Court to determine whether the use of a lot for parking automobiles and for recreation for school children "is integral to the exercise of petitioners' religious educational activities?"

In short, the Supreme Court is told that without a parking lot, there is no freedom of religious assembly in modern-day Los Angeles County.

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