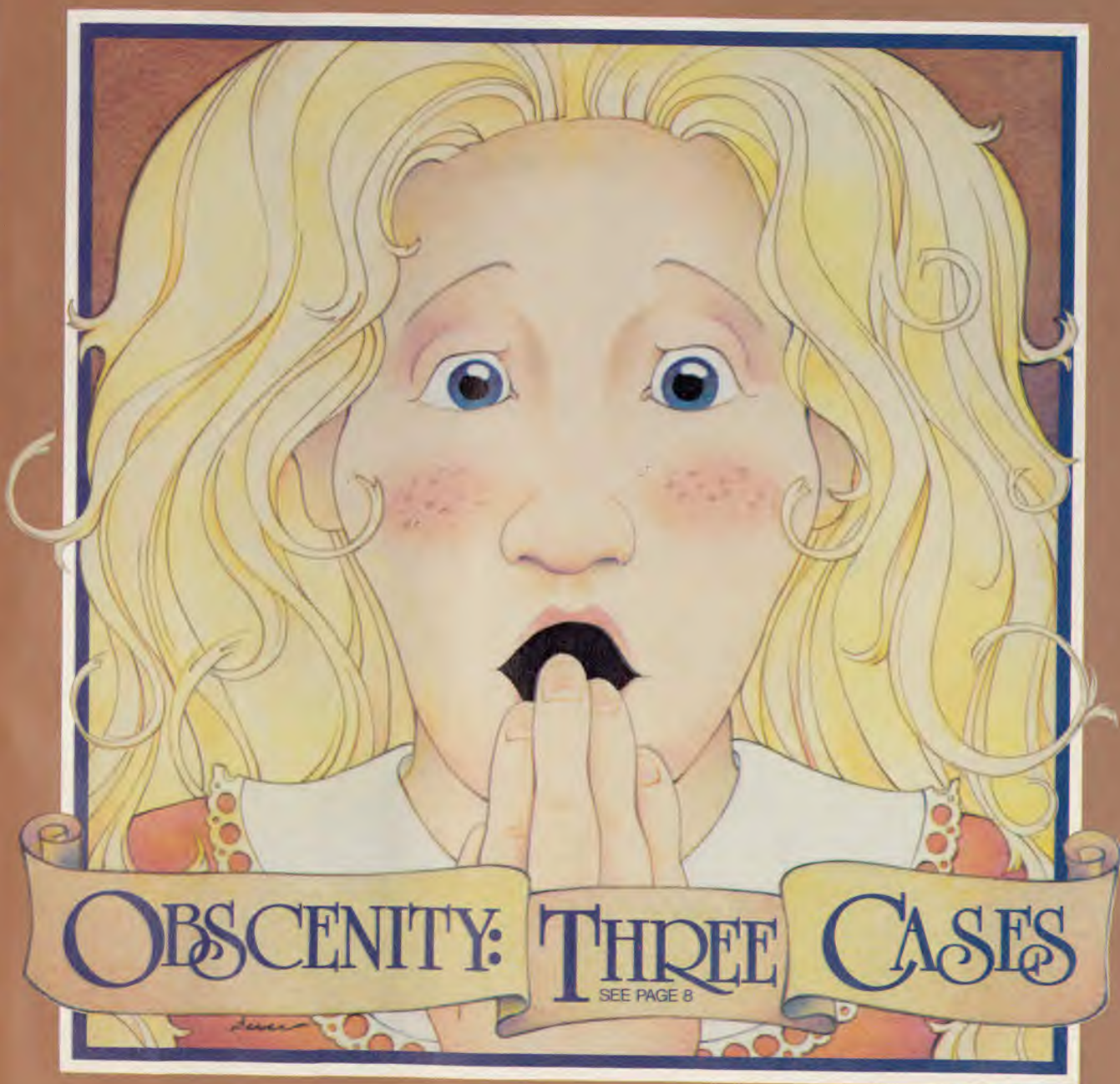


Liberty

77, NO. 1, JANUARY-FEBRUARY, 1982

A MAGAZINE OF RELIGIOUS FREEDOM



Academic Freedom: ARE THERE LIMITS?

By William G. Johnsson



Recently Roman Catholic, Mormon, and Seventh-day Adventist administrators have answered Yes. Are they wrong? How far can freedom go before it becomes destructive?

We must fight back! When scholars in the church are unjustly attacked, we must fight with our weapons. Speaking and writing are important. Printing is powerful. With Luther, printing was definitive."

This call to guard the ramparts came from well-known theologian Hans Küng, speaking to religion scholars attending the joint meetings of the American Academy of Religion and the Society of Biblical Litera-

ture in Dallas. To many of the 3,500 in attendance, Küng was more than a giant in their field and an interesting person—he symbolized the struggle of academics to maintain their integrity in the face of intellectual oppression.

Küng's imbroglio with the Roman Catholic hierarchy raises again the prickly question of academic freedom. Is the scholar, pursuing truth, free to speak or teach what he chooses? May he be muzzled or dismissed from his post when his views upset the authorities of his college or university? Does the church act fairly if it puts clamps on its scholars?

The issues are underscored by recent developments involving two other academics—theologian Desmond Ford of the Seventh-day Adventists and ERA advocate Sonia Johnson of the Mormons. Like Küng, Ford and Johnson came into conflict with ecclesiastical authority; like Küng, they

were disciplined; like Küng, they charged church leaders with restricting freedom.

Küng, in fact, emerged from his battle with fewer scars than Ford and Johnson. Although no longer on the Catholic theological faculty of Tübingen (having voluntarily resigned), he remains professor of ecumenical theology and director of the Institute for Ecumenical Studies associated with the university. Likewise he remains a priest in the Roman Catholic Church.

The University of Tübingen is a state institution, but appointments to all Catholic theological faculties are made only with the

Above: Beyond freedom: In 1972 Michelangelo's *Pieta*, one of the world's great art treasures, was badly damaged in St. Peters by a hammer-wielding man screaming "I am Jesus Christ!"

F · R · E · E · D · O · M

consent of the German bishops. Kūng's stand on papal infallibility, the deity of Jesus, and the virgin birth had brought him into conflict with his church. With his removal from the Catholic faculty, the church's demands have been satisfied. He may not teach the required Catholic theology courses or examine students preparing for the priesthood. But he may give lectures, hold seminars, engage in research, teach, and publish. Thus, Kūng retains an academic post but is no longer a teaching theologian of the Catholic Church.

Australian Desmond Ford, on the other hand, lost both his teaching post and ministerial credentials from the Seventh-day Adventist Church. Chairman of the theology department of the church's Avondale College in Australia, Ford was a visiting professor in the United States when his theological views came under fire in October, 1979. Ford questioned the church's traditional interpretation of the heavenly sanctuary and the role of pioneer-prophet Ellen White.

Ford was given a six-month paid study leave to write out his ideas. An international group of more than 100 of the church's administrators and scholars then met with Ford, considered his document, and rejected his views as aberrant in major areas. After further consultations Ford was relieved by the church's Australian division of his teaching position, and his ministerial license was revoked. His church membership was not affected, however.

Sonia Johnson holds a doctorate in English education and has taught at a half-dozen universities. A fifth-generation Mormon, she was church organist, teacher of a women's class, devoted wife, and mother of four. On December 1, 1979, a church court in Sterling, Virginia, charged her with "spreading false doctrine," and on December 5, she was excommunicated.

Johnson's problems with the church stemmed from her militant advocacy of the Equal Rights Amendment. She had participated in pro-ERA demonstrations, had testified at a U.S. Senate hearing, and had hired a plane trailing a "Mormons for ERA" banner over Salt Lake City during the semiannual meeting of the church.

Her punishment reaches further than Ford's, much further than Kūng's. She may attend services but may have no active part in the life of the congregation. And unless she repents and is rebaptized, she faces (according to Mormon doctrine) eternal separation in the afterlife from her husband and children.

For Johnson, the clash with ecclesiastical authority boils down to individual freedom.

She termed her trial "a witch hunt" and said, "This is an issue of human rights, church and state, and how the church curtails it." Leader of Mormons for ERA, she continues to oppose the church's stand and last November was arrested for disrupting the dedication of the new Mormon temple in Bellevue, Washington.

Kūng, Ford, Johnson—are they modern victims of ecclesiastical highhandedness? Do they evoke echoes of the struggles medieval scholars underwent to pursue truth and state their convictions without suppression by the guardians of dogma? Should not the principle of academic freedom give every scholar a *carte blanche* to teach and write what he likes?

Or are there limits to academic freedom? Must the scholar be accountable not merely to his own quest for the truth but also to the community that provides opportunity for him to pursue his quest? May a church or institution that provides employment or religious fellowship for an individual also impose restraints on him?

Even without the religious dimension, academic freedom is a murky area, complicated and emotionally charged. Neither its nature nor its precise boundaries can be defined with precision. Nevertheless, we may isolate five aspects that bear on the topic.

First, it can hardly be defended that academic freedom means absence of all restraint on the scholar. Activities of a professor, whether in laboratory, classroom, public platform, or study, presuppose a context. Normally that context is the college or university environment, which someone has provided as the setting for academic life. The scholar may not, in the name of academic freedom, destroy his "habitat." He may not subvert the structure that gives him a place in the sun.

A statement on academic freedom drafted by the American Association of University Professors acknowledges limits to the scholar's freedom:

"(a) The teacher is entitled to full freedom in research and in the publication of the results, subject to the adequate performance of his other academic duties; but research for pecuniary return should be based upon an understanding with the authorities of the institution.

"(b) The teacher is entitled to freedom in the classroom in discussing his subject, but he should be careful not to introduce into his teaching controversial matter which has no relation to his subject. Limitations of academic freedom because of religious or other aims of the institution should be clearly stated in writing at the time of the

appointment.

"(c) The college or university teacher is a citizen, a member of a learned profession, and an officer of an educational institution. When he speaks or writes as a citizen, he should be free from institutional censorship or discipline, but his special position in the community imposes special obligations. As a man of learning and an educational officer, he should remember that the public may judge his profession and his institution by his utterances. Hence he should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that he is not an institutional spokesman."—*AAUP Bulletin*, 49 (1963), 69ff.

Second, academic freedom from the scholar's standpoint is both a freedom *from* and a freedom *to*. The scholar must be able to pose questions, explore new answers to old questions, and push back the frontiers of human knowledge and understanding without university or college authorities looking over his shoulder. He should be able to conduct his research and to teach without feeling hamstrung by predetermined "solutions." Academic freedom in essence is freedom from all restraints that would hinder or compromise the search for truth.

Thus, it is also a freedom *to*—to pursue new lines of thought, to give wings to the creative spirit and utterance to the new insight. It is the freedom granted the scholars to dispel ignorance, sharpen understanding, and unlock the secrets of the cosmos and human existence. Academic freedom, in Tennyson's words, is freedom to "follow the Gleam" of truth no matter where it leads. Unfortunately, there exists no universally acceptable definition of truth.

This two-edged sword of the scholar—freedom from and freedom to—brings with it commensurate responsibility. This is the third aspect of the subject: Since the activities of the scholar presuppose a context, he must pursue his tasks with ethical sensitivity appropriate to that context.

Every institution of higher learning has its code of appropriateness. In many universities or colleges, especially larger ones or those attached to the state, the code is unwritten. The new professor on campus is expected to "pick up" the *modus operandi*—it is assumed that he will be an

William G. Johnson is an associate editor of the Adventist Review, general Seventh-day Adventist Church paper.

individual attuned to the nuances of life in the academic society. On some campuses, for instance, certain departments have a tacit understanding that any reference to God or religion is bad form. A teacher who in his teaching allows a place for the supernatural may become an object of disdain among his peers. Even on the secular campus, moral issues are raised, or we hear of "national security" and even "survival" as reasons for restraint on the search for knowledge. Professors who seek to work in genetic engineering, for instance, may find themselves the objects of campus ferment and administration restrictions for one or all of these reasons.

Private institutions, particularly those affiliated with a religious organization, customarily indicate the parameters of academic responsibility more explicitly. In a Roman Catholic university a professor will not ordinarily launch a public attack on the Pope or make light of the virgin Mary in the classroom—even though he himself is not a Roman Catholic. Nor will a teacher in a Mormon university deride the revelations of Joseph Smith or the apostolic succession of church leaders. An Adventist scholar would seem ill-advised to disavow the second advent of Jesus, the binding claims of the seventh-day Sabbath, or Ellen White's role as "messenger," or prophet, to the church.

Academic freedom, then, is the right of the scholar, but like all freedoms, it is responsible freedom.

Fourth, the university or college that employs the scholar likewise has "rights" and responsibilities. The scholar has a dual status: He is a student of the quest for and dissemination of truth, but he is also a member of a community. Administrators have the right to require that the scholar act professionally in both regards. He may not subvert the academic enterprise; he may not be dishonest with the truth; he may not seek, in the name of freedom, to destroy the community of scholars; he may not go outside the code, implied or stated, of ethical activity of the institution. To do any of these suggests that he has forfeited his right to a place in the community.

On the other hand, the institution is responsible for making academic freedom a reality and not a shibboleth. Administrators should protect their scholars from political or public pressures that stem from ignorance, prejudice, and shortsightedness. The liberty of the scholar to pursue truth is rooted in centuries of conflict with ecclesiastical dogma and disputes between "town and gown." Universities and colleges are heirs of this struggle and should jealously

guard the freedoms that have been won.

Finally, the church-related college or university raises particularly pointed questions of academic freedom. For many academics the very notion of a Christian university is a contradiction in terms: How can truth be freely pursued when the pursuer must put on blinders before he begins? Is not talk of "academic freedom" nonsense if the "answers" have been decided in advance on religious grounds?

In theory, at least, Christianity and the pursuit of truth are not opposed. Was it not Jesus Himself who said, "'You shall know the truth, and the truth will set you free. . . . If then the Son sets you free, you will indeed be free'" (John 8:32-36, N.E.B.)? Nor is the Christian university a misnomer in fact. In no setting does the scholar approach his task without a conceptual framework and a set of presuppositions. For the scholar this framework includes God, and his presuppositions usually embrace the self-revelation of God in the Scriptures. The Christian scholar will ask the same questions as any other scholar, and his institution must guarantee him that freedom. In seeking answers, however, he will take into account possibilities that his nonbelieving counterpart may not entertain.

The scholar in a Christian setting faces critical tests of his ethical judgment. The community factor common to every campus is heightened; now notions of "faith," "the body of believers," and the Christian tradition impinge on the scholar. What if his search for truth leads him to disavow tenets of the church that funds the institution? Shall he "enlighten" his students at risk of destroying faith?

Certainly the Christian scholar must be free to probe all questions—this being the minimum specification of academic freedom. But the *manner* of that probing calls for a highly-developed sensitivity to the particular academic context. For instance, the scholar may more appropriately explore variant "answers" at the level of faculty interchange; in the classroom he has the responsibility to nurture faith as he disseminates knowledge. In public presentations he will be alert to the level of understanding of his audience, to their capacity to deal with the material of his own intellectual quest.

The Christian scholar thus should feel a particular restraint on his academic freedom. It is the restraint of love and at best is self-imposed. He pursues truth as do other scholars but is guided by Paul's dictum: "'Knowledge' breeds conceit; it is love that builds" (1 Corinthians 8:1, N.E.B.).

Academic freedom, then, involves a network of privileges and responsibilities.

At times the freedom of the scholar may conflict with the freedom of the community that provides the spiritual support and context for his work. Since academic freedom exists in the tension between individual and community, between rights and responsibilities, it is a caldron that will always be bubbling. When the caldron ceases to bubble, we truly may fear for its survival.

It is likely to bubble more in church-related colleges or universities—not because such institutions by nature are restrictive of freedom but because of the particular sensitivities that the Christian scholar must bring to bear on the academic enterprise. So Küng is not the only Catholic theologian to be in trouble with the hierarchy—the Dutch professor Edward Schillebeeckx, after two investigations by the Congregation for Doctrine, remains under a cloud of suspicion. Nor is Ford of the Seventh-day Adventists a lone figure among conservative Protestants—the institutions of the Southern Baptists are in ferment over the issue of Biblical inerrancy. And Sonia Johnsons of other churches are being called to account for their positions on abortion, homosexuality, and other issues.

How to handle the radical dissenter is the "bottom line" in the issue of academic freedom. How far can the structure bend? For Küng, the structure was flexible enough to accommodate the "Tübingen compromise"; for the first time in the history of the University of Tübingen a chair of theology is not legally connected with any denomination. For Ford, the structure felt justified in denying him a teaching post and ministerial practice. For Johnson the structure had no place at all.

Küng apparently sees himself in a Martin Luther role. So does Ford. And the struggle of the person against the establishment appeals to our love of individual freedom. Küng, Ford, and Johnson may arouse a grudging admiration even among those who oppose their ideas.

But dissenters also force us to think carefully before we defend them on the basis of academic freedom. Dissenters press the freedom of the individual to the limit; they pound on the interface where the rights of the one meet the rights of the many. Often their pounding causes the many at last to recoil and say, "Enough!" Then we are reminded that freedom—all freedom—operates within a context. □

* Texts credited to N.E.B. are from *The New English Bible*. © The Delegates of the Oxford University Press and the Syndics of the Cambridge University Press 1961, 1970. Reprinted by permission.

A Maine community decides whether a sex-education book should remain in the school library.

THE TEMPLE
THE SONNET

subject to parents' decisions for their own homes. They objected to placing the book in the hands of impressionable teens in a public school against the wishes of parents.

The book was not without its defenders, who included several Swanville school district teachers, three Mid-Coast Family Planning workers, and Belfast First church minister Doug Showalter. Their objections to removing the book from the library were that young adults are capable of sorting out truth from error without parents present

to guide them. Our

September 1981
manuel

**OUR BODIES,
OURSELVES**

A BOOK
BY AND
FOR
WOMEN

WOMEN
UNITE

Billy Budd
John Updike
**DOWN THESE
MEAN STREETS**

THE SONNE

THE REMEDY

Thomas

Bernard the Malenud fixer

MAILED

Dow, pastor of the Belfast Baptist church, started his own school. Evans supports the Christian school, and several children from his Swanville community church are attending.

Eric E. Wiggin is a full-time free-lance writer in Rockland, Maine. He writes for The Maine Paper and has a book in progress. He has taught high school and college English and religion.

MORE BODIES

By Roland R. Hegstad

The editor of Liberty explains the difference between a school library and an adult bookstore.

Who are those parents in the Belfast school district who want *Our Bodies, Ourselves* out of their high school library? Prudes? Religious fanatics? Members of the Moral Majority? An ex-bartender among them said he couldn't stomach the contents of this sex manual for women. Maybe they're not making bartenders the way they used to. Maybe they're not making stomachs the way they used to. On the other hand, maybe they're not instructing women the way they used to. I decided to examine the book.

Admittedly, my credentials as a critic of sex manuals for women are not impressive. My first sex education textbook was the Sears catalog. Female sex hormones are alien to my system. I'm not an ex-bartender. I am a minister with some counseling experience. I've lived long enough to understand, if not to condone, human failings. I know that sex and sin are not synonymous. I am also a parent who has raised a son and a daughter and am now being raised by a second daughter, a 15-year-old high school sophomore.

As editor of LIBERTY, which reflects a wholesome regard for the First Amendment rights of free speech and free press, I have listened to arguments before the Supreme Court in several pornography cases and once examined the publications that earned Ralph Ginzburg a five-year jail sentence. I can share an informed opinion about whether *Our Bodies, Ourselves* is obscene. As a parent, I'll not be bashful about sharing my opinions with the Belfast school board.

The book would not be my daughters' introduction to sex education. In their preschool years my wife and I introduced them to information on the birds and the bees. We progressed to the primates in grade school. I can recall drawing pictures of the male and female reproductive systems. We sat with them through a film that showed a young husband and his wife planning for their first child, their tender embrace (dissolve to an expanding tummy), the growing fetus, first movements, and birth. We taught them that babies need love and a home. Babies belong with marriage.

When my daughters first menstruated, it was no surprise; their mother had instructed them. She gave each a new purse in which to carry, among other things, the needs of young womanhood. I took each to a candlelight dinner and drank a 7-up toast to the New and Significant Status. Becoming a woman was something to be proud of, an important step toward maturity. God had given my daughters something of

His own creative power; it was to be used intelligently, in harmony with the rules for happiness we call the Ten Commandments.

There are perils to having well-informed children. One daughter came home from school to tell us that she had educated a classmate as to the meaning of a four-letter word on the wall of the boys' restroom. He had asked, and she had replied. We told her she was correct. There are, we explained, good words to describe sexual acts and there are bad words. Bad words demean God's gift of sex, remove the charm and loveliness and mystique with which He has embellished it. But there is a time and a place for sex education, we told her, and suggested that she refer future questioners to their parents.

Our Bodies, Ourselves is considerably more sophisticated in its approach to sex than the Sears catalogs of the mid-thirties. Its authors do not attempt to disguise their objective: to free women from "the web of myth, ignorance, confusion and role demands in which society entangles us." That translates to: We need not accept what "society, through our parents, schools, and churches, has told us." To be your own woman today means to be able to accept premarital sex, lesbian sex, and group sex, as "enjoyable options" denied the repressed women of yesteryear.

And how does one go about shedding repressions? "Enjoying a fantasy is a new and liberating notion for me," readers are told. "[Fantasies] allow us to try alternative ways of expressing ourselves."

To get you in the mood to vote on this book, imagine yourself reading the following fantasies from page 42 to your teen-age daughter:

"I fantasize about sleeping with my brother, who is nineteen and groovy and looks just like me. . . . I acted on . . . [my fantasy] by sleeping with his best friend."

"I had the fantasy of making love with two men at once. I pictured myself sandwiched between them. I acted on this one, with an old friend and a casual friend who both liked the idea. It was fun."

"I fantasize making love with horses . . ."

That ex-bartender who couldn't stomach this manual seems more like a brother of the cloth with each passing fantasy. I'm convinced that most bartenders and their customers would puke up their night's consumption of Jack Daniels after reading that last fantasy to its conclusion.

What do students learn of virginity? From page 43:

"I confined my sexual involvement to heavy petting, since the Catholic Church makes intercourse seem like such a sin. The day I was the day I had an argument in the



confessional with the priest about whether having intercourse with my fiancé was a sin."

What about masturbation? From page 47:

"Masturbation is a special way of enjoying ourselves."

"If you have never masturbated, we invite you to try. You may feel awkward, self-conscious, even a bit scared at first. You may have to contend with voices within you that repeat, 'Nice girls don't...' or 'A happily married woman wouldn't want to...' Most of us have had those feelings too, and they changed in time." The text then suggests a setting for experimentation: Play a favorite record, dim the lights, burn a candle, drink "a glass of wine or anything else that makes you feel mellow and easy," and think "about the people or situations you find sexually arousing." Let your mind "flow freely into fantasy." There follows a clinical description of procedures and devices that will add to pleasure.

Page 53 offers three illustrations of intercourse that would be hard-core pornography if sold in a yellow-front bookstore without an accompanying text of redeeming social value. Page 54, under the heading "Sex With Your Lover," suggests procedures unexcelled in bedtime readers.

What of homosexuality? Chapter 5 is titled "In Amerika They Call Us Dykes." The chapter was written, the reader is informed, by "the gay collective." One looks in vain for anything critical of lesbianism.

Other chapters deal with rape, self-defense, venereal disease, birth control (including how to get pills), abortion ("There is a vociferous, powerful, and well-monied minority opposed to abortion. . . . They seem to have the backing of the Catholic hierarchy."), parenthood, pregnancy, preparation for childbirth, and more.

Much of the information in these chapters appears in books I have shared with prospective brides and grooms. It is not material I share with 15-year-olds. Nor do I share it encased within a veneer of humanistic nonvalues. Nonvalues is the wrong word. *Our Bodies, Ourselves* does convey values, but not those of the Old and New Testaments.

Sex education does not simply convey the mechanics of sex. It is not a depicting of positions into which the body may be contorted. It is education of body, mind, and spirit. Anything less must be in part misinformation. It may be worse than no information at all. Which is why sex education is best handled by parents within the context of values held by the family. Of course the best is not always achieved.

Our Bodies, Ourselves has redeeming social value; it is not obscene, as the Supreme Court has defined obscenity. (See page 8.) It is immoral, as the Bible defines immorality. Even its beneficial chapters suffer from the company they keep. If I were to use it in a college classroom, I would balance its viewpoints with other, less hedonistic manuals.

But I make these concessions as editor of *LIBERTY*. As father of a teen-ager, I am not about to give my Good School-keeping Award to the book. Perhaps of Merit to the Belfast it's because I remember as a fifth- or sixth- behind the piano in

school in western Oregon, where the dictionary was kept. Keeping an anxious eye out for the teacher, I turned to the W's and read the definition of *womb*. With prurient interest, I must confess. Even the Sears catalogs didn't use *that* word. Parents possessed of aging hormones may forget what a reservoir of prurience fuels the teen-age firebox. Small wonder that in our age of tease and titillation children go from puberty to adultery so fast that they have no time for adolescence.

So what of those Belfast parents who voted to return *Our Bodies, Ourselves* to the school library? I respect the honest concerns of the parents and educators who feared the evils of censorship even more than the alleged evils of the sex manual. May the good Lord deliver us from the hands of overly zealous saints! But I also respect the indignation of the parents who feared the evils of *Our Bodies, Ourselves* more than censorship. Authors who present aberrant and repugnant sexual practices as enjoyable expressions of freedom from parental myths and ignorance can hardly expect applause from the home front.

Those wanting the book out of the junior high school library may perceive something our educators evidently have not: What makes *Our Bodies, Ourselves* most pernicious to teen-agers is not only its fantasizing of unconventional sex, but the elevation of its philosophy of life to a place of educational honor in the school library. Most teen-agers confronted with pornography or obscenity should be able to recognize it, if only by its smell; but tincture it with the perfume of redeeming social value, dispense it from the local educational emporium, and . . .

It's that *and* that concerns many parents. It's that *and* that moved Tom Dow, pastor of the Belfast Emmanuel Baptist church, to begin a Christian school last September. It's that *and* that is behind thousands of such schools, and some 10,000 home schools, coast to coast.

It's why my daughter is in a Christian school.

No, our children don't have to take such a book off the shelf. Yes, they can get similar books in local yellow-front bookstores.

But they don't *have* to appear five days a week in the bookstore. In fact, in most communities they are prohibited from entering such bookstores any day of the week.

They *have* to go to school—in most states until they are 16.

And therein lies a critical distinction not only between school and bookstore but between freedoms as practiced within a compulsory educational system and within society as a whole.

An adult may walk into a yellow-front bookstore. He may choose not to.

Our children must walk into the schoolroom.

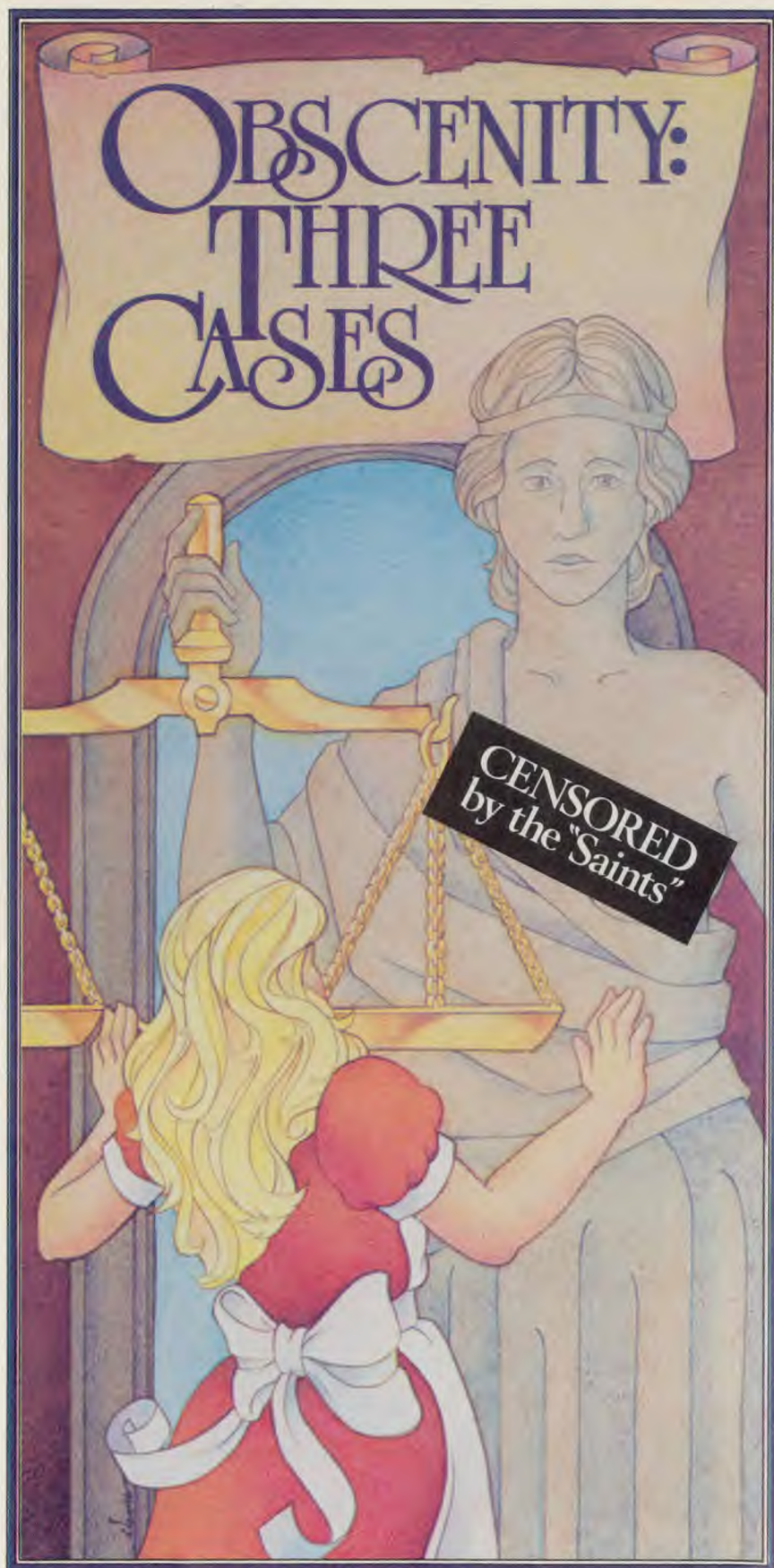
But they don't have to walk into the Belfast Junior High School. The Belfast school board hasn't learned that yet.

They will.

Just as thousands of school boards across learning it. □

other public America are





On December 7 and 8, 1965, the United States Supreme Court heard three obscenity cases. A Washington attorney, Franklin Salisbury, visited the hearings, accompanied by Alice N. Wonderland, prim and pubescent defender of Victorian verities. Salisbury later reported in *LIBERTY* on Alice's viewpoints, analyzed a landmark obscenity decision, and made a prediction (of which he will not wish to be reminded!). The report explains the criteria by which the Court determines what is obscene.

By Franklin C. Salisbury

Alice flew in from New York on the 9:00 A.M. Eastern shuttle and we took a taxi to the Supreme Court building in Washington, D.C. Our visits to several lower courts had whetted her appetite to see the "Summit" judiciary in action. On this cold Tuesday in December she was to have her chance.

"What cases are the Justices going to hear this morning?" Alice asked as we crossed the Potomac into Washington.

"Three of them," I replied. "*Ralph Ginzburg et al. v. The United States*; *Edward Mishkin v. New York*, and *A Book Named John Cleland's Memoirs of a Woman of Pleasure v. Attorney General of Massachusetts*."

Alice giggled. "What was the attorney general doing with a book like that?"

"He wasn't. And he doesn't want anybody else to have anything to do with it, either. These cases all concern obscenity—what is obscenity? Should the First Amendment protect the publication of obscene materials? How much censorship can society exercise?"

"One of the men involved in these cases—Ralph Ginzburg—had been fined \$28,000 and sentenced to five years in prison by a lower court. In the other two . . ."

"That will be \$2.50," the taxi driver interrupted as he pulled up before the building. Taxis don't come cheap in Washington.

Alice was looking at the Athenian façade of the building as the taxi pulled away. "What a wonderful ruin that will make when our culture runs down," she said. "Let's hope the Justices don't rush the process."

"What an impressive setting for the head

of the judicial branch of government!" Alice said as she looked admiringly around the courtroom as we stepped inside.

"Those columns," I pointed out, "are twenty-four in number. They are of sienna Old Convent marble brought from the province of Liguria in Italy. On those sculptured stone panels all round the court up near the ceiling are mythical figures depicting such abstractions as the majesty of law, the power of government, and the genius of wisdom and statecraft."

I had just pointed out the Ten Commandments on the sculpture over the Justices' heads, when the Justices entered. Quickly we stood with the others in the courtroom and the marshal began his traditional cry:

"Oyez! Oyez! Oyez! All persons having business before the Honorable, the Supreme Court of the United States, are admonished to draw near and give their attention, for the Court is now sitting. God save the United States and this Honorable Court!"

"They'll need saving if they have to read all the trash involved in these cases," Alice whispered. "And tell me, Frank, how come with all the talk about separation of church and state, the Court opens its proceedings with an invocation for God to save the United States and this Court? I thought you told me it was unconstitutional for the government to aid religion. Isn't this an aid to religion?"

"Sh-h-h," I cautioned. "Remember, the Court admonished us to draw near and give our attention. The acoustics in here are bad at their best; we are going to have to concentrate to hear the arguments."

As is the usual procedure each morning, a number of attorneys were to be admitted to practice before the bar. Chief Justice Warren spoke a few words of welcome to each, and they gathered in front of us to be sworn in.

"Is that the jury?" Alice asked.

"No," I replied, my scruples against whispering having disappeared with a question I could answer. "There are no jury and no witnesses. The Court will listen to arguments by opposing counsel. It has before it a record of the proceedings of the lower court, with mountains of printed briefs containing the contentions of each side. The great majority of its cases are disposed of by the simple order of the Court on the basis of those papers. In this case the Justices have agreed to hear all the arguments."

"It would take a case like this," Alice said. "And I'll bet they've all got fresh batteries in their hearing aids."

I could see that Alice had a few misconceptions about the Court. If any voyeurs had come to the court seeking a vicarious thrill, they were sure to be disappointed; the

discussion would center upon contentions in the lower courts.

After the lawyers were sworn in, we listened for an hour to a case that had been carried over from the last session—*Consolo v. Federal Maritime Commission*. My tired blood was coursing to heights it would not reach again that day. It seems that an ambitious shipping company built a refrigerated ship for the banana trade and for its pains got a raw deal from one of the Government's administrative agencies. The banana boat could not get anybody to use its nice new refrigerated facilities, so its owners made an exclusive deal with a shipper willing to take the risk. It turned out to be such a good deal that the other shippers felt they were losing out. They wrote a vague letter to the shipping company asking that space be made available to them. Now, the banana boat had an exclusive contract with its venturesome customer which it didn't feel it could legally or morally break. So the trusting shipping company took the problem to a governmental agency and asked it for a declaratory ruling, promising to obey no matter which way they ruled. The bureaucrats sat on the request for six months, and when they finally got around to giving attention to the matter, lumped the request for a ruling into a procedure for damages.

Having become familiar, during my career as a Washington attorney, with the calloused handling given businessmen by some of the regulatory agencies, I could hardly refrain from adding my voice to right the injustice.

When the Court got around to the Ginzburg case, I found it a letdown. Mr. Ralph Ginzburg, who looks more like a customer's man in a Wall Street brokerage office than an alleged publisher of literary exhibitionism, published a magazine called *Eros* (Greek for "love," in the sense that love appeals to those deprived of it), and two other publications that compounded his troubles and profits. One of these, called *The Housewife's Handbook on Selective Promiscuity*, brought a pained look to Alice's face. She looked horrified when a Justice pointed to testimony by a clergyman, who said he used it regularly in counseling and had given it to his 14-year-old son. Another defendant was alleged to have profited from the sale of books featuring such subjects as "Women Being Whipped or Beaten, Tortured or Abused" and subjects of interest to those who, while hating women, feel they are missing something without them.

When the Court recessed at twelve o'clock, I gave Alice a summary of the banana case as I saw it. Doing her best to hide a yawn, she asked, "Doesn't the subject of bananas bring something to your

mind besides points of law—like maybe food?"

Well, you can't win them all. We adjourned to the Supreme Court cafeteria.

Over dessert, Alice smiled a question at me. "Frank, one of those nasty men defending those pornographers said something about the First Amendment protecting the publication of obscenities. What did he mean?"

"Now, Alice," I cautioned, "those 'nasty men' aren't nasty at all; they are lawyers and as such have a duty to represent their clients. A man must be presumed innocent until he is proved guilty."

Alice looked contrite. "But did they have to argue so hard for them?"

I felt it was time to move on to the First Amendment. "The First Amendment provides that 'Congress shall make no law . . . abridging the freedom of speech, or of the press.' Some lawyers argue that this protection extends to the publication of even obscene materials."

"I hope those nice-looking Justices don't believe that!"

"They didn't in 1957," I reassured her. "Justice Brennan, that curly-haired man second from the left, wrote a decision in a case called *Roth v. United States* in which he said that Federal obscenity statutes do not offend constitutional safeguards afforded by the First Amendment."

"I'm so relieved," said Alice. "Just think what his grandchildren would think of him if he had protected obscenity! Why, one of them could walk right up to him and say a bad word, and he wouldn't even be able to wash his mouth out with soap! The child would say, 'Oh, no, you don't; I'm protected by the First Amendment!' Then what could Mr. Brennan say?"

"He could always take the Fifth," I replied.

"Maybe he doesn't drink," said Alice.

"No, no!" I explained. "Not a fifth; the Fifth—the Fifth Amendment. It says that a person doesn't have to incriminate himself."

"All those amendments leave me confused," Alice confessed. "What did that counsel for Mr. Ginzburg mean by 'due process'?"

"That's from the Fifth too," I told her. "The Fifth Amendment provides that 'no person shall . . . be deprived of life, liberty, or property, without due process of law.' The Fourteenth Amendment says, 'Nor shall any State deprive any person of life, liberty, or property, without due process of law.'"

"The way the lawyer used it, he meant that legal proceedings have to be carried on

This article first appeared in the March-April, 1966, issue of LIBERTY.

according to the rules and forms that have been established for the protection of private rights. A statute that either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application could be knocked out by the due process clause. In other words, the lawyer was saying that his client should be let off because the law was not explicit enough to be enforceable."

Alice asked, "Do you find the law explicit?"

I reached for my briefcase for the Roth decision.

"The Roth case doesn't seem hard to understand. Justice Brennan ruled that 'all ideas having even the slightest redeeming social importance—unorthodox ideas, controversial ideas, even ideas hateful to the prevailing climate of opinion—have the full protection of the guarantees [of the First Amendment], unless excludable because they encroach upon the limited area of more important interests. But implicit in the history of the First Amendment is the rejection of obscenity as utterly without redeeming social importance. . . ."

"Obscenity, said the Justice, is not within the area of constitutionally protected speech or press."

"Does the history Justice Brennan referred to show that the early American fathers did not protect obscenity?" Alice asked.

Seeing that she was not quite ripe for a return to the banana case, I read from the Roth decision:

"The guaranties of freedom of expression in effect in 10 of the fourteen States which by 1792 had ratified the Constitution, gave no absolute protection for every utterance. Thirteen of the fourteen States provided for the prosecution of libel, and all of those States made either blasphemy or profanity, or both, statutory crimes. As early as 1712, Massachusetts made it criminal to publish 'any filthy, obscene, or profane song, pamphlet, liberal or mock sermon' in imitation or mimicking of religious services. . . . Thus, profanity and obscenity were related offenses."

"Do all of the Justices agree that obscenity ought not to be protected?" Alice asked.

"Two of them, Justices Black and Douglas, felt that people ought to have the right to sort out the good from the bad. Mr. Douglas wrote that he 'has the same confidence in the ability of our people to reject noxious literature as I have in their capacity to sort out of the true from the false in theology, economics, politics, or any other field.'"

Alice's blood pressure shot up. "You lawyers and judges in your marble halls get

so involved in fine speeches that you forget what really goes on in the world. If you could trust all the people to behave like those Justices suggest, you wouldn't need any police, or courts, or Supreme Court Justices. Why do we require labels on drugs? Why not say, 'Let the poor dears decide for themselves whether a drug is poisonous.' Why require speed limits? Anyone but a fool will not exceed a safe speed. After all, Justice Douglas would seem to have faith in everyone so to conduct himself as to keep an eye for his own and others' safety.

"And just look at the newspaper reporters [I struggled to follow Alice's logic]. Were they in the Court in droves to report on banana boats? No, but they sure were there to report on pornography. All those stories in the newspapers about go-go bars in California where the waitresses are topless! And those movie ads with those—those hussies hugging bubbles! No wonder the streets are unsafe for womenfolk; *The Housewife's Handbook on Selective Promiscuity*, indeed! A few more books like that, and I'll go into print with *The Housewife's Handbook on Selective Judo Holds!*"

My admiration for Alice moved up another notch. She might not be strictly logical, but she was practical! Selective judo holds!

"Now, I don't suppose you and I would be in agreement over what obscenity is," Alice said primly. "What have the Justices said about it?"

"The Justices have set up a three-legged definition," I replied. "To be obscene, material must (1) have for its dominant theme and appeal a morbid and shameful preoccupation with sex, as opposed to a healthy sexual interest; (2) be expressed in a manner that goes substantially beyond national standards of permissible candor; and (3) be without redeeming social importance."

"What if a book or magazine is good in the main, but has obscene areas or articles in it?" Alice asked. "And do the Justices differentiate between a book sold at the corner drugstore and one circulated for doctors and clergymen?"

I flipped the pages of the Roth decision until I found what I was looking for:

"The test in each case is the effect of the book, picture or publication considered as a whole, not upon any particular class, but upon all whom it is likely to reach. In other words, you determine its impact upon the average person in the community. The books, pictures and circulars must be judged as a whole, in their entire context, and you are not to consider detached or separate portions in reaching a conclusion. You judge the circulars, pictures and

publications which have been put in evidence by present-day standards of the community. You may ask yourselves Does it offend the common conscience of the community by present-day standards?"

"In another case, *Jacobellis v. Ohio* (1964), the Court said that by community standards it meant national standards, for the national constitution was involved, and one particular community might differ from another. As a consequence, it has been just about impossible to apply the tests of the Roth case."

Alice had become thoughtful. "Community standards sure aren't the same as they were in my day, but I don't suppose we can hold the Justices accountable for that. And the change is not all bad. Maybe the churches are as much to blame as anybody. Why, hardly anyone knows why he goes to church anymore, and you seldom hear the Ten Commandments mentioned. Why, Frank"—Alice grew increasingly indignant—"I read that a minister actually took a box of those terrible books to church to give to his congregation, and that a law officer had to go to the church and stop him from doing it! What is this world coming to?"

I couldn't get her back on the subject of bananas, but that was one question I was not going to get involved with. I steered the conversation back to the Roth decision.

"I was surprised that the lawyer for *Eros* did not try to get the Court to change the Roth case," I said, "but instead relied upon it." I found my notes on his testimony. "He said that 'Roth limits the coverage of the obscenity statute to material which contains descriptions substantially exceeding contemporary limits of candor. This element, called 'patent offensiveness,' embodies concepts of due process and equal protection. Especially where freedom of speech and press are concerned, society cannot condemn that which it generally tolerates."

"In establishing the prurient interest appeal test in Roth, this court made clear that prurient interest and sexual stimulation were not synonymous. Prurience exists when, viewed as a whole, the work's predominant effect is to evoke shame, guilt or morbidity, and in measuring this effect, certainly, insofar as this case is concerned, it is the impact of the challenged material upon the average person that must be determined."

"Imagine," Alice interrupted, "trying to suggest that those awful books are really works of art."

"At the prices being charged for subscriptions," I retorted, "they might even have original paintings in them."

Alice was unimpressed. "And arguing that that awful *Handbook* was a true autobiographical account needed by unfortunate housewives who might feel that their

aberrations were unique to them, and that they were losing their minds! Have you ever heard such twaddle? And saying that the book had political importance because the author advocated reshaping society's view of the sexual role of women!"

"The question is," I said, "whether the Court will find it *utterly* without redeeming social importance. But I fear that counsel for the government gave the *Eros* case away—certainly not purposely. He pointed out to the Court that there is no problem with 75 percent of the plain, garbage-variety of obscenity, which is just pornography. That clearly comes within the definition laid down in the Roth case. Then, as you remember, one of the Justices asked him, 'Do you think that *Eros* comes within that 75 percent?' Counsel had to concede that he did not think it did. In other words, he agreed that *Eros* probably had redeeming social importance. I would guess that the Court made up its collective mind right then that there was sufficient question about the nature of the Ginzburg contributions to distinguish them from obscenity as defined in the Roth case."

I glanced at my watch and rose quickly. "It's time for the Justices to hear the other cases," I said, hoping they would finish quickly, and I could get in on another fascinating case like the one about bananas.

The arguments concerning the Mishkin materials and *Memoirs of a Woman of Pleasure* were more of the same. At times the courtroom seemed to be the scene of a duel between the procensorship forces of the Citizens for Decent Literature and the Roman Catholic National Office for Decent Literature, and the anticensorship forces of the American Civil Liberties Union and the American Library Association.

The Justices seemed to be preoccupied with the question of whether they should be expected to read the material before them in order to arrive at a decision.

I had dozed off when Alice poked me sharply. "Frank," she whispered, "does black leather do something to you? I mean—well, it seems from what is being said that the Mishkin materials are full of black leather boots and black socks, and these are supposed to . . ." Alice's voice trailed off.

I listened long enough to determine that black leather appeals to some bizarre sexual aberration and had to confess to Alice that the only image it raised in my mind was one of polished shoes. Alice slipped her black leather billfold back into her purse. "A girl just can't be too careful these days," she murmured. "Go back to sleep, and I'll let you know if anything about bananas comes up."

Nothing did, and the most memorable discussion of the afternoon seemed to center

upon whether the Justices should have to read the books ruled obscene by lower courts.

When the Court recessed, Alice looked perplexed. "I'm willing to admit, Frank, that there are dimensions to this problem that I did not know existed. And I believe the Justices are honestly concerned not only with freedom but with morality. Do you have any philosophy you would like to share with a Victorian?"

"In the Western Christian world," I told Alice, "the body and the soul are both important to religion. Obscenity to the body equates with blasphemy to God. Actually, statutory strictures against obscenity represent the mores of the essentially Christian community. We are steeped in the chivalric traditions of the medieval warrior classes who developed a romantic and courteous standard for the treatment of women. Published obscenities undermine the basic manners of our people and insult our religious heritage. This conduct is 'taboo,' and no amount of constitutional legal argumentation is going to protect the defiler of the nest."

"I'll buy that," Alice said, "especially that part about the defiler of the nest. I hope the Justices buy it too. Poor men, they've got enough going against them now, having to decide a case in this . . . this barroom!"

I looked at Alice's retreating back. Had she a twinkle in her eye? She had admired the setting when she arrived. What had she seen to change her thinking?

Of all the places in Washington, the Supreme Court chamber has the most built-in dignity. And she had made it sound like a go-go parlor. I could feel my lawyer's blood stir with patriotism as I looked around the chamber lined with crystalline-flaked, white Georgia marble. The sculptures set around the room near the ceiling: Over the Justices, on the east wall, the Homeric figures of majesty of government and majesty of law, with the Ten Commandments between them. Opposite them on the west wall . . .

Well, score another one for Alice. There on the west wall was the figure of Justice, a beautiful woman with a completely topless toga waving winsomely at the aging Justices below. □

SINCE 1966

The Supreme Court has changed significantly its obscenity standards since Attorney Salisbury and Alice visited the Court in 1966.

First, in *Miller v. California*, 413 U.S. 15 (1973), the Court held that laws regulating obscenity and pornography must be carefully drafted to cover only "works which depict or describe sexual conduct." *Miller* has resulted in more carefully worded laws prohibiting obscenity and pornography.

Second, the Court in *Miller* also held that such laws "must also be limited to works which, taken as a whole, appeal to the prurient interest in sex, which portray sexual conduct in a patently offensive way, and which, taken as a whole, do not have serious literary, artistic, political, or scientific value." Thus challenged materials now must meet a "taken as a whole" test. The previous "utterly without redeeming social importance" allowed a work to pass if it had *some* "redeeming social importance."

Third, the Court in *Miller* discarded its *national* standard for determining obscenity. This allows jurors to apply *local* community standards in obscenity cases. Thus what might be obscene in Alloway, New Jersey, might not be obscene in New York City, just 100 miles away.

Fourth, on November 30, 1981, in *Edward Cooper, City Attorney of Santa Ana, California v. Mitchell Brothers, Santa Ana Theatre, et. al.*, the Court ruled that juries may suppress books, magazines, or movies in obscenity cases without being certain "beyond a reasonable doubt" that they are obscene.

Overall, then, the Court has tightened its obscenity standards.

As for Author Salisbury's suggestion that the government attorney "gave the *Eros* case away" in *Ginzburg v. the United States*: The Court affirmed the Federal obscenity conviction and held that advertisements for *Eros* magazine emphasizing its sexually provocative aspects were relevant in determining the ultimate question of the magazine's obscenity, 383 U.S. 463 (1966).

The Court also affirmed the obscenity convictions in *Mishkin v. New York*, 383 U.S. 502 (1966), a case involving such books as *Mistress of Leather*, *The Whipping Chorus Girls*, and *The Violated Wrestler*. Only one book—the 200-year-old *Memoirs of a Woman of Pleasure*, commonly called *Fanny Hill*—passed the Court's obscenity standard.

And the banana-boat case? The Court, in *Consolo v. Federal Maritime Commission*, 383 U.S. 610 (1966), upheld the commission's reparation to the shippers who challenged the exclusive contract.—By Robert W. Nixon, LIBERTY's legal adviser. □

Church and State in the High Court

By Stan L. Haste



A look back at the 1980-1981 term, and an overview of the current term, including the effects of the Sandra O'Connor appointment.

During a year when prickly church-state issues figured less prominently than in other recent years, the U.S. Supreme Court nevertheless handed advocates of church-state separation several gains in its 1980-1981 term.

In three of the four church-state cases decided by the High Court in written opinions, separation of church and state came out the winner. The one setback involved restrictions on an unpopular sect, the International Society for Krishna Consciousness, known also as Hare Krishna.

In that decision, the Court ruled that state fair officials may restrict religious sects and all other groups to booths for the distribution and sale of literature and solicitation of funds. The ruling upheld a regulation imposed by Minnesota fair officials applying to all persons, organizations, and commercial firms. But the regulation did not forbid individuals from communicating their views, religious or other, in face-to-face encounters.

Besides the Hare Krishna decision, one of the most publicized church-state rulings came in November of 1980, when the court struck down, 5 to 4, a Kentucky law requiring the posting of the Ten Commandments in public school classrooms. (See the May-June, 1981, issue of *LIBERTY*.) Deciding the case in a brief, unsigned

RNS PHOTO

opinion without hearing oral arguments, the slim majority held that the 1978 statute failed the First Amendment test that such a law must have secular rather than religious purpose.

The two other church-state cases that received written opinions were the unemployment compensation rulings. Eddie C. Thomas, a Jehovah's Witness, left his job rather than produce turrets for military tanks, work he said violated the sect's precepts. He convinced the Court, 8-1, that he is entitled to unemployment compensation. (See *LIBERTY*, September-October, 1981.)

In the other case, the Justices ruled unanimously that church-related schools with no legal existence apart from a church or association of churches are exempt from paying unemployment compensation taxes. The decision overturned a ruling by the Department of Labor, based on a 1976 amendment to the Federal Unemployment Tax Act, that religious schools were required to pay the taxes.

More than a dozen other cases involving disputes over alleged government intervention in church internal affairs were handled by the Court, making government regulation of religion by far the largest category of church-state cases faced during the term. Mississippi (Baptist) College lost its High Court battle when the justices agreed unanimously that the school must provide employment data to the Equal Employment Opportunity Commission. The federal agency wanted the information to help determine whether the college has engaged in systematic race and sex discrimination in its hiring policies.

Navaho Indians lost in the Court when the Justices let stand lower court rulings allowing the National Park Service to maintain control of a site in Utah the tribe considered sacred. The Navahos claimed that their ability to worship at shrines in Rainbow Bridge National Monument, formerly part of a reservation, has been hampered since the Park Service took over in 1910.

The Court also sided with the government when it agreed with the Internal Revenue Service that individuals who try to avoid paying income taxes under the guise of establishing their own "churches" can be stripped of their previously granted tax exemptions.

Similarly, the Court agreed with local authorities in Oregon that municipalities may impose zoning ordinances forbidding churches using private residences from also running parochial schools in the same locations.

State governments, the Court agreed, may regulate other types of religious institutions as well. The Court upheld a Kansas ruling that a church-operated home for

unwed mothers must be licensed by the state, while in North Carolina it held that the state may also require church-run day-care centers to be licensed.

In other cases where the basic issue concerned government regulation, the court let stand a lower court ruling that a Catholic high school in New York was exempt from National Labor Relations Board jurisdiction; agreed with the Mississippi Supreme Court that the state may require the vaccination of schoolchildren whose parents object on religious grounds; rejected efforts by an unincorporated New Jersey church to avoid producing church documents for a grand jury; and denied a request by a Coptic congregation in Florida to lift an injunction barring the use of marijuana as an aid to worship.

The High Court also reiterated its longstanding legal doctrine that hierarchical churches control the properties of local congregations, even when the latter secede from their denominations.

The Court took action in a pair of other cases involving controversial sects. The Justices left standing a Minnesota ruling that parents who detained their 21-year-old daughter in an effort to "deprogram" her were not guilty of false imprisonment. The daughter had sued after being held captive for sixteen days in the effort to remove her from a group called The Way Ministry.

And in the latest round of its continuing legal war with the federal government, the Church of Scientology failed to convince the Justices to review its charges against four federal employees accused of violating the group's constitutional rights.

Public funding for church-related causes, while not figuring prominently this term, did surface in a pair of disputes. In the better known of the cases, the Court let stand rulings that the Catholic Archdiocese of Philadelphia be required to pay for a platform used during a mass presided over by Pope John Paul II during his October, 1979, visit to the United States. The city of Philadelphia had sought to pick up the tab.

In a parochial school funding dispute, the Justices declined to disturb a lower court ruling that public funds administered under the Elementary and Secondary Education Act may go for remedial education of parochial school students when the services are provided by public school teachers.

Another pair of cases faced by the High Court dealt with free exercise of religion. Public schools may continue to observe religious holidays, the Court held, thereby putting to rest a two-year-old controversy in Sioux Falls, South Dakota.

But the High Court agreed with a lower court in its decision to strike down a North Carolina state highway policy of printing a "motorist's prayer" on official maps.

While its recent term can hardly be considered a banner year in the church-state field, the current 1981-1982 session promises to be highly significant.

The Justices have taken on five church-state controversies for the term that began the first Monday in October. The most publicized is the challenge of students at the University of Missouri in Kansas City to a school policy banning religious worship on campus. That case shapes up as a classic constitutional clash requiring the High Court to decide between the students' free-exercise rights and the university's claim that to allow on-campus worship would unconstitutionally establish religion.

The Court will also decide whether officials of Americans United for Separation of Church and State have a constitutional right to sue the federal government for transferring public property in Pennsylvania to a church-related college.

In other cases to be heard, the Court will decide whether religious groups receiving more than half their income from soliciting the public should be exempt from registering with and reporting to the state; whether Old Order Amish employers must pay Social Security taxes and withhold such taxes from the wages of their Amish employees; and whether a Jewish immigrant from Poland claiming he was the victim of religious and ethnic discrimination must be given back his job.

Also of interest this term is the new Justice, Sandra Day O'Connor, the first woman appointed to the U.S. Supreme Court. Though adamantly opposed by the New Right on the basis of the abortion issue, O'Connor appears to be a solid choice on church-state issues. As an Arizona state legislator, she once declared her opposition to tuition tax credits. While declining to reveal her position on the role of religion in the public school classroom, she displayed thorough knowledge of the constitutional foundation on which the Supreme Court's historic 1962 and 1963 decisions were made.

O'Connor has indicated opposition to the idea of removing certain controversial issues from the jurisdiction of federal courts, a tricky constitutional question that the High Court may well face if the present Congress adopts any one of the several pending bills that would strip the courts of review of any state laws forbidding abortion or busing, or mandating religious exercises in public schools. □

Stan L. Hastey is director of Information Services for the Baptist Joint Committee on Public Affairs in Washington, D.C. Reprinted by permission from Report From the Capital.

THOUGHTS ON A German Baptism

By Catherine Damato

A generation ago we were strangers to each other, locked in a death struggle.

The robed baptismal candidates fill the front row. From my place behind them I see floral-printed straps flaunting their escape from beneath the robes of two girls. Of course. The robes are of light cotton fabric, easily washed and quickly dried. The neophytes are dressed fittingly; they are all young; they wear swimsuits under their robes.

This is a congregation of German evangelicals new in America. We are here today, my husband and I, because among the youth to be baptized are friends. The pastor gives us a special welcome in English.

A men's choir sings two hymns, again in German. The melodies are unfamiliar. The men stand stiffly, square of jaw, strong of shoulder. Middle-aged, they share deep lines in their faces and an aura of strength.

It is time for the sermon. The hearers leaf through their Bibles. I catch a word here and there. The preacher is speaking on baptism. It is important, he says; he wants the congregation to appreciate its importance. His voice rises to a shout. I am startled. A voice shouting German. I have heard that before. My thoughts roll back over the years to my high school days, to an era when a madman stamped across Europe and filled the air waves with his rantings, while shouts of "Seig Heil!" roared from a hundred thousand throats.

Our countries fought, mine and that of the people here. My friend Janet's husband, who sits a few rows behind me, fought in the Battle of the Bulge. So probably did some of the men here. They may have faced each other. Janet's husband acquired his limp there. Now we sit together far from such scenes in a church with the windows open to the spring. It is early April. It is more than thirty-five years since D-day, the day the Allies invaded Europe.

The sermon is over, and the ordinance of baptism begins. The first candidate is interviewed. "Helmut, do you believe . . . ?" The questioning is in German. The answers are in German. Helmut, descendant of Teutonic warriors, whom I know as a gentle youth who excels in that most American of sports, basketball, affirms his faith and goes under the waters of baptism. His sister Margit is next.

When their younger brother presents himself, the pastor speaks English. Apparently the younger ones have not learned German. To youngsters such as these, the memories that haunt their parents and me are only legend.

The baptism continues. As the candidates emerge from the water, robes cling to their bodies, and the outlines of swimsuits, gym shorts, and basketball trunks, the garb of

American youth, show beneath the white garments of the eternal faith.

Now the deacons lift the cloth that covers the communion table. Today was communion Sunday in my own church; I have already partaken of the Lord's Supper. But I will take it again in the presence of my one-time enemies.

I steal a look at the congregation. It seems incredible that a generation ago we were strangers to each other, locked in a death struggle. Questions arise in my heart. What was it for? Was it worth it?

Answers come. Are they the right answers? I don't know. Resolving the issues that breed war is not simple. Evil was abroad in that day; evil is always abroad in the world. There are chapters in our own history that we could wish had never been written. But evil in that day broke through national bounds and threatened the world.

Had that evil triumphed, its arrogance would have been immeasurable. We can sit here as friends because we resisted the evil and won. If we had lost, another set of values would have prevailed. Helmut, who sits in front of me, his hair still wet, would not be a friend; he would be part of the peace-keeping force, contending with the festering guerrilla warfare.

Was it worth it? Was it worth the deaths of my cousins Alex and Steve? Alex left a wife and baby; Steve left a fiancée. Ask them whether it was worth it; it's not for me to say. Was it worth Chris and Al? Their faces looked from a brochure given out at my high school reunion, a brochure commemorating those of our class who would never join us. Chris and Al were part of the harvest of World War II. Was it worth it for them? They would have to answer.

There is evil worth resisting, and there is good worth preserving, even at terrible cost. For all its failings, freedom is worth preserving. Why? The answer in part is in this gathering today; man does not live by bread alone. We have needs that go beyond food, clothing, and shelter. We have a conscience that must determine itself, express itself, be free. In World War II we won another generation of freedom for ourselves and for our friends here.

There is a gentle clink of glasses, a soft sighing as we raise them to drink together. The communion service over, the worship hour concludes. A buffet supper is to follow in the social hall; the ladies of the church have outdone themselves with cakes, casseroles, salads. The pastor gives the benediction, and we go to break bread together. □

Catherine Damato describes herself as "of authentic World War II vintage;" she was 20 years old when Pearl Harbor was bombed. She received her B.A. from Barrington College and is currently a housewife-writer in a Los Angeles suburb.

The Amish Tradition

By John A. Hostettler

Amish life still means family farms, one-room schools, and well-defined sex roles. How can this survive in today's world?

Twenty-five years ago social scientists predicted absorption of the Amish into mainstream culture. They reasoned that once the peasant energy of their tradition had run down, the Amish would be assimilated. With modernization, Amish horse farming and plows would have to go, swept out by the broom of civilization. With large-scale farming, the Amish would be unable to maintain an adequate economic base for their sons and daughters.

The social scientists were wrong. The Amish population in 1900 was 8,000. Today the Amish number 85,000 and they have doubled their numbers in the past 23 years. In 1900 the Amish lived in ten states. Today they have 112 settlements in 20 states.

Forty years ago the Amish were viewed as an obdurate sect living under oppressive customs and exploiting their children's labor. Today the Amish are esteemed as meticulous farmers, practicing the virtues of thrift and hard work. By rejecting the enticements of materialism, the Amish have earned the respect of most Americans.

Even so, one may still hear that Amish women are dominated by a theocratic male hierarchy, though this assertion rarely comes from neighbors who know the

John A. Hostettler is professor of anthropology and sociology at Temple University and is director of the university's Center for the study of Communal Societies. He is widely known for his publications and research on minority groups in the United States and Canada, and is author of Amish Society, published by the Johns Hopkins University Press.

PHOTOS BY JAMES A. WARNER FROM
THE GENTLE PEOPLE BY JAMES WARNER
AND DONALD DENLINGER

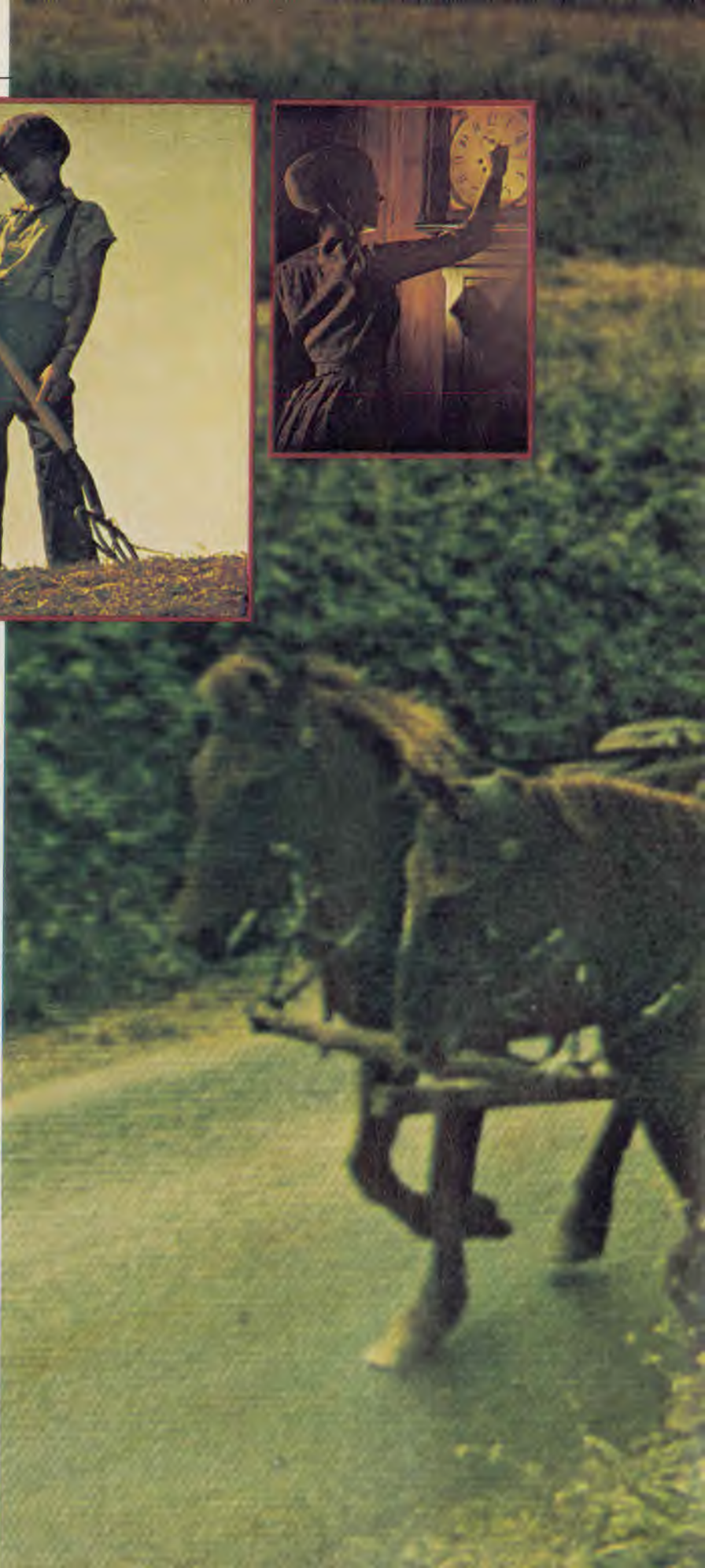


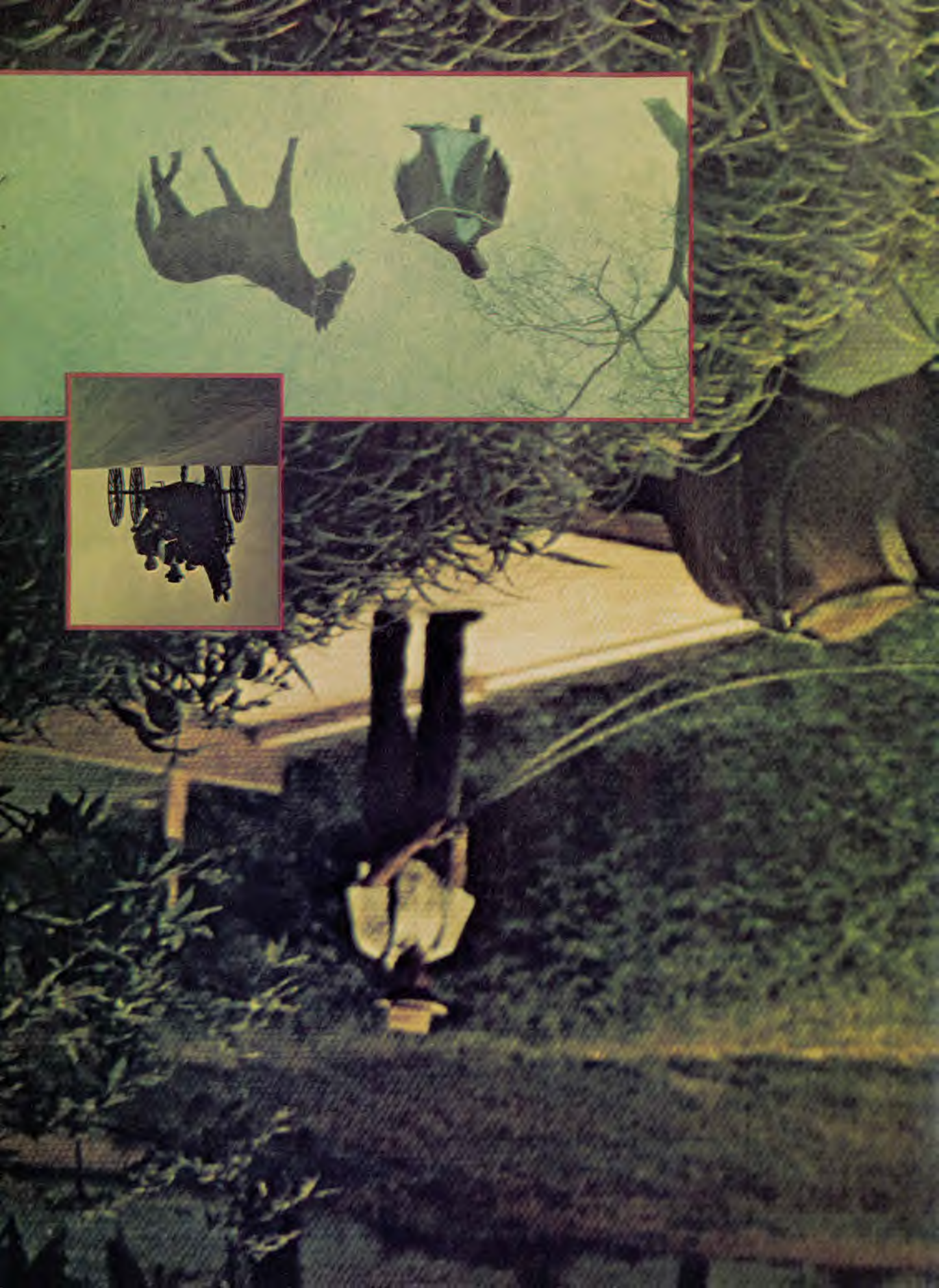
Amish. Amish roles are well defined, in keeping with the Biblical teaching that man is the head of woman as Christ is head of the church. Women's liberation has scarcely affected traditional family unity. Important family decisions are made jointly, and farms are generally owned in the names of both spouses. Husbands and wives are expected to support each other in all relationships, with children, parents, relatives, friends, and neighbors. Both are admonished to be considerate of each other in physical, emotional, and spiritual matters. No Amish mother is employed away from home; children average seven per family.

Amish marriages are usually less stressful than those of mainstream society. Spouses do not rub each other as hard as their modern counterparts do. Each has a recognized domain in which to excel, and each is committed to do his or her part for the welfare of family, church, and community. The man's kingdom is his barn and farm. The wife's domain is the house and garden.

The Amish have not been swept away by visions of large-scale enterprises. They have modified machines and adopted inventions that maximize family-intensive labor. The joys of working together have not been traded for efficiency and bigger technology. These attitudes and values are byproducts of their religion.

The Amish understanding of salvation requires maintaining a redemptive community, where the individual must acknowledge his helplessness without the Son of God and surrender his will to the community of the believing. The church commu-







nity must incorporate freedom of choice, sacrificial suffering, humility, nonresistance, and commitment to a brotherly communion.

To maintain this *Gemeinde* (community), members are required to make their living from farming or from occupations essential to rural life. For the Amish, soil has a spiritual significance. Man's first duty is to dress and till the land, to manage it as a good steward, and to protect it from exploitation. This view of stewardship implies creating an attractive and orderly environment. If treated violently or exploited selfishly, the land will produce poorly, leaving mankind in poverty. The Amishman does not seek money for its own sake. Rather, he works and saves to buy a farm so that he can support his family.

The rising price of land is an acute problem for the Amish. They have responded by moving to regions where land can be purchased more cheaply. In recent years the Amish have formed communities in Wisconsin, Minnesota, Missouri, Kentucky, New York, and Nebraska. In some areas, like Nebraska, where traditional family farms have been consolidated into large tractor-farming units of several thousand acres, Amish families are achieving success with 160 acres.

The Amish have maintained their church community by fitting training and education to religious and cultural goals. In earlier times Amish children attended one-room public schools. Today, faced with an academic environment hostile to humility,

simplicity, and fear of God, the Amish operate more than 500 eight-grade schools in seventeen states and one Canadian province (Ontario). Education continues to be an area of controversy, however, as state education officials seek to impose certification requirements for teachers. (See box accompanying article.) Though often having no more than eight grades of formal schooling themselves, the teachers must be doing something right: On achievement tests Amish pupils score within the normal range, and in some subjects, such as arithmetic and spelling, they exceed public school students.

Though Amish children are not exposed to radio or television, though school libraries are small and equipment is limited, and though teachers are often uncertified, students obtain a no-frills education that offers reasonable hope of fulfilling vocational aspirations. Children learn English (reading, grammar, spelling, penmanship, and, to a limited extent, composition), arithmetic (percentages, ratios, volumes, conversions of weights and measures, simple and compound interest), and health. Most schools also teach history and geography, though some substitute agriculture for these subjects.

Amish education emphasizes cooperation, responsibility, and humility. Facts prevail over philosophy; the Amish believe

that learning should be practical and should lead to social responsibility. Finding texts compatible with these objectives is a problem. The Amish reject books supporting conspicuous consumption and military superiority. Older books, discarded by public schools, are preferred: they contain less science, fewer discussions of television, and little or no sex education. The Amish also oppose health books containing an inordinate emphasis on how to make oneself attractive. A few communities use the classic McGuffey readers.

Recently four Amish farmers have formed Pathway Publishers, in Aylmer, Ontario. Printing operations are run without electricity, using hydraulic fluid from diesel power. The firm has produced more than a hundred book titles, and issues three monthly periodicals, one a journal for Amish teachers. Publications are distributed through a bookstore and mail-order service.

Though uncertified, Amish teachers do prepare for their profession after being "called" by the school board and church. Requisites are natural talent and no obligations that would interfere with teaching. Summer months are spent in study, in attendance at regional educational meetings, and poring through copies of the Amish teachers' journal, *The Blackboard Bulletin*. After three years of apprentice-

ship, a teacher is usually considered qualified for an Amish school.

Considered even more important than this "formal" training is character preparation, with emphasis on humility, obedience, steadfastness, and love of the community. The Amish teacher is not ashamed to be "poor," simple, and hardworking. One must doubt whether college-trained teachers would be so little concerned by "worldly standards."

The average Amishman likely couldn't tell you that no relationship between teacher certification and pupil performance has been demonstrated. Or that there is a positive correlation between certification and urbanization, and between certification and salary. He will acknowledge that Amish schools could be improved. Many parents would like their children to be more proficient in English and to have friends among non-Amish children, as was possible in the old-time country public schools.

But by and large the Amish are pleased with their schools. They do not look on them as an end in themselves, but as instruments to strengthen family, church, and community. The schools contribute not only "book learning," but appreciation for a way of life characterized by humility, simplicity, and fear of God. That is a way of life that will survive, they believe, both here and in the hereafter. □

Amish School Controversy in Nebraska

Three years ago Amishmen Levi Troyer and Atlee Miller moved with their families from Ohio to Nebraska. Each purchased a farm in Pawnee County, in the southern part of the State. Soon five more Amish families joined them to form a new community. Together they opened two Amish schools with an enrollment of forty-one pupils.

During the first year Sara Miller, an experienced Ohio Amish teacher, taught the children of the Troyer and Miller families. In the second year a "plain teacher"—with twenty-five years of experience but no state certification—came to the school.

Recently Troyer and Miller were arrested for "disturbing the peace and dignity of the state" by not enrolling their children in a State-approved school. The Amishmen refused to pay the fines, pleading not guilty. Authorities seized Atlee Miller's family buggy and sold it at sheriff's sale. The carriage brought \$420, and Miller's checking account was garnished for another \$169.01 to cover fines and costs.

Miller has now listed his eighty-acre farm for sale. "I'm not a fighter," he says. "The Bible says to turn the other cheek when smitten. I don't want to stay where the authorities handle their business like this." Miller, his wife, Sara, and their thirteen children plan to move even if the money is returned. Miller wants his children to be allowed an Amish education. "I don't feel that I have broken any law," he says. "Our people are

beginning to feel like the children of Israel under the Pharaoh."

In a second series of arrests, four Amish fathers and two teachers have been cited for violating the Nebraska criminal code. The twenty-three page list of State regulations requires schools to be State-certified. For the first time the code is being enforced against Amish teachers, who have been arrested for "giving instruction other than religious instruction" in Amish schools.

Assisting the Amish defendants is a citizens' group, the National Committee for Amish Religion. William C. Lindholm, chairman, states that the litigation is a continuance of "persecution that began forty years ago in Pennsylvania, then moved to Ohio and Iowa and now Nebraska." Counsel for the group, William B. Ball, is negotiating to resolve the case without litigation. Hearings were held before the Nebraska State Department of Education and the state legislature in October. "It's just a matter of education," Ball says. "If people really understood the Amish, they would leave them alone."

Some questions surrounding the Amish school controversy were settled by the U.S. Supreme Court (*Wisconsin v. Yoder*, 1972) almost ten years ago. The court ruled that Amish children, regardless of age, cannot be compelled to attend public high school on completing eight grades of elementary schooling. The court did not speak to the point of teacher certification. □

Gentlemen of the Jury

By Godfrey Lehman



By insisting on their rights as Englishmen, they established every citizen's liberty.

Sending luckier citizens scurrying from sight and seizing the unfortunates who were too surprised to move, a corps of turnkeys, on orders of the king, spread over the streets of London. Clerks were pulled from their stools; carriages were stopped and passengers forcibly requisitioned. Sixty or seventy Englishmen were collared in swift order and brought to the Central Criminal Court of London for examination.

They had committed no crime. The king's men were "selecting" them for an unwelcome task—jury duty. Despite the Magna Charta's 450-year-old guarantee to trial "by one's equals," English juries were expected to behave like judicial puppets—parroting the court's wishes. Not only did courts dictate verdicts, but jurors were given no food or water, or access to the most elementary forms of plumbing, until the expected verdicts were delivered. In the few cases where juries did defy the courts, defendants might be freed, but the jurors were themselves heavily fined and imprisoned. Understandably, few jurors had the stamina to stick by the Magna Charta. The date of the juror roundup was Wednesday, August 31, 1670. By day's end, all but twelve luckless Londoners had been released. Those remaining, however, were to find themselves unwilling participants in a trial that would set a legal precedent and shake the throne itself.

On September 3, the trial of 25-year old Quaker William Penn and an older colleague, William Mead, began in the Central Criminal Court. Penn and Mead had been arrested and confined to the dreaded Newgate Prison on August 14, when a group of three or four hundred Quakers assembled for worship at their Gracechurch Street meetinghouse. There they confronted a phalanx of redcoats, each of whom nervously gripped a cocked carbine.

Stepping forward, the troop's lieutenant pleaded with Penn that the group not hold a religious service that Sunday morning because their Quaker worship violated the law. He read them the pertinent provisions of the elaborate Conventicle Act, which established one legal church—the Church of England. Penn responded that there was a higher law, a law that permitted every man and woman to worship God or not to worship, according to the dictates of his own conscience.

Denied entrance to the meetinghouse, Penn began his worship service in the street. He and Mead were arrested and indicted for "leading a conventicle," "conducting an unlawful and tumultuous assembly . . . to the disturbance of the peace," and "conspiring and abetting together" to do the same.

King, Parliament, and the Central Criminal Court united for a trial designed both to silence Penn forever and to put an end to the despised Quakers and other dissidents who defied the established church.

Although the court assembled on Thursday, September 1, and the indictments were read and the pleas of "Not Guilty" recorded, the trial itself did not begin until Saturday, September 3. The twelve jurors had been confined in the Sessions House, also known as Old Bailey, for two days.

A parade of carefully coached military witnesses testified to the guilt of both prisoners. Neither Penn nor Mead was given opportunity for cross-examination or allowed to present witnesses or arguments in their own defense. They did not deny the "holding of a conventicle," but they asserted their right to religious freedom under the Magna Charta. They had assembled peaceably, the only disturbance being caused by the soldiers.

By late afternoon it had become "clear and manifest" that they had violated the law. All that was left was for the jury to go through the motions of returning the guilty verdict, as the court directed. The defendants would be convicted, perhaps never to be released from prison.

From 7:00 A.M. until late afternoon the twelve jurors had been sitting on rough benches. Now they were told that as soon as they had convicted the prisoners, they would be permitted relief and treated to a sumptuous court-hosted banquet.

Following precedent, the court granted the jurors one quarter of an hour to agree to the guilt of both prisoners. The quarter-hour passed, and the jurors did not return. Twenty minutes. Half an hour. An hour. No jury. Finally after an hour and a half, eight returned, and the court ordered the bailiffs to drag forth the other four.

"We have no verdict," the jurors told the court.

The judges raged. Such defiance of the authoritarian powers of king, Parliament, and venal court! Still, there could be no conviction without the jury acceding.

Back the jury went for another half hour, and then they returned to the Sessions House. The clerk asked for the verdict, and the foreman arose. Penn: "Guilty of speak-



ing in Gracechurch Street." Mead: "Not guilty of the indictment."

The court was incredulous. There was no law against "speaking." The verdict meant nothing.

"Is that all?" asked the recorder.

"That is all I have in my commission," responded the stoical foreman.

"You have as good as said nothing," a judge roared at them. The presiding "justice," the Lord Mayor of London, Sir Samuel Starling, pounded his desk and demanded to know why the jurors would not obey the directive of the court.

One Edward Bushell arose to respond: "The court has no power in Magna Charta to dictate the jury's verdict."

"This court has any power it chooses!" the mayor shouted back. "To disobey it is to bring disgrace upon the court as well as upon yourselves."

"We do follow our consciences, which is to bring honor to this court, and we can do no other. If this be not honor, then we charge this court has no honor."

"Your insolence is beyond endurance. It is the direct order of this court that you bring in 'Guilty' against both prisoners."

"No, my lord," said Bushell, unyieldingly. "This the jury will never do, for we will not betray the liberties of this country. We know our rights in Magna Charta."

"These rights will starve you."

"So be it, my lord, but on this point we will not equivocate. We will never yield our rights as Englishmen."

Old Bailey went wild. The 500 spectators cheered for minutes. Never had a court of law been so successfully put down. Never had the entire government been so effectively overpowered by a handful of conscientious common people—"bumbleheads,"

as the mayor described them.

Frustrated, the justices refused to accept the verdicts. They commanded the bailiffs to lock up the hungry jurors overnight, still without food, water, or even a chamber pot. As a concession, the mayor agreed to convene the court on Sunday, "in the interests of the health of the jurors."

The twelve spent a fitful night on the floor of the badly equipped jury room, receiving limited rations from the sympathetic public, who sent up packages through the windows until driven back by soldiers. Bedraggled, aching, filth-ridden, the jurors returned to the Sessions House Sunday morning with the same verdicts. Back and forth between jury and courtroom the twelve were shuttled, but their verdicts remained: For Penn: "Guilty of speaking in Gracechurch Street." For Mead: "Not guilty of the indictment."

Nor would the court give in. By midafternoon the disgusted justices locked up the jurors, again without food, for the night. The jurors survived on the meager emotional succor of citizens shouting their encouragement from a distance.

When the court assembled on Monday morning, the jurors were soaked with urine and feces. Several had a high fever. The mayor asked for the verdict, and the weakened foreman, barely able to stand, delivered a new and unexpected response: "Not guilty!" he shouted to the question for each prisoner.

The shocked court forced each juror to stand in turn and "take responsibility" for this more decisive verdict. Twenty-four times the words rang out—"Not guilty!" Led by Edward Bushell, the jury had acquitted because "every man has a right to worship God according to his own con-

science." The twelve had determined to sit until death on that principle. Yield at this point, Bushell had impressed upon his colleagues, and their families and all England would be enslaved. No one but the jurors stood between religious liberty and thought control.

On September 5, 1670, the justices capitulated. The Magna Charta and twelve stout men had struck a decisive blow for freedom. The Conventicle Act fell. Penn and Mead were freed, never to be brought to trial again.

Nonetheless, the court was to have its revenge. For "going against clear and manifest evidence," the jurors were fined "40 marks"—equivalent to perhaps half a year's earnings. Eight paid, but four, again led by the stalwart Bushell, refused. Although Bushell was a man of great wealth and commanded an international shipping enterprise, and although the payment of 40 marks, or even 480 marks for the entire jury, was pittance for him and far smaller loss than continued absence from his business, he would not pay. "My liberty is not for sale," he responded. To pay would emasculate the victory. It would be a form of apologizing for acting in good conscience.

Thus he and three others—John Bailey, Charles Milson, and John Hammond—were imprisoned in the same "hell above ground" from which their courageous

Godfrey Lehman has been studying the jury system since he first served as a juror in 1958. He authored Jury Duty in 1968 and researches comparative jury law and the historical development of the jury system. He lives in San Francisco.

action had freed Penn and Mead.

In Newgate they were subjected to degrading brutality from sadistic jailers. They appealed through the distinguished Sir Richard Newdigate, a retired chief justice under Cromwell and a lifelong champion of the people's liberties. Sir Richard came out of retirement to argue the case before the Court of Common Pleas, a civil court, which actually did not have jurisdiction to hear a criminal appeal. The Court of King's Bench handled criminal appeals of the Crown, but Newdigate cleverly managed to convince the not-reluctant chief justice of Common Pleas, Sir John Vaughan, to accept the appeal.

It took nine painful weeks for the legal maneuvering, the hearing, and finally for the court to write its lengthy opinion, the jurors all the while suffering the rigors of Newgate. Sir John had been more or less predisposed to his decision, but it was necessary to cite many cases to build a foundation for a precedent. On November 9 he took "the clearest position I have ever taken" both for law and reason: The power of the jury to determine its verdict, free and untrammelled, is supreme. No court can dictate a verdict. No court has the power to punish juries for verdicts. The evidence could not be "clear and manifest," for it did not appear so to the jury. Acquittal by a jury is absolute. The four jurors had suffered imprisonment for ten weeks, but they emerged victorious.

The precedent established by the heroic twelve is felt in every jury trial today, for it ensured the free and independent jury. By destroying the Conventicle Act, it advanced the cause of religious freedom. This liberty was incorporated into the English Bill of Rights nineteen years later, and a century after, into our own First Amendment.

In 1688 another jury, following the Bushell precedent, acquitted of treason a group of religious "dissidents"—this time seven Anglican bishops who had been ordered by King James II to read Roman Catholic precepts from their pulpits. For this "Trial of the Seven Bishops" the king had handpicked several jurors, but without avail.

Bushell had been released on *habeas corpus*—the first such writ issued by Common Pleas. Since the congregation had been meeting orderly, the jury also established the rights of peaceful assembly and freedom of speech. By its courageous stand it demonstrated that one of the strongest powers in government is the jury in a jury room.

Freedoms seem assured so long as this "bulwark of every citizen's liberty," as William Blackstone termed the jury in the eighteenth century, continues strong and independent. □

Jury Duty Roundup

WASHINGTON, May 22, 1980—Loretta Carrier, a Bowie, Maryland, housewife, was shopping for groceries and a flea collar for her cat when two Prince Georges County sheriff's deputies stopped her and a friend in the parking lot of Collington Plaza.

The deputies questioned them intensely: Were they American citizens? Did they live in Prince Georges County? Were they registered voters? Were they over 18?

"Well, congratulations," one deputy said. "You're now a jury member."

"Right now?" Carrier said, pointing to her bag full of groceries. "In blue jeans and dirty tennis shoes?"

"That's right," she recalls the deputy saying. "If you refuse, you could be arrested."

For twenty or so other Prince Georges County residents, the message was much the same. When a county circuit judge ran out of potential jurors for a murder case he was trying, he sent the deputies out to find some more, and in shopping centers, malls, and restaurants around the county, they did their job.

By 2:00 P.M. housewives, businessmen, and shoppers who had been going about their business were gathered at the courthouse in Upper Marlboro ready for emergency civic duty. As it turned out, they were not needed, but the sudden roundup has been the talk of Upper Marlboro.

The sudden shortage of jurors was a "fluke," said one court official. Ordinarily jurors are selected from voter registration rolls and informed well in advance of their two-week jury service. Usually there are 100 jurors in the courthouse each day to hear cases. But a combination of too many trials in progress and the large number of "strikes" (jurors eliminated by the defense or prosecution) led to the unusual crunch. For the first time in five years, said sheriff's officials, they were ordered to scour the streets for men and women who would judge their fellow citizens.

In this case, fifty potential jurors had been questioned. The defense challenged some. Others were challenged by the State. Some were excused by Judge James H. Taylor. But when it was over, only six of the necessary twelve had been chosen.

Judge Taylor looked over the sheriff's deputy guarding his courtroom, "Mr. Sheriff," the deputy recalls being told, "go out and get me fifteen or twenty jurors off the street." The startled sheriff's deputy headed for his office. "It's a court order," he explained later. "What the judge says, you do."

The great jury roundup was under way, and nearly a dozen sheriff's cars fanned out all over Prince Georges County.

"It used to happen with great regularity around here," said one sheriff's deputy. "If you happen to be some poor slob cashing a check across the street, the next thing you know you're a juror."

Renee Box, 21, of Clinton, Maryland, was at Marlboro Plaza on an errand from the feed supply store where she worked. "This is our busy season, and we are short of help," Box said yesterday. "I parked my car and a sheriff's deputy came up and asked me several questions."

The deputy told her she was needed immediately as a jury member in a murder trial in Upper Marlboro.

"But I'm working," Box said.

"Doesn't make any difference," the sheriff's deputy told her.

Box put her head down on the car. "This couldn't be happening," I said to myself. "I've got to work."

According to sheriff's officials, one citizen even called the county police department to complain that deputies were harassing citizens at malls. The police sent a car to investigate. By early afternoon, however, a jury in another courtroom returned a verdict and was available for work. Several of its members were recruited to fill out Judge Taylor's jury, and those who had been rounded up were sent home.

"Judge Taylor was just peeved and impatient," said one informed source. "Jurors would have been available when he needed them."

During a court recess, Judge Taylor said he had acted properly in ordering the sheriff to round up more jurors off the streets. "All I know is that I ran out of jurors; I'm allowed to do it, and I did it," he said.—The Washington Post. □

JESUS

IN THE COURTHOUSE

By Anne Oxford

When Dorothy put up her religious stickers, she didn't dream what the consequences would be.

Dorothy Fankhouser became a court reporter in 1967. She was employed by Oyer G. Leary, district judge, Adams County, Brighton, Colorado, twenty miles north of Denver. In the spring of 1974, after making a recommitment to Christ, she bought a sticker reading "Jesus, the Key," and put it on the door of her office in the Hall of Justice. She also put small stickers on her stenograph machine and on her desk in the courtroom.

When her sticker was taken off the door by a janitor soon after she'd put it up, Mrs. Fankhouser went to a Bible bookstore and bought another one. Up it went, but only after she took the precaution of asking Chief Judge Jean J. Jacobucci for permission. But a few days later Judge Jacobucci asked her to take it down. He explained that a colleague, District Judge Clifford Gobble, had complained about the emblem.

"Imagine," says Mrs. Fankhouser. "Judge Gobble seemed to view it as a potential Supreme Court test of separation of church and state. I decided it was a moral issue and refused to take it down. After all, it was only about two inches wide by four inches high. And no one had objected to Christmas decorations."

But Mrs. Fankhouser soon learned that the Christmas spirit doesn't trip happily through judicial halls in the springtime. On May 23 she received a copy of a letter written by Lloyd Macy, president of the Adams County Bar Association. Addressed to William Carpenter, judicial district administrator, it read:

"It has been brought to my attention that the reporter for the Honorable Judge Leary is displaying within the courtroom during hearings stickers of a religious nature; and that there is attached to the office door in the hallway of the Hall of Justice a certain religious symbol."

The letter explained that some members of the Bar Association felt the stickers violated constitutional separation of church

and state and that their display might even influence trials and hearings conducted in Judge Leary's courtroom. Macy urged that the practice of posting religious stickers be terminated "for the sake of judicial administration and justice."

Her decision for martyrdom made, Mrs. Fankhouser telephoned Macy and told him she had no intention of removing her stickers. "He sounded a little sheepish and said he didn't intend to pursue the matter any further," she says.



But someone did. Despite being told by Judge Leary that he had no objection to her stickers, Mrs. Fankhouser received a letter on June 3 from Carpenter informing her that "disciplinary action is being imposed on you . . . [that] will include a demotion from grade 48 step 6, to step 4, because of the serious nature of your conduct."

"This action is being taken pursuant to Rule 28 CJSRP, because of your direct insubordination in refusing to remove all religious signs, stickers, and paraphernalia from your stenograph machine, your desk in the courtroom, and your door off the hall. . . . Further, this action is being taken for your failure and refusal to comply with a lawful and reasonable order, improper use of state property, and conduct unbecoming to a state employee. . . ."

"Failure to comply with this disciplinary

action will result in future actions, suspension, or termination."

Says Mrs. Fankhouser: "They even put a note in my file saying I had said that God told me to leave the stickers on my stenograph machine and door."

"I had never said any such thing. I just said I was going to stand up for what I believed."

Mrs. Fankhouser called her union and was told that Mr. Carpenter had no authority to fire her. "They offered to take action on my behalf if I were suspended," she says.

"I read through the Colorado Judicial System Personnel Rules concerning disciplinary actions," she adds, "and I didn't find anything about posting religious stickers on your door or desk."

"I never felt I was trying to make anyone believe as I did. I was only trying to share my joy."

Whatever her reservoir of joy, Mrs. Fankhouser was notified by Mr. Carpenter that henceforth she would have less money to share; she was being docked \$125 a month for "insubordination and refusal to obey a lawful and reasonable order." The letter asked that she turn in a letter of resignation before the next Friday.

Mrs. Fankhouser was not intimidated. She told Mr. Carpenter that she was not going to resign and that she still had no intention of removing her stickers. Her pay was cut, as threatened, but nothing else happened.

In July Mrs. Fankhouser went on vacation. During her absence her outer office was turned into a storage room. Since the door wasn't hers any longer, courthouse employees removed the "Jesus" sticker.

A month after she returned, Dorothy Fankhouser was "promoted" to her former position. The stickers in the courtroom and on the stenograph machine remained, and no one ever mentioned them. When they became discolored with age, she took them off.

Sometime later another court reporter in the building posted a notice on her door about a Buddhist meeting. She was not asked to remove it. □

Anne Oxford is a pen name.

Friday

6

Bobby's dentist
8:30 A.M.
Dr. Noon's

13

pick-up Cindy's car
JOHNSON'S AUTOMOTIVE

20

ICH
dye's

27

starting at 7:00 P.M.
MENTARY
SCHOOL

Phil's Brother
in from Toronto
11:30 A.M.

pick-up Cindy's shoes

The Church's Forgotten Festival

By Gerald Wheeler

Birthdays and anniversaries help make life special. But the Sabbath is even more meaningful than these.

Joe Rinson's wedding anniversary is August 7. But he can never seem to remember that date. It just isn't convenient. It's vacation time. The garden is overgrown with zucchini and tomatoes. And it's time to start getting the kids ready to go back to school.

"How about changing our wedding anniversary to January 24?" Joe suggested to his wife one evening. "That's a slow time of year. I won't be so busy. I'm sure I'd be able to remember our anniversary then."

For some reason Joe's wife didn't think that was a good idea. "It just wouldn't be the same," she said.

Human nature compels us to set apart certain days as extra-special. We want *specific* days to commemorate events important to us—the day we were born, got married, or started a new job. (And it's just not the same if someone doesn't remember our birthday or wedding anniversary until the date has passed.) We want *special* days, special events, special places. That little French restaurant, the favorite vacation spot, a certain season of the year—all become invested with fond memories.

While they may appear frivolous, special times are vital to our well-being. They relieve monotony, bring refreshment, give value to existence.

Our desire for the special extends to religious life. The church sanctuary is a special place; beautiful church furniture and stained glass are special things; religious holy days are special times.

Many special occasions arise because something extraordinary has happened. A prime example is the Sabbath, which commemorates the creation of the world. "On the sixth day God completed all the work he had been doing, and on the seventh day he ceased from all his work. God blessed the seventh day and made it holy, because on that day he ceased from all the work he had set himself to do" (Genesis 2:2, 3, N.E.B.)*

Ironically, we who maintain that an alternative anniver-

sary date just wouldn't be the same and who feel a bit offended at a "belated" birthday card have forgotten God's special day. And more: We have forgotten even what makes it special. We offer Him, weekly, a substitute "anniversary." One must suspect that to Him, as to Joe's wife, it just isn't the same.

A special time must always stand for something important—a birthday, a wedding, a historical event, or a principle such as motherhood or patriotism. You cannot arbitrarily manufacture holidays. They must have a significant reason for being. The Sabbath, as we have noted, stands for the origin of our world and race. God inaugurated the Sabbath festival in celebration of His joy over His creation and His pleasure with His new children. A family celebrating a child's first birthday demonstrates observance not just of physical birth but also of a web of relationships. The Sabbath, as we shall see, is also a recognition and honoring of relationships.

We mark our important times on our calendars and count the days until they arrive. Before birthdays and anniversaries we drop hints, lest others forget them. Aside from mercenary motives, we don't want our loved ones to forget the meaning the occasions symbolize.

God also reminds us of His special occasion. "Remember to keep the sabbath day holy," He says. "You have six days to labour and do all your work. But the seventh day is a sabbath of the Lord your God; . . . for in six days the Lord made heaven and earth, the sea, and all that is in them, and on the seventh day he rested. Therefore the Lord blessed the sabbath day and declared it holy" (Exodus 20:8-11, N.E.B.). Our Creator called for His children to celebrate with Him. The Sabbath, a festival with the God of the universe, causes all other anniversaries and celebrations to pale beside it.

Special times symbolize what is truly vital to us. Just as a birthday not only stands for our entry into the world but is also an occasion for fellowship, shared joy, and a reaffirmation of the significance of our existence, so the Sabbath has a depth to it beyond the mere fact of creation. It too is a time of fellowship and joy—between people who share the sacred hours of the Sabbath, and between the Creator and His created beings.

Scripture declares that God blessed the Sabbath and made it holy, or "hallowed" it, as some Bible versions read. Study of the Biblical terms *bless* and *hallow* reveals that they designate God's participation in events, activities, or the lives of His people.[†] The Sabbath, as a day of God-man fellowship, strengthens relationships.

As we treasure and safeguard our special occasions, so does God. He pleaded with His people in ancient times to return from heathenism to the joy of the Sabbath. And eventually they did, only to swing to the extreme of legalism. Today business has turned many holidays into financial burdens. We are manipulated to feel that we must buy expensive gifts to please our loved ones. Similarly, in New Testament times, the Jews had transformed the Sabbath into a burdensome device by which to self-generate merit with God.

Jesus fought this travesty of the Sabbath during His life on earth (Mark 2:23-27; 3:1-5; Matthew 12:11, 12). As the early

Christians observed the Sabbath (Acts 13:13, 14, 42, 44; 14:1; 16:13; 18:4), they too had to fight distorted concepts. But many of them knew that underneath the multitude of Sabbath regulations was something wonderful.

Thus the Gospel writers, in their accounts of Jesus' life and teachings, particularly mentioned incidents where He has reminded people of the true nature of the Sabbath. Jesus was "sovereign even over the sabbath" (Mark 2:28, N.E.B.), and He had inaugurated it for humanity (verse 27), that is, for human enjoyment and benefit. Jesus not only stressed the Sabbath as a blessing that made life more enjoyable but also associated it with the gospel witness (John 5:17). As an example, He kept the Sabbath throughout His life among men (Luke 4:16; 13:10).

As we noted, a holiday or anniversary must represent something significant. An advertising man who tried to initiate "National Pamper Your Bunion Week" met dismal failure. Nobody cared. Unless an observance has real meaning or appeals to an actual need, we quickly lose enthusiasm and interest. It is impossible to turn an object or a period of time into something special unless it has some inherent attribute that we find worthwhile. It was not an inherent specialness that contributed to the development of Sunday; rather, it was a convenience for the new Christians, designed to give their movement its own identity as well as to lessen Roman persecution.

Some time after Jesus' death, early Christians had begun to meet on the first day of the week as well as on Sabbath. On Sunday morning they would celebrate Communion, listen to readings from Scripture, collect offerings, and perhaps perform baptisms. The first day of the week became a *worship* day, but not a *rest* day, as was the Sabbath—a vital distinction many scholars and historians have overlooked. Sunday was not vested with the same meaning; after the worship service, Christians went about their daily tasks. For most of the church, Sabbath remained the holy rest day.

But Sunday eventually replaced the Sabbath. Why?

The early Christians found themselves caught up in the struggle between the Roman Empire and the various ethnic groups it had conquered, including the vast, suppressed slave class. Two groups in particular put up a strong resistance—the Greeks, who had once had their own empire, and the Jews.

Since Christianity had developed within Judaism, Roman authorities did not distinguish between the two groups. At first this association was advantageous to the new Christian movement, because the Jews were allowed special privileges denied other conquered groups. But it soon became an impediment as the Jews continued to revolt throughout the empire.

Identified in the eyes of the government with a now-unpopular group, Christians found it expedient, if not necessary, to downplay certain features of their Jewish heritage. In addition, the new movement wanted an identity of its own. Consequently, some Christian leaders felt it best to shift the new church's attention from the Biblical rest day to the less controversial worship day. The Sabbath was a

Gerald Wheeler is a book editor at the Review and Herald Publishing Association in Washington, D.C.

7

Smuth's for dinner

4

21

Syndics' over for dinner

28

characteristic feature of Judaism that Roman authors often satirized, and thus one that some Christians decided must go.

But the need to distinguish Christianity from Jewish nationalism did not automatically make Sunday popular. Sunday did not have the special depth and meaning, the sacredness, the social and emotional values, that the Sabbath had. Theologians, therefore, needed to come up with additional significance for Sunday. A natural suggestion was that it commemorated Christ's resurrection, though Christianity already had a partial memorial for the crucifixion in the Lord's Supper (1 Corinthians 11:23-26).

Other Sabbath opponents tried to downgrade the rest day with ridicule. Some Christians advocated fasting on the Sabbath, because the Jews stressed it as a day on which to enjoy special meals. When such measures did not work as well as planned, leaders in the Western church turned increasingly to the use of civil authority, initiating a long line of Sunday laws.

A number of Christian thinkers, recognizing that Sunday does not often grip Christians strongly, have tried to enforce it with the fourth commandment and other Sabbath injunctions—a misuse of Scripture that creates a theological time bomb. The Sunday worship day and the Sabbath rest experience are simply not the same thing. We cannot transform a birthday into a wedding anniversary; we cannot turn Sunday into Sabbath.

Walt Disney's adaptation of Lewis Carroll's *Alice's Adventures in Wonderland* has the White Rabbit and the Mad Hatter turning their tea party into an unbirthday party. Carroll's characters point out that while we have only one birthday a year, every other day is an unbirthday. Yet a little thought quickly reminds us that no unbirthday can ever mean as much to us as one real birthday. In the same way a substitute can never fulfill and satisfy us as the Biblical Sabbath can. The church cannot know what it has lost until it rediscovers the true Biblical Sabbath and its joyous celebration.

This rediscovery will remind us that God made man more than just a biological creature, more than just another animal among the rest. Life is not just a matter of survival. Through the blur of our days, the Sabbath flashes on the screen, reminding us that we must never become slaves to the struggle for existence, simply human things competing for material things. The Sabbath calls for, and gives us, opportunity to recharge both our physical and spiritual natures—in reality, to be the children of our heavenly Father. The Sabbath celebration is not something artificially contrived like Joe Rinson's January anniversary, but rather it meets a God-implanted need.

Birthdays, anniversaries, and holidays do give life added meaning. But none can possibly compare with the Sabbath, the church's forgotten festival. ☐

* Texts credited to N.E.B. are from *The New English Bible*. © The Delegates of the Oxford University Press and the Syndics of the Cambridge University Press 1961, 1970. Reprinted by permission.

† Space does not permit us to explore this. A number of scholars have studied this aspect, however. Those interested might consult two books by Niels-Erik Andreasen: *The Christian Use of Time* (Nashville: Abingdon, 1978) and *Rest and Redemption* (Berrien Springs, Mich.: Andrews University Press, 1978).

International

Mother Denied Custody After Change of Religion

BUENOS AIRES, Argentina—A civil court has granted a father custody of his two young daughters because their mother tried to convert them to the Jehovah's Witnesses faith.

Although names have not been published, it is known that the father is an army officer, and that the ruling military government keeps close tabs on the Jehovah's Witnesses sect.

The couple was married in the Catholic Church and the daughters baptized in the Catholic faith. When the mother later became a Jehovah's Witness the father initiated a divorce suit, seeking custody of the two girls, aged 11 and 12, on the grounds that the mother's change of religion violated the original marriage contract.

The mother contested the suit, petitioning the court for custody of her daughters, whom she wished to bring up in her new faith. Ruling against the mother, the court said that the married couple, as Catholics, had assumed the obligation to educate their children in the Catholic faith. The court stated that it was "illegal" for one of the parties to the marriage contract to decide "unilaterally" to educate the children in a religion other than that which both accepted at the time of the marriage.

The court concluded: "The wife's attitude is a grave enough cause to grant custody [of the two daughters] to the husband. And this is the case, not because the Catholic religion is the true one—that is not the question at issue—but precisely because Catholicism was the religion of both parents, and the children were educated in it until a short time ago."

Zimbabwe Official Criticizes Missionary Track Record

GWELO, Zimbabwe—A municipal official told a church conference in Gwelo that "by and large the track record of Christian missionaries in Zimbabwe is not all that impressive and clean."

Gwelo deputy mayor Mabassa Chipandambira made the statement in an opening address to a conference of the Churches of Christ in Zimbabwe. He asserted that "Christian missionaries allowed themselves to be diverted from the original objective. They pitched up with a pious face, wielding a large Bible in one hand and

the colonialist's political propaganda pamphlet in the other."

Councilor Chipandambira further maintained that "the Christian missionary played the dirty and nauseating role of paving the way for colonialism and imperialism." He said it was "dangerous and dubious to be a Christian."

Explaining his own viewpoint, the municipal official told the church convention, "By denomination I am a Catholic and lay preacher, by profession I am a teacher, and by ideology I am a devout and deep-rooted socialist."

Schools Urged to Organize by Language, Not Religion

MONTREAL, Canada—A reorganization of the Quebec public school system along linguistic rather than religious lines may become a reality if the recommendations of the Superior Council of Education are enacted.

The council, chief advisor to the provincial department of education, has proposed that the religious character of Catholic and Protestant school boards throughout the province be retained. But the schools themselves should be structured along language lines—basically English and French.

The province has been looking for ways to cut costs and develop nonreligious schools for the growing number of immigrants who are neither Catholic nor Protestant. One suggestion has been to scrap religion-based school boards and create regional authorities to administer Catholic, Protestant, and nondenominational schools.

Under the British North America Act, Canada's constitution, the public school system in Quebec Province guarantees education only along religious lines. The result is that students must attend either Catholic or Protestant schools. Attempts over the years to develop other systems have always been squashed by the courts.

The council says Quebec can achieve its aim with less social and legal difficulty by encouraging each community to play a stronger role in determining the nature of its schools. It suggested three types of schools: separate Catholic and Protestant schools as they exist today, schools that house both Catholics and Protestants in the same building, and nondenominational schools.

The council noted that as long as the school boards, church authorities, and government raise no objection, individual communities should be able to transform their schools in the ways they want without problems.

The council also noted that its studies

show that parents no longer hold religious instruction as a primary need for their children. Rather, the survey showed, they feel that a quality education is of more value to their children's future. Religious and moral training comes second in parents' minds, followed by a teaching of respect for the rights and liberties of others.

Buddhist-Hindu Clashes Lead to State of Emergency

COLOMBO, Sri Lanka—A renewed communal violence between Sri Lanka's Buddhist Sinhalese and Hindu Tamils has led to a declaration of a nationwide state of emergency.

The historically strained relations between the Indian Ocean island republic's majority Sinhalese and minority Tamils have worsened since rioting broke out in the town of Ratnapura, 40 miles southeast of Colombo, then spread to several Colombo suburbs and Negombo, the government's free-trade zone 20 miles north of the capital. The wave of violence, a government spokesman said, included 196 incidents of arson and 35 of looting, exchanges of gunfire with police, and at least 7 deaths.

Sri Lanka, the former Ceylon, a tear-shaped island off the southeast coast of India, has a population of 14.5 million. About 67 percent are Buddhists; 18 percent Hindus. Christians, mostly Roman Catholics, constitute 7.7 percent of the total; Moslems, 7.2 percent.

Tamil partisans maintain that their Hindu ancestors came to Ceylon from Southern India long before the progenitors of the Buddhist Sinhalese—from Northern India—arrived. Tamils enjoyed educational and other preferences under the British, who occupied the island in 1796. The Sinhalese say that the minority Tamils were disproportionately represented in government service and other desirable occupations under the British.

Efforts by the Sinhalese following independence in 1948 to reduce what they said were disparities, alienated the Tamils, who have strongly resented the Sinhalese-dominated government's advancement of Buddhism. Tamils have been further upset by the adoption of Sinhalese as the country's official language.

Mail-order Church Sued in Bigamy Case

GREENSBORO, North Carolina—Sandra Lynch has filed a lawsuit against the California-based Universal Life Church, Inc., seeking \$1.25 million in damage for severe mental anguish suffered in her

"unlawful cohabitation unsanctioned by law."

In December, 1980, the North Carolina Supreme Court had ruled that mail-order ministers ordained by the Universal Life Church are not legally authorized to perform marriage ceremonies in the state.

That ruling came as a result of a bigamy suit instigated by Mrs. Lynch after her husband left her in 1977 and married another woman. The Lynches had been married by a Universal Life minister, and Mr. Lynch contended that he had never been legally married to his first wife because the minister was not legally authorized to perform marriages.

In her suit against the church, Mrs. Lynch is arguing that the organization was negligent in failing to check the laws of North Carolina and other states before issuing its ordination certificates.

Official Road Map Replaces Prayer With Safety Message

RALEIGH, North Carolina—The state's latest official road map will carry a safety message instead of a prayer, in compliance with a U.S. Supreme Court ruling that the prayer was unconstitutional.

"We hope as you take the wheel of your car that you will have a safe passage throughout your travels," says the safety message on the 1982 state map. "Use a steady hand and a quick eye to protect others from harm. Be guided to your destination through darkness and light, sunshine and shower, with the confidence and knowledge that our good wishes go with you."

The prayer that had appeared for several years on earlier maps had petitioned in similar words: "Our heavenly Father, we ask this day a particular blessing as we take the wheel of our car. . . . Steady our hands and quicken our eye that we may never take another's life; guide us to our destination safely, confident in the knowledge that Thy blessings go with us through darkness and light, sunshine and shower, forever and ever. Amen."

Maine Demands Compliance of Christian Schools

AUGUSTA, Maine—Having spent months shoring up its legal position, the State of Maine will again try to convince Christian schools to submit to state approval and teacher certification.

The fundamentalist schools, citing the constitutional guarantee of separation of church and state, will continue to oppose this, says Pastor Herman C. Frankland, of Bangor.

Last year the 30-member Maine Association of Christian Schools refused to apply for state approval of its curriculum. The state did not press the issue because "we were in the process of checking our statutory basis," says Education Commissioner Harold Reynolds, Jr.

Frankland says the Christian schools "don't teach biology like anyone else. We don't teach history like anyone else. Therefore, we don't feel that our teachers should be mandated every three or four years to get teacher training."

Reynolds argues that the state has a legal obligation to supervise education being provided to people in Maine. He says he is not interested in the religious composition of the curriculum.

Sister Mary Gemma, of the Roman Catholic Diocese of Portland, says, "State officials guide us; they help us, but they don't interfere."

Ten Commandments Circumvent Courts on Notebook Covers

LOUISVILLE, Kentucky—Defeated by the courts in their efforts to get the Ten Commandments posted in public school classrooms, fundamentalist forces have come up with a new method to get the commandments before students.

Bill Murray—son of the atheist activist Madalyn Murray O'Hair—and Evangelist Cecil Todd, of Joplin, Missouri, unveiled their plan recently, saying they believe it would "circumvent" the courts. Murray

and Todd said they were printing the Ten Commandments and the Lord's Prayer on the front and back covers of folders for student notes. The folders are being offered at no charge to students through Mr. Todd's Revival Fires television ministry.

Murray, who embraced fundamentalist Protestantism after holding a post in his mother's American Atheist Association, was named as plaintiff in the lawsuit that resulted in the U.S. Supreme Court's 1963 ban on state-prescribed prayer and Bible-reading in public schools.

"It's a program we think can circumvent the courts and cause no problems with schools or legislative bodies," Todd said. "Because the notebook will be the personal property of each student, there will be no problem of the High Court's ruling or infractions upon the issue of separation of church and state."

Last April some church leaders called a school boycott in Bullitt County, Kentucky, after the local school board voted to remove plaques bearing the Ten Commandments from county classrooms. During the boycott, many students wore T-shirts with the Commandments printed on them.

Murray said the T-shirts were a good idea, but the folders are more practical. "You wear a T-shirt one day and then you have to wash it," he said. "With the notebooks, the kids will bring them to school every day. I think they will be the subject of conversation in schools. I think it will give the Christian kids the opportunity to invite others to go to church with them."



Bill Murray with mother Madalyn Murray O'Hair in 1962.

Letters



More Gospel

While I applaud the fact that *LIBERTY* featured a story on religion in the U.S.S.R. and Western radio stations broadcasting Christian programs into the Soviet Union (which, by the way, I mentioned in my latest broadcast), I was perplexed to find that you also published an abbreviated 1975 Keston College survey on Western shortwave Christian radiobroadcasts into Communist countries.

Many things have changed during the past six years in the field of Western shortwave religious broadcasting. For example, the comparison chart of hours of broadcasts devoted to Christian programs lists the time for Voice of America as "unknown; but regular talks by Archbishop John of San Francisco."

Let it be known that for the past four years Voice of America's Russian Service has been airing two and one-half hours of Christian programming weekly.

VICTOR S. POTAPOV
Russian Language Religious Program
Voice of America
Washington, D.C.

Thank you for the very interesting and informative article "The Gospel From the West." The table on the next page is also very interesting. It is too bad that Trans-

World Radio was not listed in watts like the rest of the stations instead of kw and mw, which are not universally known.

There is one unfortunate error. Under station Radio Trans-Europe (RTE), Adventist World Radio (AWR) has a listing of "45m(?)" for hours per week broadcast. For the past ten years AWR has had at least two hours per week in Russian. For more than a year that has been increased to three and one-half hours per week, although it is temporarily back to two hours per week now. There is interest in increasing this to several hours per day.

It is unfortunate that AWR is associated in the photo on page 31 only with this very small operation instead of with the very large transmitters and antennas used by RTE. One might come up with the idea that this little "peanut whistle" (located in Guatemala) transmits forty-five minutes to Russia, and that the question mark might indicate that it probably is not receivable there. RTE has first-class coverage of Europe and Western Asia and is often heard clear into Australia.

GORDON E. SIMKIN
Propagation Director
Adventist World Radio
Enterprise, Kansas

I was stung by Jane Ellis' comments on "The Gospel From the West" (July-August, 1981). Since so much U.S. Christian broadcasting today consists of platitudes and clichés it is little wonder that our foreign Christian radio efforts would reflect anything different.

KNIS is a noncommercial Christian station serving Reno, Carson City, and Lake Tahoe, Nevada, and our audience research shows that only one-half of 1 percent of the population supports this station. Other Christian broadcasters have researched their markets and found that less than 5 percent of "evangelical church-going Christians" listen to Christian radio at any time. Even with these dismal percentages, there is apparently still enough money coming in to sustain these programs perpetually, some of which have remained unchanged for twenty years or more.

Unless we carefully survey our market-places and adjust our programming accordingly, we, as a whole, are going to miss some outstanding opportunities in broadcasting the gospel of our Lord Jesus Christ both at home and abroad.

Perhaps what we really need is for the Russian Christians to be broadcasting to us!

TOM HESSE
General Manager
KNIS Radio
Carson City, Nevada

Religious Radio in Cuba

I found "The Gospel According to Radio Moscow" (July-August, 1981) fascinating. During my imprisonment last year with Seventh-day Adventist pastors in Havana, we had a small hidden radio for a time. Cuba also jams religious broadcasts.

While there I learned that the Seventh-day Adventist Church is the fastest-growing body of believers in Cuba today. Their Christlike boldness and love make them a blessing to the hungry and a "curse" to the authorities.

TOM WHITE
Glendale, California

[Tom White is the author of *Missiles Over Cuba*, the story of spreading the gospel behind the "sugar cane curtain."—Eds.]

Impressions

Having just seen my first issue of *LIBERTY*, may I share with you my first impressions? Quite frankly, it was difficult for me to know whether this (September-October, 1981, issue) was a sincere attempt at Christian liberty or an attempt to satirize the Christian Moral Majority.

From the cover to the inside illustrations I saw the same provocation that is used to attract and sell pornographic literature, but with a "Christian" theme. I hope others who see the magazine will take the time to consider the context to determine the sincerity behind the image. If your purpose was to revolt the reader by giving him or her a taste of the very things you were discussing in the articles, you were successful. Some might conclude that Christians are getting their kicks under the guise of being informed—too much like the Maryland Censorship Board in your article "The Clown."

My own opinion is that goodness can be appreciated and aspired to without the comparison with a backdrop of evil. I will look for movies, and magazines, that set that standard before me, and the body of Christ made one.

LaQUITA SMALLWOOD
Malibu, California

Labor Unions and Politics

Bruce Cameron ("Labor Unions and Rights of Conscience," May-June, 1981) leaves the mistaken implication that union dues are used for political campaigns. Not so! That is illegal.

Many labor unions have auxiliary political action committees (PACs) with purely optional membership for such purposes. No

one is forced to join.

Employees withholding union dues or representation fees, claiming they don't want their dollars going to political goals, have no valid argument. Indeed most of those persons use the issue as a scapegoat. They are uncharitable individuals looking out for number one. Yet they want the same hard-won rights and benefits negotiated by their organized colleagues. Pity their rights of conscience.

JAMES H. SHEA
Tacoma, Washington

A Reply

Mr. Shea's comments are both right and wrong. Right, it is illegal for unions to make direct monetary contributions to political campaigns. But through indirect services, millions of dollars in dues money paid involuntarily by workers are used indirectly in "in kind" political services on behalf of candidates. Some published estimates of this indirect aid run as high as \$100 million. Seems like that's enough money to form a valid argument.

Shea unjustifiably lumps the rights of conscience for religious reasons with objections to political activities. He is not alone in his disdain for rights of conscience in our land of liberty. Many individuals with religious conscientious convictions that prevent them from joining or financially supporting labor unions have lost their jobs. Some of these individuals have, through Equal Employment Opportunity Commission complaints, entered legal action to determine whether or not the rights of conscience still have a valid place in our society.

To date, not only have the courts supported religious conscientious objectors but Congress also has agreed, revising Section 19 of the Labor-Management Relations Act to prevent them from being trampled on by those who have no "pity for rights of conscience."—Gordon Engen, Associate Editor.

No Fair Hearing

Judith Tarr Harding ("No Fair Hearing," July-August, 1981) carefully points out some foibles of the scientific community without mentioning any that might be lurking in a creationist's closet.* While you'll get no rebuttal from me on the role of power in stifling ideas, or on how too much power can solidify into dogmatism, the issue of indeterminacy is the author's opinion. Many scientists likely feel the issue has been decided. Also, her definition

of science could be applied to religion—an interesting relationship, I think.

Finally, to Harding, the great enemy seems to be the dread humanists, whom she quotes extensively. I don't recall anyone appointing these humanists the bosses of science. I've never met a humanist and seen very few of them on TV, yet Harding acts as if there were one under every bed.

The evolution-Creation debate won't be settled by her article or my letter, yet your publication of her article betrays your bias. It's noteworthy that the Magazine of Religious Freedom concerns itself with creationism, which goes to great lengths to divorce itself from its religious origins, while trying so hard to prove mankind's.

JOHN OSTAPKOVICH
Sylvania, Ohio

***[We hauled those creationist foibles out of the closet in the March-April, 1979, issue of LIBERTY.—Eds.]**

Which Is the Real Beaver Island?

Barb Mraz ("Island King," July-August, 1981) states that "in 1847 Beaver Island consisted of several hundred thousand acres of uncultivated forest dotted with many beautiful lakes."

Would you believe 35,000 acres and eight lakes? What happened to the rest of the island?

LEONARD J. WINE, ESQ.
Farmington Hills, Michigan

[In 1933 it was moved to Manhattan as landfill by the WPA.—Eds.]

On Church and State

Both liberals and conservatives have lately had a lot to say about the involvement of Christians aboard the ship of state. Probably both have missed the boat.

Christianity teaches that the initiation of force against one's neighbor is sinful. Government is essentially an agent of force. Thus Christian government cannot initiate force; it can rightfully use force only to protect the rights of the individual: to protect him from force initiated by others, to protect his life and property.

Christians—as Christians—should be involved in government, but should use government exclusively as a negative factor, that is, to negate force and not to force "good." Government should leave the peaceful man alone. (See 1 Timothy 2:2.)

Unfortunately, both liberals and conservatives have frequently rendered unto Caesar the things that are God's. They have sought to initiate force by way of government, forgetting that "good works" are not

really good when accomplished by coercive means.

The Lord's service is perfect freedom. Fishers of men had better not miss the boat!

GREG N. RIPPS
San Antonio, Texas

Statement of Ownership, Management, and Circulation of LIBERTY, published and printed bimonthly at 6856 Eastern Avenue N.W., Washington, D.C. 20012.

The names and addresses of the publisher, editor, and managing editor are: Publisher: Review and Herald Publishing Association, 6856 Eastern Avenue N.W., Washington, D.C. 20012; Editor: Roland R. Hegstad, 6840 Eastern Avenue N.W., Washington, D.C. 20012; Managing Editor: None. The owner is the General Conference of Seventh-day Adventists, 6840 Eastern Avenue N.W., Washington, D.C. 20012, a nonprofit, charitable corporation. There are no bondholders, mortgages, or other security holders owning or holding one percent or more of total amount of bonds, mortgages, or other securities.

| | Average No. Copies Each Issue During Preceding 12 Months | Single Issue Nearest to Filing Date |
|--|---|---|
| Total number copies printed | 444,480 | 412,000 |
| Paid circulation through dealers, etc. | None | None |
| Mail subscriptions | 437,384 | 403,212 |
| Total paid circulation | 437,384 | 403,212 |
| Free distribution | 880 | 799 |

I certify that the statements made by me above are correct and complete.

ROBERT S. SMITH, Circulation Manager

Moving?

Please notify us 4 weeks in advance.

Name _____

Address (new, if for change of address) _____

City _____ State _____ Zip _____

To subscribe to LIBERTY check rate below and fill in your name and address above. Payment must accompany order.

☐ 1 year \$4.25

Mail to:
LIBERTY subscriptions, 6856 Eastern Ave., NW, Washington, D.C. 20012.

ATTACH LABEL HERE for address change or inquiry. If moving, list new address above. Note: your subscription expiration date (issue, year) is given at upper right of label. Example: 0382L1 would end with third (May-June) issue of 1982.

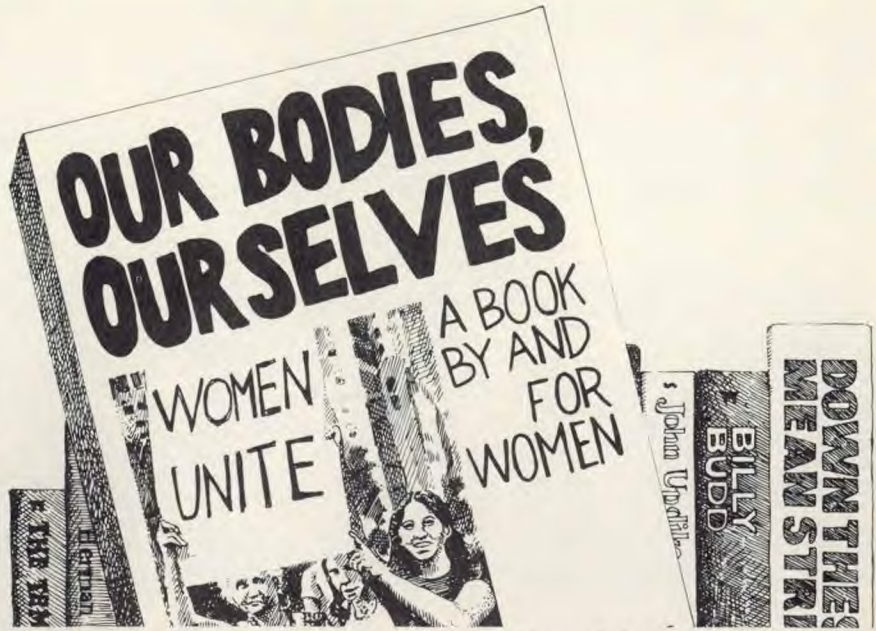
Perspective

More Bodies—More Letters?

"More Bodies" (see page 6) likely will bring more letters telling me that *LIBERTY* is becoming too much like the men's magazines—this observation made, in most cases, by those who purport not to have observed them. Half a dozen readers (all from *LIBERTY*'s conservative constituency) wrote to express their concern over the September-October cover, which revealed less than does the most modest bathing suit. It is a problem at times to edit a magazine for "sinners" that receives much of its financial support from the "saints."

The problem posed by *Our Bodies, Ourselves*, the sex manual for women I review in "More Bodies," is how much to quote from it. Simply to assert that the book advocates extramarital sex, lesbianism, and, at least by implication, bestiality, certainly would not pack as much punch as a few pungent lines from the book itself. But to quote too much may offend.

To a degree I *want* to offend. I want to



offend because *Our Bodies, Ourselves* is on library shelves in high schools—and even, as in the Swanville, Maine, school district, in junior high schools. The book is not legally obscene (see page 8). But I believe that in all but a few communities across the country it would be regarded as obscene or at least as immoral.

Yes, you can write me if my article offends you. But I'd like you to go beyond that reaction. Go to your local high school and find whether *Our Bodies, Ourselves* is

on its library shelves. If you'd like, verify the quotations I've used. (You may wish to read a bit of what I've *not* quoted in *LIBERTY*, but remember, I wanted only to offend you, not to make you sick to your stomach.)

On your way out, read the conclusion of my article to the school principal—and, if there is need, to the school board. They need to get the message while there is still a public school in your neighborhood.—
R. R. H.

FEATURES

| | | |
|-------------------------------------|-----------------------|----|
| Academic Freedom: Are There Limits? | William G. Johnsson | 2 |
| Our Bodies, Ourselves | Eric E. Wiggin | 5 |
| More Bodies | Roland R. Hegstad | 6 |
| Obscenity: Three Cases | Franklin C. Salisbury | 8 |
| Church and State in the High Court | Stan L. Haste | 12 |
| Thoughts on a German Baptism | Catherine Damato | 14 |
| The Amish Tradition | John A. Hostetler | 15 |
| Gentlemen of the Jury | Godfrey Lehman | 20 |
| Jesus in the Courthouse | Anne Oxford | 23 |
| The Church's Forgotten Festival | Gerald Wheeler | 24 |

STAFF

| |
|--|
| Roland R. Hegstad—Editor |
| B. B. Beach, Gordon Engen, John N. Morgan, Gary M. Ross—Associate Editors |
| Debra Gainer Nelson—Editorial Associate |
| Harry Knox and Associates—Layout and Design |
| Lowell L. Bock, Theodore Carcich, Alf Lohne, Neal C. Wilson—Consulting Editors |
| Robert Smith—Circulation |
| Robert W. Nixon—Legal Advisor |
| Edmund M. Peterson—Marketing |

DEPARTMENTS

International 27 Letters 29 Perspective 31

LIBERTY is a publication of the Religious Liberty Association of America and the Seventh-day Adventist Church, published and copyrighted © 1981 The Review and Herald Publishing Association. All rights reserved. Reproduction in whole or in part by permission only. The Religious Liberty Association of America was organized in 1889 by the Seventh-day Adventist Church. Dedicated to the preservation of religious freedom, the association advocates no political or economic theories. President, Neal C. Wilson; general director, B. B. Beach; associate directors, Gordon Engen, Roland R. Hegstad, John N. Morgan, Gary M. Ross. *LIBERTY* correspondence only: Please send to *LIBERTY*, 6840 Eastern Avenue NW., Washington, D.C. 20012. Address corrections only: Please send to *LIBERTY*, 6856 Eastern Avenue NW., Washington, D.C. 20012.

FRAME IT



Harry Anderson's famous *Prince of Peace* painting is, perhaps, his most popular work. It presents a powerful but tasteful message for office, den or study. Available in a 16" by 22" poster suitable for framing, it makes a thoughtful gift for only \$2.00.

Posters
6840 Eastern Ave., N.W.
Washington, D. C. 20012

Please send me, postage paid:

_____ 16" x 22" poster(s) at \$2.00 each

Total enclosed (No C.O.D.) \$ _____

Name _____

Address _____

_____ Zip _____

Painting © Review and Herald.