

Report from the Capital

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From the Desk of the Executive Director

Government Intrusion into Church Affairs

By James E. Wood, Jr.

Baptist concerns in public affairs arise out of a particular understanding of the church and the state: namely, the concept of a free church and a free or secular state. By a free church, we have meant a church free of political alliances, sanction, or support, subject only to the lordship of Christ, and comprised only of believers voluntarily committed to Christ. By a secular state, we have meant a limited state, limited to this age or *seculum*, in which the people have excluded civil authority from religious affairs. Meanwhile, Baptists are deeply committed to a Christian witness in public affairs as being integral to the mission of the Church. This witness in public affairs is rooted in a biblical understanding of the prophetic role of religion, a theological view of religious liberty as the foundation of all human rights, and the free exercise of religion in public affairs as a divine obligation of the church and a guaranteed legal right.



Wood

During the past several years a recurring pattern of U.S. church-state relations has been one of government intrusion into the life of the churches. Government intervention in religion has actually become the dominant trend in church-state relations. While not new to the American scene, it has become in recent years the most crucial single issue facing the churches in public affairs and in the relationship of the churches to government. Unfortunately, the problem is one which is far from resolution and one which will continue to plague the churches in the coming decade.

The increasing attempts of intrusion on the part of government in the life of churches constitutes a mounting crisis in American church-state relations and a serious threat to the prophetic role of religion and to the constitutional guarantee of "a free exercise of religion." The problem appears particularly acute to those groups such as Baptists who throughout their long history have sought to maintain and espouse the institutional separation of church and state and the prophetic role of religion in the body politic—without accountability to government or political advantage or disadvantage to the churches in carrying out their mission in public affairs.

Nowhere is this trend more evident than in government regulations issued and legislation introduced directly bearing on churches, church agencies, and church institutions. These rulings and legislation, as introduced, have profound implica-

tions both with regard to the relationship of these church agencies and institutions to government and to the churches to whom these agencies and institutions have traditionally belonged.

The Internal Revenue Service is continuing to issue rulings which make tax exemption for the churches conditioned upon the non-involvement of the churches in public affairs, financial accountability of the churches to government, non-dissemination of information regarding voting records of members of Congress, and church compliance with government guidelines for employment and enrollment in church institutions.

Although without statutory authorization, the Department of Labor and the Internal Revenue Service have issued rulings dissecting churches from church institutions even when those institutions are owned, operated, and maintained by the churches themselves. What is more, government rulings have presumed to define the mission of the church and the nature of religion by ruling which activities of the churches are "religious" and which are not "religious." Such initiatives on the part of government must be viewed with grave alarm.

Certainly the special place given to religion in the First Amendment is being threatened by repeated government acts of intrusion into church affairs and a denial of the special place accorded to religion in the Constitution. Sad to say, many individuals in government simply fail to see any distinction between a church or church agency and a non-sectarian charity or enterprise.

The institutional independence of church and state is essential to the free exercise of religion and thereby to the authentic mission of the church and society and in the life of the nation. It is indeed this independence or non-entanglement of church and state that makes possible true interaction between church and state in public affairs. As one of America's most astute observers has written, "It is basic to the American creed that a society can only be religious if religion and the state are radically separated, and that the state can only be free if society is basically a free society." This independence or separation of church and state as a guarantee for the free exercise of religion involves the following basic freedoms:

1. Freedom of conscience in matters of belief and worship.
2. Freedom of church and its institutions from state control and/or support.
3. Freedom from privilege or discrimination among the different churches, or different religious communities.
4. Freedom from disability for reasons of religion or irreligion.
5. Freedom from involuntary support of religion—either by an act of worship or monetary contribution.
6. Freedom of association in which all religious organizations are recognized as private and voluntary associations.
7. Freedom of propagation of religion so long as it does not contravene the just civil laws of the state or threaten public health and social order.

With the phenomenal growth of government, there is increasing need to limit the authority of political institutions over the internal affairs of the churches and the private affairs of the citizens.

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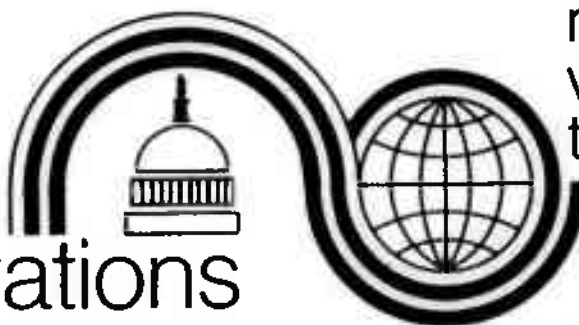
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A HOUSE SUBCOMMITTEE heard several representatives of the religious community express opposition to new lobby disclosure legislation recently introduced. BJCPA executive director James E. Wood, Jr. told the panel that the Baptist agency's "major concern" over such bills is that "they fail to exclude bona fide religious organizations from coverage."

WOOD POINTED OUT that for many religious groups "involvement of the church in public affairs is an inescapable responsibility of the church" and that the proposed legislation would "unconstitutionally mandate excessive entanglement of government with religion."

ALSO TESTIFYING in opposition to the measures were Charles V. Bergstrom, executive director of the Office for Governmental Affairs of the Lutheran Council; J. Elliott Corbett, director of Church/Government Relations of the United Methodist Division of Human Relations; and Barry W. Lynn, legislative counsel of the Office for Church in Society of the United Church of Christ.

FOR MORE INFORMATION on the subject of lobby disclosure legislation, you will want to read Carol B. Franklin's news story beginning on page 7.

REGISTRANTS AT THE ANNUAL WISC/IMPACT legislative briefing in Washington heard Rep. Robert F. Drinan, D-Mass., say that the present struggle between the government and the church "is not a crusade for the short-winded."

REFERRING TO NUMEROUS recent instances of government interference with religious groups, the Jesuit priest who represents Massachusetts' fourth congressional district told nearly 500 persons that "we have a long, long pilgrimage ahead of us."

DRINAN SAID HE OPPOSES lobby disclosure legislation which requires grassroots lobbyists, including church agencies, "to fill in all sorts of forms;" pledged continued opposition to tuition tax credits; denounced as "overbroad" proposed IRS procedures to require private schools to prove they are racially nondiscriminatory; and promised to continue to oppose restrictive abortion legislation.

THE BRIEFING WAS JOINTLY SPONSORED by the Washington Interreligious Staff Council and by IMPACT, a nationwide grassroots lobbying network sponsored by numerous denominations, including Baptists.

BJCPA Warns of Danger in Constitutional Convention

By Stan L. Haste

WASHINGTON—A Baptist group here warned that a possible constitutional convention called to force the federal government to balance the budget should "preserve intact the entire Bill of Rights."

Members of the Baptist Joint Committee on Public Affairs, meeting in semianual session here, also adopted guidelines regulating the use of the name of the agency, instructed its staff to seek a site in the District of Columbia or Maryland for its upcoming religious liberty conference, heard progress reports on SALT II and Israel's anti-bribery law, and honored long-time member Porter W. Routh.

The Baptist Joint Committee is composed of official representatives from eight U.S. Baptist bodies and the Baptist Federation of Canada and deals with a variety of public affairs issues which af-

fect the life of the churches and their agencies and institutions.

In expressing its warning on the potential dangers of a constitutional convention, the Baptist Joint Committee expressed its preference for the "traditional method" of amending the Constitution, by which Congress first adopts an amendment and then submits it to state legislatures, three-fourths of which must then ratify it before the amendment is incorporated into the Constitution.

The other amendment method provided for in Article V of the Constitution requires Congress to convene a constitutional convention if two-thirds of the state legislatures call for such a parley. Twenty-nine states have thus far called for such a convention to be convened and to adopt an amendment forcing the federal government to balance its budget.



Thomas A. Halsted, public affairs adviser for the U.S. Arms Control and Disarmament Agency, told the Baptist Joint Committee on Public Affairs that a strategic arms limitation agreement with the U.S.S.R. is likely this spring. Shown to Halsted's right is BJCPA Chairman Gideon K. Zimmerman, executive secretary of the North American Baptist Conference.

Constitutional scholars are divided on the question of whether such a convention could be forced to limit its agenda to that single matter or whether delegates could choose to amend the original Constitution at will.

The statement adopted by the Baptist Joint Committee reaffirmed "the historic commitment of Baptists to absolute religious liberty and its constitutional corollary, the separation of church and state."

In another action, the committee voted to allow its executive director to authorize the use of the agency's name after consulting with its elected chairman. On issues to which the full committee has not spoken, permission for using the name must be secured from representatives of the various supporting denominations. Although both procedures have been in effect for some time, members of the committee agreed to formalize the policy by their action.

The action resulted from the use of the agency's name as co-sponsor along with numerous other religious groups of a recently-published pamphlet promoting the United Nations-sponsored Year of the Child.

The committee also voted to ask the staff to seek an alternate site for its fall religious liberty conference. The conference, scheduled for Oct. 1-3 to deal with human rights questions, was to be held at a hotel across the Potomac River from Washington, in Arlington, Va. Several American Baptist members objected to the site, pointing out that Virginia has yet to adopt the Equal Rights Amendment.

Some American Baptist agencies have adopted a policy of refusing to hold conventions and conferences in "non-ERA" states, although the denomination itself is scheduled to hold its biennial meeting this summer in Carbondale, Ill. The Illinois legislature has repeatedly refused to adopt the ERA.

Committee members heard Thomas A. Halsted, public affairs adviser of the U.S. Arms Control and Disarmament Agency predict a new SALT agreement with the Soviet Union by this spring. He said the proposed treaty limiting the number of strategic nuclear weapons is a necessary first step toward eventual nuclear disarmament.

Halsted compared the current US-USSR arms race to an alcoholic who wants "one more for the road" before getting on the wagon. He also said that SALT II will be the second in a series of SALT agreements with the Soviet Union leading to (See BJCPA, p. 11)

Baptist Joint Committee Joins Food Policy Group

WASHINGTON—The Baptist Joint Committee on Public Affairs has joined the Washington-based Interreligious Task Force on U.S. Food Policy, according to James E. Wood, Jr., executive director of the Baptist agency.

Wood designated Baptist Joint Committee research assistant Rosemary Brevard to represent the agency at the monthly meetings of the food policy task force.

The Baptist Joint Committee becomes the third Baptist group to join the task force, which lobbies for increased U.S. government allocations to world hunger relief and agricultural development as well as working with government for reforms of domestic agricultural policy.

The American Baptist Churches in the U.S.A. has participated on the task force since its founding in 1975, while the Christian Life Commission of the Southern Baptist Convention joined last fall.

Participants at last November's SBC Convocation on World Hunger, held at the Ridgcrest conference center, urged the Baptist Joint Committee and the Christian Life Commission to join the task force as an indication of the denomination's renewed commitment to combat world hunger. Messengers to last year's annual meeting of the convention in Atlanta had called for the hunger convocation.

Brevard, who joined the Baptist Joint Committee staff in 1967, currently serves as assistant to John W. Baker, director of the agency's research program. She is a native of San Antonio, Tex. and a political science graduate of the University of Texas (Austin), where she won Phi Beta Kappa honors.

She, Wood, and Baker relate directly to Washington's interreligious community as representatives from the Baptist Joint Committee to the Washington Interreligious Staff Council. That group monitors a wide range of legislative issues of concern to the churches through various work groups and task forces, including the one on food policy. (BPA)



Former Congressmen Fred Schwengel (l) and Brooks Hays (r) greet one another at the conclusion of a Baptist Joint Committee breakfast honoring Baptist members of Congress. Schwengel, who represented Iowa's first district for eight terms, led the successful House floor battle to defeat a prayer amendment in 1971. Looking on is Seventh Day Baptist General Conference executive secretary K. Duane Hurley.

Wood Says Intrusion Is 'Dominant Trend'

WASHINGTON—Calling government intervention in religion "the dominant trend" in U.S. church-state relations, James E. Wood, Jr., executive director of the Baptist Joint Committee on Public Affairs, denounced government attempts to control the churches at a Lutheran meeting here.

Wood told participants at the Lutheran Consultation on the Nature of the Church and Its Relationship with Government that government intervention in church affairs is "a serious threat both to the prophetic role of religion and to the constitutional guarantee of 'the free exercise of religion.'"

Wood noted that current efforts to regulate the lobbying activities of religious groups, attempts to provide a tuition tax credit for students at parochial schools, calls for government investigation of religious "cults," and Internal Revenue Service regulations on tax exemption of schools and other church agencies are violations of the "right of the church to be free of accountability to and control by the state."

Wood charged that the free exercise of religion "is seriously threatened today by

the intrusion of government into the affairs of the churches and the financial entanglement of government with church institutions and programs with the inevitable loss of their religious identity and integrity." (BPA)

On the Cover

A highlight of the recent meeting of the Baptist Joint Committee on Public Affairs was a breakfast honoring Baptist members of Congress. Held in a Senate dining room, the breakfast featured former congressman and president of the Southern Baptist Convention Brooks Hays, a one-time member of the BJCPA. Several current members of Congress attended and made remarks as well.

Baptist Joint Committee members, representing eight U.S. Baptist bodies and the Baptist Federation of Canada, convene twice a year in Washington to deliberate current public affairs issues and to make policy decisions which guide the agency's staff.

A summary of actions taken at the March 5-6 meeting begins on the opposite page.

VIEWS OF THE WALL

By John W. Baker

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*.

A Pennsylvania statute that requires public school districts to provide transportation for nonpublic school pupils to schools that are located within ten miles of the districts' borders does not violate the establishment clause of the First Amendment according to the Pennsylvania Supreme Court in a January 24, 1979 ruling.

The school districts argued that the law required "identical" treatment of public and nonpublic school students and, therefore, the districts could not be required to provide transportation for nonpublic school students for up to ten miles beyond the borders of a school district. The court held that in this case "identical" meant that if a school district transported its public school students to their schools, they must also transport nonpublic school students to their schools even if those schools are as much as ten miles farther.

The court applied the three-pronged test articulated in *Lemon v. Kurtzman*, 403 U.S. 602 (1971) at 612-613, to determine whether the statute violated the establishment clause. "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.'" The statute was declared constitutional. *Springfield School District v. Pennsylvania Department of Education*.

The United States Court of Appeals for the 3rd Circuit affirmed a federal district court decision that the inclusion of the "Science of Creative Intelligence/Transcendental Meditation" as an elective course in the curriculum of five New Jersey public high schools violates the establishment clause of the First Amendment. After a careful examination of the textbook used, hearing of expert testimony, and viewing of the uncontested facts concerning the puja (a ceremony in which one acquires his personal "mantra") the court was convinced that reli-

gious activity was involved. Thus, the program was, as the court below held, unconstitutional. There has been no indication of whether an appeal will be made. *Malnak v. Yogi*, ___ F. 2d ___ (1979).

There has been another United States court of appeals decision upholding the right of a state to limit Medicaid funding of abortions to those situations set forth in the Hyde Amendment to the Medicaid Act. However, the court held that Illinois, and, by implication, any other state, may not make the limitations more restrictive than does the Hyde Amendment. *Zbaraz v. Quern*, (C.A. 7), No. 78-1669.

A member of the Hare Krishna movement has been acquitted of charges that he broke regulations requiring a permit to solicit contributions. The young man had approached two National Park Service rangers, handed them a carnation, and solicited a donation. He told the rangers that the donation would go for a cause about which God or Krishna was concerned.

The court found that the regulation could not constitutionally be applied to a follower of the Hare Krishna religion who was making solicitations for religious purposes. *United States v. Silberman*, ___ F. Supp. ___ (M.D. Fla. 1979).

A non-tenured kindergarten teacher who was a member of Jehovah's Witnesses refused, on religious grounds, to instruct her students in the pledge of allegiance to the flag or to lead them in certain patriotic songs or to conduct instruction and activities concerning certain national holidays and was dismissed by the Chicago Board of Education. The United States District Court for the Northern District of Illinois held that, even though her refusal to teach the pledge of allegiance might be protected, her refusal to participate in holiday activities and songs was not, especially since her refusal to follow school curriculum requirements

resulted in substantial disruption. *Palmer v. Board of Education of the City of Chicago*, ___ F. Supp. ___ (1979).

The guidelines which the Sioux Falls, S.D. school board established concerning the recognition of religious beliefs and customs and the observance of religious holidays in the schools have been held constitutional.

The guidelines permit religious symbols to be displayed in the schools temporarily during religious holidays. They also permit the schools to present programs, including musical programs, containing religious material.

The court held that the state's purpose in drawing up the guidelines was educational and that the guidelines were not designed to promote religion. *Florey v. Sioux Falls School District*, ___ F. Supp. ___ (D.S.D. 1979).

In a case of interest to those concerned about the constitutionality of government requirements of disclosure of information by private schools, the United States District Court for Puerto Rico held for the government. Though the religion clauses were not involved in this case, the decision is important.

The court held that the demand for information by the Secretary to the Department of Consumer Affairs about the number of students, teachers and classrooms, teachers' salaries, teachers' academic training, transportation costs, etc. did not violate any constitutionally protected privacy rights. *Colegio Puertorriqueno de Ninas, Liceo Ponceno, Inc. v. Pesquera de Busquets*, ___ F. Supp. ___ (1979).

In another charitable solicitation case an ordinance regulating such solicitations in the Dallas/Ft. Worth Regional Airport has been found facially unconstitutional. As a result the United States District Court for the Northern District of Texas entered a permanent injunction restraining (See VIEWS, p. 11)

Congress Will Debate New Lobbying Bills

By Carol B. Franklin

WASHINGTON—For the third time in the last three Congresses, a House subcommittee is attempting to write a lobby disclosure bill which will satisfy the "right of the public to know" and also protect the constitutional rights of freedom of religion, freedom of speech, and the right of the people to petition the government.

The House of Representatives passed lobby disclosure legislation in both the 94th and 95th Congresses. The Senate has not followed its lead.

At least four measures on the subject have been introduced in the House in the new Congress. So far, no Senate bills on lobby disclosure have been introduced.

Reps. George Danielson, D-Cal., and Peter Rodino, D-N.J., introduced H.R. 81, the same bill reported out of the Judiciary Committee last year and considered by the House. Rodino is chairman of the Judiciary Committee. Danielson is chairman of the Judiciary Subcommittee on Administrative Law and Government Relations which is considering lobby disclosure legislation now.

Reps. Tom Railsback, R-Ill., and Robert W. Kastenmeier, D-Wis., introduced H.R. 1979, which is identical to the bill passed by the House last year.

These two bills are considered the front runners for House consideration by congressional observers.

The Railsback-Kastenmeier bill would require reporting of so-called "grassroots lobbying" efforts, the names of major contributors to lobbying organizations, and the lobbying efforts of the chief executive officer of a lobbying organization required to register.

The Danielson-Rodino bill does not have these provisions. The grassroots and major contributor reporting requirements were considered highly controversial during last year's consideration of the subject.

Religious organizations objected strenuously to the inclusion of churches in the provisions of the measures introduced last year. James E. Wood, Jr., executive director of the Baptist Joint Committee on Public Affairs, said that the "prophetic role of religion in the life of the nation" (See LOBBYING, p. 11)

SBC Annuity Board Urges Baptists to Support ERISA Amendments

DALLAS—Now is the time for Baptists to support a 1976 Southern Baptist Convention resolution opposing the federal pension law's rule that would prohibit church agencies from participating in church pension plans, according to Darold H. Morgan, president of the SBC Annuity Board.

Morgan urges Southern Baptists to support congressional legislation to amend the Employee Retirement Income Security Act (ERISA) of 1974.

The Annuity Board president chairs the Church Alliance for Clarification of ERISA, an organization of members of more than 25 religious denominations supporting the legislation introduced in the U.S. House of Representatives by U.S. Rep. Barber Conable, R-N.Y.

The House bills are HR 1576, 1577 and 1578. Similar legislation is expected to be introduced in the U.S. Senate by Herman Talmadge, D-Ga., and Lloyd Bentsen, D-Tex.

Gary Nash, Annuity Board general counsel, says the legislation would remedy "several technical defects in ERISA."

"It would amend the law's definition of 'church plan' to recognize traditional

church retirement plans which cover church and agency employees," he says.

The legislation also would let ERISA recognize unique differences among denominational structures.

Current ERISA regulations penalize church workers and also have deprived some denominational employees of pension benefits, Nash says.

This is contrary to the stated intent of ERISA, he explains. The legislation is designed to correct these inequities.

Nash points out that ERISA threatens to fragment denominational pension plans and, if not amended, undermine how churches have functioned successfully for years.

Enforcement of current ERISA rules also could cause problems as ministers and employees move from one SBC job category to another, he says.

"Letters supporting the Church Alliance legislation should be addressed to your senators and representatives," Nash says.

Morgan said more information on ERISA is available from the Annuity Board in Dallas and the Baptist Joint Committee on Public Affairs, Washington, D.C. (BP)



U.S. Rep. William H. Gray III, D-Pa., was a guest of the Baptist Joint Committee at its congressional breakfast March 6. Gray, an ordained Baptist minister, will continue to serve as pastor of his Philadelphia congregation while serving in Congress.

House Panel Airs Conflict Over IRS Schools Proposal

By Carol B. Franklin

WASHINGTON—Participants in three days of hearings before a House Ways and Means Subcommittee on proposed Internal Revenue Service guidelines for tax exemption of private schools collided repeatedly.

The Internal Revenue Service issued a proposed revenue procedure last August 22 which would have required all private elementary and secondary schools to prove that they operate on a racially non-discriminatory basis or risk losing their tax exemption. That proposal generated so much protest from private schools that the IRS announced a revised procedure February 13.

The revised procedure was the subject of the hearings, conducted by the oversight subcommittee. Some witnesses attacked the proposal as an assault on religious liberty while others charged that the revised procedure was a retreat from the earlier, stronger language against racial discrimination in private schools. Still other witnesses said the changes met their objections.

James E. Wood, Jr., executive director of the Baptist Joint Committee on Public Affairs, charged that the proposed procedure has "serious church-state constitutional problems inherent" in it. "The fundamental issue which is raised by the revised proposed revenue procedure is religious liberty and the separation of church and state rather than the furtherance of an altogether meritorious public policy of abolishing racial discrimination," Wood said.

"It would appear that the only logical response of government would be to cease attempting to regulate bona fide churches and those agencies which they have established as integral to their religious mission," Wood continued. He urged the subcommittee to report out a bill which would oppose the IRS procedure as it relates to church-related, church-operated schools.

W. Wayne Allen, pastor of the East Park Baptist Church, Memphis, Tenn., and chairman of the board of trustees of Briarcrest Baptist School System, tangled with his congressman, Harold E. Ford, D-Tenn., over Briarcrest's unsuccessful attempts to recruit black students.

Allen said that since the school's incorporation in 1973 it has welcomed black students but has enrolled only two in reg-

ular session and 46 in summer school. Total school enrollment is 3800. Allen said that black leaders in Memphis, including the head of the National Association for the Advancement of Colored People, Maxine Smith, have actively opposed blacks enrolling in Briarcrest.

Ford said he had never heard of the negative comments of black leaders which Allen claimed were highly publicized. "You are either saying that I'm not black or that I don't live in Memphis," Ford told Allen. Allen responded that he had documentation of all Briarcrest's recruiting activities among blacks and the opposition encountered.

Jerome Kurtz, commissioner of the Internal Revenue Service, defended the proposed revenue procedure as the obligation of IRS in upholding federal policy of desegregation in education.

Kurtz also asserted that the procedure does not infringe on the First Amendment. "This proposal has no effect at all on anyone's religious beliefs," Kurtz said. "There is ample case law which says that religious practice cannot be illegal. A religion can operate a school and hold any beliefs but it cannot exclude minorities. That is against federal policy."

Kurtz maintained that the IRS has "historically moved very slowly" in the First Amendment area. "We are very sensitive to the potential for conflict in this area," he said.

Richard Larson of the American Civil Liberties Union supported the responsibility of IRS to deny tax-exempt status to discriminatory schools. He characterized the revised procedure as "watered down." "It has lost its teeth," he said.

The U.S. Commission on Civil Rights also objected to the new proposal. "The modified procedures would weaken enforcement by detracting from the objectivity and certainty of the original proposed procedure," said Arthur Flemming, chairman of the Commission.

The original proposal would have imposed a "four out of five test" on private schools, requiring them to meet four out of five criteria set by the IRS for determining whether a school was racially discriminatory. The revision establishes a "facts and circumstances test" which allows the IRS to consider each case on the basis of specific circumstances of a given school.

Charles Bergstrom, executive director of the Lutheran Council in the U.S.A., told the subcommittee that he found some of the changes in the proposal "adequately address the Lutheran Council's previous concerns" but he "remains concerned over the disturbing trend in recent Federal regulatory actions affecting the church community."

"Injustice is wrong; racial injustice is wrong," Bergstrom said. "God can speak through the government if necessary and sometimes faster than through the churches. If that's so, that's where we ought to be."

Kurtz said he had no way of knowing how many schools would be affected by the procedure. He noted that there are about 6500 private schools in areas where the proposal would be effective.

Kurtz also said that schools which lose their tax exemption would probably not have to pay income taxes since most schools do not operate at a profit. The tax deductibility of gifts would be affected, however. He had no reliable figures on the amount of contributions claimed as deductions to schools that would be affected by the procedure.

Numerous representatives of private schools testified before the subcommittee as well as several legal scholars and members of Congress. The school spokesmen were almost unanimous in opposing the proposal as were the congressmen. The legal scholars, however, divided on the constitutional and legal questions raised by the procedure. (BPA)

Indian Hearings Slated

WASHINGTON—"Sweeping oversight" hearings into federal policies and programs affecting American Indians on reservation lands have been announced by Rep. Morris K. Udall, D-Ariz., chairman of the House Committee on Interior and Insular Affairs.

"There is a two-fold purpose to holding these oversight hearings," Udall said. "One is to take a hard look at the Federal Government's activities affecting Indians to determine their efficiency, economics, and sensitivity to Indian needs; the second (See INDIANS, p. 12)"

Wood: Revised IRS School Rules Still Objectionable

By Stan L. Haste

WASHINGTON—Declaring that the American principle of a "free church within a free state . . . must be perpetuated," the head of a Baptist agency here objected to proposed Internal Revenue Service procedures which would deny tax exemption to religious schools unless they prove they do not discriminate on the basis of race.

James E. Wood, Jr., executive director of the Baptist Joint Committee on Public Affairs, told members of the Subcommittee on Oversight of the House Ways and Means Committee that a set of revised procedures announced recently by IRS are still objectionable on grounds of proper church-state relations.

The subcommittee is considering legislation designed to block or delay the proposed revenue procedures. The procedures would require church schools to prove to IRS officials on a regular basis that they have enrolled or are actively seeking to enroll a quota of 20 percent of the resident minority school age population in their communities.

The original proposed procedures were announced by the IRS last August 22 in a brief statement in the *Federal Register*. They were accompanied by a notation from IRS commissioner Jerome Kurtz that because of their noncontroversial nature, no public hearings would be scheduled. After receiving thousands of protests, however, Kurtz was forced to schedule four full days of hearings in December.

The revised procedures, announced February 13, while retreating in some ways, remain objectionable to the Baptist Joint Committee. The Washington-based denominational agency held in its testimony that the IRS decision to exempt private, church-related educational systems which are nondiscriminatory as a whole, illegally discriminates against church bodies which have a congregational, rather than a hierarchical form of church polity.

Some observers believe that the revised procedures would exempt the far-flung Roman Catholic parochial school systems, as well as Hebrew day schools, Muslim schools, and Amish schools. Representatives from some of these, however, also remain unsatisfied that the proposed procedures would protect them.

The Baptist Joint Committee testimony

warned the congressional committee that the IRS "has put itself in the constitutionally treacherous position of making discriminations between churches on the basis of organizational forms and thereby making accommodations favorable to one class of religious organizations as opposed to the others." Such a posture runs counter to U.S. Supreme Court decisions which have insisted on evenhandedness in treating different kinds of religious groups on a non-preferential basis, the Baptist statement argued.

Aside from that argument, Wood insisted that the IRS has no constitutional power "to regulate enrollment policies of either churches or the schools which they operate as an integral part of their religious mission."

Pointing out that the state clearly has no power to establish criteria for church membership, the BJC statement insisted that the principle carries over to church schools. "It is almost an identical action for a governmental unit to tell a school which was established as an integral part of a church's religious mission that the state is empowered to set standards for enrollment in that school and that failure to meet those enrollment standards would

put its tax-exempt status at risk," Wood said.

Wood insisted that the Baptist Joint Committee position does not mean that the agency denies that government should seek to eliminate racial discrimination in public schools. Questioned sharply on this point by a black congressman, Rep. Harold E. Ford, D-Tenn., Wood pointed to numerous position statements by the Baptist agency favoring nondiscrimination.

In spite of the fact that some church-related schools do discriminate on the basis of race and that their policy may be "reprehensible" to persons outside their religious communities, Wood said that the IRS procedures nevertheless constitute "a flagrant violation" of the First Amendment guarantees of no establishment of religion and free exercise of religion.

Appearing with Wood as a panel of representatives from major religious groups were George Reed, general counsel of the U.S. Catholic Conference, Charles Bergstrom, executive director of the Lutheran Council in the U.S.A., and Martin Cowan, secretary of the National Jewish Commission on Law and Public Affairs. (BPA)



Congressman Jack Hightower of Texas brings down the house at the BJC-sponsored breakfast with a friendly challenge to his North Carolina colleague W. G. (Bill) Hefner to display his singing talents. The Baptist Joint Committee has sponsored the event for the past three years as a fellowship occasion.

International Date Line

Compiled by Carol B. Franklin

Finns Seize Bibles

TORNIO, Finland—The new Soviet-Finnish customs agreement, which went into effect Jan. 1, placing the Bible alongside drugs, whiskey, and weapons as prohibited imports was recently enforced for the first time by the Finns.

At Tornio, which is on the Swedish border, 2,500 Bibles bound for Soviet Russia were seized. They were concealed in three autos in an attempt to smuggle them into Russia. (RNS)

Baptist Charges Dropped

MOSCOW—Legal proceedings against three members of the registered Moscow Baptist Church have been dropped. The men had been accused of operating a clandestine studio to record foreign Christian radio broadcasts and Christian songs for circulation in the Soviet Union.

The three Baptists, Viktor Strelnikov, Alexander Semchenko and Alexander Butylin, had been under interrogation for months. Recording instruments and studio equipment remain confiscated. (KNS)

Regime Closes Churches

LONDON—The Anglican cathedral at Maciene, in southern Mozambique, and a number of other churches nearby have been closed and all religious services banned by the Marxist government of President Samora Machel, according to reports reaching here.

David Adamson, diplomatic correspondent of the *Daily Telegraph*, said the measure stemmed from a confrontation between the Marxist regime and the Christian churches during the past month.

The Mozambique government is reported opposed to all religions, which it sees as opposed to its own doctrines. President Machel has attacked Islam as well as Christianity, but so far as is known he has not ordered the closing of mosques. (RNS)

Chinese Study Religion

PEKING—What was billed as "the first Chinese national symposium on religion" was held recently in the city of

Kunming in the south China province of Yunnan, according to a New China News agency report.

The report said that scholars, professors, teachers, and representatives of state authorities took part in the symposium. The report made no mention of clergy taking part and gave no date for the meeting.

The news agency said that "numerous reports were given at the symposium, including one on the origins of Christianity and another on the historical foundations of the birth of Islam."

The agency added that symposium participants also discussed a program for the years 1979-1985 "on research in the religious field." (RNS)

Sadat Denounces Fanatics

CAIRO—President Anwar Sadat has issued a strong warning against any surge of Islamic fundamentalism in Egyptian political life and deplored its attraction for the nation's youth.

Sadat made it clear that he would not tolerate political activity based on Islam of the kind that has been cropping up throughout the Moslem world in a speech at Alexandria University.

He also attacked the Muslim Brotherhood, an extremist group suppressed by his predecessor, Gamal Abdel Nasser, for alleged terrorism.

Sadat is said to be devoutly religious and claims to run Egypt according to the principles of the Koran. However, he said there could be "no religion in politics, no politics in religion." (RNS)

Ethiopians Harassed

LONDON—Continuing harassment of Christians in Ethiopia, including the murder of one Coptic bishop, was reported to the winter session here of the General Assembly of the Church of England.

Bishop Graham Leonard of Truro, England said, "We understand that one bishop of the Coptic Church has been murdered, four imprisoned and nine deposed after being forced at gunpoint to sign a document saying they were too old to continue in office; that Sunday has been

abolished as a day of rest and worship, and that all public officials are compelled to attend Soviet/Marxist indoctrination classes twice a week."

Additional eyewitness reports tell of imprisonment, torture, and execution for Christians. At least 40 people have reportedly been condemned to death. (RNS)

Subsidy Goes Through '82

MADRID—According to Article 16 of Spain's new Constitution, approved last December, Spain is no longer officially a Roman Catholic country.

Father Bernardo Herraiez, economic affairs secretary of the Spanish Bishops' Conference, said the state will continue to grant an annual subsidy to the Church through 1982. This will amount to approximately \$977 million each year.

"To this contribution from the state," Herraiez said, "there will be added a sum of the order of about \$10 million contributed by the faithful of the various dioceses."

Herraiez noted that the Church "declares its intention of obtaining by its own efforts sufficient funds to meet its own requirements" after 1982. The state may continue to assign a portion of income taxes to the Church but is not required to do so, according to Herraiez. (RNS)

Indian Measure Opposed

BOMBAY—The Roman Catholic bishops of Western India called for a day of prayer recently to protest against a parliamentary bill relating to religious conversions in India.

The prelates called on Prime Minister Morarji R. Desai and members of Parliament to withdraw the bill which, the bishops said, discriminates against the country's Christian minority.

Eighty-three percent of India's 643 million population are Hindus; 11 percent are Muslims. Christians constitute about 3 percent of the population, with Catholics numbering about 9.5 million.

The controversial bill provides sanctions designed to prevent conversions to another faith effected "through force, deceit, or incitement." (RNS)

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High Court Declines Retirement Review

WASHINGTON—In a series of actions announced March 5, the U.S. Supreme Court declined to become involved in the legal dispute over compulsory retirement laws.

Acting in four separate cases, the justices unanimously decided not to settle a growing dispute in lower courts over the constitutionality of state laws requiring public employees to retire at a given age.

Last year Congress passed legislation extending mandatory retirement from age 65 to 70 for most American workers. No exceptions were made for churches. The law applies only, however, to employers with 20 or more employees.

By declining to review the four cases, the high court seems to be signaling that it is unprepared for now to get into the thorny area. As is customary, the justices offered no reasons for their denial.

Two of the cases came from New York, where state laws requiring the retirement of public school teachers and tenured civil service employees at age 70 were under challenge. The Second Circuit Court of Appeals had ruled earlier that the laws do not violate either the equal protection or due process rights of those affected.

Another circuit court, however, has held that an Illinois school teacher who was retired at age 65 under a mandatory retirement policy had an "actionable claim" which required that the school board demonstrate that the policy served a purpose which furthered the "state interest."

The fourth case turned down by the high court involved a challenge by a college professor in California that a recent state law doing away with compulsory retirement on the basis of age necessarily invalidated an earlier law requiring college teachers to retire at age 67. A California state court disagreed, ruling that the earlier law could remain in effect. (BPA)

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Lobbying

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and the mission of the church to speak out on public affairs (is) integral to the First Amendment's guarantee of 'the free exercise of religion.' "

Wood urged both House and Senate committees considering lobby disclosure legislation last year to exclude churches from the provisions of any such measure.

Rep. Don Edwards, D-Cal., objected that the case had not been made for the need for lobby disclosure legislation. "If there are real dangers to the Republic from lobbying, let them be described in detail and then draw the law very narrowly," he suggested. Edwards favors disclosure only of gifts from lobbyists to legislators.

Danielson said that he hoped this year's hearings on lobby disclosure would be brief so that a bill could be sent to the Senate early enough to achieve final passage in this Congress. (BPA)

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more wide-scale disarmament. The proposed SALT II agreement includes a commitment to SALT III, Halsted pointed out, declaring that without it, "SALT II would not be worth very much."

Jimmy R. Allen, president of the Southern Baptist Convention and a member of the Baptist Joint Committee, reported on his recent visit to Israel culminating in a Knesset "clarification" of last year's law forbidding "material inducement" to Jews to convert to other faiths.

Allen, who last fall was appointed chairman of a Baptist Joint Committee group to seek a solution to the problem, met with numerous high-ranking Israeli officials in January to discuss Baptist objections to the law. The resulting "clarification," which became an official part of the Knesset debate on the matter, hopefully means that "we've got a dead law," Allen said.

Allen said that while "we did not win a major victory" by having the law repealed outright, Baptists did send a "major signal" to Israel on the subject of religious liberty.

Views

(Continued from p. 6)

the enforcement of the ordinance. *Fernandes v. Limmer*, ____ F. Supp. ____ (1979).

The Richmond State School, in southern Texas, and its officers failed to establish that they made reasonable efforts to accommodate their operations to the religious beliefs of a Seventh-day Adventist employee. The employee refused to do routine work on Saturday and, although during the eleven years he had been employed he was always available for any work that even hinted of emergency on Saturday, he was discharged and subsequently reemployed at a lesser position.

The U.S. District Court for Southern Texas held that this was a violation of the employee's rights under Title VII of the Civil Rights Act of 1964. *Padon v. White*, ____ F. Supp. ____ (1979).

The Baptist Joint Committee honored Routh with a plaque citing his length of service as the longest of any member of the 40-year-old agency. Routh, who was attending his last meeting before retiring this summer from his post as executive secretary-treasurer of the SBC executive committee, served on the Baptist Joint Committee for 27 years.

In his remarks, Routh said the Washington agency "has served as a bridge of understanding" between Baptist groups and thanked fellow committee members "for letting me be your friend and for being my friends."

Committee members also heard reports on several current church-state issues, including lobby disclosure legislation, tuition tax credit bills, Internal Revenue Service proposed procedures on the racial composition of religious schools, legal suits pitting the Equal Employment Opportunity Commission against several Baptist institutions, and a progress report on the status of the threatened Baptist church in Ankara, Turkey.

Committee members also spent several hours grappling with recent government rulings affecting church schools and possible federal intervention into the life of religious cults. (BPA)

BJCPA Cautions HEW on Education Study

By Stan L. Haste

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WASHINGTON—A Baptist agency here has cautioned the Department of Health, Education, and Welfare (HEW) to take into account the principle of church-state separation in conducting a massive research project into the funding of both public and nonpublic schools during the 1980s.

The Baptist Joint Committee on Public Affairs, through executive director James E. Wood, Jr., urged Office of Education officials to take note of the string of U.S. Supreme Court decisions over the past several years outlawing most forms of public aid to nonpublic schools. The statement also urged HEW to seek counsel from outside groups, including the Washington-based Baptist public affairs agency.

The research project grows out of amendments to the Elementary and Secondary Education Act passed last year by Congress. That legislation directed HEW Secretary Joseph A. Califano, Jr. to conduct "a comprehensive, three-year study of elementary and secondary school finance."

Office of Education specialists recently completed a first draft of the research plan and asked for interested parties to react to it. A one-day public hearing on the draft was held recently and HEW received formal written statements as well. The research plan was to be submitted to Congress by March 1.

At least two sections of the draft research plan indicate that HEW intends to examine the propriety of increased support of nonpublic schools with public dollars, including a study of the feasibility of tuition tax credits or deductions.

Last year, both Califano and Attorney General Griffin Bell repeatedly held that the tuition tax credit alternative would violate the no establishment of religion clause of the First Amendment. Both of the cabinet officers, with heavy White House support, led the opposition to a tuition tax credit bill in Congress which was eventually killed.

Nevertheless, Washington church-state observers have long been aware that within HEW, numerous education specialists are committed to finding new ways to channel federal money to nonpublic schools, 98 percent of which have

religious ties. Overall, private schools account for about ten percent of the school age population in the U.S.

One reason for such a commitment on the part of some education officials lies in the fact that the Elementary and Secondary Education Act, originally passed in 1965, has consistently provided for some forms of indirect aid to nonpublic schools, particularly in inner-city communities. Some states have resisted those plans, however, by citing state constitutional provisions forbidding any kind of aid, direct or indirect, to such schools.

In response to those states, HEW has tried the so-called "by-pass" method of funding private schools by going around state education officials to make monies available directly from the office of the commissioner of education in Washington. In Missouri, where the method was employed, church-state separationists have taken the government to court.

The Baptist Joint Committee statement emphasized that the Baptist agency is not opposed to nonpublic, parochial schools as such. It pointed out that the agency played an active role in original passage of the 1965 Act. "We have objected," the statement continued, "to some of the amendments to that Act and particularly to some of the administrative interpretations which have permitted public funds to be used in programs of religious nonpublic schools." (BPA)

Indians

(Continued from p. 8)

is to reaffirm Congressional commitment to the Indians."

In recent years Congress has been criticized for failing to oversee the programs of federal agencies it has created. The growing power of executive branch agencies has caused much protest from citizens across the nation.

In a letter to tribal leaders regarding economic development and natural resources on tribal lands, Udall said that he would "initiate major, comprehensive Indian economic development legislation" and would enlist the "active support and concurrence of the Indian tribes and organizations." (BPA)

CHARLES W. DEWESE
HISTORICAL COMMISSION
127 NORTH AVENUE, N.
NASHVILLE, TN 37234

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Editor: James E. Wood, Jr.
Managing Editor: Stan L. Haste
Contributing Editors: John W. Baker
Carol B. Franklin
Circulation Assistant: Gayl A. Fowler

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200 Maryland Ave., N.E.
Washington, D.C. 20002
(202) 544-4226