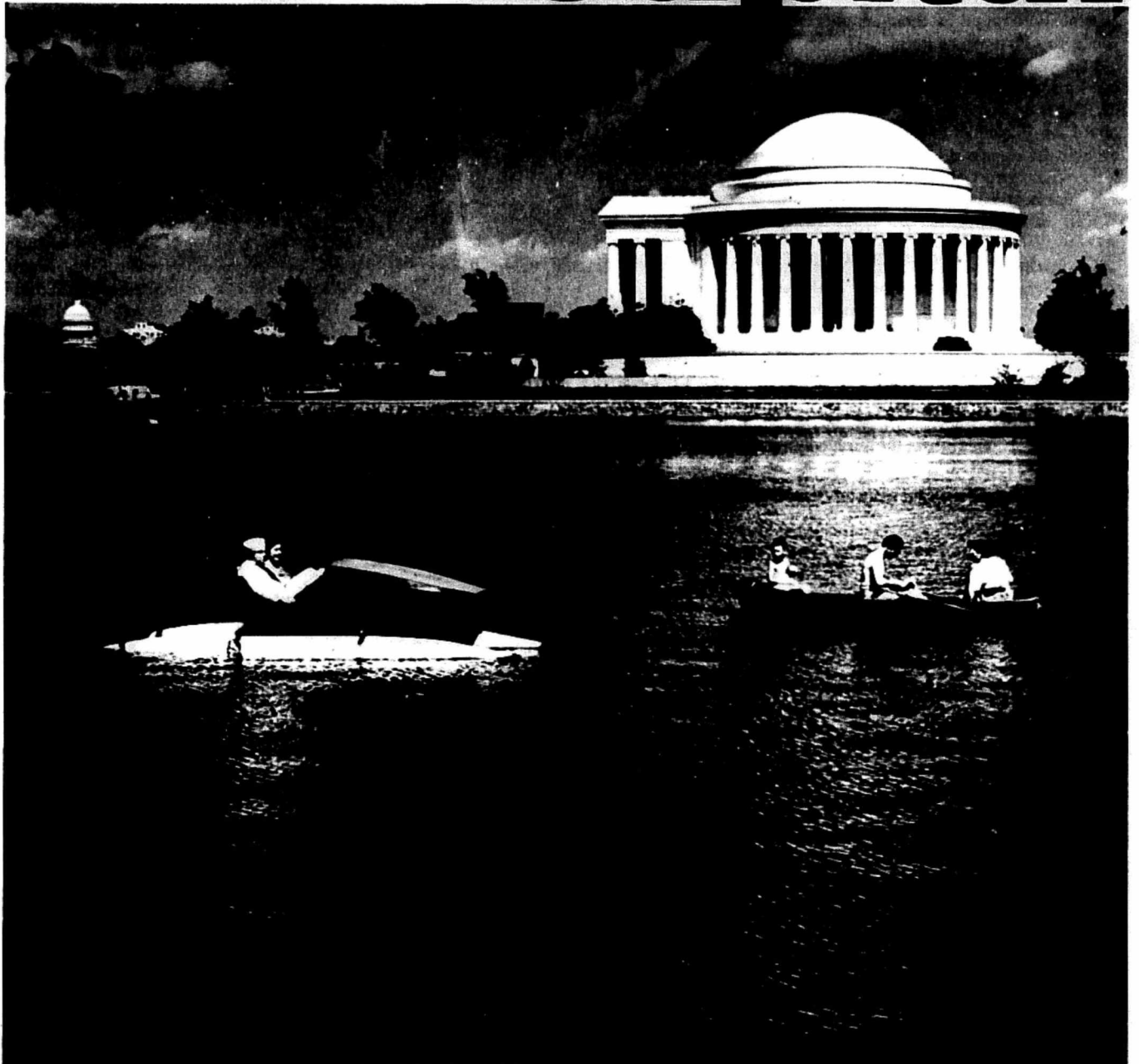
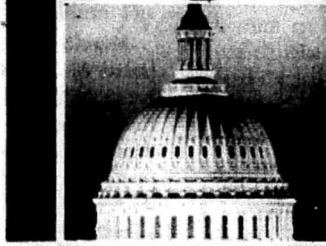


# Report from the Capital

MAY-JUNE 1968



## The Constitution and Judicial Review

"Judicial review" is in the air on Capitol Hill. By judicial review in this context we mean federal court tests on the constitutionality of Acts of Congress on the basis of the First Amendment—establishment or free exercise of religion.

All three branches of government are sworn to uphold the Constitution of the United States. Yet there are people who believe that certain Acts of Congress as well as some procedures in their administration violate the First Amendment.

A problem in such instances is how to test such questions in the federal courts. Mr. Average Citizen usually thinks that it should be a simple matter to run a case through the courts and get a judicial decision. They forget, however, the structures of government as set up in the Constitution as well as the doctrine of separation of powers.

For instance; the Constitution does not give the Supreme Court authority to declare Acts of Congress or procedures of the Executive branch constitutional or unconstitutional. On the other hand, the Supreme Court early in its history assumed that it has this authority even though it has exercised this authority sparingly.

While it is true that the Constitution authorizes Congress to "establish and ordain" a system of courts and describes the extent of federal judicial powers, conspicuously absent from these provisions is authority of the judiciary over Congress and the Executive branch.

Add to this the doctrine of the Court itself that individual taxpayers do not have "standing to sue" in certain cases involving the expenditure of federal funds. This doctrine was established in 1923 in *Frothingham v. Mellon* when a taxpayer tried to void a federal expenditure on constitutional grounds.

In *Frothingham* the court held that the amount of money involved in an individual taxpayer's suit is so small, in comparison to millions of other taxpayers, that no basis is afforded for an appeal to the preventive powers of a court of equity."

For these reasons it has been virtually impossible to test the constitutionality of federal expenditures in federal courts by taxpayers.

The judicial review bill now before Congress has been passed by the Senate and is pending in the House of Representatives. Hearings are in process before a subcommittee of the House Committee on the Judiciary.

Several dilemmas confront the House of Representatives as it considers the judicial review bill:

1. The separation of powers. Would an Act of Congress make it mandatory for the Federal courts to rule in a case of this nature?
2. The expenditure of funds. Does the Congress want to avoid the issue of separation of church and state to such an extent as to give the Supreme Court ultimate control of the spending of tax dollars?
3. The constitutionality of Acts of Congress. Does the Congress wish to admit that it is unable to determine what the Constitution means and thus pass this power of decision to the Supreme Court?
4. The fact of state cases. Does the Congress wish to continue the impossibility of federal cases involving tax funds while the states allow such cases under state law?
5. The paralysis of programs. If standing to sue is given by the Congress and by the Courts, will there be such a plethora of cases that most of the education and welfare programs enacted in recent years will be brought to a virtual standstill?
6. The pending court cases. Does Con-

## Textbooks For Parochial Pupils Attacked In Court

A New York lawyer contended before the U.S. Supreme Court here in April that textbook loans to parochial school pupils at public expense violates separation of church and state while bus transportation, lunches and health aids to the same are acceptable.

Marvin E. Pollack represented the school board of East Greenbush, a suburb of Albany, N.Y., in a challenge of the constitutionality of the New York Textbook Loan Act. He argued that the public loan of any textbook, regardless of its nonsectarian contents, to pupils in parochial schools is an aid to religion and therefore unconstitutional.

Mrs. Jean M. Coon, assistant attorney general of New York, represented the New York Commissioner of Education, James E. Allen, Jr., as the defendant. She said New York provides public school approved textbooks to all school children and therefore the aid is not to religion but to pupils and their parents.

The case known as *School Board v. Allen* reached the Supreme Court after a rocky course in New York's courts. In August, 1966, the New York Supreme declared the textbook law unconstitutional. In December of that year the Appellate Division reversed the lower court and said a local school district lacks jurisdiction to challenge the law.

In June, 1967, however, the Court of Appeals, in a 4 to 3 ruling, gave the local school board the right to file suit in the matter, but declared the law to be constitutional under both the state and federal constitutions. (Continued on page 8)

gress want to wait until the Supreme Court decides the current cases of *Flast v. Garner* and *Board of Education v. Allen* in the hope that the judicial review bottleneck will be broken? Or does the Congress want to get ahead of the Court and make legislative decisions before judicial decisions on the same subject matter?

**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. The purpose of this bulletin is to report findings on the interrelations between churches and governments in the United States. It affords church leaders a chance to understand developments, policies and trends affecting public policies and it affords public officials a chance to understand church structures, dynamics and positions. It is dedicated to religious liberty, to free and effective democracy and to equitable rights and opportunities for all.

The views of writers of material for *Report From The Capital* are not necessarily those of the Baptist Joint Committee on Public Affairs or its staff. The bulletin also provides for the sharing of views between leaders of the cooperating conventions and between leaders of various religions and traditions.

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, USA, 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; Walfred H. Peterson, director of research services; and James M. Sapp, director of correlation services and editor of *Report From The Capital*.

**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.

MAY-JUNE 1968—Volume 23, Number 5

Report From The Capital



# Washington Observations

*News — Views — Trends*



May 3, 1968

**THE POOR PEOPLE'S CAMPAIGN** got off the ground this week when an advance contingent of 100 persons, headed by the Rev. Ralph David Abernathy, arrived to begin top level talks with government officials to present the issues.

**ABERNATHY**, successor to Dr. Martin Luther King, Jr., as head of the Southern Christian Leadership Conference, pronounced the first round of talks with Cabinet leaders satisfactory. Specific bills or legislative proposals are not being spelled out. Legislative solutions are left to the "specialists."

**ONE AIM** of the Poor People's Campaign is to become "visible" to the nation. To this end it tries to keep "moving," to make news for the press and for television. Knowing something of the mass media, and of today's climate, one may well predict success.

**THE METHODIST BUILDING**, located one block from the U. S. Capitol, will be the center of much of the activity of religious groups assisting in the Poor People's Campaign.

**A BIPARTISAN GROUP** of United States Senators late last month called for the creation of a 15-member select committee to determine how hunger can be abolished in the Nation.

**DESPITE THE AMAZING CAPACITY** of American farms, not a few areas in the nation persist in conditions spawned by malnutrition. Recent surveys by the Department of Agriculture and other responsible groups have uncovered shocking hunger pockets unbelievably prevalent for such an affluent nation.

**THE REVELATION** and discussion of such facts is not unrelated to the basic purposes of the Poor People's Campaign to make visible conditions heretofore ignored, unbelieved or screened from the eyes and ears of the public.

**CHURCHES AND CHURCH LEADERS** should not be afraid to read reliable and official reports on hunger, civil disorders, and poverty. Although Christian leaders may find statements in such reports with which they disagree, they should not fail to look for the good, the informative, and to seek knowledge about injustices which are documentable.

**DISCUSSION WITH** each other, in individual churches, and with leaders in other churches, including Negro friends, can be helpful in interpreting and understanding the causes behind the issues which are not surfacing in most communities. Such discussion, however, will take maturity and Christian fortitude, and should not be hastily or thoughtlessly arranged.

**T**HE words freedom, independence and autonomy are even more frequently used terms in Baptist circles today. Though much study has been given to the clarification of these principles, it seems to me that the growing emphasis and emerging interpretation given to these privileges is causing a great deal of misunderstanding as well as mis-trust. I do not claim to have a solution to these problems, but I do wish to express concern over the continual development of misunderstanding.

### Freedom and the Particular Church

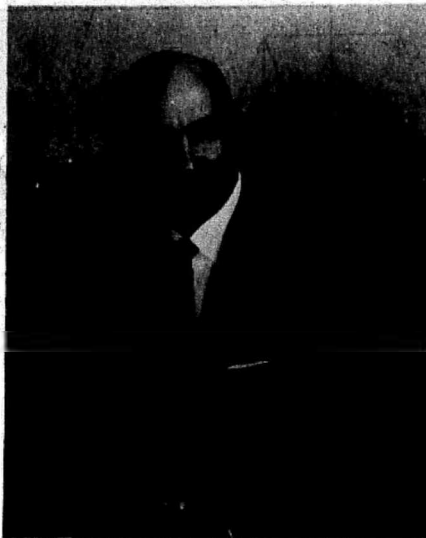
In early history, the church, especially in the old world, was under the control of the state. Pioneers came to this land that they might have the freedom to worship as their conscience would dictate without interference or control of the state. Therefore, the separation of church and state emerged as an established constitutional right in our country.

Recently we have heard people saying that the church, the denomination or minister would not express themselves concerning the state or nation because of the violation of separation of church and state. Is it possible that people are thinking that Christianity has nothing to say about problems and needs which people face in everyday life? It seems to me that since the time of the prophets men spoke with great emphasis concerning the problems of society.

The prophet Amos denounced the evil powers and corruption of his time. The apostle John, in writing the Book of Revelation, directed his message against the growing evils and the intolerance of the Roman Empire and pointed men to Christ as King of Kings. Today denominations and conscientious people concerned about the witnessing to their faith and thoughtful of the needs of persons have spoken against or in favor of certain issues.

This does not mean that all agree with all views expressed, but it does mean that the individual follower of Christ certainly may have an opinion and the right to express it. One Baptist cannot speak for another, and the denomination cannot speak for or control the particular church, but we may, as Baptist, have the freedom to express ourselves.

There may be a question of judgment involved if Christian leaders should engage in politics for the sake of politics, but for the people of God to take a stand regarding a major need in society, in my thinking, has no relationship to the long-standing principle of separation of church and state. Were the Biblical writers present on earth



Dallas J. West

## The Baptist Congregation And Responsible Freedom

By DALLAS J. WEST

today, I believe they would have a message for our time as they did for their day.

The local church today is free to agree or to disagree. It has the freedom to follow a program or as Torbet tells us, the right to dissent. It has the liberty to call a minister of its own choosing and to dismiss a minister if the service is unsatisfactory. Technically, it has the right, if exercised, to accept a person into the membership or to reject a person who applies for admission into fellowship. The local church and the person are encouraged to read the Scriptures and are given the liberty of interpretation. The local church writes up its own by-laws and adopts its own constitution. It controls by vote of its membership its financial affairs and either accepts or rejects obligations outside and beyond itself. Beyond all of these, it has the freedom of faith in Christ and recognition of the dignity, the worth and the freedom of the individual.

In summary, the local church is given the right to determine its own responsibilities,

to interpret its theological position and to set the course of its direction for the present and future.

Because of this tremendous degree of liberty it appears to me that a word that forces itself to our immediate attention is the fact of responsibility.

### Responsibility and the Local Church

With this almost unlimited freedom possessed by the local congregation, we are required as serious Christians to be informed persons. We do not wish to use our liberty to escape the needs and the demands in our world.

The average Baptist congregation should not expect its pastor and a few lay people to be the only concerned persons about crucial issues. Would it be advisable for local churches to appoint persons to inform themselves, to study the needs and to bring reports concerning racial crises which are springing up in our cities? This, then, would give the pastor guidance and support.

Several groups could be assigned to study and bring reports concerning Baptist literature and its use, effective methods of evangelism, the urgency of winning men, stewardship, missions, the problems and needs of youth and the wider fellowship of faith. We have some of these committees now, but often people do not take their jobs seriously or do not communicate with the total church. We leave education on many important matters to the public press alone, or to the distributors of negative, prejudiced and hostile literature. If the pastor is not surrounded by informed persons who are willing to help, he may act alone and be termed irresponsible, or he may not act at all and then feel negligent of his Christian responsibility.

Let us make use of our freedom rightly. Freedom is power. It means power to withhold and power to relinquish; the ability to decline and the strength to give. In the case of Jesus it meant the power to relinquish his eternal heritage and to become man. Freedom to Christ meant the power to lay down His life and to take it up again in the resurrection. Freedom in the church of Jesus Christ must find its source in the Christ of the resurrection, and this will make a great deal of difference.

### Independence and the Local Church

If independence means to be completely self-reliant and not to be supported or helped by another, what does it mean to the local church which is composed of mem-

(Continued on Page 5)

(Continued from Page 4)

bers who support and uphold one another? To some, independence has come to mean withdrawal of fellowship from other Christian groups or even the withdrawal of fellowship from other churches in the association and the convention. In Hudson and Masing's book, *A Baptist Manual of Polity and Practice*, it is stated that absolute independence is foreign to the thinking of early Baptists. They exercised certain freedoms in order to ascertain the will of the Lord. These early pioneers also had a strong sense of interdependence among congregations and recognized the obligation to maintain a wider fellowship. Hudson and Masing in further explaining historic Baptist practices, have shown that most early Baptist were not sectarians and did not isolate themselves from fellowship with other Christians. I am not arguing for organic union, but I am recognizing, as did our forefathers, the valuable contributions of other followers of Christ.

Present-day Baptists do not need to seek independence by withdrawal; they already possess independence. By withdrawal churches may find less liberty than they now possess. We can use our independence as a privilege to be interdependent and to assume our obligations as part of the Christian community. I sometimes feel that some are consciously trying to protect God or to protect God's church by withdrawal. God needs no protection, and the Christian faith has stood the test of experience, and it will stand again. We need to witness to God's redeeming love but not isolate it. We must share our faith and our God with others. One time Spurgeon said that we need not to defend the Bible as he used the illustration, "We do not need to defend a lion, we simply let him go."

#### Autonomy of the Local Church

The words, *freedom, independence* and *autonomy* may not be separable but for the sake of clarity, I am thinking of autonomy as the ability to be self-governing. This principle has been operative in Baptist life since its early beginning. Not only Baptist churches are self-governing, but the cooperating agencies, the institutions, the boards and the societies are self-governing in the American Baptist Convention. The ability to govern ourselves as groups or as organizations of Baptists rightfully should unite us as "members one of another" in the body of Christ. Can a responsible church ignore the very groups who under God nourished and gave it support and guidance?



WHAT IS IT? HOW DOES IT FUNCTION?

## The American Government

*A series on possible projects or learning experiences for the Christian, or a group of Christians, to pursue in order to understand more perfectly the interrelations between churches and government in the United States.*

**QUESTION:** Why are congressional standing committees necessary?

**ANSWER:** To do the spade work, the research and the detailed consideration that no single member of Congress can do on every piece of legislation.

#### BACKGROUND DISCUSSION OF THE QUESTION AND ANSWER:

To be the complete Congressman, one must know something about labor laws and soil minerals, postmasters and civil rights, problems of education, finance and gold economies, foreign aid and rural electrification. In short, no one member of Congress has the genius or time to carefully research and review all the thousands of bills and resolutions which are introduced and considered. Last year alone, 20,387 bills and resolutions were introduced in the two houses of Congress. Only 453 became law. The process of weeding out the good from the bad, the perfect from the imperfect, falls largely on committees. In the Senate we have 16 standing committees which, between them, consider every bill introduced. Subcommittees take the bills, hold public hearings, alter or shape them, pass them on to the full committee and see ultimately that they go to the floor of the Senate. Without committees and subcommittees, each bill would have to be considered by the Senate as a whole—an impossible task under the present structure. Committees are, in my opinion, the backbone of the legislative branch of the government.

#### SUGGESTIONS FOR LEARNING EXPERIENCES:

1. Through a class or discussion group select a bill at random, watch it introduced by a member of Congress, and make an effort to keep track of it as it goes to a subcommittee, is given a hearing, passes the committee, goes to the floor and ultimately repeats the process in the opposite chamber.
2. If the bill becomes law, compare its final structure with the original wording of the bill. This will demonstrate how legislation is progressively shaped.

—Ralph W. Yarborough  
United States Senator, Texas.

Our form of government allows every church the right to send delegates to associations, to state and national meetings. These delegates can be informed, have freedom of expression and the opportunity to be a formative influence for today and tomorrow. In isolation and withdrawal the church loses this historic opportunity and privilege. In the context of Baptist history, autonomy for the local Baptist church may mean that a self-governing fellowship will use its church-power to witness for Christ in its

community, to strengthen the faith and mission of the autonomous groups with which it is related, and to be a part of the fellowship of faith in Christ around the world.

*DALLAS J. WEST is Executive Secretary of the Indiana Baptist Convention of the American Baptist Convention, Indianapolis, Indiana. He is a graduate of the University of Minnesota (BA); Bethel Baptist Seminary (BD); Southern Baptist Theological Seminary (ThM).*

## Urban Crisis Team, Links With Disorder Areas

An American Baptist Urban Crisis Team, formed during the spring of 1967, links with key leadership groups in current crisis areas across the nation.

The Crisis Team was formed as increased concern and action by a number of American Baptist Convention (ABC) national organizations converged to deal more effectively with the emerging crisis in our cities.

This action was directly in line with action taken by the General Council at its February, 1967, meeting which called for "a coordinated plan with respect to the 'Crisis in the Cities of the U.S.' for use of the resources of the agencies, divisions, state and city organizations of the ABC for appropriate action related to the various problems that seem sure to develop in the summer of 1968.

As a variety of board and staff members conferred to implement this effort, the strength of existing commitments by each ABC agency made possible a quick mobilization and redeployment of resources to work with other religious and secular organizations. For example, the Home Mission Societies had already made plans for a task force to which they would release staff time for work with other ABC agency staff, with similar responsibility, to meet problems this summer and to set up communications with crisis areas.

Each agency, cooperating with the Urban Crisis Team, is now identifying its linkages with key leadership persons and groups in crisis areas. These linkages include State and City staff, Community Witness and Christian Center workers, local and area Christian Education leaders, pastors and laymen significantly involved in ministries related to the crisis.

It is recognized that as these contacts are related to each other locally, regionally and nationally the "team" is greatly enlarged and is enabled to cooperatively plan and act to establish more effective working relationships between ghettos and the larger community. There is a growing commitment to be supportive of each other as the emerging situation calls for engagement in unpopular witnessing and reconciling action, beyond the ongoing commitment to the prevention, provision and restoration efforts of the church's mission.

American Baptist national staff participation in the Urban Crisis Team include representatives of the American Baptist Home Mission Societies, the American Baptist Foreign Mission Societies, the American Baptist Board of Education and Publication, the Ministers and Missionaries Benefit Board, and General Program and Administration through the Division of Communications and the Division of Christian Social Concern.

Team members are:

Atha J. Baugh, Director of the Department of Community Witness

Richard Cummings, Secretary, Public Relations Division of the American Baptist Foreign Mission Society

R. Dean Goodwin, Director, Division of Communications

William T. McKee, Assistant to the Executive Director, The Ministers and Missionaries Benefit Board

Louis D. Mitchell, Associate Director, Division of Christian Social Concern

Ray L. Schroder, Director, Christian Juvenile Protection Program, Home Mission Society

## D.C. Baptists Endorse Poor People's Campaign

The Poor People's Campaign, which began in the nation during the last days of April, received the official endorsement of the District of Columbia Baptist Convention executive board last month.

The resolution voted by the Baptist board also urged "upon Congress and the President of the United States their continued concern for the domestic crisis and accelerated action toward eradicating poverty, discrimination and racism from the land."

The action of the Baptist board came at a meeting that was delayed a week because of the curfew imposed on the District of Columbia during the civil disorders that followed Martin Luther King's assassination.

Earlier in an editorial in the Capital Baptist, publication of the District of Columbia Baptist Convention, James O. Duncan defended the Poor People's Campaign and urged Baptists in the area to cooperate with it.

Many other religious groups and organizations had already endorsed the Poor People's Campaign. Among these are: Inter-religious Committee on Race Relations, Disciples of Christ, Jewish Community Council, Priests of the Washington Roman Catholic Diocese, YMCA of Metropolitan Washington.

General Board of Christian Social Concerns of the Methodist Church, Board of Directors of the Potomac Association of the United Church of Christ, the Cooperative Lutheran Parish Council, Lutheran Planning Council of Metropolitan Washington, Church Women United in Greater Washington, Washington City Presbyterian of the United Presbyterian Church, U. S. A.

The Council of Churches of the Greater Metropolitan Washington Area, Unitarian-Universalist Association of the Metropolitan Area, the Baptist Ministers Conference of Washington, American Baptist Convention's Department of Christian Social Concern, National Catholic Conference on Interracial Justice of the National Council of Churches and the American Friends Service Committee.

The campaign, directed by the Southern Christian Leadership Conference of which Ralph D. Abernathy is head, is designed to be a massive, nonviolent lobby activity to influence Congress and the Administration to begin immediately to end poverty.

Specifically, the objectives of the campaign are: 1) Meaningful jobs, 2) Adequate income, 3) Elimination of the welfare system, 4) Adequate housing and 5) Medical care for all people.

The leaders of the Poor People's Campaign declare that their purpose is to try to solve the crisis of the cities by nonviolent methods. They conceive of their plan as an answer to the riots and burned cities the nation experienced last summer and which are anticipated the coming summer.

The plan is for talks with the President, Congressmen, the Department of Health, Education and Welfare and the Depart-

(Continued on page 8)

Florence Stansbury, Associate Director, Department of Missionary and Stewardship Education, Division of Christian Education, American Baptist Board of Education and Publication.

*This article reprinted from "Concerns for Christian Citizens," a special issue published by the Division of Christian Social Concern, American Baptist Convention.*



# Staff Gives Testimony For Judicial Review

My name is Walfred Peterson. I represent the staff of the Baptist Joint Committee on Public Affairs. May I thank the committee on behalf of our staff for this opportunity to testify?

The Baptist Joint Committee on Public Affairs is an agent of eight Baptist conventions. They are 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 Southern Baptist Convention. The Committee exists to help keep Baptists abreast of and to help them clarify their insights on public affairs. Also it serves to reflect Baptist thinking on public issues to other groups and to government. For these purposes it maintains a Washington office at 200 Maryland Avenue, Northeast.

The statement I give today is a reflection of staff study. Our staff has been encouraged to follow this matter by the Baptist Joint Committee, but that committee has not taken a formal stand on the judicial review of First Amendment rights, nor have our Baptist conventions passed resolutions on such a legally esoteric matter. However, we believe our statement is a logical product of Baptist actions and Baptist Joint Committee expressions on many religious liberty and church-state issues that bear on the matter being studied here.

## Our Past Positions

Since our staff does not engage legal counsel, we think it would be presumptive for us to try to add to the legal testimony given on the matter of a judicial review bill to this and the Senate subcommittee. Rather, we will relate how our thinking progressed on several judicial review proposals.

When the Senate Subcommittee on Education was considering the Elementary and Secondary Education Bill of 1965 our director, C. Emanuel Carlson, responded to a question by Senator Morse concerning the desirability of a judicial review proposal by saying,

Our constituency would be delighted to see a provision for judicial review because we have some awareness of the difficulty in getting some of these cases into a position where the Court can decide them. And if your committee can find a way of moving them forward to judicial determination, we think this would be a very helpful thing.

Congress discovered that it was not a simple matter to "find a way." In 1966 before the Constitutional Rights Subcommittee of the Senate our director testified that we could not support the whole bill then under consideration (S. 2097). We could support parts of the bill, however, and we suggested ways in which Congress might move to obtain judicial review of First Amendment rights.

At the center of our reservations about parts of S. 2097 were both legal and policy considerations. We were, however, convinced by the Senate subcommittee hearings that the authorities on the matter of standing to sue had provided the means of distinguishing the *Frothingham* case from those which would arise under the proposed legislation. Also, the alterations made in the bill by the subcommittee improved the measure substantially, and Senate Report No. 1403 (89th Congress, 2nd Session) explicated the drafter's intentions to ways that convinced us that on balance the measure should be supported. We wrote a staff report, "Develop-

*A complete text of the testimony prepared by Dr. Peterson and presented to Subcommittees Number Three of the House Committee on the Judiciary, Representative Edwin E. Willis (D-La), Chairman.*

ments on the Judicial Review Bill," explaining our judgment, and this was sent to the Senate subcommittee. (We submit a copy of this report with our testimony.) Since then we have supported passage of such bills as S. 3 and H.R. 1198.

## The Present Situation

We realize, of course, that the Supreme Court might decide the case of *Flast v. Gardner* in favor of the appellants within a few months. If so, the legislation discussed here will not be as important as it would be otherwise, though it may still be somewhat helpful. If the Supreme Court decides against the appellants, the legislation should be promoted, assuming the Court's decision does not imply that any such bill would be unconstitutional.

We support such a bill as H.R. 1198 for several reasons: First, the present case law on the meaning of the establishment clause is ambiguous. More case law may not change that, but only with more case law can it be changed.

Second, since there already is case law on the meaning of the establishment and free exercise clauses which relates closely to church-state issues raised in recent education and welfare legislation, we think that these issues are justiciable.

Third, we believe there is a qualified right under the First Amendment not to be taxed for religious ends. A defense for such a right should exist at law. Substantive rights require legal procedures by which they can be claimed.

Fourth, these considerations plus the insistence by many people of serious purpose that some federal programs violate the establishment and free exercise clause combine to require an effort at achieving decisions by the Supreme Court on the present meaning of the establishment clause. Much innovative legislation has touched church-state concerns since the *Everson* case. That case is hard to apply authoritatively to the new issue. Of course, the high Court is not the only legally authoritative agent in our constitutional scheme, but with respect to the Bill of Rights people generally regard it as the final authority when issues are in doubt.

Fifth, we think it would be most unfortunate if the Supreme Court could not handle taxpayers suits challenging the constitutionality under the establishment clause of some federal law while it handled taxpayers suits arising in state courts challenging the constitutionality under the same clause of similar state laws. This could conceivably lead to a dual standard of establishment, one for states and one for the federal government. It is possible that a single state official will some day be responsible for administering a federally financed program affecting church-state relations that he could not legally administer were it a state financed program. And paradoxically, it might be the federal Supreme Court that determined the legal impropriety of the state program. Since the Bill of Rights has been made applicable to the states, we think a dual standard is improper.

I close by urging passage of H.R. 1198 and by again thanking the subcommittee for the opportunity to present our views.

## Editor's Notebook

# Report from the Capital

• The smell of smoke, matched by the aching feeling which comes with the constant wail of sirens and the eerie monotony of flashing lights, embraced the inner city of the nation's capital in the wake of the assassination of *Martin Luther King, Jr.* . . . It was a sickening embrace which leaves lingering questions like, "How far away did the smell of smoke reach?" and "Where will the disorders next spring to life . . . and burning . . . and death?" . . . Some observers here raise a more basic question, "Will the power structures in white communities and the militants in black communities reach for reform or go for revolution?" Nor is it clear which (black or white) will make the first move. . . . The summer ahead may supply the answers.

• The staff testimony on judicial review (page 7) given by *Walfred Peterson* before the Senate Judiciary Subcommittee is best understood after reading *Barry Garrett's* analysis of the background on judicial review status (page 2) . . . Of special interest to those concerned about what Baptists are doing in the current crisis are the news articles on page 6, "Urban Crisis Team Links With Disorder Areas," and "D. C. Baptists Endorse Poor People's Campaign" . . . A State Baptist Secretary, *Dallas J. West*, Indiana (ABC), discusses responsible freedom for the Baptist congregation (page 4) which certainly is not unrelated to the previous articles mentioned.

• The latest addition to our office is a product of Baylor University's department of journalism under the able leadership of *Dave Cheavens* and *David McHam*. . . . She is *Jeanie Walke* of Dallas who is making a contribution to this publication

## Textbooks

(Continued from page 2)

Five parents in New York joined the suit as intervenors by the time it reached the U.S. Supreme Court. They were represented by *Porter Chandler*, a prominent New York constitutional church-state lawyer.

During the debate before the U.S. Supreme Court the questions by the justices indicated they saw in the case far-ranging consequences of their decision. Under the Elementary and Secondary Education Act of 1965, books and other instructional materials are supplied to parochial school pupils.

In addition to New York, other states lending publicly-financed textbooks for parochial school pupils are Louisiana, Mississippi, Rhode Island and West Virginia.

Supporting the challenge to the New York Textbook Loan Act were nine Jewish organizations, the New York Civil Liberties Union and Americans United.

On the other hand amicus curiae (friend of the court) briefs supporting the law were Louisiana, New Mexico, Pennsylvania, Rhode Island, Vermont, National Catholic Education Association, Lutheran Education Association, National Conference of Yeshiva Principals and the New York state AFL-CIO.

So important did the Supreme Court consider this case that it gave a full two hours to the debate. It will announce its ruling by the time it adjourns at the end of June for summer recess.

through lay-out and manuscript preparation for the printer's edification. . . . Needless to say she is a welcome addition to our staff.

• This issue of *Report From the Capital* is for a two-month period. It is one of those two times a year that we double up on the time schedule in order to come out with the 10 issues a year we promised in the beginning. So, we will be visiting with you again around the first of July!

—James M. Sapp

## COVER PICTURE

This tranquil scene of the Jefferson Memorial with the Capitol building in the background one might see any summer day from the banks of the Tidal Basin in Washington. While a little more than a mile from this place, rubble and twisted structural steel of buildings and dwellings lie in mute testimony to disorders in the Federal City during April.

Paddle boats and row boats in a peaceful Washington will be largely dismissed by Washingtonians this summer. Instead, they will be preoccupied increasingly with the poor people's campaign and its impact upon the main business of the nation's capital city . . . government.

"It is pure fanaticism to belittle the gains that have come to mankind from the spirit of free inquiry, free discussion and accommodation. No human individual or group of individuals can claim omniscience. Hence, society can only suffer serious loss when one group suppresses the opinions and criticisms of all others."

Found in *Morris R. Cohen's* essay, "Why I Am Not A Communist," *The Faith of a Liberal: Selected Essays* (New York, 1946).

## POOR PEOPLE'S CAMPAIGN (Continued from page 6)

ment of Labor prior to the main thrust of the campaign to get assurances that adequate programs will begin to help the poor.

In the event that these talks fail to produce satisfactory results, the campaign leaders will move in approximately 3,000 poor people from all parts of the nation. These people will live in a camp, called "New City," as close to the U.S. Capitol as possible.

Nonviolent demonstrations are planned on the issues of jobs,

incomes, welfare, health, housing, education and human rights. These demonstrations will be aimed at government centers of power.

Finally, if the government does not respond, the same philosophy of civil disobedience used in the civil rights demonstrations of Selma and Birmingham will be used here.

The Southern Christian Leadership Conference declares that it will stay in Washington with its Poor People's Campaign until the government responds.