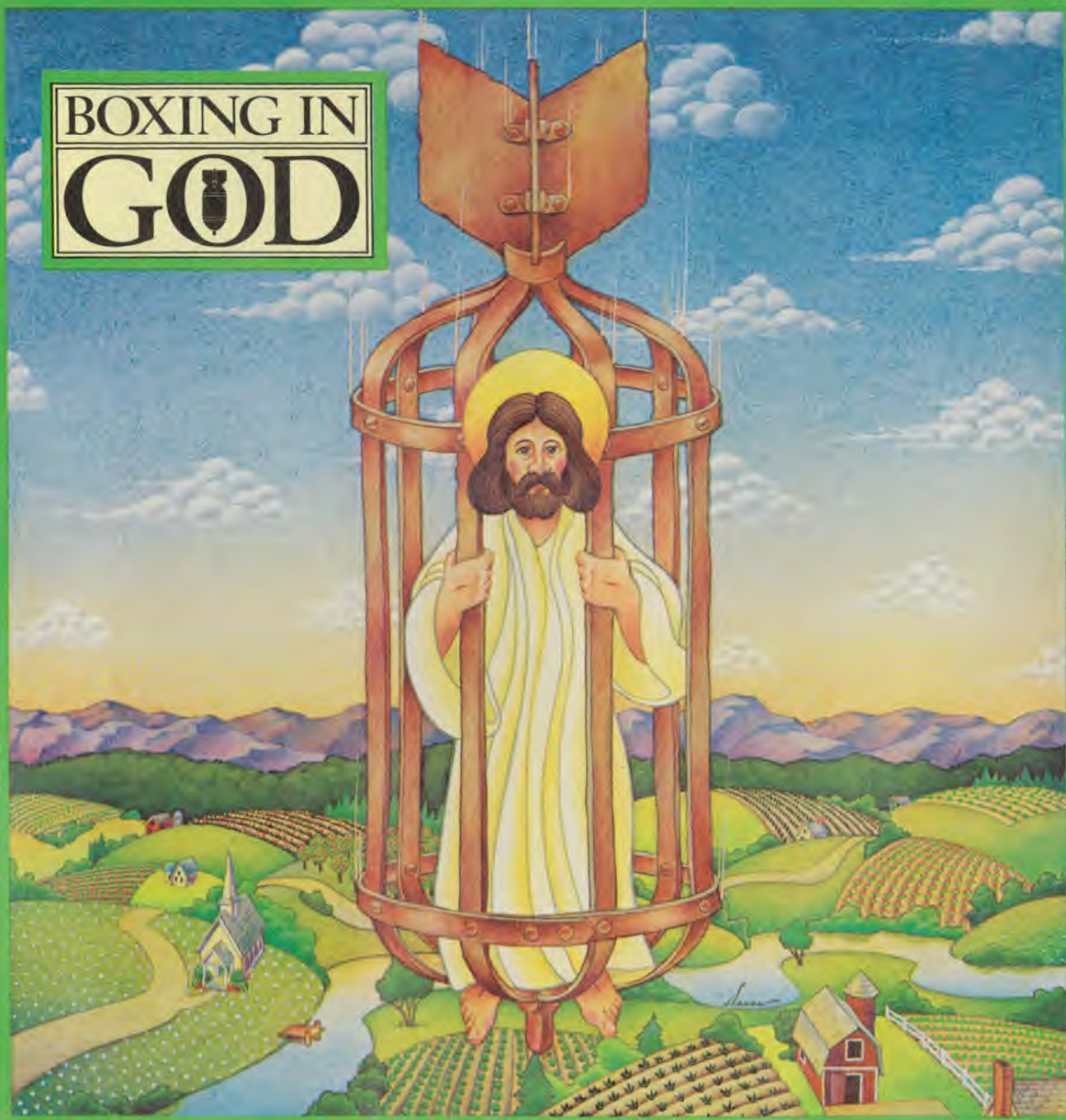


Liberty

78, NO. 1, JANUARY-FEBRUARY, 1983

A MAGAZINE OF RELIGIOUS FREEDOM

BOXING IN GOD



BOXING IN GOD

★★★★★

*Does wearing flags and
"Jesus Saves" pins obligate God to our
concept of national destiny?*

Description:

MEGAFORCE DEVICE

COMMISSIONED FOR U.S. ARMY ORDNANCE

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U.S. ARMY

One has to look no further than the daily newspaper to find that modern man insists on identifying God with national interests. Items:

☛☛☛ Their heads wrapped in red bandannas inscribed with religious slogans, Iran's Revolutionary Guards, some little more than children, have died by the thousands as they swarmed against Iraqi lines. Captured youth say they were assured Allah would open the way for them to enter the important Iraqi oil center at Basra.

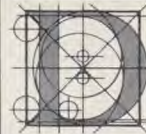
✝✝✝ Jet pilots of the Argentine squadron that sank the British destroyer Coventry flew into battle repeating the rosary into the open microphones of their radios. Earlier, Father Augustín Luchía Puig, editor of the Roman Catholic magazine *Esquíú*, declared that "all Argentines, in church and out, believe our cause is just. I think that the good God is content with this faith of ours."

☛☛☛ Israeli leader Menachem Begin (who has been known to invoke the name of God in achieving his nation's territorial goals) has done the free world a favor by purging it of "those terrorists" in Lebanon, and "we should let him finish the job in Beirut," Jerry Falwell told an audience in Murfreesboro, Tennessee, recently.

The Moral Majority leader told the homecoming conference of the Sword of the Lord, a fundamentalist religious organization, that the United States was committed to protect the Jewish people and that "we had best stay that way." God may save America, despite its spiritual shortcomings, partly because "there is no one else to protect the Jews, the 'apple of . . . [God's] eye,'" said Falwell.

Is the Lion of Judah really so tame as to jump at the crack of our whips? Will He jump into a box at our bidding? Step back across the millenniums to Palestine for the answer. For there, they say, God inhabited a box . . .

BY GERALD WHEELER



Dust hung in the hot Palestinian air as the sprawling procession wound down the hillside. Pulsating music mingled with the tread of feet, the squealing of wooden axles, and the occasional lowing of the cattle that pulled the newly made cart.

The clumsy conveyance swayed precariously. David, king of the united tribes of Israel, had come from Jerusalem to take the sacred ark—the ornate chest containing the Ten Commandments engraved on stone—from the home of Abinadab to his new capital. Abinadab's sons Ahio and Uzzah would drive the cart from their father's home to Jerusalem.

Slowly the milling mob followed the cart and its cargo. Led by their king, they sang songs accompanied by lyres and tambourines and other instruments. But as the vehicle approached the threshing floor of Nacon, the oxen stumbled. As they dropped to their knees, the cart tilted and the ark began to slide. Instinctively Uzzah reached out to steady it. A puzzled expression on his face gave way to the ashen appearance of death. Gasps and wails of horror surged through the column as people realized what

had happened.

The death of Uzzah is one of the baffling incidents of the Bible. What kind of God strikes a person dead for protecting a sacred object from damage? Was the God of the Israelites short-tempered and arbitrary? Did His wrath strike out at the slightest provocation? And do such incidents of ancient times have any relevance for us today?

Uzzah died because he did what many of us—including whole nations—do today with God: put Him in a box.

To understand the significance of Uzzah's death, we must examine the chain of events that led to the ark's jolting ride. The ark, of course, was the central object of early Israel's place of worship, the tabernacle.

The box of acacia was overlaid inside and out with gold. On the solid gold lid stood two golden cherubims, one at each end. Inside the ark rested the Ten Commandments. At times the Lord Himself was manifested between the two cherubims (Numbers 7:89; Exodus 25:22).

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During Israel's journey from Mount Sinai toward Canaan the ark "went before them" (Numbers 10:33), the vanguard of the Hebrew migration. When the people crossed the Jordan, the priests stood with it in the middle of the riverbed until the tribes had gone over to the other side (Joshua 4:9-11). And before the conquest of Jericho, the priests carried the ark around the city (chapter 6:1-20).

The Hebrews settled in Palestine and gradually adopted the religious concepts of the Canaanites around them. The ark began to be looked on as a cult object like those belonging to their neighbors. It assumed magical properties. As long as they possessed it, the Israelite tribes reasoned, they would be safe.

Israel's neighbors worshiped a variety of idols. One attractive thing about idolatry is that the worshiper controls his god. He can pick it up and carry it wherever he needs it, lock it up in a temple or shrine whenever he feels uncomfortable in its presence, and then haul it out the next time he desires its services. The god may rule, but it can be manipulated. As long as the worshiper has his god or his cult objects in his possession, he is protected.

The Israelites began to view the ark in a similar manner. Since they had it, they assumed, the Lord was obligated to be with them. And with Him on their side, they were assured of success. The Hebrew military chaplains had a powerful weapon in their employ.

The Philistines, who had migrated into the coastal areas of Palestine from Crete, began to push their conquests inland. The Israelite tribal confederacy fought them without success. As the Hebrew leaders discussed the reason for their defeat, one of them suggested, "'Let us bring the ark of the covenant of the Lord here from Shiloh, that he [God] may come among us and save us from the power of our enemies'" (1 Samuel 4:3).*

Their concept of God now was little different from that of their pagan neighbors. They were boxing up the Lord of the universe, trying to trap Him in a wood-and-gold container that they could haul to wherever they needed Him. As long as Israel had the ark, God had to be on their side.

Unfortunately, it did not work out as they expected. Instead the Philistines captured the sacred ark (verses 10, 11). Eventually they returned it to the Israelites (chapter 6:1-16). But the latter still thought their God was in the box. The Canaanites could go

into their temples and look at their cult objects. Why couldn't the Israelites peek into the ark? The men of Beth-shemesh did—and died (verse 19). "'Who is able to stand before the Lord, this holy God?' " (verse 20) the rest of the village's inhabitants asked themselves.

They sensed that God was not like the deities with whom they had become so familiar. But what the differences were, they could not define. The men of Kiriath-jearim came and took the ark to the house of Abinadab. There it remained for 20 years (chapter 7:1, 2).

Uzzah had spent at least part of those two decades in the presence of the ark. Unfortunately, we often lose our awe and even respect for the too familiar. The ark was a token of the mighty God of the universe, but to at least some of Abinadab's household it became just another box.

When David announced that he wanted to take the ark to Jerusalem, Abinadab's household prepared it for shipment. However, they either forgot or ignored the special instructions God had long before given for the moving of the ark. The ark was not supposed to be moved on a cart; instead, Levites were to carry it on poles inserted through gold rings at the corners of the bottom of the ark (see Numbers 3:29-31; 4:5-15; Joshua 3:3).

God wanted the Israelites to treat the ark with respect not because it had magical properties (the Lord was not the box or in the box), but because of the divine presence it represented. But those who had grown up around the ark had lost their special sense of the sacred Being that the object stood for.

God had to convince them in a striking way that He would not be manipulated or treated casually.

Uzzah's death may seem cruel to us today. But then, shock treatment—no matter how much it is needed—usually does.

Later, when Solomon dedicated the first Temple, he tried to warn his people that no one could box in God. "'Behold, heaven and the highest heaven cannot contain thee,'" he declared; "'how much less this house which I have built!'" (1 Kings 8:27). The Lord of the universe was not bound to a building any more than He had been to a box.

Clay tablets excavated at a site on the Syrian coast known as Ras Shamra indicate that the Canaanites thought a god had no authority unless man provided a temple for his house or palace.* Man thus had great control over his god, who was bound to serve him or who could be locked away if its

owner became uncomfortable in its presence.

Sad to say, Israel did not learn its lesson about boxing God in. They soon thought they had Him trapped in the Temple. As long as they had the Temple, Jerusalem was safe from all invaders. Warned Jeremiah, "'Do not trust in these deceptive words: 'This is the temple of the Lord, the temple of the Lord, the temple of the Lord'" (Jeremiah 7:4).

Keeping the ark at Shiloh had not protected that town from destruction, he reminded them (verse 12). God does not come on a leash.

In his classic set of children's religious books, the Narnia series, C. S. Lewis portrays Christ through the symbol of a lion, Aslan. Lewis' characters learn that Aslan is not tame. They cannot play with Him as they would with a house cat. He has "terrible paws," and He doesn't always "velvet" them. Aslan, not the characters of the book, is in charge.

We too, often in most subtle ways, try to manipulate or bind God. Consider the following boxes that modern man—both individually and collectively—tries to stuff Him into.

Some *command* God to act—rather than pray to know and follow His will. To pray in such a manner is to imitate the priests of the Canaanite god Baal, whom Elijah confronted on Carmel. God cannot be ordered about, bribed, cajoled, or put on exhibition at a healing ceremony. We cannot force Him. Nor can we make deals with Him out of desperation, promising this or that if He will only save us. The Lion of Judah does not jump at the crack of our whips.

Some seek to lock God into theologies that stipulate how He must act—theologies that ignore His own revelations or that take away His freedom to act as He sees best. The British theologian D. S. Russell has wondered whether military officers who believe that God will destroy Russia during the last days might be tempted to push the launch buttons to help the Lord along.

Like the ancient Israelites, we identify national interests with those of God. We make the Lord into some sort of superpatriot. We carry Him into battle as the Hebrews did the ark. Our missiles and bombs bear the message "In God We Trust." But wearing flags and "Jesus Saves" pins does not obligate Him to our concept of national destiny. He will not be wrapped in a flag or other political symbol.

The list of boxes into which we place our God is endless. Our arks may be disguised as broadcasting studios or space exhibits. They may even be government edifices. But the Lion of Judah breaks out of every cage.

* Scripture quotations in this article are from the Revised Standard Version of the Bible, copyrighted 1946, 1952 © 1971, 1973.

* Helmer Ringgren, *Religion of the Ancient Near East* (Philadelphia: Westminster Press, 1973), p. 160.



"YOU NEVER HEAR THE ONE THAT GETS YOU"



BY RUSSELL W. CUMLEY

For a while in the command post there had been only brothers, stripped of hate and meanness.



Just after dark on Christmas Eve, 1944, Capt. Charles Fenton and Sgt. Leonard Dick, members of a Fifth Army intelligence team, pulled back the blanket that shrouded the door and entered the headquarters office of C Company, —th Infantry Regiment.

Behind his crude field desk sat the ruddy-faced Capt. James Irwin, of Brooklyn. Lounging on chairs nearby were his Italian liaison officer, 2d Lt. Tony Masoni, and the company sergeant, Felix Loren. Sitting on the hearth of the huge stone fireplace were two soldiers and two Italian children, a boy of 5 and a girl of 7. Their mother, a widow, lived in another room of the house.

A mongrel dog and four pups were curled up on a sack in front of the meager fire. Blankets covered the windows, containing the smoke that escaped from the fireplace. Whatever its limitations, the office was warmer than the winter night.

Captain Irwin glanced at the intruders. "I was about to give you up," he said. "How did you get through the snow?" Without waiting for a reply, he pulled two rickety wooden chairs toward the fireplace and invited Fenton and Dick to warm themselves. The children moved together to make room for the men. The old dog adjusted herself and her pups and went back to sleep.

"Hope the Germans like Christmas Eve as much as we do," Irwin observed, running his hands through his hair. "They dropped some stuff on E Company this afternoon. It'd be nice to have a chance to open packages and relax a bit."

A draft of cold air announced visitors, two German soldiers followed by a sergeant carrying a carbine. "They're German medical aid men," the sergeant said. "They went out after their wounded and got lost in the snow. A patrol picked them up. I thought you'd want to question them." He looked at Captain Irwin.

Russell W. Cumley was captain of the medical intelligence division of the Surgeon General's office. This incident happened near Loiano, north of Florence in the Apennines. Only the names have been changed.

While the sergeant translated Irwin's questions, the company chaplain, a tired-looking man of 40 or so, pushed through the door, followed by his assistant, who carried an accordion. The men in the room nodded at them. The chaplain and Captain Irwin shook hands.

"I'm making the rounds of a few command posts to give the men a little song service," the chaplain said. "Can you get an audience together on short notice?"

Irwin gestured to a soldier to go round up some men.

Then the shells began to come in down the line. From the distinctive dull crunch and rumble, the men knew they were the German 210, a big shell. Everyone quieted, listening to determine the direction of the barrage. But this night there was a stray shell. While the barrage was still several hundred yards away, it hit just outside the house, blowing a hole in one wall. Everyone was knocked off his feet, and the lanterns were blown out. Soldiers and civilians alike scrambled for corners, trying to make themselves as small as possible. The children whimpered in fear, and the old dog barked furiously.

The barrage continued for several minutes, then stopped as abruptly as it had begun. As the dust and smoke cleared, Masoni found a blanket and hung it over the hole in the wall. Lanterns were relit, and the occupants looked around. One of the German medics, gravely injured, was lying unconscious on the floor. His side was ripped open, and his intestines protruded. The company sergeant had a piece of shrapnel in his thigh. The second German medic, seeing that his companion was beyond help, assisted Sergeant Dick in dressing the sergeant's wounds.

Other soldiers entered, carrying Tommy guns and carbines. They arranged themselves along the walls. Litters were brought in, and the company sergeant was placed on one and carried out.

The wounded German groaned, and his friend knelt to examine his wounds. It was evident that he had but a few minutes to live. The chaplain leaned over. "If you wish," he said in German, "I'll say a last prayer for your friend. I'm a Jew, but I'll say a Catholic prayer or a Protestant prayer."

Sensing what the conversation was about, the soldiers quieted. The German medic had been nurtured on the Nazi hatred of Jews. Though a young man, he had furrows plowed across his weather-beaten face. He looked up, as if seeking advice for that awful moment. He looked once again at his dying friend. Slowly the soldiers removed their helmets. "Say a Catholic prayer," he said at last.

The chaplain, a scholarly man, conducted the short service entirely in German and Latin. His assistant played "Ave Maria" on his accordion and sang it softly in a fine tenor. While he was singing, the wounded German died. His body was carried into a room used as a storehouse. The children's mother entered the office room with a rag and pail of water and began scrubbing blood from the floor.

The tables in the office were removed to make room for more men. There were a dozen around when the chaplain gave a short talk—something about the generosity and charity one should show toward not only one's neighbors but also the enemy. He mentioned the German medic's ministry to the company sergeant. Then he led the men in singing.

There were "Silent Night" and "It Came Upon the Midnight Clear." The two children, their mother, and Corp. Toni Fantoni, from Philadelphia, sang "O Little Town of Bethlehem." The liaison officer sang "Ave Maria." The chaplain sang a German Christmas song for the medic, who had been asked to stay. There were Irish and American songs too. The chaplain concluded with a Hebrew prayer, shook hands with Captain Irwin and the medic, and disappeared through the blanketed door. There were other command posts to visit.

Two soldiers left with the German medic. They would conduct him through the American line so that he could rejoin his outfit. The children and their mother went off to bed. Sergeant Dick slipped out for a breath of fresh air. Two blocks away he saw the chaplain and his assistant studying a map.

"Rabbi," he said respectfully, "there were lots of different gods represented in that room tonight."

"No, sergeant," the rabbi replied. "It is only the forms of worship that are different, not the gods."

"Yes, I know, but—"

A shell burst, far down the line. Sergeant Dick could see the earnestness on the rabbi's face.

"Only the forms of worship, sergeant, not the gods," the rabbi repeated, placing his hand gently on the sergeant's arm. "And the forms of worship are many. But the Majestic Countenance—"

Another shellburst, closer this time, interrupted. Sergeant Dick caught the words "... that directs our destiny." The rabbi was still speaking. "Some eyes, however, see clearly, others but dimly, still others not at all. So do our individual perceptions vary, and hence our interpretations of the Deity." He squeezed the sergeant's arm once and started off with his aide.

The sergeant followed along a few steps. "You certainly gave each of us something worthwhile," he said, remembering that for a while in the command post there had seemed to be no different nationalities, races, or religions. There had been only brothers, stripped of hate and meanness, struggling together toward a goal they would probably never achieve.

"Thank you, sergeant," the rabbi responded. "Good night."

Sergeant Dick watched the two figures become one with the dark.

"You never hear the one that gets you," they say. Dick was 50 yards back down the trail when he heard the shell coming and hit the ground. In the light of the explosion and that of two other shells that immediately followed, he saw the chaplain blown into the air. When Sergeant Dick reached him, he found his aide, uninjured, bending over him. The rabbi was dead.

Captain Irwin rummaged behind his desk and found two used C-ration cans that had been made into cups. He handed them to Fenton and Dick, along with a bottle of *grappa*. The men sat silently before the fire.

Dick glanced at Captain Irwin and saw a tear making its way toward the stubble of his beard. Irwin raised his cup. "To the rabbi," he said hoarsely.

One tactic used to discredit religion is to compare the creationists' opposition to evolution with the Catholic Church's opposition to the heliocentric solar system—the belief that the earth and planets revolve around the sun. Typical is Ben Bova's editorial in *Omni*, November, 1981:

"If human history teaches us anything, it is that once a religion becomes politically powerful, it suppresses all 'heretical' teachings. Galileo was silenced by the Roman Catholic Church. Centuries earlier Omar Khayyam's astronomical ideas were buried by the religious zealots of Islam. . . . Robert A. Heinlein predicted three decades ago that the United States would be ruled by a religious dictatorship in the twenty-first century."

It is generally assumed that acceptance of the heliocentric position was one of many triumphs of science over religion. This view, immortalized by Andrew White (1955), has been naively repeated ever since (Harris, 1973). The truth is that scientists of the time were the main opponents of the new Copernican position. Much of Galileo's support came from the church! Seeger (1981:168) states flatly:

"The Galileo case is usually cited as a dynamic focus on the supposed warfare between science and the-

ology. Actually it is merely an instance of the perpetual clash between an individual's freedom of thought and society's establishment of authority."

For centuries the academic community and most of humanity believed that the sun, planets, and stars circled the earth. The geocentric theory was prominent in their world view and intertwined with religious dogma. Since Aristotle, few scientists had challenged it; and since Augustine, few churchmen had questioned the theory. Most persons took it for granted.

From our twentieth-century scientific (and humanistic) perspective, it is easy to cite the seventeenth-century controversy as an exhibit of the church's antipathy to

scientific conclusions that conflict with religious dogma. It is also fallacious to do so.

The Heliocentric Revolution

Reactions of seventeenth-century Europeans to the heliocentric theory can be understood only in the historical context. Throughout history almost all civilizations had understood the earth to be the physical center of a small universe that functioned

the earth itself from falling into the sun? Since they had no knowledge of centrifugal force, the new idea seemed blatantly foolish (Walsh, 1911). It was observable that the sun moved around the earth—we still say, "The sun rises and sets"—and anyone who denied this testimony of the heavens was willfully ignorant—or blind. And this attitude characterized even the scientists. Elaborate intellectual schemes (Leith, 1973) were devised to fit new astronomical discoveries into their system. Thus, it took several generations after Galileo to prove the geocentric position false.

When Galileo began his public crusade for the Copernican position, he was surprised that it aroused the ire of many established professors. After all, Galileo reasoned, Copernicus was a circumspect scientist who had published his work—with the blessing of the church—shortly before he died (Hoyle, 1973). Why, then, the opposition?

The universities and all the various philosophies—including physics, chemistry, and the other sciences—were firmly based on the Aristotelian system (Drake, 1981). Scientific arguments were settled by quoting Aristotle (Ludwig, 1978). Most important, his theories of the universe and philosophy stemmed from geocentricity. Further, the scholars of the time doubted the value of

observation, experimentation, testing, and research (Ronan, 1974), the basis of Galileo's conclusions. The truths of nature were to be found in Aristotle's writings and those of his learned commentators. Bookish arguments and abstract logic, they believed, were more to be trusted than was the evidence of one's senses.

The real threat of Galileo to the scientists of the time was not, therefore, his position on heliocentricity, but his reliance on observation, research, and experimentation

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THE SCIENTIST

BY JERRY BERGMAN

*Is he really more receptive to
new ideas than churchmen are?
Reexamination of Galileo's
experience and that of today's
scientific "heretic" suggests a
surprising conclusion.*

primarily for their benefit. The stars existed solely to guide them at night and give them information about their lives; the sun to warm them and light their way; the rain to water their crops. Everyone with eyes could see that the sun rises and sets and that the earth does not move. If it moved, one would feel its passage. Seventeenth-century scientists and nonscientists alike argued that if the earth moved around the sun, the wind would blow constantly from the east at uniform speed. Unaware that the earth is blanketed by an atmosphere, they generalized their experience with traveling on horses to the earth traveling in space. Also, if the earth was moving around the sun, why did not everything fly off? What prevented

to determine reality (Bergman, 1981). For this reason, Magini, an eminent astronomy professor at Bologna, declared that the world would see the fallaciousness of Galileo's observations "proving" Jupiter had satellites (Ronan, 1974). Although the scientific method emerged gradually and many of Galileo's ideas can be traced to before the thirteenth century, the accepted system of knowing in the secular world was still at stake in his challenge, and therein lay his problems (Wallace, 1981; Burnham, 1975).

The History of the New Theory

The man first credited with heliocentrism's development is Nicolaus Copernicus (Leith, 1973)—though a sixteenth-century physician in a bishop's palace probably originated the theory. Copernicus (1473-1543) was a priest, a student of canon law, and later a professor of astronomy. His main interest, astronomy, culminated in his great work, *On the Revolutions of Celestial Bodies* (Nash, 1929). Fearing the ridicule of the common people, he published this treatise just before he died. Copernicus, though, did receive support from the church and its popes, especially Clement the Seventh (Hagen, 1908). Cardinal Schonberg and a Protestant clergyman, Andreas Osiander, both helped persuade Copernicus to publish *Celestial Bodies* (Koestler, 1959). They even arranged for its printing, and the work was dedicated to Pope Paul the Third (Hoyle, 1973). At this early date, opposition centered in the academic community, though Gingerich (1980) notes that Copernicus' book was highly regarded in Lutheran circles and extensively studied throughout their university system.

Academics were qualified to argue against Copernicus, whereas the common people often could not articulate their opposition (Barbour, 1971). Some churchmen as well opposed it and occasionally tried to use their positions to influence others.

The Professor's Attack

The real conflict began around 1611, or 70 years after Copernicus' book was published, and was generated, according to Ronan (1974:131, 132), by "a body of dissonant professors at Pisa who, for further support, allied themselves with a set of courtiers at Florence. They were all jealous of the special treatment Galileo was given [by the church] and of his large salary and of the continual favors bestowed upon him

argument on floating bodies had gone, decided that it was time to carry the attack on Galileo into court circles, and to shift the emphasis from problems in physics to the far more dangerous ground of religious fidelity. Formal court banquets provided suitable occasions, and one day, when Galileo was not present, the opening salvo was fired . . . by the Grand Duchess Christina, who raised the question of the religious orthodoxy of the Copernican

view. Unwittingly primed by Bosaglia, the university's strongly pro-Aristotelian professor of philosophy, the Grand Duchess questioned the Benedictine Monk Benedetto Castelli, who was a well-known pupil of Galileo's, asking him whether a moving earth was not contrary to the Scriptures."

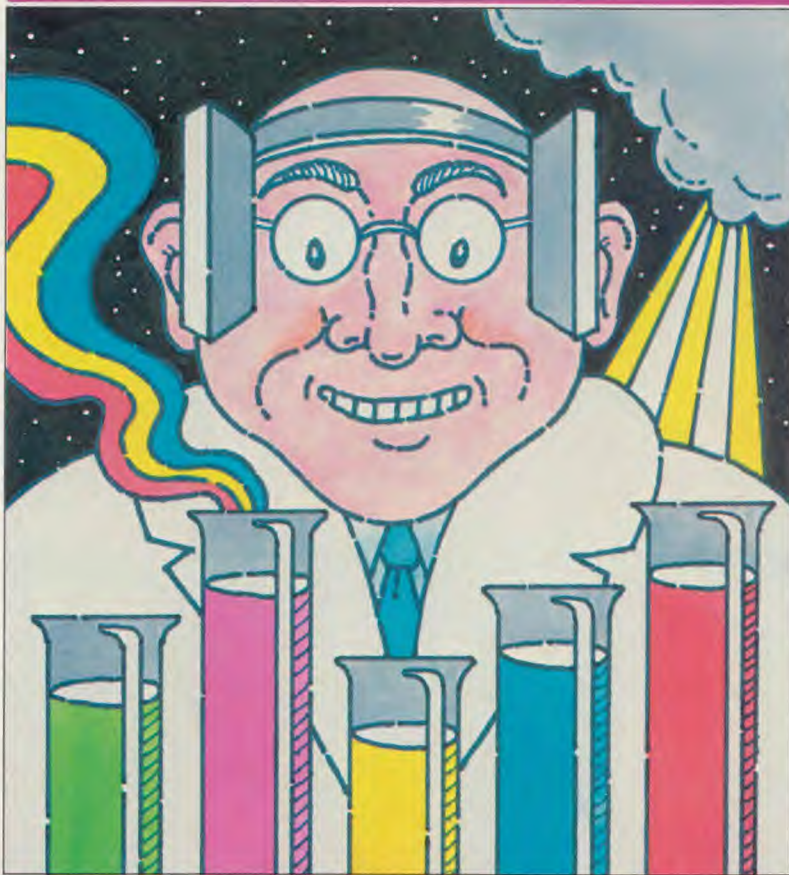
Santillana (1955:xii) adds:

"It has been known for a long time that a major part of the church's intellectuals were on the side of Galileo, while the clearest opposition to him came from secular ideas. It can be proved further . . . that the tragedy was the result of a plot of which the hierarchies themselves turned out to be the victims no less than Galileo—an intrigue engineered by a group of obscure and disparate characters in a strange collusion who planted false documents in the file, who later misin-

formed the pope, and then presented to him a misleading account of the trial for decision."

The church was thus used by the academic community to squelch what they felt was a threat to their method of knowing and authority. The church has been painted as an enemy of science, when actually it was mostly the secular professors and the establishment scholars who were, in this situation, the real enemies of science.

As is true in the current Creation-evolution controversy, the scientists also worked to gain support from the common people. Santillana (1955:18) states that Galileo's fatal mistake lay in his rash indiscretion, his insistence on throwing open to the common



personally by the Grand Duke. In addition, the academics were furious that this brag-gart of an anti-Aristotelian should be in a position to promote his iconoclastic views."

It soon became apparent, however, that the scientific community's arguments against Galileo's position were not as convincing as his enemies first thought. The church seemed eager for new ideas, and the honors it bestowed upon Galileo made them furious. Frustrated at trying to stop Galileo with scientific argument, they decided that it was much easier to quiet him on the charge of heresy. Ronan (1974:144, 145) notes:

"Ludovico delle Colombe's anti-Galileo faction, disappointed with the way the

people, by writing in the vernacular, a question which was far from being settled. . . . The proper approach would have been to write elaborate tomes in Latin and then patiently wait for the appraisal of the scholars."

Ronan (1974:131) observes that Galileo's ideas were often received more objectively by the church than by the scientists. The secular astronomers refused to look through his telescope to verify his observations, whereas the Jesuit astronomers "saw the phenomena for themselves, were convinced, and turned to honoring and feasting Galileo: after all, was he not Jesuit trained, a true son of the church, whose fame brought distinction to the order?"

Not only the Jesuits were delighted with Galileo, Ronan maintains:

"On this visit to Rome, Galileo also had an audience with the pope, Paul V, during which he seems to have made such a favorable impression that afterwards church dignitaries vied with one another to do him honor. In brief, the trip was an unqualified success, a triumph for Galileo and his telescope. As far as Galileo was concerned, he was overjoyed with the reception. . . . His telescopic observations had been confirmed by the highest astronomical authority in the land; he had the support and friendship of Prince Cesi, and, it seemed, the sympathy [of] Cardinal Barberini. Church and society were on his side; what more could he ask?"

Today's Climate

From the foregoing it is apparent that the church's major sin was capitulating to pressure from the scientific community and Galileo's enemies. The church was by no means innocent, but here and elsewhere was guilty of much repression and persecution of dissidents, including various Protestants, Jews, and others who dared to disagree with it. The scientific community, though, also is guilty of persecuting its dissidents, heretics, and most promising sons (Brewster, 1841).

And science may be even more guilty than the church (Walsh, 1911). The history of the universities reveals that the academic community not uncommonly has been, and still is, repressive and intolerant of dissident views. Once convinced of the righteousness of a cause, the intelligentsia may be more vehement in propagating their message and in suppressing opposition than are their less-articulate brethren. Hitler arose and the holocaust occurred in a

age of ritual worship of the scientific method, it is quite possible that a view will be dismissed simply because it does not conform to some body of scientific opinion.

Before an article is printed in a scientific journal it must be approved by a board of reviewers, or *referees*. In their excluding unorthodox or new theories, the distinction between refereeing and censoring may become blurred. Even eminent scientists have difficulty publishing if their ideas are

controversial. One of the most eminent living astronomers, Fred Hoyle, was forced out of Cambridge University and has for the past nine years lived "almost in exile from the scientific world community" (*Discover*, May, 1981, p. 69).

A founder of a major research institute at Cambridge University in 1967, knighted by the queen in 1972 for his contributions, and considered one of this century's most creative (and controversial) astronomers, Hoyle concluded that conditions never could have been such that life originated naturally on the earth. His research led him to postulate that life must have "originated in space and migrated to earth aboard comets [or similar means]" (*ibid.*). These ideas have not set well with his colleagues. Hoyle also got into trouble for questioning the big-bang hypothesis, the theory that matter,



country with a higher educational level, and a higher percentage of Ph.D.s, than any other nation. With few exceptions, German academia supported Hitler's tyranny and policies (Morse, 1968).

Kindness, compassion, and love for one's fellow man are not prerequisites to earning a Ph.D. Higher education often exposes one to other cultures and peoples and may increase tolerance in these areas, but it does not always increase tolerance for a diversity of ideas. School is an indoctrinating institution (Robertson, 1981), and for this reason college graduates have remarkably similar views on a wide variety of social questions from abortion to euthanasia, from gun control to religion. In our

energy, space, time, and the laws of physics sprang into being "like a party girl popping out of a cake." Hoyle concluded, "It seemed absurd to have all the matter created as if by magic."

He did not get in trouble so much for his new theories, which he admits have problems, as from questioning more venerable scientific concepts, such as spontaneous generation. Hoyle has his own idea of how science got in trouble: "Heavy government funding of science is the mainspring of a degeneration of science into conformity. The system has a natural evolution toward killing minds."

Linus Pauling, who has the rare distinction of winning two Nobel Prizes, has

likewise dared to oppose the scientific community. As a consequence, he found it difficult to obtain grant money and support for his research, and was forced to set up his own foundation to secure public contributions.

Scientist Francis Crick, likewise a Nobel Prize winner, is under fire for echoing Hoyle's theme—conditions were never appropriate on the earth for the self-formation of life. He has hypothesized a theory of panspermia (see *Discover*, October, 1981, p. 62ff., and Francis Crick, *Life Itself* [New York: Simon & Schuster, 1981]).

Writes Isaac Asimov (1977:7):

"If a scientific heretic is himself a scientist and depends on some organized scientific pursuit for his living or for his renown, things can be made hard for him. He can be deprived of government grants, of prestige, [university] appointments, of access to the learned journals."

He warns (1977:12):

"The heretic is sometimes right, and since startling scientific advances usually begin as heresies, some of the greatest names in science have been . . . heretics."

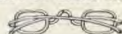
The same may prove true even today.

Gardner (1957:28, 29) observes that the response of many scientists, led by Howard Shipley, of Harvard University, to Emmanuel Velikovsky's works "was one of rage." The "flood of indignant letters to the publisher from scientists who threatened to boycott the firm's textbooks led to the dismissal of the associate editor who brought the manuscript to the company's attention. Publication rights were turned over to Doubleday, . . . which has no textbook department."

Studies of firings from universities find that the major reason is not incompetence, but conflicts between the fired professor and his or her colleagues, based on differing opinions in academic or personal matters (Bergman, 1980).

Have things changed much since Galileo? Probably not greatly. Harvard's Gin-

gerich concludes: "Scientific censorship remains in our world today, and it may well be far more effective and insidious than in the seventeenth century."



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SPECIAL★REPORT

SUPREME COURT REPORT

A Classic Confrontation

BY ROBERT W. NIXON



THE
Bob Jones University
AND
Goldsboro Christian School
CASES

A classic confrontation between church and state." "One of the most emotional and complex cases of this term."

Seldom has national—even local—news media given a church-state case on the docket of the Supreme Court of the United States such prominent coverage. But two cases argued October 12 were genuine media events.

Visitors arriving two hours before the ten o'clock argument discovered they had arrived too late for admission to the small courtroom. Lawyers arriving at 9:00 A.M. found the chairs in the bar section already assigned. LIBERTY's reporter was lucky to get press-section seat G-15, which is in the last row of folding chairs put in the hallway beyond the Court's huge pillars, beyond the decorative brass gates, beyond the crimson draperies.

The event?

The hearing of arguments in the cases of *Goldsboro Christian Schools, Inc., v. United States* and *Bob Jones University v. United States*. The issue: whether the Internal Revenue Service is empowered to deny tax exemptions to religious schools that discriminate on the basis of race.

Robert W. Nixon, a Washington, D.C., lawyer is LIBERTY's legal advisor.

SPECIAL*REPORT

The IRS denied exemptions to both schools because of their racial policies. Goldsboro denies admission to blacks. Bob Jones University denied admission to all blacks before 1971 and to all unmarried blacks until 1975, the last tax year in question. Both claim that Bible-based beliefs mandate their discriminatory policies.

Few participants at the event seemed to mind taking sides. Students from Bob Jones University, impeccably groomed and dressed and sporting yellow "I Back Bob Jones University" tags, waited for the doors to open. In the hallways reporters for New Right religious publications murmured about liberal bias in the mass media and fervently insisted the Court had erred in applying the Bill of Rights to the states.

Silence descended upon the Court as the marshal announced the opening of the session, his closing words ringing through the packed chamber: "God save the United States and this honorable Court." As a marble Moses holding aloft the Ten Commandments seemed to look down from the frieze atop the south wall of the chamber, William B. Ball, of Harrisburg, Pennsylvania, attorney for Bob Jones University, began his 15-minute argument.

Bob Jones University, he said,* finds itself in a remarkable position. It has suffered a severe injury, the loss of its federal tax exemption, but there is no party claiming to be aggrieved by any policy of the university, including its prohibition of interracial marriage. It has violated no law. In fact, he said, the penalty for violating a law would be less injurious than the loss of the university's tax exemption.

If the Court accepts the premise that organizations violating public policy

cannot have tax exemptions, Ball asked, who is to determine what public policies will be enforced? Will religious organizations lose their exemptions because they run afoul of public policies concerning sex, age, religion, or environmental purity?

Bob Jones University, Ball explained, is a pervasively religious ministry, a zealous faith community. It wouldn't exist without its religion. The university's theology may not be yours and it certainly is not mine, he told the Court, but the record shows the university believes Scripture makes its racial policy obligatory. He said that policy dates to the school's founding in 1927. It is not a response to some relatively recent desegregation decision or plan.

Ball said the religious liberty of every American would be threatened if the Court upheld the denial of the tax exemptions. He said the Court of Appeals for the Fourth Circuit had erred in holding that tax exemptions for churches are subsidies. He said it was wrong to tax sincere religious beliefs that do not threaten public morals or safety. He said the English common law of charities does not govern First Amendment cases and that religious institutions need not conform their religious practices to fundamental public policies.

Justice O'Connor asked a question: Would you concede that Congress could provide that there would be no exemptions for institutions that discriminate?

Ball: Yes.

O'Connor: How do you respond to the argument that by enacting legislation in 1976 Congress indicated its approval of court decisions denying exemptions to schools that discriminate?

Ball: I read it as a very unclear affirmation by Congress. I just don't see it. Clearly there are other views. Recent amendments to tax-credit bills

indicate Congress awaits the decision of this Court to see what its powers are.

Second to argue, also for 15 minutes, was William G. McNairy, of Greensboro, North Carolina, attorney for Goldsboro Christian Schools, Inc. McNairy outlined the history of tax exemptions, beginning with the 1894 Tariff Act, which exempted charitable, religious, and educational organizations. Congress through the years has expanded the number of exempted categories to eight, the most recent addition, in 1976, being organizations fostering national or international amateur sports competition.

McNairy also pointed out that the list of categories is joined by the disjunctive *or*. By using *or*, he said, Congress intended each term to have a separate and distinct meaning. All legislative history, he added, confirms that position.

For 57 years Congress has narrowly defined *charitable*, he said. Suddenly, on July 10, 1970, without any direction from Congress, the commissioner of the Internal Revenue Service by press release announced it would no longer grant exemptions to schools that discriminate.

Justice White interrupted: In 57 years, how many revisions were there?

McNairy: Frequent.

White: And the phrase "charitable, religious, or educational" was always there?

McNairy: Yes, always.

In response to a question from the Chief Justice, McNairy outlined the history of granting exemptions to schools that discriminate on race.

Justice White: Suppose the Internal Revenue Service from the outset had denied exemptions to schools that discriminate. Would that have been contrary to the statute and the intent of Congress?

* This is an editorial summary, not a verbatim transcript. From his notes the author has attempted to reconstruct the thrust of the arguments.

SPECIAL REPORT

McNairy: Yes. There is absolutely no indication in legislative history of any intent to grant the IRS power to make a determination based on federal public policy. These are political questions. Policy must come from Congress.

White: Even if there is plain language?

McNairy: The commissioner has no power to make such decisions. There is clear precedent. In the 1950s Congress enacted legislation denying exemptions to certain Communist organizations, as a matter of public policy. Article I of the Constitution says Congress must make such policy. As the Chief Justice said just last term, it's not up to this Court to fashion a remedy for the shortcomings of Congress.

Justice Stevens, with an allusion to *Oliver Twist* by Charles Dickens: What about tax exemption for Fagin's school for pickpockets?

McNairy: The purpose of Goldsboro Christian Schools is to conduct Christian education, not to train children to be criminals.

Stevens: But if a practice was against public policy, Congress could—

McNairy: Obviously, a school for pickpockets—

Stevens: Why obviously? It still teaches something, doesn't it? [*The audience laughed.*]

McNairy: That's not for a charitable purpose. It's criminal.

Stevens: Even if the primary purpose is against public policy, isn't there a line-drawing problem?

McNairy: Clearly, Goldsboro Christian Schools—

Stevens: But may an agency draw lines if there is a violation of public policy?

McNairy: No. The example is the

Communist organizations in the 1950s. They may have been educational, but they clearly violated public policy. So Congress enacted a law. There's simply nothing in the Internal Revenue Code to give the commissioner of the Internal Revenue Service the right to deny an exemption.

McNairy had used his 15 minutes. Next spoke William Bradford Reynolds, assistant attorney general, Civil Rights Division, Department of Justice, representing the position of the Reagan administration.

The United States government has no toleration for racial discrimination, Reynolds said. It unflaggingly is committed to rooting out all vestiges of racial discrimination. But these cases don't call into consideration that commitment. They bring to mind the adage "Hard cases make bad law."

There's only one issue here, Reynolds said. We're dealing with the statutory construction of section 501(c)(3) of the Internal Revenue Code. In 1913, did Congress intend *charitable* to have its broad common-law sense, with all other senses included? Did it deliver to the Internal Revenue Service authority to determine independently whether an organization is organized for the benefit of the community and whether the organization contravenes public policy in some way?

The lower courts and initially the Supreme Court held that 501(c)(3) authorizes the Internal Revenue Service to deny exemptions notwithstanding whether an organization qualifies as religious and educational, Reynolds continued. Bob Jones University and Goldsboro failed the broad standard because they ran afoul of federal civil-rights policy.

Why did the government change its mind? Why did it later determine the exemptions should be granted? Reynolds asked.

We looked at the language of 501(c)(3) and found no support for the proposition that Congress in 1913 used the broad common-law concept of *charity*, Reynolds explained. The language of the statute indicates that each enumerated category was to be independent. There was no intent to delegate broad, unfettered authority to the IRS commissioner. All indications are that Congress intended the narrow definition of *charity*, the relief of the poor.

Reynolds then listed a series of Congressional actions he thought supported his argument that Congress intended that *charity* be narrowly defined.

Justice Stevens: The history isn't entirely consistent, is it? What about the 1924 Solicitor's Opinion?

Reynolds: That didn't concern 501(c)(3). In 1924 there was another Solicitor's Opinion with the narrow view.

Stevens: Does the *charitable* in "charitable contributions" in section 170 have the same meaning as *charitable* in the list in 501(c)(3)?

Reynolds: I don't think the shorthand in section 170 leads to the larger definition. [Section 170 grants to donors deductions for "charitable contributions."]

Stevens: How about a yes or no?

Reynolds: Yes.

Stevens: In section 170, where *charitable* modifies *contribution*?

Reynolds: Yes, it means the same.

Stevens: Specifically, when it says "charitable contribution . . . for scientific purposes," is that used in the broad or narrow sense?

SPECIAL REPORT

Reynolds: Not in the broad, common-law sense.

The Chief Justice: Are we talking about any scholarships in the case?

Reynolds: I'm not sure. I don't know.

The 15 minutes for the Reagan administration viewpoint were up. The final 30 minutes were assigned to William T. Coleman, Jr., of Washington, D.C., attorney for the prior government position. The Court had asked him to participate as *amicus curiae*, a friend of the Court.

Coleman, formerly Secretary of the Department of Transportation and one of the nation's most prominent black lawyers, reviewed facts of the cases and then went to the question of whether the Internal Revenue Service has interpreted the Internal Revenue Code correctly.

The Court can't write on a clean slate, Coleman suggested, even the slate of 1970. Congress, he explained, has taken into consideration the Court's affirmation of *Green v. Connolly*, in which it upheld denial of tax exemptions for private schools that discriminate.

Immediately after *Green*, Coleman continued, Congress held hearings, but didn't change the tax code. In 1976, when it amended 501(c)(3) to add "amateur sports," again it made no changes to cover discriminatory schools. Of the 11 bills introduced into Congress to change the legal situation, not one was reported out of committee. Finally, Congress did amend the law to overcome some *procedural* holdings of *Green*, but never has it taken action to overturn the main holding.

Justice White then asked several questions concerning the Congressional actions just described by Coleman.

White: Was it necessary to amend the statute?

Coleman: No, sir. When Congress knew what this Court ruled and acted without change, that goes to what the statute now means.

Coleman then returned to his line of argument: Our position is that Congress intended that the common-law concept of *charity* be adopted. The 1894 act exempted religious, educational, and charitable institutions. It contained not one word about use of profits. Why? The common-law concept was there, and the Internal Revenue Service so interpreted the law.

And before the "political propaganda" amendment, he pointed out, the Internal Revenue Service and the Court of Appeals for the Second Circuit—using the common-law concept—held that charities couldn't engage in political propaganda.

Justice White asked more questions: Is it your position that from the very beginning the Internal Revenue Code always forbade exemptions for schools that discriminate?

Coleman: No, only if they violate basic law, which is the only thing that has changed. He then referred to several civil-rights cases.

White: Has there been a change in the Internal Revenue Code or the Constitution?

Coleman: The statute always has said organizations have to be charitable to get exemptions.

Justice Stevens: Aren't you saying that the change has been in national policy?

Coleman: Yes, the statute itself hasn't changed. Imagine a church that required the sacrifice of 10 percent of its congregation every year. That would be illegal, and that church wouldn't be entitled to a tax exemption.

If *charitable* is defined narrowly, Coleman continued, historic preservation societies, blood banks, and hospitals would not be entitled to exemptions. *Charitable* must have a definition

that means more than just benefiting the poor. *Charitable* also can cover keeping public buildings in repair. That's not a narrow interpretation. It is clear that from the beginning, since 1894, organizations have had to live up to the basic common-law of charities.

Justice White asked a question concerning what laws the schools may have violated.

Coleman: Just for starters, the Civil Rights Act of 1866.

White: Just for starters? What others?

Coleman: The Thirteenth Amendment.

White: And others?

Coleman: Maybe section six of the Civil Rights Act.

Coleman then seemed to try to turn the subject to section 170 of the Internal Revenue Code. But the Chief Justice interrupted.

Chief Justice: Do you know whether the schools give scholarships?

Coleman: I don't think that's in the record. On *this* point, I would accept what my colleague Mr. Ball, of Pennsylvania, says.

Several of the Justices smiled. Laughter rippled through the chamber, relieving the tension that developed during the Coleman-White interchange. (In a short rebuttal, Ball later said Bob Jones University does grant scholarships.)

Coleman began to discuss the tax benefits to the schools, which he estimated at about a million dollars a year.

SPECIAL REPORT

But Justice O'Connor asked a question: Would your position be the same if this were a church and its membership requirements discriminated on the basis of race?

Coleman: A church from the beginning has had to be charitable. But schools are different from churches. There are no decisions saying a Roman Catholic church can't discriminate on the basis of religion—or on the basis of race. Thus there is no violation of public policy.

Justice Powell: If the IRS has this power, is there a limiting principle?

Coleman: Yes, it must reflect the statutes of Congress and the decisions of this Court.

Justice Powell asked whether the answer would be the same if the issue were sex, not racial, discrimination.

Coleman: That's a more difficult question. We didn't fight a Civil War over sex discrimination. Women weren't brought here as slaves. Sex discrimination is not as fundamental.

Powell: True, we've never held sex discrimination to be as fundamental. What about national defense? Some churches are quite pacifist. What could the IRS do?

Coleman: It can read the statutes. In *Gillette* this Court upheld draft exemptions in wartime. That's national policy.

Powell: What if it's not wartime?

Coleman: We just can't compare other activity.

Powell: Only race?

Coleman: It's crystal clear—race.

Powell: Where do we draw the line then? Just racial discrimination?

Coleman: Here Congress has determined.

Justice White: About pacifist organizations, could IRS deny them exemptions?

Coleman: Probably not. That's a tradition.

White: Then the IRS can choose between policies? It has policy-making power?

Coleman, with a momentary stutter: But it's bound by statutes and the Constitution.

White: When you look at statutes on sex discrimination, can the IRS deny exemptions on that basis?

Coleman: Based on the decisions of this Court and the statutes, that is a more difficult issue. That question would have to come before this Court.

The red light on the speaker's stand came on. Coleman's half hour was over. After Ball's brief rebuttal, the case was submitted for judgment. Lawyers, visitors, and the press almost en masse headed for the exits.

And on the front steps reporters with note pads and microphones interviewed participants and interested parties. Bob Jones III, president of the university, and his father lined up with students—including one black and several Oriental—for photographs. Interviewers asked a black Bob Jones University student his opinion of the case. One learned counsel took out a camera to take a few snapshots as reminders of his participation in a historical event.

The crowd began to disperse. Bob Jones III stood at curbside, waving for a taxi. Television cameramen folded tripods, put away cameras, and wound up microphone cords. In the chamber inside One First Street Northeast, the Justices were hearing arguments in another case. The media event had ended. This reporter headed for one of Washington's best-kept secrets, the Supreme Court cafeteria, for a cup of soup, a piece of spinach quiche (*real* reporters do eat quiche—occasionally), and a soft drink.

What will the Court decide in *Bob Jones University and Goldsboro*?

In *Liberty & Law* in the November-December LIBERTY, I predicted the Court would uphold the federal anti-discrimination policy and the denial of tax exemptions for the two religious schools.

But the oral argument raised doubts about that prediction.

First, why did four Justices—Brennan, Marshall, Blackmun, and Rehnquist—ask no questions and make no comments?

Second, why did the Justices for nearly an hour and a half not ask *one* question about the Establishment, Free Exercise, or Equal Protection clauses of the Constitution?

Perhaps the Court will rule on statutory grounds, tossing the question back to Congress. Thus Bob Jones University and Goldsboro Christian Schools may be faced with additional years of uncertainty and litigation if Congress enacts legislation denying exemptions to schools that discriminate.

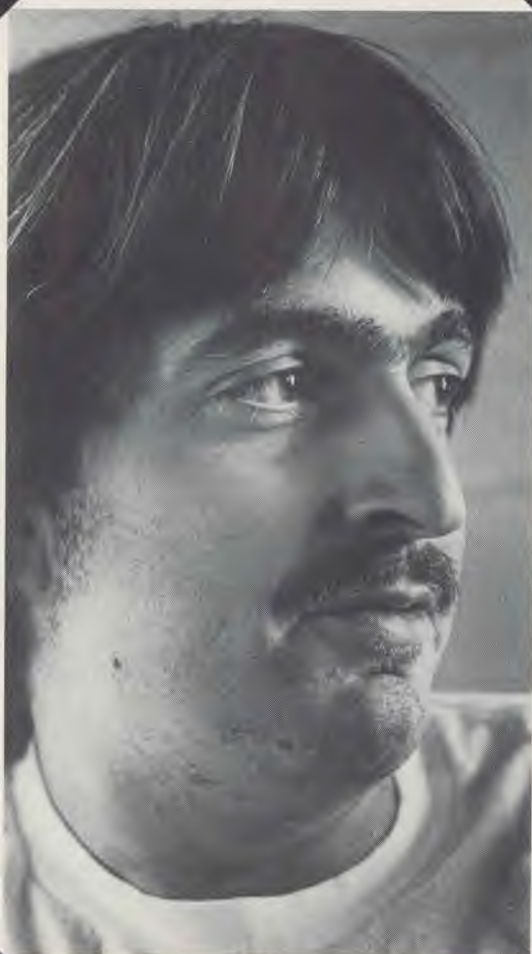
For me, consistency means *something*. For some unexplainable reason I will stick with my prediction that the Court will uphold denial of the tax exemptions. A great constitutional decision probably is not in the works. Most likely the decision will be based on statutory interpretation and Congressional intent.

But keep an eye on your local newspaper. Stay tuned to the network news. Sometime between now and the end of June the Court will announce its decision. Perhaps some of us—or all of us—will be surprised.



BY GARY SEVERSON

"IT SURE BEATS JAIL!"





Clockwise from far left:
Lyle Kirkey: "All they're going to do is
foul it up for everybody else."

Prison inmates opt for mission day-
room over jail cell.

Pastor Leroy Decker, of the Bel-
lingham Christian Missionary Alliance,
conducts an afternoon sermon.

Lighthouse Mission has the only pris-
oner rehabilitation program in What-
com County.

Attendance at three half-hour chapel
services weekly is required.

Lyle Kirkey, of Bellingham, Wash-
ington, was sentenced to five days
in jail last August for theft. Because
it was his first offense, he was given
the option of a work-release
program, centered in the city's
Lighthouse Mission. Kirkey didn't have a
job, but anxious to set his life right, he
joined ten other residents in the rehabilita-
tive program, the only one in Whatcom
County for county jail prisoners. Most had
been sentenced for DWI—driving while
intoxicated—and had to attend an Alcohol-
ics Anonymous class. Sentences ranged
from a few days to, in one case, five years.
Confined to jail, a number of the men would
have lost their jobs.

"It sure beats sitting in a jail cell," said
Kirkey, who said he didn't mind the
mission's one firm rule—inmates must
attend Christian services three times a
week.

But someone else did mind the rule. The
Whatcom County chapter of the American
Civil Liberties Union (ACLU) filed a brief
with the Washington State Supreme Court,
questioning whether "implementation of a
work-release program, conditional upon
mandatory Christian religious worship by
participating offenders, violates federal and
state constitutional guarantees." The civil
rights organization maintained that, since
inmates were offered only the choice
between jail and the Lighthouse Mission,
they had no choice on the worship issue, and
that arrangement established religion in
violation of the First Amendment. To be
constitutional, said the ACLU, the county
program must offer a nonreligious option.

Mission Director Al Archer, an ordained
Baptist minister, was unimpressed.

"We agreed to the program reluctantly,"
he says, "and only because the county had
no other alternative. We told them that we
would expect the prisoners to obey the same
rules that others do at the Lighthouse
Mission. Included is attendance at a half-
hour chapel service three times a week."

Archer says the services are conducted by
people affiliated with Protestant churches,
since the mission itself is Protestant backed.
Preachers, teachers, singing groups, and
laymen take turns presenting the evening
services. Mission Chaplain Fred Curow
conducts the morning services.

Although the ACLU does not agree with
required chapel services for anyone at the
mission—transients are required to attend
both services each day—in this case it
argued only that Whatcom County has been
negligent in not offering an alternative to the
mission.

County officials disagree. They say that
they searched extensively for another
work-release site, but all were too expen-
sive. Present arrangements are only tem-

porary, they point out. Until the new jail is
completed in early 1984, it's the Lighthouse
Mission or nothing.

Nothing it may be. Says Archer, "Our
program is food, lodging, and chapel
services. If it comes to a choice between
God and work-release, the latter will be
dropped."

Still looking for work in Bellingham,
Kirkey feels his few days at the mission
were instructive. "I enjoyed the services,"
he says. Nobody tried to force religion on
me. If some of those guys had to return to
jail, they'd lose their jobs. They're not as
interested in First Amendment rights as they
are in whether their families will eat tonight.
They'd rather put bread on the table than a
cup of constitutionality."

One work-release inmate, Merle Evans,
says he attends chapel four or five times a
week. He estimates that two thirds of the
men at the mission attend more services
than are required. "It really would be tragic
if this work-release program is dropped.
Some of us would lose our jobs."

The city's newspaper, the Bellingham
Herald, acknowledged that the arrangement
between Whatcom County and the Light-
house Mission probably violates the Con-
stitution, but argued that the ACLU's
request for a work-release alternative out-
side jail or the Lighthouse Mission is not
practical. Not many low-cost facilities will
accept prisoners—at least not without a
federal or state grant, a scarce item in
today's economy.

The only practical effect of the ACLU's
action, said the paper, may be that work-
release inmates will have a choice between
jail and jail, which serves neither society
nor the inmates well. The editorial con-
cluded that the ACLU should adopt the rule
of medicine as its prescription for society:
First, do no harm.

What the courts will say is probably not in
doubt. But to date it's not sure which court
will hear the case. On September 9, 1982,
the Washington State Supreme Court
deferred action until they could determine
whether they or the Whatcom County
Superior Court should hear the case.

Kirkey wonders whether the Constitution
will not survive a violation better than the
prisoners will survive their jail sentences—a
question asked also by the *Herald* editorial
writer.

Says Kirkey: "If we had minded going to
church, we wouldn't have gone to the
mission in the first place. I'd like to see the
ACLU attorneys go sit in jail for a while and
then go to the mission and see which they
like better. All they're going to do is foul it
up for everybody else."



Gary Severson is a free-lance writer living
in Ferndale, Washington.

GROWING UP WITHOUT

SANTA

By Francine Klagsbrun



Willie Malloy had the most beautiful Christmas tree I had ever seen. Its rich green branches (plastic trees had not yet come into fashion in those early post-World War II years) glowed with colored balls and candy canes, and tiny angels bobbing at the ends of silken threads. Perhaps it was the strangeness of the tree, more than its beauty, that dazzled me, for I never had a Christmas tree; my family celebrated Hanukkah.

I didn't know Willie every well, although he and I lived in the same five-story apartment on a tree-shaded street in Brooklyn. He was Irish and I was Jewish, and while our parents had a cordial "Hello, lovely day, isn't it?" relationship, we lived our lives and the Malloys lived theirs.

My life centered upon my family and the small Hebrew day school I attended, where the study of Hebrew and literature was intertwined with the usual academic subjects. Although not Orthodox, my parents felt a deep commitment to Jewish culture and traditions. We welcomed the Sabbath on Friday nights with candles, fresh-baked hallah (the traditional Sabbath bread), crisp white linen, and sweet red wine. Passover was a noisy affair, with relatives crowded round a huge table at my grandparents home.

And Hanukkah was like no other time. All eight days of the festival made up winter vacation in my school, a cause for joy in itself. But there was far more to it than that. There were the little candles that we lit every night, with my brother and me joining in the blessing and songs. There were crisp, golden potato latkes, the traditional pancakes, that we ate dipped into homemade applesauce. And there was the shiny silver dollar I received every year. It was my Hanukkah gelt, the special gift of money whose origins go back to the extra portion of charity traditionally given to the poor at Hanukkah time. Each silver dollar I received went into a small leather pouch I kept hidden in my bureau drawer.

I was aware, of course, of the Christmas decorations in our apartment lobby, of the twinkling lights on neighborhood homes, of the stores bursting with Christmas fare. Aware but uninvolved. I was comfortably sheltered within the warm embrace of my family traditions.

Then one Christmas Day the Malloys invited us to their home. They would be moving out of town soon, Mrs. Malloy explained, and they wanted to say goodbye. As I walked through the door of their apartment, I entered a wonderland of color and fragrance, a fantasy of wreaths and mistletoe and lighted candles, and at its center stood that beautiful jeweled tree. While my parents chatted and drank eggnog with the Malloys, and my brother and Willie examined the array of toys "Santa brought," I walked round and round the tree, absorbing every spark of color and light that shone from it. In the midst of the noise and excitement, I was overcome with loneliness. So this is what it's like to have Christmas, I kept thinking; this is what most people have. I felt like an outsider. In spite of all I had, I ached for what I had not.

Shortly after we married, my husband and I moved from the family and friends we had known all our lives. He entered a large Midwestern medical school, and I began an editing career. For the first time in my life I had no Jewish friends; for the first time we celebrated our holidays alone.

At Christmas that first year office friends invited me to help

prepare for the Christmas party. They taught me to shape dough into Christmas trees and gingerbread men. They laughed when I confessed I hadn't the slightest idea of how to hang an ornament, let alone make one. As the evening ended and they stood near the newly decorated tree, singing carols, I suddenly felt again, in sharper relief now, the pangs that had gripped me long ago at the Malloys'.

This time I gave in to my feelings. The next day would mark the beginning of Hanukkah, and I had preparations to make, but my heart wasn't in it. How could those little lights of Hanukkah compare with the great blaze of Christmas?

At home I began listlessly polishing the silver menorah, the Hanukkah lamp my in-laws gave us as a wedding present. It was one of the few possessions they managed to smuggle out of Belgium when they fled before the Nazis. I loved that menorah because it was a symbol of my husband's survival. As I looked at it I began to see in it what I had forgotten, its broader symbol of survival—the survival of a people against all odds over thousands of years.

The story of Hanukkah has been told many times. A small band of Jews defeated formidable forces who wanted to wipe out their religion. When they went to light the great candelabrum in their Temple, a miracle occurred: a single cruse of oil, enough to last for only one day, burned for eight. From then on, Jews have commemorated that miracle by lighting Hanukkah lamps for eight days. At times, over the centuries, the lights have been mere flickers, lit in the dark recesses of a basement by people forbidden to practice their religion openly. Hanukkah lamps were rotted potatoes once, carved out to hold bits of fat and scraps of thread, salvaged to be used as candles by inmates in a concentration camp. But the lights went on burning, and the miracle is renewed year after year.

I looked again at the little menorah in my hands. I was part of the survival it symbolized, and it was up to me to perpetuate it. In an instant I was on the phone, inviting my new friends to a Hanukkah party. "We call it our Festival of Lights," I told them.

Years have passed since those early days of marriage. My daughter Sarah, now 11, lights the Hanukkah candles with us and sings in perfect Hebrew the age-old blessing. The single silver dollar of my youth has given way to Hanukkah presents for her—a reluctant concession to the commercialism of our times. But together she and I make crisp, golden latkes and applesauce, and we spin little wooden tops—dreidels, they're called—painted with Hebrew letters that stand for the slogan "A Great Miracle Happened There." Every Hanukkah, my husband and I give a big party for our family and friends, both Jewish and non-Jewish.

Every year, too, at Christmas time, Sarah and I push our way through the crowds to gaze at the lavishly decorated store windows. And we go to the museum to admire its magnificent Christmas tree hung with medieval ornaments.

"Do you ever miss Christmas?" I asked her one day. "It's so beautiful," she says. Then she smiles. "But we have Hanukkah, and that's special to us."



Francine Klagsbrun, a New York-based author, editor, and lecturer, wrote this article for Ladies Home Journal. Reprinted by permission.



Circle the world and wherever the British flag was once raised you will find remnants of the British Sunday. Shops will be closed. Tranquillity will reign. Boredom will prevail. But in Britain itself, moves are afoot in Parliament and other government circles that could result in the traditional British Sunday becoming just like another Saturday. But not without a fight, as the British Lord's Day Observance Society (LDOS) is making

1950 act, easily passed the House of Lords, with wide approval from all parties, including the government front bench. But passage was blocked in the House of Commons, whose approval was needed to make it law, by a coalition of the LDOS and USDAW and a peculiarity of the British parliamentary system.


When a member of Parliament (MP) introduces a bill (called a private member's bill), only one dissenting voice in the House of Commons is needed to put it at the bottom

Britain's small grocery stores. Because their Moslem holy day is Friday, the storekeepers are allowed to open half a day on Sunday. A third reason for government support is the housewife working outside the home, who has little if any time to shop during the week.

Further impetus to change comes from the 50,000-member National Chamber of Trade. Long a foe of Sunday trade, the organization voted overwhelmingly in 1982 to leave opening hours to the traders' discretion. Small shop associations have given their approval to change, and even the USDAW has agreed to poll its members on the issue. "We don't want to be standing alone on this with the LDOS," a USDAW official is quoted as saying. Local government support has been indicated by the National Society of District Councils, which governs the actual running of towns, cities, and rural districts.

Even local entrepreneurs are becoming involved nationwide. Dickie Dirts, who opened three popular cut-price clothes shops in central London, has campaigned for a change in the law. A Dickie-commissioned marketing and opinion poll showed widespread support across Britain for greater Sunday trading. Dickie, however, will reap little benefit if the 1950 act is repealed. Shortly after his poll was published he went bankrupt. The LDOS had its interpretation of this misfortune: "Dickie Dirts tried to become too big. When people try to flout the laws of God, it says in the Bible, 'Vengeance is mine, I will repay, says the Lord'''" (Rom. 12:19).*

But for all the support outside Parliament, the real battle will take place on the floor of the House of Commons. Already arguments are being rehearsed. Sunday trading will help Britain's massive unemployment problem, give working mothers time to shop, aid the tourist industry, and allow traders to be more resourceful and creative. To the contrary, others say, Sunday trading will exploit workers, further breakdown of family life, and desecrate the traditional British Sunday.

Says John Roberts: "We'll do our utmost to make sure the bill isn't put to a vote. We'll fight it with all we've got. We won't sit back and watch the displeasure of God fall on what was once a great Christian nation. We'll save people from desecrating the Sunday Sabbath." 

Carl Fletcher is a journalist specializing in religious affairs. He writes from Wales in the United Kingdom.

* This Scripture quotation is from the Revised Standard Version of the Bible, copyrighted 1946, 1952 © 1971, 1973.

BRITAIN'S

BY CARL FLETCHER

Sunday

*Will it show a new face to
the nation after a cosmetic uplift in this
session of Parliament.*

evident. Already the organization has collected 20,000 "Christian signatures" and is cementing alliances with such groups as the Union of Shop Distributive and Allied Workers (USDAW), which helped kill the last Sunday trading bill. Still, as John Roberts, head of the LDOS, admits, "We're the closest we've ever been to repealing the laws controlling the Sunday Sabbath."

Sunday in Britain is bound by the 1950 Shops Act, which severely restricts trade. All large department stores and most small shops as well are closed. The law, however, is filled with contradictions. One can buy a pornographic magazine but not a Bible, a bottle of gin but not milk for the baby, fresh carrots but not canned carrots. And—figure this one out!—one can buy French fries from the Chinese Take Away but not from an English fish-and-chips shop! Such irrationalities hardly help the cause of the LDOS.

The latest and most effective legislative challenge to the Shops Act was the Trumpington Bill, introduced by Lady Trumpington of Sandwich, a member of the House of Lords. Her bill, which would have removed most trading restrictions of the

of the list of proposed legislation. Generally, Parliament is adjourned before the bill can come up for a vote.

"We've defeated ten bills in the past seven years by that method," says Roberts. "We learn when the bill is due for reading in the House of Commons and make sure there is an MP present who will vote against the bill."

The LDOS, founded in 1831 as the British equivalent of the American Lord's Day Alliance, employs 14 full-time workers and spends nearly half a million dollars a year in its war on Sunday trading and entertainment. But even its resources and 20,000 signatures may not be enough to block another Trumpington Bill. Speaking out in favor of Sunday trading recently was Ian Sproat, junior trade minister, who has hinted that government and even cabinet backing may be available for any MP willing to introduce a private member's bill.

One reason for government support is the additional jobs such a bill will create for Britain's unemployed, now some 3 million. Another factor may be the trading practices of Britain's substantial Asian community, which within five years may operate half of



Lady Trumpington of Sandwich: Her bill would remove trading restrictions.



London "Love Shop": For sale on Sunday—anything but a Bible.



Hakim Brothers can open Sunday afternoon; Dickie Dirts cannot.



Lord's Day head John Roberts: "We won't sit back and watch the displeasure of God fall on what was once a great Christian nation."

PHOTOGRAPHS BY KEN GILLHAM

WHEN GOING TO CHURCH WAS A TEST OF STAMINA

By HENRY N. FERGUSON



Modern society has attempted to make church attendance as attractive and as painless as possible. When Sunday rolls around, there is ample time for an additional 40 winks, a leisurely breakfast, and at least a glance at the morning paper. Finally everyone piles into the family car and rides in comfort to the sanctuary.

There the family is ushered to a comfortable pew. The church will be air-conditioned in summer and heated in winter. The worship service will be of satisfactory brevity, enhanced with beautiful music, and concluded with a sermon that is not only happily abbreviated but innocuously palatable, as well.

Such a service is the end product of an evolution in worship that has been taking place for the past couple of centuries. Our forebears would have found this brief and comfortable interlude in the week's routine strange fare indeed.

In the earliest days of our country, people worshiped wherever they could. At Plymouth Colony the fort was the meeting-house, and the Pilgrims arrived at services armed with swords and guns. In other New England settlements, worship was held under trees, in tents, or makeshift shelters. In time, crude churches were constructed of logs, with clay-filled chinks and a roof thatched with reeds and grass. Oiled paper covered the window openings. These structures were succeeded by square wooden buildings, each with a belfry that served mainly as a lookout tower to guard against Indian attack.

After 1739, when the earliest successful

glassworks in the New World was built in New Jersey, churches were able to install glass windows. The panes were held in place with nails instead of putty.

Finally, as communities prospered, they began erecting churches with a steeple at one end. The weathered exteriors had a degree of interest, though frequently of a macabre nature. Heads of wolves killed for bounty might be nailed up. Notices of community interest such as sales, town meetings, and marriages were posted on the church door. Conveniently near were the stocks, pillory, and whipping post, with which every town was equipped.

Church bells were a rarity; parishioners were usually called to worship by the roll of a drum or the blowing of a horn or a conch shell. Sometimes a cannon was fired to announce the hour—usually nine o'clock in the morning.

Church interiors were about as plain and uncomfortable as human ingenuity could devise. Families sat in pews partitioned off from their neighbors. Three sides were fitted with narrow, shelf-like seats that were never ordained for comfort. Hung on hinges, these could be raised so that members might lean on the pew walls for support as they stood during long prayers. Pews were assigned by the seating committee, the best seats going to members of wealth and dignity. Sitting in an unassigned pew could result in a fine of from several shillings to as high as 25 pounds.

The deacons sat in a deacons' pew just in front of the pulpit. Often there would be a deaf pew up front for the hard-of-hearing. High in a loft were seats for Negroes and Indians.

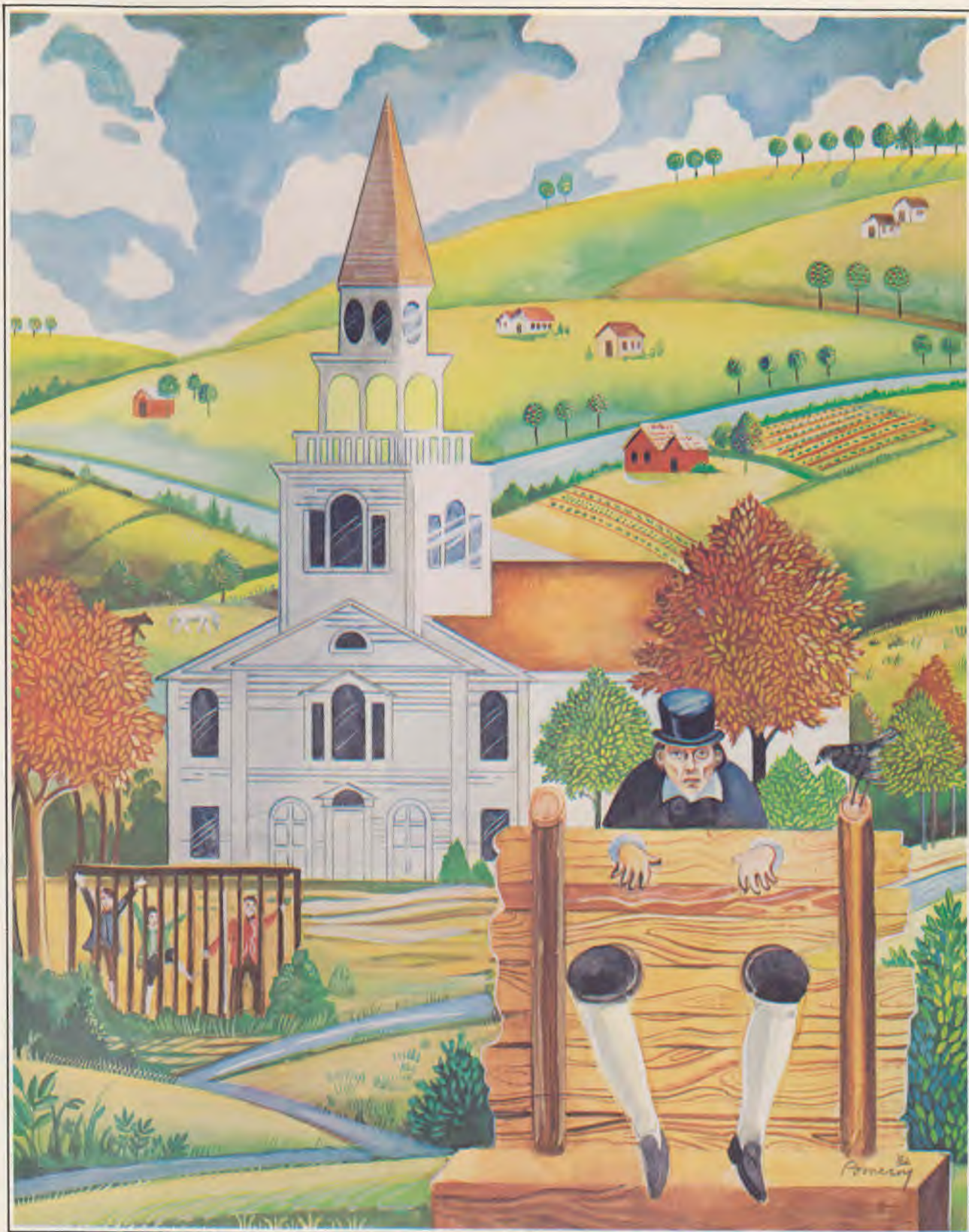
Oddly enough, boys did not sit with their families, but were seated in groups, usually on the stairs, with tithingmen to promote order among them. Boys given to pranks during the long sermons might be confined in a cage set up outside the church.

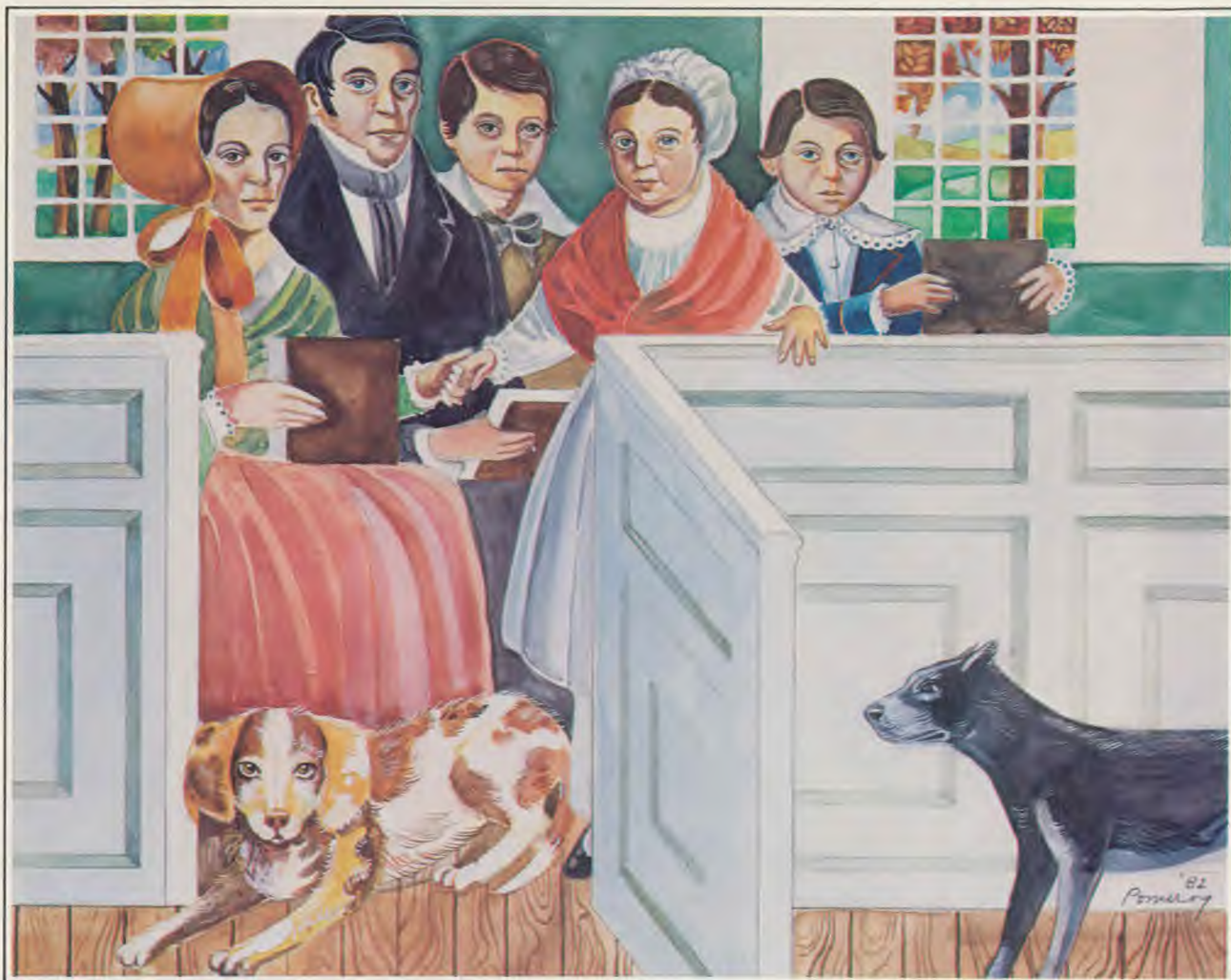
Early churches were unheated. It required iron discipline to withstand the winter rigors of a dank, ice-cold building that had been closed all week. Yankee ingenuity helped. Fur bags made of wolf skins were sewn together and used as foot warmers. Many families brought metal foot stoves containing live coals. Parishioners were permitted to bring their dogs to church, where they would lie on their masters' feet. A dogfight sometimes added zest to a tired sermon.

The churches may have been bitterly cold and uncomfortable, but apparently little thought was given to easing the pain by shortening the service. The customary sermon lasted from two to three hours, and it was not unusual for a prayer to take one to two hours. The minister spoke to a captive audience. When the congregation had assembled, the doors were closed and guarded by a tithingman, and great was the emergency that would justify leaving.

At noon everyone retired to a long, low building nearby called the noonhouse. There were stalls for horses at one end and a great fireplace at the other. Here the churchgoers ate their lunch, and often the children received additional religious

Henry N. Ferguson is a professional writer and photographer residing in Kerrville, Texas.





instruction during the break—the forerunner of our modern Sunday school.

There were no church organs to promote a measure of harmony in the singing of psalms. Few psalmbooks were available, so a line would be read by a deacon and then sung by the standing congregation. A half-hour often was required to sing just one hymn.

The offering was taken differently from today's practice. At the proper time in the service the congregation walked single file to the front of the church and deposited their gifts of money, wampum, or promissory notes in a box located at the deacons' table.

When the service ended, the congregation remained seated until the minister and his wife had walked out the front door, where they greeted each member.

Early Americans held the Sabbath in strictest observance—they had little choice!

Anyone who attempted to profane the day could expect immediate and severe retribution in the form of a fine or a public whipping. It was expressly forbidden for anyone to hunt or fish, enjoy a sail or a dance, or go for a ride except to church. No one might use tobacco near the church.

In Samuel Peters' *A General History of Connecticut*, published in London in 1781, numerous statutes pertaining to the Sabbath were spelled out. According to Peters, the colonists were not allowed to "travel, cook victuals, make beds, sweep the house, cut hair, or shave on the Sabbath day." Nor were mothers allowed to kiss their children. "No one shall cross a river on Sunday but an authorized clergyman," wrote Peters.

The colonists also were forbidden to give food or lodging to Quakers, Adamites, "or other heretics." Anyone converting to the Quaker faith "shall be banished and not

suffered to return but upon pain of death." And a 1617 law fined Virginians two pounds of tobacco for missing church.

Those who broke Sabbath laws were likely to do an ignominious stint in the public stocks. So rigid was the discipline that consideration was given to imposing the death penalty on anyone absenting himself from church services.

Today's churchgoers likely would refuse to attend services at all if they were forced to undergo the hardships their ancestors endured in order to worship God. Devotion to their religion was a way of life for these hardy pioneers. Many had traveled to the New World to worship God as they chose—and the hardships under which they elected to exercise this right seemed only to temper their faith. Out of their stern devotion to God has this nation been forged.



International

Ulster's First Integrated School Reports an Encouraging First Year

BELFAST, Northern Ireland—Lagan College, Northern Ireland's first fully shared school for Roman Catholic and Protestant children, has trebled in size its first year and expects, if present trends continue, to apply for 85 percent British Government funding next year.

Supporters of the school, organized by parents independently of Ulster's churches, would like to see it become a permanent part of the educational system. Success, they feel sure, will encourage other parents, teachers, and educators to do the same.

The school opened its doors in September, 1981, with 29 pupils. Today the school has 90 children, and its organizers think they can maintain this growth rate. The government requires a new school to show a growth rate in the first three years large enough to persuade it that the ultimate student roll will be at least 300 pupils.

The idea of integrated education for Catholic and Protestant children has been around at least since 1826, when Ireland's first free schools were being organized. An early backer of the idea was the then Roman Catholic bishop in County Kildare, now part of the Irish Republic. But then, as in more recent times, rigid Irish denominationalism posed greater obstacles to shared religious school schemes than proponents had the ability to overcome.

In this generation the idea did not become an issue until the formation in 1974 of a group, called All Children Together, by Protestant and Catholic parents. The parents argued that the education system, rigidly segregated along religious lines, had to bear some responsibility for Ulster's periodic eruptions into communal violence. Only at the university level do significant numbers of Protestants and Catholics attend classes together.

The new integrated school's 90 pupils represent an even balance between Catholics and Protestants, and school authorities say their aim is to keep a balance in other ways, too—economic background, sex, and educational ability. If they succeed,

Lagan College will be an integrated, all-ability school for boys and girls from homes that range from fairly affluent to comparatively poor.

Religious education methods reflect the school's cultural diversity. There are three sessions a week, two of them shared by Catholic and Protestant pupils and teachers.

Recently, for example, the pupils were shown baptismal services in the Roman Catholic and in the Protestant tradition, said Mrs. Sheila Greenfield, the principal. "They were able to see the similarities and also to note the differences," she said. "We try to acknowledge the differences, but we stress also what we have in common." The pupils also study comparative religion, and some not long ago took part in a Passover meal.

One of the three weekly sessions is reserved for instruction in the pupils' own faiths. But, while a number of parents have asked the school to exclude their children from denominational classes, they have expressed no objection to the shared sessions.

Prosecutor Drops Truancy Charge

LILLINGTON, North Carolina—Prosecutor John W. Twisdale has dropped criminal charges against a North Carolina couple who refused to send their child to school, saying the Bible directed them to teach the child at home.

Mr. Twisdale acted in the case, scheduled for trial in superior court, after a judge in a similar case ruled in favor of the parents.

In that case, U.S. District judge Franklin T. Dupree, Jr., ruled that North Carolina's compulsory school attendance law is unconstitutional as it applies to parents with "sincere" religious beliefs. Parents Carol and Peter Duro won the right, on religious grounds, to teach their children at home instead of sending them to school.

The parents in the case that was dismissed, Mr. and Mrs. Larry Delconte, were charged with violating the state law when they attempted to educate their first-grader at home instead of sending the child to a public or private school.



WHITE HOUSE CHAT—G. M. Ross, whose liaison with Congress entails White House visits when the President sponsors social legislation, met recently with Reagan, Edwin Meese, and several religious journalists. The October 14 luncheon included discussion of school prayer, abortion, tuition tax credits, court-stripping, and the question of nuclear arms.



We thought you'd like to see the men you occasionally write to. (Note the disarming twinkle in their eyes!) Compare their props with the job descriptions on the following page and you should be able to identify each engaging character. We do regret that the suitcase arrived home before its owner, who was at a meeting of the Conference of Christian World Communions in Geneva when this picture was taken.

And, yes, Gordon Engen is always on the phone!

Perspective

For the past few years you, our readers, have written more editorials for *LIBERTY* than we, its editors, have. And you're still at it—see pages 28-30 for examples. Occasionally we've even given you a page or two apart from letters on which to share your provocative thoughts. From now on, we'll call the space BackTalk, and hope to provoke more by our expanded Perspective. (The Editor's Desk, a column of comments on *LIBERTY* contents, will return to the masthead page.)

Sharing their perspectives on current issues will be the *LIBERTY* staff, who are also members of the "State Department" of the Seventh-day Adventist Church. We refer to it as PARL—the Department of Public Affairs and Religious Liberty.

Pictured (left) are PARL staffers in Washington, D.C. We thought you'd like to meet the modest personalities you may be arguing with. (We've found that readers usually don't write when they agree!) Then, again, you may need our services, either to help you with a problem of religious conscience or to speak to your church, civic club, or other group. (Try [202] 722-6680; at the least we'll probably be able to give you the number in Afghanistan, Paraguay, Iceland, or Paducah, Kentucky, where the staffer of your choice is in the local Holiday Inn.) Whenever possible we link speaking appointments with other business, making our appearance in your town of little or no cost to you.

We don't claim to have the answers to all perplexing church-state questions. We don't claim even to know all the questions. But chances are, someone on our staff will know both the question and the answer. All have either doctorates or Master's degrees, all have gone head-to-head with opponents of church or state on some level. Backgrounds include foreign service, university and college administration and professorship, law, the ministry, and journalism.

If you're a world traveler, you may have crossed paths with B. B. Beach (or B³ as he's known in department memos). He is director of PARL, chairman of the *LIBERTY* editorial board, and secretary general of the

International Religious Liberty Association.

Since assuming his duties here in January, 1981, Beach has been in nearly 40 countries. He has met with the President of the Philippines, the Vice-President of Indonesia, the Archbishop of Canterbury, the Pope, cabinet ministers, governors, legislators, and even, for a few days, his wife.

Beach has spent more than 40 years in half a dozen other countries than the United States. He is fluent in several languages, including French and Italian, and author of *Vatican II—Bridging the Abyss* (1968) and *Ecumenism—Boon or Bane?* (1974), both published by the Review and Herald Publishing Association. When he returns from the Far East, Beach will begin planning for the 1984 IRLA meeting in Rome.

Senior statesman of PARL is Roland R. Hegstad, editor of *LIBERTY* and an associate director of the department since 1959. Hegstad is a well-known public speaker who has addressed audiences around the world. He is the author of five books, including *Baseball, Popcorn, Apple Pie, and Liberty*, has written hundreds of magazine articles, and has directed or written a number of documentary films on religious freedom. Among recent assignments: resolving Sabbath educational problems in Sri Lanka and Bangladesh, and meetings with Soviet officials and with church officials in the People's Republic of China. "Much of our work goes unreported," says Hegstad. "The motto of the IRLA [of which he is associate director] is 'Quiet Diplomacy.' We've found it's the best way to get results in church-state issues of delicacy."

Gordon Engen, director of PARL for North America, has been in our Washington offices since 1975. A specialist in labor union and work discrimination issues, he is the department's liaison with the Equal Employment Opportunity Commission. Gordon was the persistent shepherd of the conscience clause, passed by the Senate in December, 1980, and signed into law on December 2 by President Carter. The law exempts many workers from paying dues to, or joining, a labor union when the worker has religious scruples against these acts. Gordon is developing training programs for churches wishing to play an intelligent part in preserving religious freedom.

Gary Ross follows church-state affairs with the alacrity of a professor of history and political science, which he was at Loma Linda University prior to joining PARL in 1981. The Adventist Church's liaison with the Congress, Ross tracks legislation, analyzes it for church-state implications, and reports his conclusions to PARL and other committees of the Adventist General Conference. Two of his present concerns: the Prayer Amendment and tuition tax credits. (President Reagan popped into a recent discussion of the latter at the White House. And, no, he hadn't changed his mind.)

Can a person be both ordained minister and attorney without incurring schizophrenia? Mitchell A. Tyner sounds rational when he argues he is the living embodiment of an affirmative reply. Tyner is responsible for reviewing the legal implications of religious liberty issues. He monitors dockets of the U.S. Supreme Court and federal and state appellate courts. Among other responsibilities: Sabbath problems, taxation and ownership of church property, unemployment compensation, child custody and domestic relations, and deprogramming and immigration cases.

Tyner pastored churches in St. Louis and St. Joseph, Missouri, and in Charlotte, North Carolina, before joining the national staff in June of 1982.

Newest member of PARL is N. O. Matthews, who represents the Association Internationale Pour la Defense de la Liberte Religieuse at the United Nations. President of Canadian Union College, College Heights, Alberta, until joining PARL in October, Matthews has an intimate understanding of Third World issues. Born in India, he carries a Canadian passport and the remnants of British diction. Before leaving Canada, Matthews saw a pet project become reality—the Amendment to the Alberta University Act, which gives all private colleges in that province power to grant their own academic degrees. It is the first legislation of its kind in Canadian history. The dapper educator will have a desk near the UN as well as in our Washington offices.

Well, that's the family at our house. We hope you'll count yourself part of it. Visit us when you're in Washington. And in the meantime, write.

Letters

Regarding the Proposed Constitutional Prayer Amendment

This is in regard to your arguments against the Helms-Reagan Prayer Amendment.

You rightfully point out that the U.S. Supreme Court did not prohibit voluntary prayer 20 years ago in *Engel v. Vitale*. They only prohibited a prayer composed by the State of New York for use in the schools.

But the effect of this decision, taken along with their subsequent decision against Bible reading in *Abington v. Schempp*, has been a widespread and pervasive stifling of all religious expression in our public schools, a stifling that flies in the face of the Free Exercise Clause of the First Amendment. We are living in a situation in which a multitude of lesser officials (both lower courts and school administrators) have practiced hostility toward all religious expression. This is hardly the neutrality that has been claimed, and the effect is to promote atheism in the schools.

In *Stein v. Oshinsky* (1965), a U.S. circuit court ruled to uphold a school principal's order forbidding kindergarten children from saying grace before meals on their own initiative.

In *Karen B. v. Treen*, the Supreme Court of the United States affirmed a lower court decision striking down a school board policy of permitting students (on their own request) to participate in a one-minute prayer or meditation at the start of the school day. The lower court had ruled that such prayers violate the "absolute governmental neutrality" demanded by the First Amendment!

In *Stone v. Graham* (1980), the U.S. Supreme Court held that the posting of the Ten Commandments on classroom walls in public schools is unconstitutional. Who on earth could believe that this posed the possibility of the establishment of some particular religious denomination? An "established" church such as the Anglican Church or the Lutheran Church in Europe was the entity for which the Establishment of Religion Clause was designed.

In *Lubbock Civil Liberties Union v. Lubbock Independent School District* (1982), a U.S. circuit court held that the First Amendment prohibits students from conducting voluntary meetings for "educational, religious, moral, or ethical purposes" on school property even before or after class hours. Is this "freedom of speech"?

HARVEY LORD
Watervliet, Michigan

Presently voluntary silent prayers are permissible in public school classrooms. President Reagan's proposed constitutional amendment would open the way for voluntary audible prayers.

No one denies the value and need of prayer. But since public school pupils come from various ethnic and religious backgrounds, just what type or form of audible prayer shall be used in this highly pluralistic group? Shall it be Catholic, Protestant, Jewish, Mohammedan, Buddhist, Hinduist, Shintoist, or something else? Some may ask, What difference does it make? Just this: Distinctive doctrinal and denominational beliefs determine the manner in which respective prayers are phrased, offered, and directed. Thus a Christian or non-Christian prayer acceptable to one religionist may not be acceptable to another.

Possibly the President hoped that those praying audibly in a diversified religious group would mute their distinctive religious convictions (i.e., the Christian would not mention Jesus as Lord, the Mohammedan would not bow toward Mecca, and the Jewish adherent would refrain from wearing his prayer apparel) for the sake of classroom harmony. While sounding nice, this would constitute a sham.

Then again, one vocal supporter of the Prayer Amendment strongly urged that the religious majority in any given area should determine the content and form of classroom prayers. Manifestly, utilizing a tax-supported institution for this daily rite would give that particular religious majority an unwarranted advantage denied by the Constitution.

Under the circumstances, some would conscientiously refuse to participate in the imposed classroom prayer exercise. Locked into a religious service against their will, what would they do while the others were praying? The Constitution grants them

the right to pray or not to pray, to believe or not believe, to practice religion or not practice. Would they be excused to occupy the time playing checkers, chess, or basketball? or since they were in the minority, would they just sit and endure an undesired religious exercise lest they be branded as heretics by the majority? And would undermanned school staffs, overburdened by excessive federal and state cuts to public education, be able to handle this extremely sensitive problem impartially to the satisfaction of all?

Until now our Constitution has provided the climate for all religions to grow and flourish unimpeded by government intervention. Equal before the law, churches in the United States mutually respect the rights of one another to their particular views and practices. Would this unique American experiment continue under the proposed amendment, or would one strong religious body tend to overshadow and dominate the others? And certainly the unrestricted use of the public school facility would in time help to establish that religious domination and supremacy.

Interestingly enough, the stated purpose of the President's controversial amendment is to "reawaken America's religious and moral heart." The ideal is commendable, but legislating the public schools as the medium of the religious revival is highly debatable. If America's religious and moral heart has stopped beating, it is because it has stopped first in the American home. The unstable moral condition afflicting schools and communities merely reflects the instability of many American homes.

First and foremost, home is where the religious and moral revival should be initiated, with parents setting the example in prayer, worship, and moral action, aided by the spiritual ministry of church, synagogue, or mosque. No act of Congress should be allowed to shift this sacred responsibility from home and church to the tax-supported institutions of the nation.

Finally, history teaches that religious legislation, for whatever lofty purpose it may be enacted, inevitably breeds religious discord, bitterness, intolerance, and persecution. The United States Constitution was adopted to prevent this from happening in America. Let us not weaken that glorious document.

THEODORE CARCICH
Colton, Washington

Say It Again, George!

I teach school law. *LIBERTY* provides me with valuable material that I use in conjunction with my course work. I have introduced my students to your magazine and they find it helpful, especially in First Amendment questions relating to freedom of speech and religion. Having been so complimentary, I hesitate to sound a negative note. Let me explain.

On the back cover of *LIBERTY* for September-October, 1980, is an excerpt from the Treaty with Tripoli, 1796, with Washington's signature appended. I must admit that the statement in the treaty attributed to George Washington with respect to the fact that this nation was in no sense founded on the Christian religion shocked me. I realize that our first president is supposed to have slept in a mind-boggling number of homes during his lifetime, but I was not aware that he was capable of uttering such an un-Christian statement as that attributed to him by Ms. Hill. To allay my vague disquiet I decided to do a bit of research. What I found appears to reflect on the scholarship and thus the historical accuracy of *LIBERTY*.

My first caveat would be that while it is true that President Washington ratified the treaty on June 10, 1797, it does not mean that he was responsible for the text of the treaty. Perhaps he read it carefully before signing, and then again, perhaps he didn't. Now, if this statement appeared in Washington's voluminous correspondence I would be more inclined to accept it as reflecting his belief. The fact is that Washington was not responsible for the draft of the treaty. I consider it questionable scholarship to extract a statement from a treaty, append the president's name to it, then conclude that he said it.

My second caveat is, in my judgment, much more significant. In fact, it raises the question as to whether the statement attributed to Washington ever really existed. I cite the text of the treaty in *Treaties and Other International Agreements of the United States of America 1776-1949*, compiled under the direction of Charles I. Bevans, LL.B., assistant legal advisor, Department of State, Vol. II, Philippines—United Arab Republic, page 1070, Department of State Publication 8728, released February 1974, USGPO. According to a footnote on page 1070 by Hunter Miller, the statement (Article II) in

question has never been explained, and indeed a proper translation from the Arabic text of the treaty shows that Article II of the Barlow translation does not even exist.

The fact that the statement attributed to Washington is featured on the back of the magazine indicates that the author thought it the salient statement of her article. If this is true then I would expect such a statement to withstand scrutiny. In my judgment it does not.

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[Thomas Carrere need have no concern about sounding "a negative note"; he raises questions that warrant a considered and respectful answer.

Perhaps the headline—"A Christian Nation? Not According to George"—is more the problem than what follows. (Editors are noted for writing oversimplified headlines!) However, if the reader is initially misdirected, he is quickly put back on course by the attribution "Treaty with Tripoli, 1796, Article XI." But we are left with several questions: Does the language of Article XI appear elsewhere in Washington's voluminous correspondence? Does the statement reflect Washington's personal convictions? Did the President even read the treaty? And is the statement really "un-Christian"?

First off, if the language exists elsewhere in the President's correspondence, we are unaware of it. But would the denial that the government is "in no sense founded on the Christian religion" be more significant if found in Washington's papers rather than in the treaty? We think not, other than in the sense of documenting his personal viewpoint. To document the early nation's philosophy of church-state relations, we would prefer treaty law. A treaty is part of the organic law of the United States, so long as it is in force. The Constitution provides that "this Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land."—Article VI. The Supreme Court has declared that "a treaty is the Supreme Law of the

Land" (*Hauenstein v. Lynham*, 100 U.S. 483).

But Mr. Carrere does not question the significance of treaty law; he questions whether Article XI reflects the personal conviction of George Washington. The President, writes Mr. Carrere, was not responsible for the text of the treaty and may not even have read it.

Certainly the President was not responsible for the text prior to signing it, and then not in the sense that he *originated* it, but rather that he *endorsed* it.

Did Washington read the treaty before signing it? If you can believe President Reagan wasn't briefed on negotiations to get the PLO out of Beirut, President Carter didn't know every detail of negotiations to free the American hostages in Iran, or that President Nixon had no early knowledge of the Watergate break-in, you'll not be satisfied that the weight of evidence says Washington read the treaty. But consider: The first President had no *New York Times* or *Washington Post* to read before breakfast. In the second place, Tripolitan pirates had been scourging the Mediterranean since the seventeenth century. At one time or another half the states of Europe had sent fleets to bombard the capital. The treaty itself approved payment of tribute to Tripoli (\$83,000) to protect American commerce. Twice in the next few years the fledgling Republic was to be involved in war with Tripoli. If it is hard to believe Washington read the treaty, it takes an act of faith transcending both evidence and reason to believe he did not.

Did Article XI exist in the Arabic draft? The answer appears to be No. That it was added and transmitted to this country by United States minister Joel Barlow, and that it was signed by President Washington and ratified by the Senate, is beyond question.

Perhaps Mr. Carrere will find solace in the following: Treaties of 1848 and 1853 with Mexico have preambles stating that they are effected in the name and under the protection of the Almighty. Such an "admission" was the custom when drafting a treaty with a nation having an established church. For the same reason, treaties with Colombia in 1824, with Russia in 1824 and 1832, with Brazil in 1828, with Chile in 1832, with Costa Rica in 1851, and Paraguay in 1859, were

executed "in the name of God" or "in the name of the Trinity" (*American State Papers*, p. 323).

There does remain one comment in Mr. Carrere's letter that we would like to explore: "I was not aware that he [Washington] was capable of uttering such an un-Christian statement as that attributed to him." Is the statement, wherever found, really un-Christian? Should we not distance our nation from those "Christian" nations our forefathers fled in search of religious freedom? Should we not thank God that our nation "has in itself no character of enmity against the laws, religion, or tranquility of Musselmen"?

This assertion, we believe, reflects the glory of America and the glory of the gospel. It exalts a land offering religious freedom to all who seek to exercise conscience. It exalts a colorblind land, making no distinction based on race, having no faculty by which to distinguish between the saffron robe of the Buddhist, the scarlet of a papal cape, the white suit of a Pentecostal evangelist, and the dark Sabbath suit of the Adventist pastor.

Article XI, we believe, is a logical and Biblical extension of Christ's corrective theology spoken to Pilate. "My kingdom is not of this world" (John 18:36). At the least, it would seem, Jesus meant that no earthly kingdom is His domain, whatever its Christian pretensions. This is not to say that God, who "is no respecter of persons" (Acts 10:34), does not differentiate between truth and error, but rather that it is He, not the state, who will do so. It is He who has "a controversy with the nations"; it is He who "will plead with all flesh"; it is He who "will give them that are wicked to the sword" (Jeremiah 25:31).

If Washington entertained the sentiments of Article XI of the Treaty with Tripoli, which he surely signed, he was not being un-Christian. In his declaration of government neutrality between competing religious claims, he was reflecting the finest and noblest principles of the Judeo-Christian heritage.—Eds.]

The Mushroom Pad

"Book Banning in Baileyville" (July-August, 1982) was interesting and informative. You might enjoy the following.

When the muzzleloading gun became obsolete and ordnance designers were

experimenting with breech-loading cannon, a seemingly insurmountable problem arose. The larger the gun, the stronger the explosion, and the mightier a breech-loading mechanism had to be. This made it cumbersome and defeated its purpose, which was to provide access to the breech of the gun and at the same time prevent the breech from blowing out.

Then some genius invented the mushroom pad, two steel plates with plastic between, to serve as the breech-closing mechanism. The stronger the explosion, the more the plates compressed; the more they compressed, the more the plastic was squeezed out around the edges, and the tighter the seal. Thus the problem itself—the force of the explosion—became the source of the solution to the problem.

There are other instances. The development of the probability theory, based upon distributions of errors in observation, has led to mathematical ways of estimating the effects of those errors. Thus the problem led to the solution once again.

While most censorship has vanished in books and movies and plays for the public, it seems to be on the increase in the public schools. Perhaps the same idea would work here; maybe the fact of censorship could be used to defeat censorship.

Twenty years ago in Alva, Oklahoma, a student teacher in biology learned that a state law still in effect at that time forbade the teaching of evolution. A unit on evolution was impending; he couldn't imagine teaching biology without teaching evolution, but he didn't want to get either himself or Conrad Knox, the supervising teacher, into trouble. I asked him what Conrad did and was told that he usually assigned the evolution chapter but didn't discuss it in class.

That didn't seem enough to either of us, so I suggested to the student teacher that he assign the chapter too and in class simply discuss why it was illegal to study evolution in Oklahoma. I attended the day they did that. It happened that some of the students (including one or two whose fathers were preachers in storefront churches) had discussed the matter with their parents and were well prepared.

I have never attended a more fruitful discussion. Some defended the law, some attacked it, some didn't care—but the whole thing was done in an atmosphere of good will. The student teacher had the sense to watch, and wait, and listen to the kids. In the process a good deal of information about

evolution came out, but I insist that that is not the point. The point is that that day the pupils and the student teacher and the supervising teacher and the college supervisor saw something more important than evolution—and I speak as one who was originally a science teacher. We saw that people who disagree can discuss that disagreement. We saw that there are often two, or three, or more than three sides to many an argument.

One would invite would-be censors to visit the class and explain why some blacks object to Huck Finn, and invite some civil libertarians to defend the First Amendment. (Not on the same day, perhaps!)

ARTHUR ADKINS

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LIBERTY reflects the high quality we have come to expect from your offices. LIBERTY continues to be the vanguard for the common concerns of the conservative religious community *in re* separation between church and state. We heartily support such tasteful vocalism!

FRED WALTER

Seventh-day Church of God
Denver, Colorado

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The Editor's Desk

The Nixon Prediction

Bob Nixon's picture doesn't appear with the *LIBERTY* staffers on page 26, but we feel he belongs to us. He is listed, as readers may note, on the masthead below as our legal advisor. In addition, he writes a sometime column *Liberty & Law*. In this issue he tackles a toughie: What will the Supreme Court say in the Bob Jones University and Goldsboro Christian Schools cases?

On October 12 Bob was in the Supreme Court press box (seat G-15—"in the last row of folding chairs put in the hallway beyond the Court's huge pillars, beyond the decorative brass gates, beyond the crimson draperies," he says). On page 11 he seats you beside him to hear the questions of the Justices and the answers of counsel—who may twist and writhe, but have little choice other than to respond to their black-robed inquisitors.

Church leaders can hardly be other than sympathetic to their legal brothers. With an

eye for the Constitution and an eye for their black constituencies, churchmen have generally opted to sit this one out. Let the front organizations—the Americans United, the ACLU, the other groups committed to First Amendment rights—argue that the IRS has no license to interfere with Bob Jones's racist policies. Right the position may be, but it is one hard to argue in a climate of unity when emotions cloud nuances—leaving only black and white—and when tempers are too explosive to examine the precedents.

Bob ventures a prediction—one on which the *LIBERTY* staff itself is not united. I, for one, believe that the court will find that the IRS has exceeded its powers. I expect it also to point to Congress as the policy maker that must determine whether an institution discriminating in an area of basic human rights should be accorded tax-exempt status. Soon after this column appears in print you should have evidence in hand that will show whether both Bob and I should confine ourselves to analyzing what the Court has said rather than what it will say.—R.R.H.



FEATURES

Boxing in God	Gerald Wheeler	2
"You Never Hear the One That Gets You"	Russell W. Cumley	5
The Scientist	Jerry Bergman	7
Supreme Court Report: A Classic Confrontation	Robert W. Nixon	11
"It Sure Beats Jail!"	Gary Severson	16
Growing Up Without Santa	Francine Klagsbrun	18
Britain's Sunday	Carl Fletcher	20
When Going to Church Was a Test of Stamina	Henry N. Ferguson	22

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DEPARTMENTS

International 25	Perspective 26	Letters 28	The Editor's Desk 31
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Deadline

June 30, 1983

Send to:

LIBERTY Magazine
6840 Eastern Ave., NW
Washington, D. C. 20012
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REVIEW AND HERALD PUBLISHING
ASSOCIATION
6856 EASTERN AVE., NW,
WASHINGTON, D.C. 20012

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