

Report from the Capital

NOVEMBER 1967



News Analysis

by w barry garrett

Hope as well as fear followed the decision of the Supreme Court to review a New York case on the constitutionality of federal expenditures for certain programs in church schools.

Organizations sponsoring the suit say: "By this action, the court has paved the way to an authoritative judicial determination of the constitutionality of Federal aid to religious schools." This could be a premature and over-optimistic appraisal.

Fear is felt by some that many federal programs might stand endangered. It is hard to see, however, that the Court will jeopardize the extensive public programs that have won such wide acceptance among the people. It is possible that the Court will place restrictions or limits on the way these programs are carried out in church schools.

In accepting *Fliat v. Gardner* for review the Court has agreed to take a fresh look at "standing to sue" in federal courts. The case rises out of a suit filed by seven New Yorkers in the U.S. District Court for the Southern District of New York challenging the use of federal funds for programs and services in religiously operated schools.

At issue are guidance services and instruction in reading, writing and other subjects. Included are the purchase by federal funds of textbooks and other instructional materials for use in such schools. Challenged are certain portions of Titles I and II of the Elementary and Secondary Education Act of 1965.

The three-judge District Court in New York ruled 2-1 that the New Yorkers have no legal standing to bring such a case. The decision was based on a 1923 case (*Frothingham v. Mellon*) that said individual taxpayers have such a small financial interest in a federal tax expenditure that they have no "standing to sue."

The Constitution does not specifically give the Supreme Court authority to rule on the

constitutionality of an act of Congress. Consequently the Court exercises such powers with amazing self-restraint. It ordinarily decides such questions only when there seems to be no feasible alternatives.

The Court has imposed on itself a body of rules relating to constitutional questions. These are summarized by Justice Brandeis in his concurring opinion in *Ashwander v. Tennessee Valley Authority* (1936). They are:

1. The Court will not anticipate a question of constitutionality in advance of the necessity of deciding it, nor is it the habit of the Court to decide questions of a constitutional nature unless absolutely necessary to a decision of the case in hand.

2. The Court will not formulate a rule of constitutional law broader than is required by the precise facts to which it is to be applied.

3. The Court will not pass upon a constitutional question although properly presented by the record, if there is also present some other ground upon which the case may be disposed of.

4. When the validity of an act of Congress is drawn into question, and even if a serious doubt of constitutionality is raised, it is a cardinal principle that the Court will first ascertain whether a construction of the statute is fairly possible by which the question may be avoided.

The Court historically has had to be satisfied on two main issues on a taxpayer's "standing to sue": (1) that his interest is one that is peculiar and personal to him and not one he shares with all other citizens generally, and (2) that the interest he is defending is a legally recognized and protected right immediately threatened by some governmental action.

These rules and issues need to be kept in mind as we anticipate the decision of the Court.

STAFF REPORT

"MONDAY HOLIDAY BILLS"

(1967-4) An analysis of various bills before Congress that would change several national holidays to give the nation five or six three-day weekends. The report examines related issues and possible effects upon churches. Single copies—20¢. 10 or more copies—15¢ each.

PAMPHLET

"IS A CONSTITUTIONAL AMENDMENT NECESSARY?"

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A pamphlet which deals with the adequacy of the First Amendment to guarantee "no establishment" and "free exercise" of religion. The pamphlet sets forth the position of major Baptist denominations that the First Amendment has been and still is wholly adequate to maintain religious liberty in our land. Single copies—free. In quantities—.02c each.

BOOK

"THE ROLE OF THE CHRISTIAN THROUGH CHURCH AND STATE IN HUMAN WELFARE."

A volume prepared as background study materials for the 1967 Baptist Religious Liberty Conference held in Washington in October and sponsored by the Baptist Joint Committee on Public Affairs. 60 page printed volume—\$1.50 per copy.

BAPTIST JOINT COMMITTEE
ON PUBLIC AFFAIRS

REPORT FROM THE CAPITAL—a bulletin published 10 months during the year by the Baptist Joint Committee on Public Affairs, 200 Maryland Ave., N.E., Washington, D.C. 20002. A purpose of the bulletin is to set forth information and interpretation about public affairs that are relevant to Baptist principles.

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Washington Observations

News — Views — Trends

October 30, 1967



THE HOUSE Judiciary Committee has approved legislation to give representation in the U. S. Congress to the 800,000 people who live in the District of Columbia. At present Washington, D. C.--with more people than live in 11 of our least populated states, according to the 1960 census--has no representation at all in Congress.

THE NEW MAYOR of Washington, D. C. is Walter E. Washington. The 52-year-old Washington, regarded as a quietly vocal and mildly tough administrator, is the first Negro mayor of a major American city. As chief municipal officer he has veto power over a nine-member City Council, which will pass ordinances, set tax rates and review his budget. The Council can override his veto by a three-fourths vote.

REPORTS FROM the National Center for Health Studies show that the birth rate is steadily declining. Rates per 1,000 have dropped from 23.7 in 1960 to 18.6 in 1966, and estimates for 1967 show the trend is continuing.

PROJECTIONS of educational statistics to 1976-77, to be published by the U. S. Department of Health, Education, and Welfare, Office of Education, reveal that teachers in public secondary schools will soon outnumber teachers in public elementary schools.

MARYLAND, because of its proximity to the Nation's Capital, often serves as a weathervane to the rest of the nation regarding local decisions and procedures. In recent hearings at Annapolis related to the drafting of a new Maryland constitution, testimony in favor of using the federal Constitution's first amendment or similar phraseology was presented on behalf of the Maryland Baptist Convention, Maryland Council of Churches, Catholic dioceses of Maryland, and the Baltimore Jewish Council.

THE MARYLAND CONSTITUTIONAL Convention had earlier received from the Commission which conducted pre-convention work a draft constitution. The draft constitution included a bill of rights which defined religious freedom primarily as freedom of worship.

REACTING to this draft, the Maryland Baptist Christian Life Committee developed a broader statement and initiated the interfaith talks which culminated in the united effort for the First Amendment phraseology.

A REPRESENTATIVE of Jewish groups from the Washington area of Maryland took a similar position. He argued that the First Amendment phraseology should be used in a Maryland constitution, given the state's traditions.

FOR NEW YORK STATE, however, which is soon to vote on a new constitution, he said that this phraseology should be supplemented with language which would specifically forbid state aid to private schools. His argument maintained that New York's tradition required the difference. The Washington Post editorialized the same point.

Annual Religious Liberty Conference

BAPTISTS DISCUSS ROLE OF THE CHRISTIAN IN MEETING HUMAN NEEDS

Baptist leaders from 31 states, the District of Columbia and Canada conferred in Washington for three days in October on "The Role of the Christian Through Church and State in Human Welfare."

Two hundred denominational leaders, pastors and welfare specialists from eight Baptist groups examined the conference theme from the viewpoint of Christian motivations, structures and finances.

This was the 11th annual religious liberty conference sponsored by the Baptist Joint Committee on Public Affairs.

James M. Sapp, director of the conference, explained that the report of any consensus of opinion that may have been achieved is not authoritative or binding on any person, church or denominational group. The views expressed, he continued, are relayed to the Baptist Joint Committee for help in future policy discussions.

"The motivation of welfare is rooted in the Christian's relation to God," one section of the conference declared. "God's purposes are realized through the Christian's response, in love, to human need," it said.

"In a church's priority of motives its function in responding to human need is of equal significance to its function in proclamation. Its witness may be said to consist in both its proclamation of the gospel and in its efforts in human welfare," the section continued.

A prime concern of another section was

the relation of church welfare programs and those of government. Both of these types of social welfare should "exist for the benefit of persons, not for the benefit of institutions," it declared.

When Christians reject government programs to meet human need, they should offer other and better alternatives, it continued.

"What should be the churches' attitude toward the role of government in meeting human need?" the section asked. In part it replied:

"Too often churchmen have taken the stance that they alone are really helping people as God wants people helped. The government not only may not be of Satan, but may very well be of God. Some would even dare to say that it frequently is more godly than certain so-called Christian agencies and churches."

The problem of church-government cooperation in welfare programs was met head-on by the conference. The section that dealt with this issue said that "cooperative relationships with government and public agencies should be neither summarily rejected nor facily established."

It was generally agreed that in all cooperative church-government relationships neither party should sacrifice its own objectives, principles and independence.

The section that worked on the problem of financing welfare activity agreed that "if

a church establishes a program of social welfare in order to win persons to a sectarian point of view, it should finance that program out of its own funds."

An almost unanimous view was expressed in the conference that "both individual Christians and churches should minister to human need." The differences arose in how this was to be done.

The finance section concluded that "any church organization refusing tax funds for welfare work must be prepared to support fully all its responsibilities under God in meeting human needs."

During the conference, in addition to dialogue among themselves, the Baptist leaders heard three prominent government experts in the field of welfare. These included Vice President Hubert H. Humphrey, Philip D. Hardberger, special assistant in the Office of Economic Opportunity, and H. Ralph Taylor, an assistant secretary in the Department of Housing and Urban Development.

One afternoon of the conference in order to get first hand information from public authorities, three groups visited the Judiciary Committee of the House of Representatives, the Department of State and the Office of Economic Opportunity.

The religious liberty conference this year was one of a series of three on the role of the Christian through church and state. Last year the theme was education. Next year the subject will be international relations.

The conference each year is by invitation to Baptist leaders nominated to the Baptist Joint Committee on Public Affairs by denominational agencies and leaders in its sponsoring denominations.



The Vice President takes a question . . .



. . . from a North Carolina pastor attending the annual Religious Liberty Conference

Vice President Is Conference Highlight

Vice President Hubert H. Humphrey shared a busy day with conference participants in an hour and ten minute session during the religious liberty conference. He spoke informally and then entertained questions from the conferees in the Congressional room at the Willard Hotel, site of the conference sessions.

He discussed the administration's objective in the various domestic aid programs and described his view of the role of the church in the nation's battle with poverty, which he called a "cancer of the spirit."

"This country is rich enough and strong enough to keep its international commitment and still take care of the people back home," the Vice President said.

Humphrey said the Judeo-Christian concept of man created in the image of God is basic to his political philosophy. It is within this context of the value of the individual that the poverty war must be waged, he stressed.

One of the curses of America today is "slumism," Humphrey said. "And I don't mean just broken down buildings and dirty streets, but broken people. The real poverty of a man is the poverty of the spirit," he declared.

The poverty that affects America today is not just poverty of income, Humphrey continued. Rather, it is "frustration, not being needed, feeling unwanted, shunted aside . . . the poverty of bitterness, of hatred which breaks out into violence," he described.

This is the poverty that will take time to cure, he said, because in this "we are fighting cancer of the spirit." This is where the church comes in, he challenged.

Humphrey explained that the church frequently has an entree with the people and can give the individual attention that a government agency cannot do.

The church can "add the dimension of volunteerism, of people to people, of personality, of individual attention that an impersonalized, impersonal agency" cannot do, he said.

"It's good for churches, too!" he added, "and good for church people—you get a little closer to people."

The Vice President defined his philosophy of welfare for institutions, including the church, as one of "removing obstacles" from the path of man, "so he can walk to his own



Three of twelve writers of background materials were present for the conference. L to R, Thomas E. Carter, David O. Moberg and Russell W. Leedy.



Conference participants spent three periods totaling four and one-half hours in small group discussions. A chairman, recorder and resource person provided leadership for these table sessions.

objective." Our philosophy of welfare must not be "to carry him, but to clear the road," he cautioned.

The government is not interested in just handing out money, Humphrey said, but in "the improvement of people's lives."

Federal programs of poverty, health, education and training are not "just to hand out goodies," he emphasized. If that is the case, they are not worth it, he added.

Humphrey criticized the attitude of government and some families in thinking they can write out a check when a need arises and solve the problem. We have had "too many check book families and too much check book compassion," he declared.

"Opportunity," he told the Baptist conference, "is the best kind of compassion." Education is the key to unlock the door of opportunity," Humphrey emphasized.

The Vice President said that the President and he would like for this administration to be known as one that "opened the gates of opportunity for as many people as possible."

Our objective, he said, is "to give every man a chance to make something out of himself."

He reminded the conference of Baptist leaders that the door of opportunity has been "padlocked" for a lot of people for a long time. We are still in the process of emancipation, he declared.

Throughout his address to the Religious Liberty Conference, the Vice President praised the "tremendous influence" of the church in the realm of social concern. He told the group that the deciding force in passing the 1964 Civil Rights Bill "was the churches, the church leaders and church laymen."



The conference was divided into three sections where reports from the small groups and discussion sought some measure of consensus.

Public Affairs Committee In Semi-Annual Session To Study Housing Issues, Programming

The Baptist Joint Committee on Public Affairs in semi-annual session in Washington, October 2-3, instructed its staff to study problems of housing for low income people.

The studies will report on the need for low cost housing, the scope of government programming in this area, church activity and the church-state problems that may be involved.

The American Baptist Convention delegation to the Committee reported that "American Baptists are now the largest managers of non-governmental, non-profit housing in the U.S."

An earlier American Baptist News Service report stated that "the Convention serves approximately 80,000 residents and patients per year in nursing care, active retirement and moderate income housing units."

American Baptists operate 4,453 units in property valued at nearly \$65,000,000 with operating budgets of over \$22,000,000, according to the report.

Southern Baptist Convention agencies and other bodies sponsoring the Baptist Joint Committee have done very little in the area of low income housing.

In another action the Baptist Joint Committee appointed a special committee to study its purpose and programs as they are related to a proposed building for the agency.

Suggestions are being made for a composite office building, research center and a continuing education project in Washington.

This special committee is to investigate the response of its sponsoring bodies to this program projection. It is to report its findings and recommendations to the Baptist Joint Committee in March 1968, if possible.

The Baptist Joint Committee also reviewed a previously published set of guidelines prepared by the staff on "Religion and Public Education." It decided to continue circulation of these guidelines for six months at the end of which time a report is to be made and a possible revision undertaken.

Frank H. Woyke, executive secretary of the North American Baptist General Conference, was re-elected chairman of the Baptist Joint Committee on Public Affairs.

Other officers are:

Homer J. Tucker, pastor in Newark, New Jersey, first vice chairman;

Bryan F. Archibald, president of Northern Baptist Theological Seminary, second vice chairman;

C. R. Daley, editor of the Western Recorder, Middletown, Kentucky, recording secretary.

FRANK H. WOYKE, Executive Secretary of the North American Baptist General Conference, with offices in Forest Park, Illinois, was renamed chairman of the Baptist Joint Committee on Public Affairs at the semi-annual meeting in October.

Government Officials

CONFERENCE SPEAKERS URGE CHURCHES TO ENLIST IN "WAR ON POVERTY"

An official of the U.S. Department of Housing and Urban Development (HUD) urged conference participants to help dispel the apathy that exists among slum dwellers in the nation's cities.

H. Ralph Taylor, an assistant secretary for HUD, told the annual religious liberty conference participants that they are in a "key position" to dispel the apathy and alienation so prevalent among slum dwellers.

Church and community leaders need to understand the cynicism and skepticism that lead people to give up once they are trapped in the ghettos, he stressed. A factor involved in this is to help people believe in the "importance and inevitability of change," Taylor said.

The HUD spokesman described the government's model cities program of grants for planning and urban renewal and reported that 70 cities are now involved. He urged the Baptist conferees to work for greater involvement of residents in planning and carrying out these programs.

Taylor emphasized that the government did not have a particular program or blueprint that each city must follow to qualify for model cities funds. But, he added, HUD has the "tools" to assess community needs.

"How well you use those tools, what kind of innovative programs you develop to help solve your slum problems, and the extent to which you can achieve coordinative action from the various agencies and organizations in your city—that is the task that you and your fellow citizens must assume and accomplish," he said.

Taylor described the government's role in the model cities program as an effort to pull together the many fragments of projects



Philip D. Hardberger, special assistant to Sargent Shriver, Director of the Office of Economic Opportunity, speaking to the conferees at a banquet session, challenged the Baptist group to involvement when he stated that the war on poverty cannot be won without the help of churches.

Hardberger, a Baylor University graduate and native of Texas, pressed his point with complete candor. "You know the need, you have the expertise, and you have the resources" to help win the battle against poverty, he said.

Hardberger, a former public relations employee of the Baptist General Convention of Texas, praised a Texas Baptist program of work with migrant farm laborers along the Rio Grande River.

The OEO spokesman said the government was striving for three things in waging the war on poverty:

- 1) Education and training
- 2) Opportunity to work
- 3) Opportunity to live in decency and dignity

"It is at the point of education and training that the poverty circle is broken," he declared.

The nation's war on poverty" can be licked with work and money," the poverty program specialist emphasized. Churches can help do this if "theology is practiced on the streets as well as preached from the pulpits," Hardberger told his fellow Baptists.

to make a concerted attack on basic problems in the cities.

"We are trying to discover a way of curing, not putting a cosmetic powder on" the problems in the cities, Taylor said as he asked for the help of Baptists.

Orientation on Public Affairs Scheduled for October 30

The second "Writers and Editors Orientation" held by the Baptist Joint Committee on Public Affairs will take place October 30 through November 2 here in Washington. At least ten Baptists will attend from four different fellowships.

The orientation is designed to give an overview of the issues of religious liberty and church-state relations and an introduction to the governmental processes that relate to them.

The program includes visits with Senators Baker (R., Tenn.) and McCarthy (D., Minn.). Administrative and legislative personnel responsible for government education policy will talk with the group. The clerk of the Supreme Court will discuss the judicial process, and a Washington attorney will relate this to church-state issues. Research in Washington will be touched on when the Congress' Legislative Reference Service is visited and when the work of the Senate Republican Policy Committee is presented. The staff of the Baptist Joint Committee on Public Affairs and other church agencies' staffs active in Washington will explain their work and interests. All told, some twenty sessions will be held.

Participants have been assigned readings



WALFRED H. PETERSON, Director of Research Services of the Baptist Joint Committee, will direct the orientation for denominational leaders, October 30-November 2.

and given a bibliography for their pre-conference preparation.

In the future those who have been participants in an orientation program will be invited to return to Washington to do more specialized work on a topic related to Baptist Joint Committee concerns.

THE NEW YORK CONSTITUTION REFORM

The proposed constitution for the State of New York that goes to the voters November 7 raises many important and controversial issues from conservation to tax policy. But church-state issues have become by far the most hotly debated.

The proposal does these things that affect church-state relations:

1. It drops the so-called Blaine amendment in the present New York constitution which forbids use of state aid directly or indirectly for any school wholly or in part controlled by a religious denomination.

2. It adds a section on higher education which reads:

The Legislature shall establish and define a system of higher education for all the people of the state, encompassing both public and non-public institutions, by programs which may include free tuition, grants, fellowships, and scholarships.

3. It also adds an anti-discrimination clause directed at schools.

Discrimination in the admission to any school in this state supported in whole or in part by public funds by reason of race, religion or national origin shall be prohibited.

4. It includes a community development article which could be used for church-related programs.

The state, any local government and any other public corporation may grant to any person, association or private corporation in any year or periodically by contract or loan its money for economic and community development purposes, but the proceeds of indebtedness contracted for any such purpose shall be used only for loans for capital construction . . .

The Protestant New York City Church Council and several Jewish groups are vigorously opposing the Constitution on the same grounds. Generally Catholic newspapers in New York State praise the document's church-state stance.

For many people and groups the issues surrounding the proposed constitution are reduced to one—church-state relations. This may be unfortunate from the view of the constitution makers, but it is inevitable when a proposed constitution is used to upset the status quo in this controversial matter and when the voter must vote "yes" or "no" on the whole proposal.—(WHP)

WRITERS ORIENTATION PARTICIPANTS

American Baptist Convention

Miss Janice Corbett, Editor, *Action*.

Curtis E. Johanson, Editor, *Impact*.

Baptist General Conference

Donald E. Anderson, Editor, *The Standard*.

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John Binder, Editor, *The Baptist Herald*.

Miss Dorothy Pritzkau, Editor of Christian Education literature.

Southern Baptist Convention

Roy Heath, Editor, Intermediate Materials, Training Union Department, Sunday School Board.

John A. Ishee, Editor, Adult Materials, Training Union Department, Sunday School Board.

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Charles F. Treadway, Supervisor Weekday and Vacation Bible School Unit, Sunday School Department, Sunday School Board.

Miss June Whitlow, WMU Consultant, Church WMU Administration and Research, Woman's Missionary Union.

Long Weekends

Monday Holiday Proposals Studied by Joint Committee

No position was taken for or against proposed Monday holiday bills now pending in Congress at the semi-annual meeting of the Baptist Joint Committee on Public Affairs in October.

Rather, the Committee received a "staff report" which sets forth the issues involved and which described the conflicting pressures confronted by the nation's lawmakers.

The study was made at the request of the Executive Committee of the Southern Baptist Convention.

Congress now has before it several proposals to set a number of national holidays on Mondays in order to create more three-day weekends and to stop some of the holidays from occurring in mid-week.

STAFF REPORT AVAILABLE

The Staff Report on "Monday Holiday Bills" is available upon request. For information on how to order the report see page two.

The bills generally would establish Presidents Day the third Monday in February to replace Washington's birthday, set Memorial Day the first Monday in May, Independence Day the first Monday in July, Veterans Day the second Monday in November or in October and Thanksgiving Day the fourth Monday in November.

Together with Labor Day, this would fix six long weekends a year. Christmas and New Years Day would be unaffected.

Three major reasons are given by the advocates of more long weekends, according to the report. They are:

1. Benefits to employees;
2. Opportunity for more recreation and family togetherness; and
3. Economic pressures from business interests.

Although very little opposition has been expressed to Congress against the proposed changes, those who have expressed themselves cite the following major reasons:

1. Possible adverse effect on church attendance and on religious education programs;
2. Loss of meaning for the national holidays if they become travel days; and
3. Long weekends, it is claimed, result in increased traffic deaths.

Some newspapers and religious leaders have spoken out against the proposed Mon-

day holidays. But, according to the staff report, only the Lord's Day Alliance has formally expressed opposition in the hearings held by committees in both the House of Representatives and the Senate.

On the other hand, overwhelming testimony and public pressures for the changes make it probable that Congress will approve at least some of the proposals, the report indicated.

Some churchmen have suggested that Fridays instead of Mondays be considered on the theory that this would hurt church attendance less.

Objections to this change arise from precedents already set in shifting Sunday holidays to Monday and by the Labor Day weekend as well as from retailers who would oppose the Friday observance.

In addition, the report points out, a "potential inter-faith conflict would be added to the one that already exists over state and local Sunday laws."

"Seventh Day Baptists, Seventh Day Adventists and Jewish organizations would have an interest in the day chosen opposed to that of Sunday worshipers," the report surmised.

A larger issue is related to a predicted four-day week in the future. "If the Monday holiday bill is enacted, it would set a precedent for 'Monday Off' when contracts for a four-day week are negotiated," the report continued.

A fact of modern society was pointed out in the staff report: "The churches do not exercise much control of the calendar. Government and economic structures have more control. The churches must adjust as best they can to the policies of others."

At the time of the Baptist Joint Committee meeting, the bills were still pending in congressional committees. However, indications are that Congress might take action in the near future. The effective date for the new holidays, if approved by Congress, would probably not be before 1970 because calendar companies and labor contracts need at least two years to make their adjustments.

COVER STORY

Vice President Hubert H. Humphrey is shown while addressing the participants of the annual Baptist Religious Liberty Conference held in Washington last month.

The Vice President spoke for 48 minutes, then fielded questions for another twenty minutes. He was originally scheduled to make a brief statement and spend an hour answering questions. Apparently the sight of so many Baptist leaders an hour before dinner time was irresistible.

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