

LIGHT

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Number 8

SEPARATION OF CHURCH AND STATE

The issues are before us for discussion and action. President Truman has appointed an Ambassador Plenipotentiary and Extraordinary to the State of Vatican City, the American Roman Catholic Hierarchy is trying by every possible device to get tax support for Catholic schools, millions of dollars of tax money already have been spent to build Roman Catholic and other sectarian hospitals.

This issue of LIGHT is produced in an effort to provide materials for thought and sources of additional information so that there can be an intelligent analysis of the problem together with creative action on the part of those concerned.

FACTS TO BE CONSIDERED IN THE VATICAN ISSUE

1. In the much discussed period of "diplomatic" relations with the Vatican 1797-1847 the Pope was the absolute ruler over a vast territory in Italy which included millions of people. Today the State of Vatican City covers 108.7 acres with a population of about 2000.

The representation consisted not of an ambassador but a *consul* and later a *charge d'affaires*. The men who occupied these posts were specifically ordered by the State Department to attend only to matters pertaining to commercial relationships.

The so called "representation" ended abruptly in 1887 after several "incidents." (1) Because of troubles at home, the Pope considered moving his throne to the United States. (2) In 1866 the Papal Nuncio from Brazil came to this country and urged that a Papal Nuncio be sent to the United States. (3) Religious worship was being denied to Protestants inside the city of Rome by Papal orders.

2. Official representation by an ambassador would mean that the Pope would send in exchange his ambassador, a Papal Nuncio. In all countries where a Papal Nuncio is among the diplomatic delegations he takes precedence over all other delegations in authority and in matters of protocol. In America his power would be second only to the President and the Vice-President of the United States.

It is for this reason that England does not have an ambassador, only a minister at the Vatican.

3. Out of forty-three countries which have diplomatic relationships with the Vatican, only 18 have ambassadors, 14 have ministers and the rest only minor envoys. All of the countries with ambassadors are Catholic-controlled states with the Roman Catholic Church as the state-Church. The United States would be the only exception.

4. If the Vatican is a valuable "listening post" does this not imply that the so called sacred confessional is being exploited and that the secrets so obtained are available only for the price of diplomatic relationships with the Pope or other desired concessions? A listening post can work in two directions. Because of imprisoned Catholic leaders and economic holdings behind the iron curtain, "deals" in valuable information could be made in the other direction as well. (Note: Having used this phrase "listening post" as one of their important arguments and now realizing its implications, Catholic leaders are employing a new phrase, "window on the world.")

5. If the Vatican is a state as the Roman Catholic Hierarchy says it is, then every Cardinal, Bishop, and Priest of the Catholic church is an agent of that state because all have sworn allegiance to its sovereign head. (An allegiance which supersedes allegiance to the United States Government.)

Therefore whether diplomatic relationships are established or not many now feel that they should be required to register under the Foreign Agents Registration Act of 1938 which reads:

"Whoever, other than a diplomatic or consular officer or attache, shall act in the United States as an agent of a foreign government without prior notification to the Secretary of State shall be punished by imprisonment for not more than ten years and may, in the discretion of the court, be fined not more than \$5,000."

6. Catholics argue that with diplomatic ties established between the United States and the Vatican there would be a solid front against Communism. Although the Catholic Church
(Continued on Page 2)

CATHOLIC LAWYERS AND THE EVERSON CASE

When the Everson Case was filed with the Supreme Court the Catholic Hierarchy saw what they believed to be their golden opportunity to break open the public treasury of the United States for the support of Roman Catholic schools. Lawyers were employed by strong and influential Catholic organizations to present an *amici curiae*, a brief by "friends of the court."

These Catholic lawyers contended that the words "establishment of religion" in the First Amendment of the Constitution, are "technically associated with the creation and maintenance of a formal State Church." It was their hope that the Court would accept this limited interpretation of "establishment" and make it a part of the majority opinion. With this as the Court's interpretation of the First Amendment, the door would then be wide open not only for the public support of Catholic schools but for many other benefits that Roman Catholics want from the American government.

The issue of bus fares which was the point of contention in the Everson case was not so important in itself. But what of the future? If "establishment of religion" meant only an established religion then could not every non-religious aspect of parochial schools be paid for by tax money? Could not the state go even farther and pay all the expenses of sectarian schools?

The majority (five Justices) of the Court said, "This far and no farther." The minority (four Justices) said, "Not even this far!"

Much depended therefore on the meaning of the words of the First Amendment, "establishment of religion." What exactly did they mean? From the history of court cases involving issues of religious freedom, the Court concluded that the "establishment of religion" clause means at least the following:

NEITHER A STATE NOR THE FEDERAL GOVERNMENT CAN SET UP A CHURCH.

NEITHER CAN PASS LAWS WHICH AID ONE RELIGION, AID
(Continued on Page 2)

SEPARATION OF CHURCH AND STATE—DEFINITIONS

"The core of meaning in the doctrine of separation of church and state we believe to be this: there shall be no ecclesiastical control of political functions: there shall be no political dictation in the ecclesiastical sphere, except as public safety or public morals require it." From the report of a committee of the American Council on Education (November, 1946).

"By the separation of church and state is meant the constitutional provision which forbids the making of any law, and therefore the taking of any executive action, that involves the interlocking of the official functions of the state with the official or institutional functions of any church."—Dr. C. C. Morrison.

"Separation means separation, not something less. Jefferson's metaphor in describing the relation between Church and State speaks of a 'wall of separation,' not of a fine line easily overstepped. The public school is at once the symbol of our democracy and the most pervasive means for promoting our common destiny. In no activity of the State is it more vital to keep out divisive force than in its schools, to avoid confusing, not to say fusing, what the Constitution sought to keep strictly apart. 'The great American principle of eternal separation,'—Elihu Root's phrase bears repetition—is one of the vital reliances of our Constitutional system for assuring unities among our people stronger than our diversities. It is the Court's duty to enforce this principle in its full integrity.

We renew our conviction that "we have staked the very existence of our country on the faith that complete separation between the state and religion is best for the state and best for religion." (Everson v. Board of Education, 330 U.S. at page 59, 67 S. Ct. at page 532.) If nowhere else, in the relation between Church and State, "good fences make good neighbors."—Justice Felix Frankfurter on the McCollum Case.

"The manifest object of the men who framed the institution of this country, was to have a State without religion and a Church without politics—that is to say, they meant that one should never be used as an engine for any purpose of the other *** Our fathers seem to have been perfectly sincere in their belief that the members of the Church would be more patriotic, and the citizens of the State more religious, by keeping their respective functions entirely separate. For that reason they build up a wall of complete and perfect partition between the two."—Jeremiah S. Black, distinguished American jurist and Secretary of State to President Buchanan.

VATICAN (Cont'd)

claims to be the arch foe of Communism it must be a constant source of embarrassment for the leaders of the church to recognize that their totalitarian system of ecclesiastical control in countries now behind the "iron curtain" paved the way for the political totalitarianism of Communism. Other facts which cannot be denied are these, (1) That Spain, a Roman Catholic State, has a totalitarian system of government as repugnant as that of Russia, (2) That France and Italy, both Roman Catholic countries, are dangerously near the point of going into the Communist camp, and (3) That Communism is making its inroads in the Americas only in South American countries where, again, the Roman Catholic Church is in control of the states.

7. It is the claim of the Vatican that "peace" is the one primal objective of the Holy Father. But was his objective peace when he blessed the legions of Mussolini before they marched into the Ethiopian carnage where hundreds upon thousands of helpless persons were killed. Was the objective peace when the political concordat with Adolph Hitler was signed during World War II? Was the objective "peace" when Dictator Franco of Spain received the full support of the Vatican in his devastating destruction and impoverishment of Spain? These "peace" moves are difficult to explain. Too difficult, in fact, to make the peace objective a valid argument for the establishment of diplomatic relations with the Vatican.

CATHOLIC ARCHBISHOPS HIT SUPREME COURT DECISION IN McCOLLUM CASE

When the Roman Catholic Bishops of the United States met in Washington for their annual meeting in November, 1948, they issued a statement against the Supreme Court decision in the McCollum Case.

According to the New York Times (November 21, 1948, Page 1) story the Bishops termed the phrase "separation of Church and State" as a "mere metaphor," a "shibboleth of doctrinaire secularism." Several months previously, according to another article in the New York Times (April 3, 1948, Page 16, Col. 3), they charged that "many legislators, judges, teachers, and much of the press of our country were working with Communists, materialists, Agnostics, and secularists bent on the frustration of education."

"We hope and pray," said the Bishops, "that the novel interpretation of the First Amendment recently adopted by the Supreme Court will in due process be revised."

EVERSON CASE (Cont'd)

ALL RELIGIONS, OR PREFER ONE RELIGION OVER ANOTHER.

NEITHER CAN FORCE NOR INFLUENCE A PERSON TO GO TO OR TO REMAIN AWAY FROM CHURCH AGAINST HIS WILL OR FORCE HIM TO PROFESS A BELIEF OR DISBELIEF IN ANY RELIGION.

NO PERSON CAN BE PUNISHED FOR ENTERTAINING OR PROFESSING RELIGIOUS BELIEFS OR DISBELIEFS, FOR CHURCH ATTENDANCE OR NON-ATTENDANCE.

NO TAX IN ANY AMOUNT, LARGE OR SMALL, CAN BE LEVIED TO SUPPORT ANY RELIGIOUS ACTIVITIES OR INSTITUTIONS, WHATEVER THEY MAY BE CALLED, OR WHATEVER FORM THEY MAY ADOPT TO TEACH OR PRACTICE RELIGION.

NEITHER A STATE NOR THE FEDERAL GOVERNMENT CAN, OPENLY OR SECRETLY, PARTICIPATE IN THE AFFAIRS OF ANY RELIGIOUS ORGANIZATIONS OR GROUPS AND VICE VERSA. IN THE WORDS OF JEFFERSON, THE CLAUSE AGAINST ESTABLISHMENT OF RELIGION BY LAW WAS INTENDED TO ERECT "A WALL OF SEPARATION BETWEEN CHURCH AND STATE."

Thus, the Court concluded, "establishment of religion" means much more than the establishment of a State Church. Upon this conclusion there was an overwhelming majority opinion.

When the McCollum Case was taken to the Supreme Court, the lawyers for Springfield ignored the issues which might have won for them and made their main assault against the above mentioned conclusions of the Supreme Court on the "establishment of religion" clause. They asked that the Court reverse its former opinion on the meaning of "establishment." With only one member dissenting, and with Justice Murphy, a Roman Catholic, voting with the majority, the earlier opinion was reaffirmed by the Court and, in their 8 to 1 decision, the Justices declared that the "released time" plan of teaching religion in the public schools of Champaign was unconstitutional because "it was an incorporation of religion into the school system."

The Catholic lawyers who filed the *amici curiae* brief in the Everson Case had met a crushing defeat. This accounts, in part, for the terrific barrage of criticism hurled at the Supreme Court by the American Catholic Bishops and by Roman Catholic educators since the McCollum decision was handed down. What promised to be "rich gravy" became instead only bitter gall.

CURRENT PRACTICES AND POLICIES OPEN TO QUESTION AND DISCUSSION

1. Chaplains for the Armed Services, the Congress of the United States, and other institutions supported by tax money.

President James Madison (author of the First Amendment), in a letter dated July 10, 1822, said, "It was not with my approbation that the deviation from it (the principle of the separation of Church and State) took place in Congress, when they appointed chaplains, to be paid from the national treasury."

It should be pointed out in this regard that the negotiations for services to be performed by the chaplains does not take place between the government and organized religious bodies. The negotiations are between the government agency or institution and a private individual. (There is an exception in that the government asks that chaplains for the armed forces be accredited by the several denominations. One can readily see that it would be virtually impossible for the government to set standards by which a man would be judged morally and theologically fit for a chaplain's service.)

If the government requires the military services of its citizens, then that government has the obligation to provide a spiritual ministry for their well-being.

There are strong arguments for a civilian chaplains' corps but such would throw a tremendous economic burden upon the various religious bodies.

2. Statues erected in honor of religious leaders on public land. The city of Washington has many such monuments. The following is but a partial list: An equestrian statue of Bishop Francis Asbury (Methodist) stands at 16th and Mount Pleasant Streets; a statue of Rev. John Witherspoon (Presbyterian) is at Connecticut and N Street. In other cities, likewise there are statues erected which honor Catholics, Congregationalists, Baptists, Unitarians, etc.

A recent court case was decided in New Orleans in which the issue of separation of church and state was raised over the erection of a statue in honor of a Catholic woman, St. Frances Xavier Cabrini at the intersection of Canal Street and Harrison Avenue. Judge Louis H. Yarrut, a Jew and a Mason, handed down his decision on March 21, 1951 as follows:

"To deny the right of the city to erect a statue to a public figure solely because of the honoree's religion, whatever rank he or she may have in his or her particular Church, would be to violate the constitutional mandate that there shall be no discrimination against anyone because of his race or religion."

He continued.

"The only restriction against the city is that it cannot discriminate. That any statue or monument might incidentally have some religious significance cannot be held violative of the constitutional prohibitions, unless it was designed and used as a public shrine or place of worship, or for the propagation of a religious belief; or was intended to hold some other religious group in public contempt and ridicule; or designed to cause religious strife and antagonisms."

3. Prohibition by the state of the practice of polygamy as a religious institution. In his monumental three-volume work Dr. Anson Phelps Stokes presents the following statement (vol. 3, P. 370) "The State takes the ground that all religions are permissible under two provisos, namely, that they do not advocate and/or indulge in polygamy or some other practice that is entirely inconsistent with the ethical code which the English-speaking people have derived from their Jewish-Christian ethical background, and that they do not unduly disturb the public peace or otherwise threaten the welfare of the State. The most famous group of cases involving both of these considerations was that of the Mormons, which came to a head in the issue of polygamy. The Supreme Court decided that polygamy might not be practiced under the Constitution and laws of the United States, because it was both 'in violation of social duties'—that is, ethics—and 'subversive of good order'—that is, public welfare."

When, in spite of this decision, the Mormon Church continued its teaching and practice of polygamy, it was dissolved by the United States government, its property was forfeited and the right of suffrage was taken from its adherents. (Zollman, *American Civil Church Law*, p. 17).

4. Laws which limit the claim of "religious liberty." Under this heading would come such laws as those which prohibit the handling of poisonous snakes in religious meetings, laws which prohibit the use of certain streets for religious services by the Salvation Army and other groups, laws which prohibit Christian Science practitioners and other religious healers from trespassing on the field of medicine.

While the state recognizes the right of the individual to the free expression of religion, there are some abusive practices which have to be restricted in the interest of the public welfare. So long as there is no violation of fundamental moral standards and so long as the safety of individuals is maintained the state does not interfere to restrict religious liberty.

5. Tax exemption for churches and religious institutions. Since the fourth

century of the Christian era there has been exemption of churches and the land around them from taxation.

It is argued that the power to tax is the power to destroy. If the state could impose a tax on churches it might tax them beyond their power or willingness to pay, then it could take over those churches for their failure to pay taxes.

Those who oppose the tax exemption of churches claim that the government is actually giving a subsidy to churches when it grants them tax immunity. It is a positive "aid to religions," they claim.

In our present economic structure new practices have developed. In order to escape the payment of taxes many wealthy persons have turned over to religious institutions valuable property, industrial plants, oil holdings and other real estate, with the result that today some churches and many religious institutions own valuable revenue producing properties which are tax free.

In such cases tax paying businesses are placed at an unfair disadvantage. There is a growing feeling of resentment against the total tax exemption of all property of religious institutions.

In 1950 the Kentucky Baptist Association went on record with a strongly worded resolution in favor of taxation by the state of revenue producing property which is held by churches and religious institutions. On the other hand the Roman Catholic church has vigorously opposed the move.

In court cases where tax exemption of the actual places of worship has been concerned the courts have ruled that the "religious moral and intellectual culture afforded by them were deemed, as they are in fact, beneficial to the public, necessary to the advancement of civilization and the promotion of the welfare of society."

In 1940 in the city of Washington taxes were levied on some \$2,000,000 worth of property held by churches because it was ruled that the property was not being used for church purposes. This same practice is being followed in some of the states.

In many states with a sales tax churches pay the tax on their purchases. In other states they must levy and collect taxes on sales made at bazaars, suppers, etc. In still other states where admission is charged for church events, the churches must collect an admission tax.

6. Use of public school buildings for church worship services. In most cases this is an emergency practice. When a church building burns or is being torn down to be replaced, services are frequently held in public school buildings, court houses, etc. This has been construed by the courts as the use of tax money for religious purposes. There are cases where church groups have been enjoined from the use of such

UNION OF CHURCH AND STATE, THE ULTIMATE GOAL OF THE AMERICAN CATHOLIC HIERARCHY

(Excerpts from an article "The Center of Catholic Power" by Harold E. Fey.)

The purposes of the Roman Catholic Church in America are authoritatively and unambiguously set forth by Monsignor John A. Ryan, head of the social action department of the National Catholic Welfare Conference and principal architect of the church's present organizational structure in America. More than two decades ago he wrote, with M. F. X. Millar, a book on **THE STATE AND THE CHURCH** which was republished in 1940 as **CATHOLIC PRINCIPLES OF POLITICS**, with Francis Boland as collaborator. For nearly twenty-five years this has been an approved text in Catholic universities. It is stamped with both the *imprimatur* and the *nihil obstat*. This means that the proper church authorities have examined its doctrine and found it in accord with papal teaching and that there is nothing in the book to which the official censor can object as a misrepresentation of the church. It therefore stands as an official statement of the Roman Catholic position on the relation of the church to American society.

According to that position there is only one true church, the Roman Catholic, and it is the intention of that church to establish itself as the state church in this country. Catholics may deny that this is what their church is trying to do, but one needs only to read the clear statements in Dr. Ryan's officially approved textbook to discover the truth. For example, Pope Leo XIII is cited in **CATHOLIC PRINCIPLES OF POLITICS** as authority for the statement that "the state must not only 'have care for religion' but recognize the true religion. This means the form of religion practiced by the Catholic Church." So says Monsignor Ryan, italicizing "true". The state is under obligation to help the Catholic Church prevail over all other churches, according to Monsignor Ryan, who quotes with entire approval an encyclical of Leo's on "Catholicity in the United States." The encyclical condemns the American system of separation of church and state.

What will happen to other religious faiths when Catholicism comes into power? The question is not dodged in this official Catholic text. Since the Roman Catholic is the only true church, all others must be false. Protestants and other religious groups "may" be permitted to practice their own form of worship, providing it is "carried on within the family circle or in such an inconspicuous manner as to be an occasion neither of scandal nor of perversion to the faithful . . ." But the

Catholicized state would circumscribe the religious freedom of Protestants and confine it to such fugitive meetings. "Since no rational end is promoted by the dissemination of false doctrine, there exists no right to indulge in this practice.

. . . Error has not the same rights as truth."

Dr. Ryan expresses confidence that Protestants can do nothing about this Catholic threat to their freedom because Protestants believe in religious toleration and are thus required to practice it. Louis Veuillot, a French clericist, put the same idea thus: "We ask you for liberty in the name of your principles; we deny it to you in the name of ours." One method of dealing with dissenting churches when Catholicism comes into power, says Monsignor Ryan's book, will be to remove their "exemption from taxation," while the Roman Catholic Church will of course retain such exemption. If the state refuses to do the will of the church, the pope can, says Dr. Ryan, free citizens from their oaths of allegiance to it. Little reassurance is to be found in Dr. Ryan's claim that he is talking about an idealized Catholic state, that Catholics have an obligation in conscience to obey the Constitution until they accumulate enough power to change it, and that Protestants need not worry for a long time to come. In other words, Dr. Ryan tells Protestants not to worry until it is too late to worry.—*Christian Century*

RELIGIOUS GARB OF NUNS AND BROTHERS BANNED FROM NEW MEXICO SCHOOLS

In a unanimous opinion, the New Mexico Supreme Court has banned the wearing of religious garb in the public schools of the State. It did not, however, bar members of religious orders from serving as public school teachers. The high court upheld District Judge E. T. Hensley in enjoining one hundred twenty-four specified brothers and nuns from serving as instructors in public schools on the ground that they taught religion. Justice James McGhee, who wrote the court's opinion, stated: "In reaching these decisions, we are not unmindful that members of the religious have served as teachers, and have in the past rendered fine service. The fact that they were teaching religion in the public schools in violation of the State and Federal Constitution was well known to school authorities, both local and State—by them condoned and in many cases encouraged." The ruling upheld the lower court in barring public school classes from church-owned buildings, in prohibiting the transportation of parochial school pupils in public school busses, and in prohibiting the distribution of free textbooks to parochial schools.

GOVERNMENT AID TO SECTARIAN HOSPITALS

(The following are extracts from the statements of Dr. J. M. Dawson before Congressional Committees.)

"The query arises: Is a grant, or gift, or allocation of tax funds by a State, or by the Federal Government, to a hospital, owned, controlled and operated by a sectarian religious organization, a violation of the first amendment to the Constitution of the United States, as interpreted by the Supreme Court of the United States? Specifically, is a grant, or gift, or allocation of tax funds under the provisions of the 'Hospital Survey and Construction Act,' sometimes referred to as the Hill-Burton Act, to a hospital; owned, controlled, and operated by a sectarian religious organization, a violation of said amendment as interpreted by the Supreme Court?

"It is my opinion, after careful consultations with attorneys concerning the decisions of the Supreme Court, that a grant, or gift, or allocation of tax funds by a State, or by the Federal Government, to a hospital, owned, controlled and operated by a sectarian religious organization, as contemplated or permitted by the Hill-Burton Act, is a clear violation of the provisions of the first amendment to the Constitution of the United States."

Baptists have endeavored to abide by the Federal Constitution as interpreted by the United States Supreme Court. "It is our understanding that, in the final construction of the Constitution's meaning, the Constitution is what the Supreme Court says it is. The Court has said, in the *Everson* Case, and repeated in the *McCormick* Case:

"No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion."

"We submit that this language admits of no misconstruction. It is plain enough for the lawmaker and plain enough for the law-abiding citizen to go by. As to the religious character of the church hospital, there can be no doubt. In our Baptist system of hospitals, we have never apologized for the religious influence. Bishop Alter, of the Roman Church, reminded the Catholic Hospital Association of the United States that, although the majority of the patients were non-Catholic, 'the Catholic hospital appropriately cannot be called a non-sectarian institute,' since it 'derives its motivation and inspiration from religion.'

"While it is true that in a few instances Protestants have accepted Government funds for their hospitals, the sum total of Government grants to Roman Catholic hospitals has been

astounding. The report of the Hospital Facilities Division of the Federal Security Agency, as of June 30, 1951, shows all grants under the Hill-Burton program to date. Two years ago when the figures were compiled as of that date it was shown that out of a total of \$43,284,685 granted all church hospitals, the Roman Catholics had received \$35,925,248. Now it will be seen, according to the later report the amazing proportion has steadily increased. In June, 1951, apparently out of a total of all church hospital grants amounting to \$82,627,863 the Roman Catholics had received \$72,378,343. This stupendous sum exceeds one-sixth of \$424,199,280, or the entire amount granted in the whole country. If these figures are questioned, let the Senate Committee call for verification, project by project, and I predict it will be found they are an understatement. They show that Roman Catholics received more than seven times as much as allotted all other faiths put together."

ROMAN CATHOLIC TEACHING ON PUBLIC SCHOOL SYSTEM

Typical of the diatribes hurled at the American public school system by Catholic leaders is the pamphlet entitled *Our National Enemy No. 1*. The author, Bishop F. Noll of Indiana, editor of *Our Sunday Visitor*, identified the "enemy" as the public school.

Canon 1372 of Canon Law (1217), "Catholic children shall not attend non-Catholic, indifferent schools, schools that are mixed, that is to say, schools open to Catholics and non-Catholics alike. The bishop of the diocese only has the right, in harmony with the instructions of the Holy See, to decide under what circumstances, and with what safeguards to prevent loss of faith, it may be tolerated that Catholic children go to such schools."

Father Paul L. Blakely, S. J., in a pamphlet entitled *May an American Oppose the Public School?*, published in 1937 under the imprimatur of Patrick Cardinal Hayes, proclaimed: "Our first duty to the public school is not to pay taxes for its maintenance . . . The first duty of every Catholic father to the public school is to keep his children out of it . . . Every Catholic child in a Catholic school, is the command of the Church . . . Discussion is at an end. The obligations imposed by obedience are alone to be considered."

Roman Catholic leadership insists that the only true education is Catholic education. Their motto is, "every Catholic child in a Catholic school." Catholics maintain that church schools save the community hundreds of millions of dollars every year by providing education for millions of children who would otherwise tax the public schools' facilities. They feel it is an unfair burden to have to support the public schools

and also their own parochial school and that as taxpayers they are entitled to a share of the public monies for their parochial schools.

This position has met vigorous Protestant opposition, on the ground that aid to Catholic schools is in reality aid to the Catholic Church and, as such, is clearly inconsistent with the spirit of the First Amendment.

They hold that Catholics are subject to a double system of taxation only through choice as the public schools are open to all. The Catholic Church has a right to be dissatisfied with the public schools and establish its own private schools, but these and all other private schools cannot seek public aid in maintaining themselves. Furthermore, they are not the only members of the community who pay for the public schools but receive no direct benefits. The same can be said of bachelors, childless couples and people who send their children to private schools other than parochial. The church cannot legitimately expect public support in a private venture, especially since this kind of support is in violation of the constitution. It has been ruled by the Supreme Court that "no tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion."

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . ."
—First Amendment of the Constitution of the United States.

PAMPHLET FILE

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"*Shall America Bow to the Pope of Rome?*" United Evangelical Action, 111 E. Fourth St., Cincinnati 2, Ohio. The brochure is 25 cents a single copy; 10 cents in bundles of ten or more. This pamphlet has full, dependable information on the matter of the Vatican Envoy and ought to be secured by pastors to put into the hand of every church member. Freedom depends on knowing the facts and acting in the light of them.

We call attention to reprints of "*An Ambassador at the Vatican?*" which can be had for \$3.95 per hundred from *The Christian Century*, 407 S. Dearborn Street, Chicago 5, Ill. This is a well-reasoned argument against it as a subverting of the First Amendment to the Constitution.

Also we would call attention to the literature on this subject which is available from Protestants and other Americans United for Separation of Church and State, 1633 Massachusetts Ave. N.W., Washington, D. C.

"WHY WE OPPOSE DIPLOMATIC RELATIONS WITH THE VATICAN"

Edward Hughes Pruden
Pastor
First Baptist Church
Washington, D.C.

A Reformation Sunday Address
Delivered at a City-Wide Service
in Trenton, N. J., October 28, 1951.
Order from the author.

BOOKS

Blanshard, Paul, *American Freedom and Catholic Power*, Beacon Press \$3.50. A "must" book with more than 200,000 copies sold.

Blanshard, Paul, *Communism, Democracy and Catholic Power*, Beacon Press \$3.50, a study of two systems of authoritarian control over men's minds—The Kremlin and Vatican.

Stokes, Anson Phelps, *Church and State in the United States*, 3 volumes. Harpers \$25.00. This work is now recognized as basic to the field of Church-State problems.

Dawson, J. M. *Separate Church and State Now*, Richard Smith Co. \$2.50. A book dealing with contemporary issues in a clear and forceful manner. Dr. Dawson's work is a distinct credit to Southern Baptists who count him a dynamic leader in their midst.

(Note: These books can be ordered through your state Baptist Book Store.)

**HAVE YOU WRITTEN YOUR
CONGRESSMAN AND SENATORS
EXPRESSING YOUR
VIEWS ON THE APPOINTMENT
OF AN AMBASSADOR
TO THE VATICAN? DO IT
NOW!**

CURRENT PRACTICES AND POLICIES OPEN TO QUESTION AND DISCUSSION

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If the government requires the military services of its citizens, then that government has the obligation to provide a spiritual ministry for their well-being.

There are strong arguments for a civilian chaplains' corps but such would throw a tremendous economic burden upon the various religious bodies.

2. **Statues erected in honor of religious leaders on public land.** The city of Washington has many such monuments. The following is but a partial list: An equestrian statue of Bishop Francis Asbury (Methodist) stands at 16th and Mount Pleasant Streets; a statue of Rev. John Witherspoon (Presbyterian) is at Connecticut and N Street. In other cities, likewise, there are statues erected which honor Catholics, Congregationalists, Baptists, Unitarians, etc.

A recent court case was decided in New Orleans in which the issue of separation of church and state was raised over the erection of a statue in honor of a Catholic woman, St. Frances Xavier Cabrini at the intersection of Canal Street and Harrison Avenue. Judge Louis H. Yarrut, a Jew and a Mason, handed down his decision on March 21, 1951 as follows:

"To deny the right of the city to erect a statue to a public figure solely because of the honoree's religion, whatever rank he or she may have in his or her particular Church, would be to violate the constitutional mandate that there shall be no discrimination against anyone because of his race or religion."

He continued.

"The only restriction against the city is that it cannot discriminate. That any statue or monument might incidentally have some religious significance cannot be held violative of the constitutional prohibitions, unless it was designed and used as a public shrine or place of worship, or for the propagation of a religious belief; or was intended to hold some other religious group in public contempt and ridicule; or designed to cause religious strife and antagonisms."

3. **Prohibition by the state of the practice of polygamy as a religious institution.** In his monumental three-volume work Dr. Anson Phelps Stokes presents the following statement (vol. 3, P. 370) "The State takes the ground that all religions are permissible under two provisos, namely, that they do not advocate and/or indulge in polygamy or some other practice that is entirely inconsistent with the ethical code which the English-speaking people have derived from their Jewish-Christian ethical background, and that they do not unduly disturb the public peace or otherwise threaten the welfare of the State. The most famous group of cases involving both of these considerations was that of the Mormons, which came to a head in the issue of polygamy. The Supreme Court decided that polygamy might not be practiced under the Constitution and laws of the United States, because it was both 'in violation of social duties'—that is, ethics—and 'subversive of good order'—that is, public welfare."

When, in spite of this decision, the Mormon Church continued its teaching and practice of polygamy, it was dissolved by the United States government, its property was forfeited and the right of suffrage was taken from its adherents. (Zollman, *American Civil Church Law*, p. 17).

4. **Laws which limit the claim of "religious liberty."** Under this heading would come such laws as those which prohibit the handling of poisonous snakes in religious meetings, laws which prohibit the use of certain streets for religious services by the Salvation Army and other groups, laws which prohibit Christian Science practitioners and other religious healers from trespassing on the field of medicine.

While the state recognizes the right of the individual to the free expression of religion, there are some abusive practices which have to be restricted in the interest of the public welfare. So long as there is no violation of fundamental moral standards and so long as the safety of individuals is maintained the state does not interfere to restrict religious liberty.

5. **Tax exemption for churches and religious institutions.** Since the fourth

century of the Christian era there has been exemption of churches and the land around them from taxation.

It is argued that the power to tax is the power to destroy. If the state could impose a tax on churches it might tax them beyond their power or willingness to pay, then it could take over those churches for their failure to pay taxes.

Those who oppose the tax exemption of churches claim that the government is actually giving a subsidy to churches when it grants them tax immunity. It is a positive "aid to religions," they claim.

In our present economic structure new practices have developed. In order to escape the payment of taxes many wealthy persons have turned over to religious institutions valuable property, industrial plants, oil holdings and other real estate, with the result that today some churches and many religious institutions own valuable revenue producing properties which are tax free.

In such cases tax paying businesses are placed at an unfair disadvantage. There is a growing feeling of resentment against the total tax exemption of all property of religious institutions.

In 1950 the Kentucky Baptist Association went on record with a strongly worded resolution in favor of taxation by the state of revenue producing property which is held by churches and religious institutions. On the other hand the Roman Catholic church has vigorously opposed the move.

In court cases where tax exemption of the actual places of worship has been concerned the courts have ruled that the "religious moral and intellectual culture afforded by them were deemed, as they are in fact, beneficial to the public, necessary to the advancement of civilization and the promotion of the welfare of society."

In 1940 in the city of Washington taxes were levied on some \$2,000,000 worth of property held by churches because it was ruled that the property was not being used for church purposes. This same practice is being followed in some of the states.

In many states with a sales tax churches pay the tax on their purchases. In other states they must levy and collect taxes on sales made at bazaars, suppers, etc. In still other states where admission is charged for church events, the churches must collect an admission tax.

6. **Use of public school buildings for church worship services.** In most cases this is an emergency practice. When a church building burns or is being torn down to be replaced, services are frequently held in public school buildings, court houses, etc. This has been construed by the courts as the use of tax money for religious purposes. There are cases where church groups have been enjoined from the use of such

public property. In other law suits the courts have decided in favor of the churches citing that the amount of money involved is only a minor matter.

In still other cases the churches have paid for the expenses of heating, janitor services, etc., so as not to place added expense on the state.

This latter practice would seem to be least open to question and criticism. It is not the actual amount of money involved so much as it is the principle. The Supreme Court of the United States, while it has not ruled on cases of this type, has said in the McCollum decision "No tax money shall be used to aid one religion, etc."

Occasionally the reverse situation takes place where the school has to use church property when school buildings are destroyed. In most instances when this occurs, payment is made by the schools for heat, lights, etc.

7. Government grants to denominational colleges for research projects. Particularly in recent years has this practice been taking place. Money has been appropriated for scientific research in sectarian colleges. In some instances the grants have not been accepted but in more instances they have. The principle of separation would not be violated so long as there is value received by the state for money expended. It would be a distinct violation for the church related institution to derive a profit from such a project.

8. Government aid to education through G. I. subsidy. Millions of men and women who served in the armed forces have received college and professional training at government expense through the G.I. Bill. Many of these have attended church colleges and theological seminaries. Money for tuition expenses and books has been paid by the government to the respective institutions, religious and otherwise.

This procedure has been necessary for obvious reasons. But here, as with chaplains, the government is dealing with individuals. It pays for services made available to those individuals by the institution.

There have been cases where educational institutions have "cashed in" on the government. In some of these instances church related schools were involved. Such practices by church schools not only violate the principle of separation but they also violate principles of Christian morality and common decency.

9. Bible reading in public schools. By far the most widespread form of religious instruction is the reading from the Bible. No one can deny the spiritual inspiration and moral values received from reading the Bible. One of the important difficulties is the question as to

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which of the different versions of the Bible should be read, since our public schools contain persons of different faiths. There has been considerable controversy regarding this matter because Protestants use the King James version of the Bible, Catholics use the Douay version which differs from the Protestant translation in about fifty places, and Jews not only disagree in the matter of translation but do not include the New Testament in their Holy Writings.

It has always been the American principle to respect the religious convictions of the minority. Many sincere persons contend that the public school system violates that tradition if it forces children of different religious backgrounds to listen to the Bible read from a version which is not acceptable to them or to listen to portions of the Bible which they do not consider as being part of their Bible.

A survey made in 1946 showed that thirteen states and the District of Columbia required Bible reading in all public schools; twenty-five states permitted it and in eight states the Bible was not read in the public schools.

A summary of court decisions from the several states shows the following differences of opinion and conclusions. Bible reading is not sectarian (Illinois and South Dakota minority opinion); it does not violate religious liberty (Illinois); it does violate religious liberty (Nebraska); such reading is sectarian instruction (Wisconsin, Nebraska); it is not religious worship (Illinois); it does not violate religious liberty if pupil is excused or not required to attend (Kentucky); excusing pupils deprives them of equality and subjects them to stigma (Illinois); excusing pupils is the cause of religious strife (Louisiana).

The following extract from a decision of the Supreme Court of Ohio is worth quoting. In its decision the Court upheld the right of the Board of Education of Cincinnati to refuse to permit Bible reading in the public schools of that city. Among other things the Court said:

"Legal Christianity is a solecism, a contradiction of terms. When Christianity asks the aid of government beyond mere impartial protection it denies itself. Its laws are divine and not human. Its essential interests lie

beyond the reach and range of human governments. United with government, religion never rises above the merest superstition; united with religion, government never rises above the merest despotism; and all history shows us that the more widely and completely they are separated, the better it is for both."

Up to the present time there has been no decision by the Supreme Court of the United States on this question.

IT IS PERMITTED BY LAW . . .

Publicly financed bus transportation for parochial school pupils is provided in California, Colorado, Connecticut, Hawaii, Illinois, Indiana (if no extra expense is entailed), Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oregon and Rhode Island.

Free textbooks are provided to parochial students in Louisiana (now being tested in a court action), Mississippi, New Mexico, Oregon and West Virginia.

Religious instruction by church teachers is allowed inside public schools during school hours in Alabama, Hawaii, Louisiana, North Carolina, Ohio, Oklahoma, Oregon, Texas, Vermont and Virginia. Connecticut tried this practice out for a time, but found it to be a failure and abandoned it.

The New York State Court of Appeals upheld the "released time" system in effect in that state in a decision from which Judge Stanley Fuld dissented. The case is now being appealed to the United States Supreme Court.

WHY CHURCH AND STATE MUST BE KEPT SEPARATE

BECAUSE . . . "Religion is not within the purview of human government."
—James Madison.

BECAUSE . . . " . . . to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical . . . "
—Thomas Jefferson.

BECAUSE . . . "All Civil States with their officers of justice in their respective constitutions and administrations are proved essentially Civil, and therefore not Judges, Governors or Defenders of the Spiritual or Christian State and Worship."
—Roger Williams.