

# Report from the Capital

SEPTEMBER  
1973

Dawson, First BJCPA  
Director, Died July 6

*The Legacy of Joseph  
Martin Dawson*  
1879-1973

By James E. Wood, Jr.

The death of Joseph Martin Dawson on July 6, 1973 brought to an end a long and illustrious career of one of the outstanding prophetic voices among Baptists in this century. Known to most Baptists as the first executive director of the Baptist Joint Committee on Public Affairs, he was widely regarded as one of the most ardent and articulate defenders of religious liberty and the separation of church and state in America. His distinguished career was multi-dimensional as a beloved pastor, prolific author, civil libertarian, and denominational statesman.

Born of devout Baptist parents on a farm in the Blacklands of Central Texas on June 21, 1879, a region to which he remained deeply devoted, his intellectual and religious horizons were never bound to the strictures of parochial or provincial thinking. Over the years he came to exert a wide sphere of influence far beyond his own denomination and the Southwest out of which he came and where he was to live most of his life.

He received his college education from Baylor University, from which he was graduated in 1904 as valedictorian of his class. Active in campus debates and publications, he was the first editor of the student newspaper and the school annual, both of which he helped name.

Strongly attracted to a career in journalism in his early years, his final commitment was to the pastoral ministry to which he gave himself with marked dedication and prophetic zeal for almost forty years. His three pastorates, save for a student pastorate during his student years at Baylor, were: First Baptist Church of Hillsboro, Texas (1908-1912); First Baptist Church of Temple, Texas (1912-1915); and First Baptist Church of Waco, Texas (1915-1946), which he served with distinction for almost 32 years, the longest pastorate in the history of this great church.

Dr. Dawson's years in the pastorate were marked by compassion for his congregations, a warm ecumenical spirit toward those of other denominations, and eloquent biblical preaching enlivened by a strong social conscience.

Early during his first pastorate, he married Willie Turner of Dallas, Texas, who became widely known throughout the United States and abroad as a platform speaker and church leader in her own right. Mrs. Dawson died in 1963. To this unusually gifted couple were born five chil-

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Joseph Martin Dawson: 1879-1973

S. B. C. HISTORICAL COMMISSION  
NASHVILLE, TENNESSEE

## Parochial Schools again Denied Public Funds

By James E. Wood, Jr.

In what must be regarded as landmark decisions in American church-state relations, the U. S. Supreme Court on June 25, 1973, in *Committee for Public Education v. Nyquist*, *Levitt v. Committee for Public Education*, and *Sloan v. Lemon*, reaffirmed the impermissibility of public funds, direct or indirect, being given to parochial schools. In these three cases the Court struck down five programs of public assistance to church schools.

The significance of these decisions is that they constitute but one of two instances when the Supreme Court of the United States has rendered decisions on the question of public funds to parochial schools. They mark the virtual elimination of all presently existing parochial school aid plans for public funds. Manifestly consistent with its two earlier decisions handed down by the Court on June 28, 1971, in *Lemon v. Kurtzman* and *Earley v. DiCenso*, the Court has stayed, at least momentarily, the appropriation of public funds to parochial schools.

### Maintenance and Repair

In *Committee for Public Education v. Nyquist*, in a 6 to 3 decision, the Court held as unconstitutional amendments to New York's Education and Tax Laws establishing three financial aid programs to non-public elementary and secondary schools. The first of these programs provided for direct public funds to "qualifying" non-public schools to be used for "maintenance and repair" facilities and equipment to ensure the students' "health, welfare, and safety." A grant of \$30 per pupil per year was to be made each "qualifying" nonpublic school, or \$40 per pupil per year if the school facilities were more than 25 years old.

On this particular program the justices voted 8 to 1 (only Justice White dissenting), that the maintenance and repair provisions "violates the Establishment Clause because their effect, inevitably, is to subsidize and advance the religious mission of sectarian schools."

On behalf of the Court, Justice Powell wrote, "We do not question the propriety, and fully secular content, of New York's interest in preserving a healthy and safe educational environment for all of its school children," but "the propriety of a legislature's purposes may not immunize from further scrutiny a law which either has a primary effect that advances religion, or which fosters excessive entanglements between Church and State."

### Tuition Reimbursement

Another New York aid program for non-public elementary and secondary schools to be declared unconstitutional was a tuition reimbursement plan for parents of children attending nonpublic schools. The New York plan provided \$50 per grade school child and \$100 per high school child so long as these amounts did not exceed 50 percent of the actual tuition paid.

New York officials had argued that the state's reimbursement plan, as well as the state's tax deduction plan, was constitutional since the aid went to the parents and not to the schools. Justice Powell speaking for the majority of the Court ruled that this argument is a distinction without difference, for "the effect of the aid is unmistakably to provide desired financial support for nonpublic, sectarian institutions."

Furthermore, the Court observed, "if the grants are offered as an incentive to parents to send their children to sectarian schools by making unrestricted cash payments to them, the Establishment Clause is violated whether or not the actual dollars given essentially find their way into the sectarian institutions."

While acknowledging that "this Court has long recognized and maintained the right to choose nonpublic over public education," the Court nonetheless was unwilling to resolve the issue of public funds and parochial schools simply on the question of the Free Exercise Clause, i.e., the right of parents to a freedom of choice in the education of their children. Rather the Court held to the equal place, if not primacy, to be given also to the constitutional guarantee of the Establishment Clause: "Congress shall make no law respecting the establishment of religion."

The Free Exercise Clause, the Court declared, may not be promoted at the expense of the Establishment Clause. A proper respect must be shown for both, whenever

tension arises between them. "As a result of this tension, our cases require the State to maintain an attitude of 'neutrality,' neither 'advancing' nor 'inhibiting' religion."

### Effect of the Aid

Particular attention was given by the Court to the fact that it was precisely the function of New York's law to provide assistance to private schools, the vast majority of which are sectarian. The New York plan provided money that could never be given constitutionally to the schools themselves, and the fact that the tuition grants were given to the parents rather than the schools "does not compel a contrary result," since the effect is to aid the schools.

"However great our sympathies," Justice Powell wrote, "for the burdens of those who must pay public school taxes at the same time that they support other schools because of constraints of 'conscience and discipline,' and notwithstanding the 'high social importance' of the State's purposes... neither may justify an eroding of the limitations of the Establishment Clause now firmly implanted." Without effective means of guaranteeing that public funds given for non-public schools will be used exclusively "for secular, neutral and nonideological purposes," then it is clear that "direct aid in whatever form is invalid."

### Income Tax Deduction

A third New York program of state aid to nonpublic schools was designed to give tax relief to parents' failing to qualify for tuition reimbursement. In the program each (See, PAROCHIAL, page 8)

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**EDITOR'S NOTE:** Due to the abundance and importance of church state information since our last publication date, we are eliminating the "Washington Observations" page this month. Hopefully, this is not a permanent change in the format of *Report From The Capital*, but for this month it seems to be expedient. Readers will find a continuation of "Public Affairs . . . and the Churches" on pages six and seven.

#### NATIONAL POLICY ON GAMBLING

WASHINGTON—An appropriation of \$356,000 to finance the Commission on the Review of the National Policy Toward Gambling has been proposed in the form of an amendment by Rep. Lawrence J. Hogan (R., Md.).

The 15-member commission (four Senators, four Congressmen and seven citizens) was created by the organized crime statute passed by Congress in 1970 to, in Mr. Hogan's words, "take stock of where our nation is and what directions it should take in the future regarding this critical social issue of gambling."

"The commission must necessarily decide whether the present federal statutory and regulatory scheme should be continued," Rep. Hogan said in introducing the measure in the House.

He noted that there is a "widespread call" for "decriminalization" of gambling as a "victimless crime."

"Apart from philosophical or religious considerations, two major lines of argument are offered to justify change: First, to raise public revenue and second, to cut down profits going to organized crime," Mr. Hogan said. (RNS)

#### KENYA BANS 'WITNESSES'

NAIROBI, Kenya — Kenya's Attorney General Charles Njono told members of the National Assembly that appeals against the banning of Jehovah's Witnesses would not be allowed.

Replying to questions, Mr. Njono said that the religious sect, which was banned in Kenya last April, was "subversive, anti-government, and taught its followers never to respect any authority on earth."

Emphasizing that the government would not entertain any appeal, the attorney general said the sect's "so-called missionaries" would, therefore, "have to leave the country."

Mr. Njono insisted that the ban on the Jehovah's Witnesses had to be maintained because the sect "told its members not to display President Jomo Kenyatta's portrait anywhere, not to respect the national flag, and not to stand when the national anthem was played." (RNS)

#### ABC AGENCY JOINS 'AMICI CURIAE'

BROOKLYN, N. Y.—A "friend of the court" (*Amici Curiae*) brief, signed on be-

half of National Ministries of American Baptist Churches in the USA, along with six other religious bodies, was presented to the U. S. Court of Appeals for the Second District when it had under consideration the issuing of the stay of Judge Orrin G. Judd's decision that the bombing of Cambodia was "unauthorized and unlawful."

The brief was submitted by representatives of the Council for Christian Social Action, United Church of Christ; National Catholic Conference for Interracial Justice; National Coalition of American Nuns; Union of American Hebrew Congregations; Leadership Conference of Women, United Presbyterian Church, USA; National Ministries of the American Baptist Church in the USA; and the National Council of Churches of Christ in the USA. (ABNS)

#### CHURCH PROPERTY DISPUTES

RALEIGH, N. C.—Courts handling church property disputes must do so without inquiring into underlying doctrinal controversies, the North Carolina Court of Appeals said here in returning a case to the Surry County Superior Court for retrial.

A jury of the lower court had ruled against the pastor of the Little Mountain Baptist church and his supporters, and said they had deviated from the doctrine of the church.

In its ruling, the Appeals Court said that for a civil court to determine matters relating to the determination of church doctrines would violate the constitutional separation of church and state.

"Disputes over church property," it said, "may still be resolved and occasionally regrettably must be resolved in civil courts. The civil courts must decide church property disputes without inquiring into underlying controversies over religious doctrines and without in any way basing their decisions upon any determination made upon such an inquiry." (RNS)

#### ABC AGENCY DIVESTS STOCK

VALLEY FORGE, Pa.—National Ministries, the home mission agency of American Baptist Churches in the USA, has announced that it has divested itself of its holding of 21,000 shares in United Aircraft Corporation.

This move was prompted by United Aircraft's substantial engagement in military production and its unwillingness to discuss

conversion to non-military production with National Ministries. The agency's holdings have a current value of \$641,000.

This action, announced by Treasurer Horace E. Gale, followed fruitless communications with United Aircraft, and is in keeping with the Baptist's social criteria for investments. It is the intent of these guidelines to incorporate social responsibility as well as financial reward into the investment process.

Said Mr. Gale: "We believe there should be a correlation between how a church receives its monies, i.e., interest dividends in the case of the investments and how it uses these funds in its programs." (ABNS)

#### COURT SETS ABORTION POLICY

MINNEAPOLIS—U. S. District Court Judge Philip Neville has ruled that the Virginia, Minn. Municipal Hospital must allow its facilities to be used to perform abortions.

Michael Wetherbee, legal counsel for the Minnesota Civil Liberties Union, hailed the decision as a landmark. He said any Minnesota public hospital is bound by the judge's ruling.

This was disputed by spokesmen for Minnesota Citizens Concerned for Life, Inc., who said that Minnesota hospitals which do not wish to perform abortions are not required to change their policy as a result of the court ruling.

"Other hospitals which now prohibit abortions in their facilities should not be bluffed or intimidated by this unfortunate ruling," said Mrs. Marjory Mecklenburg, president, and William Hasing, legal committee chairman.

Judge Neville said the anti-abortion policy passed by the Virginia Municipal Hospital Commission on Feb. 5 is contrary to the findings of the U. S. Supreme Court case and "must be declared null and void."

The Hospital commission policy had said the hospital would not perform abortions "except those performed to save the life of the mother."

The case was brought by two Virginia couples, the minor daughter of one couple, two Virginia physicians and two other Virginia persons as taxpayers. No pregnancies were involved but the plaintiffs contended that the females could later be affected by the hospital policy in the event of pregnancies. (RNS)

# The Legacy of Joseph Martin Dawson: 1879-1973

(Continued from page 1)

dren, all of whom survive: Mrs. David A. Cheavens (Alice), Mrs. Roy Van Hoove (Donna), Leighton B. Dawson, R. Matthew Dawson, and Joseph T. Dawson.

A lifelong student, Dr. Dawson was until the last few days of his life an avid and disciplined reader of good books, both fiction and non-fiction, as well as a number of major periodicals. Books were one of his great loves throughout his life and reading was readily one of his greatest pleasures. Reading was more than a pleasure, however, it was a disciplined activity integral to the intellectual regimen to which he was committed. Strongly supportive of the principle and right of openness of inquiry, he saw the investigation of facts and ideologies, no matter how alien to his own, as prerequisite to critical judgment and one's course of action. He viewed anti-intellectualism as alien to Christian faith and man's freedom.

A prolific author, Joseph M. Dawson was a man of marked literary gifts. A former president of the Texas Institute of Letters, he was elected a permanent Fellow of that organization. Author of twelve books, he contributed to many others. His major volumes include: *The Light that Grows* (1924), *The Spiritual Conquest of the Southwest* (1926), *Christ and Social Change* (1937), *Separate Church and State Now* (1948), *The Liberation of Life* (1950), *America's Way in Church, State and Society* (1953), *Baptists and the American Republic* (1956), and *A Thousand Months to Remember: An Autobiography* (1964). His last published volume, *Jose Antonio Navarro: Co-Creator of Texas* (1969), an historical biography of a prominent nineteenth century Mexican-American leader of Texas who was an ardent Roman Catholic defender of religious liberty, was published when the author was ninety years old!

In addition, Dawson published numerous articles, booklets, and pamphlets throughout his career on a wide range of subjects. For several decades he served on the book reviewing staff of *The Christian Century* and *Waco News-Tribune*, and in his latter years as a frequent reviewer for *Christianity Today* and *Journal of Church and State*. Early in his career he served as editor of the *Baptist Standard* of Texas. He was founder and editor of this publication, *Report from the Capital*, from 1946-1953. From 1959 until his death he served on the Editorial Council of *Journal of Church and State*.

Joseph M. Dawson's role as a denominational leader and Baptist statesman added still another dimension to his remarkable ministry. For 30 years he served with distinction as a trustee of Baylor University,

during which time he made notable contributions to Christian higher education through his ardent support of Baylor University. A founder of Hillcrest Baptist Hospital in Waco, Texas, he served as chairman of its board for several years. He served as publicity director of the Southern Baptist "75 Million Campaign" during 1919-1924, and was elected chairman of the Southern Baptist Executive Committee in 1945. Long recognized for his concern for religious liberty, he was chosen to represent Baptists of the United States at the founding of the United Nations in San Francisco. Thus in 1945 he carried petitions with more than 100,000 signatures calling for a declaration of religious liberty to be incorporated in the Charter of the United Nations.

From 1946-1954 Dawson rendered outstanding service to Baptists and the nation as the first executive director of the Baptist Joint Committee on Public Affairs. An eloquent and passionate civil libertarian he saw religious liberty as integral to the American Bill of Rights and genuine religious faith. During these years he served also as a member of the Department of Religious Liberty of the National Council of Churches, U.S.A. With Bishop G. Bromley Oxnan, John A. Mackay, Charles Clayton Morrison, Edwin McNeill Poteat, and Louie D. Newton, he helped found Protestants and Other Americans for the Separation of Church and State.

In 1957 Baylor University established the J. M. Dawson Studies in Church and State, named in honor of its distinguished alumnus who was by then widely recognized as a leading authority and author on church-state relations. An interdepartmental graduate degree program, its purpose is to stimulate intellectual interest and encourage research and publication in the broad area of church-state relations. Nothing pleased Dr. Dawson more in his retirement years than the development of this program named for him. As director of the J. M. Dawson Studies in Church and State for fifteen years, I was privileged to have many associations with Dr. Dawson and to enjoy a warm and close friendship with him. Often at Baylor and beyond I took pride in remarking that the name of the Baylor program was a most appropriate reminder of one man's conspicuous concern, courage, competence, and contribution in the area of church and state.

Joseph M. Dawson was unapologetically a civil libertarian. As a Christian he took seriously the sovereignty of God and the rights of man. Given to being neither a conformist nor a nonconformist, as a pioneer and a prophet he repeatedly reflected the capacity to take a stand on behalf of unpopular causes he believed to be right. Unafraid of controversy, which he often encountered because of his deep convictions

for the rights of persons and his commitment to religious liberty, he saw his religious faith always in terms of the total arena of life. Throughout his life he showed a passion for social justice, the free society, civil rights, world peace, religious liberty, and public morality. Profoundly influenced by Roger Williams, Walter Rauschenbusch, B. H. Carroll, and his entire Baptist heritage, he believed deeply in the final triumph of God's everlasting kingdom."

More than any other person in his day he influenced Baptists toward a recommitment to religious liberty and the separation of church and state. For those of us who knew him and loved him, we shall always be grateful for the many ways in which he translated the principles he espoused verbally into the life he lived.

The legacy left by Joseph M. Dawson is a rich one, but nowhere is his presence more deeply felt today than in the office of the Baptist Joint Committee on Public Affairs in Washington, D.C. Having been deeply touched by his life, I am grateful that the lengthening shadows of his influence are still so readily manifest in our Baptist work and witness in the nation's capital.

## JEWISH SCHOOLS ASK HELP

NEW YORK—In the wake of the recent U.S. Supreme Court ruling against state aid to nonpublic schools, Torah Umesorah—the National Society for Hebrew Day Schools, has been "beseiged" with requests for loans totalling almost \$1 million.

"According to reliable sources the Supreme Court decision will cost Hebrew Day Schools in New York City about \$6 million," Torah Umesorah said here.

Hebrew Day Schools in New York City, which offers combined programs of Hebrew and general studies requested \$300,000 in loans while schools in New Jersey, Pennsylvania and Connecticut have asked for \$150,000.

Torah Umesorah has called on national Jewish organizations such as the American Jewish Congress and B'nai B'rith who fought successfully to halt state aid to nonpublic schools, "to turn their organizational talents and communal treasuries toward aiding the financial plight of the Hebrew Day School system."

"Surely," Torah Umesorah said, "we can expect that those Jewish agencies which fought against state aid through all the courts, should now at the very least earmark an equal amount of funds, organizational energy and effort to insure that Hebrew Day Schools will continue to exist within the Jewish community. Otherwise all their pious statements that 'there is money available' remain mere statements and empty posture." (RNS)

# Prayer Amendment Vote Faces Senate This Year

By John W. Baker, Associate Director in Charge of Research Services

Senator Richard S. Schweiker (R., Pa.) is reported to have promised the backers of proposed constitutional amendments dealing with prayer in public buildings that a vote will be taken on one of the proposals this fall.

Senator Birch Bayh (D., Ind.) who is chairman of the Subcommittee on Constitutional Amendments of the Senate Committee on the Judiciary held one day of hearings shortly before the Congress recessed for the month of August. Only members of the Senate and House who supported a prayer amendment testified.



Baker

Senator Bayh has indicated that further hearings will be scheduled by his subcommittee in September and October and that the full Committee, chaired by Senator James O. Eastland (D., Miss.), will be given an opportunity to vote either to report out one of the resolutions or to refuse to approve one of them.

Unlike those of the House of Representatives, the Senate rules do not provide for a discharge petition which forces a piece of legislation out of a committee and brings it to the floor for a vote. However, Senator Schweiker can still make good on his promise by amending a piece of legislation already on the floor to make it a vehicle for his own prayer amendment if the Committee on the Judiciary does not vote in favor of one of the proposals.

## Seven Joint Resolutions

Seven Senate Joint Resolutions to amend the First Amendment have been submitted. There are some minor differences in wording between them, but the spirit and the effect of each is reflected in S.J. Res. 7 which has been introduced by Senator Howard Baker (R., Tenn.) and is identical to the proposal made by his father-in-law, the late Senator Everett Dirksen. It reads:

Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer.

Senator Schweiker introduced S.J. Res. 10 (with 30 cosponsors listed) and S.J. Res. 84 (with 19 cosponsors listed). S.J. Res. 10 simply adds the phrase "any public school" at the beginning of the second clause of the Dirksen amendment and S.J. Res. 84

changes the word "nondenominational" to "voluntary" and makes the provisions applicable to the District of Columbia as well as to the 50 states.

S.J. Res. 15 was introduced by Senator Scott (R., Va.), S.J. Res. 57 by Senator Bartlett (R., Okla.), S.J. Res. 89 by Senator Roth (R., Del.), and S.J. Res. 122 by Senator Talmadge (D., Ga.). Every indication is that some form of S.J. Res. 10 will be the proposal most likely to come before the Senate.

## The Voting Line-up

There are 23 Senators now serving who voted against the Dirksen amendment in 1966, 28 who voted for the amendment and three who did not record a position on the issue.

This means that there are 47 Senators who were not involved in the 1966 vote and, because 34 votes are necessary to defeat a proposed amendment, the balance of power resides with these people. Three of this group were members of the House of Representatives in 1971 and recorded votes on the proposed prayer amendment, H.J. Res. 191, which was defeated. Two of them, Senator Abourezk (D., S.D.) and Senator Scott (R., Va.) voted for it.

This means that if those who voted against the Dirksen amendment stand fast and are joined by Abourezk and Hathaway, nine more votes must be secured from the remaining 44 if this new drive is to be thwarted. These nine votes may be difficult to get, and it is generally conceded that at least two of the 23 opponents of the Dirksen amendment will support the Schweiker amendment.

Those who oppose this attempt to amend the Bill of Rights for the first time face a difficult task with the Senate this fall.

## After Senate Action

If the amendment passes the Senate, it will be sent to the House Committee on the Judiciary which is chaired by Congressman Peter Rodino (D., N.J.). Rodino's staff has indicated that he will be as firm as his predecessor, Emanuel Celler, in his opposition to a prayer amendment.

Rodino would have the option of holding extensive hearings and delaying action in the House until the 93rd Congress ends in January 1975. The entire process would then have to begin again with a new Senate and House.

Another of Rodino's options would be to refuse to hold hearings and "pigeonhole" the proposed amendment. However, the proponents of the amendment would, doubtless, file a discharge petition with the Speaker. If the petition received the requisite 218

signatures the Committee on the Judiciary would be discharged from further consideration of the resolution and the resolution would be brought to the floor on the next second or fourth Monday the House is in session.

Some of those who opposed the prayer amendment in 1971 have expressed the belief that if the proposal comes to the floor in late spring or in the summer of 1974 the nearness of the elections would make it almost impossible to defeat the resolution.

The approval by three-fourths of the state legislatures would then be required before the Constitution would be amended.

## An Opinion on Action

This is not the time or place to elaborate the reasons why the Baptist Joint Committee, most of the cooperating Baptist bodies, the Conference of Catholic Bishops, most mainline Protestant bodies, and the Jewish bodies have expressed their opposition to the various prayer amendments which have been proposed over the past decade.

Religious groups have been joined in an active coalition against the proposed prayer amendments by such civil rights groups as Americans United and the American Civil Liberties Union.

Now does not seem to be the "point in time" to begin a campaign to have constituents write to their Senators. However, Baptists should now be educating their own people to the fact that state authorized, sponsored, or approved prayers cannot be voluntary prayers and are repugnant to the principle of religious liberty.

## ITALIAN CHURCH SUBSIDY

ROME—The new government of Prime Minister Mariano Rumor is being pressured to make substantial cuts in federal subsidies to the Roman Catholic Church as part of an overall effort to solve Italy's financial crisis.

State subsidies to the Church over the past three years totalled about \$300 million. The money is channeled through five ministries—Public Works, Interior, Education, Health and Foreign Affairs—under a Concordat (the Laternan Pact) between Italy and Vatican City State, signed in 1929.

Part of the \$300 million was allocated to the country's 272 Catholic dioceses, and included annual individual subsidies of about \$3,500 to each Italian bishop.

The over-all subsidy and the individual subsidies—covered by Article 16 and 17 of the Concordat—are the major, and immediate, target of a parliamentary majority already clamoring for a complete revision of the church-state pact. (RNS)

## BAPTIST WORLD POPULATION

WASHINGTON—Baptist church members now number 32,804,398, according to a statistical review made by the Baptist World Alliance headquarters here. Five years ago the number of baptized, communicant members was 29,627,444.

The seven top-ranking nations, in terms of Baptist church members, are as follows:

1. U. S. A. _____	28,674,903
2. India _____	731,661
3. Russia _____	535,000
4. Brazil _____	400,800
5. Burma _____	275,008
6. United Kingdom _____	261,108
7. Zaire (Congo) _____	225,100

The largest increase in Baptist church members during the past five years took place in the United States of America—an increase of 2,568,904 baptized members.

## -OPPOSES SURVEILLANCE OF CIVILIANS

WASHINGTON—Sen. Sam J. Ervin, Jr. (D., N. C.), Chairman of the Senate Constitutional Rights Subcommittee, has announced the publication of a Subcommittee report on "Military Surveillance of Civilian Politics" and has introduced a bill to prohibit future surveillance.

Describing military surveillance of civilians as "illegal and obnoxious," Ervin told the Senate, "In a nation which prizes individual rights of expression above all others, in a nation which subordinates its military establishment to civilian control, and in a nation of laws, there is no place for military surveillance of civilians. Congress has the obligation to insure that it will never happen again."

## CHAPLAINCY REFORM

Spurred on by the moral controversy surrounding the Vietnam war, unrest in the nation's religious community continues to grow over the question of clergymen in uniform. The first serious questioning of the chaplaincy system from the small Unitarian-Universalist denomination, which some seven years ago began to pull its men out of the military chaplaincies and now has none in uniform.

Other religious groups too have begun to question officially whether a man under military orders can serve God and his fellow man in spiritual matters. The United Church of Christ voted last month to propose to the military a system of civilian chaplains, men and women not in uniform nor under direct military orders.

Now the American Civil Liberties Union has taken up the issue, charging that "com-

mand control" of the chaplaincy amounts to state-sponsored religion. The ACLU plans some court tests of the constitutionality of the present system for bringing religious faith and counsel to those in the nation's armed services. (Newscript)

## ABORTION RULING REACTIONS

The national debate following the Supreme Court ruling allowing abortion during the first trimester of pregnancy and providing for controls during the second and third trimesters continues unabated. For one thing, Congress passed and the President signed a law which allows federally built and federally funded private hospitals to refuse medical services of abortion and sterilization, whenever such services are in conflict with the religious beliefs and moral convictions of the institution.

In the meantime, Newscript reports that lawsuits to compel public hospitals to perform abortions have been initiated in nine states, and the movement is expected to spread to all the states of the union. The prime movers in the campaign are the American Civil Liberties Union and the National Association for Repeal of Abortion laws.

The Pennsylvania Conference on Inter-church Cooperation, comprised of representatives of Roman Catholic, Episcopal and eight other Christian churches in the state, has declared its opposition to forcing hospitals or individuals to perform abortions or other medical practices in violation of conscience.

In Congress, Rep. Lawrence Hogan (R., Md.), a Roman Catholic, has filed a discharge petition to bring his proposed anti-abortion constitutional amendment out of committee and onto the floor of the House of Representatives. He said that "this is the only way that my amendment will ever reach the House for a vote." A majority of the 435 members of the House of Representatives must sign a discharge petition before a matter can be forced out of the jurisdiction of a committee.

Earlier Congressman Harold V. Froelich (R., Wisc.) doubted that even if a discharge petition were successful it would be virtually impossible to obtain a two-thirds vote by both the House and the Senate and then get three-fourths of the States to approve an abortion constitutional amendment.

As of last July 23 eleven states legislatures had petitioned Congress to enact a constitutional amendment that would overrule the Supreme Court decision on abor-

tion, according to a Religious News Service report.

## PREDICTS CHURCH CHANGE ON BIRTH CONTROL, ABORTION

BOSTON—A Roman Catholic who is a recognized expert on world population problems has predicted that a "reversal" of the papal encyclical, *Humanae Vitae*, would begin within six months after the election of a successor to Pope Paul VI.

Dr. John Rock, 83, was interviewed by Jerrold Hickey for the Boston Globe at the Temple, N.H., retirement home of the gynecologist who is sometimes called the "Father of the Pill."

Dr. Rock, professor-emeritus of gynecology at Harvard University and former director of the Rock Reproductive Clinic, had a leading role with Gregory Pincus in the development of the contraceptive pill.

The wide-ranging interview on population problems drew from Dr. Rock an opinion that Roman Catholic churchmen would some day alter their opposition to abortion.

When the interviewer asked Dr. Rock if he felt that conditions surrounding the election of a new Pope would lead to a change in the Church's stand on birth control, Dr. Rock responded:

"Oh yes, without question. I wouldn't be surprised if a reversal of position began within six months. Because it's so clear, so obvious what the future portends."

Asked if he thought the Church would change its stand on abortion, Dr. Rock replied:

"They'll get around to sanctioning abortion, during the first two or three months of pregnancy. When they realize that a mass of almost undifferentiated cells cannot cerebrize, and there can be no divine spark . . . The very idea of a microscopic blob having an immortal soul would challenge any imagination. But for the time being we will have the same old stand on birth control, and in those countries affected by this dogma babies will continue to be produced with no hope of any adequate diet or food supply." (RNS)

## PRAYER AND THE SCHOOLS

Debate continues on the proper relationship between religion and public education. In New Hampshire the Legislature has passed a resolution asking Congress to call a convention to propose an amendment to the U. S. Constitution "permitting daily voluntary prayer in public schools." (There are two ways to amend the U.S. Constitution—by action of Congress and ratification by two-thirds of the States and by a Constitutional Convention.)

In Massachusetts the Legislature passed a bill that would have allowed a period of "prayers or meditation" in public schools. The Attorney General of the State advised Governor Francis W. Sargent that the law would be unconstitutional. The Governor then vetoed it.

<sup>2</sup> However, the House of Representatives in a 171 to 50 vote has overridden Gov. Sargent's veto. The bill had reflected a statewide referendum of last year in which the voters favored by four-to-one classroom prayers and meditation.

A different opinion, however, has been expressed by Dr. James D. Hunt, professor of religion at Shaw University, Raleigh, N. C., after living in England for a year where his own young children attended British schools. Religious education is a required subject in Britain's public elementary and secondary schools, but the results would "suggest that compulsory religion in the schools is proving to be a very dubious benefit for the churches," according to Hunt.

"Religion has been established in an apparently secure and permanent place in British schools, but at the cost of diminishing the vitality of the religious institutions themselves," Hunt concluded.

#### CATHOLICS REACT AGAINST SUPREME COURT SCHOOL AID DECISION

The U. S. Supreme Court ban against most of the current plans to provide public aid to private church schools has left Roman Catholic leaders bitter and bewildered but determined to find solutions for the financial plight of their schools.

(See page two for an analysis of these decisions by James E. Wood, Jr., executive director of the Baptist Joint Committee on Public Affairs.)

Charles M. Whelan, S. J., professor of law at Fordham Law School and consultant to the Office of General Counsel of the United States Catholic Conference, wrote an analysis of the June 25 Supreme Court decisions in the July 7 issue of *America* magazine. He said, "The Court served clear notice that it will continue to strike down any program that contains the potential for massive subsidies, direct or indirect, for education in parochial schools. . . . Any law whose intended consequence is to preserve and support religion-oriented institutions is unconstitutional."

After analyzing what the Court did and did not do concerning public aid to parochial schools, Whelan said that the primary argument against such aid was the "effect" argument, that is, if the effect of a public program is to aid religiously oriented elementary and secondary schools it is unconstitutional.

He then concluded: "That narrow channel, I think, will prove too narrow in the

immediate future for any new programs specially designed to insure the survival, much less the well-being, of nonpublic elementary and secondary schools. We are going to have to make it, at least for the time being, on our own and with the familiar forms of governmental assistance."

In other Catholic circles the Court's decisions were blasted as "anti-Catholic prejudice," attempts to stifle dissent, and denial of "religious rights."

Fr. Virgil C. Blum, S. J., president of the newly formed Catholic League for Religious and Civil Rights, according to National Catholic news service, called those on the Supreme Court who voted against aid to parochial schools "Watergate Jurists." He charged that the court's preoccupation with the number of Catholic schools caused it to use "questionable reasoning" to strike down laws that would provide assistance to parents.

A lengthy analysis by the Office of General Counsel, U. S. Catholic Conference, charged that the High Court's argument that school aid would cause "political divisiveness" is a "scarecrow" and was only included in the decision "as an attempt by the Court to silence the school aid issue."

In a statement accompanying the General Counsel analysis, Cardinal John Krol of Philadelphia, president of the National Conference of Catholic Bishops, said that the political divisiveness argument "as it stands, . . . endangers the religious liberty of everyone."

The executive board of the New York State Federation of Catholic School Parents describes the U. S. Supreme Court as "monopolistic" and "unjust" and that its anti-parochial school aid decision is a "denial of a religious right."

The board, in a meeting delayed to "let passions cool," charged that the Court's decision is a "grievous error" and will eventually foster a "monopoly in education" and a philosophy of "secular humanism" which are completely opposed to constitutional guarantees of religious freedom.

In Harrisonburg, Pa., Attorney William B. Ball, who argued unsuccessfully before the Supreme Court in behalf of the Catholic schools, said that if the justices of the Supreme Court are seeking to suppress "controversy" by its school aid decisions, they had better get ready for the opposite result.

Mr. Ball has filed a petition before the Court for a rehearing in the case of *Lemon v. Sloan* in which a Pennsylvania law was ruled unconstitutional for reimbursing parents for a portion of the tuition paid to parochial schools.

Meanwhile, Roman Catholic educators in various parts of the country, reluctantly accepting the fact that no major public aid to their schools will be available in the near future, are feverishly working on ways and means to bolster sagging parochial school

enrollment and financial support. Most of them are dedicated to the belief that some way will be found to save their schools, even if it requires basic changes in their school systems.

#### DISCIPLES FAVOR AMNESTY

ST. LOUIS—Complete and unconditional amnesty for young men who violated draft laws during the Vietnam war era was endorsed here by the General Board of the Christian Church (Disciples of Christ).

Before unconditional amnesty becomes official denominational policy, affirmative action is required by the Disciples General Assembly, which will meet Oct. 26-31 in Cincinnati.

The General Board said that amnesty for draft violators, with the single exception of persons convicted of violence, is consistent with the teachings of Jesus Christ and would be a way of binding up the nation's wounds after Vietnam. (RNS)

#### PERSECUTION IN KOREA

When the Christian churches get around to writing the incredible story of their present-day witnesses and martyrs, the Christians of South Korea will stand high among the "profiles in courage" that will fill the book. While accounts of bravery and faith abound in Latin America, Asia, Africa and even in the United States and other so-called advanced nations, it takes a special kind of courage to go up against the government of Park Chung Hee.

In a document now circulating outside South Korea, a group of Christians there have denounced the alleged police-state terrorism of the regime. In what they call a "Theological Declaration," the anonymous Korean churchmen charge that "there is neither freedom of speech nor freedom of silence. Worship services, prayer meetings, the content of sermons and prayers and—above all—the teaching of the Bible—all have been constantly and unjustly interfered with." The theological statement dares to call for withdrawal of public support from the regime, and for the building of "various forms of solidarity" in order to win democracy for South Korea.

A number of clergymen have been arrested, along with members of the Student Christian Movement, and some are charged with attempting to "overthrow the Government by force." The charges are not apparently linked to the theological declaration, but rather to church success in organizing the poor people of Seoul to resist destruction of their shanties to make way for a subway.

American and Japanese church leaders have hastened to South Korea to express international concern over the situation, and support funds for the prisoners are being provided. (Newscrip)

## Parochial Schools again Denied Public Funds

(Continued from page 2)

eligible taxpayer parent was entitled to deduct a stipulated sum from his adjusted gross income for each child attending a nonpublic school, provided one's adjusted gross income was less than \$25,000 per year. Here the Court found that special tax benefits violated the principle of neutrality of the state toward religion, as "established by the decisions of this Court." "To the contrary, insofar as such benefits render assistance to parents who send their children to sectarian schools, their purpose and inevitable effect are to aid and advance those religious institutions."

Here again, as in the other two New York plans, the Court declared that "the system of providing income tax benefits to parents of children attending New York's nonpublic schools also violates the Establishment Clause because, like the tuition reimbursement program, it is not sufficiently restricted to assure that it will not have the impermissible effect of advancing sectarian activities of religious schools."

Since all three of these New York financial aid programs to nonpublic elementary and secondary schools were ruled as having the "impermissible effect of advancing religion," Justice Powell observed, "We need not consider whether such aid would result in entanglement of the State with religion."

### Testing and Mandated Services

The Court also ruled on a 1970 New York program which allocated \$28 million annually to reimburse nonpublic schools for educational testing and other "mandated services" imposed by the state on nonpublic schools. Qualifying schools were to receive \$27 per pupil in grades one through six, and \$45 for those in grades seven through twelve. The schools were not required to account for the monies received or how the monies were spent.

In an 8 to 1 decision, *Levitt v. Committee for Public Education and Religious Liberty*, the Court ruled the program unconstitutional as an "impermissible aid to religion, contravening the Establishment Clause, since no attempt is made and no means are available to assure that internally prepared tests, which are 'an integral part of the teaching process,' are free of religious instruction and avoid inculcating students in the religious precepts of the sponsoring church."

Writing for the Court, Chief Justice Burger observed that tests "are an integral part of the teaching program" and therefore in "an area where the Court guards most carefully against church-state involvement."

### Parent Reimbursement Act

In *Sloan v. Lemon*, the Court ruled as also unconstitutional, 6 to 3, a Pennsyl-

vania law, the Parent Reimbursement Act for Nonpublic Education, which was designed to reimburse parents of nonpublic school pupils for part of their tuition expense. The act provided that parents were entitled to receive \$75 for each dependent enrolled in an elementary school and \$150 for each dependent in high school.

The Court found "no constitutionally significant difference between Pennsylvania's tuition grant scheme, with its intended consequence of preserving and supporting religion-oriented institutions, and New York's tuition reimbursement program held violative of the Establishment Clause." However, here the Court specifically noted that the state "has singled out a class of its citizens for a special economic benefit. Whether that benefit be viewed as a simple tuition subsidy, as an incentive to parents to send their children to sectarian schools, or as a reward for having done so, at bottom its intended consequence is to preserve and support religion-oriented institutions."

### A Significant Reminder

The conclusion of the *Sloan v. Lemon* case ends with this significant reminder to those whose almost sole concern is simply finding ways of obtaining public funds for nonpublic schools: "If novel forms of aid have not readily been sustained by this Court, the 'fault' lies . . . with the Establishment Clause itself. . . . With that judgment we are not free to tamper . . . the Amendment's proscription clearly forecloses Pennsylvania's tuition reimbursement program."

Many Americans who are genuinely supportive of both the right and role of church schools in our free society are nonetheless deeply convinced of the rightness of the Court's decisions in view of the meaning and significance of the Establishment Clause of the First Amendment for the future of both the church and the state in America.

Of the First Amendment's separation of church and state, Justice Powell observed that it has been "regarded from the beginning as among the most cherished features of our constitutional system," and this concept, he noted, must prevail against the "most appealing" arguments for benefits which inescapably go to the support of church schools.

### RELIGIOUS 'DEPROGRAMMER' ACQUITTED

NEW YORK—Ted Patrick, the black "deprogrammer" of youthful members of religious sects, has been acquitted by a Manhattan Criminal Court of a charge of unlawful imprisonment.

The specific case before the jury involved an incident last Jan. 29, in which Mr. Patrick allegedly helped the parents of

young Daniel Voll, a member of the New Testament Missionary Fellowship, to abduct their son from a Manhattan street. The incident occurred two weeks before young Voll's 21st birthday.

In his charge to the jury, Judge Bruce McMarian Wright said that "in order for the people to establish the commission of this crime, it is necessary that they prove beyond a reasonable doubt, that this defendant restrained the complainant, Daniel Voll, in such a way that Daniel Voll's liberty of movement was interfered with in some deliberate and intentional manner and against the wishes of Daniel Voll and without any justification whatsoever."

During the trial Dean M. Kelley, director of civil and religious liberties for the National Council of Churches, testified for the prosecution against Mr. Patrick. Among other things, Kelley said that a religious group such as the Fellowship can meet the needs of certain individuals "and be a real salvation in more ways than spiritual." He described it as a group whose members are intensely committed, willing to suffer and even to die for their convictions.

Kelley said that to use force to compel a person to leave such a group "would be one of the most serious offenses against religious liberty that I could think of." (RNS)

### AUSTRALIAN ENVOY TO VATICAN

CANBERRA—Lloyd Douglas Thomson, a long-time career diplomat, has been named Australia's first Ambassador to the Vatican. Agreement to establish full diplomatic relations between the Vatican and Australia was reached last March. (RNS)