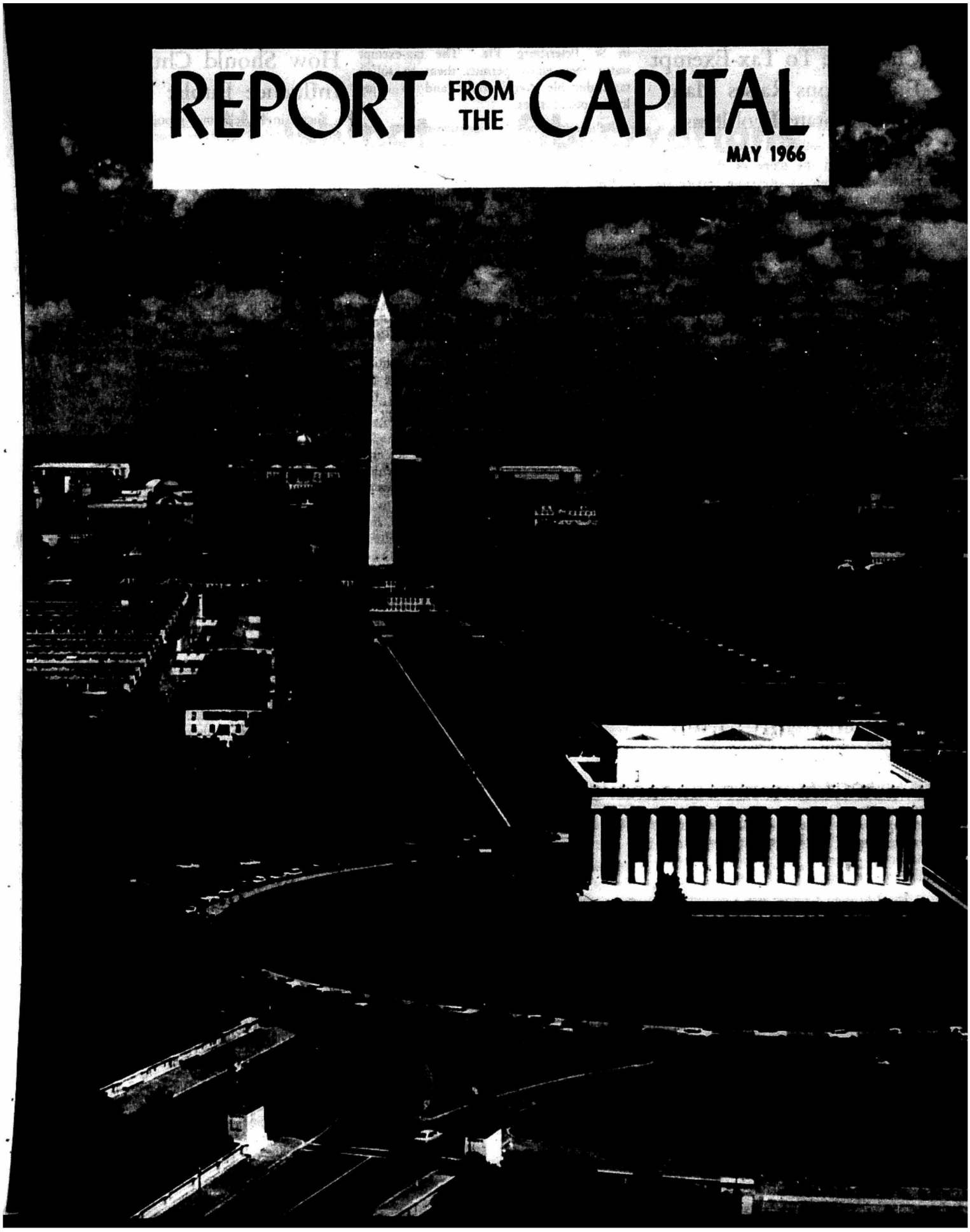
REPORT FROM THE CAPITAL

MAY 1966



Challenge To Tax-Exempt Publications Raises Many Church-State Problems

Tax exempt religious publications could be restricted in the scope of their subject matter if the Internal Revenue Service succeeds in removing The Christian Century and The Churchman from their tax-exempt status.

According to reports in Religious News Service and in the Washington Post these two publications have been challenged by the IRS—The Christian Century because of its opposition to Sen. Barry Goldwater in the last presidential campaign and The Churchman because of its opposition to American participation in the Vietnam war.

If a genuine test case should develop, and if IRS should win it, religious publications may have to restrict their utterances to subjects considered "religious" by IRS, if they are to retain their tax-exempt status. The two principal conditions for tax-exemption for religious journals are:

1. Such magazine must have as "no substantial part" of its activities "carrying on propaganda or otherwise attempting to influence legislation," and

2. Religious journals must not "participate in or intervene in (including the publishing or distributing of statements) any political campaign on behalf of any candidate for public office."

In his story in the Washington Post William R. MacKaye said, "The resolution of the dispute will almost certainly have an important impact on American law, for it appears indirectly that the Internal Revenue Service holds that the legal definition of 'religion' does not include what the editors and supporters of most of these journals would insist is an integral and essential part of Christianity: dissemination of a judgment and prophetic commentary on the present social scene."

The Christian Century is a Chicago-based ecumenical weekly. The Churchman is an independent Episcopal monthly published in St. Petersburg, Fla. The tax-exempt status they enjoy permits them to solicit tax-deductible contributions and to enjoy lower postal rates.

Religious News Service reported as follows: "Prior to news that IRS was probing the status of the magazines, there had been charges from conservative and radical right positions that IRS was only making investigations of 'right-wing' organizations on the tax situation. The action against the two liberal magazines would appear to be an adequate rebuttal.

"A spokesman for IRS said it is not engaged in a 'drive' against any segment of tax-exempt structures nor is it singling out any particular organization.

"Every year, he explained, it is routine practice for the Service to examine the activities of approximately 10,000 of the 500,000 tax-exempt organizations extant in the U. S.

"This being so, IRS is certain to find numerous other religious journals which might undergo the same scrutiny, since it is rather common practice for many of them to express politically-oriented opinions and to appeal to readers to support certain legislation."

Among the church-state issues raised by these two cases are:

1. The definition of religion by governmental agencies;

2. The control of religion by government in exchange for special privileges;

3. Tax exemption for religious agencies; and

4. The right of tax-exempt religious publications to comment freely on legislative and political affairs. (WBG)

Cover Picture

Looking up the Mall from the Lincoln Memorial in Washington, D. C. one sees many subjects of national interest, among which are the Washington Monument and the United States Capitol.

How Should Churches Influence Public Policy?

Increasingly religious groups are raising sharp church-state issues around the question of methods employed to influence public policy. All agree that religious belief for justice, for peace, and for human welfare should carry over into public life. But where should the line be drawn for the preservation of proper church-state relations?

The other side of the coin is that, if churches become overly active in political affairs, those in public authority may think it would be appropriate for government to become active in ecclesiastical affairs.

Religious liberty and separation of church and state do not mean that churches and churchmen shall remain completely aloof from public issues, nor that government can completely withdraw from any contact with the institutions of religion. Where to draw the line is a difficult and tedious task.

Two illustrations point up the difficulty—church concern for civil rights and for a settlement of the Vietnam war.

During the past several years both church bodies and clergymen have been active in civil rights demonstrations and lobbying activities in Congress. During the fight on "Capitol Hill" on the enactment of the Civil Rights Act of 1964, church groups swarmed into Washington and actively lobbied their Congressmen and Senators.

When legislation involving public funds for parochial schools is under discussion, church groups both for and against make their influence strongly felt in Congress. Many other items involving public welfare evoke the active interest of churches.

A current activity of "peace" churches and groups is called "Wednesdays In Washington." Efforts are being carried out to have large groups of churchmen, church delegations and other peace groups to gather in Washington to lobby the Congressmen for a quick end of the Vietnam war.

What are the proper ways for churches to exert their influence on public policy? This is our question. (WBG)

REPORT FROM THE CAPITAL—a bulletin published 10 months during the year by the Baptist Joint Committee on Public Affairs. 200 Maryland Ave., N.E., Washington, D.C. 20002. A purpose of the bulletin is to set forth information and interpretation about public affairs that are relevant to Baptist principles.

The Baptist Joint Committee on Public Affairs is a denominational agency maintained by the American Baptist Convention, Baptist Federation of Canada, Baptist General Conference, National Baptist Convention, National Baptist Convention, Inc., North American Baptist General Conference, Seventh Day Baptist General Conference, and the Southern Baptist Convention.

Executive Staff of the Committee: C. Emanuel Carlson, executive director; W. Barry Garrett, director of information services and editor of Report From The Capital; James M. Sapp, director of correlation services; and Walfred H. Peterson, director of research services.

SUBSCRIPTION RATES—Individual subscription, $1.50 per year; Club rate for 10 or more, $1.00 each per year; Bulk distribution of 10 or more to a single address, $.75 each per year. Write for further information about Club and Bulk distribution plans.

MAY, 1966—Volume 21, Number 3

Washington Observations

News — Views — Trends

May 27, 1966

THE PROBLEM OF RELIGION IN PUBLIC SCHOOLS continues to plague the nation. Since the Supreme Court rulings against the use of public power for prayers or devotions, both those who agree and those who disagree have sought solutions to the proper relationship of religion to public education.

HARVARD SCHOOL OF LAW AND RELIGION sponsored on May 19-20 a high level conference of scholars of law, education and religion at Harvard's Holyoke Center in Massachusetts. The purpose was to discuss ways of implementing the Supreme Court's view that a good education requires a knowledge of the place of religion in culture. There was no suggestion to solve the problem by supporting a "prayer amendment" to the Constitution.

IN THE MEANTIME, SEN. EVERETT DIRKSEN (R., Ill.), Senate minority leader, continues to press for his "prayer amendment" to the Constitution. Although a similar move (the Becker amendment) was defeated in the House Judiciary Committee in 1964, Dirksen insists on a new showdown soon in the Senate.

DIRKSEN'S ANNOUNCED PROCEDURE is to move at the next meeting of the Senate Judiciary Committee (probably the week after Memorial Day) for a discharge of the Committee's subcommittee handling the matter. If the full committee refuses to consider the "prayer amendment," then Dirksen will move for direct action by the Senate itself.

SINCE THIS IS AN ELECTION YEAR, and since the Nation is in turmoil over the Vietnam war and anti-Communism, many legislators will hesitate to vote in a manner that may be interpreted as being "against God." Pressure from the prayer amendment agitators and the rush for a quick decision may not give time for a deliberate decision or for a rallying of the forces in the nation that feel that the First Amendment is adequate.

THE AMERICAN BAPTIST CONVENTION, Kansas City, Mo., May 12, 1966, reaffirmed its previous ('60, '64, '65) strong positions on religious liberty. Among the items in these resolutions are: 1) support for religious liberty for all groups both in the United States and in all nations of the world; 2) belief in separate control of church and state and opposition to the establishment of any state religion where either church or state can use the other for its advantage; 3) opposition to tax support for parochial schools; 4) freedom of the church (pulpit and pew) to proclaim the Word of God as it relates to public issues; 5) reaffirmation of the adequacy of the First Amendment and opposition to a constitutional amendment to permit compulsory Bible reading and prayers in public schools; 6) approval of efforts of the United Nations for the elimination of all forms of religious intolerance.

RELIGIOUS LIBERTY IN SPAIN is taking a new turn in the conflict over the demonstration of 150 liberal priests in support of students at the University of Barcelona for campus freedom and the right to organize independent student organizations. The priests were dispersed forcefully by the police. The archbishop issued a plea for church unity and peace and suggested that the press stop publishing stories about the demonstrations. Parishioners are rallying both to support and oppose the demonstrating priests. The whole flap is causing anxiety in both ecclesiastical and Franco quarters because of the possible political overtones.

CORRELATING
A Stewardship Of
INFLUENCE

Elementary-Secondary Education Act of 1965

By James M. Sapp

Effective Safeguards Require Awareness, Alertness and Effort

The trend of legislation in the 89th Congress accelerates an emerging relationship between federal and state programs.

Portions of much of the legislation follow patterns which give certain priorities to the states:

1. The states draft their own plans for implementing titles of federal acts which provide funds for specialized programs.

2. States match federal funds for most health, education and welfare programs.

3. States are left a great deal of latitude in interpreting open-ended federal regulations and guidelines for administration of the programs.

This arrangement, at first glance, seems ideal and laudatory. It gives a certain amount of freedom to the states and local governmental units.

Upon closer examination, however, such an arrangement may prove far from ideal. For it provides the federal government great opportunity to escape any real responsibility for actual practice and results of the programs in a local situation. By the same token, it places upon the states the burden of assuming total responsibility for the pitfalls and injustices rising out of the way in which the program is administered.

This "freedom" opens the door for local abuses, confusion and frustrations. It also provides local pressure groups with an opportunity to do their own interpreting of the regulations. The next step can be a pressuring of state and local officials to concur with these interpretations.

Difficulty with Title II

Title II of Public Law 89-10 (The Elementary and Secondary Education Act of 1965) is a classic illustration of this kind of "playing the ball to the states." P.L. 89-10 itself is a reasonably good piece of legislation which clearly delineates limitations and requirements to conform to the constitutional principle of separation of church and state. The Senate Report on the bill (No. 146) and the companion House Report (No. 143) clearly set forth the intent with respect to the limiting aspects of the bill.

The principle that public programs should be publicly administered is safeguarded in the Act in very precise terms. The Senate Report especially speaks to this church-state problem. On page 23 of the Senate Report we read these words:

"The committee has taken care to assure that funds provided under this title will not inure to the enrichment or benefit of any private institution by providing that—

1. Library resources, textbooks, and other instructional materials are to be made available to children and teachers and not to institutions;

2. Such materials are made available on a loan basis only;

3. Public authority must retain title and administrative control over such materials;

4. Such material must be that approved for use by public school authority in the State; and,

5. Books and material must not supplant those being provided children but must supplement library resources, textbooks, and other instructional materials to assure that the legislation will insure increased opportunities for learning. The State should also assure that the Federal funds made available under this title will not be used to supplant or duplicate, inappropriately, functions of the public library system of the State."

The Baptist Joint Committee became concerned early this year with the open-endedness of the administrative regulations drawn by the United States Office of Education which seem to avoid the preciseness of the language of the Act and the Senate and House Reports. At its semi-annual meeting in March the Baptist Joint Committee adopted the resolution found on page 7 of this issue of *Report From the Capital.*

Testimony To Congress

The staff of the Baptist Joint Committee so represented these concerns to the House committee hearings held in March. Hearings conducted by the House General Subcommittee on Education were for the purpose of extending the Act for four more years. The testimony of the Baptist Joint Committee called for a mere one year extension until regulations and guidelines of the Office of Education could be brought in line with the letter and spirit of Public Law 89-10. The attitude of the Subcommittee on Education was that, "you gentlemen are theorizing and do not have evidence to back up your contentions."

In the face of this "call for evidence," the Baptist Joint Committee requested leaders in 15 states to respond by assisting the office to gather evidence related to actual practices in the field with respect to Title II of P.L. 89-10.

Reports From the Field

These states were Arkansas, California, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, North Carolina, Ohio, Pennsylvania, New Jersey, New York, Rhode Island, South Carolina, and Tennessee.

Reports from these states are still coming in as of this writing, but examples show tremendous contrasts in the way in which regulations can be interpreted.

From Rhode Island, the report of Baptist leaders reads,

"In our judgment the plan in the state of Rhode Island operates to build up a separate school library wherever that school operates. We have been told by a local public school superintendent that the books in the libraries would be rotated periodically, however, no plan is in effect to implement this technical rotation."

"In our judgment attempt to follow the law and comply with the law at both the state level and local level is being made. However, there can be little doubt that there are numerous violations and as the program becomes more flexible and elastic with the passage of time, violations will become far more numerous."

On the other hand, from Arkansas, Baptist leaders report that the law is being closely adhered to. For instance, "the length of loans varies from school to school, but the usual loan for textbooks and materials is for 90 days."

"A card catalogue of materials is kept in the offices of the public school system. This is available to the public at all times and its whereabouts is made known to private as well as public school teachers and officials. Through this catalogue the location of all materials is shown and all materials are identified as property of the

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The Record Speaks For Itself

Supreme Court — Defender of Religious Freedom

By Walfred H. Peterson, Director of Research
Baptist Joint Committee on Public Affairs, Washington, D. C.

This article affirms three facts:

1. Today at law people in the United States have a broader freedom of religious expression than at any time in American history;

2. This freedom has been defined and defended by the federal Supreme Court as it struck down restrictive local ordinances in the last generation;

3. This freedom has in no way been restricted by recent decisions of the Supreme Court affecting prayer and Bible reading in the public schools.

The establishment of these facts is not difficult. It can be done out of the case law found in any good constitutional law textbook. Why then is it necessary?

It is necessary because some persons, for a variety of reasons, have argued that the Supreme Court has abridged religious liberty. Were this true, there would be cause for alarm. Since it is not true, there is cause for alarm, because the untruth may cause the American public to distrust or turn upon the very agency that has done so much for religious liberty. Or the untruth might cause the American people to seek to alter the First Amendment which the Supreme Court has used as an adequate tool in the expansion of religious freedom.

These fears are not idle. A leading Senator recently introduced a constitutional amendment which would affect the scope of the First Amendment's establishment of religion and free exercise clauses. In his introductory speech he attacked the Supreme Court for its abridgement of free religion. In light of this, a review of decisional law is necessary.

Three Background Considerations

To understand developments of the law of religious liberty in the last generation three things must be understood.

First, until 1940 the Supreme Court did not defend a person's religious expression from the restrictions imposed on it by state or local law or action. In the court's view, the First Amendment's religion clauses were only aimed at federal power. A person's only legal defense against state or local strictures on free religion was in state courts under state constitutions.

But, in *Cantwell* v. *Connecticut*, 1940, the Supreme Court struck down a local police action restricting religious activity. It then decided, following precedents related to cases on free speech and free press, that the Fourteenth Amendment which limited state power included in its word "liberty" the freedom of religion described in the First Amendment. From that day to the present a person has had two levels of defense for his religious expression: (1) state law under state courts, and (2) federal law under federal courts. This gave an enormous advantage at law to free religious expression.

The second background consideration is related to the activity of the Jehovah's Witnesses. The court rendered the Cantwell decision just when the Jehovah's Witnesses were becoming very aggressive. Their zeal brought them into conflict with many state and local laws of long standing, and it provoked some new laws aimed at their techniques of promotion and even at their religious practices.

The aggressiveness of this sect thus insured that the Supreme Court would get ample opportunity to define the meaning of religious liberty.

A third point must be noted before the record of the Supreme Court can be appreciated. In these decisions the judges were not handling easy controversies between freedom of expression on the one hand and clear and decisive restriction on the other. Rather, they were presented with cases that involved weighing attractive values against each other.

They had to choose between free religious expression and, for example, the right of privacy or a community's peace and quiet or a community's reasonable program to limit the activities of door-to-door peddlers. And in weighing the competing values in these cases, the Supreme Court usually found freedom of religion the highest value —even when it occasioned various community inconveniences. Thus, the Court made this creditable record in difficult cases.

The Supreme Court's Record

Here is an all-too-brief synopsis of the Supreme Court's work on religious liberty since 1940:

Cantwell v. *Connecticut*, 1940. In deciding that federal protection limited state police power affecting religious expression, the Supreme Court held that the use of even vitriolic language in religious propaganda must be protected though in the view of a policeman it threatened to cause a breach of the peace.

West Virginia State Board v. *Barnette*, 1943. During the drama of war, the Court held that freedom of religion and freedom of speech required that no person should be coerced by local school regulations to repeat the flag salute.

Murdock v. *Pennsylvania*, 1943. The Court held that a city could not impose a peddler's tax on those who sell religious literature.

Follett v. *McCormick*, 1944. The same limitation on city taxing power was applied even if the person selling the literature made his whole livelihood from the sales.

Martin v. *Struthers*, 1943. The decision struck down a city ordinance which forbade the ringing of doorbells in order that a person might hand out religious literature, even though the ordinance was designed to protect the sleep of night-shift war workers.

Marsh v. *Alabama* and *Tucker* v. *Texas*, 1946. Here the rights to distribute literature on the property of a company-owned town and in a federal housing development were upheld in separate cases.

Saia v. *New York*, 1948. The Court accepted the use of public address amplifiers for preaching in public places, saying that the problem of excessive noise could be handled only by a carefully drawn statute aimed at noise levels in a way that would not allow covert censorship.

Kunz v. *New York*, 1951. The Court determined that New York City's permit system for preaching on streets or in parks could not be used to restrict the preaching

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of those who caused trouble when they spoke.

Sicurella v. *United States,* 1955. The judges refused to let the government draft Jehovah's Witnesses, because Witnesses willingly admitted that they would not be pacifists at the time of the Battle of Armageddon. (Note: This is the only case in the group caused by federal action.)

Torcaso v. *Watkins,* 1961. The Court struck down an old Maryland law requiring an oath avering belief in God for those applying to become Notaries Public.

Sherbert v. *Verner,* 1963. The high court held that a Seventh Day Adventist who refused to work on Saturday was eligible, in spite of State unemployment insurance rules which did not allow such preference, for her unemployment compensation.

In concluding this synopsis, a note must be made of the fact that the Supreme Court has found some limits to the free exercise of religion. One may not preach over excessively "loud and raucous" sound equipment, nor employ young children to sell religious literature late at night, nor ignore some state Sunday closing laws even if one is a Sabbatarian, nor curse an officer of the law in order to express deep and heartfelt convictions about him. But these restrictions are not new burdens in the light of earlier state law.

All told then, the Supreme Court struck down many state and local laws and practices that restricted the free exercise of religion and it did not add any new restrictions. The great power it gained by the Cantwell decision was used on the side of liberty.

The School Prayer Rulings

Nevertheless, the Supreme Court has been attacked as a destroyer of the free exercise of religion. Worse yet, it has been said to have kept children from prayer! What is the reason for this shocking criticism? Is it valid?

The criticism resulted from a set of cases in the 1960's which concerned prayer and Bible reading in the public schools. In 1961 the Court in *Engel* v. *Vitale* held that the school-organized, classroom recitation of a twenty-one word prayer written by the Board of Regents of the State of New York constituted an improper establishment of religion.

In 1963 in two companion cases under the title of *Abington School District* v. *Schempp,* the Court said that school-organized, classroom Bible-reading and recitation of the Lord's prayer constituted a religious exercise required by law. Thus it was an improper establishment of religion, even though participation in the exercises was voluntary.

Then late last year, the Supreme Court refused to review a United States Court of Appeals decision. The Court of Appeals had denied to the parents of some New York school children the power to compel the local school to permit officially organized group prayer before eating.

The lower court determined that the prayer was not the voluntary act of the children, but in the total context was taught and supervised by school authorities.

In spite of the long-established legal tradition that refusal to review does not imply anything final about the Supreme Court's position on the case, some people assailed the Court for its non-decision. These same people tended to argue that this organized and supervised prayer was purely voluntary although the participants included kindergarten and elementary grade children from Roman Catholic, Protestant, Jewish and Armenian Apostolic homes.

The Appeals Court said that the parents in fact were trying "to impose religious practices upon the public schools and to obtain the aid of the state therefore through the use of public schools and school personnel."

The record is clear! *These cases in combination or separately cannot be viewed as a denial of the free exercise of religion.* A child can pray in school if he chooses. He may bow his head and pray as his tradition or as the spirit dictates. Presumably, a voluntary group could get together at lunch or recess and pray if it chose.

What the Court has banned is this: *School officials (i.e., state authority) cannot organize or supervise prayers and Bible reading for religious purposes.*

"For religious purposes" is an important qualification here, because the Court explicitly said that the Bible could be read as literature. We may assume that prayers could be studied as literature. Further, the Court said religion could be taught as history. And it approved the teaching of morality. Thus, the Court did not ban from the schools the study of religion as an aspect of our civilization or the teaching of the morals necessary for social well-being.

Do these rulings deny to the majority its power to act as it chooses? The answer is simple and grounded in our long traditions of liberty. Of course, the majority cannot compel where basic rights are concerned. That is precisely why we have the Bill of Rights—to remove from anyone's or any group's power the capacity to tamper with free religion, free speech, free press, free assembly, due process, etc.

The very core meaning of the Bill of Rights is that it limits government (and persons) by known law from actions that even one lone person may regard as detrimental.

Conclusion

The cases referred to in this article converge in two kindred purposes: (1) to maximize the free exercise of religion for all persons; (2) to forbid the state from promoting any or all religions. These, of course, are the purposes of the twin religious clauses of the First Amendment. "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof."

Since the Supreme Court applied this clause to the several states, its work has been productive of the most religious liberty our society has ever known at law. For those devoted to liberty the Court's achievement deserves highest praise.

Education Act

(Continued from page 4)

respective public school district, with the indication that it was purchased with ESEA Title II funds."

One Arkansas school superintendent, who served on the committee to draft the state plan indicated that the regulations, when received, were so ambiguous and open-ended that the school officials went to the language of the law itself in order to administer their state plan.

Meaning For Baptists

This kind of study and awareness on the part of school officials is highly commendable. The conditions described above point up the need for a constant alertness on the part of both public and private officials.

Protest is in order if the practices of administration do not conform to the language of the law and the intent of the Congress in drafting the law. But mere protest alone is not enough.

The protest must be based on valid information and a documented case in violation must be presented. This kind of information will involve.

1. Study of the law itself.
2. Study of the documents that pertain to administering the law.
3. Awareness of the variations that can be built into regulations and guidelines drawn by federal administrators.

The Congress cannot properly rebuke or

challenge administrative departments because of hearsay or on the basis of theory. They must have evidence that practice in the local community is violating the principle set forth in the public law.

Responsibility of Public Administrators

Administrators often assert that to administer a law in the way it is written would be too expensive and too troublesome. The answer to this kind of thinking is that the Bill of Rights has always been expensive and troublesome to administer. The alternative for an administrative interpretation of this magnitude is not deliberate evasion or erosion of the principles set forth in the law through evasive and ambiguous regulations and guidelines.

The alternative for administration people is to take their chances with new proposals to alter the law to make it administratively feasible.

If they fail in this kind of effort to convince Congress that the law needs amending, then they must administer the law as it stands and as the Congressional intent stipulates.

Safeguards Require Effort

These are the safeguards which are available to us as citizens. They will work for us only when we choose to call them into play. No Congressman will automatically seek distasteful work on behalf of his constituents. But, we may rest assured, he will not automatically dismiss the evidence, submitted by his constituents, of inequities between the way Congress has legislated and the way the law is being applied in his district. This he will not do, provided . . . his constituents give him evidence based on facts clearly stated and documented.

A Basic Question

One of the basic principles underlying all church-state discussions today can be stated as the question, What is a genuine religious experience?

Here is a definition. "A genuine religious experience is a voluntary and uncoerced response of a person to God."

This definition rules out a religious experience imposed by law. It rules out the support of religion by the coercive power of taxation and the concept of religion as a part of a national culture.

On the other hand, this definition asserts positively some great truths about religion. It makes religion person centered. It emphasizes the voluntary principle. It makes God the authority in religious matters.

Resolution On The Elementary-Secondary Education Act, and Its Administration

adopted by

Baptist Joint Committee on Public Affairs

March 30, 1966

"While the Baptist Joint Committee on Public Affairs has never taken a stand on the 'child benefit' theory related to the First Amendment, the Joint Committee assumes that the constitutional soundness of parts of the Elementary and Secondary Education Act is determined by the manner in which these parts of its provisions square with that theory. The Joint Committee noted the care used by the House and Senate 'Reports' in explaining several provisions of the Act in terms of that theory. In light of the floor debates on the Elementary and Secondary Education Act, we believe that the Congress passed the law because it believed the child benefit' theory had been properly regarded in the drafting process at critical points.

"The Baptist Joint Committee has been disappointed that the regulations and guidelines of the Office of Education do not show the same careful regard for implementing certain sections of the Act according to the limits of the 'child benefit' theory. We recognize that there is difficulty involved in properly administering this pioneering Act, and, therefore, we have exercised caution in the complaint just voiced. However, we note a pattern in the regulations and guidelines which defines the scope of some federal aids so that they become benefits to non-public schools. The effect is to violate the 'child benefit' theory as it has been developed by the courts and as it was expressed in the House and Senate 'Reports.'

"We cite some examples of problem areas:

"The definitions in regulations for Title I of 'special educational services and arrangements' and of 'mobile educational services and equipment' we feel differ from the explanation of these provisions in the 'Reports' and in floor debate. The difference would be toward aiding non-public schools.

"The impact of the guidelines and of administrative practice for Title II would violate the public library ideal that inspired that title. We think the placing of materials for very extended periods of time in non-public school libraries when some of those materials do not circulate and when all of those materials are not catalogued for readily available public reference violates the intent of Congress and constitutes an improper aid to those schools.

"The definition of 'dual enrollment' in the regulations for Title III turns that term into 'shared use of public facilities.' We think the qualification 'under public auspices' will not be very meaningful in the actual experience of many localities. The regulation, which is intended to describe the use of Title III services for public and non-public school students, is contradictory and offers no meaningful check on the use of those services on non-public school premises.

"In sum, the possible aids the Act provided for students and teachers in non-public schools are stretched at several points. The final effect is to do more than the 'child benefit' theory would reasonably allow.

"We do not think that administrative efficiency or convenience or financial economies warrant this violation of what we think is the meaning of the establishment clause.

"The Baptist Joint Committee on Public Affairs calls attention to these issues in the confidence that the General Subcommittee on Education will exercise strict legislative review of the rules and practices of the Office of Education in light of the original intent of Congress. Given the unsatisfactory nature of the administrative interpretation of the Act, we think that an annual congressional review is still needed. We oppose a four-year extension of the authorizations for the Act until these administrative problems have been solved.

"We also urge the appropriate agencies of the Baptist conventions to engage themselves in the local and state educational problems in an effort to achieve the needed extension of public education without violation of the constitutional principle involved."

Education Act May Get 4-Year Extension

WASHINGTON (BPA)—The House of Representatives' general subcommittee on education has voted to recommend a four-year extension of the Elementary and Secondary Education Act of 1965.

This action was taken in spite of protests from the Baptist Joint Committee on Public Affairs and other religious and civil liberties agencies. These groups asked for a one or two year extension instead of four years in order to give time to correct improper church-state administration of the Act. They were fearful lest church-state abuses should become established precedents within four years time.

The recommendations of the subcommittee now go to the full House Committee on Education and Labor which is likely to accept the proposals of its subcommittee. After that the Rules Committee must clear the bill for floor debate and vote. If opposition is encountered here, the 21-day rule could be invoked to force the issue to the floor of the House.

The Senate subcommittee on education has not yet made its report on the same legislation, but it traditionally favors long-term extensions of legislation.

In testimony before both the House and Senate subcommittees on education the Baptist Joint Committee on Public Affairs charged that the administrative regulations include "dangerous distortions of the 'child benefit' theory and of the church-state relations on which the Act was built."

Among the other groups making similar objections have been the National Council of Churches, the American Jewish Committee, the American Civil Liberties Union and Americans United.

In an interview with Baptist Press a member of the staff of the House subcommittee said that the committee was likewise concerned about the church-state problems in the administrative regulations of the education act. The report of the committee, he said, would contain some "admonitions" to the Office of Education on the administration of the Act. These admonitions will not be known until the full committee makes its report.

On the other hand, the staff member said that the committee thought it would have a better chance to exercise legislative oversight of the administration of the Act over a four-year period than it would during only a one-year extension.

He listed three possibilities of recourse if the intent of Congress were violated in the administration of the Act. They are: (1) litigation in courts; (2) hearings each year on the administration practices; and (3) hearings when appropriations are considered each year.

One of the problems faced by the Congress, the Administration and the protesting agencies is that not enough time has elapsed to secure specific information about how the education act is actually being operated in all parts of the country.

It is hoped by the general subcommittee on education in the House that the four-year extension and earlier appropriations of funds each year will give more time to the administrators for more careful implementation of the programs, thus avoiding many church-state pitfalls that may be caused by pressure of time and lack of adequate personnel.

Report Says All Needy Children Deserve Help

WASHINGTON (BPA)—The relationship between public schools and private and parochial schools is one of the "problem areas" in the administration of Title I of the Elementary and Secondary Education Act of 1965, according to the National Advisory Council on the Education of Disadvantaged Children.

In its first annual report to President Lyndon B. Johnson the Advisory Council pointed out that Title I is firmly directed "toward disadvantaged children."

"As far as possible," the report said, "it should follow those children wherever they may be found—in public or in private schools. But in the administration of the Title, it is important to insist that its objective is to help children, not institutions."

The report continued: "While it was anticipated that this would be a sensitive feature of the new legislation, there have been remarkably few official complaints concerning its implementation. . . . There are, however, some early indications that the disadvantaged children in private and parochial schools are receiving less help than Title I intended for them."

The Advisory Council recommended to the President "that the Office of Education require, on all Title I applications, a clear statement of the extent to which each project will involve children from private and parochial schools." It said that the program would be effective "only as long as it is administered to reach all needy children wherever they are found."

The President is required under the education act to appoint a National Advisory Council on the Education of Disadvantaged Children. This Council reviews the administration and operation of Title I each year, particularly as it affects deprived children. O. Meredith Wilson, president of the University of Minnesota, is the chairman.

Title I of the education act provides financial aid to local educational agencies for special educational programs in areas having high concentrations of children of low-income families. The Advisory Council's report said that 97 per cent of the nation's school districts qualify for help of some kind under this Title.

The Advisory Council cautioned that the purpose of the Title to help educationally deprived children should be kept "in sharp focus." It said that these efforts "should not be merged at this time with general aid for schools."

After a generally praiseworthy summary of the efforts of the Office of Education and the effects of Title I thus far, the report to the President identified the following problem areas:

(1) Reaching children who need help most; (2) lack of personnel on the federal, state and local levels to administer the program properly; (3) control of the quality of work done; (4) relationship between public schools and private and parochial schools; and (5) coordination of this program with other federal programs to alleviate poverty conditions.