



REPORT FROM THE CAPITAL

FEBRUARY, MARCH, APRIL 1967

Report From Capital Gets New Editor

James M. Sapp has been named the new editor of *Report From The Capital*, according to announcement by C. Emanuel Carlson, executive director of the Baptist Joint Committee on Public Affairs. His new duties begin with the May issue of the bulletin.

Sapp succeeds W. Barry Garrett, who has been editor since 1958.

The new editor is director of correlation services of the Baptist Joint Committee. He will continue in this capacity.

Garrett is director of information services for the Committee. He will continue in this role but will devote more time to news reporting and news analysis of events in the nation's Capital.

For the past 10 years Garrett has reported the Washington scene to Baptist publications throughout the nation. He serves as Washington regional editor for Baptist Press (BP) and as editor of Baptist Public Affairs (BPA), news services for communications media.

The shift in responsibility represents a change in the communications program of the Baptist Joint Committee. Staff reports will be a responsibility of Walfred H. Peterson, director of research services. News reporting and analysis will be in the information services. *Report From The Capital* will be one of the projects of the correlation services.

Sapp is a native of Tulsa, Okla. He graduated from Oklahoma Baptist University and was a student at Duke University. He came to the Baptist Joint Committee in 1964. Prior to that he was director of promotion and director of program development for the Brotherhood Commission of the Southern Baptist Convention during the period 1952-1964.

The new editor has travelled extensively around the world. He has written articles and curriculum lesson materials for Baptist agencies. He was the first editor of the Southern Baptist Brotherhood Handbook.

Sapp comes to his new responsibilities with a wide range of experiences in public



James M. Sapp

relations, religious education and public affairs. He is accredited in the Public Relations Society in America, a member of the Southeastern Religious Education Association, and a past president of the Baptist Public Relations Association.

WASHINGTON — Baylor University, a Baptist school in Waco, Texas, is one of 100 colleges and universities receiving the largest amounts of Federal support in 1965. A chart showing rank and percentages for 1965 was submitted to the U.S. Senate by Sen. James B. Pearson (R., Kans.).

Baylor ranks 66th on the list, receiving .4 per cent of the total amount spent by the government for higher education in 1965. According to the chart, Baylor received \$9,770,000 in 1965.

Baylor's president, Abner V. McCall, explained that the funds were for contract research grants on a nonprofit cost-sharing basis with the federal government, and for student financial aid.

Church-State Convictions Eroding, Valentine Says

LOS ANGELES (BP)—A steady erosion of convictions relating to the principle of separation of church and state has been taking place in recent years, a top Southern Baptist leader, Foy D. Valentine, said here.

Valentine, executive secretary of the Southern Baptist Christian Life Commission in Nashville, spoke to about 150 ministers attending a Clergyman's Conference held in conjunction with the 19th National Conference on Church and State sponsored by Americans United for Separation of Church and State.

Saying "Freedom is harder to hold than it is to acquire," Valentine called "conviction" the key plank in freedom's platform.

He said the steady erosion of conviction concerning church-state separation has not been of the "gully-type — obvious and dramatic.

"It has been sheet erosion in which infinitesimal amounts of precious topsoil are washed away by the showers of benevolent government and blown away by the winds of religious compromise," Valentine said.

"We cannot keep the church-state separation principle alive if we do not keep discipline alive, if we do not discipline ourselves to comprehend it, accept its rigorous demands, flog its detractors, and support its proponents with the full measure of convinced minds and dedicated wills," he said.

The president of a Baptist college in California later told the full national conference that he believes the Elementary and Secondary Education Act of 1965 has the effect of "an undeclared establishment of religion."

Loyed R. Simmons, president of California Baptist College in Riverside, said that if the act is allowed to stand, we will "no longer have in America the separation of church and state as envisioned by (Thomas) Jefferson and as guaranteed by the Constitution."

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.

FEB., MAR., APRIL 1967—Volume 22, Number 2



Washington Observations



News — Views — Trends

April 28, 1967

TWO MAJOR ISSUES, tax aid to parochial schools and racial integration, are rising again to plague federal aid to education programs. Supported by a coalition of Republicans and Southern Democrats a substitute plan for the Elementary and Secondary Education Act is being proposed. It has a 50-50 chance for passage at this time.

THE SUBSTITUTE PLAN would make grants of federal funds directly to the States for educational purposes. The present federal aid to education program provides funds on a cooperative basis to States, to school districts, and to schools. It is administered through the U. S. Office of Education.

THE ANTI-ADMINISTRATION PLAN would place regulation largely in the hands of State Departments of Education. The States would be less restricted in using these funds, including requirements for integration. Many States also have rigid laws on the use of public funds for parochial schools.

ROMAN CATHOLIC EDUCATORS, as well as civil rights leaders, have risen to oppose the G.O.P. substitute plan. The Catholics plainly say that their schools would get less money under the "state block grant" than under the present federal plan. In spite of G.O.P. efforts to rewrite the plan pleasing to the Catholics they have failed to gain support from the parochialists. On the other hand, Citizens for Educational Freedom (CEF), a predominantly Catholic organization, has come out strongly in support of the substitute.

WHILE THE ELEMENTARY AND SECONDARY EDUCATION ACT makes no provision for public funds for parochial schools, it does provide aid to pupils who may attend either public or private schools. The problem arises in trying to administer such legislation without in fact giving aid to the church schools. This could be an insoluble problem for the Administration.

PRESIDENT JOHNSON, Catholic educators, civil rights leaders and others opposed to the plan for state block grants have succeeded in delaying consideration of the Elementary and Secondary Education Act extension by the House of Representatives. The House G.O.P. leadership is reported to be ready to test their strength, with the help of the Southern Democrats, to alter the federal education plan. Republicans claim that the States will get more aid under their plan. The Democrats say the States will get less. Others say that federal aid to education will virtually be killed if the substitute is adopted.

RELIGIOUS OBJECTION TO WAR: Muhammed Ali's (otherwise known as Cassius Clay) plea that his objection to induction into the military is based on his religious beliefs continues to make headlines. He contends that he is a minister of his religion (Black Muslim), and therefore exempt. Similar pleas made by Jehovah's Witnesses have been often, but not uniformly, denied.

New Interest Rate Means That College Housing, Academic Loans Get Subsidy

EDITOR'S NOTE: Recent developments in Washington indicate that federal loans to church-related colleges for dormitory and academic facilities involve a tax subsidy. Here is an analysis of the problem by the director of research services of the Baptist Joint Committee on Public Affairs, Washington, D.C.

By Walfred H. Peterson

Colleges may have to pay higher interest rates in the future for new dormitory and academic facility loans from the federal government, if current legislation is passed by Congress.

Sen. John J. Sparkman (D., Ala.) has introduced an administration-supported bill calling for an increased rate for dormitory loans from federal sources. The administration has recommended a similar increase for academic facilities borrowing.

The suggested changes may raise an old debate. Do and should church-related colleges receive a subsidy from government by using these loan programs?

Subsidy Undeniable

In the light of the following developments, however, the existence of a subsidy from tax revenue seems undeniable.

All parties agree that federal interest rates for dormitories and academic facilities are lower than private rates. But the subsidy debate raises a more complex question. Does the taxpayer help support these programs because the government loses money on them? Here the answer has changed with the years.

Under the original 1950 College Housing Loan program and the 1963 Higher Education Facilities Act, the interest rate formula was flexible. It included two elements: (1) a rate which represented the average cost of money borrowed by the federal government by floating bonds, and (2) a one-fourth of one per cent charge for administrative expense.

The former element ranged over the first 15 years of the dormitory program from $2\frac{1}{2}$ per cent to $3\frac{1}{2}$ per cent. After 1955 the trend was upward. As a result, by 1965 loans under the two programs required a $3\frac{3}{4}$ per cent and a $3\frac{7}{8}$ per cent rate respectively.

Climbing Interest Rates

Then Congress in two separate acts (the Housing and Urban Development Act of 1965 and the Higher Education Act of 1965) reduced the loan rates of both programs to a maximum of three per cent. This action took place as interest rates on federal

bonds continued to climb strongly past four per cent.

Up to 1965 some church-related colleges took the federal loans believing that they were not receiving a subsidy from taxes. There was argument about whether the cost of bonds to the federal government should include only long-term bonds or all bonds. Treasury officials argued that at the figure achieved by averaging the rates of interest on all federal loans, the college dormitory program was paying its way.

For the College Housing Loan program this view was apparently correct. Figures for 1965 indicated that the account showed an overall surplus of around \$6 million. The newer program of academic facilities construction was then still too new to indicate a meaningful balance.

New Situation

When the rate was dropped to three per cent by the 1965 act, a new situation existed. In the dormitory program the total amount already loaned was then approaching \$2.9 billion. Since there was no instance of default and since administrative costs year by year had not grown proportionately to the total loaned, this program was showing surpluses.

These surpluses could be used for a time to offset the difference between the interest rate the government paid when it borrowed money and the three per cent it received when it loaned it out again. This made it possible to argue with some effect that the government was not subsidizing the colleges directly at the taxpayer's expense.

But with continued increases in interest rates on government bonds and with changes in the revolving funds, the situation has changed. Presently, the housing program must get some support from tax revenues, according to government spokesmen.

Since there was no massive backlog of profitable loans to bolster the academic facilities program when the rate was lowered to three per cent, support from tax revenue was required right along for loans made under it.

New Interest Rate Formula

Now the administration's proposal, if passed, will set a new interest formula effective

for dormitory and academic facility loans reserved after June 30, 1967.

The rate would be tied to the rate of current average market yield on comparable U.S. obligations. In layman's language that would mean the rate of interest on long-term government bonds. Currently, this rate is $4\frac{5}{8}$ per cent.

But "as determined by the secretary of Housing and Urban Development" the rate paid by colleges for dormitory loans could be reduced up to one per cent. This would mean that after June, the rate by current figures could be from $3\frac{5}{8}$ to $4\frac{5}{8}$ per cent depending on the secretary's decision.

Thus, the degree of subsidization would be decreased compared to the present, but it would not necessarily be eliminated by the new proposal. This is especially clear when it is recalled that the old one-fourth of one per cent charge for administrative expense has not been included in the proposed formula.

Spokesmen at the Department of Housing and Urban Development refuse to speculate on the bill's chances. Some opposition exists, because a related House bill did not call for any rate change.

Senator Seeks To Clear School Prayer Decisions

WASHINGTON—A proposed U.S. Senate resolution states that a time for "prayerful meditation" in public schools is not ruled out by the Supreme Court decisions on Bible reading and prayer.

Introduced by Sen. Vance Hartke (D., Ind.) the resolution would "express the sense of the Senate with respect to religious practices" in public schools.

Such resolutions are proposed in an effort to get some expression from Congress on the meaning of the Supreme Court decisions without resorting to the drastic step of constitutional "prayer amendments."

The resolution expresses the opinion that time for prayerful meditation is not ruled out of public schools provided: (1) that no public official prescribes or recites the prayer which is offered, and (2) that the individual participating would be permitted to pray as he chooses in accord with the free exercise of religion.

Hartke introduced similar resolutions in the 88th and 89th Congresses. Others have done likewise. No action, however, has been taken on these proposals. Many Senators and Congressmen object to attempts to interpret court decisions by resolutions from the legislative branch of government.

U.S. Senate Again Passes Judicial Review Bill

WASHINGTON — The U.S. Senate passed a bill to allow court tests of the constitutionality of Federal loans and grants to church-related institutions.

This is the same bill for "judicial review" that passed the Senate last year but which died without action in the House of Representatives.

Sen. Sam J. Ervin, Jr. (D., N.C.) is the chief advocate of the bill. He is joined in its sponsorship by Senators Wayne Morse (D., Ore.), John S. Cooper (R., Ky.), Joseph S. Clark, Jr. (D., Pa.), Ralph W. Yarborough (D., Tex.), George A. Smathers (D., Fla.), Spessard L. Holland (D., Fla.), and Hiram L. Long (R., La.).

An identical bill has been introduced in the House by Rep. Benjamin S. Rosenthal (D., N.Y.).

First Amendment Tests

The judicial review bill is designed "to provide effective procedures for the enforcement of the establishment and free exercise clauses of the First Amendment to the Constitution."

The First Amendment says in part, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

The Supreme Court has said on numerous occasions that public funds may not be used directly or indirectly to aid church agencies.

In recent years, however, much legislation has been passed by Congress that makes public funds available to church institutions in a wide variety of ways.

Court tests of the constitutionality of such practices has been hindered by a 1923 Supreme Court ruling that an individual taxpayer's financial interest in the distribution of Federal funds is so small that he has no standing to challenge such practices.

The judicial review bill is proposed to give legislative right to individuals or institutions to challenge in a Federal court certain loans or grants made or refused to church-related institutions on the basis of the First Amendment prohibitions.

No Position on Church-State

Senator Ervin explains that his judicial review bill takes no position on the church-state issues involved in the acts of Congress that are in question. It merely provides a vehicle to achieve court tests.

Although Ervin says that he has questions about the constitutionality of certain portions

of these acts and the way they are administered, his legislative record reveals that he voted for all of the acts involved.

His objective is to get court clarification of the issues. He said in a Senate speech, "For far too long the issue of state aid to church-related organizations has been a divisive force in our society. It has created communication barriers among our religions and fostered intolerance."

The Senator pointed out that some of the sponsors "feel that there are serious doubts as to the constitutionality of many recent education and poverty programs." He continued, "Others are confident that these programs meet the test of the First Amendment."

He said that all agree on one point: "The courts must be given the opportunity to decide. Only then will this century-long controversy end."

The nine acts of Congress affected by the judicial review bill are: the Higher Education Facilities Act of 1963, Title VII of the Public Health Service Act, the National Defense Education Act of 1958, the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, Title II of the Act of September 30, 1950 (Public Law 874, Eighty-First Congress), the Elementary and Secondary Education Act of 1965, the Cooperative Research Act, the Higher Education Act of 1965, and the Economic Opportunity Act of 1964.

Three Classes Authorized

The judicial review bill gives three classes the right to court tests on the basis of First Amendment provisions. They are:

1. Any public or other nonprofit agency or institution whose accessibility to loans or grants is reduced because of aids to church-related agencies;
2. Any citizen or group of citizens who have paid income taxes the previous year

News Analysis

Judicial Review Bill Faces Tough Opposition

By W. Barry Garrett

WASHINGTON (BPA)—A bill providing judicial review of certain Acts of Congress on the basis of First Amendment prohibitions faces a serious bottleneck in the House of Representatives.

who feel that such loans or grants violate the First Amendment; and

3. Any public or nonprofit institution or agency whose application for Federal aids has been rejected on First Amendment grounds.

In order to prevent many nuisance cases all over the country, these court challenges must be made in the District Court of the United States for the District of Columbia. They also must be filed within 60 days of announcement of the loans or grants published in the Federal Register.

A special provision of the bill is that if any portion of an Act of Congress is ruled unconstitutional this will not affect the remainder of the Act. Neither can all Federal programs be brought to a halt until court decisions are made.

Need For the Bill

Urging approval of his bill, Sen. Ervin says that recent events "have greatly compounded the need for its enactment." He cited the refusal of the Supreme Court last year to review a Maryland case involving state tax aid to church-related colleges.

He also said that the U.S. Commissioner of Education, Harold Howe II, has called on the courts to clarify which federally financed services are permissible through church agencies.

A third development, according to Ervin, that makes his bill urgent is the controversy over the Elementary and Secondary Education Act.

It should be pointed out that passage of a judicial review bill does not make it mandatory on the courts to hear such cases. It does, however, give strong legislative precedent and encouragement to the courts. Many advocates of the Ervin bill feel that if it is enacted the courts will give ear to such constitutional tests.

The bill, sponsored by Sen. Sam J. Ervin, Jr. (D., N.C.) and seven other Senators, was passed by the Senate without open opposition. It is now pending in the House Judiciary Committee of which Rep. Emanuel

(Continued on page 6)

IRS Revises Rules On 'Unrelated Business'

WASHINGTON—The Internal Revenue Service (IRS) of the U.S. Treasury Department is proposing new regulations to crack down on tax-exempt organizations engaged in "unrelated trade or business" in unfair competition with tax-paying enterprises.

The chief point of attack is the tax status of "certain types of trade shows and advertising published in exempt organization periodicals." But many other types of business activities are included.

The new proposed rules appear in the Federal Register, a government publication that announces official regulations and documents.

The new regulations would "place the commercial activities of tax-exempt organizations upon the same tax footing as the tax-paying business enterprises with which they compete," according to a press release by IRS.

The release states that "churches, social welfare organizations, fraternal beneficiary societies, and certain other categories of exempt organizations are not subject to the tax."

At a press conference announcing the changes it was explained that the kinds of organizations affected include those of a charitable, religious, educational and scientific nature.

Before it can be determined exactly how the new regulations will affect Baptist agencies, businesses and publications a thorough analysis of the proposals and of the enterprises involved will have to be made.

IRS officials made it clear that it is not the intention to tax all of the income from unrelated trade or business of tax-exempt organizations. Only that which is "carried on regularly", that makes a profit, and that results in unfair competition with taxable commercial business will be involved.

In order to soften the impact of its new regulations IRS explained that "several important liberalization of rules" in effect now are being proposed.

An example of the liberalization was cited by IRS. It said that "present regulations provide that business will be considered unrelated—and therefore, generally, taxable—if its 'principal purpose' is not the furtherance of exempt functions."

IRS continued that the new rules specify that "business activities will be considered related to exempt purposes if they contribute importantly to the accomplishment of those purposes."

The new IRS regulations are designed to make clearer the intent of Congress when it legislated in 1950 on unrelated business income tax on the commercial activities of tax-exempt organizations.

The present regulations have been under study the past seven years. Delays in issuing new regulations earlier have been reported to be the result of internal dissension and the pressures of powerful lobbying activity of tax-exempt groups.

Now that the new proposals have been made public interested organizations have 30 days from April 14 to submit written comments and to ask to be heard when public hearings are held.

The rules contained in the final regulations will be applied only to tax years beginning after the date of their final adoption, according to IRS.

News Analysis

(Continued from page 5)

Celler (D., N.Y.) is chairman.

The judicial review bill is an effort to provide a way nine Acts of Congress can be tested in the courts. These involve various kinds of federal aid to church-related schools.

The chief opponents in the House of Representatives, according to sources on Capitol Hill who asked not to be quoted, are Rep. Celler, Rep. John W. McCormack (D., Mass.), Speaker of the House, and Rep. Hale Boggs (D., La.), chairman of the House Ways and Means Committee.

Celler's public position is one of neutrality. He is reported to have promised to hold hearings on the bill after several other hearings have been completed. This means that the hearings may take place either late this year or sometime next year.

The Judiciary Committee chairman is reported to have questions in his mind about the judicial review bill which can be cleared up only by the hearings. There is no indication as to what the questions are.

Opposition to the bill is saying that indifference in the members of the House of Representatives is evidenced by the fact that only one Representative has introduced a bill similar to the one in the Senate. This was done by Rep. Benjamin S. Rosenthal (D., N.Y.).

In order to counteract that argument there is a movement in the House of Representatives to enlist 15 carefully selected Congressmen on a non-partisan basis to introduce bills identical to the one passed by the Senate.

On the positive side, Sen. Ervin said in a speech to the Senate that "opposition which used to be so strong is now crumbling."

Other observers, however, say that, although Ervin's statement is a good political move, the opposition has not crumbled as much as he would like to think.

Ervin continued, "There is ample reason for the increasing support for judicial review in Congress. That reason can be stated simply: It is impossible for Congress to legislate intelligently or for the Administration to administer intelligently in a consti-

tutional vacuum with no judicial guidelines as to what Federal aid is consistent with First Amendment proscriptions against an establishment of religion."

The North Carolina Senator cited a large number of newspapers and organizations that support his bill. Among these is the Baptist Joint Committee on Public Affairs.

He cited only one organization opposed—Citizens for Educational Freedom (CEF). This is a group of citizens, largely Roman Catholic, that is dedicated to public aid to religious schools.

CEF charged that Sen. Ervin tried to slip the judicial review bill through Congress without adequate public attention. Ervin vigorously denied it.

According to CEF, public aid to church schools is both legal and desirable. In its attack on the judicial review bill CEF claims that Congress cannot confer on the courts jurisdiction to hear First Amendment cases.

And so the matter stands. Unless the advocates of judicial review succeed in producing enough favorable sentiment in the House of Representatives, the bill is doomed to its fate of last year—death by inaction.

Clergy May Be Required To Join Social Security

WASHINGTON (BPA) — Ministers should be treated no differently from other people under the Social Security law on the basis of conscience or religious liberty, according to a staff report by the Baptist Joint Committee on Public Affairs here.

The occasion of the Baptist Joint Committee's report is a bill in Congress introduced by Rep. George M. Rhodes (D., Pa.). Hearings have been completed on the bill by the House Ways and Means Committee.

At present ministers are classified as "self-employed" under the Social Security law. As such their participation in Social Security is now voluntary.

If passed the Rhodes bill would make Social Security coverage for all ministers as self-employed persons automatic unless they individually applied for exemption.

According to the new bill ministerial exemption from Social Security would be acceptable only if the minister objects on grounds of conscience.

"Since the proposal leaves the minister in the self-employed status, the change suggested by the Rhodes bill does not directly affect churches or church agencies," according to the Baptist staff report.

The report continues that there is no record of an erosion of religious freedom of persons or churches or church agencies in the administration of the Social Security pro-

gram to date. Hence, it says, "The Social Security program as it now operates should not be viewed as a threat to proper church-state separation."

Although the report recognizes that there may be reasons other than religion in objection to the Social Security program, it states that "the Baptist Joint Committee on Public Affairs has nothing to add to the purely political and economic controversies raised by the program."

The Baptist Joint Committee staff expressed the view that the Rhodes bill should not be opposed "for any reasons related to religious liberty or church-state relations when it is compared to the present program."

On the other hand, the report says, "We suggest that denominational leaders who have special concern with the retirement needs of ministers and the general conditions of employment of the clergy should assess the economic advantages and disadvantages of the proposed change."

Looking at the record thus far the report points out that about 75 per cent of all ministers have chosen to be under Social Security. Ninety-five per cent of older ministers are covered. Sixty per cent of younger ministers are covered.

"As a result of this difference," the report continued, "the percentage covered will drop over the long run because the deadline

for filing the waiver of exemption has passed."

The staff report points out that in the early days of Social Security the denominations were hesitant about including church employees because of a fear of improper church-state involvement. However, with 30 years of experience with Social Security "we think the day of hesitancy is past," it says.

The report then says that the denominations can now "re-evaluate their past stands and move to a more positive posture respecting Social Security." It suggests four approaches to the reconsideration: (1) freedom of conscience, (2) special treatment of the clergy, (3) separation of church and state, and (4) the rights of the person.

In conclusion the report says, "We think that the right of the individual should be primary in discussions of this program. Of course, the institutional relationships it affects should be carefully regarded, but these are of secondary concern."

"Churches and their agencies may properly be expected to make some adjustments to honor the rights at issue. This is, in fact, about where both Baptists and the Nation have arrived in practice. We think what has been achieved in practice can be defended confidently as a value for the person and the society."

Hays: Absolute Church-State Separation Not Best

LOUISVILLE (BP) — Former Southern Baptist Convention President and former Congressman Brooks Hays said here that the traditional view of separation of church and state—two separate spheres of activity with an impregnable wall between them—is not the best possible approach.

"It is more biblical," Hays said, "to think of the wall as one that has opened up a bit."

"There must be an opening somewhere in order for communication and dialogue to take place between the two spheres," said the former Arkansas Congressman, and former presidential special assistant.

In two lectures and a news interview at

Southern Baptist Theological Seminary here, Hays said that the ethical and social decisions of the politician should turn on the moral leadership of the church.

He envisioned the church as a circle in the center of society, radiating its influence out into every aspect of life, including the political world.

Hays said that when he was in Congress, he desperately needed the resources of faith which only his Christian presuppositions could give. Hays served as a Congressman from Arkansas from 1943 to 1958, defeated in that year by a segregationist write-in candidate after Hays had served as a mediator between Gov. Orval Faubus of Arkansas and President Dwight D. Eisenhower during the Little Rock school integration crisis of 1957 and 1958.

Hays said that the number one issue facing Southern Baptists today is still the race relations problem, although much progress has been made in the past several years.

"I must admit that on occasion the political state has been more Christian than a particular congregation or church body in the matter of race relations," Hays said. "I don't want the politicians and the lawyers to race ahead of the Christian ministers at this point."

Since leaving Congress in 1958 Hays has served as special assistant to Presidents John F. Kennedy and Lyndon B. Johnson and a professor of public affairs at Rutgers University, New Brunswick, New Jersey.

He will return to the Rutgers professorship after completing this semester as visiting professor of government at the University of Massachusetts, Amherst.

Pennsylvania Group Challenges Child Benefit Theory In Supreme Court Appeal

By Beth Hayworth

WASHINGTON—A group of Pennsylvania citizens has asked the United States Supreme Court to rule on the validity of the child benefit theory of government aid to parochial schools.

In an appeal filed here the Court was asked to strike down a five to two decision of the Pennsylvania Supreme Court upholding the constitutionality of a Pennsylvania act that provides free transportation of elementary and high school students to non-public, nonprofit schools.

The Pennsylvania Supreme Court ruled in January that this act was constitutional.

There is no indication at present whether the Supreme Court will agree to hear this case.

The child benefit theory was spelled out by the U.S. Supreme Court 20 years ago in *Everson v. Board of Education* the famous parochial school bus case. Here the high court ruled that a state (New Jersey) could constitutionally finance bus transportation of children to parochial as well as public schools.

In the five to four ruling on the *Everson* case the Supreme Court said that transportation aid was not public aid to religion, but rather was a general program to help children get to school safely and quickly, whether they went to public or parochial schools.

The Pennsylvania complainants contend that the child benefit theory which has evolved from the *Everson* case is "illogical and difficult to apply." They maintain that every element of the educational program of an institution is primarily for the benefit of the child and that "the furnishing of transportation at public expenses constitutes a direct benefit to the school."

"The state has departed from the position of neutrality and is actually supporting religious institutions," they argue.

Justice Musmanno, who wrote the majority opinion of the Pennsylvania Supreme Court in its January decision, said: "Despite the wondrous flexibility of the English language it is difficult to see how one can conclude that placing children on a school bus establishes a religion."

"And even if the children are transported to a school which, in addition to teaching

state-approved subjects, offers guidance in the world of faith, this still does not establish a religion," he continued.

The Pennsylvania citizens, in filing the appeal, said that "probably no section of American law has produced so much litigation and been the subject of so much legal opinion," and, "for the good of all concerned a more definitive decision from this Court is needed."

According to the brief, courts in three states, Maryland, Louisiana (in a textbook case) and New Jersey have ruled that the child benefits theory is constitutional. Courts in five states, Delaware, New York, Oklahoma, Washington and Kentucky have ruled that such public aid constitutes a direct benefit to the parochial school.

Two major questions posted by the citizens' group are:

(1) Does the First Amendment to the Constitution of the United States forbid the Legislature of the Commonwealth of Pennsylvania from requiring the use of public school buses for the transportation of pupils to sectarian religious schools at public expense?

(2) Is the statute in question, which requires the public school districts to provide free transportation of pupils who attend non-public elementary and high schools not operated for profit, so vague and indefinite as to violate due process of law?

The citizens' group contends that the safety of children is not the question to be decided in a case like this. "If safety were the criterion, then pupils living in the more populous areas would also have to be transported. Everyone knows that city streets are much more dangerous to the safety of children than are country roads," they said.

The Pennsylvania law in question reads in part as follows:

"When provision is made by a board of school directors for the transportation of resident pupils to and from the public schools, the board of school directors shall also make provision for the free transportation of pupils who regularly attend nonpublic elementary and high schools not operated for profit.

"Such transportation provided for pupils attending nonpublic elementary and high

schools/not operated for profit shall be over established public school bus routes. Such pupils shall be transported to and from the point or points on such routes nearest or most convenient to the school which such pupils attend. The board of school directors shall provide such transportation whenever so required by any of the provisions of this act or of any other act of Assembly."

Religious Liberty In Spain Hits Legislative Bottleneck

MADRID (RNS) — No less than 239 amendments have been proposed in the text of the "religious liberty law" which has long been awaited by Spain's Protestants and Jews.

The Cortes (Parliament) commission working on the law have received the final submitted amendment, and now plan a plenary meeting to decide upon rejection or acceptance of each of the suggested revisions. It promises to be a long, drawn-out procedure.

Protestants in Spain are pleased with the increasing "tolerance" they enjoy, but are disturbed by delays in enacting a good religious liberty law.