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A MAGAZINE OF RELIGIOUS FREEDOM

HOW LIFE BEGAN

By HAROLD G. COFFIN, Ph.D.*

An action of the California Board of Education has opened the way for teaching Creation in public elementary schools. Can Creation be taught scientifically? Can it be taught constitutionally? A scientist gives the answers.

Will California grade school students study both Creation and evolution in science classes next school year? An action of the State Board of Education has raised this intriguing possibility. Both creationists and evolutionists have drawn up battle lines in a controversy stirring academia from coast to coast. Debates range from conjectured church-state complications to political, evolutionary, and religious philosophy; from facetious stabs at creationist postulates to serious reappraisals of the evolutionary hypothesis. Whatever the outcome in California, the issue has raised substantial questions worthy of national discussion.

The California controversy had its beginning on October 9, 1969, when the State Board of Education referred back to committee a new 205-page science guideline because of the objection of several board members to inclusion of only evolution as an explanation of origins. On November 12 the revised manuscript was adopted unanimously by the board. A sentence in the original guideline—"The oldest explanation [of origins] is a religious one, that of special creation"—had been replaced with the following two paragraphs:

"All scientific evidence to date concerning the origin of life implies at least a dualism or the necessity to use several theories to fully explain relationships between established data points. This dualism is not unique to this field of study but is also appropriate in other scientific disciplines such as the physics of light.

"While the Bible and other philosophic treatises also mention creation, science has independently postulated the various theories of creation. Therefore creation in scientific terms is not a religious or philosophic belief. Also note that creation and evolution theories are not necessarily mutual exclusives. Some of the scientific data (e.g. the regular absence of transitional forms) may be best explained by a creation theory while other data (e.g. transmutation of species) substantiate a process of evolution."

The revision was not accomplished without fallout. Biologist Dr. Ralph Gerard, chairman of the curriculum committee that prepared the guideline and dean of the graduate division at the University of California at Davis, resigned in protest from the committee and leveled a blast at the

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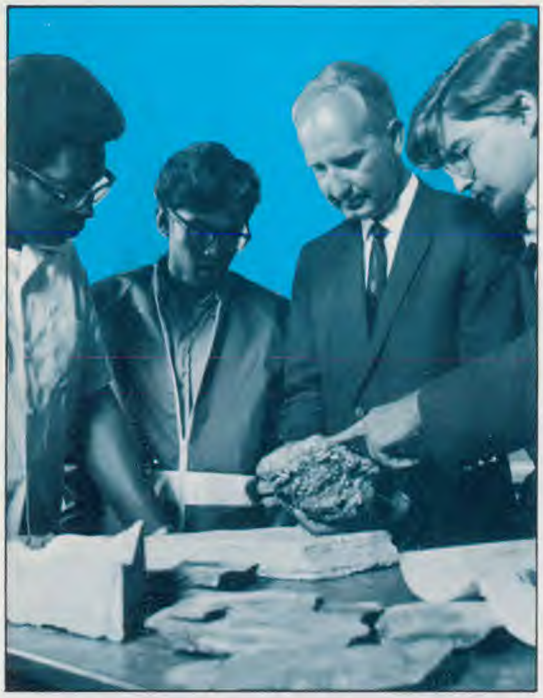
NASA



ELWYN SPAULDING PHOTOS

If Creation is taught in science classes we might as well also teach that the earth is flat, that the sun passes around the earth, and that the cause of disease is evil spirits pervading the body.

State Board and Dr. Max Rafferty, State Superintendent of Public Instruction.

"Should a scientific course on reproduction also mention the stork theory?" he asked. "Did it require the Apollo 11 mission to prove the moon is not made of green cheese?"

"If Creation is taught in science classes we might as well also teach that the earth is flat, that the sun passes around the earth, and that the cause of disease is evil spirits pervading the body," another disgruntled educator remarked.

The question of church-state separation also was raised, and not only by scientists. Dean Julian Bartlett, of Grace Cathedral in San Francisco, said the inclusion of the Genesis account of Creation in high school science would be "a clear violation of the constitutional prohibition respecting the establishment of religion." Dr. Robert Bulkley, pastor of Portalhurst Presbyterian church, also of San Francisco, authored a resolution adopted unanimously by the Presbytery of San Francisco, representing 44,000 members. He said, in part, that the board's action "completely misunderstands the significance of the Genesis account and raises serious questions about the teaching of religion in the public schools and about the integrity of the educative process."

State Board of Education members defended their action. Dr. John Ford, of San Diego, said, "I feel this guideline should not be accepted without at least alluding to creationism, which is an accepted theory by scientists in this country. I think we would be remiss if we did not include the theory of creation along with the evolution theory of life."

Board President Howard Day, of Long Beach, added, "There are many outstanding scientists who do believe in the creation thing. It is not a myth in the wind."

Dr. Max Rafferty, State Superintendent of Public Instruction, apparently is in agreement that the pros and cons of both Creation and evolution should be included in the new guideline.

Is there truly a basis for the incorporation of Creation into a science guideline for public schools that does not involve introducing religion into the classroom? Can the theory of Creation be presented as science and not as religion?

Many readers will be surprised that anyone would even dare to suggest that Creation can be approached through science. Because the Bible was available to man long before any serious scientific studies began, we find it difficult to separate the scientific theory of Creation from the Bible story of Creation. However, it is entirely possible for an individual with no religious background, with no understanding of the Biblical story of Creation, to examine the evidences from science and come to the conclusion that life in its basic forms originated suddenly during the history of the earth. The term "creation" is often understood in a Biblical context, but the term by itself can be used merely to mean the sudden appearance of complex organisms.

Even in Charles Darwin's time the sudden appearance of complicated organisms in the lower rocks, the Cambrian systems, was a puzzle. In his *Origin of Species* he said, "To the question why we do not find rich fossiliferous deposits belonging to these assumed earliest periods prior to the Cambrian system, I can give no satisfactory answer. . . . The case at present must remain inexplicable; and may be truly urged as a valid argument against the views here entertained." [1]

Darwin expected that further collecting would clarify this problem, but Dr. Norman Newell, of Columbia University, observed in his paper prepared for the centennial celebration of Darwin's book that "a century of intensive search for fossils in the pre-Cambrian rocks has thrown very little light on this problem." [2] Elsewhere he indicates that the more collecting that is done, the more severe this problem seems to become. A few well-known

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Examination of the fossils, the stony records of the past, tells us that complicated living things suddenly (without warning, so to speak) began to exist on the earth.

scientists among many who have discussed this puzzling situation are the late A. H. Clark, of the U.S. National Museum; D. I. Axelrod, of the University of California; George Gaylord Simpson, of Harvard University; and Drs. Marshal Kay and Edwin Colbert, of Columbia University.

To this evidence of sudden creation must be added the fact that the basic types of organisms that appeared abruptly in the fossil record have remained relatively unchanged. Dr. Clark has put it clearly:

"When we examine a series of fossils of any age we may pick out one and say with confidence, 'This is a crustacean'—or a starfish, or a brachiopod, or an annelid, or any other type of creature as the case may be." [3]

The situation is similar for plants. Note these words by Dr. Chester Arnold, of the University of Michigan: "As yet we have not been able to trace the phylogenetic history [evolutionary history] of a single group of modern plants from its beginning to the present." [4]

It would be possible to list many scientists who have discussed this problem of the absence of connecting links. Dr. Simpson admits, "These peculiarities of the record pose one of the most important theoretical problems in the whole history of life." [5]

It is possible to take almost any paleontology (fossil) textbook and discover that the major categories of animals such as insects, sea lilies, bony fishes, sharks, birds, mammals, and others appear suddenly without preceding ancestral stages.

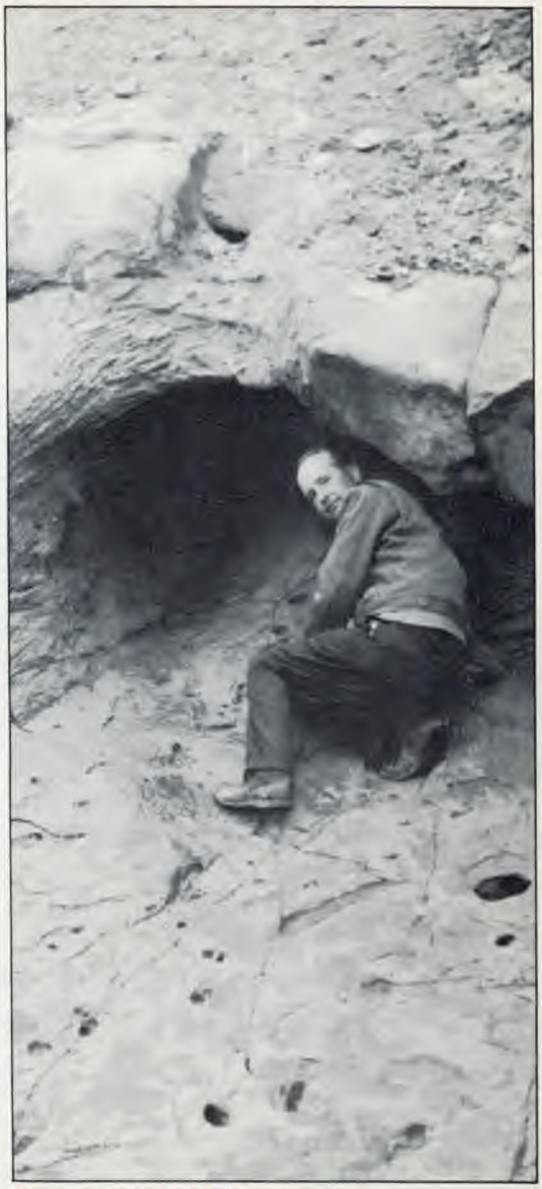
After discussing the absence of connecting links and the controversy among scientists concerning this problem, Dr. Simpson says, "Non-paleontologists may choose either to believe the authority who agrees with their prejudices or to discard the evidence as worthless." [6]

The evolutionist may argue that only a small portion of the surface of the earth has been explored; that only a minute fraction of the total number of fossils has been found. But a theory that is based on lack of information, that is based on a hope that vital information will be found, cannot be a strong theory. The astonishing fact is that after more than one hundred years *not one authenticated case demonstrates evolutionary change from one major category to another.*

But change has occurred, of this there is no question. We see the multitudinous forms of organisms present in the world today. We can see the types that man himself has been able to make—different dogs, for example. But in every case that man can point to among living things today, the changes are relatively minor. Dogs are still dogs, horses are still horses, fruit flies are still fruit flies. The late Dr. Richard Goldsmith, a well-known geneticist, spent twenty years working with the gypsy moth (*Lymantria*). After perhaps a million breedings of different varieties from around the world he concluded that changes and variations lead only to microevolution (minor changes) within the species. For major progressive evolution to occur, he held, macromutations (large changes) must have occurred in the past. Half jokingly he called these "hopeful monsters."

If evolution is based upon small changes, then evolution may be called a fact. But if evolution means progressive change from simple to complex, from primitive to advanced, until man is the crowning product, it is not fact. Geneticists are still looking for the mechanism that can produce major change, as noted in this statement by Dr. J. M. Savage, of the University of Southern California:

"At the present time we have only the most shadowy impressions of the forces contributing to the adaptive radiation and diversification of life. For example, can the evolution and diversity of the flowering plants be explained simply on the basis of microevolutionary change, or are other forces contributing to macro- or megaevolution?" [7]



Above: Harold G. Coffin explores cave for rock specimens. Left: Students question formation in one specimen recovered during a field trip.

The astonishing fact is that after more than one hundred years not one authenticated case demonstrates evolutionary change from one major category to another.

Yes, new species of plants and animals are being formed today. However, the problem of large changes from one fundamental kind to another is still the most pressing unanswered question facing the evolutionist. Modern animals and plants can change, but the amount of change is limited. Science laboratories have been unable to demonstrate change from one major kind to another, neither has such change happened in the history of the earth if we take the fossil record at face value.

In addition to these evidences from the fossil record, from the genetics laboratory, and from modern living things, there is the question of the origin of life itself. He who eliminates Creation for the origin of living forms must account for them by spontaneous generation. He who believes in spontaneous generation after all the experience that man has had with life and living things must do so by faith, because one of the best established principles of biology is that "life begets life." Despite the accounts which appear in the news media from time to time, man has not yet been able to produce life. He has not even come close to it. Of the seven to ten substances or abilities required for life, man has been able to produce only one. But even for this one, he has found it necessary to obtain the necessary building blocks from living organisms.

What if man could make all the parts, bring them together, and arrange them in the correct order? Would he then have something living? Is life the natural outcome of the correct arrangements of elements and compounds? This question has been around for a long time, ever since man began to study chemistry and biology. To date it has not been resolved. But if the answer should turn out to be negative, spontaneous generation would be more than highly improbable—it would be impossible.

In summary, it can be said, Examination of the fossils, the stony records of the past, tells us that complicated living things suddenly (without warning, so to speak) began to exist on the earth. Furthermore, time has not modified them enough to change their basic relationships to one another. Modern living organisms tell us that change is a feature of life and time, but they also tell us there are limits beyond which they do not pass naturally and beyond which man has been unable to force them. In considering past or present living things man must never forget that he is dealing with life, a profoundly unique force that he has been unable to create and which he is trying desperately to understand.

The theory of Creation thus stands on a strong scientific platform. Discussion of Creation in the Bible does not invalidate this theory for use in public education. Should the study of astronomy be eliminated in the public schools because the Bible refers to some of the stars by name? Should students refrain from studying the water cycle because Solomon makes reference to it in Proverbs? Would anyone advise the elimination of meteorology (weather) from the science curriculum because the Bible makes reference to some weather phenomena? Obviously then, mention in the Bible of some process or event is no reason for refusing to consider this in a modern science class in a public school.

Although it is clear that mention or discussion of an event in both the Bible and in a public science class is not grounds for claiming that religion is being taught in public schools, the way this material is presented in the classroom is significant. If the teacher uses the Bible as his source of information and attempts to persuade his students of certain beliefs concerning God and religion there could be valid criticism based on constitutional grounds. However, if Creation is presented solely from scientific evidence, without using the Bible as the source of information and without any attempt at religious indoctrination, inclusion of Creation would not be a conflict of church and state.

Although it is too much to hope that all those involved in this controversy will be able to distinguish clearly between what constitutes violation of the First Amendment and what is merely scientific information, we can hope that the California State Board of Education itself will delineate critically. Certainly the board action itself is defensible. And the two new paragraphs placed in the guideline give hope that scientific theories of origins will be appraised with new objectivity in California high schools. □

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Dr. Coffin has prepared a teacher's syllabus on how to present the creationist theory as an alternative to the evolutionary theory utilizing only scientific sources. *Creation: The Evidence From Science* may be obtained from Dr. Ernest S. Booth, Life Origins Foundation, Box 277, Anacortes, Washington 98221.

riot in the classroom

How a unique course is bringing controversial questions of constitutional rights into the schoolroom.

By WATFORD REED, Religion Editor, Oregon JOURNAL

Nathan Berkham was disturbed. As teacher of social studies at Washington High School, Portland, Oregon, he had become aware that his students had little understanding of the Bill of Rights. Most approved of secret trials, search without probable cause, excessive bail, and the use of anonymous witnesses and wrongly gathered evidence. And he knew that all too often frustrations based on ignorance of fundamental rights and due processes can have incendiary consequences in the streets. Not that Portland students were worse informed than those in other cities. National studies had shown an abysmal ignorance of the Constitution and its meaning.

Most students did not distinguish between majority rule in political processes and majority rule in matters of conscience. And yet many of their forefathers had come to America from lands where precisely this lack of distinction had resulted in persecution and even death.

Compulsory prayer in schools where the majority wanted it was, in the students' opinion, all right. It really didn't matter how the police gathered evidence if the person was guilty. Wire tapping didn't seem to arouse their disapproval as much as radar speed traps did. Many students would do violence to freedom in the name of democracy and usually in the belief that majority rule in itself is democracy. Need for better understanding was monumental.

In Portland, as in most school systems, the Bill of Rights was something mentioned on May 1 in Law Day speeches by visiting lawyers provided by the local bar association. But lawyers had found you can't tell much about the Bill of Rights in forty-five minutes. Couldn't something more be done?

One who thought it could was Ronald O. Smith, supervisor of social studies in the Portland school system. One day in his office he mentioned the need to Mrs. Kay Stallings, on the staff of the Oregon State Bar Association. Both knew of Berkham's concern and his attempts to get through to students with constitutional concepts. Why couldn't they work together to develop a course on the Bill of Rights, something that would teach youth the meaning of their freedoms? Maybe by bringing controversial views into the classroom and showing how the court had protected constitutional rights, teachers could cut through the apathy and ignorance that often result in reaction against the establishment.

Mrs. Stallings discussed the idea with the director of the Oregon bar, R. W. Nahstoll, who was enthusiastic. The bar association agreed to act as sponsor, and in the summer of 1966 the project got rolling. A committee was organized of twelve Portland lawyers and twelve teachers. Mrs. Stallings and Portland Attorney Jonathan Newman would serve as editors for the series. Berkham agreed to write the teachers' handbook and coordinate the work of the committee.

An earlier try, using mimeographed materials based on hypothetical cases, had not gone over with the students. This one would be based on real cases.

Left and center: Nathan Berkham. Below: Kay Stallings, director of information, Oregon State Bar, and (far right) Attorney Jonathan Newman edited the case studies. Berkham wrote teachers' handbook and coordinated committee work.

While friends soaked up summer sunshine, Newman went to the bar office every morning and night to plow through law books, seeking to reduce cases to understandable principles. Teachers on the committee outlined course material, lawyers looked up cases, and Berkham, working with Mrs. Stallings and Newman, saw that the material really communicated.

The result, finished in the fall of 1966, is LIBERTY AND THE LAW, a series of ten booklets, each of which discusses one phase of American freedom. Used today in more than one thousand school systems, the course quotes court decisions—both majority and dissenting opinions—and asks thoughtful questions.*

Booklets are titled "The Right to Counsel," "Search and Seizure," "Self-incrimination," "Freedom of Expression," "Flag Salute," "Church, State and Education," "A Free Press," "Citizenship," "Segregation," and "Marital Law."

Berkham's teachers' handbook helps spark class discussion. In taking up free speech and free assembly, for instance, the booklet asks: Should it make a difference who the sponsoring committee is?

Should it make a difference if the meeting was called by the Ku Klux Klan? The American Nazi party? The Black Muslims? The Communist party?

Should the purpose of the meeting make a difference? If it was for street demonstrations in Alabama? For school boycotts? For draft dodging? To encourage public contributions to the Viet Cong?

Should it matter where? Would it matter what the speaker says? Would it matter if he attacks public officials . . . U.S. bombing of North Vietnam . . . a race . . . a religion?

Should it make a difference

* For a sample lesson and information on ordering, see "Freedom of Expression," page 11.

what the effect is? If a crowd gathers? If the speech causes a riot?

Even in Portland, where civic leadership is enlightened, high school seniors—the majority of whom are getting their last formal schooling—do not understand what freedom means.

"It is hard for students in my classes to see what is wrong with compulsory prayer in school if the majority of the students are Protestants," Berkham said.

"Until about two years ago they thought the flag salute should be mandatory.

"Another ticklish point is whether the federal government should give money to non-public schools.

"The students were shocked, however, by the treatment of Japanese-Americans on the Pacific coast in World War II."

Berkham leafed through a booklet to a quotation from Maj. Gen. John L. DeWitt, military commander of the Pacific Coast in World War II, who ordered Japanese-Americans interned.

"The fact that no sabotage has taken place to date is a disturbing and confirming indication that such action will be taken," General DeWitt said.

"That really sends them," Berkham said with a chuckle.

Early in the course many students feel aliens should not have all the rights American citizens have.

Many think the U.S. Supreme Court has gone too far in guaranteeing the right to a lawyer's help.

"Some think court decisions make it hard for the police," he observed. "They say, 'If a person is guilty, what difference does it make?' "

A questionnaire Berkham uses reveals a great shift in outlook by the end of the course. Freedom would fare badly with many of the students at the beginning of the unit, but its principles are understood far better at the end.

In class discussion Berkham, a slim, intense man of 59, often plays the "devil's advocate." He sets forth views or asks questions which, if taken at face value, would tab him as one of America's most arbitrary men.

"The students must think for themselves," he declared. "Whether or not I am in accord with their decisions is immaterial."

When students ask why America should uphold the rights of Communists when Russia does not observe the rights of believers in democracy, Berkham asks whether Russia's example makes it right. Should America follow the example of Communism?

When they wonder why a guilty person should have the right not to incriminate himself, Berkham tells a little about torture in Colonial America and abroad, which forced confessions and "justified" the execution of innocent men and women. He tells of stringing men up by the thumbs with their toes barely touching the floor; and of the "third degree," practices which have put innocent Americans behind bars.

So fairly does LIBERTY AND THE LAW handle controversial subjects that there have been no complaints, even from the Far Right.

The course can take up to six weeks in senior social studies, but Berkham likes to use it piecemeal.

"I like to work it in when freedom or its denial is in the news," he said. "The course is more meaningful that way."

Following his own advice, he took up the question of search warrants when Attorney General John Mitchell was quoted as saying police should not need to show search warrants in some drug cases.

How is the case study approach superior to conventional teaching methods?

"First, students are given opportunity to learn what the Supreme Court really decided and the reasons the court gave for its decisions," he said.

"Second, since controversial cases are used and majority and minority views presented, students learn to distrust the 'black and white' approach to social problems and to appreciate the

difficulty courts face in trying to reach decisions.

"Third, the case study approach encourages analytical thinking. It is certainly better to bring a riot into the classroom and think its causes through there than to encounter it on the street.

"Fourth, the interrelationship between the executive, legislative, and judicial branches of the government becomes meaningful.

"Fifth, students realize that the Bill of Rights is not simply a historical document to be memorized and promptly forgotten. It is a living, changing, protective shield which defines the relationship of a citizen to his government.

"Sixth, students begin to appreciate that there are no final answers to these basic problems —merely answers with meaning within the current framework of conditions."

Student comments confirm Berkham's enthusiasm for case studies.

"LIBERTY AND THE LAW was the best thing I did in the class all year," says Ken Chacartegui, a senior now graduated.

"I felt that I knew more about the Bill of Rights, partly because the course quotes actual court cases, and you could read what each judge said, for and against."

Rick Olsen, a junior, liked the course's relevance to current issues.

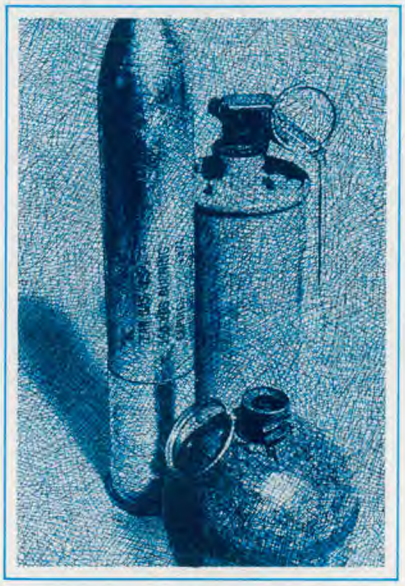
"It is far more interesting than sitting in class reading about what happened a long time ago. Supreme Court decisions have a lot to do with the way we live."

Berkham not only speaks impartially in the classroom himself, he makes sure both sides are represented when he brings in speakers.

"When we discussed whether the state should provide free textbooks to students in private schools, we had a representative from each of two religious schools present contrasting views," he recalled.

"One desires textbooks and the other will not accept textbooks even if they are offered by the state. The point was not to change students' minds; neither was it to get them to agree upon what was 'right.' Rather, it was to help them think through critically all the implications before coming to a conclusion as to whether or not textbook aid is in accord with the Constitution."

With the aid of funds from a Carnegie grant and a local foundation the Portland school system kept Berkham on the payroll for those twelve summer weeks while he, Jonathan Newman, Kay Stallings, and others sweated over cases, opinions, principles, and teaching. The others worked without pay, and none have profited from the course. The Oregon State Bar, which owns the copyright, has not yet recovered its initial investment.



So why did they bother?

Newman's interest was professional.

"As a lawyer, I felt a special interest in interpreting the Bill of Rights for high school youth. Through the years lawyers have played a major role in defining our rights as American citizens. Working on Case Studies was a labor of love."

Says Ronald O. Smith, "Young people, after the challenge of these meaningful experiences, will have a clearer concept of free press, free speech, right to counsel, and other rights."

Berkham's interest was more personal.

"As a Jew, I belong to a minority group. And I went to a college [Reed College in Portland] which encourages one to be aware of the need for individual rights."

He also is a Democratic precinct committeeman, has been campaign manager for some Democratic candidates, and otherwise keeps active in politics.

It is a tribute to his objectivity that when he asks his classes, after months of discussion, what they think his political leanings are, most students cannot guess. □

The fact that after four years of trial over 1,000 school systems in the United States are using this course on the Bill of Rights is one of the most encouraging developments in education in many years.

American liberties will be secure only when Americans recognize that the liberties of all are imperiled when they are denied to even hated and feared minorities. This course should go far in helping to achieve that recognition.

LEO PFEFFER, Attorney
Noted Constitutional Expert

This course of study in the Bill of Rights cooperatively developed by the Oregon Bar Association and Portland Public School teachers provides invaluable assistance to teachers throughout the country who would breathe life into what has been for too many students a musty document full of abstract principles that apply only to others. This is one course that answers in a positive and responsible way the cry for relevance in public education.

I'm proud to claim for Oregon the outstanding professionals who developed this material.

THE HON. TOM MC CALL
Governor, State of Oregon

freedom of expression

Do students have the Constitutional right to protest discrimination against Negroes by demonstrating peacefully on Statehouse grounds? On jail grounds? Unit four of LIBERTY AND THE LAW, "Case Studies in the Bill of Rights," discusses four cases, two of which answer the above questions.

TO THE STUDENT

The facts of actual court cases are used in these Units. You will find that lawyers and judges, like students and teachers, disagree on many of the issues raised. You will also find that Supreme Court Justices change their minds. In the classroom discussion of these units, you and your fellow students will disagree and may change your opinions more than once. There may not be final answers to all the questions asked, but inquiry and the free exchange of ideas are part of the democratic process. Learning to analyze controversial topics will help you become a useful citizen and deepen your appreciation of the Bill of Rights.

—Note on page 2 of Case Study number 4.

INTRODUCTION

Should you always be allowed to criticize the government? Or do you think there should be limits on what you may say and on where and when you say it?

The First Amendment to the Constitution of the United States provides, in part:

"Congress shall make no law . . . abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

According to United States Supreme Court Justice Louis D. Brandeis, the men who wrote the First Amendment in 1791 believed that:

1. Liberty is the secret of happiness.
2. Freedom to think as you will and speak as you think is indispensable to the discovery and spread of political truth.
3. A free exchange of ideas is ordinarily the best protection against false or harmful thoughts.
4. Public discussion is a political duty, and the greatest menace to freedom is indifference on the part of citizens.
5. Fear, hate, and repression menace stable government; therefore, the opportunity to discuss grievances and propose remedies is the safe path to follow.

Are these ideas still valid today? . . .

A STUDENT DEMONSTRATION: Edwards v. South Carolina

On March 2, 1961, a group of 187 high school and college students marched into the South Carolina Statehouse grounds in Columbia. Their purpose was to protest discrimination against Negroes. They carried placards with slogans such as, "You may jail our bodies but not our souls," and "Down with segregation."

The students were granted permission to enter the Statehouse grounds with the only requirement that they be "peaceful." For 30 to 40 minutes the students walked single file or two abreast through the grounds. A crowd of 200 to 300 onlookers gathered nearby, but the number of police were "at all times sufficient to meet any foreseeable possibility of disorder."

After the city manager recognized some of the onlookers as "possible troublemakers," the students were ordered by the police to disperse "within 15

minutes." Instead, the students listened to a speech by one of their leaders, and in a loud and boisterous manner sang patriotic and religious songs, stamped their feet, and clapped their hands. After 15 minutes, the police arrested the students for breach of peace, and, after a trial, the students were convicted. The police claimed that violence was imminent and that they acted to prevent a catastrophe.

QUESTIONS

1. Give several possible reasons why the demonstration was held. Do such demonstrations help to eliminate "indifference on the part of citizens"?

2. Was the demonstration likely to convince any persons in the crowd that segregation should be abolished?

3. Other than helping to change opinions about segregation, what results might be accomplished by the demonstration? In what way might stability in South Carolina be furthered if Negroes are permitted to demonstrate on the Statehouse grounds? Might the demonstration give the participants a feeling of liberty? Of happiness?

4. What alternatives were open to the city manager other than to order the arrest of the Negro demonstrators? Should the police have prevented a breach of the peace by restraining the demonstrators? Would your answer be the same if there were ten times as many people in the crowd as there were demonstrators?

5. Should controversial topics be discussed at public gatherings if the audience is stirred to anger, or if the speech creates a public dispute or a condition of unrest or arouses alarm?

6. Should a person's right to speak depend on

a. how many police are present or available to maintain order?

b. how violent or angry the crowd becomes against the speaker because of what he says?

c. whether the speaker exhorts the audience to commit illegal acts at once?

DECISION OF THE COURT

In the case of Edwards v. South Carolina, decided in 1963, the Supreme Court reversed the conviction of the student demonstrators. The Court said:

"[I]t is clear to us that in arresting, convicting, and punishing the petitioners under the circumstances disclosed by this record, South Carolina infringed the petitioners' constitutionally protected rights of free speech, free assembly, and freedom to petition for redress of their grievances. . . .

"The circumstances in this case reflect an exercise of these basic constitutional rights in their most pristine and classic form. The petitioners felt aggrieved by laws of South Carolina which allegedly 'prohibited Negro privileges in the State.' . . . They . . . peaceably expressed their grievances 'to the citizens of South Carolina, along with the Legislative Bodies of South Carolina.' . . .

"[T]hey were convicted upon evidence which showed no more than that the opinions which they were peaceably expressing were sufficiently opposed to the views of the majority of the community to attract a crowd and necessitate police protection. . . .

"A function of free speech under our system of government is to invite dispute. It may indeed best serve its high purpose when it induces a condition of unrest, creates dissatisfaction with conditions as they are, or even stirs people to anger. Speech is often provocative and challenging. It may strike at prejudices and preconceptions and have profound unsettling effects as it presses for acceptance of an idea. That is why freedom of speech . . . is . . . protected against censorship or punishment, unless shown likely to produce a clear and present danger of a serious substantive evil that rises far above public inconvenience, annoyance, or unrest."

Justice Tom C. Clark, the only dissenter, argued that the actions of the students, in the setting, created a "clear and present danger" of riot and disorder. Said he:

"The greatest menace to freedom is indifference . . ."
RELIGIOUS NEWS SERVICE

Studies may be ordered from Prentice-Hall, Inc., Englewood Cliffs, N.J. Classroom Set, $35.10.

"[A]nyone conversant with the almost spontaneous combustion in some Southern communities in such a situation will agree that the city manager's action may well have averted a major catastrophe.

"The gravity of the danger here surely needs no further explication. The imminence of that danger has been emphasized at every stage of this proceeding.

. . . To say that the police may not intervene until the riot has occurred is like keeping out the doctor until the patient dies."

QUESTION

Do you agree with the decision in the Edwards case? . . .

A PROTEST AT THE JAIL: Adderly v. Florida

Some time after the Edwards decision, about 200 students from Florida A. & M. University in Tallahassee, Florida, marched to the county jail. They stood in the jail driveway and on an adjacent grassy area on the jail grounds and sang hymns, clapped, and danced, as a protest against the arrest of some fellow students the day before. These fellow students had been imprisoned for trying to integrate public theaters and for protesting segregation at the jail.

The sheriff told the demonstrators that they were trespassing upon jail property and that he would give them ten minutes in which to leave, after which time he would arrest them. After about ten minutes the sheriff repeated his order. Most of the group remained, and the sheriff then arrested 107 of the demonstrators. They were charged with violation of a Florida statute which prohibits "every trespass upon the property of another, committed with a malicious and mischievous intent." The students were convicted and appealed their convictions to the United States Supreme Court.

QUESTION

Should the Court have reached the same decision in this case as it did in the Edwards case, which involved the demonstration on the Statehouse grounds in South Carolina? What are the similarities and differences between the two cases?

RELIGIOUS NEWS SERVICE

DECISION OF THE COURT

The United States Supreme Court, in 1966, by a vote of 5 to 4, affirmed the convictions of the demonstrators. Justice Black, writing the opinion for the Court, found these differences between the Edwards and Adderly cases:

1. "In Edwards, the demonstrators went to the South Carolina State capitol grounds to protest. In this case they went to the jail. Traditionally, State capitol grounds are open to the public. Jails, built for security purposes, are not.

2. "The demonstrators at the South Carolina capitol went in through a public driveway and as they entered they were told by State officials there that they had a right as citizens to go through the Statehouse grounds as long as they were peaceful. Here the demonstrators entered the jail grounds through a driveway used only for jail purposes and without warning to or permission from the sheriff.

3. "More importantly, South Carolina sought to prosecute its State capitol demonstrators by charging them with the common-law crime of breach of the peace. This Court in Edwards took pains to point out at length the indefinite, loose, and broad nature of this charge. . . . The South Carolina breach of the peace statute was . . . so broad and all-embracing as to jeopardize speech, press, assembly and petition. . . .

"The Florida trespass statute under which these petitioners were charged cannot be challenged on this ground. It is

"Freedom to think as you will and speak as you think is indispensable to the discovery and spread of political truth."

aimed at conduct of one limited kind, that is for one person or persons to trespass upon the property of another with a malicious and mischievous intent."

As to the question of whether the State offense of "trespass with malicious and mischievous intent" deprived petitioners of their rights to freedom of speech, press, assembly, or petition, Justice Black wrote:

"We hold it does not. The sheriff, as jail custodian, had power . . . to direct that this large crowd of people get off the grounds. There is not a shred of evidence in this record that this power was exercised . . . because the sheriff objected to what was being sung or said by the demonstrators or because he disagreed with the objectives of their protest. The record reveals that he objected only to their presence on that part of the jail ground reserved for jail uses. There is no evidence at all that on any other occasion had similarly large groups of the public been permitted to gather on this portion of the jail grounds for any purposes. Nothing in the Constitution of the United States prevents Florida from evenhanded enforcement of its general trespass statute. . . . The State, no less than a private owner of property, has power to preserve the property under its control for the use of which it is lawfully dedicated. For this reason there is not merit to the petitioners' argument that they had a constitutional right to stay on the property, over the jail custodian's objections, because this 'area chosen for the peaceful civil rights demonstration was not only "reasonable" but also particularly appropriate. . . .' Such an argument has as its major unarticulated premise the assumption that people who want to propagandize protests or views have a constitutional right to do so whenever and however and wherever they please."

Justice Douglas wrote a dissenting opinion representing the views of four members of the Court. He said:

"The First Amendment, applicable to the States by reason of the Fourteenth . . . provides that 'Congress shall make no law . . . abridging . . . the right of the people peaceably to assemble, and to petition the government for a redress of grievances.' These rights, along with religion, speech, and press, are preferred rights of the Constitution, made so by reason of that explicit guarantee. . . .

"The jailhouse, like an executive mansion, a legislative chamber, a courthouse, or the Statehouse itself . . . is one of the seats of government whether it be the Tower of London, the Bastille, or a small county jail. And when it houses political prisoners or those whom many think are unjustly held, it is an obvious center for protest. The right to petition for the redress of grievances has an ancient history and is not limited to writing a letter or sending a telegram to a Congressman; it is not confined to appearing before the local city council, or writing letters to the President or governor or mayor. . . . Conventional methods of petitioning may be, and often have been, shut off to large groups of our citizens. Legislators may turn deaf ears; formal complaints may be routed endlessly through a bureaucratic maze; courts may let the wheels of justice grind very slowly. Those who do not control television and radio, those who cannot afford to advertise in newspapers or circulate elaborate pamphlets may have only a more limited type of access to public officials. Their methods should not be condemned as tactics of obstruction and harassment as long as the assembly and petition are peaceable, as these were."

Justice Douglas pointed out that there was no violence or disorder, nor a plan to do anything but protest. The petitioners did not enter the jail or upset the jailhouse routine. Persons and vehicles were still able to come and go from the jail. Furthermore, ". . . the jailhouse grounds were not marked with 'NO TRESPASSING!' signs" and "the public was [not] generally excluded from the grounds. Only the sheriff's fiat," said Justice Douglas, "transformed lawful conduct into an unlawful trespass."

Justice Douglas argued that previous Court decisions had protected the right to go peacefully on **public,** as distinguished from private, property to exercise First Amendment rights. He pointed out that streets and parks, for as long as man can remember, had been used for assembly and discussion of public questions, including petitions addressed to the government to redress grievances. Such use of public property may, of course, be regulated:

"A noisy meeting may be out of keeping with the serenity of the Statehouse or the quiet of the courthouse. No one, for example, would suggest that the Senate gallery is the proper place for a vociferous protest rally."

But, wrote Justice Douglas, all public places cannot be barred to people with grievances and the custodian of public property may not, in his uncontrolled discretion, decide when public places shall be used for the communication of ideas.

"Today a trespass law is used to penalize people for exercising a constitutional right. Tomorrow a disorderly conduct statute, a breach-of-the-peace statute, a vagrancy statute will be put to the same end. It is said that the sheriff did not make the arrests because of the views which petitioners espoused. That excuse is usually given, as we know from the many cases involving arrests of minority groups for breaches of the peace, unlawful assemblies, and parading without a permit. The charge against William Penn, who preached a nonconformist doctrine in a street in London, was that he caused 'a great concourse and tumult of people' in contempt of the King and 'to the great disturbance of the peace.' That was in 1670. In modern times, also, such arrests are usually sought to be justified by some legitimate function of government. Yet by allowing these orderly and civilized protests against injustice to be suppressed, we only increase the forces of frustration which the conditions of second-class citizenship are generating amongst us."

"A free exchange of ideas is ordinarily the best protection against false or harmful thoughts."

QUESTIONS

1. Do you agree with the majority or the minority opinion in the Adderly case? Give reasons supporting your position.

2. Should it make a difference where a meeting or demonstration is held? Would it matter if it were held

a. in a public park?

b. on the steps of the State capitol?

c. on a public street or sidewalk?

d. at the Lincoln Memorial in Washington, D.C.?

e. in front of the Pentagon in Washington, D.C.?

f. in front of an induction center?

3. Justice Douglas says that streets and parks have been used for the discussion of public questions for as long as man can remember. Why is it important that public places be available for protest meetings?

4. What do you think of Justice Douglas' point that the Court's decision allows the sheriff uncontrolled discretion as to when the jailhouse grounds could be the scene of a public protest? . . .

CONCLUSION

The Supreme Court has often divided sharply in free-speech cases, as this Unit shows. But its many decisions in the past 35 years have revitalized and strengthened the guarantees of the First Amendment. The Court has tried to pass on to a new generation its faith, and the faith of the men who wrote the First Amendment, in the power and necessity of free and fearless discussion of controversial public questions. □

By ROLAND R. HEGSTAD

RELIGIOUS NEWS SERVICE

THAT VATICAN appointment

A few weeks ago, even before all the opposition had spoken, Henry Cabot Lodge, the President's quasi-ambassador to the Vatican, booked a flight to Rome. In addition to violating

EWING GALLOWAY

the spirit if not the substance of the First Amendment, offering as it does preferred status to a religious organization, his appointment carries several major liabilities: 1. By further identifying Christendom with "Western imperialism" it provides justification for increased repression of Christians in Eastern Europe. 2. It represents a setback for reform within the Roman Catholic Church. 3. It is a divisive action on the part of an administration pledged "to bring us together again."

Whatever the merits of the appointment (we have discovered none), whatever the political benefits accruing to the President from grateful American Catholics (we suspect they will be minimal), the liabilities outweigh the gains.

The President advances as a determinative reason for the appointment the usefulness of having "ears" in Rome. If Henry Cabot Lodge turns up something neither our embassy in Rome nor the CIA is privy to, the ambassador should be given a more efficient staff of attaches, and the CIA a few thousand dollars additional to purchase more perceptive "hearing aids."

It is precisely at this listening point rationale that the first major liability of the appointment becomes apparent. For who, after all, if not priests and nuns and perhaps diplomatic personnel of the Catholic faith, must feed the Vatican the "whispers" to which Lodge's ear will be attuned? Christianity—Catholic brand—becomes just what the Communists label it: a tool of Western imperialism. The loyalty of all Christians becomes suspect, and all may suffer.

When newspapers announce a crackdown on Catholic activities or the imprisonment of several priests by authorities in one or another Eastern European country, one may view the incidents as simply another example of "Communist repression." And one may be right. On the other hand, one may be wrong. Perhaps those priests were transmitting information to the Vatican—and Lodge—that includes far more than how many converts were gained in Slovakia last year. As, for example, how many Russian tanks are parked near Warsaw or what is the morale of Russian soldiers stationed near Prague. The next time a Communist leader lumps Christianity and Western imperialism into one political anathema, we hope some conscience-smitten Vatican prelate will repair to St. Peters and there breathe an "Ego te absolvo."

The President's concession also represents a setback to forces of reform within the Roman Catholic Church. Under Pope John's leadership Vatican Council II set the church to the formidable task of self-examination and renewal. In the aftermath of the council an influential minority of Catholics, priests and laity alike, have come to view their church's political ambitions and diplomatic machinery as hindrances to recovery of spiritual vitality. The President's action thus involves him in a church controversy and, further, allies him with the traditionalists against the hopes and prayers of those Catholics seeking to reestablish the nonpolitically oriented community of faith that constituted the New Testament church.

The American judiciary long has been guided by a fundamental rule—"the law knows no heresy, and is committed to the support of no dogma, the establishment of no sect."—**Watson** v. **Jones,** 13 Wall. 679,728. In the unique recognition afforded Roman Catholicism the President violates the spirit of this wise dictum, with what ultimate consequences only time and the Lord Himself can tell.

One might even now, however, note with profit the prophetic sketch against which the last religio-political events of our day will be played. Under the symbolism of a woman dressed in scarlet, John the revelator pictures an Armageddon-era church. She is supported by a beast, representing the state, which furthers her ambitions. In her hand she holds a goblet filled with "the wine of her fornication"—false doctrines—from which she bids all nations drink. Supporting her in her repressive alliance with the state are daughter churches. Together they seek to bring the world to political and religious unity. But their instrument of persuasion is, as in ages past, the arm of the state. These combined forces, says John, "have one mind, and shall give their power and strength unto the beast" (Revelation 17:13). It is this religio-political amalgam that leads the world to Armageddon, the climactic struggle between good and evil.

It would seem presumptuous to assert that the President's appointment of an envoy to the Vatican is significant within this context. But, as Bishop Fulton Sheen once observed, one does not need to throw a log into the current to see which way it is flowing. A straw, he said, will do just as well.

At the least the appointment confronts a sadly divided nation with another sadly divisive act. At the most the appointment adds another brick to that developing church-state amalgam that will once again initiate religious persecution. Whether political straw or prophetic log, the President's act is an indicator of the way the current of history is flowing. □

international

RELIGIOUS NEWS SERVICE PHOTOS

WASHINGTON, D.C.—For the second time in history, a conscientious objector has received the nation's highest honor.

The family of the late Cpl. Thomas W. Bennett of Morgantown, West Virginia, received his Medal of Honor from President Nixon. The Army medic was one of 21 servicemen, all killed in Vietnam, posthumously honored.

Army Pfc. Desmond T. Doss, Jr., a Seventh-day Adventist, of Lynchburg, Virginia, became the first C.O. to receive the Medal of Honor, earning it in the battle of Okinawa.

Cpl. Bennett, a Baptist, was killed in early February, 1969. He had arrived in South Vietnam a month before. The citation said the medic exposed himself to enemy fire without regard for his own life in ministering to wounded comrades.

The corporal would have been 23 on the day the award was presented to his mother, Mrs. Kermit Gray. His father is dead.

In the course of his service in the Medical Corps, Cpl. Bennett received the Purple Heart, the Good Conduct Medal, the Vietnam Service Medal, and the Vietnam Campaign Medal, the latter presented by the government of South Vietnam.

Assigned to the Fourth Infantry Division, he was killed as his platoon attempted to come to the rescue of another unit held down by fire in the central highlands.

In a letter written shortly before his death, Cpl. Bennett said: "I believe in America. I believe that our process of government can respond to people's needs if each will assume his own responsibility. Too many of us jump to the last resort first. . . . I will continue to serve within the limits of my personal conscience until I feel there is no longer any hope."

international

HARRISBURG, Pennsylvania —Presiding Judge Homer L. Kreider of Dauphin County Common Pleas Court has refused citizenship to a conscientious objector on the ground that a C.O. would have "a qualification or mental reservation to the oath of allegiance."

Such a person, the jurist said, "is not entitled to be naturalized" as a citizen of the United States.

The applicant was Venkataraman Ramadass, a native of India and an employee of the Commonwealth of Pennsylvania in the Air Pollution Control Division of State Health Department.

The Indian appealed to the Dauphin County Court after the U.S. Naturalization and Immigration Service recommended that his petition for citizenship be turned down.

Although applicants for citizenship may take the oath of allegiance if they indicate a willingness to "perform work of national importance under civilian directional," Mr. Ramadass insisted that he be the final judge of what noncombatant work he should perform. He said it would have to be work "that my conscience will permit me to do."

BUDAPEST, Hungary — The Communist Government of Hungary is organizing a nationwide campaign for "secular family ceremonies" to replace religious services at weddings, baptisms, and funerals.

Budapest Radio reported that a recently published government decree calls for the formation of special offices in all the larger cities, towns, and villages with the sole aim of developing and propagating "new secular customs and ceremonies."

The decree states that all persons who avail themselves of such ceremonies will not be charged any fee, in contrast to the current practice of the churches that, the regime claims, "charge" high fees for baptisms, weddings, and funerals.

The Hungarian Communist decree is scarcely innovative. As far back as the 1950's, Communist authorities in East Germany were promoting and organizing "name-giving ceremonies," "Socialist weddings," and "Socialist funerals," as substitutes for religious rites.

And in 1965 the Ministry of Religion in the U.S.S.R. suggested that an effective way to combat religion among the young might be to introduce such observances as a "Day of Flowers," a "Day of Birds," or a "Day of Spring" that would serve to counteract traditional Russian religious holidays.

CANADA, NEW ZEALAND— Catholics are not confining pressure for government aid to parochial schools to the United States. Canada and New Zealand, among other nations, are feeling the pinch of the church's demands for support.

In Ontario the church is asking separate, equal, and fully tax-supported high schools. It already receives full tax support for grades kindergarten through eight, and partial support for grades nine and ten. The demands, if granted, would cost the Ontario government an additional $23 million a year. Not surprisingly, the government has balked.

In New Zealand the Labor Party is backing Catholic demands for subsidy to private school teachers at the rate of one half the salary of state teachers. Included with the pay subsidy would be provisions for teachers to complete their degrees, increased grants for free textbooks, and additional library accommodations.

The philosophical groundwork for Catholic pressure was supplied by a schema of Vatican Council II: "The public power, which has the obligation to protect and defend the rights of citizens, must see to it, . . . that public subsidies are paid out in such a way that parents are truly free to choose according to their conscience the schools they want for their children."

international

FOCUS ON WASHINGTON

By JESSE H. MERRELL

Even the most experienced newspaper reporters covering the Supreme Court say it is unwise to try to predict how the Court will rule on a case by the questions the Justices ask during a hearing.

Just when you think you've got them figured out the Justices will vote the opposite.

Be that as it may, a few passages from the Supreme Court's decision last session upholding tax exemptions for churches may portend how the Court will rule this session on the constitutionality of Government aid to church-supported schools.

For example, Justice William O. Douglas, recalling his vote with the 5-4 majority in the **Everson** case in 1947 approving the use of public funds to bus children to parochial schools, said he has "since had grave doubts about it because I have become convinced that grants to institutions teaching a sectarian creed violate the Establishment Clause."

Chief Justice Warren E. Burger said, "Obviously a direct money subsidy would be a relationship pregnant with involvement" and that we "cannot ignore the instances in history where church support of government led to the kind of involvement we seek to avoid."

Justice John M. Harlan observed that "governmental involvement while neutral, may be so direct or in such degree as to engender a risk of politicizing religion."

From those statements it might be deduced that those Justices will vote against Government aid to parochial schools. But, as reporters have learned, questions or comments don't always foretell answers.

The Court's ruling on a Pennsylvania case between now and June, however, should settle—unless the Court reverses itself later—the controversial question of State aid to church schools.

Even the Government wants to know. Both the Justice Department and the Department of Health, Education, and Welfare have told the Supreme Court they would welcome a high court test on such aid.

Meanwhile, increasing pressures — politically powerful pressures—are being put on legislative and executive authorities across the nation in an effort to legitimatize Federal aid to parochial schools.

Threats are being made to "dump" thousands of parochial students into public schools unless aid is immediately forthcoming.

This is an absurd argument that should hold no sway. Why should the Government, which is spending millions of dollars annually to eliminate dual school systems based on racial distinction, become party to another dual system based on religious lines?

Let them "dump" the children. It certainly should be cheaper to finance one school system than two. Wasn't this one of the arguments against racially segregated schools, that it was more expensive to maintain two systems?

(Conveniently overlooked in the hysteria-shrouded dispute is the fact that the Roman Catholic Church seems eminently capable of paying for its own school system—the way other religious groups do!)

At the last session of the Illinois Legislature, proparochiaid forces placed a full-page ad in the Chicago **Tribune** warning the governor and legislators that unless a parochiaid bill was "cleared immediately" for floor action, thousands of wrathful citizens would "immediately rise vocally against this decision, and with our ballot when the time arises."

Despite the pressure the Illinois bill was defeated, but only by a slim 28-26 margin. And parochiaid forces will be back, not only in Illinois but in many other States.

The pressure is so intense that only a Supreme Court ruling against parochiaid can defuse the constitutional time bomb. If the Court sanctions parochiaid, the pressure will become even more intense.

We forget the lessons of history so quickly. We have forgotten what it was like when church and state walked hand in hand—with no wall between them—and burned at the stake those who wanted to take their religion from the God of heaven instead of the god of London, Paris, or Rome.

In his **Memorial and Remonstrance Against Religious Assessment** protesting State aid to Virginia churches, James Madison said of ecclesiastical establishments on civil society:

"In some instances they have been seen to erect a spiritual tyranny on the ruins of civil authority; in many instances they have been seen upholding the thrones of political tyranny; in no instance have they been seen the guardians of the liberties of the people. Rulers who wished to subvert the public liberty, may have found an established clergy convenient auxiliaries."

The question now is whether the Supreme Court will save what is left of the wall to prevent such tyranny.

It should.

For the first time in the history of the United States the church's tax-exempt status is being seriously challenged. The problem has become acute because of the commercial nature of many church enterprises, the vast increase in all types of tax-exempt property, the abuse of exemption privileges, and governmental needs for new sources of revenues.

By KENNETH J. HOLLAND, Editor "These Times"

Conclusion of a two-part series.

what the courts and churchmen are saying about tax-exempt church wealth

Why should churches be favored? ask many citizens increasingly hard-pressed to finance local and national governments. Take away tax exemptions. If the churches are strong, they will survive. If they are weak, they deserve to die.

The result is a three-part movement to tax churches and church properties. Already under fire are unrelated church businesses such as hotels and radio stations. Next in line are church-related businesses such as publishing houses. Last are church sanctuaries.

It is quite clear that the nonestablishment clause of the First Amendment ("Congress shall make no law respecting an establishment of religion") prohibits governmental aid to religion. The question is, Is tax exemption the kind of aid forbidden by the First Amendment? On May 4 the Supreme Court ruled that tax exemption for houses of worship has indeed **not** established religion and therefore is constitutional.

The case began with Frederick Walz, a Bronx lawyer, who purchased a small piece of land on Staten Island in 1967. He wasted no time in suing the City Tax Commission over his $5.24 tax bill for a year, contending that tax exemptions granted to church property raised his own tax bill and forced him to contribute to religious groups against his will.

Walz claimed that tax exemption for houses of worship was an indirect state subsidy to churches in violation of the First Amendment's prohibition against any "establishment of religion" by the government. The matter finally went to the Supreme Court.

In rejecting Walz's argument, the Court sustained the New York State law that exempts churches from tax and argued that no particular religion is singled out for favorable treatment. Wrote Chief Justice Warren E. Burger: "The statute is simply sparing the exercise of religion from the burden of property taxation levied on private property."

"The legislative purpose of the property tax exemption," he said, "is neither the advancement nor the inhibition of religion; it is neither sponsorship nor hostility. New York, in common with other States, has determined that certain entities that exist in a harmonious relationship to the community at large, and that foster its 'moral or mental improvement,' should not be inhibited in their activities by property taxation or the hazard of loss of those properties for nonpayment of taxes."

Burger conceded that either taxation or nontaxation of churches occasions some degree of involvement with religion. But he found that elimination of exemption would "tend to expand the involvement of government by giving rise to tax valuation of church property, tax liens, tax foreclosures, and the direct confrontations and conflicts that follow in the train of those legal processes." Exemption, on the other hand, "creates only a minimal and remote involvement between church and state and far less than taxation of churches. It restricts the fiscal relationship between church and state, and tends to complement and reinforce the desired separation insulating each from the other."

The Chief Justice pointed out, however, that "qualification for tax exemption is not perpetual or immutable; some tax-exempt groups lose that status when their activities take them outside the classification and new entities can come into being and qualify for exemption."

One should remember that the decision dealt with exemption of church property from state taxes. It would be a mistake to read it as an endorsement of exemption of church businesses operated for a profit.

While applauding the Court's ruling, some churchmen have become concerned about the concentration of wealth and economic power in churches, and the number of tax-free enterprises that have nothing to do with religion. They have suggested that present tax-exemption policies and practices should be reviewed and discussed.

C. Staten Gallup, Connecticut businessman and former president of American Baptist Convention, says: "Our churches should take the lead in proposing and adopting rules which would be fair both to the churches and to our government."

A few years ago, with all Baptist groups in America represented, the Baptist Joint Committee on Public Affairs held a conference on the problem for leaders and workers. Baptist leaders agreed that (1) only property used for worship and the stated religious purposes of the church, and that of supporting institutions carrying out the religious programs of the church, should be tax exempt; (2) business enterprises in competition with private business (though income therefrom is used for church support) and income-producing real estate, should be taxed.

The General Assembly of the United Presbyterian Church U.S.A. has requested its foundation to make no investment in unrelated business where income tax exemption is allowable.

Cumberland Presbyterian Magazine recently stated:

"The church should consider withdrawing from the 'favored position' it holds in relation to taxation. . . . The church should take a careful look at history and recognize the dangers that result when it becomes a big property holder. This more than anything else leads to the necessity of a close union between church and state. When the church becomes a vested, economic interest it tends to adjust the **status quo,** loses its prophetic vision and courage, and separates itself from the interest of the masses."

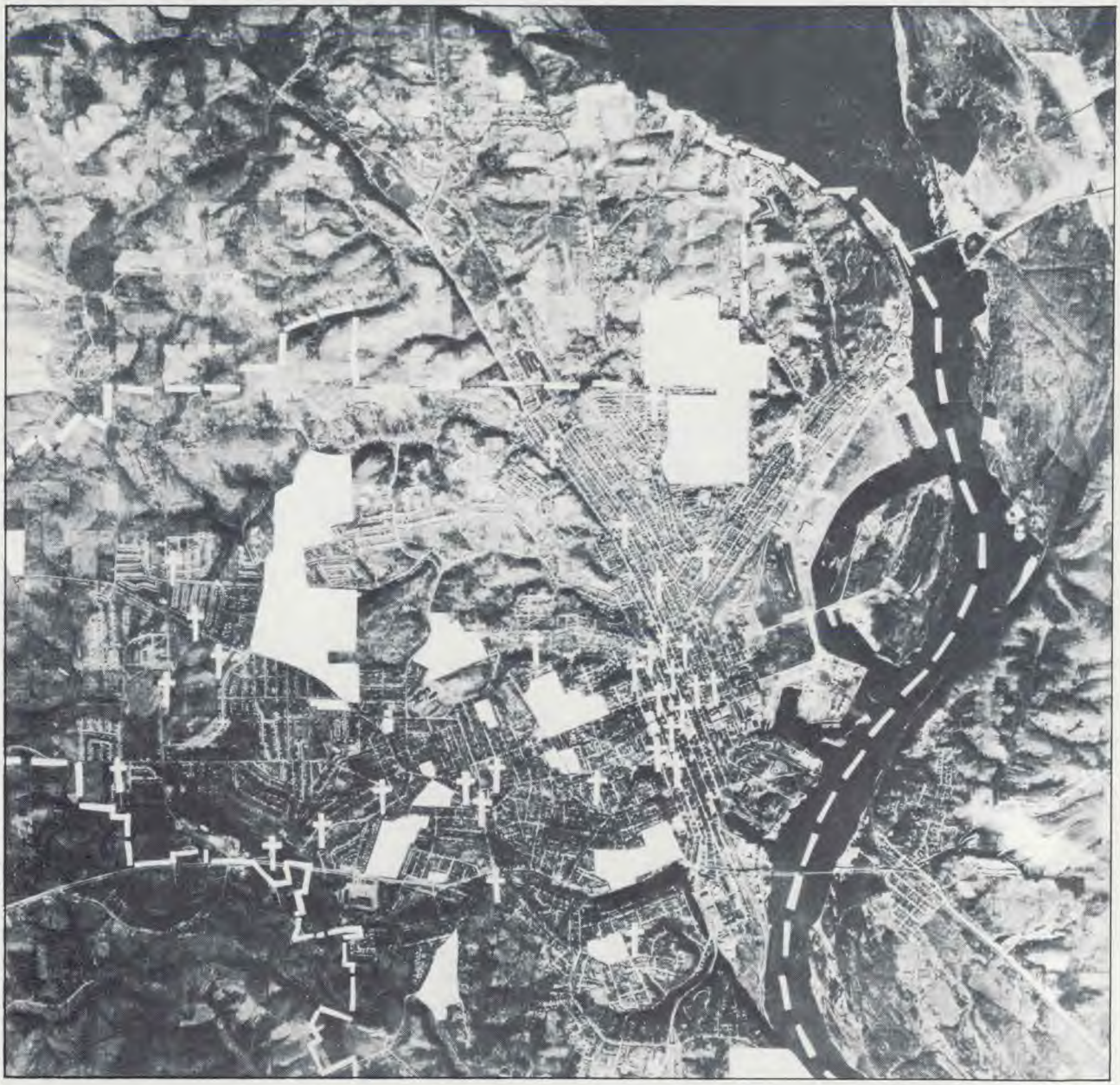
Cardinal Vagnozzi, the Pope's apostolic delegate, writes: "Sound and prudent financing is necessary, but concern with finances should not be allowed to turn religious superiors into businessmen and religious institutions into corporations."

The National Association of Evangelicals takes the stand that profit making by churches and related organizations constitutes an unlawful subsidy forbidden by the First Amendment to the Constitution.

The Christian Science Monitor has called for a revision of Section 511, Internal Revenue Code, asking Congress "to prevent the American taxpayers from having in effect to subsidize religious

Tax exemptions for property owned by religious groups has caused increasing concern among church and government officials. This aerial photo of Dubuque, Iowa, shows tax-exempt church properties. Dotted lines mark city limits; tax-exempt holdings, indicated by solid white areas, include colleges, seminaries, and cemeteries. Individual churches are marked by crosses.

RELIGIOUS NEWS SERVICE



forays into the competitive marketplaces."

Bishop Richard C. Raines of the Methodist Church says, "There is a great accumulation of wealth that is not on the tax rolls. It is an unwarranted burden on the community. When churches were struggling to get along, the tax exemption was acceptable. But churches are not weak financially today."

Discussions among churchmen have already resulted in voluntary action. Church trustees given income-producing property such as apartment houses and business blocks have requested that taxes be continued. Churches of many faiths now remit sales taxes on all items sold in bookstores to the public, pay property taxes on church parking lots used for commercial use during the week, and accept no subsidies by special interest rates on institutional loans.

In an action unprecedented in Milwaukee's history Faith United Church of Christ has given the city a $500 contribution for municipal services. In a letter to city officials Silas G. Farmer, president of the church council, stated that the church was aware of the city's serious fiscal problems: "We see a close connection between the property tax problem and the vast amount of land and buildings off the tax rolls, property held by religious, charitable and quasi charitable institutions and organizations." Mayor Henry Maier praised the congregation for "extraordinary understanding and concern about the fiscal problems of the city."

Let us now return to the problem of the Methodist Publishing House in Nashville (LIBERTY, July-August, page 8). Inciden-

tally the county tax assessor's ruling affected also Seventh-day Adventist, Southern Baptist, and National Baptist publication endeavors. Nashville stands to collect close to three quarters of a million dollars in taxes if normal assessments stand.

According to the Tennessee State constitution, tax exemptions may be granted to religious organizations, provided a particular operation is used "exclusively" for religious purposes or for purposes "purely" religious.

The board broke down the publishing house endeavors into three categories: (1) printing operations; (2) administrative activities for nonexempt operations; (3) publishing operations. In each case the board decided the operation was secular and subject to assessment. "The board bases its opinion on a determination that the properties found to be assessable are secular in nature and are not being used 'exclusively' and 'purely' for religious purposes and that the activities for which they are being used are only incidental to their stated religious purposes, and are in competition to private business, and are being operated for profit."

In a statement following the Board of Equalization's ruling, Clifford Allen, metropolitan tax assessor, said:

"The publishing houses have gone far beyond their original purpose in merely supplying the printing of church bulletins and other purely religious publications for churches of their denomination. They have grown, expanded and are now operating far-flung multi-million-dollar enterprises for profit directly in competition with private industry."

John Laird, treasurer of the Methodist Publishing House, rejected Allen's contention in the following words: "The statute law has not changed, nor have the operations of the Methodist Publishing House changed. As a religious book store we pay the appropriate property taxes; as a religious publisher, we have not changed; our printing differs from that performed on a multilith machine in a church office only in the volume of printing done. We print only for the United Methodist Church, solicit no commercial printing, and do not consider ourselves to be in competition with commercial printers in Nashville."

"Although our methods of operation have not changed, the whole country is under different conditions regarding need for tax revenue." He said the Methodist Publishing House is now paying approximately $40,000 in annual property tax for such items as parking lots and a cafeteria.

A recent case in Indiana may serve to encourage the four Nashville publishing houses, which are appealing the county tax assessment. The Indiana Appellate Court has ruled that a Winona Lake religious publishing house is exempt from property taxation because it is a subsidiary of a not-for-profit religious body.

The case was similar to several others ruled on recently by the appellate court, including one involving the Church of God (Anderson, Indiana) publishing firm, Warner Press. Rulings in each case opposed the tax board's position that property used in competition with commercial enterprise should be subject to taxation even though it is owned by a nonprofit organization.

Judge George B. Hoffman, Jr., of Hammond, who wrote the appellate court opinion, stressed the product purpose doctrine as a reasonable holding. He said a direct relationship could be established between the produce and the religious purposes of the organization.

"Were the appellee church to incorporate a subsidiary to manufacture tennis shoes, no such relationship could be established," Judge Hoffman said.

To sum up, the Indiana cases concluded, as the Nashville publishers are contending, that religious publishing firms in business exclusively for religious purposes should be tax exempt.

Interestingly enough, the Harrisburg and Dayton cases mentioned earlier differ significantly from the Nashville situation in that both publishing concerns were actively engaged in commercial printing in competition with secular establishments. The Harrisburg press prints for the Scott Tissue organization, and the Dayton concern prints Top Value Stamps. The attitude of most church leaders is that exemption of such "unrelated business income" should be removed **now**.

The California legislature seems willing to oblige. Recently, reports STATE GOVERNMENT NEWS, it brought church-owned businesses into the tax field for the first time by subjecting profit-making enterprises of churches unrelated to their tax-exempt purpose (religion) to the 7 per cent tax on net income paid by other corporations and businesses.

Despite what has already been said about the enormous wealth of the churches, there is another side of the picture. As D. B. Robertson points out in his book SHOULD CHURCHES BE TAXED?: "A relevant question is whether or not taxation of church property would destroy the churches (assuming their support to be largely from voluntary gifts) or seriously cripple their religious function in the community. There is little doubt that economically marginal churches would go under. Many others, if left essentially to voluntary support, as they should be, would be forced so to limit their organizational activities that they might be hard put to do more than turn inward to preoccupation with their own cultic rounds, increasingly to the neglect of their community 'mission.'"

The enormous wealth of the churches is impressive; however, it should be noted that very little cash is involved. Many churches are quite literally building and institution poor, so that a part of the current discussion questions the morality of property holding and space utilization.

It is almost the exception when a Catholic diocese ends a fiscal year far in the black, as indicated by recent disclosures of financial standings. The Louisville Archdiocese had a working surplus of over $600,000 at the end of 1968. But Baltimore, New York, Boston, Buffalo, Tucson, and St. Paul-Minneapolis, for example, had deficits.

Sixty-nine parishes in the archdiocese of Detroit had deficits in 1968. In balancing the books, parish requests depleted an archdiocesan loan fund. John Cardinal Dearden of Detroit said it would be necessary for the fund to borrow from commercial banks.

The situation has resulted in some dioceses, parishes, and orders dipping into reserves, spending capital investments, or launching emergency fund drives. It is also a major reason why Catholic educators are trying to obtain public support for certain nonreligious aspects of parochial schools.

As far as Protestants are concerned budget cuts in 1969 were reported by national units of the United Methodist Church, the Unitarian Universalist Association, and The National Council of Churches. The two large mission boards of the United Church of Christ went into deficit financing. The Christian Church (Disciples of Christ) found a 2.7 per cent drop in contributions to world, national, and regional work.

Returning to the matter of tax exemptions, D. B. Robertson states: "The crucial issue is to maintain our corporate rights, our internal integrity, and our freedom to act in the community in accordance with the principles and values that motivate us. Under present circumstances churches will do well to resist the withdrawal of the tax exemption (on the minimal property needs), not only to prevent the state's entry into the life of the church in such a way as to imply possible control, but also to hold with the best of our heritage that the state which did not make us shall not lay claim to a sovereign power that may break us. All the protestations of legislature and court that First Amendment freedoms are 'favored freedoms' may become empty words if these freedoms (every single little one of them) are not defended at every threatened entry."

In conclusion, the trend is toward taxing church entities, beginning with unrelated businesses, and then moving toward removal of tax exemptions for related businesses such as publishing houses. The Walz case decision would seem to remove the church sanctuary itself from immediate threat of taxation. □

perspective

Toy Bartender Serves Up Panaceas

A reader of LIBERTY reports that a toy company has come out with a small mechanical bartender that goes through the motions of downing a drink. Though not suggesting a boycott of the manufacturer, he makes plain his pain that another seemingly innocent toy is seducing our youth, who already are being blighted by society's emphasis on "smoking, drinking, and kindred ills."

We thought of sending on his complaint to our sister publication LISTEN, a temperance journal that regularly tilts with the tipplers, but in a moment of reflection were assailed by enlightenment worthy of LIBERTY itself! The propagandists for Old Granddad and all his spirituous and iniquitous offspring have undone themselves: that mechanical bartender opens the way for a counterattack on evil that is stupendous in its potential. All our temperance associates have to do is doctor up those toy bartenders so that, after downing their drinks, they go into delirium tremens!

Think of the impact of a toy cigarette girl that could be made to light up a sample of her product, cough rackingly, and choke to death. For $1.95 more the package could include a toy doctor to remove her blackened lung—during an autopsy.

Of course, one must keep an idea or two for one's own hangup. Imagine a toy policeman who wouldn't let kids play with their toys on Sunday! What an undercurrent of resentment against Sunday laws **that** could create! It ought to be made plain, though, that the policeman is only following orders.

But these are just little thoughts. Imagine a plastic politician who presses a button to launch plastic rockets with dummy warheads. As a mushroom cloud rises, out walk little (toy) children with two heads and three eyes . . .

And to think all this started with a toy bartender!

[Memo from the copyroom: Somebody had better check what that toy bartender was serving.]

R. R. H.

A Pregnant Question

Induce an abortion in Kansas and you can get a maximum of one year in prison; in Mississippi the same offense can result in a twenty-year sentence. In which State would you have preferred your mother to become pregnant with you?

The Walz Decision—Loophole or Tightrope?

Has the Walz decision, which closed the door on State taxation of the church, opened a loophole in the wall of separation?* Advocates of tax support for parochial schools profess to find renewed hope in the Supreme Court's language, particularly in Chief Justice Burger's use of the phrase "benevolent neutrality," in the majority decision. Charles M. Whelan, S.J., an associate professor of constitutional law at Fordham Law School and an associate editor of the Catholic publication AMERICA, found evidence of a "definite change" in the "atmosphere and direction of the Supreme Court's thinking on church-state matters" (AMERICA, May 16, 1970, p. 518). After reading the decision we find neither a wall nor a loophole, but rather a refreshingly rephrased dedication to separation of church and state.

The key paragraph in Burger's majority (7-1) opinion, released May 4, and the one around which much conjecture revolves is the following:

"The course of constitutional neutrality in this area [First Amendment] cannot be an absolutely straight line; rigidity could well defeat the basic purpose of these provisions, which is to insure that no religion be sponsored or favored, none commanded, and none inhibited. The general principle deducible from the First Amendment and all that has been said by the Court is this: that we will not tolerate either governmentally established religion or governmental interference with religion. Short of these expressly proscribed governmental acts there is room for play in the joints productive of a benevolent neutrality which will permit religious exercise to exist without sponsorship and without interference."

"No perfect or absolute separation is really possible," Burger said. "The very existence of the Religion Clauses is an involvement of sorts—one which seeks to mark boundaries to avoid excessive entanglement."

Even the Everson case, he reminded us, with its adamant words—"Neither a state nor the Federal Government can . . . pass laws which aid one religion, aid all religions, or prefer one religion over another"—did not preclude the Court's approving of buses to carry and policemen to protect church school pupils, aid in the form of textbooks and costly teaching materials to pu-

* We would invite our readers to formulate their own opinion after reading the decision in its entirety. (Available from the Superintendent of Documents, Government Printing Office, North Capitol Street, Washington, D.C. 20025. 30 cents.)

perspective

pils in parochial schools, in common with public schools.

The Chief Justice criticized "what, in retrospect, may have been too sweeping utterances on aspects of these clauses that seemed clear in relation to the particular cases but have limited meaning as general principles." These, he said, may have led to "the considerable internal inconsistency in the opinions of the Court."

Do these paragraphs represent a retreat from the Court's prior decisions or simply a moderation of language? We find several reasons in support of the latter conclusion, among which are the following four:

First, Burger leaves little doubt that the Court still would find objectionable those forms of aid leading to "excessive" involvement, which he characterized as "one calling for official and continuing surveillance."

"Obviously," he said, "a direct money subsidy would be a relationship pregnant with involvement and, as with most governmental grant programs, could encompass sustained and detailed administrative relationships for enforcement of statutory or administrative standards."

Taxation of church properties was ruled out by the Court, most pragmatically, because taxation would mean a closer relationship between church and state than nontaxation requires. Significantly, a number of Federal and State aid programs funneling money to schools require precisely this closer relationship, as some school administrators, both public and private, already have found.

In addition, use of Federal and State grants as clubs to force compliance with some request or other is common. Recently termination of aid to Thompson Valley (Colorado) High School was threatened by Health, Education, and Welfare officials if that school would not permit examination of student records for examples of racial discrimination in the activities of the school district, though such examination is illegal under State law. Such incidents should be underlined in red in the diaries of parochial school officials.

Second, in endeavors to secure State tax support, parochial schools have begun to stress the contribution they make to the community — educating ghetto youth, imparting knowledge of secular subjects, and so forth. But Burger makes it clear that the Court will not be taken in by the altruistic "flack" put up by churches seeking to justify tax support. Said he:

"No religious body that maintains schools would deny" that they are maintained to "assure future adherents to a particular faith by having control of their total education at an early age." He called this the "affirmative if not dominant policy of church schools."

Third, since the Walz case, a Federal District Court in Providence, Rhode Island, has ruled that it is unlawful to pay teachers' salaries, even those teaching secular subjects, in a church-related school. The three judges cited the Walz case in support of their ruling against the Rhode Island Salary Supplement Act of 1969. It is evident that they failed to find in it that "definite change" of philosophy observed by Professor Whelan.

A fourth reason for affirming that the Court's decision is more flexible in language than flaccid in policy lies in this: Justice Black, who would not approve even the supplying of textbooks to parochial school children in New York's **Allen** case, signed the majority decision written by Burger. Had the Court been signaling a U-turn in its philosophy of church-state separation, it is hard to believe that Black would not have entered a trenchant minority opinion. That honor—or should one say, distinction?—was left to Associate Justice Douglas, who alone found the taxation decision contrary to the spirit of the First Amendment. Said he: "It is, I fear, a long step down the Establishment path."

Burger had the persuasive, if not last, word:

"If tax exemption can be seen as this first step toward 'establishment' of religion, as Mr. Justice Douglas fears, the second step has been long in coming."

"With all the risks inherent in programs that bring about administrative relationships between public education bodies and church-sponsored schools," said Burger, "we have been able to chart a course that preserved the autonomy and freedom of religious bodies while avoiding any semblance of established religion. This is a 'tight rope' and one we have successfully traversed."

Whether the "benevolent neutrality" to which that rope is anchored has as much substance as a metaphoric wall of separation should become evident in the Court's ruling on cases to come before it next fall. One, from Connecticut, challenges aid to a Catholic college; others, from Pennsylvania and Rhode Island, involve state aid to parochial schools. If the funding involved in these cases receives the Court's blessing, we will be first to confess that we took more comfort in the Walz decision than the loopholes warranted. Or, if you would prefer, that one man's tightrope is another man's noose. R. R. H.

By ELVIN L. BENTON

liberty and the law

The Court Holdeth Him Guiltless

State of Maryland v. **West,** Court of Special Appeals of Maryland, decided April 6, 1970.

When truck driver Irving West allegedly advised a police officer who tried to arrest him to "take your --- ---- hands off me," he probably didn't know he was breaking a long-standing Maryland statute against taking God's name in vain. Brought before a local trial magistrate, West was fined $25 and sentenced to 30 days in jail under Art. 27, § 20 of the Maryland Code, which sounds more like a page from ecclesiastical law than a paragraph from a State statute book:

"If any person, by writing or speaking, shall blaspheme or curse God, or shall write or utter any profane words of and concerning our Saviour Jesus Christ, or of and concerning the Trinity, or any of the persons thereof, he shall on conviction be fined not more than one hundred dollars, or imprisoned no more than six months, or both fined and imprisoned as aforesaid, at the discretion of the court."

Earlier statutes were not so gentle. In the 1700's, blasphemous Marylanders had their tongues bored through for first offenses. Two-time losers were stigmatized with the letter **B** burned in their foreheads. For a third conviction the blasphemer could pay with his life.

Truck driver West appealed his conviction and sentence, and eventually his case was heard by Maryland Court of Special Appeals, which agreed with West's contention that silencing blasphemers is improper business for policemen.

Judge James C. Morton, Jr., speaking for the five-man court, traced the history of blasphemy laws back 321 years to a 1649 enactment of the Maryland colonial legislature entitled "An Act Concerning Religion," providing for punishment "with Death, and Confiscation of Lands and Goods to the Lord Proprietary" of anyone found guilty of committing "Blasphemy against God, or denying the Holy TRINITY, or the Godhead of any of the Three Persons."

Noting that not much had changed since 1649 except the severity of the penalties, Judge Morton characterized the old statutes as early and continuing attempts to establish Christianity as the official faith of the Maryland fathers. "It is . . . apparent," asserted Morton, "that the statute's historical roots, as evidenced by the title of the original Act, were imbedded in the firm conviction of its original and subsequent framers that legislative fiat was necessary and desirable to preserve the sanctity of the Christian religion." He added that "the sanctions invoked by the statute demonstrate the depth and earnestness of their feelings toward the Christian religion."

Judge Morton did not disagree with the United States Supreme Court's concession that "we are a religious people whose institutions presuppose a Supreme Being."—**Zorach** v. **Clauson,** 343 U.S. 306 (1952). But he did insist upon the State's staying out of theological tongue control. "When the power, prestige and support of government is placed behind a particular religious belief," said Morton, "there inevitably occurs a breach of the 'wall of separation' which, according to Thomas Jefferson, the framers of the First Amendment intended to erect and forever maintain between Church and State."

The Court rejected the State's argument that the statute is a secular law aimed only at preserving decency and protecting the sensitivity of persons who are incensed or outraged by the sacrilegious outbursts it proscribes. "It is apparent," the Court explained, "both from a literal reading of the statute and when considered in its historical setting, that there has not been and could not be, short of legislative action, any infusion of a secular purpose into the statute in its present form."

Neither did the Court buy the State's contention that the no-cursing law had a legitimate secular purpose. "The statute does not purport to relate the blasphemous utterances therein proscribed to the prevention of violence or breaches of the public peace . . . or to preserve the orderliness of our society," insisted the Court. "It simply and categorically proscribes such utterances. . . ."

Judge Morton was not afraid to call an establishment an establishment. "Patently, the statute was intended to protect and preserve and perpetuate the Christian religion in this State," he pointed out. "This effort by the State of Maryland to extend its protective cloak to the Christian religion or to any other religion is forbidden by [the Constitution]."

The court was on the right track, of course. However righteous may be the cause of cutting down on cursing by miscreant truck drivers, the point is (or at least should be) well taken that legislation and policemen's night sticks are particularly inappropriate devices for enforcing the teachings of Him who said, "My kingdom is not of this world" (John 18:36).

insight

By C. MERVYN MAXWELL

Department of Church History, Andrews University, Berrien Springs, Michigan

Q. LIBERTY is certainly "with it." It's up to date, vital, and articulate. But it disappoints me. It seems to insist on freedom of discussion as a treatment for our current ills and their proper prophylaxis against future ills, and I appreciate its strong voice in these mixed-up days, but can it not say more as a journal which appears to be Christian? Don't the editors have a better solution to our problems than merely defending the right to talk?

A. LIBERTY has a specialized purpose, and for this reason does not attempt to cover all ills or all possible remedies.

The editors believe, because the Bible says it and history proves it, that the world is not going to solve its problems, but that "evil men" are going to get "worse and worse" as time progresses (2 Timothy 3). They seek freedom of discussion, freedom for the expression of religious convictions, not because they believe that such freedom will bring about the millennium, but because they think it will help to postpone the time when evil men gain the upper hand and repression comes. They believe that only the intervention of God, "the second coming of Christ," will conclude the earth's dilemma (1 Thessalonians 4; Revelation 1:7, etc.). Because, in order for God at last to bring in a reign of righteousness and an end to crime and iniquity, it will be necessary for all who are dedicated to evil to cease at that time to exist, and for only those who are dedicated to kindness and righteousness to be permitted to live, it is the basic motivation of the editors of LIBERTY to help as many as possible cast their lives freely and of their own choice on the side of Jesus Christ.

LIBERTY pleads in every issue for maximum freedom for the dissemination of ideas so that people may have freedom to know the truth and through the truth to find the only true freedom—and be ready, when God finally intervenes, to be part of His wonderful new world, where evil "shall not rise up the second time" (John 8:32; Nahum 1:9).

Q. I was so excited when I found out what the Bible verse was that Richard Nixon had his hand on as he took the inaugural oath. "They shall beat their swords into plowshares, and their spears into pruninghooks: nation shall not lift up sword against nation, neither shall they learn war any more." It's my faith that somehow God is going to respond to the prayers of our President and bring in a new era of world peace. Please pray for peace.

A. We shall certainly pray for Mr. Nixon in his quest for peace; we are compelled, however, to note that he used the same passage for his Vice-Presidential oaths in 1953 and 1957. Vietnam has happened since then. In fact, I just read somewhere that since the close of the grisly second world war there have been no fewer than fifty-three other, local, wars.

The only hope for world peace is the Prince of Peace. Jesus Christ at His second coming will appear as "King of kings and Lord of lords" (Revelation 19:16). Then "the kingdoms of this world" will become "the kingdoms of our Lord, and of his Christ; and he shall reign for ever and ever" (chap. 11:15). Christ in turn will give "the kingdom under the whole heaven" to the "people of the . . . most High" (Daniel 7:27). Only after that will wars cease: "And God shall wipe away all tears . . . ; and there shall be no more death" (Revelation 21:4).

Q. What about Colossians 2:16? Why does the Bible sometimes say that we ought to keep the seventh-day Sabbath, and then in this text say that we shouldn't worry about sabbaths?

A. Colossians 2:16 says, "Let no man therefore judge you in meat, or in drink, or in respect of an holyday, or of the new moon, or of the sabbath days."

The Bible speaks of more than one kind of sabbath. There is the Sabbath of Creation and the Ten Commandments, which has been binding on all men since the beginning of the world, and in addition, there are other sabbaths mentioned in the Bible which pertain strictly to the Jewish ceremonial regulations, holy days which occurred during the course of the year somewhat as Easter and Christmas do in our contemporary calendar (see Lev. 23). These other sabbaths were as temporary and ceremonial as were the sacrifices, drink offerings, ritual washings, and the other items of the Old Testament priestly liturgy. They came to an end when Jesus died on the cross, just as the sacrifices and the entire Levitical priesthood did.

Look at Colossians 2:16 and then notice verse 17, which follows it: "Which are a shadow of things to come; but the body is of Christ." Whereas the seventh-day Sabbath is a memorial that looks back to Creation, the ceremonial sabbaths were symbols that looked forward to the death of Christ on the cross. The seventh-day Sabbath will be in effect as long as the earth exists; the ceremonial sabbaths came to an end when Christ died.

letters

Fan Letter

It isn't often that I write a fan letter to a fellow editor, but I felt that the May-June issue of LIBERTY was so very good that I must tell you so. Of course, I find the magazine interesting most of the time, but this issue was a cut above the others.

MRS. H. H. MONTGOMERY
The Cathedral Age
Washington, D.C.

Pedigreed Bias

I regret to advise you that I found your May-June, 1970, issue to be extreemly [sic] dull, contrived and shallow. . . . If Richard Utt thinks the only thing wrong with Jehovah's Witnesses is that they refuse to salute the flag, he is more ignorant than they are unpopular. . . .

According to your stupid philosophy it seems we should have tolerated Hitler, even the devil himself.

Then that stupid "Joe Doesn't Pledge Allegiance," which is another article sympathising [sic] with the stupid Jehovah's Witnesses. Really, if the government ever puts a bounty on nuts, I'll get rich raiding the Kingdom Halls. The lunatics which aren't there have already been caught. . . .

Don't think this letter was written by an ignorant crank, I have as many or more degrees than you, I am sure.

ANONYMOUS

[We accept the writer's assurance, whoever he is, that he is not an IGNORANT crank.—ED.]

Counterpunch

I see by the papers that the leaders of most major Protestant churches are now calling on all us Americans to repent for continuing the war to help defend South Vietnam.

I wonder why these church leaders have not called on us to repent for the 82 per cent of the Presbyterian clergy, and 57 per cent of the American Lutheran clergy who reported in a recent survey that they did not believe the Bible to be the inspired Word of God.

It looks like these church leaders need to do a little repenting and house cleaning themselves.

JOHN W. PORTER
Muskogee, Oklahoma

Vatican Appointment

Mr. Nixon's appointment of Henry Cabot Lodge as a "personal emissary" to the Vatican is a violation of this country's tradition of separation of church and state and a raw appeal for Roman Catholic votes. The appointment is strictly a religio-political ploy. It will not enhance Mr. Nixon's image either here or abroad.

Mr. Nixon's "hush, hush" and "hurry, hurry" method might be justified by some on the Cambodian situation, but is no justification for such a strategy in the appointment of Government representation to the Vatican. The Senate is entitled under our Constitution to know of such a move and to uphold or disapprove. As a result of this move, Mr. Nixon will be remembered by historians as a political opportunist rather than a statesman.

Any information Mr. Nixon might obtain from the Catholic or any other church could be sent to our Government by any church official or member without any necessity for diplomatic or quasi-diplomatic representation.

Why should taxpayers be saddled with the extra expense of Mr. Lodge's "semi-official Roman holiday"? This semi-official envoy is like the semi-official war in Vietnam. For a President who preaches law and order, he picks some odd ways to practice no-law and disorder. While a semi-official envoy to the Vatican may not be as objectionable to some as a semi-official war in Vietnam, the two acts are based on the same ultimate disregard for principle. Mr. Nixon's clerical caper will be remembered by the majority of the American people as a cynical move to accomplish a political end, namely, buying Catholic votes from the Democrats.

I came to this country fifteen years ago so that I could enjoy religious freedom, which can truly exist only when the state is completely separate from the church. The year before I was born, the Mussolini dictatorship made treaties with the Vatican which destroyed religious freedom in Italy and even after the second world war, the deals between two dictators—one temporal and the other spiritual—continue to oppress the Italian people. But if the United States allows the wall of separation of state and church to be torn down, where will my children have to go for religious freedom?

Wake up, Mr. President! Your move will only polarize our society and our nation when we so desperately need unity.

GIOELE SETTEMBRINI
Assistant Executive Director
Americans United

Joe Doesn't Pledge Allegiance

Mrs. MacGorman's article about "Joe" the nonconformist revives my flagging faith in schoolteachers.

letters

As a jurist, a one-time school board member, and some-time tutor of high-school dropouts, I have been appalled by youth's ignorance of and apathy toward the principles of our democracy, particularly its keystone, the Bill of Rights. A ready solution seemed to be more emphasis in the schoolroom. But the more teachers I talked to, the more I found they were not wholly free of the same ignorance and apathy.

Mrs. MacGorman is a sparkling exception. In those growing young minds she has instilled not only a Constitutional principle but also the golden rule.

THE HON. JAMES D. CLEMENS
Judge
Commissioner, St. Louis Court of Appeals

Here in Bremerton, Washington, the student president of East High School would not lead in the flag salute. People resented his stand, and many letters were written about it. . . .

Is one truly patriotic who boldly states the pledge—including that bit about "liberty and justice for all"—and then belongs to lodges, residential districts, or other organizations that have restrictive clauses?

Is it more patriotic to salute the flag and then deny use of an auditorium to an artist as great as Marian Anderson, as was done by the D.A.R., than to say, "My convictions make it dishonest for me to publicly state the pledge, though I truly love my country"?

JAMES T. LUMLEY
Bremerton, Washington

Liberty and the New Left

The May-June, 1970, LIBERTY is like its predecessors, excellent. Were the subscription price many times what it is, R.R.H.'s comments would be worth the price. They fall in the category of "wish I had said that."

As for Decker's "Liberty and the New Left," anarchism is not necessarily synonymous with anarchy, atheism is not on the same level as drug addiction, and radicality on Lincoln's part did not precipitate a war.

[Mr. Decker] may find that anarchism as presented by Proudhon is not an ugly word or concept and that nihilism is a more apt term for what he has in mind when he uses the word "anarchism." He may find that atheists have helped the theists toward a greater understanding of the God the theists believe in. Perhaps I have misread my history, but it has not been brought to my attention before that the Missouri Compromise of 1820 was radicality. That act had assumed that Congress had jurisdiction over Federal territories. The Supreme Court in the Dred Scott decision said this was not so. The South's principal grievance against Lincoln was his contention that Congress, after the complexion of the Court was changed by a series of Republican Presidents, might repass the Missouri Compromise under another name. There surely was nothing radical about this. And surely Mr. Decker doesn't identify Lincoln with the radical Republicans of Civil War and Reconstruction days!

RICHARD D. ROWLEY
Ewen, Michigan

Smut

I note that LIBERTY has joined the crusade against "smut" but, like everyone else, has left the word undefined. I presume you refer to the portrayal of the human body (God's masterpiece), the viewing of which is, in some mysterious way, injurious to the beholder or to society. Or perhaps you refer to pictures or descriptions of sexual activity, which according to both the scientific and religious communities is beautiful, beneficial, and enriches our lives, but somehow becomes "dirty" and damaging if viewed.

If you are talking about the portrayal of sadism or other practices that are known to be harmful but which we "innocents" don't know about, you should frankly say what you are against so we can be warned. I've never had the occasion to attend an anti-smut lecture, so I'm not quite sure what it is that the anti-smut crusaders carry around, but they don't seem to suffer harm either from viewing or carrying it. When people stop talking about normal physiological functions in euphemisms and innuendoes, and stop being ashamed of their own bodies and their marvelous workings there won't be any "smut."

SHERMAN E. ANDERSON
Marshfield, Wisconsin

Help the Amish

I made bread today and sold it to help . . . these dear people. They mind their own business and are law-abiding citizens so why should they be persecuted this way?

MR. AND MRS. ROBERT MCKENZIE
New Smyrna Beach, Florida

The Amish are being discriminated against. I believe you think so, too. That's why you are fighting for them. Well, I want to join you.

The Amish people are a lot

letters

better citizens than a lot of other people are. If all the people of this nation were as good and respected God's laws, we'd have "peace round about," the same as Solomon had when he was keeping God's Commandments.

I know I'm not perfect; the Spirit is willing but the flesh is weak. But I do wish our nation would have sense enough to change back to keeping the seventh day instead of pretending to keep the first day. It just doesn't make sense to rest first then work. God worked six days then rested and hallowed the seventh day. No amount of foolish arguing can change that fact.

Jesus kept the seventh day, the disciples kept the seventh day, and no one can tell me that God ever gave any other commandment. I've read the Bible clear through three times, a chapter a day, and I know there never was any such commandment given to change the day.

Jesus Himself said He did not come to destroy the law, in Matthew 5:17. And in verse 19 He said, "Whosoever therefore shall break one of these least commandments, and shall teach men so, he shall be called the least in the kingdom of heaven." Then read what it says in Revelation 22:18, 19. I absolutely do not want to have any part in trying to change God's word.

We are Protestant, though I prefer the name Christian.

EDWARD CROFTON
Spring Green, Wisconsin

A Webfoot Reveals All

Referring to the question about "Webfoot," I wish to relate an incident that has bearing on the term.

My father in 1897 rented our farm at Creswell, Oregon, to a Mr. Wetherbee from Vermont who was not used to Oregon folks being called Webfoot. At a dinner in our home on harvest day when the crew of a threshing outfit was present, Mr. Wetherbee asked, "Why do they call Oregonians Webfoot?" Dad at once started to take off his shoes to show them that his two toes next to his big toe were webbed past the first joint. Amid laughter, Mr. Wetherbee said, "That is proof enough."

It is a common expression that it rains fourteen months of the year in Oregon, and this wetness in the western part of the State means that anyone working outside from September to June is pretty apt to get wet feet unless he wears waterproof footgear.

J. C. MORSS
Sacramento, California

"The Curse of Ham"

It seems to me that you have been so anxious to jump on the bandwagon, screaming with the horde of civil rights advocates that the Mormons have violated the civil rights of the Negro people that you have ignored your principles, particularly the section which holds for separation of church and state, and allows others to worship, profess, practice, and promulgate as they desire.

The practices of the Mormon church relating to priesthood, have to do, so far as any non-Mormon is concerned, only with the administrative organization of the church. That is not a matter of civil rights, but of my own religious convictions. I choose to believe that the organization to which I belong is guided by direct revelation from God. The correct name is the Church of Jesus Christ of Latter-day Saints, and just as you reserve the right to criticize our tenets, I reserve the right to believe that the Negro is not to be part of the priesthood organization until the Lord indicates otherwise. The day that the president and prophet of the church tells me the order of the church, I will gladly accord the priesthood to any Negro who qualifies himself in the same manner as would a white man, Indian, Polynesian, Syrian, Jew.

GLEN J. ELLIS
Attorney
Provo, Utah

[The point of the editorial was to chide those liberals who demand that the Mormon church change its views—as if, the editorial said, "doctrines [were] subject to instant recall."

We fail to see that expressing disagreement with the Mormon church on a doctrinal point is bigoted or even discourteous. The editorial made a valuable point against critics who demand a new revelation.—ED.]

CIRCULATION DEFECTS

The religious press is in trouble.

Alfred P. Klausler, executive director of the Associated Church Press (ACP), reports that all but one of ten major denominational periodicals suffered (yes, there is agony in that word) circulation losses last year, and all ten had financial deficits. Members of the ACP showed a 1969 subscription loss of 5.6 per cent.

And, he says, the publishers see "no daylight ahead."

The Catholic press is in even worse shape—a 7.3 per cent decline in the combined circulation of its member newspapers and magazines. OUR SUNDAY VISITOR, a conservative national Catholic weekly, with 922,908 subscribers in 1963 lists only 556,793 today.

What's the story behind the statistics? According to Chicago SUN-TIMES religion editor Roy Larson, it includes several villains: 1. Declining church attendance; 2. insufficient funds to spend on promotion and subscriptions; 3. editorial practices adapted to older people who have money rather than to the "youth revolution"; 4. the credibility gap (the religious press is assumed to be captive to the institutional church and thus not candid in its reporting).

We'll add another.

Many religious publications have become secularized. Their preoccupation is with the secular, not the spiritual. And in the realm of the secular, daily newspapers and news magazines, radio and television, do a superior job to that of the religious press. It seems to us that the survival of religious publications must be closely allied to their ability to bring a spiritual perspective, an other-worldly insight, to affairs of the day.

Which reminds us that in January we promised you a LIBERTY that would have a "new mix for the sobering 70's—new design, new timeliness, new vitality, new impact—" combined with "continued devotion to old truths." Your approval is in. With this issue our circulation approaches one half million.

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VOLUME SIXTY-FIVE, NUMBER FIVE, SEPTEMBER-OCTOBER, 1970

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FEATURES

DEPARTMENTS

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