Report from the Capital
November 1976

Court Upholds Employee in Sabbath Controversy

By Stan L. Hastey

WASHINGTON—In an unusual 4-4 tie vote, the U.S. Supreme Court ruled here that employers may not fire or refuse to hire persons whose religious beliefs require them to refrain from working on Saturdays.

The tie vote resulted from the abstention of Justice John Paul Stevens. Although the court's junior member would not reveal his reasons for declining to participate in the decision, the *Washington Post* reported here that Stevens' former law firm represented the parent company of the Parker Seal Co., of Berea, Ky., the employer involved in the controversy.

Five years ago, Parker Seal Co. fired Paul Cummins, a supervisor at the firm's Berea, Ky. plant for refusing to work on Saturdays. Cummins, who had been with the company for 13 years, is a member of the World Wide Church of God, a small sabbatarian denomination.

For more than a year prior to his dismissal, the company allowed Cummins to take Saturdays off. But when fellow supervisors began grumbling about the special arrangement for Cummins, the company dismissed him.

Cummins appealed to the Kentucky Commission on Human Rights, a state-level group charged with reviewing such cases. The group ruled against Cummins, however, agreeing with the company's position.

The case was then taken to a federal district court, which also upheld Cummins' firing. The Sixth Circuit Court of Appeals reversed the lower court, thereby setting the stage for the company's final appeal to the Supreme Court.

The high court's decision against the company was announced in a one-sentence statement affirming the court of appeals. None of the justices, except for Stevens, announced how he voted.

Further confusing the picture is the possibility that one or more of the four who voted not to affirm did so on grounds unrelated to the main question of Sabbath work.

The eventual significance of the court's action is thus left open to some question, although the immediate signal is that sabbatarians have won at least a temporary victory.

Both sides in the case had asked the high court to settle the basic question of whether a company or other employer must provide for time off for workers whose religious views dictate observing a day of rest other than Sunday. But because the court chose to deal with the matter in an unconventional way, it will likely have to face the issue again in the near future. Several similar appeals are working their way up through the federal courts at present.

The federal law under challenge by the Parker Seal Co., a producer of rubber seals, is a 1972 amendment to the Civil Rights Act of 1964 which states that "it shall be an unlawful employment practice for an employer . . . to . . . discharge an individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions or privileges of employment, because of such individual's . . . religion."

That provision was introduced by U. S. Senator Jennings Randolph (D-W. Va.), the only Seventh Day Baptist serving in Congress. Randolph, a prominent lay preacher in the small denomination, is a former member of the Baptist Joint Committee on Public Affairs here.

Parker Seal Co. also objected to an official guideline imposed on employers by the federal Equal Employment Opportunity Commission (EEOC) to make "reasonable accommodations to the religious needs of employees and prospective employees where such accommodations can be made without undue hardship on the conduct of the employer's business."

The company argued before the high court that making a special arrangement for Cummins caused such "undue hardship." The court disagreed, holding that Cummins must be reinstated. (BP)

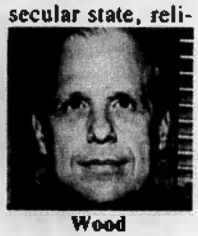
Charles G. Adams (left), newly elected chairman of the Baptist Joint Committee on Public Affairs, chats with executive director James E. Wood, Jr. during a recent consultation in Washington. Adams is pastor of Hartford Avenue Baptist Church, Detroit, Michigan.

From the Desk of the Executive Director

Historical Foundations of Religious Liberty

By James E. Wood, Jr.

There is not only a theological, but also an historical basis of religious liberty. While the foundations of religious liberty are properly to be seen first and foremost in terms of certain theological axioms, the basis of religious liberty in the modern world must also be seen as the consequence of the secular state, religious pluralism, and international relations and international law. The very concept of religious liberty as we know it today emerged slowly and was not realized until the modern era, although long advocated by various Christian thinkers and particularly by the free churches of the Radical Reformation.



Wood

I

Religious liberty is historically rooted in the emergence of the secular state. The major advances toward religious liberty came not from church confessions of faith, councils, or synods, but from constitutions, legislatures, and courts of law. The concept of religious liberty was rooted in the notion of "liberty of conscience," a phrase of modern origin which came into use after the Protestant Reformation and appeared most prominently in writings during the seventeenth, eighteenth, and nineteenth centuries. Even though the Protestant Reformation did not generally espouse the principle of religious liberty, it did represent a revolt against authority and in turn fostered the emergence of new nation-states and a new secular spirit throughout Europe and Great Britain, out of which the view of the secular state was born.

The emergence of the secular state is of major historical significance to the growth of religious liberty in the modern world. The actualization of the secular state, so directly related to religious liberty in today's world, is, to be sure, not without theological basis in Christian history.

The secular state is one in which the state is independent of church or ecclesiastical control and the church is independent of state or political control. In application, the secular state stands as a bulwark for religious liberty in its denial of the state's using religious means for the accomplishment of religious ends. The secular state, as such, is neither Christian, nor Hindu, nor Buddhist, nor Muslim, nor Shinto, nor religious, nor irreligious. The truly secular state is one in which the state seeks neither to promote nor to prohibit the free exercise of religion, in which neither religion nor irreligion enjoys an official status.

The emergence of the secular state has clearly aided the cause of religious liberty in the modern world, and therefore should not be viewed as an enemy of religion, but as an ally of religious liberty. The truth is that the secular state is one which the church should strongly welcome. Those Christians who are wary of the secular state in the modern world would do well to note that political absolutism and state deification have all too often accompanied the notion of the Christian state. Certainly history warns that the concept of the Christian state is as hazardous for true religion as for religious liberty.

II

Religious liberty is historically rooted in the emergence of religious nonconformity and pluralism. Aided by both secular and theological thought, liberty for truth in the Western world gradually gave way to liberty of conscience, namely the liberty to seek and respond to the truth as one apprehended it. In the absence of any objective basis for truth, mutual toleration naturally followed. Roger Williams saw the protection of this religious nonconformity and pluralism as "the will and command of God."

The legal recognition of the religiously pluralistic society, a phenomenon increasingly descriptive of societies throughout the world, has provided one of the most pragmatic foundations of religious liberty in the modern world. Religious pluralism has come to be a deterrent to religious totalitarianism and to the denial of religious liberty. In the West, for example, the very disintegration of a united Christendom actually advanced the cause of religious liberty throughout the Western world. The right or Catholics and Protestants to restrict the freedom of dissenters and heretics was gradually eroded, and religious liberty as a principle came to be widely espoused, so much so that in the twentieth century there has developed a broad consensus, among both churches and states, in support of religious liberty. Unfortunately, there are still those churches and those religions which today, in the face of the pluralistic character of today's world, are willing to espouse religious liberty as an abstract principle, but whenever and wherever possible they seek to maintain privileges for themselves. To do so, however, is to deny the character of religious pluralism, wherever legally guaranteed, and thereby to weaken one of the major foundations of religious liberty, so essential to the spirit of world community, in today's world.

III

Finally, religious liberty is historically rooted in international relations and international law. The principle of religious liberty was greatly aided by and in large measure the consequence of international relations that resulted from the ratification of treaties between states. International law and religious liberty grew in intimate association. In the nineteenth century, with sovereign states identified with different religious traditions, it became common in the drawing up of treaties to include provisions for the right of nationals of each contracting party in the territory of the other. Since these foreign nationals were often identifiable by both their nationality and their religion, it was inevitable that specific safeguards were provided for freedom of conscience, worship, and religious work upon the same terms as nations of the state of residence.

Nonetheless, as late as World War II, religious liberty was recognized as a matter of international law. It is of profound significance, therefore, that following the organization of the United Nations in 1945, concerted efforts were soon directed toward the formulation of a principle of religious liberty as a fundamental right to which all member nations were to subscribe

(See FOUNDATIONS, p. 6)

Voices from the Past

The Meaning of Religious Liberty

By C. Emanuel Carlson

Fourth in a special Bicentennial series

As the late Mark DeWolfe Howe, then a law professor at Harvard, began his lectures on "Religion and Government in American Constitutional History," he summarized the difference between Roger Williams and Thomas Jefferson in these words: "The principle of separation epitomized in Williams' metaphor was predominantly theological. The principle summarized in the same figure when used by Jefferson was primarily political."

Both Williams and Jefferson used the analogy of "a wall" as a simile of what they considered to be the proper relationships of these institutions. We can easily assume that the two men had the same general goals in mind, but "the wall" may not have had the same functions in both minds. They were separated from each other by more than a century and a half, so the conditions of life were much changed. Furthermore, Williams was a minister of the church, anxious to purify the church of the "world," while Jefferson was a politician seeking to put together a winning party. In addition, Williams knew walls as they were in New England and Jefferson knew them in Virginia. This last difference could be the continental divide which gives rise to divergent streams of thought in Baptist life. The stone walls of Virginia have always seemed to me to be a kind of fence, the functions of which are to mark a boundary and to prevent the movement of the larger animals. It was the New England setting that first introduced me to the retaining walls that lift the elevation of the garden that surrounds the home above the level of the wilderness beyond.

Diverse Objectives

Whatever the differences of experiential meanings of Roger Williams and Thomas Jefferson may have had as to the functions of a wall, it is still true, then and now, that "the wall of separation" arises out of an assortment of goals and aspirations, be they well or poorly defined. The mentality of a majority-religious group is unavoidably different from that of a minority group that creates awareness by emphasizing more or less divergent social characteristics or religious tenets. The latter normally sees more need of freedom. Hence many see pluralism as the major force for freedom. In some minds freedom from government is important at the federal level of government but does not apply to local rulers such as school boards. They fear the former but not the latter. Some strive for the secularization of the society and its culture while others want to evangelize through all possible means. Legislation of devotional exercises is necessary to those concerned with group rituals but is repulsive to those who think of religion as highly personal. From personal experience, I have observed any and all of these objectives among our Baptist people. Is a consensus regarding the nature and scope of freedom really possible among us?

Carlson

Freedom of Conscience

Authoritarian religious movements have floundered most often on the rock called "conscience." Yet there is that in human beings which sets a course of conviction and of thought with such assurance that neither pressures, arguments, nor suffering can bend the conscience. Unfortunately, some philosphers have found in this a kind of natural religion, which for them is a substitute for the Christian revelation that we have in Christ and in the Bible. While Baptists have been influenced by many social forces, the effort has been to "obey God rather than men" (see Acts 5:29).

The only limitations placed on government that stand up through national crises are the limitations that are rooted in personal religious experiences which have a more dominant control of our behavior than the pressures of convenience, of conformity, or of political alignments. Therefore, it has been my hope that our Baptist roots may grow constantly deeper and that religious liberty as a result may be even more secure to all.

The elements or activities which are included in the concept of freedom of conscience can serve as a checklist against which to test various policies and practices. No complete list is possible, but a dozen elements rank very high. Persons who enjoy freedom of conscience must in actual practice be free (1) to decide whether to worship or not to worship; (2) to join the church of their own choice, choosing their own creed and tenets; (3) to change their ecclesiastical allegiance without hindrance; (4) to nurture the faith of the children for whom they carry responsibility; (5) to choose the religious instruction for their children; (6) to express their faith and convictions personally and in group activities; (7) to travel for the advancement of their faith; (8) to associate themselves with others for corporate religious interests; (9) to use their homes and property for religious purposes; (10) to determine the causes and the amounts of their religious stewardship; (11) to make their own best judgments on moral and public issues, and express them; and (12) to have free access to information from various sources.

(See CARLSON, p. 6)

C. Emanuel Carlson, who served as second executive director of the BJCPA from 1954 to 1971, presented the paper from which excerpts are here reprinted at the National Baptist Bicentennial Convocation on January 14, 1976. The entire paper appers in the newly published work, Baptists and the American Experience *(Judson Press, 1976).*

Review of 94th Congress: Church-State Issues

By Carol B. Franklin

WASHINGTON—From abortion to prayer in the schools, a Soviet Baptist pastor to gospel music, the 94th Congress faced a number of issues of interest to the religious community.

While church-state issues were peripheral to the major concerns of Congress, they were imbedded in several bills under consideration.

Tax Reform

This was the year of tax reform and churches came in for their share of consideration.

In response to a request from a coalition of charitable organizations, Rep. Barber B. Conable (R-N.Y.) introduced a bill designed to define clearly what constitutes "substantial" lobbying efforts by churches and charitable organizations.

Such a bill was considered necessary due to the fluctuating standards employed by the Internal Revenue Service in assessing lobbying activities of such organizations. A "rule of thumb" amount of five percent has been used as a measure of how much of an organization's income may be devoted to attempts to influence legislation. However, the IRS has used various percentages as the measure apparently depending on what the Service thought about the organization.

To the surprise of the non-religious charitable organizations, churches opposed the Conable bill. They felt that the definition of substantiality found in the bill in effect set arbitrary limits on the right of the churches to define how much of their mission should involve attempts to influence legislation. This would have the effect of agreeing to the idea that the government has the right to define the mission of the church, according to the churches.

The Conable bill and a similar bill introduced by Sen. Abraham A. Ribicoff (D-Conn.) emerged as a part of the total tax reform package of 1976. Churches were specifically exempted from the substantiality test for directly or indirectly attempting to influence legislation. They therefore remain under the old (501C3) regulations of the IRS whereby there is no mathematical formula for determining a church's participation in lobbying activities.

A bill which would have extended current tax exclusion for the cost of a minister's parsonage to the surviving spouse for up to one year after his death did not receive full Senate consideration. The House

Franklin

approved the measure as did the Senate Finance Committee but it died in the rush to adjournment.

Tax Credits

Two proposals for giving tax credits, one for charitable giving and the other for tuition paid to private schools, failed to pass.

Rep. H. John Heinz (R-Pa.), newly elected to the U.S. Senate, reintroduced a measure which had died in committee in the 93rd Congress and which was renamed the Religious and Charitable Donors' Tax Justice Act. It would provide an income tax credit for giving to churches and other charitable organizations.

A Heinz aide pointed out that in the congressman's view inflation is likely to force severe decreases in giving to churches and other charitable groups. This "tax break" could spur increased giving, he speculated.

The present law allows taxpayers to claim gifts to churches and charities as deductions, but not as tax credits. James E. Wood, Jr., executive director of the Baptist Joint Committee on Public Affairs here, said that Heinz does not recognize distinctions between the nature of tax deductions and tax credits. "In the former," Wood said, "the government recognizes the principle of voluntary contributions for charities and nonprofit institutions, while the latter provides for reimbursement by the state for contributions made to churches and charities."

In the educational arena, Sen. James L. Buckley (R, Con-N.Y.) proposed that tuition paid at any private or parochial school at any level qualify as a federal tax deduction. A substitute amendment to the tax reform bill of 1976 offered by the Senate Finance Committee would have allowed tuition to any college, university or vocational school to be used as a tax credit.

Although the substitute amendment passed the Senate, it was eliminated by the Senate-House conference committee on the tax reform legislation. Both houses were promised another chance to vote on the issue of tax credits for education.

The Senate later passed a similar measure proposed by Sen. Russell B. Long (D-La.) which would have allowed up to $100 tax credit for tuition in 1977, $150 in 1978, $200 in 1979, and $250 in 1980. The House refused to act on the measure, allowing it to die in the closing days of Congress.

School Prayer

Thirty-eight amendments to the Constitution were proposed in the two houses of Congress regarding prayer in public schools. In addition, eight bills were introduced which would limit the jurisdiction of the Supreme Court and district courts in dealing with the issue of voluntary prayer in public schools.

The basic thrust of the proposed amendments was that nothing in the Constitution "shall abridge the right of persons lawfully assembled, in any public building . . . supported . . . through the expenditure of public funds, to participate in voluntary prayer."

"Nondenominational prayer," "meditation," "religious instruction," "use of biblical scriptures," and "reference to a Supreme Being" were related subjects proposed for protection by constitutional amendment.

None of the proposed amendments was voted on despite an attempt to bring a resolution to the House floor. The attempt failed to get enough signatures on a discharge petition to bring the proposal out of committee.

Carol B. Franklin is assistant to the director in charge of information services, BJCPA. This is the first in a two-part series reviewing the work of the 94th Congress in the areas of church-state relations and human rights.

Transcendental Meditation

Sen. Mike Gravel (D-Ak.) introduced a resolution "to increase public awareness of transcendental meditation." He cited the goals of TM to develop individuals, eliminate crime, fulfill economic aspirations, and achieve spiritual perfection as "ambitious" but "realizable." The resolution was defeated.

The Southern Baptist Convention, on June 16, 1976, passed a resolution affirming that the followers of TM are entitled to religious freedom but not to governmental aid.

The Baptist Joint Committee on Public Affairs passed a resolution on October 5, 1976, pointing out that TM embodies widely recognized aspects of religion such as ritual practices and transcendent values. On this basis, the Committee concluded that TM is a religion and has the right to religious freedom but not to governmental assistance.

A resolution introduced by Sen. Jacob K. Javits (R-N.Y.) calling for November 23 through November 30, 1975, to be recognized as "National Bible Week" passed the Senate. Sen. Howard Baker's (R-Tenn.) proposal that September of each year be designated "National Gospel Music Month" failed.

Abortion

Several congressmen introduced resolutions which would have guaranteed protection under the Constitution to the unborn. Other proposals would have left the power to regulate abortions to the individual states.

After 18 months of hearings, the Subcommittee on Constitutional Amendments of the Senate Judiciary Committee voted not to present any amendments to the full Judiciary Committee for action.

The House Judiciary Subcommittee on Civil and Constitutional Rights also did not report any measure on abortion for a vote.

Sen. Jesse A. Helms (R-N.C.) attempted to bring his anti-abortion proposal directly to the floor for a vote despite committee failure to bring it out. The vote on his proposed amendment was 40 yeas, 47 nays. (A constitutional amendment requires passage by a vote of two-thirds.)

Georgi Vins

Rep. John H. Buchanan (R-Ala.) and Sen. Henry M. Jackson (D-Wash.) pushed through an unprecedented resolution calling on the Soviet Union to release dissident Baptist minister Georgi Vins from prison. The resolution calls on the Soviet Union to honor its commitments to religious freedom expressed in its own constitution, and in the Helsinki Agreement and United Nations Covenant on Civil and Political Rights, both of which it has signed.

Missionaries

Overseas missionaries were granted voting privileges early this year when such rights were extended to at least 750,000 Americans living outside the United States. Previously, such citizens were discouraged or even prohibited from voting in federal elections.

Congress attempted to close a loophole in the tax law which allowed United States citizens residing overseas to avoid the payment of taxes. Employees of charitable organizations who work abroad, however, will not be penalized. Such persons will be allowed to exclude $20,000 of their income for the purpose of computing federal income tax.

This provision is only a slight change from the previous statute which allowed $20,000 exclusion for persons residing abroad for an entire taxable year and $25,000 for persons living in a foreign country for an uninterrupted period of three years.

As a result of the disclosures of CIA abuses around the world Sen. Mark O. Hatfield (R-Ore.) introduced a bill which would have prevented any U.S. intelligence agency from paying clergy or other religious employees for intelligence gathering. The bill would also have prohibited these agencies from soliciting or accepting the services of such persons.

Hatfield withdrew his bill after receiving assurances from both President Ford and George Bush, director of the CIA, that no overseas use would be made of missionaries. The CIA has indicated that it will continue its program of voluntary "debriefing" of missionaries upon their return to this country.

The Subcommittee on International Organizations, chaired by Rep. Donald M. Fraser (D-Minn.), pursued an investigation of possible connections between the Korean Central Intelligence Agency and the Unification Church. The Unification Church is led by Sun Myung Moon.

No legislation was expected to result from the investigation. "The purpose of the inquiry is to examine these allegations and report any finding of apparent illegality or serious impropriety to agencies of the Executive branch for appropriate action," Fraser said.

Court Asked to Clear Up Obscenity Guidelines

By Stan L. Hastey

WASHINGTON—The U. S. Supreme Court heard arguments here that persons convicted on obscenity charges committed before its most recent rulings on what constitutes obscenity should not be covered by those guidelines.

In an unusual development, attorneys for three Newport, Ky. men convicted of showing obscene films and the Solicitor General of the United States both asked the high court to send the case back for a new trial.

Robert H. Bork, the federal government's top lawyer, told the justices he was making his unusual request because he is convinced the Kentucky man did not receive a fair trial because he was judged by standards which were not in effect when his conviction occurred.

During the oral arguments, three of the nine justices publicly scolded Bork for not presenting his case in the customary "adversary" fashion.

The Kentucky men argued also that a lower federal court erred in refusing to view the films for themselves and in ruling that so-called "community standards" of obscenity for Newport are identical to those of the entire Eastern section of Kentucky.

The Supreme Court ruled in 1973 that prevailing community standards in individual localities must be considered in determining what constitutes obscenity. At the same time, the court declined to specify what constitutes a community.

As a result, the high court has been flooded with cases similar to the one from Newport. Presumably, the justices will address the question directly and clear up some of the confusion left after the 1973 ruling.

One of the films shown by the Newport men is the well-known hard core pornographic movie, "Deep Throat."

In another case from Newport, the high court declined to review the conviction of a woman for violating the federal Travel Act, a law which forbids interstate money transactions to pay for the services of prostitutes.

The Newport woman, who operated a night club which also provided prostitution on its premises, was sentenced to 18 months imprisonment and fined $5,000 for doing business with an Ohio man who re-

(See OBSCENITY, p. 8)

Carlson

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While these may be viewed as elements in the practical operations of a free conscience, none of them can be viewed as absolute or as being in isolation. In using these concepts, they must also be held in balance with the elements that constitute the freedom of the church as a body.

Freedom of the Church

The independence of the church can also be used as a kind of lodestone for the discernment of the boundaries of religious liberty. If the churches are not free, then the people are not religiously free. Much religious experience is in community with people of kindred spirit. The life of the group is vitally related to the evangelizing of the individual and to personal expressions of life and faith.

Many who are not committed to "separation" of church and state, nonetheless, do believe in the independence of the church. In fact, some formulation of this idea is a necessary concomitant of the idea of the Lordship of Christ and of religious commitment. This has been recognized all through Roman Catholic, Orthodox, and Protestant theologies in spite of the wide diversity of working relationships between church and state that have existed in the history of Christianity.

The theme of independence could be pushed to such extremes as to make the existence of the church as a social institution in the community very dubious. For instance, if our churches should insist on their independence of sanitary and public health laws, of community law and order, of civil standards for education, for zoning laws, and of scores of other actions by political authorities which are designed for human well-being in community life, the churches might compromise rather than strengthen their Christian witness.

On the other hand, the pursuit of specific objectives by church agencies and institutions may advance by opportunism, step by step, until independence is reduced to theory or theology. Institutional relationships can move realistically into binding interdependence while the vocabulary and the theology of independence remain. This has often been the situation of churches in various places historically and has, in many situations, gone so far as to make the church the servant of the state and of society, theology notwithstanding.

We may not be prepared to renounce all agreement between government agencies and church agencies, for some contracts or agreements may be necessary or unavoidable. Yet, there must be proper limits upon this process. Otherwise, freedom is obviously in danger. Where are the proper boundaries of political collaboration of churches with local and national politicians?

Financial independence is equally important. This means shunning government sources of revenue which can dry up by fiat or legislative change. But does it not also mean avoiding dependence upon private sources of revenue which accrue because of political leanings or because of government policies? The latter is as destructive of independence as the former.

Preferential treatment in tax policy or tax credit allowed to people or corporations which support church agencies gives us a kind of gray independence, and it probably should be examined very closely. Similarly, the church's independence under the Lordship of Christ can easily be eroded by the political interests of private financial or other private interests. In fact, the private corporations are a very convenient meeting place of widely varied interests. Corporation law needs our attention badly.

From the functional viewpoint, the two areas in modern American society in which the work of the governments (taking all levels together) and the church agencies overlap most are social welfare and education. Neither the church nor the state can turn away from these interests without compromising its own insights and ideals.

Elements of freedom which the church needs in order to carry out its functions require the freedom (1) to order its own public worship; (2) to make its own formulations of doctrinal positions; (3) to determine its own organization and government; (4) to set standards and qualifications for membership and for the clergy; (5) to provide and control programs for training leadership; (6) to plan and provide for the religious instruction of its members and its youth; (7) to plan and carry out various forms of Christian service or charity; (8) to plan and carry out programs of missionary outreach; (9) to own and operate business activities which are related to its objectives; (10) to have equal status with all other religious groups before the law of the land; (11) to formulate its own moral positions insofar as these do not deprive others of similar freedom or endanger the life of the community; and (12) to interpret to the public the meaning of its insights and its principles for the institutions of society, including government.

Here again we have a formulation that in the late 1950s and the early 1960s had a remarkably high level of agreement. Each item rests on its relatedness to the church's reason for being. And here, also, the erosion of changing times presents new issues that were not then on the horizon. The problem of morality in government and in society at large places before us problems that need to be considered. "Traditional" behavior may not be "Christian" behavior. In the light of all that sociologists and anthropologists have learned about the mores of society, churches must find their way to a refined Christian approach. Obviously, the church cannot be disinterested in the economic-political-social forces that fuse themselves into a nation's ethical principles.

Foundations

(Continued from page 2)

and in recognition of the vital relationship of religious liberty to relations between states. One of the basic principles included in the Charter of the United Nations is that of "the dignity and equality inherent in all human beings," and that, therefore, all member nations "have pledged themselves to take joint and separate action in co-operation with the Organization to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion."

Today religious liberty has become an international necessity. The international dimension of contemporary life inevitably requires all world faiths to espouse religious liberty for all men everywhere since an international community could not prosper without some minimum assurances of tolerance and religious liberty. Special privileges have become a practical impossibility. The growing interrelatedness among all nations has underscored in the modern world that if peace and harmony are to be established and maintained among mankind, it is essential that guarantees of religious liberty be constitutionally provided everywhere. Hence, religious liberty has become a practical necessity.

Although religious liberty is far from being a reality in most of today's world, the emergence of religious liberty as a valid principle, as one of those axiomatic commitments that is almost universally recognized, is surely one of the major achievements of our time.

Public Affairs . . . .and the Churches

High Court Refuses Quinlan Case

WASHINGTON—The U.S. Supreme Court has declined to hear an appeal by the Human Life Amendment Group (HLAG)—a "right-to-life" lobbying organization—which urged a reversal of a New Jersey Supreme Court decision allowing the withdrawal of life support apparatus from Karen Ann Quinlan.

The court rejected, without comment, the request by Richard Galagher and Stephen Garger, president and secretary-treasurer of the New York-based group, who had asked it to review the New Jersey ruling "because the state court legalized euthanasia with immunity."

Miss Quinlan, 22, now in a Morris Plains, N.J., nursing home and breathing without the aid of a respirator, has been in a coma since April 1975. Her father, Joseph Quinlan, was given permission by the courts to have the life-support systems removed from his daughter if physicians and a hospital ethics committee agreed there was no reasonable hope of Miss Quinlan's recovery.

When no other party to the New Jersey litigation appealed the state court's ruling, the right-to-life group approached the Supreme Court. Since the group was not a party to the earlier litigation, rejection of the appeal was expected on procedural grounds, without regard to "right to die" arguments raised in the appeal.

Mr. Gallagher told Religious News Service the fact that the nation's highest court did not give any reason for its refusal to hear the appeal was a "good sign." He claimed the high court, in effect, did not support the New Jersey ruling and "it leaves the door open for us to work for strict laws against such (right-to-die) practices in the states."

While the HLAG was not a party to the litigation surrounding Miss Quinlan's situation, Mr. Gallagher and Mr. Garger told the U.S. Supreme Court the group had entered the case because none of the defendants had sought to appeal and because they believed there was a "crying need" for judicial controlling guidelines applicable to comatose patients.

Defendants in the action were Thomas Curtin, Miss Quinlan's former legal guardian; the State of New Jersey; Morris County, N.J.; and St. Clare's Hospital, Denville, N.J., where Miss Quinlan had been a patient.

Last June, Associate Justice William J. Brennan denied without comment an application by the HLAG to stay all lower court rulings in the case. The New Jersey Supreme Court and the state Superior Court also rejected the petitions.

In their brief to the nation's high court, the petitioners said that there is no constitutional "right to die" and claimed that the right to life and the preservation of that right are "constitutional interests of the highest order."

Stating that the Quinlan case was only "symbolic" of the serious national concern over the New Jersey ruling, they said the state court decision "sets a most dangerous legal precedent" concerning the right to life and threatens to make euthanasia with immunity "the law of the land." (RNS)

N.Y. Abortion Ruling Stands

WASHINGTON—The U.S. Supreme Court has let stand a lower court's ruling which called for continued Medicaid payments for voluntary abortions despite a ban on such payments under a recently enacted amendment.

The so-called Hyde Amendment which banned the use of federal funds for abortion was added to the $56.5 billion appropriations bill for the U.S. Department of Health, Education and Welfare (HEW) and enacted by Congress in September.

On Oct. 22, Judge John F. Dooling, Jr., of federal district court in Brooklyn ruled that the amendment unconstitutionally denied abortion rights to the poor. He directed HEW to continue Medicaid reimbursements for abortions.

A temporary stay of the Dooling decision was requested by Sen. James L. Buckley (C,R-N.Y.), Rep. Henry Hyde (R-Ill.), sponsor of the amendment, and Sen. Jesse L. Helms (R-N.C.).

The Supreme Court unanimously and without comment refused to grant the stay.

In his 29-page ruling, Judge Dooling said enactment of the Hyde Amendment would deny "the needy" and "wards of the government" the "means to exercise their constitutional rights . . . to terminate their pregnancy." The Dooling order applied throughout the nation.

The New York City Health and Hospitals Corporation said city hospitals would be under an "intolerable burden" if federal funds for abortion were withdrawn. The corporation estimated that it faced losing about $2 million in Medicaid reimbursements.

Since abortions were legalized in New York City in 1970, some 831,000 abortions have been performed by facilities in the city, including some 407,000 on city residents, according to the corporation. (RNS)

47 Church-State Cases Pending

NEW YORK—Forty-seven church-state and religious liberty cases are currently pending in state and federal courts, according to an annual survey of such suits issued by the American Jewish Congress.

As of Aug. 1, the Jewish agency said, there were 19 pending cases dealing with aid to religious schools, seven with religious practices in public schools, nine challenging other alleged forms of unconstitutional establishment of religion, and 12 involving alleged unconstitutional government interference with the free exercise of religion.

Thirteen of the 19 church-school aid cases involve elementary and high schools, including a challenge of the use of funds under Title I of the Elementary and Secondary Education Act of 1965 for educational programs on the premises of religious schools.

Other cases of the 13 deal with other kinds of programs which use Title I funds and state laws and local practices involving various forms of aid. The other six cases involve government aid to colleges and universities.

The seven cases involving religious practices in public schools involve the use of state university premises by the YMCA, the teaching of Transcendental Meditation in public schools, leasing public schools to religious groups, prayers, Bible distribution on school premises, and whether parents of children attending religious schools may refrain from paying school taxes because the public schools allegedly teach "secular humanism."

The other nine establishment cases involve a requirement that a person on probation attend church, the use of government money for prison chaplains' salaries, employment rights of Sabbath observers, and the prosecution of Dr. Kenneth Edelin of Boston for manslaughter because of the death of a fetus following an abortion.

Also, Sunday regulations in an area where religious camp meetings are held, government funds for services supplied by child welfare agencies operated by reli-

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Church-State

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gious bodies, publication of a "motorists' prayer" on a state-distributed highway map, maintenance of a cross in a public park, and permitting a utility company to treat donations to religious agencies as a business expense in calculating its rates.

The 12 free-exercise cases involve the right of couples to adopt a child without proof of adherence to a particular religious view, the wearing of a beard by an Air Force chaplain, racial discrimination in a religious school, abortions in municipal hospitals, freedom of worship for prisoners, state regulation of religious schools, sacramental use of the drug peyote.

Also, the application of the National Labor Relations Act to Roman Catholic schools, the right of an Orthodox Jew to take a civil service examination other than on Sunday, constitutional rights of the Unification Church, and two cases involving application of zoning ordinances to religious services held in a residence. (RNS)

Church-State Talks Stalled

STOCKHOLM—The change of government in Sweden makes the future of church-state separation here uncertain, according to the information office of the (Lutheran) Church of Sweden.

The three-party coalition (Moderate-Center-Liberal) now in power is reportedly divided on how and if to disestablish the Church, and will also likely set aside consideration of separation in the face of other issues, according to the report.

For nearly two decades, proposals and studies about disestablishment have been considered in Sweden. Church-state links go back to the 11th century.

A commission appointed in 1958 issued an 11-volume study on disestablishment in 1968. Four options were outlined—status quo, separation with continued public tax support, separation with no tax support, and separation with loss of property.

In 1972, another commission recommended gradual separation, beginning in 1983 and ending in 1992.

A working party of Lutheran bishops found the 1972 proposals too radical and said the committee took "too little consideration of the historical structure and distinctive character of the Swedish Church."

Views about disestablishment have in some cases produced unlikely allies, with some of the more radical supporters and opponents of the Church arguing for disestablishment, though for different reasons. (RNS)

Canada Combats Discrimination

OTTAWA—Comprehensive legislation outlawing religious, racial, and sex discrimination is being prepared by the federal government and is likely to become law within a few months.

Anti-discrimination statutes have been among Canada's human rights laws for years but contain too many loopholes. The new legislation will have "sharper teeth and fewer gaps."

Justice Minister Ron Basford, in announcing the legislation in the House of Commons, said it would provide for establishment of a commission whose decisions could be enforced by court orders.

His action came as a direct result of public revulsion over racial hate messages being disseminated by telephone recordings. They were aimed mostly at black immigrants in Toronto, where a right-wing organization, Western Guard, openly practices racial bigotry by preparing the messages.

Ontario's Attorney-General Roy McMurtry found he was without legal power to stop the messages and for several months has urged the federal government to enact laws giving him sufficient powers to act.

Justice Basford called the Western Guard a group of cowards "hiding behind a taped telephone message to propagate hate and bias." (RNS)

Obscenity

(Continued from page 5)

peatedly patronized the Newport establishment.

In other related cases, the high court likewise denied review to obscenity cases from California and Georgia.

The California case was brought by the district attorney of Los Angeles County, who asked the justices to overturn a decision by the California Supreme Court which prohibited local law enforcement agencies from closing theaters for showing allegedly obscene movies because they constituted public nuisances.

An Atlanta, Ga. man was also unsuccessful in convincing the justices to review his conviction and sentencing for transporting obscene materials. He argued that his sentence, three years in prison and $45,000 in fines, was excessive and violated the Constitution's ban on cruel and unusual punishment. Three of the nine justices agreed with him, but four must agree before a case can be heard by the nation's highest tribunal. (BP)

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