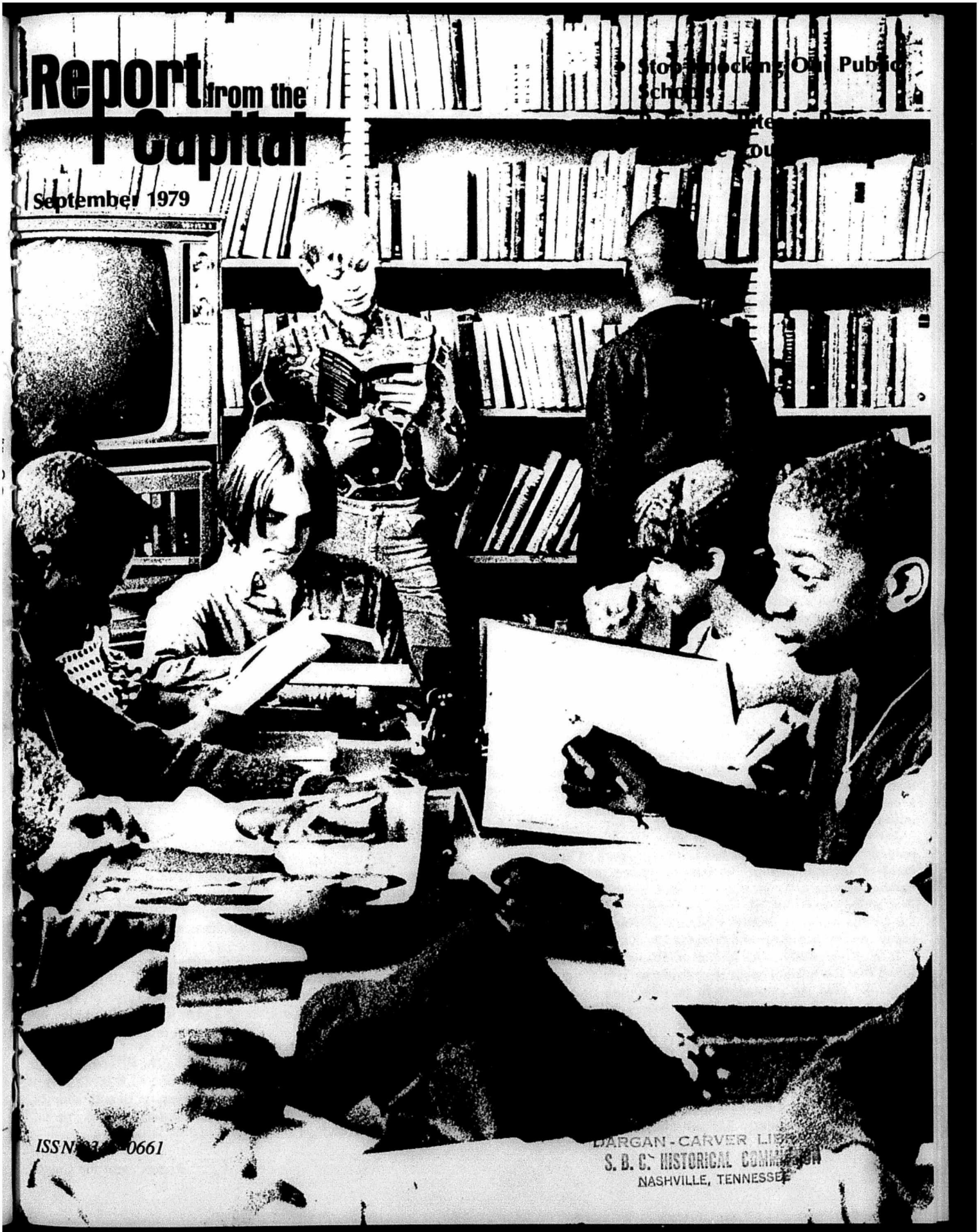
Report from the Capital

September 1979



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From the Desk of the Executive Director

Arms Control and World Peace

By James E. Wood, Jr.

Whatever else may be said about the twentieth century, including its scientific and technological achievements, it has been an era repeatedly marred by the most devastating civil and international wars of human history and marked by unprecedented development of military arms, the potential use of which defy human comprehension and description. Notwithstanding the painful lessons of two world wars and unresolved military conflicts of long duration in various parts of the world since World War II, the threat of war, far from being lessened, has become an ever present reality and an imminent possibility.

Wood

The warning sounded by Albert Einstein almost thirty years ago has become even more urgent today. "Our world," Einstein wrote, "faces a crisis as yet unperceived by those possessing power to make great decisions for good or evil. The unleashed power of the atom has changed everything save our modes of thinking, and thus we drift toward unparallelled catastrophe . . . . a new type of thinking is essential if mankind is to survive and move toward higher levels."

During the past three decades the international arms race has continued to escalate at an ever alarming rate in spite of certain multinational arms limitations agreements and the almost universal axiomative professed commitments to peace expressed on the part of the nations of the world. No greater paradox may be found than in the case of the United States which has explicitly pursued a path toward peace by means of military might and numerous military involvements since World War II.

Far from following a policy of arms limitation, let alone arms reduction, the United States has followed a path of arms development of unparalleled proportions to insure that the nation be number one in arms production, development, distribution, and destruction capability. Military analysts are generally agreed that the United States is militarily second to none in overall military capability, both nuclear and nonnuclear.

In a major study, *The Game of Disarmament*, Alva Myrdal found that the amount spent worldwide on military arms annually is greater than the amount spent on education or health. During the past twenty years in the United States military expenditures consumed the equivalent of all the personal income taxes paid during that period. The $135 billion U.S. military defense request for the coming year represents almost half the amount presently being spent on arms annually by all nations throughout the world. Almost half of all scientific research in this country is military related. Since 1965, during which time the rate of non-military production in this country has substantially declined, more than 20,000 U.S. firms have had financial contracts or transactions with the Department of Defense.

In addition to its profund impact on this nation's economy and national policy, the arms race plays a major role in U.S. foreign policy. Today the United States has military commitments with 41 different nations and a military force of more than one-half million *outside* of the country, to be found literally around the world. In support of such vast military expenditures, at home and abroad, Defense Secretary Harold Brown in his latest annual report declared that "no other claim can compete successfully for resources with what we really need for defense." The key phrase, here, or course, is "what we really *need* for defense."

This focus on the U. S. role in the arms race is in no way to ignore the correspondingly enormous military involvement of the U.S.S.R. and its military international involvements throughout the world. Admittedly, the expansionist policies of the Soviet Union have provided the basic rationale, whether justified or not, for the increasingly burdensome expenditures of the United States on military arms and its bilateral and multilateral military agreements in various parts of the world. Nevertheless, it must be forthrightly recognized that the continued escalation of arms, particularly by the world's two super powers, namely the U.S.A. and the U.S.S.R., is quite properly to be called a policy of madness, policy which seriously threatens not only the world economy, but also increasingly endangers world peace and international stability.

As the leading nuclear powers in the world, the United States and the Soviet Union have a special responsibility on behalf of all mankind to continue to engage in serious bilateral negotiations which will result in a systematic limitation of arms and a de-escalation of the present arms race. The recently completed negotiations on the Strategic Arms Limitations Treaties (SALT II) are an important, albeit modest, step in that direction. Initiated in 1969, SALT negotiations have been formally underway during the administrations of the past three American presidents. Essentially SALT II (ratification of which would result in subsequent deliberations for SALT III and in turn SALT IV, etc.) provides for limitations on nuclear arms between the two powers, verification procedures which include mutual agreement not to interfere with each other's national technical means for verification, and a joint statement of principles in which both sides have agreed to pursue further reduction of nuclear arms and for the qualitative limitations on strategic systems.

While SALT II will not mean any significant arms reduction on the part of the two powers, it does point the way for continued negotiations for reductions in nuclear arms through a subsequent SALT III and for halting the spread of nuclear weapons, which have been stockpiled in such quantities as to increase the probability of nuclear war within this century. Far beyond any previous military conflict, nuclear war would mean a winless war in which this planet and its population would be dealt an incalculable blow for years to come.

In the face of such sobering realities, there is mounting concern to halt the arms race and to push for disarmament. Ultimately, the question is one of human annihilation or human survival, the continued escalation of nuclear arms or a plan for their limitation and reduction.

American Baptist Churches in the U.S.A. and the Southern Baptist Convention have recently adopted official statements in support of arms control and the ratification of SALT II. In July of this year the Baptist World Alliance General Council adopted, without dissent, a statement of "Disarmament and World Peace," the full text of which is to be found in this issue.

washington observations

news
views
trends

WARNING THAT AN UNOFFICIAL congressional committee looking into allegations of mind control by certain religious sects "may be opening the door to unfortunate religious witch hunts," BJCPA executive director James E. Wood, Jr. urged members of the panel to cancel plans for a second round of hearings.

WOOD WROTE COMMITTEE members that because Baptists were themselves persecuted both in Europe and America during the early period of their history, "we view with some alarm the hearings on the so-called 'cults' in which you plan to participate in the near future."

LAST MARCH THE BJCPA in an official statement expressed concern "that the guarantees of the First Amendment be fully applicable to all religious groups in America without political advantage or disadvantage."

U. S. REPRESENTATIVE John H. Buchanan, R-Ala., has been added to the roster of speakers scheduled to address this fall's Religious Liberty Conference sponsored by the BJCPA.

BUCHANAN, A MEMBER OF the Helsinki Commission which monitors compliance with international human rights accords, will speak on the role of government in national and international human rights issues.

THE OCTOBER 1-3 EVENT, the 17th such conference held in the nation's capital, will also feature other noted speakers, including assistant secretary of state Patricia M. Derian, former AID chief John J. Gilligan, and Progressive National Baptist Convention president William A. Jones.

CHANCES FOR THE SUCCESS of legislative attempts to end double taxation for many missionaries and other charitable workers in foreign countries increased substantially with the introduction of a bill by Sen. John H. Chafee, R-R.I., which is co-sponsored by Sen. Russell B. Long, D-La., powerful chairman of the Senate Finance Committee.

PRESIDENT CARTER WAS COMMENDED by a group of new Southern Baptist officials in a White House meeting August 8 for sharing his Christian faith with South Korean president Park Chung Hee during a recent visit to Korea, an action which has been both praised and criticized by other religious leaders.

Stop Knocking Our Public Schools

Every true American loves the familiar story of struggle and triumph by a group from the ethnic underclass—the Irish, the Italians and Jews, the Chinese and, now, the Koreans. So I have discovered another ethnic group whose struggle should be celebrated.

In one generation, these people overcame many of the educational inferiorities imposed on them for centuries. They tripled the number of their young people who graduate from high school. They broke down barriers to higher education and dramatically narrowed the gap with other more fortunate American children. They reached for equality—a ridiculous goal, considering their tragic history as a people—and their progress has been breathtaking.

You may not recognize it, but I am talking about America's native-born black citizens. A few weeks ago, on the 25th anniversary of the Supreme Court's *Brown* decision, instead of this triumphant message, we heard a chorus of gloom—from black leaders, of all people. Vernon Jordan of the Urban League said, in so many words, that nothing has changed in 25 years. James M. Nabrit, a beacon lawyer who argued one of those landmark cases, denounced the public schools as failures. And so on, with others.

The supposed failure of the public schools is, in fact, a favorite message in newspapers these days, especially in this newspaper, especially the failure of the District of Columbia schools from which so many white citizens have fled.

Personally, I am sick and tired of people beating up on the public schools. I think it is a form of scapegoating, a variation on the old game called "blaming the victim." I suspect some critics use "public schools" as a new codeword for racial slurs, particularly in our largest cities. Most tragically, beating up on public schools serves the interests of those who wish to suppress social change, who want the poor and unwashed to stay in their place, scrubbing floors and shooting dope, tucked out of the way so the rest of us can go on enjoying the more luxurious life of modern America.

Now I hope the public school critics will examine their own biases. How many are motivated, perhaps, by pretentions of class superiority or by racial fears? How many suffer from that social petulance that is really a contempt for children, including their own?

But let's stick to the facts. The evidence, as opposed to someone's rheumy recollections, supports me in this audacious claim: The American public schools are doing a better job today, better than ever before in our national history, of providing universal education for our young people, white, black, brown or whatever.

The facts, for example, describe an educational revolution among blacks. In 1950, only one of every four black children finished high school in America. Imagine: only one of four. The rest dropped out and, with rare exceptions, assumed the menial stations the society reserved for them—stoop labor.

Today, three out of four black children complete high school. Consider the social meaning of that change: In 30 years, the public schools were opened to a huge underclass of young people. Will anyone argue that this generation, now completing high school, is behind those children who, a generation ago, quit in the 7th or 8th grade? I would like to see the evidence for that.

The District of Columbia schools, notwithstanding their lousy reputation, participated in this great leap forward—more black kids in D.C. are finishing high school, many more are going to college. Just from 1972 to 1977, for instance, the D.C. school system increased its high school graduates by 9 percent—while D.C. high school enrollment was leveling off.

Older black leaders remember fondly the acedemic excellence of the old Dunbar High School, and they bemoan the present inadequacies of D.C. graduates. They are inclined to forget that old Dunbar was possible only because most black children did not finish high school, much less study Greek and Latin, a generation ago.

The equation if fairly simple, and it applies to public school across America: It's a lot easier to provide excellent education if you are only going to educate relatively few children, particularly if they are students who already do well. If the schools try to educate all children, the job becomes far more difficult. In the last generation, the public schools have tried to do this.

This educational upheaval affected white children, too. In 1950, only 56 percent of white children completed high school. Does that shock you? It shouldn't. Poor whites in America have always outnumbered poor blacks. Today, about 85 percent of white children graduate from high school. Are they not better educated than their fathers and mothers who quit school in adolescence, many of them going, like poor blacks, to the bottom rung on the economic ladder? Show me the study proving *that*.

Anyone looking at such statistics will see, of course, that young blacks did not completely close the educational gap with whites. But their progress is clearly more dramatic than that remaining gap. It translated, with the aid of the civil rights movement and federal money, into an even more remarkable change in higher education—a crude parity, not perfect but certainly a watershed of deep social significance. Black enrollment is now about 13 percent of the college-age population—roughly equivalent to the black share of the overall population. Yes, a good number of these black students are in two-year community colleges, but that is a level most blacks never had a prayer of reaching a generation ago.

William Greider is the editor of *Outlook*, the weekly opinion section of the Washington Post.

Again, it helps to remember what the past was really like—not how some people like to remember it. In 1960, there were 435 blacks in white colleges in the South. Today there are well over 100,000. That represents real social change, which begs the same question: Are these children not better educated than the earlier generation?

At this point, the critics may say, "Yes, but . . . " The "but" leads to the muddled question of quality—how much are these children really learning? Aren't some high schools "graduating" illiterates, kids who can't read or write much? Yes, some high school "graduates" are illiterate. Yes, that is a scandal, one that ought to provoke outrage and reform.

But concentrating on this distrubing reality, as if it were "typical," is profoundly misleading. In general, notwithstanding what you think you read in the newspapers, the quality of student performance is as good or better—than it was a generation ago. Today's children, on the average, do as well or better on achievement tests than their parents did—if their parents were in school at all.

A serious performance gap remains, of course, between black and white, between rich and poor, though the racial differences are narrowing in basic skills. In any case, if you think about it, there will always be "gaps" on achievement scores between different students—unless you can imagine an America in which all children are born with precisely the same brain cells or talents or grow up in identical environments.

Arthur E. Wise of the Rand Corporation is one of a number of scholars who have studied the array of test results and concluded that the news chiefly is good, not bad. Since the Rand Corporation is not exactly a bleeding-heart think tank, inclined to wishful thinking as I am, Wise's conclusion is valuable:

"The loss of confidence is not the result of a decline in quality; it is the result of a re-emerging conservatism which wants to see the world as worse than it used to be."

One of Wise's favorites is a statewide sampling in Indiana that matched 10th graders of 1976 against 10th graders of 1944 and found the modern group to be superior—though the '76 class obviously included many of those children, white and black, who never reached the 10th grade in 1944.

This demographic change in the public schools—taking more children and taking them further—was also the real reason for most of another celebrated decline, the drop, until last year, in scores on the Scholastic Aptitude Test. The SATs used to be taken by an elite, a relative handful from the better schools, the better families. But then, thanks to egalitarian reforms in education, a much broader cross-section began taking the tests, more racial minorities, more women, more white males from poorer families. This pulls the national "average" down on that test (which measures aptitude, not achievement), just as the D.C. schools lost ground on tests as more affluent whites were replaced in the averages by poorer blacks. But this certainly doesn't mean black children are doing worse than before.

Nevertheless, the new "conservatism" has produced the current "back to basics" hysteria, a trend which is likely to hurt more children than it helps. The "back to basics" formula will make school more boring than it already is, more geared to the safest and lowest common denominator. Dick-and-Jane rote drills. Everybody, by God, is for reading, writing and arithmetic, so let's cram it into their hard little skulls. Most children will hate it. So will most teachers. But public anger must be served, however misguided. A few years hence, the schools no doubt will produce the "back to basics" test scores to show they have solved some problem.

Meanwhile, tests already show that children have been improving on basics, reading, writing and math, white children and black, North and South. The National Assessment reports find the most striking gains among 9-year-old black kids. This is significant because that's where the feds have spent most of the money—on helping younger children from poor families in the early years of schooling.

Indeed, the most serious problems reflected in the national testing is the opposite of rote skills: Students finishing high school show a declining ability to grasp complex ideas, to draw abstract inferences from diverse information. When you think about the complexity and change in their futures, that's a scary educational problem. But, unfortunately, the critics are stampeding the schools in the other direction.

Who should be blamed for this wrongheadedness? I would start with the school people, who are notoriously inept at defending themselves. They turn and run before every gust of public discontent. They conceal better than they explain.

Or you can blame the newspapers. I do. But the problem with newspapers is not really good news versus bad news. Newspapers, by their nature, are constitutionally opposed to history. The are quite good at taking snapshots of today or yesterday but they are incapable of looking backward and asking how the shapshot fits into a continuum of events, the complicated story of people changing over time. Today's outrage looks more outrageous if you have forgotten yesterday's.

In any case, as Wise noted, there is an audience out there that wants to hear this message of failure. (Interestingly, though, public opinion surveys indicate that citizens with children in the public schools—with their own channel of information independent of the news media—have a much higher opinion of the schools than do others.

The belief in decline is really a public value statement, one that often implies that black children or poor children cannot improve themselves. If education makes no difference, why bother? The children, of course, hear the same message.

Does that make the gloomy Vernon Jordans into an unwitting spokesmen for conservatism? I think it does. It makes someone like the Rev. Jesse Jackson, corny as he sounds, a revolutionary, because Jackson's message to young blacks challenges the "illusion of inevitability," as one social philosopher calls it. The illusion of inevitability is a principal barrier to social injustice because it convinced the downtrodden, no matter how deep their pain, that nothing will improve their low status.

The continuing rage of black leaders, I believe, is aimed at the wrong target. In general, it was not the schools that failed the last generation of black children. It was the rest of society that disappointed the newly educated, that failed to provide the jobs and income that were promised when those young people were urged to stay in school.

VIEWS OF THE WALL

By John W. Baker

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.*

According to the United States District Court in Massachusetts, the Navy did not provide a sufficient basis in fact for the rejection of an application for conscientious objector status filed by a Navy physician despite the presentation of evidence that: (1) the application was filed six years after enlistment in the Navy's physician program and six months before he was to be called to active duty, and, (2) the application was filed shortly after the physician had been informed that he would be offered a position as a staff physician with Massachusetts General Hospital. The court held that these facts and a number of irrelevant considerations which the Navy took into account in reaching its determination could not sustain a decision to deny conscientious objector status to the physician. The case was remanded to the naval courts. *Daly* v. *Claytor*, ____ *F.Supp.* ____ *(1979).*

Baker

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The Indiana state officials who were responsible for the operation of the Indiana State Fair unconstitutionally attempted to require that a religious group confine its religious activities to a booth to the same degree required of commercial activities. The International Society for Krishna Consciousness was directed to restrict its religious practice of "Sankirtan" to its assigned booth. The U.S. Court of Appeals for the Seventh Circuit held that the state officials had failed to show that considerations such as traffic, public safety, and litter justified the restriction, and it rejected the State's contention that to allow the Krishna activities to take place outside the assigned booth while restricting commercial activities to their booths would constitute a denial of equal protection. *International Society for Krishna Consciousness, Inc.* v. *Bowen*, ___ F.2d ___ (CA 7 1979).

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Green River ordinances in three New Mexico towns were declared invalid to the extent that they prohibited door-to-door solicitations without distinguishing between commercial and non-commercial activities. The opinion of the U.S. District Court for New Mexico also stated that the ordinances could not prohibit religious door-to-door solicitation. Additionally one ordinance was further flawed by the fact that it gave the city manager and the city commission the discretion to determine whether an applicant for a solicitation license was representing a legitimate cause. *Weissmen* v. *City of Alamogordo, N.M.*, ____ F.Supp. ____ (1979).

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In 1870 the legislature of the state of New Jersey granted a charter to the United Methodist Church to operate a permanent camp meeting ground and "Christian seaside resort." The church has operated the facility under the name of the Ocean Grove Camp Meeting Association since that date. The state-granted charter provided that the trustees could exercise various police powers normally exercised only by municipalities, including constructing and maintaining public highways, sewers, and parks located within the camp grounds, maintaining and preserving public order in Ocean Grove and enforcing rules and regulations to promote and protect the public health. Rules could be enforced by a municipal court established by the trustees and were accorded the same force and effect as municipal ordinances.

The New Jersey Supreme Court held that the original statute granting the charter was a law "respecting an establishment of religion" and stated that at minimum the First Amendment precludes a state from ceding governmental powers to a religious organization. The court said that the legislature had in effect transformed a religious organization into Ocean Grove's civil government and that such an action runs afoul of the letter and the spirit of the First Amendment. *New Jersey* v. *Celmer*, ____ A.2d ____ (1979).

* * * * *

Brown, a member of a religious group which had as one of its tenets of faith that an adherent could not engage in employment from sunset on Friday until sunset on Saturday, was transferred by his employer, General Motors, to a shift which required him to work from 4:00 p.m. until 12:30 a.m. Brown would not work after sunset of Friday and was terminated.

Brown sued GM under §703(a)(1) of the Civil Rights Act of 1964 which requires that an employer accommodate the religious observances of his employees unless such an accommodation would contravene the provisions of a valid collective bargaining agreement or would cause the employer undue hardship. [*See, Trans World Airlines, Inc.* v. *Hardison, 432 U.S. 63 (1977)*].

The federal district court held that for the employer to accommodate religious observances of this sort would result in more than a de minimis cost to the employer and entered judgment for GM. This despite the evidence that Brown received no pay for the missed work and that GM replaced him by hiring men who were at all times available to step in for employees whose absences were unscheduled. The Court of Appeals reversed, rejecting GM's argument that, at least theoretically, it would have to hire an additional full-time person in order to accommodate Brown's religion and that an undue hardship would be created by the cumulative effect that would arise when large numbers of employees want Friday night off for various religious and personal reasons. *Brown* v. *General Motors*, ____ F.2dIII (CA 8 1979).

THE RATIFICATION PROCESS

HOW ARE TREATIES RATIFIED?

Article II, Section 2 of the United States Constitution states that the President "shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur . . ." A treaty thus becomes legally binding when the Senate has approved a *resolution of ratification* and the President has signed the *instruments of ratification*. Prior to that final action, there are several interim stages through which a treaty must pass before it becomes law.

After signing a treaty with a leader of another nation, the President transmits the document to the Senate. Upon receipt, the Senate then refers the treaty to the Committee on Foreign Relations for *hearings*. Other standing Senatorial committees may hold hearings on the treaty as well. Following this period of review, the Foreign Relations Committee then submits the treaty to the full Senate with its recommendations or objections. The Senate then proceeds with a *debate* on the provisions of the treaty and adds any amendments, reservations or interpretations deemed appropriate. Upon a *vote* of approval by two-thirds of those Senators present, the President signs the instruments of ratification making the treaty law of the land.

TYPES OF SENATE ACTIONS

In reviewing a treaty, the United States Senate has several options regarding the action it takes:

- It may advise and consent to ratification of the treaty *as is;*
- It may attach *amendments, reservations, or interpretations* in its resolution of ratification;
- It may *reject* the treaty.

An *amendment* changes the actual language of a treaty such that the "contract" between the nations is altered. A treaty thus amended in the resolution of ratification by the Senate would have to be resubmitted to the President and the other party for consent or renegotiation.

A *reservation* serves to limit the international obligation of the United States under a treaty. It may affect the terms of a treaty to such an extent that the President would be required to notify the other party of the change, thus enabling them to file reservation of their own or even to refuse to proceed with the treaty.

An *interpretation* may be included in the resolution of ratification in order to clarify or explain certain aspects of the treaty. As long as this language does not substantially affect the terms or the international obligations of the treaty, such an interpretation has no legal effect. Generally, as a matter of courtesy, the other party to the treaty is informed of such interpretations by the President.

TENTATIVE SENATE TIMETABLE FOR RATIFYING THE SALT II TREATY

- **June 18** President Carter signs the SALT II Treaty in Vienna and addresses the Joint Session of Congress.
- **June 22** President Carter transmits the SALT II Treaty to the Senate where it is formally referred to the Foreign Relations Committee.
- **Late June** The Intelligence Committee conducts closed sessions to examine the verification provisions of the SALT II Treaty.
- **July 9** The Foreign Relations Committee begins hearings on the SALT II Treaty. These hearings are expected to last three or four weeks.
- **July 23** The Arms Services Committee begins hearings on the SALT II Treaty.
- **August 6** The Senate recesses for the summer.
- **September 5** The Senate reconvenes and Committee hearings resume.
- **Late September** The Committee on Foreign Relations reports to the full Senate.
- **Early October** Senate floor debate begins.
- **Late October** The Senate votes on a resolution of ratification of the SALT II Treaty.

PROPOSED TREATY CHANGES

The following is an early list of proposed changes in the SALT II Treaty which may be offered by individual Senators at a later date. How these changes will finally be categorized—as amendments, reservations or interpretations—remains to be determined. Each of these changes however, could significantly effect the outcome of the Senate debate on the SALT II Treaty.

- An amendment which would change the SALT II Statement of Principles to require that the SALT III Treaty reduce the total number of land-based missiles to 500-800. *Senator Proxmire (D.-Wisconsin)*
- An amendment which would attempt to substitute a mobile missile with less counterforce capabilities than the Administration's designated M-X. *Senator Hatfield (R.-Oregon)*
- An amendment stating that the Treaty does not prevent the United States from selling weapons to or sharing information with our allies. *Senator Roth (R.-Delaware)*
- An amendment which would require that the Backfire bomber be counted as part of the Soviet Union's aggregate total of strategic delivery systems. *Senator Goldwater (R.-Arizona)*
- A reservation stating that the United States has the right to build a heavy missile similar to the Soviet SS-18. *Senator Jackson (D.-Washington)*
- An amendment on the verification provisions of the Treaty, dealing with encryption and/or on-site inspection. *Senator Glenn (D.-Ohio)*

Further amendments may be offered dealing with cruise missile ranges, throw-weight equality, launcher definitions and guidelines for SALT III. Americans for SALT, through SALT TALK, will keep our readers informed of all pending amendments and their implications.

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Religious Rites in Prison

Pioneer Quaker William Penn believed prison to be a sanctuary where man could cogitate about his salvation, become reacquainted with God, and do penance.

But is an inmate entitled to cogitate over a special kosher menu? Can he become reacquainted with God while high on peyote? Can an American Indian prisoner build his own "sweatlodge" to do penance?

Two hundred years after Penn, the nation's courts and prison experts are joining in an escalating debate over whether incarcerated men and women should be allowed to observe the most basic tenets—and some provocative new ones—of their religious faith.

Because of discrimination complaints lodged by Muslims, Jews, American Indians and others, the U.S. Commission on Civil Rights has, for the first time in its 21-year history, put a national focus on the matter.

As a cautious first step, the Federal fact-finding body convened a consultation of national experts in Washington, D.C. this spring.

While examining the impact and implications of religious discrimination nationally, the conferees also debated the issue: to what degree is the free-exercise-of-religion clause of the First Amendment subordinate to the interests of maintaining prison security, enforcing inmate discipline and avoiding administrative inconvenience and expense.

Larry Taylor, warden at the Federal Correctional Institution in Lompoc, California, told the commissioners that in a facility where 4,800 meals a day are served to prisoners, "special dietary arrangements present difficult administrative, budgetary and time problems."

But recent court decisions have required prison officials to accommodate the dietary needs of Black Muslims and Orthodox Jews who religion forbids them to eat pork.

Marc Stern, an attorney who has successfully represented prisoners seeking special diets, said inmates sometimes resent it when other prisoners get "favored" treatment. A prisoner can "get stabbed in the back over a kosher TV dinner," he said.

Warden Taylor also commented, "Whatever we do for one religious group, we must be willing to do for all religious groups." Other prison officials complained that they're now receiving some spurious dietary requests.

Alvin Bronstein, Director of the National Prison Project of the American Civil Liberties Union, found a "subtler, yet more pervasive problem than the free exercise clause:" the First Amendment prohibition forbidding the government from granting preferential treatment to a religion.

"it is not always easy to define what is a legitimate religion."

Bronstein cited the practice of recording attendance at religious functions on an inmate's prison record. "What troubles me," he said, "is if these notations are in the files, it is highly conceivable that parole decisions may be based upon a prisoner's nonattendance at religious activities.

"It is equally unfair not to note an inmate's religious activities for parole purposes." Clair Cripe, General Counsel for the Bureau of Prisons, said, since this provides "the complete picture of what an inmate is doing."

Another official added that such records are necessary to calculate prison budgets.

When Indian inmates of the Native American Church wanted a sweatlodge at Lompoc, Warden Taylor's immediate reaction was "No, because we didn't know anything about sweatlodges."

A sweatlodge is a small wooden hut covered with blankets or a tarp which provides an effect similar to a sauna. Virtually all tribes in this country use it as a part of a purification ceremony.

Faced with a court suit, Taylor's staff did some research and relented to the inmates' demands.

"We had to be concerned about what kind of precedent we set," said Taylor. "We don't build synagogues for Jews or mosques for the Muslims in our population."

The Native American Church believes peyote, a hallucinogenic cactus plant, is both a sacramental object, similar to the bread and wine in certain Christian churches, and is in itself an object of worship much like the Holy Ghost.

It's not permitted in prison, but Walter Echo-Hawk, staff attorney for the Native American Rights Fund, said Native American Church members are discriminated against because they are prohibited from using peyote while on parole, even though Federal law permits its use for bona fide religious purposes outside of prison.

William Collins, an American Correctional Association official, said it is not always easy to define what is a legitimate religion. He cited the Church of the New Song (CONS), an inmate-created religion which one court characterized as a "nonstructured, free-form, do-as-you-please philosophy, the sole purpose of which is to cause disruption of established prison discipline for the sake of disruption."

When correctional officials attempted to suppress the incipient church, its founder, federal prisoner Harry Theriault, brought a free exercise suit against the Atlanta, Georgia penitentiary. A District Court held that until CONS demonstrated otherwise, the movement was to be considered a bona fide religion.

Shortly after this victory, a sect within the Church nearly provided such a demonstration by making a formal request to the Federal Bureau of Prisons for 700 porterhouse steaks and 98 bottles of Harvey's Bristol Cream Sherry to celebrate the sect's rituals.

While Theriault immediately proclaimed the request "unsanctioned," officials in other prisons have forced many CONS chapters to go to court to prove their sincerity; so far, the courts have reached contradictory decisions.

The multitude of unresolved issues which were raised prompted the Correctional Association's Collins to comment that judicial clarification is needed.

"What is the test? The courts have yet to clearly decide what scale is to be used in balancing the religious demands of an inmate and the demands of a correctional institution."

William Penn, where are you now that we need you?

Author David Stotter is a George Washington University Student, and a summer intern at the U.S. Commission on Civil Rights.

The Commission on Civil Rights is an independent, bipartisan, fact-finding agency concerned with discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, handicap, or national original.

INTERNATIONAL DATELINE

Compiled by Carol B. Franklin

Education Plan Scored

NEW YORK—Secondary school students in Argentina are now required by government decree to participate in Catholic religious education courses. Some newspapers, Jewish organizations, and Catholic sources have criticized the courses.

Education Minister Juan Llerena Amadeo reportedly has said that minorities must "bow to the will of the majority." He is also on record as favoring "the formation of Christian concepts among those not professing this creed."

The Argentine (Catholic) Bishops' Conference issued a statement supporting religious freedom and the right of parents to choose their children's education which has been interpreted as an indirect slap at the decree.

The Buenos Aires newspaper *La Nacion* has openly attacked the measure calling it "absolutely inappropriate to the sought-after goal" of formation of a moral and civic character.

Radio Ban Violates Rights

The Mexican government continues its ban on evangelical radio broadcasts. An official letter from the Secretary of the Interior's legal office to evangelical announcer Alejandro Garrido stated that "it is not possible to remove the prohibition" on Spanish language religious radio programs imposed in July 1978.

A Mexico City newspaper quoted the same office as saying the reason was that programs, particularly broadcasts along the U.S. border, often promised miraculous cures. A spokesman for the National Commission of Evangelical Executives, which represents 90 percent of the evangelical community in Mexico, denounced this "flagrant violation of human rights" that confuses legitimate evangelical programs with "a few charlatan broadcasters." (Christianity Today)

Buddhism Appeal Strong

LHASA, TIBET—Tibet's distinctive form of Buddhism has proven surprisingly strong despite Chinese efforts to suppress religion in everyday life, according to a report by John Fraser of the *Toronto Globe Mail*.

Fraser noted on a recent trip to this long-closed city that hundreds of Tibetans take advantage of the three mornings each week that the faithful are allowed to go to their temples. He observed that the vast majority of worshippers were well under 40.

More than 2,500 monasteries of Lamaism, the Tibetan branch of Buddhism, have been closed or destroyed by the Chinese rulers here. Also, Fraser said, over 100,000 monks and nuns have been persuaded "by one means or another" to give up their religious garb and homes. (Toronto Globe Mail)

Convicted of "Parasitism"

KESTON, ENGLAND—Four Baptist members of the Romanian Christian Committee for the Defence of Religious Freedom and Freedom of Conscience (ALRC) have received sentences for "parasitism."

Dimitrie Ianculovici and Ludovic Osvath have received sentences of six and 12 months respectively. Nicolae Traian Bogdan and Aurel Tositiu have been sentenced for two and three months respectively.

Radu Capasanu, youth leader of the Manastur Baptist Chruch, Cluj, is under threat of arrest for his involvement in ALRC.

Romanian delegates to the European Baptist Federation Congress in Brighton reportedly felt that ALRC activities are unfruitful from an evangelistic viewpoint. The concentration of the group on broader religious rights apparently is considered an unnecessary luxury. The official Baptist attitude in Romania toward ALRC was expressed last year when members of ALRC were expelled from the denomination on grounds of adhering to an illegal organization of a political character. (KNS)

Dissidents Voice Appeal

NEW YORK—Russian Orthodox dissidents in the Soviet Union have appealed to the West on behalf of their leader, Alexander Ogorodnikow, who has been sent to a Siberian prison camp.

Ogorodnikow organizied youth seminars in 1975 for revivalist work. They met openly for two years before coming under the scrutiny and harassment of the secret police. Arrested in November 1978, Ogorodnikow is now serving a sentence in the Khabarovsk Territory in Siberia, according to the appeal. It is being circulated by the Paris-based organization, Russian Students' Christian Action.

"We realize that the verdict against Alexander Ogorodnikow is a reprisal measure," the appeal said, "directed towards the destruction of the seminar, and as a recurrent offense in a series of activities directed against the religious movement as a whole." (RNS)

Rule Limits Mission Stay

RICHMOND—About 100 foreign missionaries have been recently told by the government of Indonesia that their residence visas henceforth will be renewed for no more than six months, according to missionary reports reaching the Southern Baptist Mission Board here.

The new regulation will have immediate effect on only one Southern Baptist missionary couple, but Foreign Mission Board officials said it would force about 90 percent of the denomination's missionaries to leave the country within two years.

The regulation was outlined in letters to missionaries from various church organizations who had been in the country for at least five years. Affected by the new "five year" rule, besides the Baptists, were Roman Catholic and Christian and Missionary Alliance missionaries from the United States and other Asian countries.

The Foreign Mission Board said the new requirement reflected Indonesian government policy to place Indonesians in positions occupied by foreigners. Last year, the Minister of religion announced an edict requiring missionaries to train Indonesians to replace them within two years. (RNS)

An Analysis

Court Steers Middle Course in Church-State Actions

By Stan L. Hastey

WASHINGTON (BP)—The U.S. Supreme Court steered a middle course in actions dealing with church-state relations in its term concluded July 2.

Although no discernible trend affecting the broad scope of church-state relations could be detected, the justices were forced to consider numerous cases involving actual or alleged interference by government in the religious realm.

Numerous church-state observers are convinced that the increasing tendency of executive branch agencies to issue regulations encompassing churches and church institutions constitutes the dominant trend in current church-state relations.

Church opponents of such intrusion had reason for both cheer and concern in decisions and other actions of the Supreme Court last term.

Church Property

In the area of church property disputes, the high court ruled by the barest 5-4 margin that civil courts are not always obligated to defer to the decisions of church courts in settling local church property disputes.

The five-man majority concluded that state courts may decide which faction of a divided congregation may lay claim to the disputed property rights in hierarchical denominations. The court has never taken on a case involving the settling of a property dispute in a congregational-type denomination.

Despite the ruling, the court fell short of awarding the property of the Vineville Presbyterian Church in Macon, Ga. to the majority faction of the congregation, which voted six years ago to withdraw from the Presbyterian Church in the U.S. Instead, it sent the case back to Georgia courts, which must now determine if Presbyterian Church polity mandates that the property go instead to the congregation's "loyal" minority which voted to stay in the denomination.

Writing for the majority, justice Harry A. Blackmun declared, "There can be little doubt about the general authority of civil courts to resolve this question. The State has an obvious and legitimate interest in the peaceful resolution of property disputes."

At the same time, Blackmun acknowledged that the First Amendment to the Constitution "severely circumscribes" the role of civil courts in such cases. They must "defer to the resolution of issues of religious doctrine or polity by the highest court of a hierarchical church organization," he said.

The court majority based its finding on the view that no such doctrinal or polity question was involved in the Vineville dispute and expressed the view that so-called "neutral principles of law" may be applied in resolving church property disputes.

In a dissenting opinion for the court minority, justice Lewis F. Powell, Jr. argued that the high court was in effect reversing its position on such disputes in cases dating to 1871, when the court ruled that civil courts must give way to church tribunals.

Only days earlier the court refused once again to permit civil courts to settle a long-standing dispute in the Serbian Eastern Orthodox Church. The case was rooted in the defrocking of Bishop Dionisije Milivojevich 16 years ago by the parent church body in Belgrade, Yugoslavia and a subsequent dispute over who owns church property in this country and Canada, the area over which Dionisije ruled.

Six years ago Bishop Dionisije appealed his defrocking all the way to the high court, which ruled then that civil courts have no right to decide such internal ecclesiastical disputes in hierarchical churches.

At the same time, the court held that the dispute over who owned Serbian Orthodox properties in the United States had to be decided by church and not civil courts. Strangely, however, the justices then sent that aspect of the controversy back to the Illinois Supreme Court for disposition.

The actions remanding to lower courts questions of law it could have decided itself in both the Vineville and Serbian Orthodox cases exemplify one of the most frequent criticisms of the present high court. Although Chief Justice Warren E. Burger complains frequently about the overload of cases in the federal judiciary and despite his unprecendented actions in lobbying Congress for more federal judgeships and a streamlined judiciary, the court headed by Burger continues to remand case after case which it could have settled finally. As it is, the Vineville case is virtually certain to be back on the court docket after the Georgia courts make rulings based on the Supreme Court ruling.

In yet another property case, this one involving a camping facility in Pennsylvania owned by a synod of the Lutheran Church in America, the justices ruled unanimously that the church was entitled only to the fair market value of the campground and not the "substitute facilities" price which the synod claimed. The federal government had claimed the property as part of a new public recreation project.

Labor Relations

As in the Vineville decision, the high court decided the past term's other major church-state case, *National Labor Relations Board* v. *Catholic Bishop of Chicago*, by a 5-4 margin. This time, however, the ruling represented a victory of sorts for proponents of separation of church and state.

The slim majority held that the NLRB may not force administrators of nonpublic school systems to allow their lay teachers to unionize. Surprisingly, the majority was headed by the Chief Justice, who wrote the opinion. Justice William J. Brennan, Jr. dissented, joined among others by Justice Thurgood Marshall, both liberal stalwarts on the court who can almost always be counted on to support church-state separation.

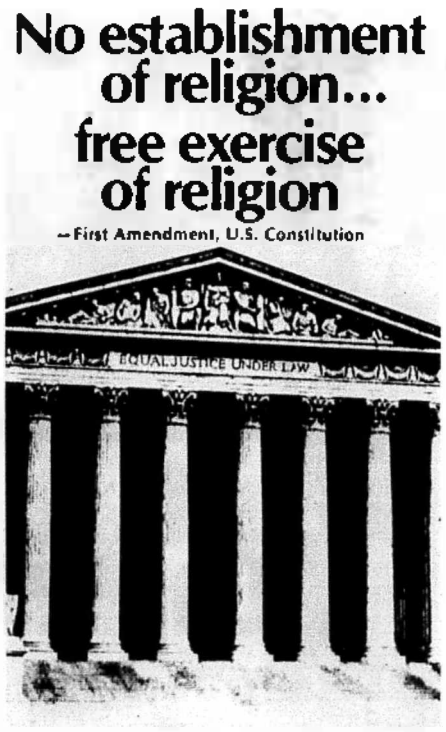
At the same time, the court majority avoided addressing directly the constitutional issue raised by the Roman Catholic bishop of Chicago that NLRB jurisdiction over union activities in parochial schools violates the no establishment clause of the First Amendment.

Instead the court declared that "there would be a significant risk of infringement of the Religion Clauses of the First Amendment if the (National Labor Relations) Act conferred jurisdiction over church-operated schools." At the same time the majority challenged Congress to pass additional legislation providing for such jurisdiction specifically if it wished

such schools to be covered by the act.

Brennan's dissent may be explained at least in part by his criticism of the majority for avoiding the underlying First Amendment questions by making what amounted to a jurisdictional decision. "While the resolution of the constitutional question is not without difficulty," he wrote, "it is irresponsible to avoid it by a cavalier exercise in statutory interpretation which succeeds only in defying congressional intent."

In a unanimous ruling involving the rights of workers in hospitals operated by religious denominations, the court held that such workers may be solicited for union membership in certain parts of the hospital but not in others.



Baptist Hospital of Nashville, Tenn. was ordered to revoke its absolute ban on all union solicitation within the hospital. The court held that while hospital officials may forbid such activity in patient rooms and in corridors and sitting rooms on floors with patient rooms or operating and therapy rooms, they may not forbid union solicitation in the cafeteria, gift shop, and lobbies.

Liability

In a little-publicized action last October which may have widespread implications on the liability of church-related homes for children and the aging, the high court declined to hear arguments that an agency of the United Methodist Church should not be included in a California suit against a group of Methodist-related homes for the aged.

The court's refusal to schedule the case for argument had the effect of leaving in place the decision of a California state court that an agency of a denomination must stand trial in a liability suit for the actions of an institution bearing its name but over which it has no control.

The high court will unquestionably be faced with the issue again but for now the precedent has been established that a denomination may be taken to court for the financial misdeeds or misfortune of independently-controlled corporations which use the denomination's name.

Rights of Sabbatarians

In a pair of actions involving the rights of Subbath-observers, the justices upheld a California Seventh-day Adventists' refusal to join or pay dues to a union and declined to review a lower court ruling that a Seventh-day Adventist worker may keep his railroad job despite his refusal to pay union dues.

State Health and Safety Regulations

In a pair of actions announced the first day of its term last October, the justices upheld the right of states to impose certain health and safety regulations upon church groups and to allow church agencies to assist states in placing young children.

In a highly-publicized Texas case, the court denied a petition by Lester L. Roloff, an eccentric evangelist who argued that several child care facilities he operates should not be subject to state laws regulating such homes.

In a Colorado child custody case, the court rejected the contention of a Colorado man that the state violated the First Amendment by contracting a Roman Catholic social agency to make the recommendation as to the custody of his two children.

Real Estate Tax Exemption

In the first of what will probably prove to be numerous such appeals, the justices without comment refused to hear the case of a Pennsylvania man ordained by Kirby J. Hensley's Universal Life Church who sought to avoid paying real estate taxes. The court's ruling means he must pay.

Religion in Public Life

Madalyn Murray O'Hair, whose suit against prayer and Bible reading in the public schools was one of three cases resulting in the Supreme Court's historic 1962 and 1963 decisions outlawing prescribed religious exercises, failed during the recent term to convince the justices to hear her challenge to the use of the motto "In God We Trust" on U.S. coins and currency.

The refusal marked the third time federal judges had declined to hear the appeal, which named the Secretary of the Treasury as defendant. Lower federal courts had already ruled that the famed Austin-Tex.-based atheist had no legal cause of action.

Over the dissents of justices Brennan and Marshall, the court likewise refused to hear 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 justices also declined to hear the appeal of a mathematics professor at Indiana State University who was dismissed five years ago for insisting on reading the Bible to his classes. He claimed the university denied him free exercise of religion, while the school claimed that to allow such activity would amount to an establishment of religion.

State Aid to Nonpublic Schools

In a clear victory for separationists, the court summarily affirmed two lower federal courts in outlawing New Jersey's tax deduction provision for parents of students enrolled in nonpublic schools. The plan had the primary effect of advancing religion, the courts had ruled, thereby failing the high court's three-pronged constitutional test.

On the question of states' providing transportation for parochial school students, the high court twice refused, in cases from Pennsylvania and Wisconsin, to reverse field in an area first decided in 1947, when in *Everson* the court upheld busing nonpublic pupils.

Sects

In another area of church-state relations which promises considerable litigation in the foreseeable future, the court affirmed a lower federal court ruling that U.S. customs officials did not violate the rights of members of the Church of Scientology by opening and inspecting boxes of church materials flown from London to this country.

A Statement:

DISARMAMENT AND WORLD PEACE

Adopted by the Baptist World Alliance General Council July 6, 1979, at Brighton, England

As Christians we recognize that freedom, justice, and peace are far from being realized in today's world. At the same time, we acknowedge that freedom, justice, and peace are interdependent and that without freedom and justice a just and abiding peace can never be realized.

We are saddened that the international arms race has continued to escalate at an ever alarming rate in spite of the almost universal axiomatic declarations of peace from the nations of the world. For whatever reasons governments may give for their engagements in a massive armaments race, the escalation of arms, nonetheless, constitutes a growing threat to world peace and the world economy, not to mention the diversion of increasingly limited natural resources away from the alleviation of human needs (e.g. food, education, medical care, and housing.)

We reaffirm, in the face of these sobering realities, our fervent commitment to world peace and our determination to implement our concern for peace by constant, imaginative, and reconciling action through every available channel on behalf of the peoples of all lands.

We stress our belief in the role of international law in settling of international disputes and register our strong support for the peacekeeping role of the United Nations and peaceful negotiations at all levels in the resolution of conflicts within and between all nations. Thus, we renounce war as a means of settling disputes in favor of free and voluntary negotiations among the differing parties.

We express our profound sorrow over and concern for the numerous areas of armed conflict which are to be found on virtually all continents of the world.

We commend the efforts recently made by the leaders of the USA and the USSR in concluding negotiations on the Strategic Arms Limitation Treaties (SALT II) and express the hope that final ratification of these treaties in 1979 will result in subsequent deliberations for SALT III, SALT IV, *et al.* as a means of bringing about a halt of the proliferation of nuclear weapons, the gradual reduction of arms, and the eventual elimination of all nuclear weapons.

We urge all governments to accept responsibility for significant international arms control agreements on all forms of weaponry and for the development of national policies which will give greater funding priority to non-military security measures. Every effort must be made through multilateral agreements to supplement disarmament and arms control negotiations with restraints on weapon development and arms sales.

We urge Baptist bodies everywhere to work for peace and to express themselves to their national governments on issues related to peace.

We confess that as Baptists, and as Christians, we have not pursued peace with full Christian commitment and therefore seek to become more committed to and involved in peacemaking in the light of today's world, sustained always by the words of our Lord Jesus Christ, "Blessed are the peacemakers, for they shall be called the children of God."

17th RELIGIOUS LIBERTY CONFERENCE

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October 1-3, 1979
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Report from the Capital

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