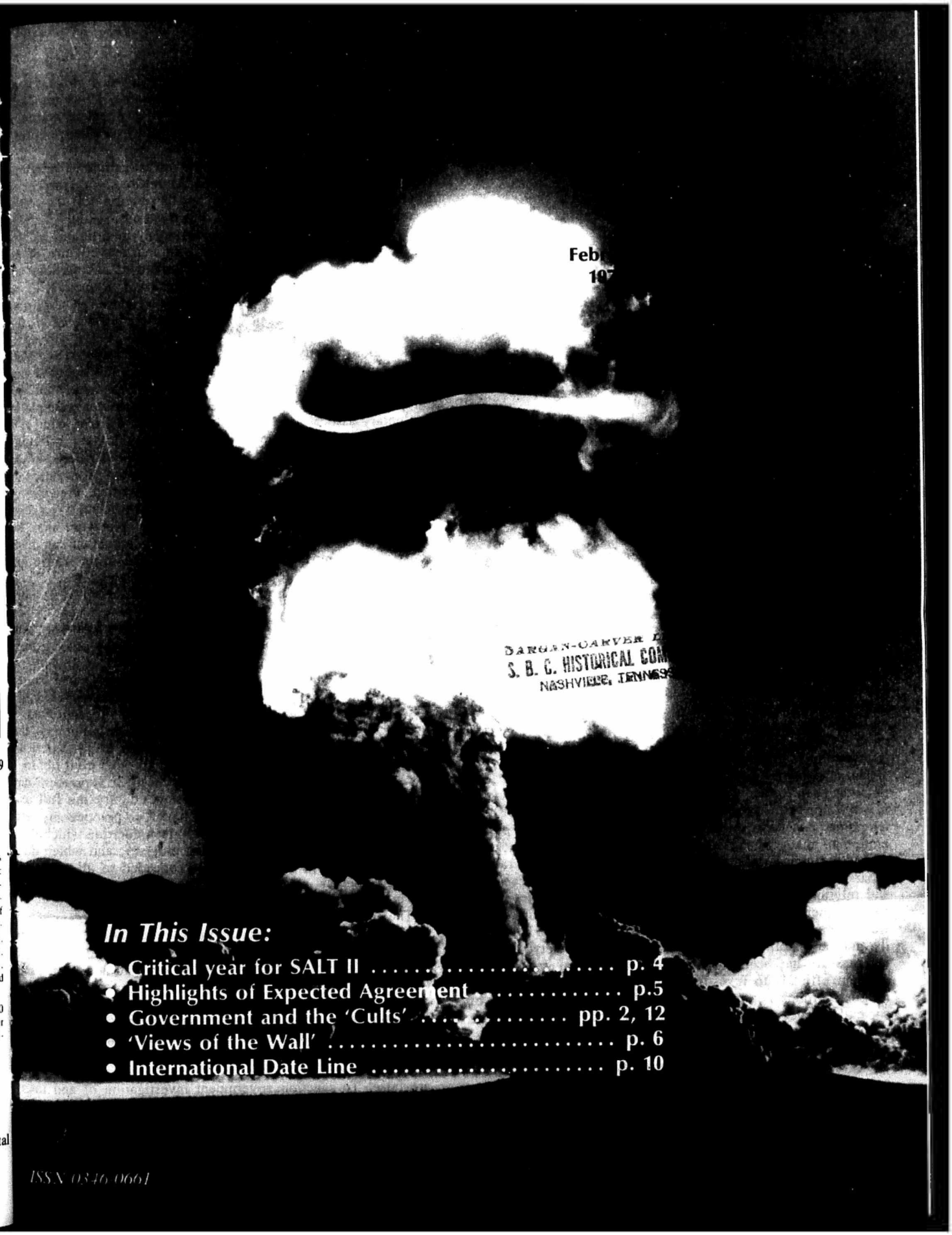

Feb
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In This Issue:

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From the Desk of the Executive Director

Government Investigation of Religious 'Cults'?

By James E. Wood, Jr.

In the wake of the tragedy of the Guyana massacre of November 18, 1978, which resulted in 917 violent deaths involving the People's Temple, renewed efforts are being made to call for government investigation of so-called religious "cults" so as to determine their possible threat to society and the political order. Hearings by an ad hoc Senate committee, chaired by Senator Robert Dole (R-Ks.) were held on February 5, with oral and written testimony presented by the Baptist Joint Committee on Public Affairs. On a scale unprecedented in American religious history, the Guyana tragedy occurred at a time of repeated acts of governmental intrusion into the internal affairs of the churches. While by no means new, this phenomenon is the dominant feature of current U.S. church-state relations.

Wood

Many reasons lie behind the present efforts to seek government intervention in religious affairs. Charges of tax abuses and unwarranted involvement of organized religion in the body politic, lack of government accountability on the part of the churches with regard to their many so-called "nonreligious" activities (e.g., education, welfare, advocacy in public affairs), their promulgation of beliefs and practices contrary to the prevailing norms of American society have all, in one way or another, formed the basis of justifying closer surveillance and intervention of government in religious affairs.

The demand for government intervention in organized religion has been further accelerated by the phenomenal growth of new religious cults which have become a major feature of contemporary American religious life. The emergence and proliferation of many of these religious groups have been accompanied by intense missionary activity and a life-style of radical separation of adherents from the mainstream of American civil and religious life. Parents of youthful converts to these cults have frequently turned to abduction and "deprogramming" as ways to meet the threat of alienation of their children from family and the established traditions of American society. Increasing pressure has been put, therefore, on lawmakers and government officials to investigate and regulate the activities of religious groups not in harmony with the accepted norms of society. Alleged acts of coercion, subversion, and violence are frequently used as strong arguments for the necessity of government intervention in these religious groups.

Not unexpectedly, the Guyana tragedy has triggered the acceleration of demands for government investigation of and intervention in religious groups to protect, it is argued, both the national and the public interest. Within a few days after the Guyana tragedy, Senator Dole urged the Senate Finance Committee to look into alleged tax and currency-law violations of religious "cults." "The tragedy in Guyana," Senator Dole said, "presents sufficient cause for a full-scale investigation of . . . this group and for much closer scrutiny of other such religious cults."

The current call for government investigation of religious groups raises serious constitutional questions with respect to the guarantees of no establishment of religion and the "free exercise of religion." It is part of a pattern of steadily increasing intrusion on the part of government in religious affairs which is marked by proposed government surveillance of all organized religion and government probes of all religious activity accompanied by growing demands of accountability and the entanglement with government by means of numerous federal agency regulations and legislation introduced in the Congress.

Religious liberty involves the concept of voluntarism. Voluntarism in this sense posits a personal, knowing, and uncoerced relationship between an individual and God. Membership in a religious group is based on the American principle of voluntary association. The principle of voluntarism leads to a firm position that anyone who knowingly joins a religious group and thereby seeks to adhere to its religious beliefs should not have his or her religious activity prevented or curtailed so long as no crime has been or is being committed. Freedom of belief is, of course, legally separate from the freedom to act on those beliefs. The former is absolute but the latter may be somewhat circumscribed if, and only if, government can demonstrate a compelling state interest in that circumscription which cannot be achieved by a less restrictive means.

This does not mean that religious groups should be entirely free from appropriate forms of scrutiny by government. When it is alleged that a religious group has violated a law or committed a crime, it is in the same position as any other group. However, the U.S. Supreme Court has said in *Draper v. United States* that government can act only on probable cause. The government cannot act on allegations and innuendo, or because a religious group is unpopular or socially disapproved.

The limitation of government with respect to religion is the cornerstone of the Bill of Rights guaranteed to all American citizens, for without freedom of religion all other civil liberties are abridged. More than a century ago, the U.S. Supreme Court in *Watson v. Jones*, observed, "In this country the full and free right to entertain any religious belief, to practice any religious principle, and to teach any religious doctrine which does not violate the laws of morality and property, and which does not infringe on personal rights, is conceded to all. The law knows no heresy, and is committed to the support of no dogma, the establishment of no sect."

The churches in America cannot be silent in the event of any government effort to harass, intimidate, or abridge the liberty of any religious group because of its unpopularity, for next time such government activity may be directed not against one of "them," but one of "us." Any effort on the part of government to monitor or control any religious group without probable cause should be opposed as being beyond the bounds of legitimate government authority. Government is not competent to judge which religions are good and which are bad any more than it can determine which religions are true and which are false. To sanction government investigation of and intervention in religious groups is fraught with the danger of the inevitable erosion of religious freedom and the diminution of our free society.

washington observations

news
views
trends

THE INTERNAL REVENUE SERVICE (IRS), in response to protests from the educational and religious community, has issued a revised revenue procedure to limit tax exemption of schools considered racially discriminatory.

AS ORIGINALLY PROPOSED last August 22, the procedure aroused a storm of protest from numerous groups, including the Baptist Joint Committee on Public Affairs. It would have required all private elementary and secondary schools to prove that they operate on a racially nondiscriminatory basis or risk losing their tax exemption.

THE REVISED PROCEDURE was the subject of hearings February 20-21 before the House Committee on Ways and Means. Next month's Report from the Capital will take note of the hearings and of the BJCPA testimony.

MADALYN MURRAY O'HAIR's suit seeking the removal of the phrase "In God We Trust" from U. S. coins and currency was thrown out by a federal court of appeals in New Orleans on February 5.

THE AUSTIN, TEXAS-BASED atheist leader, who has waged a long battle in the courts to have the trappings of religion removed from public life, was defeated earlier in her present suit when a Texas federal district court ruled that the challenged motto does not violate the no establishment of religion clause of the First Amendment.

ACCORDING TO A spokesperson at the New Orleans court, O'Hair will appeal the lower court rulings to the U. S. Supreme Court.

BJCPA EXECUTIVE DIRECTOR James E. Wood, Jr. has urged Office of Education officials at HEW to take into account the principle of church-state separation in conducting a massive new research project into the funding of both public and nonpublic schools during the 1980s.

THE RESEARCH PROJECT GROWS out of amendments to the Elementary and Secondary Education Act passed last year by Congress. That legislation directed HEW Secretary Joseph A. Califano, Jr. to conduct what the huge federal agency calls "a comprehensive, three-year study of elementary and secondary school finance."

1979: Critical Year for SALT II

By Glen H. Stassen

In the latest *Foreign Affairs*, Jan Lodal writes that the debate about the strategic arms limitation treaty between the U.S. and the Soviet Union (SALT II) "will be one of the major foreign policy debates of the decade." U.S. Senator Walter D. Huddleston (D-Ky.) writes that SALT and inflation-fighting will be the two issues dominating this session of the Senate.

Stassen

Jim Wallis writes in the Sojourners packet on *The Nuclear Challenge to Christian Conscience* that some issues are so overarching in moral importance, so threatening to human life and values, so offensive to the righteousness of a loving God, that they test the very credibility of what we say we believe about Jesus Christ. Slavery was one such issue; civil rights was another; and now the nuclear threat is the test for our age.

The Southern Baptist Convention meeting in Atlanta last year passed an unusually strong resolution confessing that we have not pursued peace with full Christian commitment. It called on Christians to pray for peace in our churches, to seek to become more committed to peacemaking, and to urge our Senators in Washington "to move in imaginative and reconciling ways to seek mutual agreements with other nations to slow the nuclear arms race." The resolution called on us individually to "seek to communicate our commitment on this issue to our (Senators)."

Why this urgency? Why is this year the critical year?

SALT II is not only another arms control agreement, like the atmospheric test ban treaty, the nonproliferation treaty, and SALT I. The test ban stopped the spread of radiation from nuclear tests in the atmosphere to people of this nation and other nations both directly and through pastures and cow's milk. The nonproliferation treaty slowed the spread of nuclear weapons to other nations. SALT I saved $100 billion from being spent on a destabilizing anti-ballistic missile system. These other lesser-known arms control treaties were important, and their significance should not be disparaged. But SALT II adds several dimensions which make it the most important of our efforts to learn to walk away from the likelihood of devastating nuclear holocaust. This is true even though there are some new weapons developments it will not stop. It is true even though SALT II seriously disappoints many of us who are hoping and praying for real reductions in nuclear bombs and warheads by both superpowers.

Hawks and doves agree that both the Soviet Union and the United States are in the process of developing missiles so accurate, and in such numbers, that by the late 1980s they may be able to destroy the other side's landbased intercontinental ballistic missiles in their underground silos. As all agree, this will be dangerous. It will tempt both sides to strike first, irrationally hoping to gain a military advantage. It will tempt both to shift to a policy of launching their missiles on warning, rather than waiting to be sure the warning is not a false alarm. The result will be a major increase in the likelihood of a devastating nuclear holocaust, with both sides developing very itchy trigger fingers. Although it is true that both sides will still have bombers and submarines with which to destroy one another after the first strike, the ability to destroy the other's land-based missiles in their silos will move us closer to high noon. Or permanent midnight.

Although SALT II will not completely remove this threat, it does go part way. It does reduce the number of missiles the two sides would otherwise build in the 1980s. If SALT II passes, neither side can possess more than 2250 bombers and missiles, which means the Soviet Union must scrap 250 missiles. Neither side can build additional heavy missiles to carry very large numbers of warheads. Neither side can put multiple warheads on more than 820 missiles; and neither side can increase the number of multiple warheads beyond what it has now tested for each type of missile. While this will allow some additional warheads on some present missiles, even left-wing critic Sid Lens admits it will cut in half the number of warheads that will be built without the treaty.

While previous arms control agreements stopped a *particular* destructive development, SALT II sets equal mutual overall limits and establishes an incentive for reducing them in the next round. And it is unique in fighting to control new developments which, if not controlled, could end the practical possibility of future arms control.

It begins to establish controls over two destabilizing weapons under development, a $50 billion M-X missile in a mobile or multiple aim point deployment, and a $15 billion long-range cruise missile with bombers to launch it. Unless these are controlled, they are likely to be deployed in a fashion very difficult to count and verify. The result would not only be huge new expenditures and greatly increased megatonnage hanging over our heads, but an uncontrolled nuclear arms race.

Excellent discussions of SALT II can be read in the most recent *Foreign Affairs*, *Scientific American*, and *Sojourners*.

Hawks insist we spend more for a somewhat heavier missile, for command and control systems, for research and development, for air defense, for conventional arms, and for civil defense. The answer is that none of this will be prevented by the treaty.

Doves insist SALT II still allows too many new nuclear weapons to be built. In the process of seeking an agreement the Senate will ratify, we have allowed loopholes for more weapons to be built by us and the Russians in order to please the hawks. The answer is that Christians need to let their Senators know we want serious arms control.

SALT II is unique in another way: It will come before a post-Watergate Senate far less inclined to follow presidential leadership in foreign policy. If the treaty is to pass, it will depend on people's communication to their Senators. The need is far more urgent than for any previous arms control treaty.

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Highlights of Expected SALT II Agreement

Provision	Effect on Announced U.S. Programs	Effect on Reported Soviet Programs
Treaty (effective through 1985)		
● Ceiling of 2,250 on all strategic launchers (effective as of 1982 — limit is 2,400 until then).	● None	● By 1982 must scrap about 150-200 older launchers. More would have to be scrapped sooner if additional missile submarines were built.
● Ceiling of 820 on ICBMs with MIRVed warheads.	● None. M-X (the only new ICBM) will not be deployed until about 1987.	● If ICBM production continues at rate of about 100-150 annually, replacement of older missiles with new MIRVed ICBMs would have to stop about 1982.
● Ceiling of 1,200 on ICBMs and SLBMs with MIRVed warheads.	● None until the 7th Trident submarine goes to sea (1984-85). Then, it could force retirement of Minuteman IIIs or Poseidons to allow for more Tridents.	● Apparently would prevent replacing SSN-6 sea-based missile with MIRVed missile.
● Ceiling of 1,320 on all MIRVed missiles plus bombers carrying long-range cruise missiles.	● Could limit to 120 the number of B-52s modified to carry cruise missiles unless MIRVed missiles are retired to allow more. At the planned rate, the 120th plane would be modified at about the same time the treaty expired.	● None. Soviet cruise missiles apparently are not limited because of short ranges (less than 600 km.). These include one type transported by air, one-to-a-bomber, and about 300 of another type carried on 45 older submarines.
● No new land-based launchers for missiles larger than the Soviet SS-19.	● None. M-X is projected to be slightly smaller than the SS-19. U.S. will have no missiles the size of the Soviet SS-18.	● Limits to the current number (308-326) the number of launchers for SS-18s.
● Only one new type of ICBM could be tested or deployed during the life of the treaty.	● None. Only M-X is under development. (Theoretically limits MIRVed ICBM warheads to 1,650 and bars more accurate single warheads.)	● Allows only one of four new missiles reportedly under development. (Theoretically limits MIRVed ICBM warheads to 6,084.)
● No circumvention of treaty by transferring controlled weapons to any third country.	● Depending on final wording, could bar assistance to Britain and West Germany in developing cruise missiles, including non-nuclear armed versions.	● None. No Soviet allies have ever been given nuclear launchers with a range of more than a few hundred miles.
● No interference with techniques each country currently uses to verify other's compliance with treaty provisions.	● None	● Depending on final wording, could bar coding of information radioed from test missiles.
Protocol (effective through 1981 or 1982)		
● No test or deployment of mobile ICBM.	● None. M-X would not be tested until after 1982.	● Prohibits deployment of mobile version of SS-16, testing of which has been completed.
● No deployment of ground-launched or sea-launched cruise missiles with more than a 600km. range.	● Depending on final wording, could bar (or at least delay) development of 1,000-mile-range cruise missile for use in NATO.	None

Based on reports as of Dec. 20, 1978.

VIEWS OF THE WALL

The First Amendment built "a wall of separation between Church and State." Thomas Jefferson in a letter to the Danbury Virginia Baptist Association

"... the line of separation, far from being a 'wall', is a blurred, indistinct, and variable barrier." Chief Justice Burger, Lemon v. Kurtzman.

By John W. Baker

Until 1976 private schools were, by federal law, allowed to be excluded from unemployment insurance taxes. That year Congress changed the law so that such exclusion of private schools was no longer allowed.

North Carolina law requires that employers pay 2.7% on the first $6000 earned by an employee as an unemployment insurance tax and the state is now attempting to collect the tax from all private schools. Claiming a First Amendment protection from such taxation, eighty-three church related elementary and secondary schools have refused to pay the taxes. The Roman Catholic Dioceses of Charlotte and Raleigh have paid the taxes on their school employees' salaries but have done so under protest. They have now filed suit in Mecklenburg County Superior Court to recover the amount paid.

In the meantime, an attorney for the North Carolina Employment Security Commission has indicated that the state will delay plans to take action against the leaders of the schools refusing to pay while the constitutional issue of whether they are subject to unemployment taxes is resolved in the courts.

The outcome of these cases can have a profound effect on the course of action other states may take.

* * * *

Police officials in West Springfield, Massachusetts have been enjoined from advising the managers of motion picture theaters as to whether films are "obscene" under state law. The Superior Court for Hampden County held that this practice of the police is "designed to censor films without proceeding first before an appropriate judicial body" and amounts to "prior restraint without adequate judicial supervision." *Albertson* v. *Kulig*.

* * * *

In a case decided December 15, 1978 the California Supreme Court held, 5-2, that the practice of illuminating windows in the Los Angeles City Hall tower on Christmas Eve, Christmas night, and Easter to form a cross was contrary to the California Constitution. One of the majority, in a concurring opinion, stated that the practice also violated the First Amendment of the United States Constitution. The court, in response to the city's claim that displaying the cross constituted no more than participation in the secular aspects of Christmas and Easter holidays, said, "Easter crosses differ from Easter bunnies, just as Christmas crosses differ from Christmas trees and Santa Clause." *Fox* v. *City of Los Angeles*.

* * * *

The Carter administration anticipates that religious organizations—churches, agencies, schools, and colleges—will cooperate with the voluntary anti-inflation guidelines. The Council on Wage and Price Stability has urged that salary increases be held to a maximum of 7% but has indicated that it would be willing to consider exceptions based on "severe hardship or gross inequity." In other words, if a church, as a result of previous inadequate income, has grossly underpaid its staff but is now able to correct that unfortunate situation, it may exceed the guidelines.

* * * *

A federal district court in Rhode Island has declared unconstitutional a state law which required that all abortion procedures be performed by a physician with unsupervised obstetrical, gynecological or general surgical privileges in an accessible licensed hospital. The court held that this state action limited the right of a woman to make a free decision on an abortion in that, under the law, private physicians in their own offices would perform any medical procedure, except abortion and dialysis, and could perform any other medical procedure even if they had been dropped from a hospital's staff as not meriting staff privileges. *Women's Medical Center of Providence, Inc.* v. *Cannon*, Civ. A. No. 78-496.

* * * *

On January 5, 1979 a United States court of appeals held that an untenured teacher had been denied First And Fourteenth Amendment rights when her contract was not renewed. Though she had been "officially" terminated for failing to maintain discipline in her classroom, the school principal had told her that the "real" reasons included, among others, dissatisfaction with the fact that she played cards, that she did not attend church regularly, and that she did not have the attractive physical appearance the school wanted in its physical education teachers. *Stoddard* v. *School District No. 1, Lincoln County, Wyoming* (C.A. 10), No. 77-1418.

* * * *

Like state and local governments throughout the country Oregon is facing mounting government costs with an inadequate tax base. Property taxes are being paid on about $37 billion worth of property and yet nearly $40 billion worth is exempt from such taxes.

Much of this $40 billion is beyond the state's taxing power because it belongs to the federal government. However, the Oregon Department of Revenue estimates that at least $500 million worth of church property in the state is exempt from property tax along with about $330 million worth of property owned by fraternal, literary, and charitable groups.

Parsonages, if they are not a part of the unit of land which the church house occupies, are taxed as are several rectories in Portland.

There will no doubt be more intensive pressure to tax the property of all nonprofit organizations in the near future in Oregon as well as in many other states. Attorneys for individual churches as well as state conventions should begin the process of getting prepared. A good starting place would be the paperback book *Taxation and the Free Exercise of Religion* available from the Baptist Joint Committee on Public Affairs for $2.86 including postage and handling.

(See VIEWS, p. 11)

White House Update

Carter Calls Country To 'New Foundation'

WASHINGTON—In a 35-minute address interrupted 26 times by polite applause, President Jimmy Carter challenged Congress and the nation to build "a new foundation" for national and global society.

Carter stressed two main themes in his second State of the Union message, measures to slow inflation and efforts to win Senate approval of a strategic arms limitation treaty with the Soviet Union.

Carter called his proposed budget for 1980, released just days before the State of the Union message, "stringent but fair." He also pledged that he would never sign a SALT agreement "unless our deterrent force will remain overwhelming."

The President asserted that his pared down budget would "provide additional support to educate disadvantaged children, to care for the elderly, to provide nutrition and legal services for the poor and to strengthen the economic base of our urban communities and rural areas."

Carter balanced his pledge of military superiority with the comment that "economic justice and human rights among people everywhere" are also vital to national security.

The most enthusiastic applause during the speech came when Carter reasserted his committment to the Equal Rights Amendment.

Carter challenged his audience to revive the values of the founders of the nation. "The words they (the founders) made so vivid are now growing faintly indistinct, because they are not heard often enough. They are words like justice, equality, unity, truth, sacrifice, liberty, faith, and love.

"These words remind us that the duty of our generation of Americans is to renew our Nation's faith—not focused just against foreign threats, but against the threat of selfishness, cynicism, and apathy," Carter said.

Carter called on the nation to accept a philosophy of less—less government regulation, fewer government programs, and less consumption of goods and resources.

"To be successful," the President said, "we must change our attitudes as well as our policies. We cannot afford to live beyond our means, to create programs we can neither manage nor finance, or to waste our natural resources; and we cannot tolerate mismanagement and fraud." (BPA)

Carter Warns Against Constitutional Parley

WASHINGTON—President Carter said that calling a constitutional convention into session for whatever reason would be "extremely dangerous" and would represent a "radical departure" from the process of amending the Constitution approved by the nation's founders.

The President's warning, made at a nationally televised news conference, came in response to a reporter's question concerning the possibility of a constitutional covention to force the federal government to balance the budget. A growing number of politicians, including potential 1980 challenger Gov. Jerry Brown of California, have approved the idea.

Carter said that the primary danger in calling such a convention, an action never taken in the nation's history since the adoption of the Constitution in 1789, lies in the fact that the Constitution itself places no limits on the agenda of a constitutional convention.

Many political scientists are convinced that if such a convention were convened, the delegates would be free to discard entirely the present Constitution in favor of a completely new document.

Church-state experts have long warned that a constitutional convention would provide the opportunity for those opposed to separation of church and state to dispose of the First Amendment's neutrality toward religion in favor of a state church or religion.

Carter also pointed out that from a practical standpoint, even a single constitutional amendment calling for balancing the federal budget would be unpractical and dangerous in view of constantly changing military, economic, and social factors.

Any effort to amend the Constitution, he continued, should be approached "very gingerly, very carefully." (BPA)

Mrs. Carter, Trentham Urge ERA Ratification

WASHINGTON—Rosalynn Carter continued the White House push for ratification of the Equal Rights Amendment (ERA) at a meeting with a group of religious leaders, saying final approval of the controversial measure is "right."

In a 15-minute meeting in the Diplomatic Reception Room at the White House, Mrs. Carter met with 11 representatives of Protestants, Catholics, and Jews, including her pastor, Charles A. Trentham.

The group, representing the Religious Committee for the Equal Rights Amendment, was invited to the White House in conjunction with the observance of the National Days of Prayer and Action for ERA, Jan. 12-15.

Mrs. Carter praised the interfaith effort, saying that persons of all faiths who "care about their families and their lives" are seeking final ratification of the ERA.

Trentham, pastor of the First Baptist Church of Washington, issued a statement following the meeting declaring that "Woman as the bearer of children, barefoot, in the kitchen over a hot stove is not the biblical image of God's intention for womankind.

"Jesus was always the lover and champion of women," the presidential family's pastor said. "The Christian faith teaches that God took woman not from man's head or foot but from his side to be equally yoked with him in the common and glorious enterprises of life, to warm his heart, to be the helper and inspirer of his noble aspirations and achievements."

Trentham's statement made note of the advances of women in primitive societies where the Christian missionary presence has been felt.

Ratification of the ERA, he concluded, "is a matter of simple justice long overdue."

Both President and Mrs. Carter have long advocated ratification of the amendment. It was a prominent theme in the President's drive for the Democratic presidential nomination and in his successful 1976 election campaign. (BPA)

Supreme Court Update

High Court Avoids New Debate Over Religion in Schools

By Stan L. Hastey

WASHINGTON—By a 7-2 vote, the Supreme Court refused to open again the fierce debate over the role of religion in the public schools.

Over the dissents of Justices William J. Brennan, Jr. and Thurgood Marshall, the high court declined to schedule for oral arguments a case challenging Florida's law requiring school teachers "to inculcate . . . the practice of every Christian virtue." Also at issue in the case was a challenge to the distribution of Bibles on school premises by the Gideons.

The controversy began in August 1970, when the Orange County (Orlando) board of public instruction adopted a resolution requiring every school to conduct a five to seven-minute period of meditation at the beginning of each school day. The resolution specifically called for the inclusion of Bible reading and prayer to be presented by individual school officials, teachers, students, or by groups and organizations.

At the same meeting, a member of the Gideon organization asked for and received permission to distribute Bibles in the county's schools.

At the school board's next meeting a month later, a group of 39 parents protested the previous actions, claiming that the resolution violated their religious rights. The board ordered a survey to determine how the resolution was being implemented.

Two weeks later, the results of the survey were presented at yet another meeting, showing that 70 of 97 county schools were practicing daily Bible reading. Only four of the 97 had neither prayer nor Bible reading. The board refused to modify its resolution over the dissenting parents' objections.

The Gideons, meanwhile, had distributed nearly 50,000 copies of the Bible to children on the premises of the schools, including some 15,000 which were handed out inside classrooms.

The 39 parents then filed suit in a federal district court but their complaint was dismissed. On appeal, however, a federal circuit court overruled the lower court, ruling in the parents' favor. The case was sent back to the district court for further action, but that court again upheld the school board. When the circuit court once more reversed the district court, an unusual hearing was set before all judges in the Fifth Circuit Court of Appeals. At that hearing, the judges split evenly, thereby upholding the district court.

In a written statement submitted to the high court, the school board urged the justices not to hear the case in light of the fact that no religious exercises have been conducted in Orlando's schools for more than seven years. Likewise, the board argued, the practice of allowing the Gideons to distribute Bibles in the schools had also been discontinued shortly after the suit by the parents was filed.

The board also asked the justices to accept the district court's finding "that there was no evidence showing a present or likelihood of future enforcement of the 'Christian virtues' statute."

The parents' statement to the high court, while failing to mention that the school board had ceased to enforce its resolution shortly after its adoption, nevertheless asked the high court to invalidate it. They also asked the justices to strike down the "Christian virtue" portion of the state law.

Although the justices did not indicate their reasons for turning down the parents' request, one possible explanation is that the high court always requires proof of conflict before agreeing to hear a case. case.

Justices Brennan and Marshall indicated simply that they had voted to take on the controversy. (BPA)

Pa. Abortion Law Falls in 6-3 Ruling

By Stan L. Hastey

WASHINGTON—The U.S. Supreme Court struck down a Pennsylvania law requiring physicians to preserve the life of fetuses deemed to be "viable" or which "may be viable" in the performance of abortions.

By a 6-3 margin, the high court ruled that the Pennsylvania law is unconstitutionally vague.

Justice Harry A. Blackmun, who has written most of the court's opinions relating to abortion over the past six years, declared that the law places an impermissible burden upon physicians by requiring them to protect both a fetus which is clearly considered able to live outside the mother's womb and one which may be viable.

In both instances, doctors would be required to exercise the same medical care to preserve the fetus' life and health as would be required in the case of a fetus intended to be born alive. That requirement, Blackmun held, could place the physician in the position of having to choose between the life and health of a fetus and the well-being of his patient.

Another provision of the law making doctors criminally liable for terminating a pregnancy in such instances was likewise held invalid.

The Pennsylvania law was written shortly after the high court's historic 1973 decisions in a pair of cases striking down most states' anti-abortion statutes. The rulings six years ago declared that the decision to end a pregnancy is basically one involving the woman and her physician.

The court held then that during the first three months of pregnancy, the decision to abort must rest exclusively between the woman and her doctor. During the second three months, the court held, the state has but a limited interest in regulating abortion. During the final trimester, the state may choose to place severe restrictions on or even forbid outright the performance of abortion.

In its new ruling, the high court said it was reaffirming the essential principles set down in those cases. Regarding the key issue of the viability of a fetus, Blackmun held that the Pennsylvania law unduly burdens physicians in determining when a given fetus would be able to survive outside the mother's womb and by holding doctors criminally liable for making incorrect decisions.

Writing for the minority, Justice Byron R. White agreed with Pennsylvania's argument that physicians would be adequately protected in such cases by the state's homicide laws which require that a defendant be shown to have caused the death of another person "intentionally, knowingly, recklessly, or negligently."

White, who spoke also for Chief Justice Warren E. Burger and Justice William H. Rehnquist, accused the majority of making a "determined attack" on the Pennsylvania law and an "unwarranted intrusion upon the police powers of the States."

Although the decision invalidates the Pennsylvania statute, the majority indicated that the states may still take steps to protect fetal life that is considered "viable." Blackmun declared that the justices were simply declining "to stretch the point of viability one way or the other." (BPA)

17th Religious Liberty Conference

Dates: October 1-3, 1979
Place: Washington, D.C.
Subject: International Human Rights

Union Gains Review of Hospital Dispute

WASHINGTON—The Supreme Court agreed to decide if Baptist Hospital of Nashville, Tenn. may continue to forbid its employees from engaging in union solicitation in certain areas of the hospital.

The justices agreed to a request by the National Labor Relations Board to review a decision by a federal circuit court denying hospital employees the right to solicit for union membership in areas of the hospital where patients commonly mingle with the public during nonworking hours.

The federal agency had sought earlier to have overturned a policy by the hospital denying employees the right to solicit fellow workers to join the union in the gift shop or cafeteria. At the same time, the hospital gave its blessing to such solicitation in employee lounges, vending machine areas, utility rooms, nurses' stations, and rest rooms restricted to employees.

The union local nevertheless filed a protest with the National Labor Relations Board, which agreed with the union that the hospital policy violated a portion of the National Labor Relations Act giving employees the right "to self-organization, to form, join, or assist labor organizations . . . and to engage in other concerted activities for the purpose of collective bargaining."

In its statement to the justices, the federal agency pointed out that the hospital policy restricting union activities to areas of the hospital where patients would not be present was made just two months after union activities in the hospital began.

The NLRB also pointed to a Supreme Court decision last year which ruled against a Jewish hospital which also placed restrictions on union activities.

For its part, the hospital argued in a statement submitted to the justices that the high court had decided the Jewish hospital case on narrow grounds.

Justice William J. Brennan, Jr., who wrote that opinion for the court, pointed out that "Hospitals carry on a public function of the utmost seriousness and importance. They give rise to unique considerations that do not apply in the industrial setting," he said.

Baptist Hospital argued that significant differences between the two hospitals' policies and physical plants dictated a different outcome. Unlike the Jewish hospital, the Baptist Hospital cafeteria is used much more extensively by the public and by patients.

Another difference in the cases, according to hospital attorneys, is the fact that Baptist Hospital has numerous gathering places for employees, whereas the Jewish hospital in last year's case had virtually none.

While the high court did not indicate a date for oral arguments in the case, it is likely to be heard and decided this spring. (BPA)

Court Throws Out Mo. Law Excusing Women From Juries

WASHINGTON—In a series of actions in the field of sex discrimination, the Supreme Court struck down a Missouri law which allows systematic exclusion of women from jury duty and agreed to hear the complaint of a Pennsylvania man who was fired from his job for advocating the rights of women employees.

In another related action, the high court declined to review a New York law which mandated disability benefits for pregnant women, although it ruled earlier that federal law does not require such benefits.

The Missouri law was held to violate the so-called "fair cross section" requirement contained in the Sixth Amendment to the Constitution. The provision was designed by the nation's founders to help insure that every person charged with a crime be given a fair trial.

The Missouri Supreme Court had earlier upheld the constitutionality of the state law which granted women an automatic exclusion from jury duty at their request. During the appeal challenging the law, evidence was presented showing that Missouri women who were summoned to jury pools could be excused merely by not showing up.

The high court agreed with a Missouri man convicted of first-degree murder and robbery that he had not received a fair trial because his all-male jury was chosen from a panel of 53, only five of whom were women.

The 8-1 ruling found only Justice William H. Rehnquist dissenting.

The justices also announced they will hear the case of John R. Novotny, a former employee of a Pittsburgh savings and loan association who was fired after a 24-year career for taking up the cause of a woman employee who claimed she was the victim of sex discrimination. Novotny also accused his employer of blanket discrimination against women in its employment policies.

At the same time, the court declined to review the New York law which orders companies to include pregnancy-related disabilities in their overall disability benefit packages. In 1976 the court ruled that the federal Civil Rights Act falls short of requiring companies to include pregnancy as an illness covered by such disability plans. At the time, a sharply divided court held that pregnancy is not an illness as such and that private companies are not obligated under federal law to include it as a disability. (BPA)