Report from the Capital

MARCH
APRIL
1974

Baptist Joint Committee Takes Position On Equality of All Persons Under Law

WASHINGTON—The Baptist Joint Committee on Public Affairs in semiannual session here took action on equal rights for all persons, integrity in government and tax policies affecting churches and religious institutions.

Maintained in the nation's capital by eight Baptist denominations in the United States and one in Canada the Baptist Joint Committee is instructed "to act in the field of public affairs whenever the interests or rights of the cooperating conventions" become involved. James E. Wood, Jr. is executive director of the Committee.

Although Baptists and the Baptist Joint Committee have historically defended religious liberty for all and have stood for human and civil rights, for the first time the Committee voted on a comprehensive policy position on equal rights. In response to a recommendation by Wood, it was voted "that the Committee affirm the equality of all persons under law without respect to race, religion, color, sex, or national origin."

The Committee felt that in taking this action it was implementing the long-held views by Baptists on religious liberty, human dignity and justice for all people. "Baptist witness to the gospel in public

(See, BAPTIST, page 5)

Correction

Bob Jones' Tax Exemption 'Questioned,' Not 'Revoked' as Previously Reported

In the February issue of *Report From The Capital* we made an error in our news report on the Bob Jones University tax case that was argued before the United States Supreme Court on January 7, 1974. We regret the error and are happy to publish the following correction.

Report From The Capital was in error when it stated: "The University's tax exempt status was *revoked* in 1970 because of the school's policy of denying admission to black students solely on racial grounds."

Bob Jones III, president of the University, wrote to the Baptist Joint Committee concerning this sentence, "This is totally untrue and puts the University in a most unfortunate position."

The error was in the use of the word "revoked." The word to use in this connection is "questioned."

The correct statement would thus read as follows: "The University's tax exempt status was *questioned* in 1970 because of the school's policy of denying admission to black students solely on racial grounds."

In order for our readers to understand precisely the tax status of Bob Jones University we print below a lengthy quotation from the memorandum of Erwin N. Griswold, Solicitor General of the United States. He summarized the Bob Jones University tax situation in his memoran-

(See, BOB JONES, page 5)

Religious Coalition Formed for Integrity in Government

WASHINGTON—Nineteen religious leaders of Protestant, Catholic, Jewish and other groups and denominations announced here formation of the Religious Committee for Integrity in Government, a non-partisan interfaith committee of Washington-based religious staff persons.

Sponsors making the announcement were James Armstrong, Bishop of the Dakotas Area of the United Methodist Church; Rabbi Alexander Schindler, President of the Union of American Hebrew Congregations; and William P. Thompson, Stated Clerk of the General Assembly of the United Presbyterian Church, U.S.A.

Among those listed as members of the Washington committee are James E. Wood, Jr. executive director of the Baptist Joint Committee on Public Affairs and John W. Baker, associate director in charge of research services of the Baptist Joint Committee.

Expressing his personal concern about the crisis in government, Wood said,

(See, COALITION, page 7)

House Unit Concludes Hearings on Amnesty

By Stan Hastey

WASHINGTON — More than thirty persons representing numerous groups presented testimony here before a congressional subcommittee considering amnesty legislation.

The proposals include universal and unconditional amnesty, no amnesty at all, and various forms of conditional amnesty.

U. S. Representative Robert W. Kastenmeier (D.-Wis.), chairman of the subcommittee, stated at the outset of three days of hearings:

"Now that some time has elapsed since the end of our country's direct military involvement in the Vietnam conflict, it ought to be possible to examine rationally the question of whether or not amnesty should be granted to those who refused to serve."

Several religious groups, including the National Council of Churches, the U. S. Catholic Conference, and the American Jewish Congress appealed for broad legislation which would grant amnesty to draft resisters and evaders, deserters, exiles, and veterans who have received less than honorable discharges.

W. Sterling Cary, president of the National Council of Churches, cited the na-

(See, AMNESTY, page 7)

From the Desk of the Executive Director

Baptist Legacy of Religious Liberty

By James E. Wood, Jr.

Baptists stand in great need today of rediscovering and reaffirming the principle of religious liberty as integral to the mission of the church and to the integrity of the church's witness in public affairs. Nothing is more central to Baptist history and faith than the Baptist legacy of religious liberty, a legacy which ultimately recognizes that religious liberty cannot be given by the state but must be exercised by the church.

Wood

I

The conspicuous role of Baptists in the cause of religious liberty has been called the greatest contribution of Baptists to Christianity.

Writing a century ago, the distinguished historian, George Bancroft, affirmed that "the paths of Baptists were the paths of freedom." An important source of our heritage of religious liberty, Cecil Northcott wrote, "lies in the witness of the Baptist churches whose devotion to this idea, through years of persecution in Protestant Europe, makes their place a foremost one in the history of liberty."

More recently, Leo Pfeffer, a Jewish scholar, has acknowledged the role of Baptists in America as "the denomination by far most vigorous in the struggle for religious freedom and separation of church and state." "This contribution," former Chief Justice Charles Evans Hughes said, "is the glory of the Baptist heritage, more distinctive than any other characteristic of belief or practice. To this militant leadership all sects and faiths are debtors. . . ." Certainly one does not have to look long into Baptist history to discover that religious liberty is the most prominent part of the legacy of Baptists.

II

Although religious liberty is readily conceded to be one of the cardinal principles of Baptists, historically, the principle all too often appears obscure to, or at best taken for granted by, many modern day Baptists.

Writing 40 years ago, John M. Mecklin declared, "The great Baptist church in large sections of this country (U. S. A.), where it practically dominates the religious life of the masses, is utterly oblivious of its noble traditions of liberty formulated by Baptist heroes of the past." Written some years before the actual establishment of the Baptist Joint Committee on Public Affairs, Mecklin's observation is a painful reminder of a lack of visible Baptist concern for religious liberty, frequently in those very places where Baptists have come to have a virtually dominant position in the religious community.

Some years ago, Anson Phelps Stokes in his monumental work, *Church and State in the United States*, made a similar observation concerning Baptists. While Stokes paid glowing tribute to the historic role of Baptists in religious liberty, he observed that the principle of religious liberty has been far less descriptive of Baptists in recent times than their early espousal of the principle might suggest.

"No denomination," he wrote, "has its roots more firmly planted in the soil of religious freedom and church-state separation than the Baptists." Nevertheless, Stokes concluded, "The Baptists today are typical of those groups who have fought heroically to secure their own freedom from state interference and would fight again to maintain it; but in freedom of thought and teaching, or even freedom for certain other groups, such as Roman Catholics on the one hand, and liberal theologians on the other, their record has not been so uniformly good."

These appraisals by non-Baptist scholars are not without profound significance for Baptists in the United States today.

III

The denominational status enjoyed by Baptists in 20th century America always needs to be seen as a potential threat to an authentic Baptist witness to religious liberty and a Baptist witness in public affairs.

Clearly, the status of Baptists in the United States today is radically different from what it was in 17th century England or colonial America. While these differences are readily manifest they must be kept in mind when reviewing Baptist thought on religious liberty. In less than 200 years Baptists have moved from a position of a largely persecuted and disinherited sect to the largest Protestant denomination in the United States, comprising almost one-eighth of the total population. Denominationally, Baptists have become large and organizationally strong, with considerable economic resources and numerous denominational institutions. In certain sections of the country, Baptists, as the dominant and largest single religious community, have come to be regarded as socially established.

With this status, Baptists have readily become identified, in the minds of many, with conservative and entrenched power structures and as ardent defenders of the status quo. To the degree that there has been an alliance with the prevailing power structures of the society, the prophetic voice of Baptists has been muted not only on behalf of religious liberty but also in the whole area of public affairs.

Any priority for religious liberty or authentic Baptist witness in public affairs will inevitably be lessened to the extent that Baptists give primary attention to denominational structures, patterns of authority, and doctrinal orthodoxy as such. To express it another way, true Christian witness in public affairs is necessarily threatened whenever creedalism and ecclesiasticism become basic concerns of a given religious community.

History attests that religious liberty has been the concern especially of persecuted and disinherited religious minorities, not of powerful and dominant majorities. Vigilance is always needed to give visible expression to our professed Baptist commitment to religious liberty and Baptist witness in public affairs, and to do so always on behalf of the sanctity of persons and human rights.

The Baptist Joint Committee on Public Affairs thereby serves as a constant reminder to its member bodies of our legacy of religious liberty and Christian witness in public affairs. God grant that Baptists may never become alienated from what must be regarded as the noblest and most distinguished principle of this legacy—the freedom of the church to be the church!

washington observations

news views trends

March 18, 1974

SIX MAJOR HEALTH CARE PROPOSALS now confront the Congress. The newest is President Nixon's Comprehensive Health Insurance Plan (CHIP), which was sent to "The Hill" in February. The President claims for CHIP (S. 2970 and H. R. 12684) that it is far superior to the other plans that have been in the legislative hopper for some time. The other groups, however, quickly deny the advantages of the President's plan over theirs.

THE OTHER MAJOR PLANS already before the House Committee on Ways and Means and the Senate Finance Committee are: Health Security Act (S. 3, H. R. 22, H. R. 23), Health Care Insurance Act or "Medicredit" (S. 444, H. R. 2222), Catastrophic Insurance and Medical Assistance Act (S. 2513), Health Care Reorganization and Financing Act (H. R. 1) and National Healthcare Act (S. 1100, H. R. 5200).

THE OUTLOOK FOR COMPLETED ACTION on a national health care bill this year is not too bright, although the problem is almost sure to emerge as one of the year's major issues. The House Ways and Means Committee already is preoccupied with the issues of windfall oil profits and tax reform. It will be at least late spring or summer before the Committee can come to grips with health care. In the Senate, hearings may begin earlier than House action.

ALTHOUGH PRESIDENT NIXON has urged enactment of a health care bill during this session of Congress, Washington observers doubt that this can be done prior to the fall elections. In any event, the nation in the not-too-distant future will most likely be confronted with a decision on a national health care program.

ELEMENTARY AND SECONDARY EDUCATION is receiving major attention in both Houses of Congress. Before this issue of Report From The Capital reaches its readers the House will have acted on H. R. 69. The Senate Labor and Public Welfare Committee has cleared an educational bill (S. 1539) which will be up for floor debate in the near future.

A STICKY CHURCH-STATE PROBLEM in both the House and Senate versions of the ESEA Amendments Act of 1974 is called the "bypass" provision. Present law provides that a local educational agency must, to the extent consistent with the number of educationally deprived children in the school district enrolled in private schools, provide for special educational services and arrangements in which such children can participate.

THE BYPASS AMENDMENT provides that where a local educational agency is prohibited by law from providing for the participation of such students, the Commissioner of Education may waive the requirement but must himself arrange for the provision of such services to such children. Similarly, if the Commissioner determines that a local educational agency has failed to provide for participation on an equitable basis of such children, he must arrange for the provision of such services to them. The Commissioner is to pay the cost of such services from the appropriate allocations. The House and Senate versions of the "bypass" are not identical, although they are almost so. Both achieve the same end.

Churches Using the State

Baptists Oppose State Power for Religious Purposes

By John W. Baker

For many years prior to 1972 the three federal military academies required that all cadets and midshipmen attend religious worship services every week. There were Protestant, Catholic, and Jewish services and any person who did not fall into one of those categories was assigned, on a random basis, to one of them. During his attendance at the academy, the student was required to attend those services to which he was assigned.

Baker

Though there had been an undercurrent of opposition in the academies to this form of compulsory religion, it was difficult, for obvious reasons, for cadets or midshipmen to agree to take the Secretary of Defense to court in an attempt to end the practice.

One of those who finally brought a suit, *Anderson* v. *Laird* 466 F 2d 283 (C.A.D.C. 1972), was a Baptist who acted on the traditional Baptist position in opposition to compulsory religion.

The testimony and the decision when the case was first heard before the United States District Court for the District of Columbia shocked many Christians and Jews. The testimony of high ranking military men was reflected in the court's opinion that compulsory attendance at worship services was merely the use of religion by the state to achieve a purely secular end.

On appeal to the United States Court of Appeals a number of religious groups, including the Baptist Joint Committee on Public Affairs, filed *amicus curiae* briefs supporting the cadets and midshipmen and opposing the state's use of religion for purely secular or any other purposes.

Though there was a revulsion to the idea of the state using religion to achieve the state's secular ends, the religious community often has been much less disturbed by the attempts of its own members to use the coercive and financial power of the state to achieve what are basically religious ends. Three current examples are illustrative.

Religious Devotions in School

The Prayer Amendments: The Supreme Court in the *Vitale* and *Schempp* cases ruled that neither the federal government, the states and their political subdivisions, nor agents of any of these governmental units could require, prescribe, approve or provide for prayers or religious devotions in the public schools. Many individuals and school boards mistakenly felt that both the teaching about religion and acts of voluntary prayer were proscribed by the Court and have overreacted to its decision.

This overreaction is manifested in pressures on Congress to amend the Constitution in such a way that government could once more write and require prayers and devotions in the schools. This is done in the name of "voluntary" prayers.

At present a student in a public school may pray. In so doing he determines what he prays, as well as when, where and how he prays. The only restrictions are that his prayers do not disturb other students or are not forced on others. The proponents of the "voluntary" prayer amendments actually call for prayers or religious devotions determined by or provided for by the state acting through the schools; the "voluntary" aspect involves whether a student chooses to participate or not.

If the organized religious groups are successful in getting such an amendment through Congress and the states they will then be using the coercive power of the state to achieve a religious end.

Public Support for Church Schools

Aid to Parochial Schools: For a number of years some of those churches which operate parochial schools have sought direct and indirect financial aid from government to help meet the costs of their educational systems. Baptists have usually been firm in their opposition to the use of public funds to support a religious ministry.

Direct money grants to parochial schools, tuition grants or "scholarships" to individuals attending parochial schools, tax credits for parents of children in parochial schools, and "bricks and mortar" aid to the schools themselves have been held to be violative of the separation of church and state required by the First Amendment. The Court has said that religion and the religious ministry of a church must not be subsidized by public funds because such subsidies constitute an illegal establishment of religion. In short, this type of use of the government's financial power to achieve a religious end is unconstitutional. Those who support aid to parochial schools generally have not accepted the concept of a strict separation of church and state and argue that children have a right to a religiously oriented education with at least a partial support by government. To this group there is nothing inherently wrong or constitutionally impermissible in using the state to achieve their religious ends.

Day of Worship Set by Law

Sunday Closing Laws: Sunday closing laws—or "blue" laws—were adopted because a dominant Christian majority demanded that state and city legislative bodies approve them. The rationale for such laws sprang from the fact that most Christian religious groups had accepted Sunday as the Sabbath. Then, following biblical injunctions, they insisted that Sunday should be set aside as a day of worship and rest.

When churches which worship on Sunday failed to inculcate their own people with the concept of voluntary observance of a day of worship and rest and relied on laws to achieve Sunday closings, they were using the coercive power of the state to achieve a religious end.

The Supreme Court has upheld Sunday closing laws by declaring that these laws requiring a Sunday Sabbath observance have, over the years, lost their religious character and are now purely secular in nature. If the Court were convinced that the laws were currently resting on a religious base they would be forced to decide against them on the same grounds on which they denied aid to parochial schools.

The Seventh Day Baptists, Seventh Day Adventists, and Jews observe a different Sabbath and can see neither efficacy

(See, CHURCHES USING THE STATE, page 8.)

Bob Jones

(Continued from page 1)

dum for the respondents in the petition for a writ of certiorari by the U.S. Supreme Court. The "petitioner" referred to below is Bob Jones University. Griswold wrote in part as follows:

"In 1970, the Internal Revenue Service announced that it would no longer allow tax-exempt status under Section 501(c)(3) to private schools having racially discriminatory admissions policies, nor would it treat gifts to such schools as tax deductible charitable contributions under Section 170(c)(2) of the Code. The Service also announced that although the nondiscrimination requirement would not affect a school's admissions policies which had no relation to race, the requirement would prohibit allowance of tax benefits to church-related schools which discriminated on the basis of race. (R. 60-62.)

"In November 1970, the Internal Revenue Service addressed a letter to each private school in the United States (including petitioner), which had an individual tax-exemption ruling, seeking information respecting each schools admissions policy regarding race. Petitioner's response, indicating that it had a racially discriminatory admissions policy, set in motion the administrative process for determining whether its tax exemption and deductibility assurance ruling should be withdrawn. (R. 81-82.) After several conferences with officials of the Internal Revenue Service, but before petitioner had exhausted its administrative remedies for protesting the proposed withdrawal of its ruling and the assessment of taxes, petitioner brought the present suit for an injunction. (R. 80-85.) The complaint alleged that petitioner would sustain irreparable injury if its outstanding ruling recognizing tax exemption and assuring deductibility of contributions were suspended or revoked since petitioner would lose large amounts of contributions and would incur roughly $100,000 in accounting expenses in preparation for the assessment of income taxes against it and the contesting of those taxes in litigation. (Pet. App. A-16—A-17.) The suit therefore requested preliminary and injunctive relief on the ground that the policy of the Internal Revenue Service was unconstitutional and unlawful. (R. 9-13.)

"The district court issued a preliminary injunction against the respondent Treasury officials prohibiting them from

(See, BOB JONES, page 7)

Baptist Joint Committee Takes Position

(Continued from page 1)

affairs is greatly enhanced by this step," said Wood in commenting on the Committee's position.

Following up on earlier action by the Baptist Joint Committee, it went a step further and approved affiliation with the newly formed Religious Committee for Integrity in Government. In October 1973 the Baptist Joint Committee issued "A Statement of Concern" about the widespread scandals in government and abuse of political power revealed in the Watergate affairs.

More recently 19 religious leaders of Protestant, Catholic, Jewish and other groups and denominations formed a nonpartisan interfaith committee of Washington-based religious staff persons to work toward integrity in government. The Baptist Joint Committee is now an official member of this coalition.

Five initial objectives of the Religious Committee for Integrity in Government are: (1) clarification of moral issues in the present crisis in government, (2) justice for the President and the American people and an orderly inquiry as to whether grounds exist for the impeachment of the President, (3) campaign reforms, (4) restoration of constitutional checks and balances in the federal government and (5) clarification of moral issues in the coming elections in 1974 and 1976.

In the face of increasing questions concerning the churches and taxation, the Baptist Joint Committee instructed its staff to prepare a position paper on the subject of tax-exempt organizations. To be included in this study will be views on the Internal Revenue Service rule on the percentage of budgets allocated to so-called lobbying activities and other problems relating to continuation of tax exempt status.

The tax status of churches, religious and other charitable agencies has increasingly been questioned in recent years. The Baptist Joint Committee sponsored a national religious liberty conference in 1960 on "The Churches and American Tax Policies." Several similar consultations have taken place in the states on the same subject. Religious agencies and institutions have been investigated by the Internal Revenue Service, some have had their tax status challenged, and others have cases pending in the courts.

In 1969 the Baptist Joint Committee issued a policy statement on the taxation of church property, which declared: "Any claim which churches may make for exemption from the payment of taxes or for special tax status must be based on either (1) the concept of religious liberty or (2) the concepts of equality or equity."

The new attempt to arrive at a policy position by the Baptist Joint Committee on taxation will be much more comprehensive than anything it has stated in the past.

In other actions at its semiannual meeting the Baptist Joint Committee:

- Set October 7-9, 1974 as its 35th anniversary meeting and instructed its staff to prepare an appropriate observance of the event;
- Expressed concern that the public did not yet understand the Supreme Court's decisions on prayer and Bible reading in public schools. (The Committee instructed the staff to continue its efforts in explaining these decisions and in making positive suggestions toward the proper relationships between religion and public education);
- Passed resolutions of appreciation for four former members of the Baptist Joint Committee for their long years of service to the Committee (Alma Hunt, Southern Baptist, 16 years, Theodore F. Adams, Southern Baptist, eight years, Francis Hensley, American Baptist, 8 years, and Homer Tucker, American Baptist, 10 years); and
- Recognized that the assignment to the Baptist Joint Committee on Public Affairs was complex and far-reaching, and voted that the staff continue to give top priority to issues relating to religious liberty and separation of church and state. This was interpreted to mean a reaffirmation of the continuing activity of the staff in public issues as assigned to the Committee by the sponsoring denominations.

Two highlights of the meeting of the Baptist Joint Committee on Public Affairs were "off the record" meetings with Sen. Birch Bayh (D., Ind.) and Jerome Ziefman, general counsel for the House Committee on the Judiciary. Bayh discussed three proposed constitutional amendments: prayer amendment, anti-abortion amendment and anti-busing amendment.

Ziefman explained the procedures being followed by the House Judiciary Committee in the impeachment investigation of President Nixon. (BPA)

Court Rules Against CO Benefits

WASHINGTON—The U. S. Supreme Court ruled on March 4 that conscientious objectors are not entitled to educational benefits under the Veterans' Readjustment Act of 1966, even if they have engaged in alternate civilian service.

In announcing its decisions, the High Court struck down the contentions in two class action suits that denial of such benefits violated conscientious objectors' constitutional rights under the First and Fifth Amendments.

The conscientious objectors maintained that the Veterans' Administration had deprived them of equal protection under the law and religious freedom by refusing to make educational funds available.

In *Johnson* v. *Robison*, the Court held by an 8-1 majority that both "quantitative" and "qualitative" distinctions exist between the disruption caused by active military service and that caused by alternative civilian service.

In addition, the Court insisted that "by providing educational benefits to all military veterans who serve on active duty Congress expressed its judgment that such benefits would make military service more attractive to enlistees and draftees alike."

The Court disagreed with the claim that refusal to provide educational funds to CO's violated their religious freedom. It held that such a policy "involves only an incidental burden upon appellee's free exercise of religion—if, indeed, any burden exists at all."

Furthermore, the Court declared that the act challenged had not been designed to interfere with the free exercise of religion, but rather to promote incentive for active military service.

Associate Justice William O. Douglas filed a dissenting opinion, claiming that "government . . . may not place a penalty on anyone for asserting his religious scruples."

The second case, *Hernandez v. Veterans' Administration*, in which the same act of Congress was challenged, was decided in favor of the government by a unanimous Court.

'Reverse Discrimination' Argued in Court

WASHINGTON — Oral arguments were presented before the U. S. Supreme Court February 26 in a case which could produce far-reaching effects in admissions policies of graduate and professional schools and in affirmative action programs.

Michael DeFunis, the appellant, contends that his denial to admission in 1971 at the University of Washington School of Law was an instance of "reverse discrimination."

The law school has practiced for some time a policy of granting admission to members of minority groups whose numerical scores are lower than those of many white applicants.

DeFunis's attorney, Josef Diamond of Seattle, reminded the High Court that his client was a *magna cum laude* graduate of the University of Washington, that he had attained a 3.71 grade point average during his junior and senior years, and that he had earned a Phi Beta Kappa key.

He argued that the law school had in effect set up two classes of applicants, non-minority and minority. While 60-70% of Blacks, Chicanos, American Indians, and Philippine Americans had been admitted, less than ten per cent in the non-minority class had been chosen.

Meanwhile, DeFunis has been attending the law school under a court order pending the outcome of his case and is due to graduate this spring.

Slade Gorton, attorney general of Washington, argued that a "pluralistic society" demands that criteria other than mechanical data must be allowed in admissions policies.

He pointed out that between 1902 and 1969, only twelve of 3812 graduates of the Washington law school were Blacks. Further, he contended that if the law school had admitted only those with the highest scores the year DeFunis applied, only one minority group individual would have been accepted.

He concluded that no one has a constitutional right to be admitted to law school.

The significance of this case, which was argued before an overflowing court room, extends beyond admissions policies in law schools.

At stake also is the question of how much flexibility graduate and professional schools are allowed in increasing minority representation in their student bodies. This question extends to private schools receiving federal assistance as well as public institutions.

Hatfield Replies to Editorial on Senate-Proposed Prayer Day

(Editor's note: The January issue of *Report From The Capital* carried a news story on Senator Mark Hatfield's Senate Joint Resolution calling for a National Day of Humiliation, Fasting and Prayer. The same issue carried an editorial challenging the role of the government in calling the nation "back to God." Prior to publication the editor sent Sen. Hatfield a copy of the news story and the editorial. This is the Senator's response.)

March 7, 1974

Dear Mr. Garrett:

It was with great interest that I read the recent editorial in your organization's January edition of *Report From The Capital* concerning the proposal for a National Day of Humiliation, Fasting, and Prayer. The follow-up column by William Willoughby in the *Star-News* prompted me to write to you personally and explain the reasons for my action and respond to your statement that this resolution was a return to a civil religion which I have earlier criticized.

My primary concern with a civil religion which merely blesses the status quo is that such a faith leaves no room for a prophetic judgment of the society. Perspective is lost, and all opposition to existing conditions become heresy. By putting ourselves beyond the reach of God's judgment, we essentially declare that we have no ultimate need for His forgiveness. I sincerely believe that the resolution which I have proposed did not compromise this fundamental tenet of biblical faith. It was rather an attempt to affirm that we, as a nation, are subject to the same judgments that the prophets spoke of so dramatically.

Obviously, government action cannot bring about national repentance. Repentance, of course, does not depend upon Congressional mandate. However, I have been extremely encouraged by the many church groups that have seized this opportunity to formulate important initiatives in their own communities. My purpose through all of this was to help stimulate people in this nation to consider our corporate relationship to the Creator. I am encouraged by the sign that this has begun to occur.

Although I regret our disagreement on this matter, I am grateful for the benefit of your thoughts.

Sincerely,
Mark O. Hatfield
United States Senator

Amnesty

(Continued from page 1)

tional body's concern for all those who suffer because of the Vietnam war—families of those killed, wounded and disabled, prisoners of war, and missing-in-action. He further stated, however, that the NCC favors universal and unconditional amnesty:

"(It) would be a clear and simple act which could begin to unite us and signal our desire to live at peace with one another, to build rather than divide."

Spokesmen for Clergy and Laity Concerned, the Friends Committee on National Legislation, and the Church of the Brethren also testified in support of full and unconditional amnesty.

Other groups advocating amnesty at the hearings were the American Civil Liberties Union, the Central Committee for Conscientious Objectors, Gold Star Families for Amnesty, Project Safe Return, the National Urban League, Americans for Democratic Action, and Wisconsin Amnesty Project.

Speaking in opposition, Leon Ulman, of the U. S. Department of Justice, challenged Congress' authority to pass legislation granting amnesty.

Citing historical and legal precedents, Ulman insisted that only the President has the authority to grant amnesty. "Congress cannot," he stated, "interfere with the exercise of that power."

The general counsel of the Selective Service System, Walter H. Morse, argued that granting amnesty would have a "disruptive effect in the future" if another major war called for a military draft.

Fred E. Darling, of the Non-Commissioned Officers Association, compared draft evaders and deserters to murderers.

"To let them return to the country they have shunned," he stated, "is a slap in the face to the millions of men who were drafted, who were wounded, who were maimed, or who were killed in a bloody, unpopular war."

He concluded that "the good God calls upon us to be merciful—to forgive our trespassers—but He did not mention 'amnesty'."

Others testifying against the proposed legislation were representatives of the Veterans of Foreign Wars, the American Legion, and Young Americans for Freedom.

Advocating a middle position were Senator Robert Taft, Jr. (R.-Ohio) and Robert F. Froehlke, former Secretary of the Army.

Taft asserted that Congress does have the power to enact amnesty legislation in that it may "immunize a general class of individuals from prosecution."

He argued that a bill he introduced last December, the Earned Immunity Act, does not consider the question of whether draft resisters were right or wrong, or whether the United States should have been engaged in Vietnam.

"Rather," he said, "consideration should be given to the issue of establishment of a practical method whereby an estimated 30,000 individuals could return to this country or cease to be fugitives without creating further division among Americans."

Taft's bill calls for up to two years' enlistment in the armed forces or in "alternative service contributing to the national health, safety, or welfare."

In his statement before the subcommittee, Froehlke also argued for a blanket conditional amnesty for draft evaders, but held that deserters should be considered on a case-by-case basis.

He endorsed the idea of military or alternative service "as an obligation and privilege not punishment."

Such conditional amnesty should be granted, he concluded, to "help heal the hurt this nation has suffered." (BP)

Coalition for Integrity in Government

(Continued from page 1)

"Surely there never was a time in which the need was greater . . . for giving visible evidence of concern for integrity in government. The events of the past year," he added, "constitute an unprecedented American tragedy."

Wood stated that the current governmental crisis marks the "dark ages of public affairs" and warned that without integrity in public office, no credibility or confidence on the part of the public is possible.

The Baptist leader underscored the newly-formed committee's positive function, insisting that in no way should its purpose be seen as seeking a vendetta against the President. Rather, its formation signals the beginning of an effort to bring cleansing to the nation's political processes.

Appearing at a news conference, the sponsors of the committee said that it will work for five initial objectives:

1. Clarification of critical moral issues in the present crisis. "The current crisis is clearly a moral as well as a constitutional one," they said. "The religious community has a unique obligation to clarify the critical moral issues involved."

2. Justice for the President and the American people, including support of an orderly and expeditious inquiry by the House Judiciary Committee as to whether grounds exist for the impeachment of the President.

3. Campaign reform, including public financing of election campaigns. The committee voted this week, in its first official action, to support the campaign reform bill recently introduced in Congress.

4. Restoration of constitutional checks and balances in the federal government, including a challenge to the impoundment of funds and the abuse and improper assumption of authority on the part of some law enforcement agencies.

5. Clarification of critical moral issues facing citizens in the elections of 1974 and 1976. (BPA)

Bob Jones

(Continued from page 5)

revoking or threatening to revoke petitioner's existing ruling *pendente lite*. (Pet. App. A-21—A-22.) The court of appeals reversed, holding that the district court had no jurisdiction to hear the suit since the action was actually a suit to restrain tax assessment prohibited by the Anti-Injunction Act (Internal Revenue Code, Sec. 7421(a)). The court acknowledged that petitioner would sustain irreparable injury by reason of a decrease in contributions during the period between suspension or revocation of its advance ruling and the conclusion of a Tax Court or refund action. Nonetheless, the court held that petitioner had not satisfied the second prerequisite for an exception to the Anti-Injunction Act prohibition that it show that 'under no circumstances could the Government ultimately prevail' on the merits 'under the most liberal view of the law and the facts.' *Enochs* v. *Williams Packing Co.*, 370 U.S. 1, 7. (Pet. App. A-3—A-7.) On March 21, 1973, the court of appeals denied petitioner's petition for rehearing *en banc*. (Pet. App. A-10—A-12.) On April 3, 1973, the Chief Justice denied petitioner's Application for a Stay of Mandate."

The case was appealed to the U. S. Supreme Court, certiorari was granted, and arguments were heard on January 7, 1974. The Supreme Court has not yet handed down its opinion or ruling.

Senate Acts on Death Penalty

WASHINGTON—The U. S. Senate passed a bill (S. 1401) by a vote of 54-33 to restore the death penalty upon conviction of certain federal crimes.

The bill, which now goes to the House of Representatives for action, is an attempt to enact conditions for capital punishment which will overcome the objections set forth by the U. S. Supreme Court.

In 1972 the Supreme Court held that the death penalty as administered in the United States was invalid and unfair because judges and juries had so much discretion in imposing the penalty that inequity and injustice often resulted. Some convicted criminals were executed for crimes for which others received relatively light prison terms.

Since the 1972 Supreme Court decision, several of the states have re-written their capital punishment laws in an effort to conform to the Court standards. This is the first time the federal legislature has acted on a capital punishment bill since 1972. The Senate in its action approved with modifications the recommendation of the Nixon administration.

The fate of the capital punishment bill in the House of Representatives is rather uncertain. It now goes to the House Judiciary Committee, which is tied up with the impeachment investigation of President Nixon. Unless the House acts on the bill before adjournment this year, the process in both the Senate and the House will begin anew when the 94th Congress convenes in January of 1975.

The Senate bill would make execution automatic if a jury, in a separate hearing following a guilty verdict, found that one or more aggravating circumstances existed in the commission of a federal capital crime and failed to find any factors dictating leniency.

Among the conditions demanding the death penalty are the following:

1. Conviction of treason and espionage if it were a second offense;

2. If a defendant knowingly created a grave risk of substantial danger to national security;

3. If the defendant knowingly created a grave risk of death to another person;

4. If murder were committed in carrying out crimes such as skyjacking, kidnapping, escape from the custody of an officer, delivering defense information to a foreign government, attack on a President and certain other public officials; and

5. Conviction of murder a second time or conviction of two or more federal or state felonies.

The bill also provides a list of mitigating factors, the existence of any one of which would forbid the death penalty. Among them are the following:

1. If the defendant is under 18;

2. If the defendant did not have the capacity to appreciate the wrongfulness of his conduct;

3. If the defendant committed the crime under duress;

4. If he were only a part of a group in which the crime was committed by another; and

5. If he could not have foreseen that his conduct would result in the death of others.

Under no circumstances, according to the bill, would the death penalty be carried out upon a pregnant woman. (BP)

Churches Using the State

(Continued from page 1)

nor equity in Sunday closing laws. They, and much of the rest of the population, see themselves as being unfairly discriminated against by the use of the power of the state by the majority churches.

Provision for constitutional protection of religious liberty is incorporated in the religion clauses of the First Amendment. These require that there be a separation of church and state. Baptists, as a result of their understanding of the scriptures and their struggle for religious liberty generally have supported that doctrine of separation. History clearly shows that other groups consistently have not recognized that religious liberty is an integral part of the whole fabric of American freedom. The latter fail to see the inherent dangers to all liberty in the use of the coercive and financial power of the state to achieve religious ends.

Report From The Capital

Published 10 months each year by the Baptist Joint Committee on Public Affairs, 200 Maryland Ave., N.E., Washington, D.C. 20002. Phone: (202) 544-4226.

The Baptist Joint Committee on Public Affairs (BJCPA) is a denominational agency maintained in the nation's capital by the American Baptist Churches in the U.S.A., Baptist Federation of Canada, Baptist General Conference, National Baptist Convention, National Baptist Convention, U.S.A., Inc., North American Baptist General Conference, Progressive National Baptist Convention, Inc., Seventh Day Baptist General Conference, and the Southern Baptist Convention.

Executive Director: James E. Wood, Jr.

Editor of Report From The Capital, and Associate Director in Charge of Information Services: W. Barry Garrett.

Associate Director in Charge of Research Services: John W. Baker.

Subscription Rates: Individual subscription, $2.50 per year; Club rate for 10 or more, $2.00 each per year; Bulk distribution of 10 or more to a single address, $1.75 each per year.

Report From The Capital
200 Maryland Ave., N.E.
Washington, D.C. 20002

March-April 1974—Volume 29, No. 3