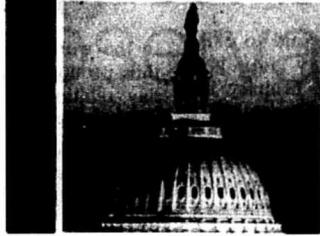


Report from the IN Capital

AUGUST 1970



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A view of the crowd at the Honor America Day religious service held on July 4.

The view is from the Lincoln Memorial looking toward the Washington Monument.

In a message entitled "The Unfinished Dream," Dr. Billy Graham declared that the dream embodied in the Declaration of Independence, signed 194 years ago, had its roots in the Bible and in the ethical and moral principles of the Judeo-Christian faith and the God of that tradition.





Taxes, Churches, And The Supreme Court

By Walter C. Wright, Jr.

A recent decision of the United States Supreme Court (*Frederick Walz v. Tax Commission of the City of New York*, decided on May 4, 1970), may have much significance for the future taxation of church property and church income. While the decision on its facts is limited to property tax exemptions for church realty used exclusively for religious purposes, the philosophy expressed by the Court would seem to sanction tax exemptions for much broader purposes. However, it might also operate against other exemptions now being given. All 50 of the states have provisions for the tax exemption of church realty, but the *Walz* case was the first one in which the Supreme court took occasion to rule on the question of the constitutionality of such exemptions.

Walz, a taxpayer in New York City, based his suit on the contention that the exemption of church property and the consequent diminishment of the tax base had the effect of increasing the amount of taxes he had to pay to help make up the difference. This, he contended, required him to make a contribution to religious bodies, thereby violating the First Amendment's provision against the establishment of religion.

In a 7 to 1 decision the constitutionality of the tax exemption was upheld. Chief Justice Burger delivered the opinion of the Court, and Justices Brennan and Harlan expanded upon it in separate concurring opinions. The only dissent came from Mr. Justice Douglas, who saw in exemption a government subsidization of churches.

The Court's decision was based on the theory that tax exemption, unlike direct monetary aid, involves no governmental sponsorship of religion but merely spares the exercise of religion from the burden of property taxation. Therefore, tax exemption involves no abridgement of the First Amendment provision prohibiting the establishment of religion. The Court admitted that the effect of exemptions is to render an economic benefit to churches, but it held that the es-

tablishment of religion can be said to exist only where: (a) direct monetary aid is given; or (b) indirect aid is the primary intent of the legislature or the primary effect of the legislation.

The Court made the exemption of church property subject to the limitation that such exemption involve the government in religion less than the taxation of such property would. In the *Walz* case it was determined that "elimination of exemption would tend to expand the involvement of government by giving rise to tax valuation of church property, tax liens, tax foreclosures, and the direct confrontations and conflicts that follow in the train of those legal processes." Thus, instead of detracting from the separation of church and state, the policy of exemption contributed to it.

It is important to note that the Court ruled that exemptions to churches *may* be granted, not that they *must* be granted. Many religious organizations had filed briefs as "Friends of the Court," contending that the exemptions had to be granted since the taxation of property used purely for religious purposes would be in violation of the Free Exercise of Religion Clause of the First Amendment. But the Court did not rule on this question, for the action had been brought by one seeking to enjoin the granting of such exemptions, not compel them. The Court would have had no authority to compel such exemptions, since this question was not before it.

It should also be noted that the Court did not rest its decision on the fact that churches furnish welfare services which would otherwise have to be furnished by the State and which, therefore, justify the tax exemption. The question before the Court was not whether the tax exemption was justifiable, but whether it was permissible under the Constitution. However, the Court did observe that "to give emphasis to so variable an aspect of the work of religious bodies would introduce an element of governmental evaluation and standards as

GUEST COLUMNIST for News Analysis in this issue is Walter C. Wright, Jr. Mr. Wright is a summer public affairs intern assigned to the Baptist Joint Committee by Princeton Theological Seminary. He has a background of experience in law. The viewpoints presented here are his own and not necessarily those of the Baptist Joint Committee or its staff.

to the worth of particular social programs, thus producing a kind of continuing day-to-day relationship which the policy of neutrality seeks to minimize."

The Court called attention to the "tight rope" it has had to walk. The Court has struggled to find a neutral course between the two Religion Clauses, both of which are cast in absolute terms, and either of which, if expanded to a logical extreme, would tend to clash with the other." In other words, if the Court goes too far in the direction of supporting the free exercise of religion (as by giving direct monetary aid), it will be violating the provision against the establishment of religion. On the other hand, if the Court takes too much pains to avoid the establishment of religion (as by cutting off all indirect aid), it will probably violate the provision for the free exercise of religion. There is a delicate balance to be maintained.

The Court summarized as follows: "The general principle deducible from the First Amendment and all that has been said by the Court is this: that we will not tolerate either governmentally established religion or governmental interference with religion. Short of those expressly proscribed governmental acts there is room for play in the joints productive of a *benevolent neutrality* which permits religious exercise to exist without sponsorship and without interference." (Emphasis added)

What does the Court mean by a policy of "benevolent neutrality"? For one thing it means that the Court will not interfere with government aid to religion so long as the aid does not go so far as actual establishment.

Secondly, the policy of benevolent neutrality means that, so far as the Court is concerned, there is no requirement of an absolute separation of church and state. As the *Walz* case demonstrates and as the Court pointed out, "the course of constitutional neutrality in this area cannot be an

(Continued on page 8)

REPORT FROM THE CAPITAL—a bulletin published 10 months during the year by the Baptist Joint Committee on Public Affairs, 200 Maryland Ave., N. E., Washington, D. C. 20002. The purpose of this bulletin is to report findings on the interrelations between churches and governments in the United States. It affords church leaders a chance to understand developments, policies and trends affecting public policies and it affords public officials a chance to understand church structures, dynamics and positions. It is dedicated to religious liberty, to free and effective democracy and to equitable rights and opportunities for all.

The views of writers of material for *Report From The Capital* are not necessarily those of the Baptist Joint Committee on Public Affairs or its staff. The bulletin also provides for the sharing of views between leaders of the cooperating conventions and between leaders of various religions and traditions.

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Executive Staff of the Committee: C. Emanuel Carlson, executive director; John W. Baker, associate executive director and director of research; W. Barry Garrett, director of information services; and James M. Sapp, director of correlation services and editor of *Report From The Capital*.

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washington observations



July 28, 1970

THE NATIONAL EDUCATION ASSOCIATION, in a significant switch of its position, has recommended that federal aid to nonpublic elementary and secondary schools be cut off and that the aid, "either direct or indirect, . . . be expended solely for the support of public schools." The new NEA position is not intended to apply to federal school lunch and milk programs.

LAST YEAR'S NEA ASSEMBLY, in the convention's only roll-call vote, rejected by a slim margin an attempt to insert the "public school" limitation to federal aid to education. This year's reversal came on a voice vote so decisive that a head count was not required.

FOR YEARS prior to the enactment of the Elementary and Secondary Education Act of 1965 the NEA stood with those who opposed public aid to nonpublic schools. So desirous was the NEA for federal aid to education that it supported limited public aid to nonpublic schools.

ACCORDING TO AN NEA press release, the Association in recent years broadened its traditional philosophy of federal aid to public schools to encompass the child benefit approach when applied with adequate safeguards. The Association's legislative arm in Washington has been active in implementing this expanded philosophy.

PROMINENT AMONG THE REASONS for the switch in NEA position, according to the press release, was the fear that public funds may help subsidize the many white private schools that have sprung up in the South in the wake of desegregation.

THE OFFICE OF ECONOMIC OPPORTUNITY (OEO), at an unpublicized briefing, indicated a determination to implement a pilot project in granting vouchers to school children to attend either public or nonpublic schools of their parents' choice. Opposition to the plan was readily evident from participants at the briefing, with the exception of those who operate private or parochial schools.

A SPOKESMAN FOR the Council of Protestant Colleges and Universities has taken an opposite view from that of Attorney Leo Pfeffer in the Connecticut college case that has been appealed to the U. S. Supreme Court. Pfeffer contends that the four colleges whose federal grants are challenged are controlled and conducted by religious orders and the Roman Catholic Diocese of Bridgeport, Conn.

THE CONTENTION of the Council of Protestant Colleges and Universities spokesman is that the U. S. District Court for Connecticut ruled against Pfeffer's position and that the "Catholic" colleges are now community schools that are entitled to public support for their secular functions. It remains to be seen what the U. S. Supreme Court will decide on this question.

SENATOR PETER H. DOMINICK (R., Col.) has declared that it will be almost impossible to get the draft extended beyond its expiration date of June 30, 1971, and that a volunteer military system will have to be developed. Local opinion would tend to support this evaluation.

Graham Calls For Spiritual Renewal To Honor America

Billy Graham, keynote speaker for the nationally televised Honor America Day religious service held here on the Fourth of July, called on all Americans to dedicate themselves "to a renewal of faith in God, equality, justice and peace for all."

The popular Southern Baptist evangelist, speaking on the steps of the Lincoln Memorial, declared that Americans can honor their country best by rededicating themselves to God and to the American dream.

Graham addressed a crowd variously estimated to be from 15,000 to 30,000. It was predominantly white and apparently middle-class, with many young people and families with children in evidence.

At the conclusion of his speech, Graham received a standing ovation that was exceeded only by that given to Kate Smith who sang earlier in the program "God bless America."

In a message entitled "The Unfinished Dream," Graham declared that the dream embodied in the Declaration of Independence signed 194 years ago had its roots in the Bible and in the ethical and moral principles of the Judeo-Christian faith and the God of that tradition.

"What our forefathers began we must work to fulfill," Graham urged. He said their vision was "of one nation under God, where men can live as brothers in peace and in freedom."

Using a quotation made famous by the late Sir Winston Churchill, Graham told the Fourth of July crowd: "Pursue the vision, reach toward the goal, fulfill the American dream—and as you move to do it, never

give up! Never give up! Never! Never! Never! Never!"

Sharing top billing with Graham and the United States Army Band, were The Centurymen, a 100-member all male choir made up of music directors from Southern Baptist churches. Accompanied by the U.S. Army Band, the choir sang "America the Beautiful" and "The Stars and Stripes Forever."

Preceding the religious service, The Centurymen joined with the Army Band in a thirty-minute concert of religious and patriotic music. Directed by Buryl Red, senior music editor for Holt, Rinehart and Winston Publishing Company, the choir sang six numbers, including special arrangements of "Oh God, Our Help in Ages Past" and "Joyful, Joyful We Adore Thee."

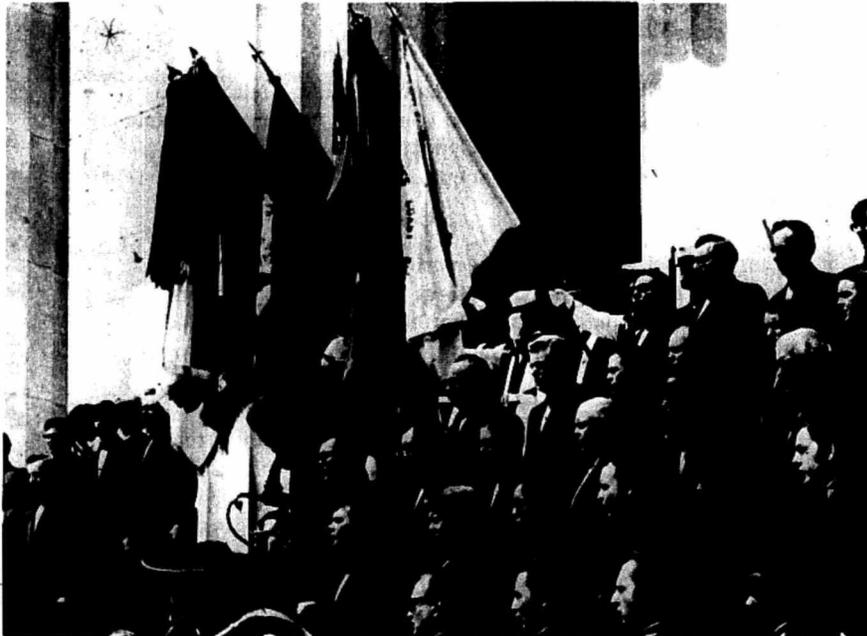
The Southern Baptist musicians, coming from churches in 22 states, performed also in the all-star show, emceed by comedian Bob Hope, in the evening of the Fourth. In addition to singing two numbers, the Baptist choral group joined in the grand finale of 300 voices singing "Battle Hymn of the Republic" under the direction of Fred Waring.

Other Baptists on the morning program were two black ministers. The Reverend E. V. Hill, pastor of Mt. Zion Missionary Baptist Church in the Watts section of Los Angeles, was the Master of Ceremonies. Also, the Reverend E. L. Harrison, pastor of Shiloh Baptist Church here in Washington, read from the New Testament.

Another religious star of the morning program was Roman Catholic Bishop Fulton J.



Billy Graham at Lincoln Memorial



THE CENTURYMEN at Honor America Day Celebration

Sheen who pronounced the benediction. Prior to doing so, Bishop Sheen proposed that "in order to gain God's blessing" small prayer and Bible study groups should be formed throughout the nation. Such cells, he said, "could bring us together—Jews, Protestants and Catholics."

Early in his address, Graham said the Honor America Day participants were here not only to honor America but "to renew our dedication and allegiance to the principles and institutions that made her great."

"Lately," Graham said, "our institutions have been under attack: the Supreme Court, the Congress, the Presidency, the flag, the home, the educational system, and even the church—but we are here to say with loud voices that in spite of their faults and failures we believe in these institutions!"

Graham urged all concerned Americans—"White and black, hawks and doves, parents and students, Republicans and Democrats"—who hate violence and are alarmed over minority tactics "to stop this polarization before it is too late."

Speakers For August Religious Liberty Conference Named

A seminary professor, a government official and a United States senator will headline the program roster at the 1970 Religious Liberty Conference, August 4-6, here in Washington.

Each will speak to a facet of the theme for the conference, "Dissent in Church and State."

Gerald L. Borchert, professor of New Testament at the North American Baptist Seminary, will deal with theological background on the theme, from the dual perspective of a New Testament scholar and a student of law. His message on the topic, "The Ingredients of Free Conscience . . . Criteria for the Future," will come at the opening plenary session.

Mrs. Anita Allen, an official in the U.S. Office of Education will be featured at a luncheon address on, "Distinguishing Between Dissent and Disruption."

The Honorable Charles McC. Mathias, Jr., United States Senator from Maryland, will address a second luncheon session of the conference, speaking on, "Constitutional Freedoms in an Ordered Society."

Borchert is Professor of New Testament of the Baptist Seminary in Sioux Falls, South Dakota. He is also Academic Vice-president of that institution, the only seminary operated by the General Conference of North American Baptist churches. He received his Ph. D. from Princeton University and holds a law degree from the University of Alberta Law School. An able writer and scholar, Dr. Borchert is well qualified to deal with criteria for freedoms in the future.

Mrs. Allen, a leading Baptist in Washington, D.C. in her own right, is the wife of Willie B. Allen, pastor of the Upper Room Baptist Church in the District of Columbia. Mrs. Allen is a special assistant in the Bureau of Higher Education of the United States Office of Education. She is Chairman of the School Board of the District of Columbia, one of the few elected offices in the Federal District. She is a graduate of Howard University and has taught on the faculty there. She earned her Masters degree at the University of Chicago.

Mathias is the junior senator from Maryland and a member of the important Committee on the Judiciary. He has served as assistant attorney general of Maryland and city attorney of Frederick. After four consecutive terms in the U.S. House of Representatives, he was elected to the Senate in 1968. An able Constitutionalist, he is also a student of foreign affairs and has proposed initiatives in policies toward Europe, Vietnam and the Middle East. The Senator is a graduate of Haverford College, Yale University and the University of Maryland. He is a member of All Saints Episcopal Church in



Borchert



Allen



Mathias

Frederick and has served on the Maryland Episcopal Ecumenical Board.

Forty other leaders from six Baptist conventions in the nation will serve as confer-

ence group and section chairmen, recorders and resource persons. The conference will be held in the new Quality Motel—Capitol Hill, nearby the U.S. Capitol Building.

Conference Participants Make Preparation

Conference participants from 26 states and six Baptist denominations are already at work in the preparation for the conference deliberations early in August.

Background study materials have been compiled in a book which has been in the hands of each participant since late June. While the material is highly selective and far from exhaustive, it presents some of the ideas to be examined at the conference. It is intended to bring to the attention of the participants selected areas and types of dissent in the United States today.

Contents of the book are divided into two sections as follows:

Theological and Philosophical Studies

1. Recent Statements on Selective Conscientious Objection Made by Various Church Bodies
2. Are Baptists Still Dissenters? by Albert McClellan
3. The Relationship Between Free Will and Free Conscience, by Penrose St. Amant
4. Dissent in the Context of Theological and Philosophical Absolutism, by Stewart A. Newman
5. A Free Church in a Free State, by W. Hubert Porter
6. The Rationale of Selective Conscientious Objection, by John C. Zuber

Dissent in the United States

1. Dissent and Counter-Dissent in the United States, by C. Arthur Insko
2. Is Thoreau's Thought Valid Today? by Hollis W. Barber
3. The Courts and Freedom of Conscience, by Walfred H. Peterson
4. Dissent and the News Media, by Warner B. Ragsdale, Sr.
5. The Impact of the Mass Media, by Wilmer C. Fields
6. The Positive Potential of Dissent, by Russel W. Leedy

METRO — Washington's Subway System

By Carlton R. Sickles

The dirt is finally flying for Metro, the Washington area's 98-mile, \$2.6-billion rapid rail transit system.

Construction contracts, totaling more than \$53 million and covering about two miles, already have been let, and more will be awarded soon. The first six miles of the system, mainly under downtown Washington, are scheduled to be placed in operation in mid-1973 and the entire 98-mile network, serving Maryland, Virginia and the District of Columbia, is due to be completed in 1979.

When the first trains roll with passengers, a dream of more than 60 years will be fulfilled—a dream dating back to December 5, 1909, when a banner headline in *The Washington Post* asked readers: "WHY NOT A REAL SUBWAY FOR WASHINGTON?"

On and off through the next several decades, pressures for a rapid rail transit system alternately rose—and fell—depending on wars, economic conditions, the political climate and related factors.

But one thing remained constant—the area's traffic problems. In fact, congestion on the streets and highways of the national capital region reached the point where a desperate Congress, in 1955, authorized a four-year, \$500,000 Mass Transportation

Survey to seek ways of breaking the traffic bottleneck.

A major recommendation of that study was that work be started promptly on development of a suitable subway network. A few months later Congress created a federal body, the National Capital Transportation Agency, with responsibility for initial planning of the subway system.

As Congress had intended, the NCTA was replaced, in 1967, by an interstate agency, the Washington Metropolitan Area Transit Authority, representing Maryland, Virginia and the District of Columbia. Within the framework of WMATA, the eight political jurisdictions involved — Arlington, Fairfax, Montgomery and Prince George's Counties, the District of Columbia, Falls Church, Alexandria and Fairfax City—hammered out an agreement on specific routes and a financial cost-sharing plan for the total Metro system.

Then, on December 9, 1969, President Nixon signed into law a bill authorizing federal participation of the system—to the extent of \$1.1 billion over a 10-year period. And the same day, key federal, state and local officials presided over Metro groundbreaking ceremonies.

THE METRO SYSTEM

Metro is a 97.7-mile network of rapid rail transit facilities serving the nation's capital and the nearby areas of Maryland and Virginia. It includes 37.7 miles of service in the District of Columbia, 29.9 miles in Maryland and 30.1 miles in Virginia.

The system has 86 stations. Forty-four stations are in the District of Columbia. Twenty-two are in Maryland and the remaining 20 are in Virginia. Fifty-three stations will be in subway. The remaining 33 will be at surface or on aerial structures.

Metro will operate entirely on exclusive rights-of-way uninterrupted by other rail vehicles or at-grade traffic crossings.

Forty-seven miles of the system, mostly in the highly developed central portion, will be constructed below surface. Forty-two miles will be on surface utilizing, wherever feasible, existing rights-of-way along established rail lines or in the medians of highways. The remaining eight miles will be on aerial structure, mostly for the purpose of grade separation.

Metro contains three principal through routes. All three traverse the District of Columbia. In certain instances, the routes branch as they reach into suburban areas to permit broader coverage of the region.

Facilities for parking 30,000 automobiles will be provided at 37 Metro stations. Spaces will be available for 5,000 vehicles in the District of Columbia, 11,000 in Virginia and 14,000 in Maryland.



METRO CENTER station at 12th and G Streets, N.W. will offer direct transfers between the G Street line on the upper level and the 12th Street line on the lower. The station will feature an arched, coffered ceiling, escalators between all levels, indirect lighting, air conditioning, passenger surveillance by closed-circuit tele-

vision, and modern noise-deadening materials. At rush hours, eight-car trains will roll into the station on all four tracks at two-minute intervals. By 1980, over 184,000 persons a day are expected to use this station, including 11,000 who will transfer here.

Selective Service Issues New Rules for CO Classification

Selective Service Director Curtis W. Tarr has issued a list of criteria for the classification of conscientious objectors to war. The new regulations are for the use of local boards as they implement Section 6(j) of the Military Selective Service Act of 1967 and the recent rulings of the Supreme Court.

The Supreme Court has been broadening progressively the interpretation of "religion" as used in the Selective Service Act. Section 6(j) of the Act reads as follows:

"Nothing contained in this title shall be construed to require any person to be subject to combatant training and service in the armed forces of the United States who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form. Religious training and belief in this connection means an individual's belief in a relation to a Supreme Being involving duties superior to those arising from any human relation, but does not include essentially political, sociological, or philosophical views or a merely personal moral code."

In *United States v. Seegar* (1965) the Supreme Court expanded the concept of religion beyond the traditional theistic views. Recently in *Welsh v. United States* (1970) the Court expanded qualification for conscientious objection even further. A key paragraph in this decision is as follows:

"If an individual deeply and sincerely holds beliefs which are purely ethical or moral in source and content but which nevertheless impose upon him a duty of conscience to refrain from participating in any war at any time, those beliefs certainly occupy in the life of that individual 'a place parallel to that filled by . . . God' in traditionally religious persons. Because his beliefs function as a religion in his life, such an individual is as much entitled to a 'religious' conscientious objector exemption under Section 6(j) as is someone who derives his conscientious opposition to war from traditional religious convictions."

In his July 6 memorandum to local boards Director Tarr pointed out that "compulsory military service legislation in the United States has always recognized conscientious objection." He then stated that in order for a person to be classified I-O or I-A-O he must meet three basic conditions:

"(a) That a registrant be opposed to participation in war in any form;

"(b) That his objection be founded on religious training and belief; and

"(c) That his position be something other than 'essentially political, sociological, or philosophical views, or a merely personal moral code.'"

Tarr further explained that the objection must be to all wars and that it must be to war within the meaning of the selective service law, not a theocratic or spiritual war between the powers of good and evil.

"The primary test that must be used," Tarr told the local boards, "is the test of sincerity with which the belief is held. He said that "the board should be convinced by information presented to it that the registrant's personal-history reveals views and actions strong enough to demonstrate that expediency is not the basis of his claim."

Selected portions of the new criteria for conscientious objection follow:

"The term 'religious training and belief' as used in the law may include solely moral or ethical beliefs, even though the registrant himself may not characterize these beliefs as 'religious' in the traditional sense, or may expressly characterize them as not 'religious.'"

White House Notes Baptist Views on School Aid Plans

A White House spokesman has promised to convey Southern Baptist views on public aid to private and parochial schools to the President's Commission on School Finance.

The word from the White House came from Edward L. Morgan, Deputy Assistant to the President, in response to a communication from John W. Baker, Associate Executive Director of the Baptist Joint Committee on Public Affairs.

The Southern Baptist Convention in Denver instructed the Baptist Joint Committee "to make every possible effort to communicate the opposition of Baptists to tax money for private church-related schools under any guise whatsoever to every appropriate public official."

The message to the White House by Baker conveyed Southern Baptist Convention concerns as follows:

"1. the fact that the membership of the Commission which is being created to study the financing of private schools so far has only representatives favoring aid to private and parochial schools and, thereby, lacks both balance and objectivity,

"2. the proposed voucher system which, they felt, would undermine the public school system and would provide public funds for what are now classified as private or parochial schools,

"3. the increase in private and parochial schools which have as one of their goals the evasion of the integration decisions of the Supreme Court and the Department of Health, Education, and Welfare."

Baker's communication to President Nixon further said, "Our belief that tax monies should not be used to aid any religious institutions, including those of Baptists, requires that we voice opposition to the policies enumerated above."

Morgan, responding "on behalf of the President," said that he would see that the

"The registrant's conscientious objection to war must stem from his moral, ethical, or religious beliefs about what is right and should be done and what is wrong and should be shunned, and he must hold these beliefs with the strength of traditional religious conviction."

"The registrant must demonstrate that his ethical or moral convictions were through training, study, contemplation, or other activity, comparable in rigor and dedication to the processes by which traditional religious convictions are formulated."

The complete text of the "Criteria for Classification of Conscientious Objectors" should be available from local boards or from the National Headquarters of the Selective Service System in Washington, D. C. It is based on "Local Memorandum No. 107" issued on July 6, 1970.

Southern Baptist Convention views would be brought to the attention of Neil McElroy, Chairman of the President's Commission on School Finance.

Morgan further said that the voucher system "is an experiment only." He explained that "the Office of Economic Opportunity has determined that this is one of the many new ideas in education worth trying, but they are very much aware of the risks involved and the complexities inherent in this idea, and I'm confident that they will keep a careful eye on it."

The voucher plan was developed as a result of an OEO contract with The Center for the Study of Public Policy in Cambridge, Mass. The demonstration plan will cost from \$6 to \$8 million and will begin with projects in one urban and one rural community with the fall school term of 1971.

The plan basically calls for tuition vouchers for parents to spend for their children's education in any school, whether public, private or parochial.

The voucher plan also calls for a redefinition of the terms "public" and "private" schools. A public school would be one open to all without discrimination, that charged no tuition and that provided full information about itself.

A private school, under the new definition, would be one that discriminates in its admission policy, that charged tuition, and that withheld information about itself.

The week following the meeting of the Southern Baptist Convention in Denver President Nixon announced the full 16-member Commission on School Finance. He had earlier announced Neil H. McElroy, former Secretary of Defense, as the Chairman.

Also earlier the President had appointed a four-member panel on aid to private and parochial schools that would be a part of the larger Commission. All four are known advocates of public aid to private schools.

Supreme Court . . .

(Continued from page 2)

absolutely straight line; rigidity could well defeat the basic purpose of these provisions, which is to insure that no religion be sponsored or favored, none commanded, and none inhibited." (Emphasis added)

The Court in the *Walz* case spoke in such broad terms that it would appear that no tax exemption would be regarded as a sponsorship of religion. "There is no genuine nexus between tax exemption and the establishment of religion," the Court said.

However, the Court also pointed out that the taxpayer had "not established even an arguable quantitative correlation between the payment of an ad valorem property tax and the receipt of these municipal benefits." Therefore, it would appear that, in the case of special assessments (as for paving or curbing), the Court might be unwilling to approve of an exemption. In the same vein would be assessments for sewer and water and perhaps for other municipal benefits, such as fire and police protection.

Moreover, as mentioned above, on its facts the *Walz* decision is limited to church realty used exclusively for religious purposes. This would no doubt include seminaries, parochial schools, religious publishing houses, administrative buildings, church parking lots, and certain other realty besides places of worship. Church-owned hospitals, orphanages, homes for the elderly, and other properties owned by churches but serving subsidiary religious purposes will also probably continue to enjoy tax exemption, as will church furnishings and other personal property. However, church properties which are income-producing and commercial in scope may lose their exempt status, as may properties which are being held for investment purposes only.

The exemption of parsonages and rectories poses a very difficult problem. Here, although the property is being held for a religious purpose, there is a definite correlation between the tax charged and the benefits received. Furthermore, since the parsonage or rectory is an ordinary house, the tax assessor would not be faced with a difficult task in assessing its value, as he would be in connection with a church building or seminary. Therefore, the only way the taxation, rather than the exemption, of such property would involve the government more in the affairs of religion, would relate to cases of tax liens and tax foreclosures (which, of course, would be very rare).

So far the discussion has revolved about property tax exemptions. What about other types of tax benefits? These may roughly be divided between those granted to religious organizations and those granted to their contributors. The former come in the form of exemptions; the latter take the form of deductions.

The first tax which comes to mind is the income tax. Religious organizations have

been exempt from income taxes since the first federal income tax act was adopted (1894), except as modified by the Tax Reform Act of 1969 as to their "unrelated income" (that is, the income which arises not from contributions but from commercial businesses operated by them). They are also exempt from city and state income taxes except, in some states, as to unrelated income.

Religious organizations are also exempt from the unemployment tax, inheritance taxes (though some states set limits on the amount of the exemption), most state sales and use taxes, and, on certain articles, from the federal excise tax. Also, on articles shipped to missionaries, religious organizations are exempt from export duties.

Tax benefits extended for contributions to religion include: (1) income tax deductions (up to certain limits); (2) federal estate tax deductions; and (3) federal gift tax deductions. These benefits affect religious organizations only indirectly and only insofar as the deduction motivates the giver.

Federal, state, and city income tax exemptions are supported by the decision in the *Walz* case. For these exemptions, like property tax exemptions, involve no transfer of public funds to churches and thus no government sponsorship of religion. Moreover, a taxing authority would become more entangled with religion through a policy of taxation than through one of exemption. Imagine the Internal Revenue Service men going over a church's books, for instance!

This does not mean that all church income should be exempt. Since profit organizations and most nonprofit organizations except churches have to pay income taxes on their unrelated income, the exemption for churches is discriminatory and forces the owners of other businesses to have to compete with them on an inequitable basis. Although the Supreme Court has held that the destination of income and not the source is the ultimate test of the right of exemption, it has also held that exemptions from taxation should not be granted on a discriminatory basis since this constitutes a denial of equal protection of the law. Because of the discrimination involved, it is possible that some day the Supreme Court will rule against income tax exemptions for churches as to their unrelated income.

The exemption from the unemployment tax will probably withstand judicial scrutiny since this exemption entangles the government with religion less than the application of the tax would.

The exemptions from state sales taxes would seem to be valid as to sales made by religious organizations but not as to sales made to them. For the latter involve the government in the affairs more than a policy of taxation would. In order to qualify for this type of exemption, a religious organization has to fill out certain forms, file them at the state capital, and file an exemption certificate with each purchase it makes.

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Similar administrative regulations are involved in connection with obtaining exemptions from the federal excise tax (except as to articles usable only for religious purposes) and in connection with establishing exemptions from export duties. Because of the consequent government entanglement with religion, the Court may rule against these exemptions, or some of them, if the question is presented to it.

The tax benefits extended to the contributors to religious organizations rather than to the religious organizations themselves would seem unconstitutional under the tests laid down in the *Walz* case. The fact that they take the form of deductions for individuals rather than exemptions for religious organizations would seem immaterial since in neither case is direct monetary aid given. The serious factor is that here the primary intent of the legislative body is to provide an indirect aid to religion, not to spare the exercise of religion from the burden of taxation. However, so long as deductions are permitted for contributions to charitable and educational institutions, it would seem discriminatory not to permit them for contributions to religious organizations. Therefore, these deductions will probably be upheld if the question should ever come before the Court.

All in all, it would seem that religious organizations have gained more than they have lost from the philosophy expressed in the *Walz* opinion. And the policy of benevolent neutrality should give them some sense of security.

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