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LIBERTY

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Danish Jews Flee Hitler's "Final Solution."

When the New Year Came in Springtime

The deeply moving story of the rescue of Danish Jews.

This year September 21 will be a date of excitement and anticipation for Jews. Last-minute shopping for holiday finery, the burnishing of the finest table settings, selection of floral pieces, the placement of newly dusted holy-day prayerbooks next to the ritual prayer shawls—all come together in a gala, if somewhat frenzied, atmosphere.

At sundown Rosh Hashanah will begin the New Year 5740 by traditional tally. In crowded synagogues that night and on the following mornings the ancient liturgy set to the majestic music of the High Holy Days will be punctuated with the shrill calls of the shofar, the ram's horn blown in Bible days to sound an alarm. It is heard these days to summon individual Jews to their personal and social responsibilities.

The atmosphere will be one of hopefulness and prayerfulness. "Inscribe us for life, O Sovereign of life," Jews will read from the liturgy.

By Rabbi Sidney J. Jacobs

The first awareness that something was amiss came when Rabbi Marcus Melchior left his place of protocol in the first pew facing west and walked to the lectern. He was not wearing his pulpit robe or prayer stole.

The date was September 29, 1943. More than a hundred Danish Jews had gathered for the morning service in the century-old synagogue of Copenhagen. On most Sabbaths only a score or so came; but this was the morning preceding Rosh Hashanah, the Jewish New Year.

Rabbi Melchior had been the spiritual leader of Copenhagen's Jewish congregation for nine years. This morning he delivered his shortest "sermon."[1]

"There will be no service this morning," he began. "Instead, I have very important news to tell you. Last night I received word that tomorrow the Germans plan to raid Jewish homes throughout Copenhagen to arrest all the Danish Jews for shipment to concentration camps. They know that tomorrow is Rosh Hashanah, and our families will be home. The situation is very serious."[2]

He instructed the congregation, terrified by his opening statement, to leave the synagogue immediately and contact

NORDISK PRESSE FOTO

(Right) Rabbi Marcus Melchior, spiritual leader of Copenhagen's Jewish congregation in 1943.

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Executions and the curfew in June, 1944, led to the first mass strike in Copenhagen. The curfew was ignored, and crowds built street barricades to demonstrate their opposition to the occupation.

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all relatives, friends, and neighbors who were Jewish, asking them, in turn, to relay the news to other Jews. Christian friends were to be asked to warn those Jews whom they knew.

The rabbi estimated that no more than two or three hours could be spared for the alert to become known to all Jewish inhabitants. "By nightfall," he concluded, "we must all be in hiding!"

Moments later the congregation had dispersed. Expectancy over the arrival of Rosh Hashanah that evening had dissipated before the terror of the morning's ominous tidings.

It was the last day of the old Jewish year, the end of 5703. In history, it was the end of an era that had begun three centuries earlier.

With an invitation extended in 1622 by King Christian IV, Denmark had become the first of the three Scandinavian countries to permit Jews to settle. The centuries that followed witnessed social, cultural, and economic progress. In 1814 Danish Jews were granted citizenship, and in 1849 the Danish constitution abolished the last restrictive regulation. By the early years of the twentieth century an influx of coreligionists from Eastern Europe had boosted the Jewish population to seven thousand. Despite their limited numbers, the Jews of Denmark had contributed to the country's development in many areas. Among those who achieved international recognition were the Nobel Prize physicist Niels Bohr; Literary Critic Georg Brandes; Sculptor Kurt Harald Isenstein; the originator of the Universal Postal System, Carl Julius Salomonsen; as well as physicians, scientists, and state officials of high rank.[3]

But now it was not 1622, 1814, or 1849. It was 1943, and Adolf Hitler ruled Europe ("tomorrow the world"). Two years previously the mass extermination of millions had begun, soon to be given the code name Final Solution.

In the early hours of April 9, 1940, Denmark had been occupied by the German *Wehrmacht*. The occupation, ultimately to claim four thousand Danish lives, began somewhat ignominiously when, after a brief battle in south Jutland, King Christian X and his ministers capitulated later the same day.[4]

Denmark's lack of military preparedness and the naive hope it nurtured of repeating its neutral stance of World War I, despite transparent indications of German intentions, led Winston Churchill, in the hours following the country's capitulation, to speak of Denmark as "the sadistic murderer's canary."[5]

The Danes' initially passive acceptance of the Germans, coupled with Hitler's affinity for them as pure Nordic blood brothers, caused the Führer to refer to Denmark as a *Musterprotektorat*, a model protectorate.[6]

Curiously, Danish collaboration with the Germans during the early months of the occupation left Jewish citizens unmolested. So pleased was the Nazi hierarchy with the Danes that it resolved not to upset things by bringing the full impact of anti-Jewish policies into operation in a country whose people had a particularly felicitous attitude toward the Jewish population.

In reality, however, the occupation was to transform the "canary" into a deceptively resistant bird with telling talons.

Christian X, king of Denmark, gave the lie to his early charade of capitulation by riding at midmorning each day on horseback, alone, from his palace through the streets of Copenhagen. His was a solitary but regal gesture of defiance, as he refused to acknowledge the salutes of German soldiers whom he passed. The Danes who clustered around their sovereign and his steed understood that Denmark was not cowed.[7]

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(Right) Jens Lillelund initiated himself into the Danish underground by spitting into the face of the first German soldier he spotted.

(Far Right) A Danish Jew is lifted out of his hiding place on a transport that has reached Swedish territorial waters.

NORDISK PRESSE FOTO

His subjects remembered, too, the events of April, 1933. Toward the end of the previous year, the king had accepted an invitation to attend the centennial anniversary commemoration of Rabbi Melchior's synagogue. In January, 1933, between his acceptance and the celebration, Hitler had become Reichschancellor; and some of the royal advisors warned the king that if he attended it would offend the Nazi dictator. The king's response was: "I shall show the world the way a king conducts himself." He went to the synagogue.[8]

While the Danish sovereign took his daily rides, the striking force *Holger Danske,* together with the Freedom Fighters of the Resistance Movement, engaged in daring acts of sabotage against Nazi military installations. In underground bunkers, the presses ground out copies of *Danskeren,* the publication of the Free Danes.

Mushrooming resistance eroded the people's support for the "agreement" of April 9, 1940. The Germans nullified it on August 28, 1943. One day later, officers and enlisted men of the Danish army and navy were interned by the Nazis.

Emergency measures introduced by the occupying power included ominous moves portending action against the Jews. On August 31, Gestapo agents invaded the office of the secretary of the Mosaic Society and confiscated the minutes of the Jewish community. Two weeks later a truckload of German soldiers surrounded and occupied the society's building and ransacked the premises.[9]

Rabbi Melchior was to write: "The fearful fate which in the previous year had caught up with the majority of Jews in Norway—deportation to Auschwitz, at a time when notions of Auschwitz were still rather vague—seemed now to be lying in wait for the Jews in Denmark, as well."[10]

The president of the Mosaic Religious Community was more skeptical when he received a warning on September 28 of the impending roundup of Jews.

Hans Hedtoft, later Danish prime minister, recalled that when he paid a hurried visit to the law office of C. B. Henriques to tell the Jewish community leader the news that had just been leaked to him by a German agent, the latter startled him by responding: "You're lying. . . . I do not understand how it can possibly be true. I have just returned from the Foreign Ministry, where I was reassured that nothing will happen."

Hedtoft insisted that his information was authentic; it was the Germans who had lied to the Danish Foreign Office.[11]

The following morning Rabbi Melchior delivered his somber warning to the early-morning worshipers in the Copenhagen synagogue.

The days that followed afforded one of history's classic displays of human compassion and caring in the midst of great personal danger. The protagonists in the drama were shopkeepers and bankers, doctors and domestics, salespersons and clergy—people from every stratum of Danish society.

The scenes of the search and rescue drama stretched from Copenhagen, where 95 percent of Denmark's seven thousand Jews lived, to such cities as Randers, in the low peninsula of Jutland, situated on an inlet of the Kattegat near the head of the Randers fiord.

Today Randers is a thriving industrial center of 40,000 in a prosperous agricultural area. Among its respected residents is 82-year-old Poul Borchsenius, for 41 years until his retirement in 1962, the pastor of St. Peter's Lutheran church.

The German posters offering a reward for his capture described him as "the shooting priest," but the blue-eyed, pink-cheeked, and balding cleric hardly appeared to me like the saboteur who had blown up an important railroad connection used by the Germans to move troops and supplies.

During our meeting in Randers he recalled one of the most moving episodes in his country's resistance: the statement of the Danish bishops. This action of the Lutheran Church leaders in Denmark is the more remarkable when it is remembered that the church, generally and with but few exceptions, had been reluctant to speak out during the Hitler holocaust.

On Sunday morning, October 3, 1943—only four days after Rabbi Melchior had issued his alarm in the Copenhagen synagogue—the statement of the bishops was read from hundreds of Lutheran pulpits throughout the country. Pastor Borchsenius tried to recapture the scene that had taken place in his own church in Randers.

Following recitation of the Confession of the Creed and the singing of the hymn "*Vor Gud Hand Er Saa Fast En Borg* ["A Mighty Fortress Is Our God"]," as the congregation prepared to receive the sermon, their 46-year-old pastor announced, "I have a message from the Danish Church!"

It was a signal for the seven hundred men and women in the pews to rise in token of respect.

As his colleagues throughout Denmark were doing that Sunday morning, Pastor Borchsenius began to read—almost in-

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Crowds cheer Field Marshal Bernard Montgomery and his Desert Rats in the streets of Copenhagen on May 5, 1945.

toning, as if reading the gospel:

"The Danish bishops have on September 29th, this year, forwarded the following communication to the leading German authorities through the heads of the government departments:

"Wherever Jews are persecuted as such on racial or religious grounds, the Christian Church is in duty bound to protest against this action;

"Because we can never forget that the Lord of the Christian Church, Jesus Christ, was born in Bethlehem of the Virgin Mary according to God's promise to His Chosen People, Israel. The history of the Jewish people before the birth of Jesus contains the preparation for the salvation God has prepared for all mankind in Christ. This is shown by the fact that the Old Testament is part of our Bible.

"Persecution of the Jews conflicts with that recognition and love of man that are a consequence of the gospel which the church of Jesus Christ was founded to preach. Christ is no respecter of persons, and he had taught us to see that every human life is precious in the eyes of God (Galatians 3:28)."

NORDISK PRESSE FOTO

Called the Shooting Priest by the Nazi occupation forces, Pastor Poul Borchsenius blew up an important railroad connection used by the Germans to move troops and supplies.

Pastor Borchsenius recalled that his voice rose as he continued his reading:

"We understand by freedom of religion the right to exercise our faith in God in accordance with vocation and conscience, and in such a way that race and religion can never in themselves be a reason for depriving a man of his rights, freedom, or property.

"Despite different religious views, we shall therefore struggle to ensure the continued guarantee to our Jewish brothers and sisters of the same freedom we ourselves treasure more than life itself.

"The leaders of the Danish Church have a clear understanding of the duty to be law-abiding citizens and would never revolt needlessly against those who exercise the functions of authority over us—but our conscience obliges us at the same time to maintain the law and to protest against any violation of rights."

The statement concluded with a stirring declaration:

"We will therefore unambiguously declare our allegiance to the doctrine that bids us obey God more than man."[12]

"The statement was signed on behalf of all Danish bishops," the pastor reminisced. "When I finished, there was a roar—like a mighty chord from our pipe organ. 'Amen! Amen! So let it be!'"

He smiled at the memory.

Like Poul Borchsenius, the other surviving leaders of the resistance movement of thirty-six years ago in Denmark are deceptively mild in appearance and demeanor.

Jens Lillelund, 75, resides in Vedbaek, a suburb of Copenhagen, in a comfortable house divided between living quarters and an office area for his machinery business. In 1940 he had been a mild-mannered cash-register salesman. He initiated himself into the anti-Nazi resistance on a Copenhagen street corner by spitting into the face of the first German soldier he spotted. He was sent to prison.

Upon his release, Jens Lillelund—code named Finsen—became one of the fabled leaders of the resistance. An expert in sabotage, he specialized in factories and railroad installations. When he was presented to Winston Churchill during the latter's postwar visit to Denmark, the statesman said, "I've heard a great deal about you, Lillelund"—to which Lillelund responded, "I've heard a great deal about you, too, Mr. Churchill!"

Tall, spare in frame, and bald, he looks like a Danish prototype. In his living room are a number of Jewish symbols and artifacts: two books on Jerusalem on the coffee table; a Hanukkah candelabrum given to him by the government of Israel; a photograph taken with Naomi Shemer, prize-winning Israeli songwriter. His deep affection for

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This monument in the western cemetery of Copenhagen bears the names of fifty-two Danish Jews who died at Theresienstadt concentration camp.

Jews derives from that phase of his resistance activities that had to do with the 1943 rescue of Jews.

When he and his wife heard the news of the impending Gestapo raid on the Jewish community their immediate problem was finding out who were Jews and who were not.

"We never had a 'Jewish problem,'" Lillelund observed. "An action against the Jews was the same as an action against persons riding bicycles."

The Lillelunds went through the Copenhagen telephone directory to determine Jewish names. Dr. Max Rosenthal, for example, their family physician; they had been his patients and friends for years. Was his a German or a Jewish name? (It turned out that the doctor was a Jew, but he refused to leave Denmark, because he was married to an Aryan.)

Lillelund told of a group of twenty to thirty Jews hidden in the back room of a bookstore directly across the street from Gestapo headquarters in Copenhagen while awaiting the "small Dunkirk" to Sweden. The children were frightened—and crying.

Lillelund went to a phone booth and looked up a physician at random in the directory. Sneaking in the shadows to avoid being detained for curfew violation, he went unannounced at 1:00 A.M. to the doctor's residence. Awakened, the startled M.D. arose, stuffed his pajamas into his trousers, and accompanied Lillelund to the hiding place. There the physician injected the children with a sedative, reassuring the worried parents that although their little ones would sleep as if dead for eight hours, they would awaken in Sweden without any aftereffects.

The steel-nerved saboteur went home and, for the first time, broke down and wept over the fate of innocent children.[13]

In the weeks of October, 1943, dedicated Danish men and women such as Lillelund and Borchsenius succeeded in spiriting between 6,500 and 7,100 Jews across the body of water known as the *Sund* ("Sound") to neutral Sweden.[14]

The Gestapo, long skilled in rounding up and deporting millions to the gas chambers and crematoria of the death camps, could find only 472 Jews in their sweep of Denmark, persons who for one reason or another—mostly because they had non-Jewish spouses—elected to remain. They were deported to the Theresienstadt concentration camp in Czechoslovakia.

The story of the Swedish asylum for the Danish Jews must await another telling. It ranges from the friendliness of that country's government (in contrast to hostility on the part of a number of Swedish citizens) to the hilarious account of Pastor Borchsenius' "Danish Church in Sweden" finding itself housed in an erstwhile brothel![15]

The nightmare which began in the waning days of September, 1943, ended in May, 1945, when the refugees from Sweden recrossed the *Sund,* this time happily on their way home. Steaming into the harbor of Copenhagen, they were moved by banners proclaiming *"Velkommen til Danmark!* ("Welcome to Denmark!")."

Most of the 472 deportees to Theresienstadt had also survived the death camp, because the Danes, refusing to abandon them, sent a stream of CARE packages, clothing, medicine, and letters. When the Red Cross buses sent to bring them home crossed the frontier between north Germany and south Jutland, the former camp inmates saw thousands of Danes lining the roads and waving flags as they shouted the same slogan: *"Velkommen til Danmark!"*[16]

Rosh Hashanah of 1943 had passed, but for the returning Jews it was a New Year in the springtime. □

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[1] Marcus Melchior, *A Rabbi Remembers* (New York: Lyle Stuart, 1965). It was also the shortest homily of his nearly quarter century in the rabbinate.

[2] Harold Flender, *Rescue in Denmark* (New York: Simon and Schuster, 1963), p. 15.

[3] Leni Yahil, *The Rescue of Danish Jewry* (Philadelphia: Jewish Publication Society of America, 1969), pp. 3-28.

[4] John Oram Thomas, *The Giant-Killers* (New York: Taplinger Publishing Co., 1975), pp. 11, 12.

[5] David Lampe, *The Danish Resistance* (New York: Ballantine Books, 1960), p. 1.

[6] Flender, *op. cit.*, pp. 25, 26.

[7] Thomas, *op. cit.*, p. 14.

[8] Melchior, *op. cit.*, pp. 140, 141.

[9] Aage Deleuran, "The Dramatic Hours When Danes and Germans Did What They Could to Save the Danish Jews," *Berlingske Tidende,* Sept. 27, 1968.

[10] Melchior, *op. cit.*, p. 178.

[11] Aage Bertelsen, *October '43* (New York: G. P. Putnam's Sons, 1954), pp. 16-19.

[12] *International Christian Press and Information Service* (Geneva), October, 1943, No. 37.

[13] As told to the author by Jens Lillelund.

[14] Flender, *op. cit.*, pages 247 and 273, where the higher figure is attributed to the statistical study "The Danish-Jewish Refugees in Sweden 1943-1945," by Julius Margolinsky. The lesser figure was cited to the author in interviews with Resistance leaders.

[15] As told to the author by Poul Borchsenius.

[16] Flender, *op. cit.*, p. 251.

BYU—School With Spunk

When the government accused Brigham Young University of sex discrimination, its president pledged that the school would not shrink from the fight.

By David Webb

Innocence is alive and well and living in Provo, Utah." So says a guidebook to American universities compiled by Yale students. The guide goes on to give a rundown on Brigham Young University, the Mormon Church's 25,000-student pride and joy.

BYU has always been a calm spot in a turbulent world. BYU students have never carried out a demonstration. They never burned any flags in the 60's and streaking never caught on there in the 70's. BYU's male students sport short haircuts and many girls still wear dresses on campus.

BYU President Dallin H. Oaks expressed BYU's attitude in his inaugural address: "We deem it a corruption to use a university as a political pressure group, laboratory, or staging area for expeditions against the military units of government. . . . BYU has no political objectives, only intellectual and spiritual ones."

Despite BYU's innocent and docile atmosphere, the school has spunk. Last spring BYU mustered arms and prepared to fight Washington.

It began when the United States Justice Department heard that BYU's housing policy requires male and female students to live in different buildings or at least in different sections of a building. They decided this requirement was a violation of the Fair Housing Act of 1968. If read literally, the act prohibits discrimination on the basis of sex with precisely the same scope and application as it does discrimination against different races. In other words, any rule separating the sexes in any way violates the act.

Drew S. Days III, Assistant Attorney General for the Justice Department, takes the act to mean exactly what it says. In a letter to BYU he said, "This department has reasonable cause to believe that BYU has caused landlords to segregate the apartment buildings on the basis of sex as a condition of being eligible to house BYU students, and that by this practice, both BYU and the landlords have engaged in a pattern and practice of discrimination in violation of the act." He threatened suit unless BYU rectified the situation immediately.

BYU has one of the nation's leading legal authorities in President Oaks. In his answer to the Justice Department, Oaks said, "University standards of sexual behavior and university housing requirements apply equally to men and women, and therefore are not discriminatory. Congress cannot have intended that the

PHOTO BY BRENT PETERSON

Brigham Young University president Dallin H. Oaks addresses students of the school.

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Managers of fifteen off-campus apartment buildings reported being contacted by FBI agents.

antidiscrimination laws be used to encourage immorality. Their purpose is to forbid discrimination on the basis of sex. There is no such discrimination in BYU off-campus housing patterns, which apply the same standard to each sex, but insist on the separateness that is indeed to support the moral teachings of the university and its sponsoring church."

Oaks told the Justice Department that BYU would not compromise its standard, and that if it came to a court battle, BYU "would not shrink from the fight." The war was on.

The conflict began in July of 1976 when an unidentified girl tried to rent an apartment in a BYU-approved but privately owned off-campus complex. She was told that all rooms in the female wing were full, and she would have to look elsewhere. She knew there were vacancies on the male side, and she asked for a room there. She was told housing policies prohibited her living in the male wing.

The girl felt this refusal was sex-discrimination, and she asked help from the government. Taken seriously, the case eventually reached the Justice Department in Washington. The Justice Department dispatched FBI agents to find out what was happening in Provo.

Managers of fifteen apartment buildings in the area reported being contacted by the FBI agents. They said the agents were polite; they just asked questions about housing policy. All fifteen managers were asked the hypothetical question, "If you had absolutely no vacancies except one room in the girls' (or boys') section, would you rent it to a person of the opposite sex?"

The managers were asked who made the housing policies and whether they agreed with them. All the landlords said they thought the standards were good and that they enforced them.

The FBI report convinced the Justice Department that there was a "pattern of discrimination in Provo." The department sent letters to BYU and thirty landlords in the area. They threatened to file suit within a month if the policy was not changed.

Brigham Young University officials first learned about the suit from landlords who received the letter before they did. They were shocked. It seemed that big government was trying to butt in and destroy the unique religious orientation of the university.

Oaks and the administration decided not to compromise. They had fought off the Health, Education, and Welfare bureaucracy a few years earlier in a bout concerning Title IX; they would do the same with the Justice Department. During the Title IX dispute, BYU's dress code and other principles were challenged. HEW was in a position to cut off the small research fund BYU receives from the government and to prohibit any of the university's students from receiving federal grants and loans. Oaks called the HEW action "unconscionable blackmail" and "victimization of students." He said BYU would rather lose the few students that could not attend without government aid than compromise its standard. He told HEW: "We believe the regulations are unconstitutional or illegal and where they prohibit or interfere with the teaching of high moral principles, we will not follow them." Eventually, HEW backed away from the fight.

The Justice Department's letter about housing caused an uproar among BYU students who accept the university's right to determine standards and support them wholeheartedly. When they learned of the suit against the school, many signed petitions and wrote letters to Congressmen protesting the action.

Oaks explained the school's position in his answer to the Justice Department: "As a church-sponsored institution, Brigham Young University teaches the highest standards of Christian morality, and expects its students and faculty to live up to those standards. For example, we believe that sexual relations outside of the bonds of marriage are morally wrong and our church and university standards forbid them. The First Amendment guarantees of free exercise of religion protect our right to teach these moral principles and to make them a part of the requirements of enrollment and employment in this educational community.

"Reasonable separation of the sexes in housing for single students reinforces our moral teachings and requirements by helping maintain traditional restraint in relations between sexes. Consequently, we require that single students of either sex, whether living on or off campus, live in buildings or separate wings of buildings restricted to residents of their own sex."

After three months of negotiation, BYU and the Justice Department reached an agreement that satisfied both parties. BYU will be allowed to continue to apply its sex-segregated housing policy to all students, but the policy cannot be applied to non-students. They can apply the segregation policy only if they choose students.

And so the conflict is over, and a docile spirit is settling back over BYU. But how long will it be before some other bureaucracy tries to stick its gummy fingers into the educational mill? What other unimaginably calloused rules will they try to force upon private education?

Oaks believes no American has to sit and take it. He was one of the ten legal scholars to be considered by President Gerald Ford for appointment to the Supreme Court to replace retiring Judge William O. Douglas. He is a past-president of the American Association of Independent Colleges and Universities. He understands the challenges facing educators. He received his law degree from the University of Chicago Law School and then became the youngest man in history to hold a full professorship at the school. He spent a year as the executive director of the American Bar Foundation. He understands law and knows

PHOTO BY MARK ROMESSER

PHOTO BY MARK PHILBRICK

Two BYU students enjoy a few minutes of relaxation during a break between classes (above). President Oaks chats informally with some students (below).

how to use it to protect schools.

"We need to be less hesitant to challenge agency action," says Oaks. "I fear that colleges and universities are supinely accepting government controls they have resources and legal theories to contest."

Oaks insists that the United States Constitution offers a basis for protection of education from government interference just as it does for free speech.

"I fear that some of us may be putting some delicate legal trimmings on relatively inconsequential legal sand castles at a time when the earth trembles beneath our feet and a submerging tidal wave of federal regulations is already in sight," he says.

"The government walks on eggs when it makes any kind of regulation concerning newspaper, radio, or television. I contend that it should be at least as sensitive about any rules that affect the internal operations of schools, colleges, and universities, because these institutions—along with the family and the church—are the institutions in our society that develop and communicate the values that give force and meaning to all of the communications protected by the First Amendment. The sources of our values are at least as important as the delivery system by which they are communicated."

BYU believes in the American way. Patriotism is a vital part of the Mormon religion and is developed at BYU. Says President Oaks: "We support our country and sustain its laws. But we oppose what we consider to be unconstitutional or illegal interferences with our right to select faculty and follow other policies that we deem important to the spiritual growth of students. There are few things more important to BYU."

Christian colleges cannot afford to compromise their principles to obtain federal funds. It is a sad day when the major obstacle Christian schools face is the federal government. □

How to Be a Loyal Citizen When Government Is Subversive

By William B. Ball

If words were divided into "good guys" and "bad guys" there is little doubt that three of them would wear white hats. I refer to *private, personal,* and *religious.* Yet these concepts are like defendants in the dock. They are accused. They are on trial.

Strangely, their adversary often is government, the very agency that should be most solicitous of their welfare. Their "case" confronts citizens with a dilemma: How shall they be loyal when government is subverting constitutional rights?

That anything in America today should be protected as "private" seems scandalous to some minds. Recently a prominent governmental official stated that there was no longer such a thing as a "private" hospital. Public school officials in a Midwest state recently contended that there can no longer really be such a thing as a "private" school. Even private cemeteries are being redefined into "public" enterprises.

That anything in America today should be protected as "personal" seems offensive to some minds. The integrity of individual personhood is widely being violated in the public education of children, where imposed explorations of family relationships, questions relating to the child's sexuality, techniques of personality testing, and programs aimed at behavior modification boldly invade the rights of personal, sexual, and familial privacy.

That anything in America today should be protected as "religious" seems offensive to many. If a religious body, for religious reasons, engages in an activity in which the public also engages—for example, child care or burial of the dead—the activity is promptly called a "public function" and therefore subject to public control. (That is odd: no one ever called the public activity "religious" because it is one in which religious groups also engage!) In a singularly bad decision a few years ago, the Supreme Court of Pennsylvania held that a Russian Orthodox Church cemetery was not to be allowed to exist under a zoning ordinance, which permitted the land to be used for religious purposes. The court said that the word "religious" is a "word of nebulous bounds." The Russian Orthodox Church had shown that the place of burial and burial rites were profoundly related to the Church's teachings. Nevertheless the Supreme Court concluded: "We believe that a cemetery is basically a secular use of land."* Here is a prime example of destruction of a religious right.

Now in most of these attacks on liberty and good sense, it is, unhappily, *government* that is misbehaving. We need to understand why. Government in our country today is an industry—an employer of dependent millions. An entity that absorbs wealth but does not produce wealth, it grows more out of the necessities of politics than the necessities of the people. The proliferation of governmental agencies is encouraged by theorists whose highest level of thought brings them typically and uniformly to the brightly stated conclusion: "We must launch bold new programs to meet the challenges of our times."

Shorn of all tinsel, the paltry meaning is this: (1) create more government agencies (with their directors, assistants, deputies, consultants, staff persons, investigators, inspectors, ombudsmen, attorneys, secretarial personnel, janissaries, office equipment, pensions, tax-exempt real estate, entertainment, and travel), (2) fell more trees to keep up with the demand for paper, (3) create whole new areas of *power* for some people over other people, (4) tax more people worse in order to pay for the "bold new programs." As to private institutions, government increasingly says: "*You* pay for them; *we* will run them."

It was long believed that government should step in (for the sake of the common good) only where the private, voluntary effort was not adequate. This principle (which benefits the public) is now reversed: the private, voluntary effort may be availed of only where *government* cannot do the job. It is a fact of life (you have only to look at the decline of literacy in our public schools) that there are many areas in which government plainly *cannot* do the job, or does it badly—and always more expensively than the private effort. But politics—and the philosophy of statism—decree otherwise. The justification for the metastasis of government that we are now experiencing is the assumed need of the people to be regulated. The spread of government is resulting in a mass of regulations, rules, guidelines, directives, licenses, approvals, questionnaires, certificates, orders, audits, inquiries, informational returns, inspections, visitations, subpoenas, and other forms and interventions in which rights of privacy, personhood, and religion are beginning to be violated on a grand scale in our country.

Unhappily the public has been little interested in these violations. A revolutionist, or man of violence, will be noted in the prestige media as the advocate of an "unpopular cause"—a charismatic term connoting something dangerous but noble. Treason and hatemaking are sometimes very popular "unpopular" causes. But the people in whose defense I am speaking today—the people who have given themselves to voluntary works in the fields of education, religion, and charity—are without a press and without champions. They are indeed the advocates of *un*popular "unpopular causes." And note this about them: when government, by unlawful and reckless uses of power, subverts constitutional liberties, it is those citizens who, by insistence upon constitutionality, are loyal. And the question I shall now try to answer is the how of it: *how* shall we be loyal when government is subversive of common right?

Kinds of Subversion

To find out that "how," we must first take a look at the kinds of acts of subversion in which our governments today are prone to engage. These may be classed as:

(a) the "phony statute,"
(b) the "bogus regulation,"
(c) the "terror tactic."

The "phony statute" is an act of the legislature that is patently void under the Constitution. I am speaking here of regulatory statutes. They may cost you grief. They may cost you lawyers. But in the eye of the Constitution they do not exist; they are utterly void. Here, for example, is a state statute that licenses religious schools. To exist they must have a license. The granting or withholding of the license depends upon one word in the statute: "approval"—approval by the state education department. The statute doesn't define approval. "Approval" is whatever the department wants it to mean. That word is a blank check. The state can write anything on that check that it wants to.

* Russian Orthodox Church Appeal, 397 Pa. 126, 129 (1959).

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The statute is flatly unconstitutional.

It is the "bogus regulation," however, that is the great trouble-maker, the prime took of subversion. "Bogus regulations" have all manner of solemn, impressive, and legalistic titles. We see them as: regulations, rules, rules and regulations, guidelines, directives, compliance directives and other terms designed to scare, cajole, or otherwise produce obedience. They are bogus when they are unauthorized by statute or, if authorized, violate constitutional liberties. Like the "phony statute," they are not law at all. Let me give you some examples:

Here is a regulation by a state health department governing private hospitals. It says that medication shall be administered only on the "signed orders of a physician." That is to say, a nurse may not be *told* by a doctor to give a patient a pill; he has to put that in writing. Preposterous. This is elevated from the preposterous to the humorous by the fact that, a little later on, this same set of regulations says: "*Telephone* orders for medication are permitted." So, either the hurried doctor hands the nurse a written instruction or he says to her: "You get on this phone, and I'll get on that phone, and *then* I'll tell you, you can give Mrs. Jones that pill."

Or, take this marvel from Ohio's recent regulations of private schools. This batch of regulations, by the way, exemplifies one of the favorite frauds being practiced by government agencies today. It is the "minimum standards" gimmick. The term subtly conveys the idea of "minimal." "Surely," says the government, "anybody should be willing to comply with mere 'minimum' standards." The Ohio "minimum" standards took up a whole volume and were some 600 in number. The minimum standard in question read as follows:

"Educational facilities at the elementary level shall be comparable to those at the upper levels."

I asked one of the heads of the Ohio Department of Education, whom I had on the witness stand, question after question in an effort to find out what that meant. Did it mean that grade schools had to have labs and gyms such as high schools had? He couldn't answer. That is because he didn't know. He didn't know because nobody knew—or could know. Private schoolmasters were mandated to comply with language that was nonsense.

Not infrequently the regulators' imaginations are equaled only by their difficulties with English. I have just pondered a regulation in a Western state that deals with private cemeteries. It is one very long paragraph, taking up a full page of print. Entering into that print at the top of the page is a bit disturbing because when you scan ahead you notice that there is only one period in the thing—at the end. You at once lose yourself in this verbal jungle. I know of people who were lost in there for days. Now this text did convey some general impressions of do's and don'ts, and I found that people were playing safe and obeying what they guessed it to command. But in fact, it didn't command a thing. It only *looked* as if it did. If you had the patience to try to outline what it said, you came to the startling conclusion that the whole thing was one grand incomplete sentence! One may forgive our contemporary regulators for their inability to diagram sentences, but when they cannot *make* sentences, how can they command our obedience?

Some regulations can be characterized as illusory—pure fantasy, expressing the regulator's social vision—often in rhapsodic terms. The Pennsylvania Department of Education, for example, has evolved a "womb-to-tomb" program of life values for children. It is all couched in language, inspiring in tone and inpenetrable as to meaning, but expressing a governmental elite's effort to turn its wishful thinking into legal reality. Take this excerpt from a document called "Conceptual Guidelines for School Health Programs in Pennsylvania":

". . . health education is . . . a discipline which focuses on and strives for maximum physical, mental, and social efficiency for the individual, their family, and the community."

"The health education curriculum needs to be built around the biological and social facts which relate to the existence, survival, and adjustment of human beings."

"[It] aims at improving the quality of life [and enables humans] to make wise decisions and solve personal, family, and community health problems."

But, we must ask, what is meant by "social efficiency"—or "social efficiency for the individual"? What are the "biological and social facts" that relate to the "adjustment" of human beings? "Adjustment" to what? What are "wise" decisions, and according to whose norms?

The "terror tactic" is manifested in a variety of ways. For example, the unsolicited visit. I have seen examples of government agents, without appointments, showing up at private institutions and demanding to see files and conduct interviews—and even instances of these people (without permission) entering private premises and conducting interviews with employees or staff or students. A new-found bullying trespass on private institutions is seen in the "find yourself guilty" trick. Government "guidelines" require a private institution to make extensive investigations of its own policies and then to report whether it is meeting certain alleged requirements of law. Several major federal agencies have lately gone in for this kind of thing. You are told that you must extensively document your lack of violation of law and prove you are clean, or you will lose your vital tax exemption or be denied participation in particular federal programs. Now all this is in the absence of any charge that you are in violation of law. The documentation may prove to be extensive—and expensive. The imposed record-keeping is not paid for by the government. Nor often is it insubstantial. In this day of inflation secretarial costs are extremely high, but when added to these are costs of filing equipment, rented space, paper, and the occasional assistance of accountants and attorneys, the costs are substantial, but—unlike similar governmental costs—the resources out of which they must be paid are very limited. Government indulges extravagance. Voluntary institutions dare not.

But truculent governmental bodies push further in their aggressions against private institutions with such tactics as actual investigations in order to find out whether institutions against which government makes no charge may be in violation of government directives of one sort or another. A given agency, for example, sends a randomly-selected private institution a questionnaire on its policies, though the agency has no grounds to believe that the institution in fact is out of line with the law. This prurient fishing is designed—like the iron-curtain technique of random police visits—to send waves of fear through all institutions. Whatever the regulatory requirement, and regardless of the expense involved, a small private entity will prefer to purchase peace through compliance, rather than encounter the

greater costs of legal assistance and possible injury to its good name by being publicized as having a fight with the government. So the private entity buckles, fills out the forms, allows the inspectors into its premises to audit, interview, read records, and do other things that, in the first place, government has no business doing.

Having glanced at only a few examples (out of myriad examples that could be cited) of governmental subversion, we are now ready to talk about how we can best be loyal, in the face of it, to the idea of constitutional liberty.

The Loyalist as Victim

The loyalist surprisingly finds himself in a minority among those who are hurt, or potentially hurt, by the acts of subversion. He finds a majority going along. He sees attorneys telling clients who are faced with overbroad regulations: "It's the law. Nothing to do but comply." And he sees worse than that. When one government agency last year published certain education "guidelines," religious-private-school administrators in one of the states immediately got out directives to their schools telling them to comply and even embellishing the guidelines to create *more* compliance work for the schools! Our American sense of obedience to law is indeed becoming Prussianized: some of us seem to have a mindless zeal to be given orders and a blind passion in carrying them out. Some of us—not all, however.

In Ohio three years ago Fundamentalist Pastor Levi W. Whisner was told by the state that he and his flock must either obey a vast set of school regulations aimed at converting private schools into public schools, or go to jail. Pastor Whisner refused, risked jail, and after two years in the courts, the Supreme Court of Ohio said he was right. (See *"State of Ohio v. Whisner, et al.,"* LIBERTY, March-April, 1976.)

In Maryland, state authorities told another redoubtable Christian leader, Donald McKnight, to shut down his Evangelical Methodist school because he had refused to place it under state control. He refused to be mauled. He took his fight to the public and to the legislature and was springloaded for court action. He won his fight. His school continues to flourish.

In Erie, Pennsylvania, the National Labor Relations Board boldly sought to impose its jurisdiction on the cemeteries of the Catholic Diocese of Erie. Bishop Alfred M. Watson stood up and resisted. The government hearing examiner made a bald effort to establish that the Catholic cemeteries are simply secular in nature. He even tried to explore the whole financial structure of the Diocese. Bishop Watson won.

A year later the NLRB tried the same thing on the Philadelphia parochial schools. The pastors of those schools—with the strong approval of Cardinal Krol—took the NLRB to federal court and in March, received the seal of approval of the U.S. Supreme Court.

These examples of governmental intrusion may lead us to think of extreme remedies. It might be suggested that all government officials should be made to wear distinctive badges or uniforms in order that they might be more subject to constant and penetrating popular scrutiny. That might, however, lead to necessary further steps in this day of widespread corruption—for example, making those caught in unethical practices go about ringing bells and crying, "Unclean! Unclean!" We wouldn't want that. Most civil servants are decent people who want only to do their jobs. For the most part, the problem is not the servant but the job—the regulating, which he is made to impose. From the above examples of courage we can derive some basic principles for the guidance of all who administer private charitable efforts.

1. Begin with a keen awareness of the worthwhileness of what you are doing and of your right to do it. Bear always in mind all the other people (including, in some cases, persons of past generations) who have sacrificed for the enterprise now in your trust. Couple those thoughts with renewed realization that, under the American system, government is your servant. Therefore your mindset, when regulation would limit the liberties of your institution or agency, is to place the burden squarely upon the government to show cause for its attempted imposition. *The burden of proof is on the government, not you.*

2. Examine, with a jeweler's eye, the attempted imposition. Find what it really means. What effect does it have on your institution?

3. If the regulation puts burdens or restrictions upon your institution, find whether it is actually authorized by any statute. You have no obligation to obey a regulation which is *ultra vires.*

4. "Render to Caesar." Administrators of religious institutions have duties toward government. One is simple honesty. If unlawful impositions are threatened, don't try to "make a deal," don't buy a government official's promise to "take it easy" with you, or that he will wink at less than your full compliance. You owe it to government to be candid. If the regulation is unlawful (whether in terms of lack of statutory authority or violation of your constitutional liberties), say so plainly. When, in a desire not to "make waves" or in hopes of easy treatment, we go along with bad laws, we debase the currency of everybody's freedom, we detract from the idea of a government of law, and we build up the totalitarian concept of a government of men.

5. Be prepared, therefore, to responsibly and forcefully present your candid views to your governmental servants. That failing, be ready for court. Help will always be forthcoming if you do.

6. We should revise our state and federal laws to very broadly permit recovery of attorneys' fees and legal costs incurred by private institutions in defending against unwarranted governmental intrusions, where the institution is ultimately determined to have been right. The present situation, whereby private institutions can be bled into compliance (or out of existence) by the actions of government administrators and attorneys, is intolerable.

7. If that fails, then we should consider the idea of legislation to establish "citizen advocates"—lawyers of special competence in analyzing governmental regulations and knowledgeable in constitutional law who could be retained by private voluntary institutions which are threatened by undue governmental regulation or harassment tactics. They would be able to bill the particular regulatory agency for the reasonable fees and costs involved in successfully defending the rights of the private charitable entity in question.

How to be loyal when government is subversive? I have suggested some ways. Nothing that I have said is meant to contradict the idea that laws, clear and reasonably stated, are necessary to the common good. Our problem is laws that are unreasonable and unnecessary—and that are beginning to destroy all private charitable works. These need to be resisted, and they can be. □

When Terry Took a Walk

Profound questions of church-state relationships were settled in a series of cases surrounding Terry McCollum's refusal to take religious instruction in his Champaign, Illinois, school. But the consequences of the decisions are only now becoming apparent.

By J. W. Jepson

When 10-year-old Terry McCollum walked out of his public school classroom, excused from the religious classes being conducted there, he could not have imagined the historical forces in motion around him. And neither Terry nor those who were accelerating those forces could know what the end would be. They still do not.

But before we go on with Terry's story, let's reach back, pick up some facts, and trace the lines of the historical perspective.

During the Colonial period of our national history, education varied according to the broad regions of the country. In the aristocratic South education was a family matter. In the Middle Atlantic colonies it was largely parochial.

In New England, however, education became a public concern. Boston opened the first public school in 1635. Seven years later Massachusetts passed the first compulsory-education law. But though early New England education was public, it maintained strong religious ties and values.

So the new American nation emerged from the Revolution with roots deeply planted in rich Colonial soil. It had values, philosophies, and institutions that were well established and growing. Freedom and equality were prominent among these. Jefferson was making influential statements about separation of church and state and was advocating publicly supported education.

National support for public education came early. The Northwest Ordinance (1787) provided for public school revenues. The Tenth Amendment to the Constitution recognized the educational responsibilities of the states.

In 1837 Horace Mann became secretary of the Massachusetts State Education Board and worked for a nonsectarian school system (but not necessarily a secularized one).

But support for a secularized public school system grew, and by 1875 the idea was rooted in the national mind.

Meanwhile, sectarian struggles continued.

In 1843 Roman Catholic Bishop Francis Kenrick petitioned the Philadelphia School Board to allow Catholic children to use the Catholic version whenever Bible reading was required in school. A public outcry was raised that Catholics were trying to remove the Bible from the schools. Riots erupted. Catholic property suffered, and some people were shot.

About 1859 approximately one hundred Catholic children were expelled from Boston schools for refusing to read or recite from the Protestant Bible. Others were beaten by teachers, and the punishment was upheld in court *(Commonwealth v. Cooke,* 1859).

In *Spiller v. The Inhabitants of Woburn* (1866) the Massachusetts Supreme Court upheld the right of the school to expel a girl for refusing to bow her head for morning prayer.

A Catholic-Protestant "Bible War" started in Cincinnati in 1842. When the board of education issued a resolution ending Bible reading in the public schools, the matter went to court. The board's resolution was nullified. But in 1872 the state supreme court upheld the board of education *(Board of Education v. Minor,* 23 Ohio St. 211, 1872).

As the nation emerged into the twentieth century the trend toward toleration continued, but not without contention in the courts. In 1926 the United States Supreme Court had to beat back an attempt by Oregon authorities to close Catholic schools in the state *(Pierce v. Society of Sisters).* The landmark decision affirmed the right of parents to choose a parochial education for their children.

Then, in 1947, the whole matter of religion in the public schools entered an era of crisis. The United States Supreme Court was asked to rule in the first of a series of cases that finally settled some basic issues.

In *Everson v. Board of Education* (1947), the Court ruled that the use of public funds to transport children to parochial schools is constitutional because it protects the physical safety of the children. But the Court took the occasion to define its philosophy of opposition to broader support.

A year later the Court expressed itself again in *McCollum v. Board of Education* (1948). And this brings us back to Terry.

The question was the released-time program, consisting of weekly religious instruction during school time, within the school curriculum and on school premises.

To make the enrollment 100 percent, Terry was willing to join the class (sponsored by the Champaign, Illinois, Council on Religious Education). His mother, an atheist, refused.

Terry was excused from the classes. But what to do with him while the class was in session became an embarrassing question to all concerned, including Terry.

In January of 1947 the Illinois Supreme Court ruled that neither Terry's nor Mrs. McCollum's rights had been infringed. But by the time the United States Supreme Court took the case in December, the *Everson* decision had been handed down. The Court had established its direction.

The High Court ruled that the released-time program at Champaign vio-

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J. W. Jepson was pastor of the First Assembly of God church in McMinnville, Oregon at the time he wrote this article. Reprinted with permission from the Evangelical Press Association, La Canada, California.

"Walton always says, it doesn't matter what you believe, just so you believe in something."

lated the First Amendment.

Reaction varied. Many school administrators virtually ignored the decision. But some viewed the Court's dictum as a mandate and in some cases went so far as to remove all Bibles from their school libraries. Four years of confusion followed the *McCollum* decision.

Again, in 1952, the United States Supreme Court was asked to rule in a released-time dispute. But this time the religious classes were being conducted *off* the school premises. In a six-to-three decision the Court declared the practice to be constitutional *(Zorach v. Clauson*, 1952).

Then came *Engle v. Vitale*, 370 U.S. 421 (1962). The issue was the "Regents' Prayer," composed by the New York State Board of Education. The real question, however, was the status of school-sponsored prayers in the public school.

When the Court ruled six-to-one that the prayer was unconstitutional, reaction was intense. The public furor exceeded the outcry that followed the *McCollum* case.

The following year the Supreme Court administered the *coup de grâce.* This time it was Bible reading, and the cases were *Abingdon School District v. Schempp* and *Murray v. Curlett.* The Court considered the cases together and handed down one decision on June 14, 1963.

The *Schempp-Murray* decision condemned state-sponsored Bible reading as a school activity. Despite public reaction, however, the Becker amendment in Congress (designed to declare that the First Amendment does not forbid Bible reading in the public schools) received only 160 votes, 58 short of the 218 needed to pass.

In 1964 the United States Supreme Court reversed a decision of the Florida State Supreme Court that upheld Bible reading in the public schools, thus reaffirming its *Schempp-Murray* decision.

During 1965 the High Court refused to review a New York State Supreme Court decision upholding the use of the words "under God" in the Pledge of Allegiance in the schools. And in December of the same year it ruled that the New York

Removing token prayers and scattered smatterings of Bible reading from the public schools did not greatly undermine the values fundamental to our culture.

school authorities could ban voluntary recitation of prayers in the schools even if such prayers are requested by the pupils.

Other matters of religion relative to the public schools have been debated from time to time, and some lower-court decisions already have been rendered on these.

Most states forbid nuns to wear religious garb while teaching in public schools. Gideons still make copies of the New Testament available to public school children in most places. And Christmas carols are still sung—though not without legal challenge.

Religious courses in state colleges and universities are accepted on the premise that college students have received their basic religious training in the church and home, have developed personal convictions, and are prepared to study religion objectively.

In themselves, the practices abolished by the landmark decisions of the United States Supreme court were of little consequence. Removing token prayers and scattered smatterings of Bible reading from the public schools did not greatly undermine the Judeo-Christian values and presuppositions fundamental to our culture and hence our schools. Probably, some who objected the most never had family Bible reading and prayer in the home.

Other consequences have been far greater: Although the Court contended in the *Schempp-Murray* decision that its dictum did not result in a *de facto* establishment of secularism, such has been the result.

But education cannot take place in a cosmological vacuum. So on November 12, 1968, the High Court struck down state laws that prohibited the teaching of evolution in the public schools, basing its decision on freedom of religion. That means, then, that only one cosmogony, only one general explanation of the origin of things, is to be allowed in the public schools. Its monopoly is not to be denied. All values must be compatible with it, perhaps even derived from it. But, being materialistic and amoral, evolutionary faith has no valid basis for a genuine system of values, no real promise for its humanistic hope.

The secular humanism that has been the inevitable result has produced widespread frustration, especially where there has been an insistence upon academic freedom without a balancing sense of academic responsibility. This frustration is so deep that when it does break out in protests it can do so with explosive force. Ugliness and violence result. The recent textbook controversies are an example.

It seems to me that we can follow two avenues in our search for solutions. First, I propose that we work to correct the unfair monopoly of evolutionism in the public schools. This does *not* mean that we should press for inclusion of the Genesis account of Creation in the *science* textbooks. Such efforts are misdirected and counterproductive.

We should insist, however, (1) that government not allow its weight, authority, and prestige to be used to impress on the pliable minds of children the erroneous idea that an unproved theory that is undergoing continuous revision is an irrefutable and incontrovertible law and a proved fact; (2) that the general theory of evolution be brought out of its privileged category and be made to fend for itself in the arena of open academic inquiry; (3) that teachers and textbooks present the *scientific* data that raise serious problems for the theory of evolution, that tend to discredit it and make it untenable, *even at the risk that the accumulation of such evidence might prove to be fatal to the theory.*

We must insist on these things on the basis that they are demanded by fairness, "truth in education," academic freedom, and intellectual honesty.

The second avenue involves defining just what the United States Supreme Court has actually said and done. For sure, state-sponsored religious activities are forbidden. But the Court has extended an invitation to the schools to teach objectively *about* religion *(Schempp-Murray,* 374 U.S. 206, 1963).

Herein is the opportunity and the problem.

What should be taught about religion? Is it possible to study religion objectively? What will be said about the life, death, and resurrection of Jesus?

When the Bible is considered only as literature, is it not placed automatically on the same level as the Koran? This approach to the Bible is necessarily interpretive, as it "says" something to the student about the Bible.

Pupils cannot study history without considering the church. Is the history of the church and its role in Western civilization being presented without interpretation?

Since it is practically impossible to teach objectively about religion without interpretation to some degree, let us work to make the public school classroom an open forum.

This is the second avenue that I propose we follow.

Let the classroom be open to full and free discussion. Let students, as well as teachers, enjoy academic freedom. Let the "free exercise" clause operate.

All students should be free to discuss their faith or absence of faith openly and without fear in an atmosphere of honest inquiry, fair play, courtesy, and tolerance.

And everyone, including both church and state, should work diligently to preserve this free, tolerant atmosphere.

This seems to be the only fair way. Perhaps it is the best way. □

What Do the Supreme Court's Prayer-and-Bible-Reading Decisions Really Mean?

Overlooked in the public hysteria surrounding the Schempp and Engel cases was an important principle of constitutional law.

By Gary A. Hughes

ILLUSTRATED BY VIC TAYLOR

Most Americans will agree that the state should not have the power to tell them which church they must attend. Nor should they be required to pay taxes to support a particular church—or any church at all, for that matter. But many will answer with an emphatic Yes! if asked whether the state should sponsor prayer and Bible reading in the public schools. I believe such people overlook a fundamental principle of constitutional law involved in the decisions.

The Establishment Clause of the First Amendment represents a policy decision by the drafters of the Bill of Rights that religion and government can best perform their functions free from the interference of the other. As Thomas Jefferson said, the Clause ("Congress shall make no law respecting an establishment of religion") erects a wall between church and state.

It was tax support for established churches that spurred migration of many early Americans from their European homes during the seventeenth and eighteenth centuries. Outwardly at least, the American people accepted Jefferson's sentiments that "religion is a matter which lies solely between man and his God [and] he owes account to none other for his faith or his worship."

But it is one thing to pledge allegiance to an abstract principle. It is quite another thing to support a principle when it is *your* child who is being denied the "right" to pray in his school. Of course, that is really not what the Court did at all.

In *Engel v. Vitale* and *Abington School District v. Schempp* the Justices ruled unconstitutional the state's mandating the saying of prayer and the reading of the Bible, respectively, in public schools. Seventeen years later, responding still to the outrage of their constitu-

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ents and misunderstanding the decisions still, legislators on both state and national levels are searching for ways around the decisions. Some school districts flout the decisions by continuing unconstitutional religious practices—hardly the way to educate children in respect for law. These evasions, which lead only to incensed emotions and costly, time-consuming lawsuits, testify to a fundamental misunderstanding of the Court's rulings, and of the way constitutional law relates—or rather, does not relate—to a private person's religious practices.

Engel v. Vitale arose in New York, where state law required that school days in public schools open with a recital of a "nondenominational" prayer composed by the state's board of regents. Engle raised the objection that the state, by requiring this recital and by writing the prayer, was engaged in actions prohibited by the First Amendment. Such activities made the state the sponsor of the religious beliefs inherent in the prayer. This sponsorship, argued Engle, was clearly unconstitutional.

Schempp dealt with Bible reading in public schools. Pennsylvania law provided that at the start of each school day a few verses of the Bible be read without comment in all public schools of the state. In some schools the teacher read the passages or allowed students to read them aloud. In other schools, such as the one that the Schempp children attended, the verses were read over the school's public address system.

The Schempps, who are Jehovah's Witnesses, contended that the readings violated their religious beliefs. The state, they said, was in the position of supporting a particular set of religious beliefs, an action prohibited by the Establishment Clause. When the school later offered to allow the Schempp children to leave the classroom while the verses were read, the Schempps replied that this solution could stigmatize their children as "strange" or "weird" in the eyes of their classmates. The Schempps demanded that the reading be stopped.

The Supreme Court agreed with the challengers in both cases and struck down the laws involved, thereby earning the enmity of many Americans.

In *Engel*, Justice Black wrote for the Court that "it is no part of the business of the government to compose official prayers for any group of the American people to recite." Noting that the Puritans had come to America in large part because of their dissatisfaction with political manipulation of the contents of the Book of Common Prayer, the book that dictated the content of all prayers used in the Church of England, Black indicated that the Establishment Clause was an attempt to guarantee that that English experience would never be repeated here. The New York prayer represented the possible beginning of just such an undertaking, for, once written, it could then become a focus of controversy among religious groups as to what it should include; hence its use was unconstitutional.

Justice Clark, writing for the majority in *Schempp*, declared that the First Amendment requires the states to remain strictly neutral in regard to religious beliefs. They cannot take steps to inhibit religious beliefs, but neither can they do anything to advance them. The latter clearly occurs when a state requires reading from a religious book such as the Bible. "[Such readings] are religious exercises, required by the state in violation of the command of the First Amendment that the Government maintain strict neutrality, neither aiding nor opposing religion."

Those who had been outraged by the *Engel* ruling were not particularly pleased with the *Schempp* decision, either. Yet both decisions were predictable, given the policy decision embodied in the religious clauses of the First Amendment. The drafters of the Bill of Rights recognized religious beliefs as being solely the concern of each individual, an area in which the state has no legitimate concerns, and so included provisions to prohibit the state from intruding into the area of religious preference. As Justice Stewart wrote, people are free to profess whatever beliefs suit their inclinations, or to profess none at all, without fear of being penalized by the government because of their choice. This principle is embodied in the Free Exercise Clause.

The other side of the coin, the Establishment Clause, recognizes that "where the power, prestige, and financial support of government is placed behind a particular religious belief, the indirect coercive pressure on religious minorities to conform to the prevailing officially approved religion is plain." To ensure such pressure is not brought to bear on those exercising their right to find their own relationship with God, this clause requires strict neutrality on the part of the government when dealing with reli-

President Carter on School Prayer

Q. As a born-again Christian, Mr. President, what is your position on prayers in public schools?

A. My preference is that the Congress not get involved in the question of mandating prayers in schools. I am a Christian. I happen to be a Baptist. I believe that the subject of prayer in school ought to be decided between a person, individually and privately, and God. And the Supreme Court has ruled on this issue and I personally don't think that the Congress ought to pass any legislation requiring or permitting prayer being required or encouraged in school.

Sometimes a student might object even to so-called voluntary prayer when it's public and coordinated. It might be very embarrassing to a young person to say, "I want to be excused from the room because I don't want to pray."

So I don't know all of the constitutional aspects of this very difficult and sensitive question, but I think that it ought to be an individual matter between a person and God. ***(Press conference, April 11, 1979.)***

gious beliefs. To maintain this neutrality, the government must refrain from acting in such a way that it aids one religion to the detriment of other religions, or aids all religions to the detriment of nonreligious beliefs. This restraint requires total nonaction by the government in relation to religious beliefs. Viewed in this context, the practices confronting the Court were clearly unacceptable: Both at the very least represented state support for religious beliefs as opposed to nonreligious beliefs, as well as state support for specifically Christian beliefs as opposed to non-Christian beliefs.

Had the prayers and reading involved been of the Moslem or Buddhist religions, those who protested so vocally would have danced in the streets at the Court's rulings. But the Court was dealing with *their* religious persuasion, striking down the imposition of *their* religious exercises and beliefs. Simple self-interest won out over adherence to the abstract principle involved, a very predictable and unsurprising result when dealing both with people and religious beliefs.

But the uproar was unnecessary. Its intensity in large part resulted from the subject matter involved, but was also sustained by misunderstanding of what the opinions actually meant. This consequence is understandable when one considers the general lack of concern by the media for the complexities of constitutional adjudication when reporting Supreme Court decisions, and the ordinary person's lack of understanding of this area of the law.

What was overlooked in the hysteria was an important principle of constitutional law—that constitutional prohibitions apply only to activities of the state. They do not reach those activities in which the state has no involvement. Thus, that the government is required to do, or refrain from doing, something does not mean that a citizen or organization must do, or refrain from doing, the same thing. General laws may place restrictions on individuals—the Civil Rights laws are an example—but constitutional provisions themselves do not reach the acts of private persons. Accordingly, the Court in its opinions emphasized the state's involvement in the challenged activities, pointing out in *Engel* that the state required the prayer recitation, and had in fact written the prayer, and in *Schempp* noting that the Bible reading was mandated by state law.

Failure to appreciate this fundamental principle of constitutional law resulted in a great misunderstanding of the scope of the opinions. Contrary to popular belief, the Court did not say there could be no recitation of prayers, or no Bible reading, in public schools. The practices which the Court struck down were not praying and Bible reading *per se,* but rather praying and Bible reading sanctioned and instigated by the state. It was state involvement in the challenged practices that made them constitutionally defective.

If the state is not involved in fostering the practice, the situation is entirely different. Although the Constitution sets up a barrier between church and state, we are, as Justice Douglas pointed out, a religious people, with a long religious heritage as an innate part of our traditions, beliefs, and character. The Constitution recognizes this heritage—it does not require the state to favor the secular over the religious. While the state cannot favor a religion, or all religions, it may not hinder them either; as noted before, it must remain neutral as to religion. So though a state may not sponsor a religious practice, as it emphatically did in the *Engel* and *Schempp* cases, it may not forbid a nonstate-sponsored religious practice. A state cannot require that a prayer be read in its public schools; however, if a group of students on their own, without school involvement or sponsorship, spend a few moments in prayer before school starts, the state cannot prohibit them from doing so.

I am reminded of a high school classmate who would sign out of study hall each school day and retire to the library, where he would spend the period reading the Bible. This student, who was very religious, did this every school day for the three years I knew him. The school never tried to stop his activities—indeed, it could not legally have done so. There was no school involvement; the school did nothing to foster what the student was doing. Under the Supreme Court's ruling in *Engel* my friend's activity was constitutionally permissible; had the school tried to discourage the student from his practice, it would thereby have been favoring the secular over the religious, thus departing from its required neutrality.

The implication to those who despair that they or their children cannot pray or read the Bible or other religious books in a public school should be clear. The Court has said only that the *state* cannot be involved in such practices, not that such practices cannot occur. Any students or group of students, on their own, can continue to read religious books or pray wherever and whenever they wish, even in public schools. There would be no state involvement, so no constitutional problem could arise. That the students were in a public school building at the time would not be a sufficient connection with the state to raise a constitutional problem. Students in these instances would be using their time for their own purposes. Whether they use study halls to work on homework or to read the Bible or other religious books or to pray is none of the state's concern. So long as no one else was disturbed from doing what he chose to do, there could be no valid objection.

Seventeen years after *Engel* and *Schempp,* states are still grappling with a perceived problem that in reality does not exist. Several have passed a law allowing or requiring a "moment of meditation" in public schools. Depending on its wording, such a statute may be constitutionally defective. If the statute specifically requires the setting aside of *x* number of minutes for "meditation" it could be argued that the state is favoring religion and hence straying from its required neutrality. This was the opinion of the New York State Department of Education, which noted in an opinion rendered in 1964 (3 N.Y. Educ. Dept. Rep. 255): "It is legally impossible to open a school in New York State by a minute of silence with an introductory statement substantially in the following form: 'We will now have a minute of silence to acknowledge our Supreme Being.' " On the other hand, if the statute merely sets aside *x* minutes, one use of which could, but need not be, meditation, then it is arguably constitutional as neither favoring nor hindering religion or nonreligion.

Court battles will surely develop over such statutes. The most unfortunate thing about this probable course of events is that the laws were not needed in the first place. Under the Supreme Court ruling nothing prevents students from engaging in a "moment of meditation" on their own. By passage of the laws, the states may have left their neutral stance to become proreligion. If so, a court will eventually strike down the laws as unconstitutional. And if the aftermath of *Engel* and *Schempp* is any indication, more confusion and high emotion will result. □

Billy's Bible Verses

By Bob Dean

Billy Benson surprised everyone in the class when he said he wanted to write Bible verses. We weren't used to hearing Billy say anything at all, for one thing. And we never assumed Billy would want to write anything at all, either.

But there he was, telling Teacher he didn't want to write haiku, or limericks, or expository paragraphs, or sonnets.

"I want to write some Bible verses," said Billy. And we could tell he meant it.

Teacher knew he meant it too. But teachers don't let their students mean things for very long—not if they really shouldn't. So she explained:

"Billy, nobody writes Bible verses anymore. They have all been written. Now, class, what do you suggest Billy write for his homework instead of Bible verses?"

Joan suggested he just write stories about things that happened in the Bible, because Sunday school teachers read that kind of story a lot.

And Freddie said he should copy old Bible verses. Freddie didn't think Billy was capable of anything very original, anyway.

This gave Teacher a chance to explain what plagiarism is.

Barbara was the one who pointed out the obvious—one of those things we all wished we'd thought of. But Barbara was always the one who thought of them first.

"One thing's certain," Barbara told Billy. "You can't write any 'red words' Bible verses, because that would be the worst kind of plagiarism." And we all agreed. Many of us had seen old Bibles at home with Jesus' words in red, and we knew what she meant. And even those who didn't know what she meant agreed with Barbara because she always seemed to be very right.

Then all of us were surprised again, when Billy Benson insisted. He said he'd already thought about some new Beatitudes, in his head, and he'd like to write them down. He said he liked Psalms a lot, too, and thought he could at least *begin* a couple. And he mentioned some of the other people who'd written Bible verses. People like Solomon and Ruth and David. It was a big speech for Billy.

But Roger stopped the whole discussion. "Billy can't write Bible verses or anything else about the Bible," he said, "because this is a public school and we have to separate church and state, and my mother would be very upset if I told her we were even talking about this." And then he carefully suggested that, if we didn't have recess soon, he *would* tell her.

ILLUSTRATED BY JEFF DEVER

So we had recess. And after recess we didn't return to the subject of what Billy might write for the next day's homework. Some people now thought it was the wrong thing to talk about, and other people thought we'd finished talking about it, anyway.

But Billy apparently didn't think of any of those things. Billy's sister told me later that he went home and worked all evening on his English homework. He looked things up and he wrote and rewrote and threw things away. He sharpened pencils and wore them down and, finally, he borrowed a ballpoint pen from his father for the final writing down of the copy to be turned in.

In class the next day, Teacher asked whether anyone would like to read what he had written for homework. At first nobody did, but then Teri read her haiku and Philip read a funny little poem that he might have borrowed from a greeting card. And Billy raised his hand and said:

"I'd like to read my bible verse."

Teacher seemed a little upset. She said, "We went through all that yesterday, Billy. Bible verses have all been written. There are laws about stealing old ones and calling them your own, and besides," she looked at Roger, "we can't even talk about it here."

Billy insisted. "I looked it up," he said. "Bible can be spelled with a little *b*, and then it's not a Holy Bible. Then it's just an 'authoritative, informative, reliable' book. So I've written a bible verse that can go in a book like that. It's not too long. And I want to read it."

Perhaps because she was swayed by the research Billy had put into his homework—or perhaps from a combination of curiosity and impatience—Teacher told him to come up to her desk and read his homework.

Billy walked proudly to the front of the class. He turned to all of us, studied his paper, and read:

"Jesus smiled." □

Bob Dean is a free-lance writer in Raleigh, North Carolina.

PERSPECTIVE

Religious Services in Public Schools—The Consequences

It was bad enough when parents learned that Johnny couldn't read. When they heard that he couldn't pray either, not in the public schools, they began to put two and two together and came up with thirteen, and a bad case of tridecaphobia. *No wonder Communism is taking over the world! No wonder it isn't safe to walk the streets anymore! No wonder Watergate!* And all because those nine nasty black-robed men of the High Court, who always find a way to let pornographers off the constitutional hook, decided that our children can't pray or read the Bible in the public schools.

Actually, the Justices decided no such thing (and a few pornographers who have looked hopefully to the High Court *are* serving jail terms). What the Court really said was that it is not the right of the state to write a prayer and force any segment of our citizens to recite it (as was being done in New York State schools); and that Johnny *can* read the Bible in school, and say a Hail Mary, Hail Buddha, or Hail Jesus in the classroom, as he may feel the need, but he cannot expect the aid of the state in that exercise. But no matter; parents read the headlines—"Court Downs Prayer," "God Kicked Out of Schoolroom." They never bothered to read the decision.

Some Congressmen didn't bother to either. Others did bother, but for their own reasons (sincere conviction not excluded, but neither are political considerations) opposed the Court's decision. There were calls to impeach the Court, and scores of religious amendments to the Constitution, all of which fell short of passing the Congress and thus going to the states for ratification. Such will probably be the fate of the latest two: Senator Jesse Helms's (R-N.C.) bill, which would deny the Supreme Court's right to rule on religious activities in public schools, and Representative Robert S. Walker's (R-Pa.) prayer amendment, a so-called "voluntary prayer" act.

But across the nation the issue of religious practices in public schools is far from settled. News-service releases for the past few weeks speak of controversies over posting of the Ten Commandments in classrooms, prayer before school assembly, the banning of a student religious discussion group, clergy counseling of public school students, and other issues.

Editors of LIBERTY (then called the *American Sentinel*) grappled with the question of religion in public schools as early as the 1890's. In 1893 a Seventh-day Adventist church leader wrote from Napier, New Zealand, to Editor A. T. Jones:

"I do not see the justice nor right in enforcing by law the bringing of the Bible to be read in the public schools."

An article in the *Watchman* (an Adventist publication) for May 1, 1906, pretty well set forth the Adventist convictions:

"The present effort of the church to get the state to . . . introduce the teaching of Christianity into state schools, is but a revival of the . . . doctrine of force in religious things, and as such it is antichristian."

It is these convictions that LIBERTY echoes in this editorial.

It is not inconceivable that under the widespread assault of public opinion, or simply because of changed convictions, the Supreme Court could alter its ruling—it has done so more than one hundred times during its history. Or a Constitutional Convention—seeming ever more likely—may tamper with the First Amendment.

Let all who would applaud such actions consider several questions: What constitutes worship, anyway? What is prayer? If, as someone has said, "Prayer is the sincere outreach of a human soul to the Creator," can state-required prayer, mouthed each morning, satisfy this definition? Again, Will a God who asks to be worshiped in "spirit and truth" accept the husk when the heart is not offered? Will He accept the symbol without the substance?

A provocative question was asked on February 28, 1963, by Justice Black, during hearings before the Court on two prayer and Bible-reading cases. John D. Killian III, Pennsylvania's deputy attorney general, stood before the Justices, his hands raised expressively, his voice charged with emotion.

"What will be the consequences if the Court rules out prayer?" he asked. "Have you considered the consequences? We are, as this Court has said, 'a religious people whose institutions presuppose a Supreme Being.'" His voice rose. "We would have to take all religion out of public life. . . . [The Court] would open a Pandora's box of litigation that could serve to remove from American public life every vestige of our religious heritage."

For a moment the Court was silent. Then, in an equally emotionally charged voice, Justice Black spoke:

"You are invoking the consequences," he said. Then very quietly: "Have you considered the consequences if we *approve?*"—R.R.H.

The Incredible Becomes Bizarre

A continuing look at developments in the case of California v. the Worldwide Church of God.*

By Jerry Wiley

When the California attorney general and six disfellowshiped members of the Worldwide Church of God persuaded the superior court to take over the church's operations on January 3, 1979, because of alleged irregularities in the expenditures of church funds, the case seemed incredible. However, some of the events that have happened since must be characterized as bizarre.

For example, during that portion of the lawsuit known as discovery, the deputy attorney general attempted to question a church official concerning the contents of a certain document. A review of the document revealed that it was an accounting of the church's income and expenditures for the past twenty years. What was so startling about this document was that (1) its contents were precisely what the attorney general and the dissident church members had claimed had never been prepared, and (2) it had never been released to the public. How, then, did the attorney general's office get it? When asked that question by the attorneys for the church, the state's attorney refused to answer.

In another bizarre development, the six dissidents have withdrawn from the case, leaving the attorney general himself a little in doubt about who is doing what to whom. The Worldwide Church of God is trying to serve requests for admissions on the six—in other words, to force them to produce evidence on which their charges were based or to admit that they had none.

The office of the attorney general of California is involved in other strange proceedings, some against churches and some against lawyers. The Morningland church case is an example of both. Recently, the attorney general's office claimed to have heard from a dissident member that the church—a 1,000-member congregation in Long Beach, California—had made a political contribution, which would be a violation of the law. The attorney general, George Deuknejian, had warrants issued, and deputies made arrests *in church, during church service!* They seized certain documents and raided the offices of the church's attorney, going through files of the attorney's clients, most of whom had nothing to do with the church under investigation. The position of the California attorney general seems to be that, if you are a client represented by an attorney who happens to represent a person or organization under investigation, your rights of privacy and your attorney-client privilege are swept aside for the greater good of the state.

The attorney general recently invaded the offices of a major Los Angeles law firm. In a sweeping investigation much like the Morningland church investigation, deputies began going through not only client's files but also some things that in no way could be called files.The law firm got a restraining order from the Los Angeles superior court, with Judge Jerry Pacht angrily decrying the behavior of the attorney general's office. The rebuke is another bizarre note in California judicial conduct, for it was Judge Pacht who issued the original order against the Worldwide Church of God. Is it Judge Pacht's position that the attorney-client privilege provides more protection in our nation than the First Amendment?

LIBERTY readers will recall that the six dissident church members who precipitated the case against the Worldwide Church of God were represented by private attorneys, Rafael and Hillel Chodos. Now the Chodoses claim that the church should have to pay their fees for attacking it—fees that exceed $175,000, for about two months of work. These are the same men who claim that attorney-CPA and church officer Stanley Rader is paid too highly at $200,000 a year.

This seemingly hypocritical view of appropriate compensation seems to have been shared by Receiver Steven Weisman, who submitted a bill for $51,000 for six weeks, or an annual rate of more than $440,000. Weisman had characterized Mr. Rader's salary of less than one half that annual rate as "outrageous." In addition, Weisman ran up bills of $60,000 for attorneys' fees, $60,000 for guard services, accounting fees of more than $32,000, and other charges, all of which totaled $250,000.

As of this writing, the church has posted a bond of $1 million to regain possession of its property from the state, although the state was required to post only a $10,000 bond when their receiver was in possession. The bond was raised when 1,000 church members pledged their personal assets. The church lost the sale of a $10 million piece of property, even though the receiver agreed the price was fair, because the buyer would not deal as a result of the receivership. That loss of sale costs the church $180,000 a month in upkeep on the property and lost income on the proceeds from the sale.

If the California attorney general has his way, members of any church incorporated in, and perhaps having any contacts with, California may be making donations to the state, with the church simply acting as a depositary until the state can intervene to collect the money.

What is the state's defense for its actions in the Worldwide Church of God case? Their basic legal position is that if the state suspects that the church is not spending the money it collects from its members "properly," the state, acting through the court, may come in and take ownership of all funds, and real and personal property of the church, and do with them as the state sees fit. The church, according to this viewpoint, merely holds the funds and property for the benefit of all the people of the state—even though most of the money is collected from members who live outside California. Further, the attorney general contends that the church may not use these funds to defend itself from the state, because the money now belongs, not to the church, but to the state! Of course, the church *may* use these funds to pay its attackers!

The California Supreme Court has declined to hear the case at this stage, as have the lower federal courts. The church has petitioned the United States Supreme Court to decide whether First Amendment freedoms are alive and well in California or whether they have been mortally wounded by the attorney general. □

* See "A Constitutional Outrage," LIBERTY, May-June, 1979, p. 2.

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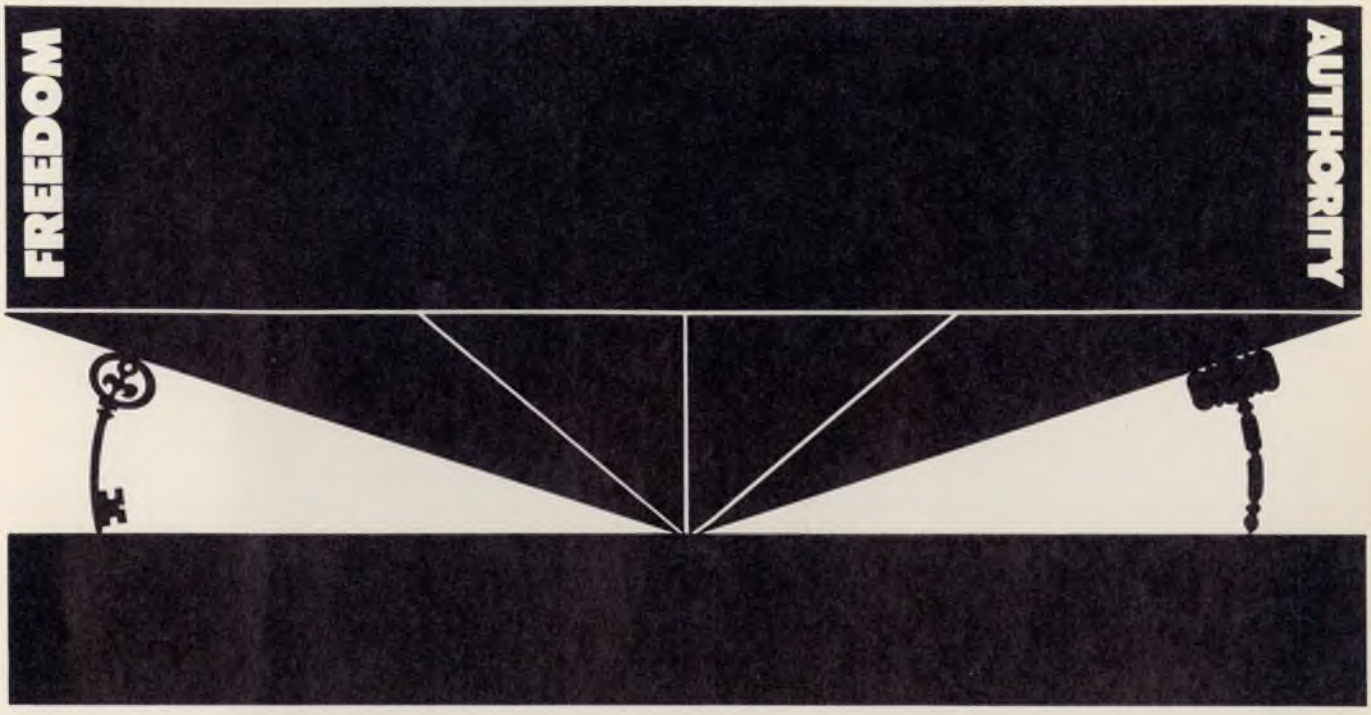
Freedom and Authority: A Delicate Bolance



ILLUSTRATED BY ZEB ROGERSON

By Haven B. Gow

In his book *Power*, Adolph Berle discussed what he believed are five laws of power: (1) Power invariably fills any vacuum in human organization; (2) power is invariably personal; (3) power is invariably based on a system of ideas or philosophy; (4) power is exercised through, and depends on, institutions; (5) power is invariably confronted with, and acts in the presence of, a field of responsibility.

Power, in other words, is the capability of accomplishing something; it means control over others; it can mean, but does not necessarily imply, the legal ability to do or accomplish something.

Authority, on the other hand, involves the *moral* right (and sometimes, too, the *legal* right) to settle issues or disputes; it means the right to control, command, or determine. Authority, as Prof. Thomas Molnar points out in his work, *Authority and Its Enemies* (New Rochelle, N.Y.: Arlington House), is natural: that is, it emanates from the demands of man's nature. Human beings require and desire authority, even as they desire and demand friendship, love, family. Any human group, organization, or institution demands authority: A family needs parents to lead it and set guidelines; a baseball team requires coaches, a manager, a general manager, and an owner; a police or fire department requires a chief who will make and enforce the rules for the department; a church group needs leaders who will help decide and enforce church policies. Everyday experience, then, reveals man's need for authority.

But something tragic happened during the past decade: A total war on authority erupted. As Thomas Molnar contends, what resulted was an inordinate emphasis on "freedom," and the wrong sort of freedom at that. The consequence was freedom without order, freedom without discipline or restraint, freedom without authority. Surely, though, any tolerable social order demands a delicate balance between freedom and authority, for authority helps to teach man self-control and keeps human beings from committing mayhem against their neighbors.

A harmful breakdown of authority in one area of life almost inevitably leads to erosion of authority in other areas, as well. For example, we witness in our society a virulent assault on authority in the family and in schools—elementary through university.

What steps should we take to achieve the restoration of *reasonable* authority (not blind force or coercion) in our society? According to Molnar, authority can and will be restored in society when those who have (or should have) authority begin to *exercise* it in their appropriate spheres of responsibility. Thus, authority in the family can be restored when parents fight to regain their right to educate their children. Teachers can help to restore authority by exercising their right to discipline unruly and discourteous students, who are infringing upon the right of other students to learn.

The state too can help to restore authority in society by guaranteeing the authority of other institutions—e.g., family, schools, and churches—by exercising it in its own proper sphere, and by not usurping the authority of other bodies. It can serve to promote authority in society by guaranteeing that God-given rights are protected, and by enforcing laws justly.

These steps, Molnar concludes, are much needed in American society. □

Haven B. Gow is a free-lance writer in Arlington Heights, Illinois.

Iowa State Students Protest Bias

Academic freedom is a two-way street—until it comes to the study of scientific creationism.

By Dave Munday

You can't imagine how frustrating it is to go to a science class, to hear a professor admit the weaknesses and contradictions of evolution, to know that there is a scientific alternative, and to not even be permitted to ask questions. And if you don't think it's this drastic, you can just come to class with me anytime."

Those were the words of Connie Bailey, a senior specializing in chemistry and bacteriology at Iowa State University of Science and Technology at Ames. She was one of several students who testified before the Iowa Senate in April that they had experienced academic repression in the science classrooms. Presently, the Iowa Senate is considering a bill that would require the concept of Creation as supported by scientific evidence to be included along with the theory of evolution "whenever the origins of the earth or humankind is taught" in the public schools of Iowa.

Scores of students rallied at the Capitol in Des Moines, before the hearing, to express their concern. The issue, they maintained, was one of academic freedom to discuss the scientific evidence for a Creation and to ask questions about points of evolution in the classroom without encountering hostility from their professors.

"When I began to ask questions about some scientific evidence pointing to a Creation I was met not only with indifference from my professors, but with hostility," Randy Bengfort, senior in zoology and an honor student, testified at the hearing.

Kicked Out

One student's testimony at the hearing caused him to be dismissed from a biology class when he returned to Ames.

Ron Lee, senior in zoology, testified before the Senate that the scientific evidence pointing toward a Creation is actually being repressed in the classroom, and those who ask about the evidence or question evolution are being held up for public ridicule.

As a case in point, Lee told the Senate that in a biology class he was taking he referred to a fact about genes that the professor mentioned, and asked how the fact was consistent with the theory of evolution. "Then the professor screamed," said Lee, "'It's not a theory!'"

Lee's statement was reported in the Iowa State Daily. When Lee returned to the class, Associate Professor John Baker identified himself to the class as the professor to whom Lee had referred and, according to Lee, "said I could consider myself as being 'dropped from the course' and could leave the classroom immediately."

A letter from Lee to the senators, read before the Iowa Senate by Senator Richard Comito, emphasized Lee's dismissal as an example of "academic repression." Lee's letter explained his situation to the senators and added that whenever "the theory of scientific creationism is ever brought up in class, it is always [met] with ridicule and mocking. For instance, this past Friday [before Lee's dismissal] in my biology class, Professor Baker, in a typical mocking manner, asked if there were any creationists in the class who could tell him whether the earth was flat or round."

Lee was reinstated in the course after George Christensen, vice-president of Academic Affairs, learned of the incident. Christensen said of Lee's dismissal that it "was a thing he [Professor Baker] could not do and it should not have been done."

Baker admitted dismissing Lee from class, but publicly denied either "screaming" or saying "it is not a theory." Lee admitted later that "perhaps the word 'scream' wasn't the best word choice, but that's subjective. He did speak intently, and he did say of evolution when questioned, 'It is not a theory.'"

Students interviewed in the class did not remember the interchange between Lee and Baker, because it was at the end of class and during the students' preparations to leave. Most did remember, however, the professor asking whether any creationists could tell him whether the earth is flat or round.

Discrimination Suppression

Following the publicity of Lee's dismissal and reinstatement, several other students also wrote letters to the senators claiming discrimination and suppression of the scientific evidence of a Creation.

Jeff Newburn, a senior in industrial education, complained that in a biology course, "in order for me to get answers to test questions graded as correct, I had to answer as if the evolutionary theory were fact. If I answered them according to the conclusions I have drawn after studying both models, I would have received a significantly lower grade."

Dan Benson, a senior in agriculture journalism, pointed out what he believed was discrimination against a popular seminar at Iowa State a few years ago that dealt with the scientific evidence for a Creation. The seminar "grew quickly to 200 students," said Benson in his letter. "Most seminars average around 12, and none had ever been that large. An impromptu seminar meeting was called, and the policy was immediately changed to limit seminars to 30. The Creation seminar was the only seminar that this

Iowa State University students protest school's curriculum bias against creationism outside the capitol in Des Moines.

action could affect."

Letters from a half dozen other students also contended that whenever they questioned evolution in class, or asked to present scientific evidence pointing toward a Creation, they were "put down" or not recognized at all.

Professors Respond

Some professors have responded to the students' complaints and concern for academic freedom by claiming that "there is not scientific evidence for Creation." Dr. Clark Bowen, professor of botany at Iowa State, maintained in the Senate public hearing that the great majority of scientists brush off scientific creationism as nonsense.

On the other hand, Bowen's response was countered by Dr. Melvin Swenson, professor of physiology in Veterinary Medicine, Dr. David Boylan, dean of the College of Engineering, and Dr. Lloyd Quinn, professor of bacteriology. The three professors testified that there was scientific evidence indicating a special Creation and that the evidence should be included along with evolution in the classroom. They maintained that the two models of Creation and evolution are both based on unprovable assumptions and that both can be taught scientifically and without use of religious dogma.

Dr. Boylan is associated with the Institute for Creation Research in San Diego, California, and the Creation Research Society of Ann Arbor, Michigan. The Creation Research Society is an organization of more than 700 scientists holding advanced degrees who maintain that the observable evidences found in geology, physics, paleontology, biology, and other scientific areas can be explained more simply in terms of a Creation several thousand years ago of distinct kinds of living species, later subjected to deterioration and global catastrophe, as opposed to interpretation in terms of uniformitarian laws of gradual mutation and evolution from lower to higher species over a period of billions of years.

Brent Knox, senior in chemistry and secretary of Iowa State's Students for Origins Research, says he is aware of the findings of scientists that point toward a Creation, and feels that all the evidence should be heard in the classroom. "This is not a religious issue," he said at the rally before the Senate public hearing. "This is a question of the freedom to hear all the scientific evidence, not just the evidence that supports evolution. It's a question of academic freedom." □

Dave Munday is national editor for Today's Student, *the largest national student newspaper, in Ames, Iowa.*

Case No. 345:

Faith on Trial in Lithuania

By Michael Bourdeaux

For twelve days the five faced the Soviet court. The casual observer (had any such been permitted inside) might have concluded that the charge must be at least high treason or armed rebellion. Each accused was led in by an armed guard—two in front and one behind. If two prisoners had to move at one time, a soldier always separated them. At no time during the proceedings were there less than six soldiers maintaining guard over the accused, with further patrols on both inner and outer doors of the courtroom itself. These kept the public out. Apart from secret police, hostile newspaper correspondents, and various officials, only immediate relatives of the accused could gain access.

But there was no Eichmann or member of an international terrorist team among the accused. These were quiet, humble people. They were Christians. Christians whose entire conduct had sprung out of their faith.

The trial which opened on December 2, 1974, at Vilnius, capital of the Soviet Republic of Lithuania, was the culmination of a massive operation by the Soviet secret police (KGB) known under the laconic title "Case No. 345." The aim of this act of persecution against the church was to root out one of the world's most determined but least-known efforts of recent years to establish religious liberty and human rights.

Lithuania, one of the three tiny Baltic states, lost its liberty to the Soviet Union in 1940; then the Nazis conquered it, to be driven out by the Red Army. From 1945, the might of the Soviet state has systematically been used to turn Lithuania into a complacent republic of the Union. Today there is nowhere in the world where colonialism and racism parade more nakedly (though Soviet shame hides these issues, which have been scarcely touched by the press of the free world, where the concentration is on black racism and American or Portuguese colonialism). The Roman Catholic Church suffered almost as much as the political institutions of free Lithuania. All Christian leaders and many humble believers suffered exile, prison, or even death, under Stalin's program of building a Soviet state on this soil.

But, like other tyrants before him, Stalin underestimated the power of God's Word to keep hope and idealism alive. For more than a decade now the church, which the authorities had tried to beat into submission, has been campaigning to reestablish its independence of Soviet control. It has even served as a repository for national aspirations, which never truly died. Once part of the so-called "church of silence," Lithuanian believers have found their voice. The cry of a persecuted church fills the pages of the *Chronicle of the Lithuanian Catholic Church*. Produced clandestinely since 1972, this publication has circulated extensively in Lithuanian- and Russian-language translations in other parts of the Soviet Union. It has served as a rallying point for the persecuted. It has transmitted the voice of those who suffer to a wider public, to human rights activists in Moscow, such as Nuclear Physicist Andrei Sakharov, and to the world outside, where a few people now are ready to listen and to act in support of believers.

In 1974 the suppression of the *Lithuanian Chronicle* became a key concern of the KGB in Lithuania, a task in which the authorities in Moscow and elsewhere also became actively involved. They called their campaign "Case No. 345."

After months of investigation, interrogation, and computer-analysis of the typeface of typewriters (which have to be registered with the authorities in Lithuania) the KGB made a series of arrests at the end of 1973 and in 1974, leading to the identification of five or six key activists. The appeals of Academician Sakharov on their behalf fell on deaf ears. The trial, with intermissions, strung out over most of December, 1974. A detailed account of it, and hundreds of pages of related information, both in

Michael Bourdeaux, M.A., B.D., is director of the Centre for the Study of Religion and Communism, Keston College, Keston, Kent, England, and is an Anglican priest.

ILLUSTRATED BY GERI LUCAS

Lithuanian and Russian, soon reached Keston College (Keston, Kent, England), the focal point for the analysis and output in the Western world of information on the church in Communist countries.

On the first day of the trial the Soviet state brought its case against five of the accused. It was as though a cross-section of Lithuanian manhood was in the dock. The eldest was Povilas Petronis, age 63 at the time of the trial. Alongside him was Virgilijus Jaugelis, a mere 26, born after Lithuania had lost its independence, who should have been, because of his education, an example of what the authorities like to think of as "Soviet man"—someone totally free of bourgeois, nationalist, or religious prejudices. All five were accused of being key figures in the production and circulation of seven numbers of the *Chronicle of the Lithuanian Catholic Church*, "the aim of which is to denigrate the Soviet State," according to the wording of the indictment—an accusation vigorously refuted by the defendants at every opportunity subsequently, who claimed it to be a journal recording the facts of the persecution of the church in Lithuania. Some issues are now available in English from Keston College, so the interested reader can make up his own mind about the truth of the accusation.

The indictment named Petras Plumpa, age 35, as the ringleader of the group. This was not Plumpa's first appearance before a Soviet court. When he was 18 years of age police searched his house and found a few fragments of military paraphernalia gleaned from Lithuanian battlefields of the Second World War. He was sentenced to no less than seven years' imprisonment for alleged involvement in Lithuanian nationalist activities.

Prison cured him of whatever latent tendencies in this direction he may have had. There he met people who had really been so involved—and he felt their ideology had serious shortcomings. While still in confinement he began to seek profounder principles by which he might orientate his life. He learned French, in order to read French philosophers in the original (some writings of this nature on atheism were available in the prison library). In 1961 his intellectual inquiry for a clue to the meaning of life led him, in the camp itself, to a discovery of God. In December of 1974, Petras Plumpa used the dock of the courtroom as a pulpit to preach his own conversion to the armed guards and assembled handpicked ranks of hostile observers. He said in his defense speech:

"Reading the works of the philosophers, I constantly noted the struggle which the atheists were waging against God; I began to think—if there's no God, why fight against what does not exist? But if He does exist?"

Somehow Plumpa managed to obtain a religious book—there must have been some circulating clandestinely even in the prison camp. He continues:

"Thus I found God and a faith. Before 1961 I looked on religion with suspicion, never went to church and had no conception of God. From 1961 on, my faith has never let me down, and I am a convinced believer even today."

In the heart of the Soviet prison-camp system Petras Plumpa had found that truth and the key to life were not in nationalism or politics. Plumpa felt impelled to serve God in a special way. To publish the truth in the *Lithuanian Chronicle* became the practical outreach of his faith. So severe did the campaign against him become during his years of so-called freedom that he felt he had lost his rights as a Soviet citizen, even though his work on the *Chronicle* was secret. He even took his wife's surname, Pluira, in order to seek a cover from the persecution. Had he given up every ideal and become a common criminal, life would have been easier for him, he stated.

On Christmas Eve he received his sentence—no less than eight years of imprisonment for his work on behalf of religious freedom embodied in the *Chronicle.*

Plumpa was not the only one to receive a heavy sentence. The other four in the dock were also found guilty. Virgilijus Jaugelis was sentenced to two

ILLUSTRATED BY GERI LUCAS

years for his part in the affair.

During the trial he had emerged as no less an outstanding character than Plumpa, perhaps even more outspokenly dedicated to the cause of religious freedom in Lithuania. In his defense he stated:

"It's offensive to me that believers do not enjoy the same rights as atheists, that they have no freedom of speech or of the press. The very fact that I'm on trial here is itself certain proof that believers do not enjoy these freedoms. Really the roles should be reversed: my accusers should be sitting here in the dock."

When challenged to explain what he meant by these restrictions on religious liberty, Jaugelis replied:

"Churches are being closed and turned into warehouses and cinemas. We have no prayerbooks, we are not allowed to publish the catechism, there is a famine of religious books in general, and the KGB hinders those who wish to enter the theological seminary."*

When challenged on the sharpness of his attitudes, Jaugelis stated that he himself had had the ambition of becoming a priest, but the authorities had prevented it. Little did the KGB realize that by blocking this ambition of the young student they were channeling his energies into something that from their point of view was far more harmful. Instead Jaugelis threw himself into more "secular" activities as an expression of his faith. For example, in 1971 he was one of the people who collected more than 17,000 signatures (an unprecedented response, in Soviet conditions, bespeaking arduous hidden organization) to an appeal to the United Nations to intervene with the Soviet regime in favor of religious liberty in Lithuania.

Now he freely admitted in court that he had duplicated and circulated about 100 copies of the *Lithuanian Chronicle* Although his health was bad—he was suffering from a polyp of the large intestine and was in urgent need of specialized medical attention—he refused to recant and to petition the court for leniency. Instead, he turned his final address into one of the most impassioned appeals for religious freedom and national liberation to be heard in the Soviet Union:

"What do you understand by the word *freedom*? Perhaps the closure of Catholic churches and their conversion into warehouses and concert halls. Perhaps the fact that priests are being imprisoned for giving religious instruction to children? . . . Everywhere there are lies, deceit, the use of physical force against innocent people . . . Lithuania, our fatherland, our very own country . . . How many times have the boots of foreigners trodden you down? How often have you been bathed in tears and blood? But you have always had many noble hearts which have not feared to suffer and die for you. Such hearts will be found even now."

Lithuanian Christians feel that the subsequent atrocities against Jaugelis in his prison camp were the KGB's revenge for these provocative words. He had quarrelled with no one, but on the night of February 10, 1975, a group of criminals, among whom this young Christian had been thrown in the camp at Praveniskes, set upon him and beat him close to death. Released after serving his two-year sentence, Virgilijus Jaugelis is reported to have become a priest, after a secret consecration.

With imprisonment of the five, the Soviet authorities believed they had smashed the *Lithuanian Chronicle*, even at the unpleasant task of creating one or two martyr figures along the way. "Case No. 345" was at an end.

Except that the events recounted in this story come from No. 13 of the *Lithuanian Chronicle*—one of 36 issues circulated since the KGB believed they had found the "final solution" to Christian protest in Lithuania. □

* Only one exists for the millions of Catholics in the Soviet Union and a mere handful of students are permitted to study in it.

INTERNATIONAL

1980 Census Will Have No Religion Question

WASHINGTON, D.C.—The United States Census Bureau will try to gather more data on personal life styles and racial-ethnic origins of Americans in the 1980 population census—but one question that again won't be asked is the religious affiliation of individuals.

A Census Bureau official said that government is not actually barred from asking for religious-affiliation data, but such information must be collected voluntarily. Since individuals are required by law to respond to the census survey, the inclusion of one voluntary question would be confusing, according to Statistician Elmore Seraile.

Census Bureau reports show that church statistics were obtained through special social-statistics schedules filled out by census enumerators who visited local churches in the population censuses taken in 1850, 1860, 1870, 1880, and 1890. A census of religious bodies was taken in 1906, 1916, 1926, and 1936.

Bureau representatives said questions on religious affiliation have historically been avoided in the census because of the tradition of church-state separation, but until about 1936 there was actually no law prohibiting the asking of such questions. An amendment was then added to Title XIII, United States Code, which specifically prohibited compelling persons to give their religious affiliation on the census. However, the question can still be asked with the understanding that the answers are voluntary.

Private School Tax Break Banned by Supreme Court

WASHINGTON, D.C.—The United States Supreme Court has ruled that New Jersey may not give a $1,000 tax deduction to parents who send their children to private schools.

The Court's brief one-sentence affirmation of lower-court rulings represented a setback to advocates of public aid to parochial schools, since the reasoning used by the lower courts will in all likelihood stand as a precedent for resolving similar disputes in the future.

The High Court's order was adopted over the objections of Chief Justice Warren E. Burger and Associate Justices Byron R. White and William H. Rehnquist, who voted to schedule a full hearing in the case.

The other six Justices summarily affirmed two lower federal courts, which held earlier that New Jersey's plan had the primary effect of advancing religion contrary to the establishment of religion clause of the First Amendment.

Both the district court and the Third Circuit Court of Appeals ruled the law unconstitutional. District Judge H. Curtis Meanor declared that the law "had the direct effect of aiding religion and is . . . in violation of the establishment clause."

Judge Meanor went on to say, "One need not be clairvoyant to know that if this New Jersey statute continues there will be increasing pressure to enhance it." That "would enmesh New Jersey in continuing political strife over aid to religion, thereby engaging the government of New Jersey in excessive entanglement with religion," Judge Meanor concluded.

On January 12, 1979, the Third Circuit Court of Appeals affirmed the district court ruling, declaring that the New Jersey law presented "an insurmountable obstacle" to the Supreme Court's 1973 ruling that the principal or primary effect of such a law must neither enhance nor inhibit religion.

"We hold that the exemption has a primary effect of advancing religion and therefore violates the First Amendment," the court declared.

Supreme Court Declines to Review Conscience Case

WASHINGTON, D.C.—The Supreme Court of the United States has declined to review an appellate court decision favoring a Seventh-day Adventist who refused to join or financially support a labor organization.

In *Anderson v. General Dynamics,* the United States Court of Appeals for the Ninth Circuit in September, 1978, had ruled that the International Association of Machinists and the company had failed to prove they could not reasonably accommodate church member David Anderson's religious convictions without undue hardship, as required by Title VII of the federal Civil Rights Act of 1964. Mr. Anderson had offered to pay the equivalent of dues and fees to a nonreligious, nonunion charity.

The Supreme Court's action marks the third time it has refused to review similar decisions, which means the favorable appellate court decision remains in force.

In a similar case, *Robert A. Wondzell v. Alaska Wood Products, Inc.,* the Alaska Supreme Court has reversed itself on rehearing and held that under the state's Human Rights Law the payment of dues equivalent to a neutral charity would not be an undue hardship on the company and the Lumber Production and Industrial Workers.

New Jersey Supreme Court Invalidates Methodist Rule

OCEAN GROVE, N.J.—The New Jersey Supreme Court has unanimously ruled that the government and court system maintained by the Methodist community in Ocean Grove is unconstitutional.

The court said the Ocean Grove Camp Meeting Association of the United Methodist Church could continue to make ordinances but could not enforce them.

Ocean Grove, a quasi-municipality in Neptune Township, has been a seaside sanctuary for Methodists for more than a century. The New Jersey legislature in 1875 gave the Camp Meeting Association the power to pass ordinances and force compliance with the laws.

The New Jersey Supreme Court has now ruled, however, that the municipal powers exercised by the Camp Meeting violate the Constitution's separation of church and state doctrine.

Although administratively a part of Neptune Township, the Camp Meeting's 25-member board of trustees and the association president have largely filled the functions of mayor and town council. The trustees, all church members, enacted town ordinances and in the past insisted on strict Sunday laws.

The community relies on Neptune Township for police protection, but has its own municipal court and an elementary school. About 7,000 people live year-round in the mile-square beachfront community, which grows in the summer months to a population of about 25,000 people.

The challenge to Ocean Grove's traditional ways came from Louis Celmar, Jr., of Belmar, who disputed the town

municipal court's authority to find him guilty of drunken driving and impose a penalty. An Ocean County court agreed with Mr. Celmar, but its ruling was reversed subsequently by the state appellate division, which was in turn reversed by the New Jersey Supreme Court.

"The legislature has, in effect, transformed this religious organization into Ocean Grove's civil government," the court said in a two-page opinion. "In effect, the legislature has decreed that in Ocean Grove the church shall be the state and the state shall be the church.

"Individuals chosen by the followers of a particular faith to safeguard their spiritual and cultural way of life have been accorded the authority to determine what shall constitute acceptable modes of conduct for Methodists and non-Methodists alike. Government and religion are so inextricably intertwined as to be inseparable."

The court said that "such fusion of secular and ecclesiastical power violates both the letter and the spirit of the First Amendment, and runs afoul of the 'establishment clause' of our own state constitution."

EEOC Suspends Enforcement of Pregnancy Discrimination Act

WASHINGTON, D.C.—Pending the outcome of a suit filed by the U.S. Catholic bishops against the federal government, a federal agency has agreed not to enforce a law that required almost all employers to provide paid leave for an employee having an abortion and to pay the costs of the abortion when the life of the mother is endangered.

The action came after the National Conference of Catholic Bishops (NCCB) and the U.S. Catholic Conference (USCC) sued the Department of Justice and the Equal Employment Opportunity Commission (EEOC), challenging the constitutionality of the federal government to compel private employers to condone and finance abortions.

It is the first time the Catholic bishops as a group have ever sued the federal government, according to a spokesperson in the USCC legal department.

The bishops' suit challenged the Pregnancy Discrimination Act (PDA), which was signed into law by President Carter on October 31, 1978, as an amendment to Title VII of the 1964 Civil Rights Act.

RNS PHOTO

METHODIST COMEDY—Peter Shilling, pastor of the North Shore Methodist church in Blackpool, England, preaches from the pulpit dressed as Dracula, during a recent Sunday-night service. At the weekly event, Mr. Shilling laces his sermons with comedy routines and has been attracting an increasingly large following. He tells his congregation, "I'll do anything to get people's attention to sell the Word of our Lord."

Under terms of the law and EEOC guidelines, all employers of fifteen or more persons and those with federal or state contracts must provide paid leave for employees having an abortion. And in the case where the life of the mother would be endangered if the fetus were carried to term, the employer also must pay for all medical expenses incurred.

The suit argued that the law and guidelines that would require the NCCB and the USCC "to finance, facilitate, cooperate in, and otherwise to make routine the practice of abortion are unconstitutional."

Mail-Order Minister's Tax Claim Is Overruled by Minnesota Court

ST. PAUL, Minn.—The Minnesota Supreme Court has upheld a 1978 decision by the state tax court against a suburban Roseville man who contended he owed no state income taxes because he had donated his income to a mail-order church.

The defendant in last year's case was Randall C. Fury, a former accountant for the city of Fridley. Mr. Fury had obtained a charter from the Life Science Church of San Diego and had established the Life Science Church of Roseville.

He earned $15,777 from the city of Fridley in 1977 but demanded a refund of $1,013 withheld for state taxes. He and others have contended they are free to avoid taxes by taking a "vow of poverty" and donating all their earnings to their self-styled churches.

The Minnesota Revenue Department disagreed, and took the case to court. The tax court agreed in August 1978, and the Supreme Court upheld the ruling in a "summary affirmance," which in a one-paragraph decision upheld the lower court's ruling.

Prayer at Meeting of Public Body Is Constitutional, Court Declares

DULUTH, Minn.—The U.S. Eighth Circuit Court of Appeals has agreed that the St. Louis County, Minnesota, board of commissioners can pray before its board meetings.

The three-judge panel affirmed a decision by U.S. District Judge Edward Devitt that the invocations given by local clergy before the board meetings were legal.

The Minnesota Civil Liberties Union had argued that the prayers violated the First Amendment's prohibition against laws respecting the establishment of religion.

Attorneys for St. Louis County here

said the prayers were legal because the county did not pay the clergy who conducted the prayers and because the practice has been routine for 200 years in all levels of government.

Discrimination Widespread, Civil Rights Commission Told

WASHINGTON, D.C.—Religious discrimination in employment is widespread, extending from the assembly line to the executive suite, according to testimony from religious officials to the U.S. Commission on Civil Rights.

The most common complaints were registered by sabbatarians, principally by Seventh-day Adventists and Jews, whose religious convictions forbid working on Saturday and certain holy days. But Jewish and Catholic officials also claimed religious discrimination in job placement and advancement.

State officials in charge of monitoring human-rights violations, however, at least those outside the Bible belt, reported that a relatively small number of complaints of job-related religious discrimination reach their desks.

Those views were expressed by 29 religious leaders, federal officials, and representatives of state employment and human-rights agencies at the two-day Consultation on Religious Discrimination, sponsored by the U.S. Commission on Civil Rights.

The early-April consultation was the first effort by the independent, fact-finding government agency to probe the extent of religious discrimination in this country. The agenda was open-ended, but most of the testimony centered on job-related problems.

At the conclusion of the consultation, Arthur Fleming, the civil rights commission chairman, said that his group would "give more attention to the matter of religious discrimination, provide leadership, and make recommendations in the future."

W. Melvin Adams, director of public affairs and religious liberty for the General Conference of Seventh-day Adventists, asserted that "most of the problems of discrimination can be lumped into the constant attempts by business management or government administrators to maintain rules on policies that apply uniformly to all concerned." He charged that "rules, policies, and practices that interfere with religious beliefs and practices, however fair in form and intent they may appear to be, are discriminatory in effect on certain employees with religious convictions."

Lee Boothby, an attorney with the General Conference of Seventh-day Adventists, suggested that perhaps the courtroom was not the best place to solve such problems. "In the handling of more than 100 religious discrimination cases, several score of which include the problems of sabbatarians, I have become convinced that solutions generally can be found if employees, employers, and unions will only seek, in good faith, to solve the problems rather than amplify them," Mr. Boothby said.

Rabbi Dennis Rapps, executive director and general counsel of the National Jewish Commission on Law and Public Affairs, said court cases involving religious discrimination "are getting caught up with legalisms when the real issue boils down to whether or not a religious person can practice his religion and be gainfully employed."

David Brody, chairman of the task force on employment of the Leadership Conference on Civil Rights, said the "flextime" law passed by Congress last fall doesn't cover the U.S. Postal Service, "which probably has the most cases of religious discrimination of any government agency."

Michael Schwartz, associate executive director of the Catholic League for Religious and Civil Rights, said that although the "evidence at hand is far from exhaustive, and it is not uniform, [there is] a continuing bias against Catholics" because they are Catholics, graduates of Catholic schools, or members of overwhelmingly Catholic ethnic groups.

Mr. Schwartz charged that "sociologists and government agencies have tended to overlook this issue, and their not-so-benign neglect has made it more difficult to identify religious discrimination in employment and to initiate efforts to overcome it.

RNS PHOTO

CHINESE PHYSICIAN VISITS U.S.—Dr. Herbert Liu, a Seventh-day Adventist physician from mainland China, was recently given permission to visit the United States for the first time in thirty years. The physician said the Chinese Government recognizes only two groupings of Christianity—Catholic and Protestant—and explained that he therefore is considered a Protestant. He confirmed reports indicating that churches are gradually being reopened, and said this is true of houses of worship of other faiths as well. Mosques are being repaired by the government, and are "better than before."

LETTERS

Constitutional Outrage

You mentioned that in your opinion, the Worldwide Church of God ("Illuminating the Issues," LIBERTY, May-June, 1979) qualified as a cult (in certain aspects). Although I'm offended by this, I'll renew my subscription anyway, because I'm a fan of your magazine's excellent issues and not of its unqualified editorial comments.

I'm a member of the Worldwide Church of God for some solid, practical, and important reasons, such as that this church has answers to questions other churches shirk away from because they're too difficult to answer.

As to the State of California's attack on the Worldwide Church of God: If indeed there is a God, and if His word can be counted on, California will be allowed to go, in its actions against His church, only as far as God chooses. The state has no more power to overthrow such a church than it has the power to overthrow the God who formed the ground the state stands on. If our church is destroyed, it is proof our church is not protected by Acts 5:38, 39,* and we've lost nothing but another false religion and a trap for unthinking individuals.
RAY KOVANEN
Vancouver, British Columbia, Canada

[* "So in the present case I tell you, keep away from these men and let them alone; for if this plan or this undertaking is of men, it will fail; but if it is of God, you will not be able to overthrow them. You might even be found opposing God!" (R.S.V.).]

An adroitly written piece ("A Constitutional Outrage," May-June, 1979) furnished with just the needed nouns and adjectives to sway your readership into believing an outrage had truly been committed. One of the many examples used is Mr. Wiley's description of the court officials, a *platoon* that *burst* in, *pushed* secretaries aside, and *rummaged* every belonging. I guess your outlook depends on what side of the law you're on.

To call the six people, who we assume up until this time believed in the church and were in good standing, dissidents is, if nothing else, clever. Is the word *dissidents* used to reincarnate thoughts of radical elements stirring trouble and up to no good?

The question raised is whether people who donate to any church have the right to make sure their money is being spent to maintain the growth of their church.

Is it so bad that examinations are made when complaints within the body arise? I don't think Guyana is any more responsible for this incident than Watergate is. Having all the facts come to light, I believe, is healthy. And after reading Mr. Wiley's article, you begin to see his case being built on the elimination of facts to strengthen his objective.
SAL MAIELLO
Elizaville, New York

Being a member of the Worldwide Church of God, I was very much interested in "A Constitutional Outrage." I thought it was very well done, and I appreciate your concern for all churches and their freedoms in this country.
HELEN SWAIM
Hemet, California

Although I have no direct contact with the Seventh-day Adventist Church, the remarkable quality of LIBERTY has indirectly caused in me a great respect for the church.

However, the May-June article on "A Constitutional Outrage" is unsatisfactory to me. It is not in my judgment fair or accurate. It is just different from the kind of article customarily carried in LIBERTY. You owe me no apology. I only hope that you may through some other writers or commentators deal in a better manner with the topic. As a disclaimer, let me add that I am not interested in the Worldwide Church of God. I am interested in religious freedom. I have some concern that what happened on January 3, 1979, was wrong. If so, it should be publicized. Your article does not properly do that, leading me to no better understanding of the events.
JAMES O. MULLIN
Attorney
Weatherford, Texas

It's gratifying to see such objectivity. I would like to pass on a paragraph from a reply from Governor Jerry Brown's office:

"California Corporations Code section 10207 requires the Attorney General to oversee the actions of charitable corporations to insure that charitable assets, such as the Worldwide Church of God, are used for proper purposes. Since this matter is currently before the courts in a case to which the Governor is not a party, he lacks the authority to personally intervene. However, we agree that the issues involved warrant close attention, and in response to your correspondence and similar mail from a number of other members of the church we have reviewed this matter with the Attorney General's staff."

The letter is dated February 13, 1979, and is signed by Allen Sumner, assistant legal affairs secretary. I wrote to Attorney General Deuknejian as per Mr. Sumner's advice, but haven't heard anything in reply.
ROBERT KROUER
Vancouver, Washington

Your article regarding the Worldwide Church of God was most interesting. The press stories were fragmented enough that I did not realize the significance of what was happening in this case.
E. MORRISON
Citrus Heights, California

The best article I have read on the church-state issue!
VIOLA HIMSEL
Jasper, Indiana

First of all, Thank you for excellence.

One important aspect of the incredulous behavior of the State of California toward the Worldwide Church of God seemed to be overlooked by Jerry Wiley in his fine article.

When "60 Minutes," with its so-called investigative journalism, did a special piece on the Worldwide Church of God, it seemed to open the floodgates of abuse. It was as though the insinuations of a powerful media source opened and closed the case against the church. A warning to all of us that the media can be a very persuasive instrument in the destruction of human and religious rights.
MICHAEL WYROSTEK
Philomath, Oregon

Illuminating the Illuminati

Are you pimping for the great whore of Babylon? I refer, of course, to your idiotic rundown on the Illuminati.
MYRA THERESA NELSON
Lake Worth, Florida

LETTERS

I have been doing research on the Illuminati ("Illuminating the Illuminati," May-June, 1979), and your article was super—and gave me some references I did not have.

Would you please send me two more copies?

VERA BALAAM
Yerington, Nevada

What Is a Cult?

With respect to your article "What Is a Cult?" (May-June, 1979), you apparently ascribe the word in a customarily derogatory sense ("a teaching, group, or movement that deviates from orthodoxy while claiming to represent the true faith"); my objection runs to your including Mormons (members of the Church of Jesus Christ of Latter-day Saints).

By your definition, Judaism (which received contemporary revelation and extra-existing Biblical documents, the Ten Commandments) and the original church established by Christ (e.g., God speaking to John the Baptist, and Christ appearing to the members and apostles) are cults.

My point is that each organization should stand on its own merits, and not suffer guilt by association with a term that is itself commonly associated with the malefactions of Jonestown, et al.

GERALD T. HUNTLEY
Attorney
Bishop, California

In the May-June issue you published two articles "What Is a Cult?" and "Congressmen Look at Cults." Among photos with each article are two of Sikh religious observance. Yet the articles make no mention that Sikhism is a world religion, that it is 500 years old, or that it has 10 million members worldwide. Without such information, the photos are misleading and by innuendo imply that Sikhism is a cult.

MUKHIA SINGH SAHIB
RAM DAS SINGH KHALSA
Assistant Chancellor
Siri Singh Sahib Sikh Dharma Brotherhood
Los Angeles, California

I appreciated the concluding analogy of Christ being a "cult leader" (of comparative sorts) in His time, and the former Saul of Tarsus holding the role of the champion "anticultist," in the May-June LIBERTY article by Robert W. Nixon ("Congressmen Look at Cults").

Christ's "heresy" in Roman times appeared just that to the religious leaders of His time—heresy. But His heresy was the true salvation of the globe's flesh and blood.

Any Christian who glibly proposes measures to the rampant cultism of today is forgetting or ignoring that the tables can be turned on him—law tables. There is too much bigotry in religious (but un-Christlike) circles, and not nearly enough understanding and compassion.

RAY E. JOHNSON
Denver, Colorado

Creation and Evolution

Although I am not a member of any church—that is, any of the recognized orthodox churches—and do not find it necessary to explain or justify Creation on Biblical or religious grounds, it does appear to me that the available evidence and observation on the nature of life upholds the thesis of Creation rather than that type of evolution that is now well defined as macroevolution.

As to evolution (macroevolution) providing any kind of rational explanation, I find it to be the most extreme form of mythology, and as with most mythologies it is held to with such blind and unreasonable faith by the believers!

PHILIP ISELY
Lakewood, Colorado

Creationists who emphasize the alleged impossibility of proposed evolutionary mechanisms ("Creationism: Is It a Viable Alternative to Evolution as a Theory of Origins?" March-April, 1979) unfortunately divert the attention of evolutionary scientists from the fundamental issue, namely, the *impossibility* of even addressing the question of the origin of living forms, a question that transcends the scope of science.

Though Drs. Coffin and Valentine are on opposite sides of the creation-evolution debate, they are both scientists. Therefore, it comes as no surprise that they share (in a sense) a commitment to science, that they believe in the efficacy of the method(s) of science to ferret out the "truth" concerning origins. On the one hand, Coffin expects "through the use of multiple hypotheses . . . to make more rapid progress toward truth." On the other hand, Valentine has no apparent qualms about the adequacy of science to deal with the question of origins.

I am inclined to label their common attitude "arrogance." Irony of ironies: That statement (coupled with my criticisms above) may place me in the same category!

GARY SCHOEPFLIN, Ph.D.
Grandview, Washington

TM Fortress

Mark Albrecht failed to mention any of the results on TM projects ("Inside the Fortress," May-June, 1979). For example, in the summer of 1978 three hundred advanced TM'ers went to Rhode Island for three months. Government-released statistics showed dramatic changes in the quality of life in the state during that period.

GARY SCHECHTER
New York City

Hitler's "Final Solution" in Denmark was frustrated by Danes who helped hundreds of Jews to safety in Sweden. See "When the New Year Came in Springtime," page 2.

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A Proposal

This issue of LIBERTY suggests the scope of church-state conflict in the field of education, with emphasis on government's attempt to control religious schools, and religion's attempt to use the state to get religious practices back into public schools.

Stanley Stuber, author, editor, and churchman, has made a proposal that he feels will lessen tensions while achieving several worthwhile objectives. It's worth reading:

"The attempt to 'put God back into our schools' is fostering national strife, and, to the degree local governments defy the Supreme Court's prayer-and-Bible-reading decisions, it encourages disrespect for law.

"Further, since the Supreme Court never put God out of our schools in the first place, the attempt hardly enhances the image of legislators who are trying to put Him back in.

"Here's a way we can foster unity, encourage respect for law—and help our legislators look literate again. I propose that we support efforts to begin the school day by the reading of sections of the Declaration of Independence, the United States Constitution, and the Bill of Rights—right along with the salute to the flag and the singing of the national anthem or America, for variety.

"Experience has taught me that few students know much about these great historic documents. It is time that we do something constructive about educating our children in the fundamentals of our national life—otherwise they will not grow up to reflect the spirit and the concepts that have made America great."

FEATURES

DEPARTMENTS

STAFF

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CALVIN COOLIDGE ON RELIGION AND THE LIMITATION OF LAW

Our government rests upon religion. It is from that source that we derive our reverence for truth and justice, for equality and liberty, and for the rights of mankind. Unless the people believe in these principles, they cannot believe in our government. There are only two main theories of government in the world. One rests on righteousness, the other rests on force. One appeals to reason, the other appeals to the sword. One is exemplified in a republic, the other is represented by a despotism.

FREEDOM OF SPEECH

The peculiar evil of silencing the expression of an opinion is, that it is robbing the human race; posterity as well as the existing generation; those who dissent from the opinion, still more who hold it. If the opinion is right, they are deprived of the opportunity of exchanging error for truth; if wrong, they lose, what is almost as great a benefit, the clearer perception and livelier impression of truth, produced by its collision with error.

—John Stuart Mill, in his essay
"Of the Liberty of Thought and Discussion"