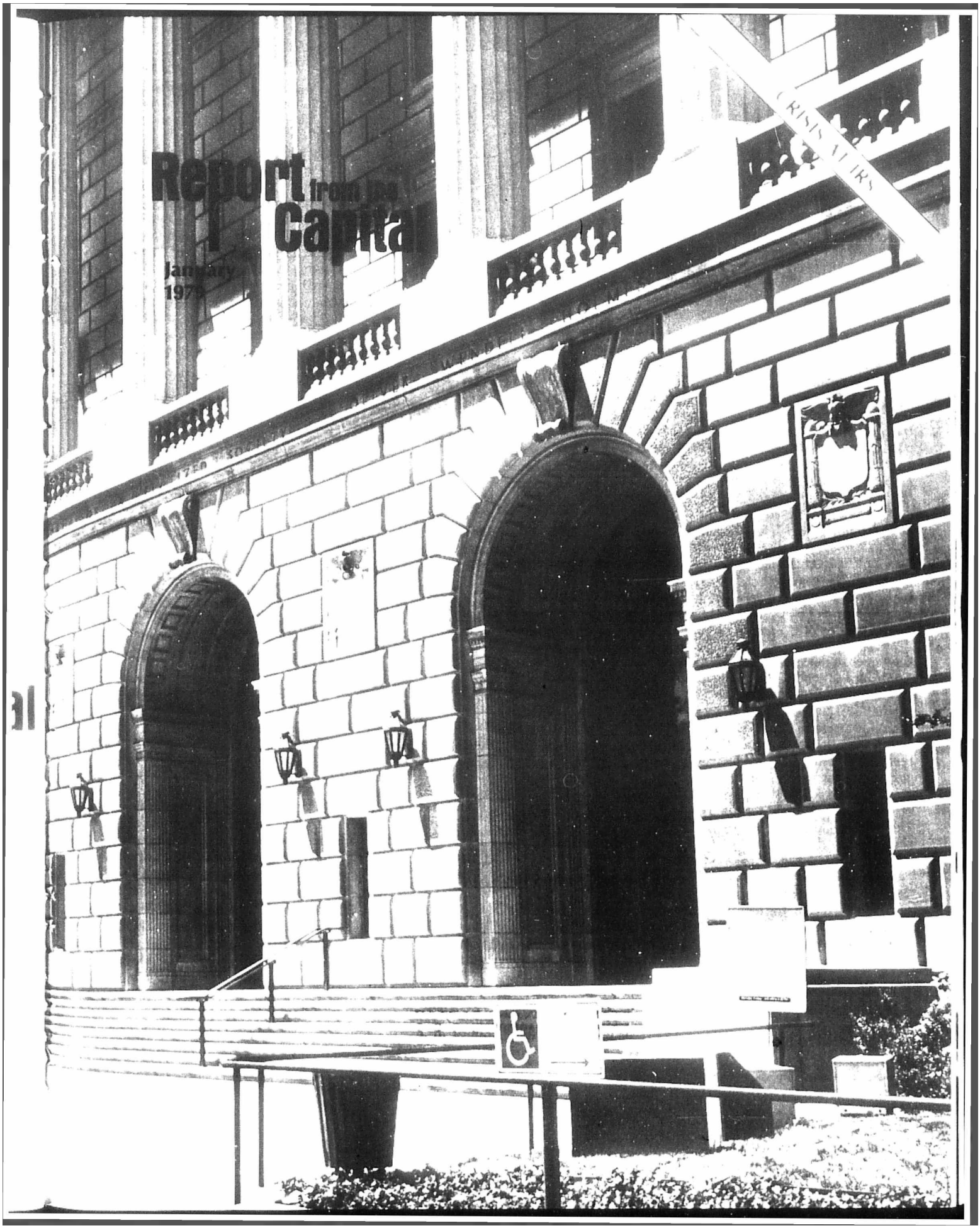
Report from the
Capital
January
1979

From the Desk of the Executive Director

The IRS and Tax-Exempt Schools

By James E. Wood, Jr.

On August 22, 1978 the Internal Revenue Service issued a proposed procedure, along with specific guidelines, for reviewing the tax-exempt status of private schools. The purpose of the proposed regulation is to deny tax-exempt status to those private schools whose enrollments are racially imbalanced when measured by the population of the communities in which they are located and to those schools which do not have an admission policy of racial non-discrimination.

Wood

Responses to this proposed revenue procedure on private tax-exempt schools are reportedly unprecedented in the history of the Internal Revenue Service. More than 115,000 communications on this proposed regulation were received by the IRS, the vast majority of which were in opposition. Four full days of testimony, December 5–8, were scheduled to allow a representative number of organizations and individuals to present oral testimony. Soon after the proposed procedure was issued last August, strong opposition to it was expressed on behalf of the Baptist Joint Committee on Public Affairs. Our formal presentation, by way of oral and written testimony, was made on the first day of public hearings.

The testimony of the Baptist Joint Committee should in no way be construed as an equivocating position with regard to the elimination of racial discrimination throughout American society. Rather, the Baptist Joint Committee has a long-standing commitment to the protection of human rights and to the elimination of discrimination based on race, religion, national origin, sex, or age. Indeed we commend efforts on the part of the government to eliminate racial discrimination in public-financed education, but we are compelled to object to this proposed revenue procedure as it applies to church-related and church-operated schools and, ultimately, to the churches themselves. The application of the proposed revenue procedure to churches and their agencies would be, however, a direct affront to the religion clauses of the First Amendment.

In the testimony, we chose to limit our statement to the questions which the proposed revenue procedure raises for churches and church-related institutions. This was done because in our view the fundamental issue which is raised by the proposed revenue procedure is religious liberty and the separation of church and state rather than the furtherance of a meritorious public policy of abolishing racial discrimination.

While the proposed revenue procedure appears to be based on a general public policy of racial discrimination, the statutory basis is nowhere stated in the proposed regulation. This, in spite of the fact that Section 501(a) of the Internal Revenue Code of 1954 specifically states that an organization described in subsection (c) "shall be exempt from taxation." In addition, the First Amendment severely restricts government in relationship to the churches and thereby places religion in a very special category. Without passing judgment on the competence of the IRS to establish valid educational policy, we maintain that the Internal Revenue Service lacks statutory authorization and legal competence, under the First Amendment, to regulate enrollment policies of either churches or the schools which they operate as an integral part of their religious mission.

There may be some church-related schools which discriminate on the basis of race in their admissions policies. Some of these may discriminate as a result of a strongly held religious belief which is directly related to their church membership policy. Admittedly, these schools' admission and enrollment policies may be reprehensible to many outside the religious communities with which they are affiliated, but an attempt by the Internal Revenue Service to control these policies by a threat to revoke their tax-exempt status or to police the day-to-day admissions and enrollment practices constitutes, we believe, a flagrant violation of the guarantees of the religion clauses of the First Amendment.

Over the past two decades the Supreme Court has consistently (and rightly so) held that parochial schools are religious: i.e., they were established for religious purposes; their curriculum is permeated with religion; and they are considered a part of the religious mission of the church. With this, the Baptist Joint Committee is in complete agreement. In *Lemon* v. *Kurtzman*, the U.S. Supreme Court spoke of the constitutional limitations on statutes—and, obviously, on administrative regulations—which relate to religion: "First, the statute must have a secular legislative purpose; second, its principal or primary effect must be one that neither advances nor inhibits religion; finally, the statute must not foster "an excessive government entanglement with religion." Granting the secular purpose of this proposed revenue procedure, the primary effect test is not met. The threat of losing a statutory grant if a constitutional right is acted upon is manifestly chilling and, therefore, has the effect of substantially inhibiting the churches in what they conceive to be their religious mission.

If the proposed revenue procedure should become the policy of the Internal Revenue Service, a process would be set in motion which would, unconstitutionally, excessively entangle government with religion. In fact, the proposed procedure specifically states, "Mere denial of a discriminatory purpose is insufficient." Indeed, the school must demonstrate that it has enrolled the required quota of minority students or that it is operating in good faith on a racially nondiscriminatory basis. These conditions could not be met on a "one time only" basis. There would, of necessity, be a continual examination of records and activities. Any logical and/or legal definition of "excessive entanglement" would clearly comprehend this kind of oversight and supervision.

In the recent *Bakke* case dealing with an attempt to assure a specified percentage of minority students in a public institution the Supreme Court held, "If petitioner's purpose is to assure within its student body some specified percentage of a particular group merely because of its race or ethnic origin, such a preferential purpose must be rejected not as insubstantial but as facially invalid. Preferring members of any one group for no reason other than race or ethnic origin is discrimination for its own sake." The Court thereby declared that a racial quota system in a secular, state-operated school was unconstitutional on the basis of the Fifth and Fourteenth Amendments. That

(See IRS, p. 11)

washington observations

news
views
trends

ROMAN CATHOLIC priest and member of Congress Robert F. Drinan (D-Mass.) has joined those appealing the expulsion of Baptist missionary James F. Leeper from Turkey (see page 11) and the threat by the Turkish government to shut down the one Baptist church in that country.

IN A LETTER TO TURKISH Ambassador Melih Esenbel, Drinan asked for an "explanation" of Leeper's expulsion. Thus far Turkish officials have maintained only that the Texas native was engaging in the "illegal" activity of disseminating religious propaganda.

ANOTHER MEMBER OF CONGRESS, Rep. Millicent Fenwick (R-N.J.), also joined the Leeper cause in a letter to the Department of State. Fenwick has been one of the most active members of Congress in the field of international human rights, having served as a member of the U. S. delegation to the Belgrade Conference during 1977-78.

AS PROMISED BY PROPONENTS, tuition tax credits are back. On the opening day of the 96th Congress, U. S. Rep. Larry Coughlin (R-Pa.) introduced a pair of bills calling for such tax credits at both the college and elementary/secondary levels. His are only the first two of numerous such bills expected.

THE NARROW DEFEAT OF tuition tax credits during the 95th Congress thus appears merely to have whetted the appetite of those legislators determined to provide tax relief to parents of students enrolled in both private and public schools at all levels. Stay tuned.

RETURNING TO THE BENCH after a month-long absence during which they worked on cases already argued this term, the justices of the U. S. Supreme Court handed down a decision invalidating Pennsylvania's law requiring physicians to preserve the life of fetuses deemed to be "viable" or which "may be viable" in the performance of abortions.

THE 6-3 DECISION held that the law impermissibly burdens physicians by forcing a choice between the well-being of the woman and that of a fetus which may or may not be able to survive outside the womb.

Baptist Agency Attacks IRS School Proposal

By Stan L. Hastey

WASHINGTON—Charging that a proposal by the Internal Revenue Service (IRS) to require church-related schools to prove that they are racially nondiscriminatory or risk the loss of their tax exemption amounts to a "direct affront" to the First Amendment, the Baptist Joint Committee on Public Affairs urged the powerful federal agency to abandon the plan.

The Washington-based Baptist agency, which represents eight U.S. Baptist bodies with a combined membership of nearly 27 million persons, joined numerous other religious groups covering virtually the entire religious spectrum in opposing the proposal first announced in August.

When the proposed revenue procedure announcement was made in the *Federal Register*, it was accompanied by a note that IRS did not consider the matter sufficiently "significant" to merit a public hearing. After the proposal was made public, however, IRS was inundated by a flood of protest and announced a one-day hearing for Dec. 5.

With objections continuing to pour in, IRS hurriedly expanded the length of the hearings, first to three, and finally to four full days, with some 250 witnesses from across the nation scheduled to be heard.

The Baptist Joint Committee testimony, delivered by executive director James E. Wood, Jr., declared that "anything short of exempting church-related and church-operated schools from coverage by these and other similar procedures, rulings, and regulations will not cure the serious church-state constitutional problems which are inherent in them."

Wood emphasized that while the Baptist Joint Committee "commend(s) efforts on the part of government to eliminate racial discrimination in public-financed education," it nevertheless opposes the proposed procedure on church-state grounds.

"The fundamental issue which is raised by the proposed revenue procedure," the statement went on, "is religious liberty and the separation of church and state rather than the furtherance of a meritorious public policy of abolishing racial discrimination."

More specifically, the testimony called attention to the landmark three-part test repeatedly enunciated by the U.S. Supreme Court in determining the limitations on laws or regulations relating to religion. In a 1971 decision, the high court held that the law must have a "secular legislative purpose," must have a primary effect which "neither advances nor inhibits religion," and must not foster an "excessive government entanglement with religion."

Although granting that the IRS proposal may well meet the first test by having a secular purpose, the Baptist Joint Committee insisted that it fails the other two tests.

On the primary effect test, "the threat of losing a statutory grant if a constitutional right is acted upon is manifestly chilling and, therefore, has the effect of substantially inhibiting the churches in what they conceive to be their religious mission," the statement declared.

Regarding excessive government entanglement with religion, Wood warned that if the proposal is implemented, "a process would be set in motion" which would inevitably entangle the IRS in church affairs.

The testimony also denounced the proposal's requirement that church schools must repeatedly prove they are nondiscriminatory by admitting a set quota of minority students. Wood called attention to the Supreme Court's decision earlier this year in the case of Allan Bakke, the white medical school applicant who was ordered admitted to the University of California—Davis because of that school's unconstitutional quota system for admitting students from various minority groups.

By requiring church-related schools to prove year after year that they do not discriminate racially requires "the almost impossible task of proving a negative," the statement continued.

Along with many other religious groups which oppose the proposed procedure, the Baptist Joint Committee has found itself in the uncomfortable position of siding with officials of church-related elementary and secondary schools created primarily to escape what they often call "secular humanism" in the public schools. The Baptist agency has historically been a strong supporter of the public school system.

In addition, some of the protesting schools were created to avoid the integration of public schools. Taking notice of that fact, the Baptist Joint Committee testimony declared that while such schools' admission and enrollment policies may be "reprehensible to many outside their religious communities," the IRS attempt to control them by threatening the loss of tax exemption nevertheless constitutes a "flagrant violation" of the First Amendment. (BPA)

On the Cover

This issue of *Report from the Capital* focuses on the latest in a growing series of confrontations between the Internal Revenue Service and the nation's religious community. The latest battle centers around a controversial revenue ruling proposed last August, a proposal roundly condemned by representatives of all three branches of the religious community in public hearings last month.

To understand the basis of Baptist opposition to the proposed ruling, which would require private schools at all levels to prove to IRS that they do not discriminate on the basis of race and to meet an IRS-set quota in admissions policies, you will want to read BJCPA Executive Director James E. Wood, Jr.'s editorial beginning on page 2.

BJC staff members Stan Hastey and Carol Franklin took in the hearings and their reports can be found in these pages as well. We will keep our readers posted on final disposition of the proposal and on future developments in the burgeoning conflict over vital church-state principles between agencies of the federal government and the churches.

Government and Citizens Clash at IRS Hearing

By Carol B. Franklin

WASHINGTON—Government agencies and private citizens clashed at hearings held here by the Internal Revenue Service on a proposed revenue procedure to require private schools to prove they are racially nondiscriminatory or lose their tax-exempt status.

The IRS proposal was supported by the Department of Justice, the Department of Health, Education, and Welfare, and the U.S. Commission on Civil Rights. Numerous private schools, including church-related schools, as well as members of Congress strongly opposed the proposed procedure. The American Civil Liberties Union and the League of Women Voters were the only private organizations which testified in favor of the IRS proposal.

The proposal, first published August 22, 1978 in the *Federal Register*, would give the IRS power to review the tax-exempt status of a private school if it is judged discriminatory in a court of law, if it was formed or "substantially expanded" when public schools in the area were desegregated, or if it has an "insignificant number" of minority students.

"Significant" is defined by IRS as 20 percent of the percentage of the minority school age population in the community.

A school also could meet the IRS criteria of nondiscrimination if it granted scholarships to minority students, actively recruited minority students and staff, had an increasing percentage of minority student enrollment, or made other efforts to involve minorities in school activities.

James P. Turner, assistant attorney general of the Civil Rights Division of the Department of Justice, said that the proposed procedure would "significantly promote the overall federal policy of prohibiting governmental aid of any kind to private enterprises engaged in racial discrimination."

The overwhelming majority of witnesses at the four-day hearing, however, said that the proposal would only hasten the death of many private schools innocent of racial discrimination without significantly achieving the goal of integration.

Rep. Majorie S. Holt (R-Md.) said, "Many of these religious schools are representative of church congregations that lack minority members, although they do not bar minorities from church membership. They do not have the financial resources to offer scholarship help to students outside these congregations, or to conduct extensive recruiting of outside students."

Holt also told the IRS panel, "We can all agree that the law should prohibit certain anti-social acts, but it is quite another matter for the law to require the performance of acts deemed by some authorities to be socially desirable. It is the difference between protecting people or managing them."

Nathan Z. Dershowitz of the American Jewish Congress said at the hearing that the IRS proposal "failed to recognize the unique and special considerations which affect Jewish religious schools." "Although Judaism worldwide is a color-blind faith and there are Oriental Jews and Black Jews as well as Caucasian Jews, the fact remains that few non-Causasian Jews settled in America."

Dershowitz also commented that the pluralistic society of America "permits each minority group to maintain its own integrity and identity and contribute from its own traditions and creative forces to the mainstream of American life."

The Baptist Joint Committee on Public Affairs also testified against the proposed procedure. James E. Wood, Jr., executive director of the Committee, who gave the testimony, stressed the constitutional problems with the proposal. "The fundamental issue which is raised by the proposed revenue procedure is religious liberty and the separation of church and state rather than the furtherance of a meritorious public policy of abolishing racial discrimination," Wood said.

June Griffin of Evansville, Tenn. requested permission to speak from the floor after listening to several members of Congress request the IRS to wait on implementation of the procedure until Congress could hold hearings on the subject. "I get the feeling Congress is asking these men's (IRS) permission to do this and that," she said. "We don't want this proposal ground through the mills of compromise; we want it buried." Judging by the enthusiastic response from the audience, Griffin spoke for the majority present. (BPA)

Catholic Bishops Hit Government Intrusions

WASHINGTON—Participants in the fall meeting of the National Conference of Catholic Bishops spoke out against government intrusion into church affairs with one, Cardinal John Krol, asserting that some regulatory agencies commit "acts of subversion."

The discussion of church-state issues, one of a number of items on the agenda, began calmly enough with presentation of papers on the theological and legal aspects of the subject. Emotions rose quickly, however.

"The rights of privacy, personhood and religion are starting to be violated on a grand scale in our country," the Philadelphia prelate charged. "I submit that there may be acts of subversion by the agencies . . . There are terror tactics . . . I suggest that we can no longer theorize, but on every level must defend the right of religious freedom which is being subverted by government agencies."

The Pennsylvania Catholic Conference presented a report which outlined several cases of governmental intrusion. Among those cited were the Department of Commerce's regulation requiring religious schools, seminaries, and charitable agencies to file an information form because they are "businesses," the National Labor Relations Board's claim to jurisdiction over Catholic schools, and numerous other cases.

Cardinal Terence Cooke of New York proposed a monitoring process of government attempts to regulate church activities. It would involve an interfaith effort with cooperation from universities, especially law schools. (BPA)

VIEWS OF THE WALL

The First Amendment built "a wall of separation between Church and State." Thomas Jefferson in a letter to the Danbury Virginia Baptist Association
"...the line of separation, far from being a 'wall', is a blurred, indistinct, and variable barrier." Chief Justice Burger, Lemon v. Kurtzman

By John W. Baker

The Baptist Joint Committee on Public Affairs was created for a multitude of purposes. One of those was to provide Baptists with a reliable source of information on church-state relations. To achieve that goal various news outlets, including REPORT FROM THE CAPITAL, were established. Last month's issue of REPORT was expanded to twelve pages, in part to provide for the annual index. Beginning this month an attempt will be made to keep our readers better informed on church-state encounters through this page of "Views of the Wall." It is anticipated that the page will include short essays, reports on church-state decisions of the United States Supreme Court, pertinent state and lower federal court decisions, interesting administrative decisions from all levels of government, and legislative acts—national, state, and local—which have significant church-state implications.

Because we have substantial limitations on our abilities to know what is happening in state and local governments as well as decisions made by federal field offices, we would like to encourage each of you to write and give us details of what is happening in your part of the country (e.g., copies of municipal ordinances, news stories of local or state court decisions, etc.). Only in that way can all of our readers have more complete "Views of the Wall."

A three judge federal district court in Minnesota abstained from hearing a case on a Minnesota statute that requires a second doctor to be present to preserve the life and health of a "live birth" if the abortion is performed after the twentieth week of pregnancy. It did so on the grounds that, before the federal court could properly hear the case, the state courts would have to construe key phrases of the statute in its application to specific cases and determine if, under *Maher* v. *Roe*, 432 U.S. 464 (1977), the statute is "unduly burdensome" or "substantial" regulation of abortions in the period before the fetus is considered viable. *Hodgson* v. *Flanke*. ___ F. Supp. ___ (1978)

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In December, a three judge federal district court for Southern New York, in the case of *Committee for Public Education and Religious Liberty* v. *Levitt* which was on remand from the U.S. Supreme Court for reconsideration in the light of *Wolman* v. *Walter*, 433 U.S. 229 (1977), held that the New York statute which authorizes reimbursement to private schools for the cost of performing state-mandated student testing and record keeping does not violate the establishment clause of the First Amendment. The decision will be appealed once again to the Supreme Court according to Leo Pfeffer, counsel for PEARL.

* * * * * *

The Equal Employment Opportunity Commission has promulgated final guidelines on affirmative action programs for all people and organizations subject to Title VII of the Civil Rights Act of 1964. While the statute permits churches, their agencies and their schools to discriminate in hiring on the basis of religion, it does not permit discrimination in hiring on the basis of race, national origin, or sex. The courts have not made a final determination of whether the religion clauses of the First Amendment require that religious organizations not be subject to laws forbidding discrimination in hiring on the basis of race, national origin, and sex. Until the courts do so the E.E.O.C. will proceed as if religious organizations must conform. The guidelines may be secured from the E.E.O.C. at 2401 E St., N.W., Washington, D.C. 20506 and become effective January 11, 1979.

* * * * * *

The United States District Court for the District of Minnesota has held that the practice of having public prayers led by an unpaid local clergyman preceding the meetings of a board of county commissioners was not a violation of the establishment clause of the First Amendment because: (1) the prayer was not required by any law or regulation, (2) presence during the prayer was strictly voluntary, (3) no expenditure of public funds occurred, and (4) only adults were involved. *Bogen* v. *Doty*, 456 F. Supp. 983 (1978)

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The Pennsylvania Sunday Trading Laws, which had as their stated purpose the goal of providing a uniform day of rest and recreation for the state's citizens, have been declared unconstitutional by the Pennsylvania Supreme Court. The Court held the laws to be so riddled by exceptions, and their general scheme so diluted, that the constitutional guarantee of equal protection of the laws was violated. *Kroeger Company* v. *O'Hara*, 392 A.2d 266 (1978)

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The Department of Health, Education and Welfare has issued proposed general, government-wide regulations required by the Age Discrimination Act of 1975 and applicable to all groups which directly or indirectly receive federal funds. After public hearings are held beginning in mid-January in Washington, D.C. and in Boston, New York, Pittsburgh, Atlanta, Chicago, Dallas, Kansas City, Denver, Los Angeles, and Seattle, final regulations will be issued. Then, each federal agency granting any form of federal financial assistance must publish proposed and final agency age discrimination regulations consistent with the government-wide regulations.

The proposed rules were printed in the *Federal Register*, vol. 43, December 1, 1978 and can be found in local depository libraries all across the country. Requests to be heard at the various public hearings should be addressed to the person designated in the proposed rules. Written comments are invited but must be received no later than February 28, 1979 and should be sent to:

(See VIEWS, p. 10)

Court To Decide Indemnity Dispute

By Stan L. Hastey

WASHINGTON—The Supreme Court will decide if the federal government must pay for the relocation of a church-related camp in Pennsylvania or instead pay the church the fair market value of the facility taken over as part of a new recreation project.

In the latest development in a legal battle dating to 1970, the high court indicated it will determine if the Southeastern Pennsylvania Synod of the Lutheran Church in America is entitled to nearly six million dollars in compensation for the tract of land, or if it will receive just $740,000 awarded earlier by a lower court as the fair market value.

U.S. Solicitor General Wade H. McCree, Jr., the federal government's chief lawyer, argued in a written statement submitted to the justices that if the government is forced to pay the higher sum, it will violate church-state separation.

"For the government to award to a church compensation that exceeds the market value of the condemned property," McCree stated, "might itself be considered an impermissible aid to religion."

If the Lutheran synod which owns the camp chose to use the money for other purposes, McCree elaborated, it could conceivably train missionaries, pay ministers, or even build new churches at government expense in violation of the First Amendment. The government could do nothing, once the compensation payoff is made, to stop the church from using the money for any purpose, he said.

Earlier, the U.S. Third Circuit Court of Appeals ruled that the synod had to meet a three-part test in order to qualify for the larger sum. It must prove that the condemned facility was operated on a nonprofit basis, demonstrate that it had been unable to purchase a "functionally equivalent replacement" at a cost roughly equal to the fair market value, and show to the court's satisfaction that the camping facility provided a benefit to the community that was not as fully provided after the property was taken over by the government.

In its legal brief submitted to the high court, the Lutheran synod objected to the government's raising the church-state question, pointing out that not once in the lengthy eight-year proceeding had the argument on church-state grounds been made. "The fact that the property was owned by the . . . Synod . . . is immaterial," attorneys for the church argued.

For its part, the government also suggested duplicity on the part of church leaders by noting that in 1964, anticipating that its camp property was to be condemned by the government as part of the new Tocks Island Recreation Project, the synod purchased 3,800 acres in the nearby Pocono Mountains as a replacement site.

The government's position throughout the lengthy deliberations in the case has been that federal eminent domain laws require replacement of facilities rather than payment of the fair market price only to other governmental units. Although a federal district court agreed with that position, the court of appeals has twice overruled the lower tribunal.

The government argues that the court of appeals erred in concluding that there is no difference between condemnation pay-offs to government or private interests. Controlling eminent domain laws were enacted, the argument continues, in order to protect local government units in property takeovers by the federal government from losing such needed facilities as streets, highways, bridges, and sewer systems. The laws were subsequently extended to cover schools and other public buildings.

"Although privately owned facilities may, of course, provide a benefit to the community," the government's brief stated, "they are not held in trust for the public but for the purposes and interests of the private owner." And since the private owner in this case is a church unit, the government concluded, the substitute-facilities doctrine poses "special dangers." (BPA)

17th Religious Liberty Conference

Dates: October 1-3, 1979
Place: Washington, D.C.
Subject: International Human Rights

High Court to Decide New Affirmative Action Case

By Stan L. Hastey

WASHINGTON—In a case which is likely to reach far beyond the historic Allan Bakke decision, the U.S. Supreme Court agreed to decide if private companies illegally discriminate against white workers by giving job preference to minorities.

Brian F. Weber, a white worker at a Kaiser Aluminum & Chemical Co. plant in Gramercy, La., claimed nearly four years ago that he was the victim of "reverse discrimination" when he was rejected for a craft training program calling for at least 50 percent black and female participation.

The high court will be asked to rule if private companies with no history of proven racial discrimination may pass over applicants like Weber in the interest of voluntary "affirmative action" programs such as the one at the Gramercy plant.

Kaiser attorneys argue that the company should be allowed to engage in such affirmative action programs because minorities and women, through no fault of their own, have not been able to advance satisfactorily, even though the company has had a nondiscriminatory policy.

Two lower federal courts have already ruled against the company plan and in favor of Weber because Kaiser had no proven history of discrimination at the Gramercy plant.

Both the Department of Justice and the Equal Employment Opportunity Commission have asked the high court to send the case back to the court of appeals for final disposition. According to *The Washington Post*, the federal agencies hoped the court would eventually review a case involving a company with a demonstrated record of racial and sex discrimination.

Numerous civil rights groups, concerned about the potential effect of the court's decision on millions of workers, are asking the justices to uphold the Kaiser plan, which is also supported by the United Steelworkers of America, the union to which Weber belongs.

Now that the high court has agreed to review the case, Weber stands to become a public figure in the same way that Allan Bakke attained national prominence in his case charging reverse discrimination against the medical school of the University of California at Davis.

(See COURT, p. 11)

Congressional Report:

Sun Myung Moon Seeks Worldwide Takeover

By Carol B. Franklin

WASHINGTON—Sun Myung Moon, the controversial South Korean who heads the Unification Church, is aiming toward a world government directly under God, according to a report released here by the Subcommittee on International Organizations of the U.S. House of Representatives.

The Unification Church is most visible in its fund-raising efforts. Members of the church sell such items as tea, flowers, candles, peanuts, and candy in public places. The church has also acquired extensive property and businesses around the United States in recent years and has been accused of brainwashing its youthful converts.

The report, released by chairman Donald M. Fraser (D-Minn.), states that Moon's overriding religious goal is "to establish a worldwide 'theocracy,' that is, a world order which would abolish separation of church and state and be governed by the immediate direction of God."

The report quotes Moon as having said in 1973, "In the Medieval Ages, they had to separate from the cities—statesmanship from the religious field—because people were corrupted at that time. But when it comes to our age, we must have an automatic theocracy to rule the world. So, we cannot separate the political field from the religious. . . . Separation between religion and politics is what Satan likes most."

According to the report, Moon supports a worldwide theocracy as an anti-communist vehicle. Moon is again quoted: "American-style democracy is a good nursery for the growth of Communism."

This worldwide state would be centered in Korea, according to the report, and the Korean language would be universal. "Moon visualized the establishment of a 'unified civilization' of the whole world, to be centered in Korea and 'corresponding to that of the Roman Empire,'" the report continued.

"In case North Korea provokes a war against the South Korean people, they (Unification Church members) believe it is God's will to protect their religious fatherland (Korea) to the last, to organize the Unification Crusade Army, and to take part in the war as a supporting force to defend both Korea and the free World," the report states Moon said in 1975.

The report also spells out Moon's strategy for achieving control of the world. "We must approach from every angle of life; otherwise, we cannot absorb the whole population of the world," Moon is quoted as saying. He is alleged to have planned control over economic, political, cultural, academic, media, and religious institutions.

In a 1972 speech, Moon laid out plans for religious control of a centralized economic system. "This system would eventually prevail so overwhelmingly, that even in Japan and Germany, the people will not buy products from their own country, but will buy according to centralized instructions. What kind of system of thought or economy can function to give these centralized instructions? Religion is the only system that can do that. So in the future, this system of thought or system of economy will have a close relationship with religious organizations," Moon said.

In the political realm, Moon said in a 1973 speech, "My dream is to organize a Christian political party including the Protestant denominations and Catholics and all the religious sects."

According to the report, Moon's movement is based on a church because it provides the greatest opportunity for reaching his goals. A former Unification Church member who testified before the subcommittee said, "It was made clear to me that so long as the church-related aspects of the group were emphasized, Moon's followers would be in a protected position as far as first amendment religious freedom was concerned, and be able to take advantage of tax laws as well."

The report outlined an interlocking network of organizations involved in manufacturing, international trade, defense contracting, finance, and other business activities. It also stated that the so-called "Moon organization" includes religious, educational, cultural, ideological, and political enterprises.

The report states that in 1974 Moon said, "If we can manipulate seven nations at least, then we can get hold of the whole world: the United States, England, France, Germany, Soviet Russia, and maybe Korea and Japan. On God's side, Korea, Japan, America, England; France, Germany, and Italy, are the nations I count on in order to gain the whole world."

The report also charges that Moon used the names and pictures of prominent Americans, Japanese, Koreans, and others to create an image of power and respectability for himself and his movement. "The multifaceted Moon Organization thereby obtained the help and cooperation of numerous Americans who had no idea they were contributing to Moon's plan for world theocracy," the report says.

Moon has also warned about opposition to his movement, according to the report. "So far the world can be against us and nothing happened. Now when they are against us then they are going to get the punishment. So from this time . . . every people or every organization that goes against the Unification Church will gradually come down or drastically come down and die. Many people will die—those who go against our movement," Moon said in a 1974 speech.

The report also noted the testimony of Chris Elkins, a former member of the Unification Church now with the Interfaith Witness Department of the Home Mission Board. Elkins said he engaged in political activities for the Freedom Leadership Foundation, a political arm of the Moon organization founded in 1969. Those activities included working on a congressional election campaign, lobbying for South Korean military aid bills, and staging demonstrations.

Neil Salonen, president of the Unification Church in the United States, said the entire investigation was "prejudiced and biased." "They took a lot of time, spent a lot of money, came up with absolutely nothing, and wrote a book full of irresponsible and unsubstantiated allegations," *The Washington Post* reported Salonen said.

The Unification Church became highly visible in the United States by the end of 1973. This coincided with the Watergate scandal and Richard Nixon's struggle to retain the presidency. Moon and his followers strongly supported Nixon and gained national prominence as a result of publicity from pro-Nixon activities. (BPA)

Yost: National Security Requires Ratification of SALT Treaty

By Carol B. Franklin

WASHINGTON—Failure by the U.S. Senate to ratify the Strategic Arms Limitation Talks (SALT) agreement now being negotiated would be the "gravest danger to national security I can imagine," a former UN ambassador said here.

Charles Yost, co-chairman of Americans for SALT and a former career officer in the United States Foreign Service, told the Council of Washington Representatives on the United Nations that the "absence of agreement (on SALT) would have disastrous effects."

Yost cited two consequences of failure to ratify the SALT agreement. One would be the removal of all limitation on the strategic arms race with a rapid build-up of weapons. The second result would be an immediate increase of tension between the United States and Russia.

Yost also predicted that defense spending would "skyrocket" if the Senate did not ratify the arms agreement.

Speaking about the fear of many citizens that Russia will take advantage of any weakness they perceive in the U.S., Yost said that the chance of a first strategic nuclear strike against the U.S. by Soviet premier Brezhnev or any likely successor is "virtually nil." Yost said that the Russians know they would lose many people in any U.S. retaliation, their industrial complex would be destroyed, and they would run the risk of losing the non-Russian states which are now part of the Soviet Union.

"Utter stupidity and recklessness are not qualities that (the Russians) have exhibited," Yost said. "Their foreign policy has been governed by great caution since the 1920's when they came to power."

Yost acknowledged that SALT II achievements would be "modest." "But it would be tragic to let our desire for the best interfere with the achievement of the good," he said.

John Holum, staff aide to Sen. George McGovern (D-S.D.), warned that the new Senate which will convene in January is an unknown factor in the ratification process. "SALT should be able to pass given public education and an administration effort," Holum said.

Holum also cautioned that the Carter administration should not take any votes for granted. Many senators, he said, dislike administration attempts to "buy off the hawks" with arms sales around the world. He hinted that McGovern might be among those senators who vote against the treaty despite basic agreement with its provisions because he fears the long range cost in national security might be too great. (BPA)

Carter Cautions Against Jonestown 'Overreaction'

WASHINGTON—President Carter said that it would have been unconstitutional for the FBI to investigate the People's Temple cult before the recent Jonestown, Guyana massacre and warned against an "overreaction" which could result in the denial of religious liberty.

The President made his remarks at a nationally televised news conference here. He called the Jonestown events a "tragedy" but pointed out that they did not occur within the United States. "I obviously don't think the Jonestown cult was typical of America," he said.

On the question of whether the FBI should have investigated the cult more carefully in light of reports of psychological and physical abuses inflicted on members at the Jonestown commune, the President replied, "It is unconstitutional for our government to investigate" groups which are "based on religious belief."

Only if evidence that federal laws had been violated do government investigative bodies have a role to play when religious beliefs are involved, Carter said.

Furthermore, he declared, "I don't think we ought to have an overreaction" to the Jonestown murder-suicide events which resulted in more than 900 deaths by denying religious freedom to American citizens. (BPA)

96th Congress Shows Catholic Majority

WASHINGTON—Roman Catholic representation in the 96th Congress will continue to be higher than any other religious group, with 129, according to a census compiled by "Christianity Today," an evangelical magazine.

United Methodists come next with 75 in both houses of Congress, a slight drop from the recently ended Congress. They are followed by Episcopalians, 70; Presbyterians, 60; Baptists, 57; and Jews, 30, with no attempt made to distinguish between the various varieties of these groups.

Other groups showing fairly significant numbers included Lutherans, 19; United Church of Christ, 16; Unitarian, 12; and Mormons, 10.

The Senate will have a record number of seven Jewish members among the 30 in Congress. In 1972, Congress had two Jewish senators and 12 Jewish representatives.

William H. Gray III, pastor of the Bright Hope Baptist Church in Philadelphia, will join four other ordained clergymen in the House of Representatives. John Buchanan, R-Ala., is a Southern Baptist. Delegate Walter Fauntroy, D-D.C., is a Progressive National Baptist pastor. Robert Drinan, D-Mass., is a Catholic priest, and Robert W. Edgar, D-Penn., is a United Methodist.

John Danforth, R-Mo., is the only ordained senator. Gary Hart, D-Colo., holds a degree from Yale Divinity School but lists no specific religious preference.

The census shows that religious-affiliation listings showed no major shifts. Episcopalians, Lutherans, and Baptists showed modest increases; United Methodists and the United Church of Christ had the biggest losses. Presbyterians held their own.

Fifteen denominations were represented by fewer than five members of Congress. (BPA)

". . .the Soul of Our Foreign Policy"

Carter Pledges Ongoing Human Rights Campaign

By Stan L. Hastey

WASHINGTON—Declaring that "human rights is the soul of our foreign policy," President Carter pledged continued efforts around the world for the victims of torture, violence, hunger, disease, and poverty.

The President addressed a group of more than 150 human rights activists, members of Congress, and administration officials on the occasion of the 30th anniversary of the adoption of the Universal Declaration of Human Rights by the United Nations.

Baptists present included Congressman John H. Buchanan (R-Ala.), Southern Baptist Convention president Jimmy R. Allen, and Baptist Joint Committee on Public Affairs executive director James E. Wood, Jr.

Carter appeared to be answering critics of the administration policy of giving human rights high visibility by saying that the subject is not "peripheral" to U.S. foreign policy. "Our human rights policy is not a decoration," the President said. "It is not something we have adopted to polish up our image abroad, or to put a fresh coat of moral paint on the discredited policies of the past.

"As long as I am President," he stated, "the Government of the United States will struggle continually throughout the world to enhance human rights. No force on earth can separate us from that commitment."

He also used the occasion to urge the U.S. Senate to approve a second human rights covenant adopted by the UN General Assembly in 1948 one day before it ratified the Universal Declaration, the so-called "Genocide Convention," an international agreement designed to prevent and punish the crime of genocide.

"I urge the United States Senate to observe this anniversary in the only appropriate way: by ratifying the Genocide Convention at the earliest possible date," the President said.

Carter also indicated that the United States "will do its utmost" to help resettle "more than our fair share" of refugees from Indochina and Lebanon and of political refugees from countries such as Cuba. The plight of stranded Vietnamese "boat people" has received wide publicity in recent weeks and many groups have urged the administration to do more for them.

The President's 20-minute address covered the whole range of human rights problems and signaled that American foreign policy will not hesitate to identify them and work for their solution.

He called political killings, torture, and detention without charge or trial the "cruelest and ugliest" of human rights violations. Other violations, which he identified as hunger, disease, and poverty are nevertheless "especially destructive of human life . . . as relentless as any repressive government."

Buchanan, one of the leaders in Congress in the human rights field and an official representative to this summer's Belgrade Conference, applauded Carter's human rights performance.

"President Carter stands on firm biblical grounds" in his human rights emphasis, Buchanan declared. "Every person on earth is someone whom God loves and for whom Christ died," the Birmingham clergyman went on. He called attention to Jesus' teaching that "Inasmuch as ye have done it to one of the least of these my brethren, ye have done it unto me."

Buchanan expressed the view that "a Christian has no choice but to care about those who hunger and are oppressed." He said that Carter "is giving good and right leadership" in the area of human rights which the nation should follow.

"The inalienable rights of man is what this country is all about," he said.

Allen, a consistent supporter of the President's human rights posture, praised Carter's statement that the subject is the "soul" of U.S. foreign policy.

"His restatement of commitment," Allen said, "is in tune with the best instincts of the American people. . . . The moral commitment of the American people will be supportive of our national leaders as we press for the recognition of the worth, dignity, and rights of every person."

Allen cautioned that "We have our work cut out for us in our own communities, but we cannot hesitate to call for living up to our ideals because there are some flaws in our behavior."

The SBC president stated his belief that other nations "are increasingly looking to us for moral leadership." He called on Southern Baptists "to pray for the spiritual awakening out of which that leadership can be accelerated."

Wood, whose agency is on record in support of the President's human rights policies, said that "the President's affirmation of the centrality of human rights in U.S. foreign policy is necessary in the continuing struggle to make the rights of all people a reality rather than a mere slogan.

"We have not achieved our goals as a nation with regard to human rights," Wood said, "but the high visibility which President Carter has given to the subject gives assurance that the commitment is ongoing."

Before the President spoke, the audience heard brief presentations by Secretary of State Cyrus R. Vance, National Security Affairs Assistant Zbigniew Brzezinski, Assistant Secretary of State Patricia Derian, and presidential assistant Anne Wexler. (BPA)

Views

(Continued from p. 6)

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While these regulations will apply only to those who receive federal funds directly or indirectly—e.g. colleges, day care programs—some religious groups will be involved. Keep an eye out for new proposed regulations which the Department of Labor will issue this year on the Age Discrimination in Employment Act Amendments of 1978 (P.L. 95–256). These will directly involve the churches and their agencies.

Baptists Seek to Rescue Turkish Church

By Stan L. Hastey

WASHINGTON—In the wake of an official communication from the government of Turkey that Southern Baptists' only congregation in that country is "illegal," denominational leaders have protested to both the Turkish ambassador to the United States and the U.S. State Department.

The English-speaking Galatian Baptist Church, located in Ankara since 1966, was declared illegal by Turkish officials in early December. The church, which serves mainly Americans but includes other English-speaking Baptists as well, was led until earlier this year by James F. Leeper, a Southern Baptist missionary. Leeper was expelled from Turkey on September 29 and has been given 20 days of his choosing to return to Ankara to remove his family and belongings.

Until the Turkish cable to the State Department, however, the controversy seemed to center around Leeper, despite the lack of official charges against him.

What has become apparent in recent days is that the existence of the congregation itself is at stake.

J.D. Hughey, the Foreign Mission Board's secretary for Europe and the Middle East, in a letter dated December 14, asked the U.S. State Department to seek official authorization for the congregation by the Turkish government.

Hughey pointed out in his letter to Alan Flanigan, who directs Turkish affairs at the State Department, that the church has repeatedly sought official recognition by Turkish officials, but without success. Hughey did note, however, that in early 1971 the governor of Ankara gave his oral approval for the congregation's existence.

Leeper himself, Hughey said, was granted a residence permit in 1977 "on the basis of his being pastor of the church. . . . It is strange that it took the Turkish authorities twelve years to announce that the church is illegal."

Hughey told Flanigan that the Foreign Mission Board is "depending on" American officials both in Ankara and Washington to help obtain the necessary permission for the church to continue its operations. He also said that "we are ready to follow whatever procedure may be required" in acquiring official authorization for the congregation's survival.

Hughey's letter followed by several days a strongly-worded protest to the Turkish ambassador in Washington by the Baptist Joint Committee on Public Affairs.

James E. Wood, Jr., executive director of the Baptist Joint Committee, wrote ambassador Melih Esenbel expressing "profound concern for the present and future status" of the congregation. "We strongly support the right of this English language Baptist Church to hold services just as we are similarly committed to the right of other faiths to do so in our respective countries," Wood continued.

Wood indicated that the Baptist Joint Committee was not asking for "special privilege" for Baptists, "nor are we motivated simply out of concern for religious liberty as applied only to Baptists."

The letter asked the ambassador to indicate the "official status" of the church and to recognize the "right of the members to the services of a duly ordained Baptist minister."

Wood also expressed "grave concern" over the final decision to expel Leeper in spite of the intervention of Baptists in the U.S. Wood and Hughey were two of a group of four Baptist leaders invited to the Turkish embassy in Washington two months ago to confer with Esenbel on the Leeper case. (BPA)

Court

(Continued from p. 7)

Earlier this year, in a narrow 5–4 decision, the court ruled that Bakke had in fact been the victim of such discrimination and ordered him enrolled. While striking down strict numerical quotas in admission standards, the justices nevertheless upheld the principle of affirmative action, saying that schools may take race into account as one of a number of legitimate factors.

The justices will now decide if the same principles apply to private companies and their employees.

The case has yet to be scheduled for oral argument. No decision is anticipated until late spring. One interesting possibility in deciding the case arose when Justice John Paul Stevens disqualified himself without explanation, thereby opening up the prospect of a 4–4 tie. When that occurs, the decision of the next lower court prevails. (BPA)

IRS

(Continued from p. 2)

quota system was similar to the one provided for in the proposed revenue procedure of the IRS. Moreover, in the present instance the religion clauses add an extra dimension of unconstitutionality.

Any church school which does not meet the racial quota may still retain its tax-exempt status if it is able affirmatively to demonstrate that it is operating in good faith on a racially nondiscriminatory basis. However, the ways which the proposed ruling provides for so demonstrating this would make excessive entanglement of government and religion inevitable. Furthermore, the ruling's tests of good faith operation pose for church schools which are not integrated or are only minimally integrated for whatever reason (e.g., a Black Muslim, a Shin Buddhist, an Orthodox Jewish, or a Korean church school) the almost impossible task of proving a negative—namely, that they do not discriminate. For the government to control the admission policies of church schools is to ignore the patterns of membership of the churches themselves since church schools, by and large, are operated, owned, and maintained by the churches to meet the needs of their particular religious communities.

Anything short of exempting church-related and church-operated schools from coverage by these and other similar procedures, rulings, and regulations will not cure the serious church-state constitutional problems which are inherent in them. This nation was built on the principle of a free church within a free state and that principle, explicity guaranteed in the First Amendment, must be perpetuated.

U.S. Civil Rights Agency: State ERAs Help Women

By Carol B. Franklin

WASHINGTON—Equal Rights Amendments at the state level are "having a positive impact" in the 14 states which have adopted them, according to a study released by the U.S. Commission on Civil Rights.

The Commission urged ratification of the federal Equal Rights Amendment at the same time that it issued its report. "Although reform of the laws is possible on a state-by-state basis, such a route is both plodding and haphazard," the Commission stressed.

In its report, the Commission cited numerous public benefits in employment and education, as well as criminal and civil law, which has been realized in the states which have added ERA amendments to their state constitutions.

Some ERA states have "sex-neutralized" workers' compensation benefits. In the past these were awarded to survivors or dependents of a male worker, but survivors or dependents of a female worker usually had to present proof that they were reliant on her income.

In Texas, female university students gained the right to live in off-campus housing while on-campus facilities were made available to male students.

More job rights have opened up to women and girls, including in Pennsylvania the right to cut men's hair and work as newspaper carriers.

The Pennsylvania Supreme Court has ruled that not only should the earning capabilities of each spouse in a child support case be considered, but so should the economic value of the services provided by the homemaker spouse.

In New Mexico a married woman may now advertise the family washing machine for sale without her husband's consent.

The report points out that no ERA state has legalized prostitution. All but Alaska confront prostitutes and patrons with the same criminal penalties.

The states which have constitutional amendments which guarantee equal rights to women are Illinois, Pennsylvania, Virginia, Alaska, Hawaii, Maryland, Texas, Washington, Colorado, New Mexico, Connecticut, New Hampshire, Massachusetts, and Montana. All of those guarantees have been passed in this decade.

Utah and Wyoming adopted constitutional provisions regarding sex equality at the turn of the century. The Commission noted that these have not been applied in recent years to challenge sex-discriminatory statutes or actions. (BPA)

Court Will Not Review Nevada ERA Referendum

WASHINGTON—A Nevada law that required the state's voters to approve the Equal Rights Amendment (ERA) before the state legislature can act on it will not be reviewed by the U.S. Supreme Court.

Opponents of the law claimed that it was a ploy on the part of ERA foes to keep the legislature from exercising its constitutional duty under the Fifth Amendment either to ratify or reject the controversial proposal. Nevada voters rejected ERA on November 8 by a margin of 2–1.

Nevada is one of 15 states which have yet to ratify the amendment. Three more state legislatures must approve the proposal by June 1982 before it becomes part of the Constitution.

The Nevada law requiring an "advisory" vote by the electorate before ERA is acted on by the legislature was attacked more specifically for providing for citizen participation in the amendment process when the Constitution calls for state legislatures to make the ratifying decision.

In addition, opponents claimed unsuccessfully, the law violated the Constitution by requiring the legislature to defer any action on ERA until the referendum was held.

The Nevada Supreme Court ruled in September that the law calls for no more than an advisory vote by the people which is not binding on state legislators' own votes on ERA.

In declining to review that decision, the nation's high court said only that no "substantial federal question" was involved. (BPA)

Report from the Capital

Vol. 34 No. 1 January 1979

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Report from the Capital is published 10 times each year by the Baptist Joint Committee on Public Affairs (BJCPA), 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 Conference, Progressive National Baptist Convention, Inc., Seventh Day Baptist General Conference, and Southern Baptist Convention.

Subscription Rates: Individual subscription, $3.00 per year; Club rate for 10 or more, $2.00 each per year; Bulk distribution of 10 or more to a single address, $2.00 each per year.

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