

# Report from the Capital

October 1979

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- "... demise of denominations"?  
BJC Amicus Brief



**"The Church, The State, and Human Rights"**

**17th Religious Liberty Conference**

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DARGAN  
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## From the Desk of the Executive Director

# A THEOLOGY OF POLITICS

By James E. Wood, Jr.

### I

The heart of the gospel is to be found in the biblical affirmation, "And the Word became flesh." These words in turn constitute the quintessence of Christian discipleship and are central to the mission of the church as the body of Christ. The Incarnation is a profound reminder of the supreme disclosure of God's involvement in history on behalf of all persons.

Concerning his own mission, Jesus, quoting from the Prophecy of Isaiah, declared, "The Spirit of the Lord is upon me. He has anointed me to preach the Good News to the poor; He has sent me to proclaim liberty to the captives, and recovery of sight to the blind; to set free the oppressed." During his brief ministry Jesus admonished his disciples to be agents of change and power in the world as "light," "salt," and "leaven." He called upon them to exercise power in the world as instruments of God's divine purpose for his creation. In a provocative study, *The Politics of the Gospel*, Jean-Marie Paupert has incisively reminded Christians that wherever there has been impotence in the social and political domain on the part of the church or those who profess to be Christ's followers, we must acknowledge "either the gospel is not worth much or we have not really taken it seriously."

When taken seriously, the gospel has always meant change in the most profound sense, for persons and society—no longer conformed to the standards of this world, but transformed by God to a new way of thinking and redirection of purposes and values. Jesus taught his disciples to pray, as in ancient Jewish tradition, "Thy will be done on earth as it is in heaven." The call to Christian action is not for some non-earthly kingdom of the future, but here and now. All norms of society and all power structures are called into question by one who takes biblical faith seriously. Nothing is more repugnant to biblical faith and the Christian gospel than complacency or idle satisfaction with the status quo.

As the body of Christ, the church is to be an incarnational expression of Christ in the world. Jesus' prayer for his disciples was not that they be taken out of the world, but that they might be kept safe from the Evil One, from the power of sin and darkness. The mission of the church is, therefore, to the world, a fact which cannot be overlooked if God's kingdom is to be advanced on earth and in history. To accomplish its mission, the church must take seriously the evil in the world, of persons and institutions, and work for God's kingdom of justice and righteousness.



Wood

While the reality of the present world order is acknowledged, the Christian cannot accept society as it is, but rather sees society in terms of what it ought to be. Meanwhile, any signs of human progress are viewed as manifestations of God's presence and rule within history. The one unending theme of the Bible is that God is at work in history.

### II

The church is called upon to exercise power to the world, never as an end in itself, but as an instrument of establishing God's kingdom in the world. H. Richard Niebuhr succinctly stated the mission of the church in the same manner Jesus summed up the whole duty of man, "to increase among men of the love of God and neighbor." To be the church, the church must be faithful to the mission of the church. While the church is to confess and proclaim Christ, the church is to be a living witness to the gospel. The repeated declaration of Jesus, as with the biblical prophets, "Repent: for the kingdom of God is at hand," is a call for persons to surrender their lives and life styles to the rule of God. This rule necessarily means a new involvement with life within an historical context. The rule of God cannot be separated from the social and political life of this world, any more than can biblical faith be relegated to the purely spiritual or simply cultic rites and rituals of a personal faith.

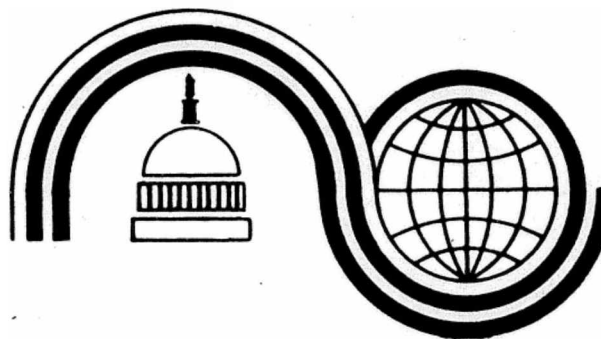
The mission of the church is not only to expound the reality of God, but to be obedient to the will of God; not only to promulgate the authority of the Bible, but to let the message of the Bible be an authoritative guide for the church's work and witness; not only to condemn evil, but to disassociate itself from evil; not merely to preach justice, but to be a force for justice in the world; not only to proclaim the principle of freedom, but to be free of alliances with power structures which would mute the church's prophetic voice and to support the cause of freedom for all persons everywhere; and not only to espouse human rights and to affirm a person's right to religious freedom, but also to support the cause of human rights and religious freedom everywhere.

This incarnational expression of the church's witness within history is by no mere human effort. As Christians we acknowledge that since it is for God's kingdom that we labor, it is ultimately through his power that his kingdom will come, "Thine is the kingdom and the power and the glory, forever." To assert that we cannot bring in the kingdom through our own efforts must not mean inactivity or resignation. "Rather we accept," as Arthur G. Gish has reminded us, "the kingdom as a gift, as a given, and begin living in it. We participate in movements for social justice, because we already live by that new vision. We participate in demonstrations to witness to what God has already done and what he will do. To say that we will not bring in the new era does not deny the possibility that it may be created through our actions. The point is that we do not create it. It is bigger than we are."

### III

What is particularly regrettable in Christian history, but not to be denied, is that the tragedy of the church's failure to fulfill its mission has all too often not been because of the church's impotence or refusal to exercise power in the world, but rather its intimate and repeated associations with power structures incompatible with the gospel. For centuries, the church wherever and whenever allied with institutions of political power, became a highly conservative voice in defense of the status quo and an  
(See THEOLOGY, p. 11)

# WASHINGTON OBSERVATIONS



news  
views  
trends

## SEVENTEENTH RELIGIOUS LIBERTY CONFERENCE

As *Report from the Capital* went to press, plans for the Baptist Joint Committee's Seventeenth Religious Liberty Conference in Washington Oct. 1-3 were being finalized.

All speakers and subjects as listed below were confirmed with the exceptions of Sen. Kennedy and Secretary Harris, both of whom have scheduled their appearances but are unconfirmed. Earlier, Vice President Walter F. Mondale and former United Nations ambassador Andrew Young had tentatively agreed to speak in Kennedy's and Harris's slots but were forced to cancel.

Complete coverage of the Conference will be forthcoming in the November-December issue of RFTC.



KENNEDY

### 40th Anniversary Luncheon

TUESDAY, OCTOBER 2  
Edward M. Kennedy

The Baptist Joint Committee will receive the Isaiah Award, a Human Rights presentation of the American Jewish Committee.

### MONDAY, OCTOBER 1

Evening Banquet  
John H. Buchanan, Jr.  
Congressman, Alabama  
"Protecting the Rights  
of All People"



BUCHANAN



HARRIS

### TUESDAY, OCTOBER 2

Evening  
Patricia R. Harris  
Secretary, Health, Education, and Welfare  
"A Rationale for Government's Role in  
the struggle for Human Rights"

### TUESDAY, OCTOBER 2

Morning  
William A. Jones  
Pastor, Bethany Baptist Church,  
New York City  
"The Church's Commitment to  
Human Rights"



JONES



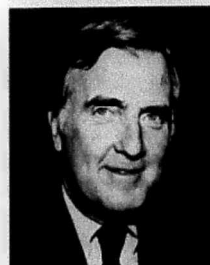
VELASQUEZ

### WEDNESDAY, OCTOBER 3

Morning  
Roger Velasquez  
Director, Bilingual Services,  
American Baptist Churches, USA  
"Human Rights from the Perspective  
of the Third World Nations"

### TUESDAY, OCTOBER 2

Afternoon  
John J. Gilligan  
Professor of Law,  
Notre Dame University  
"Human Rights in an  
Emerging World"



GILLIGAN



DERIAN

### WEDNESDAY, OCTOBER 3

Luncheon  
Patricia M. Derian  
Assistant Secretary for Human Rights,  
and Humanitarian Affairs,  
State Department  
"From Helsinki to Madrid"

# Religious Freedom: A Slow Process In CANADA



David Virtue

*"Whereas the recognition of legal equality among all religious denominations is an admitted principle of colonial legislation; be it therefore declared . . . That the free exercise of an enjoyment of religious profession and worship, without discrimination or preference, so as the same be not made an excuse of acts of licentiousness, or a justification of practices inconsistent with the peace and safety of the Province, is by the constitution and laws of this Province allowed to all Her Majesty's subjects within the same." Upper Canada Statutes (1857).*

When these words were originally penned 130 years ago, Canada's mainline churches were strong and its political institutions weak.

In Quebec, the Roman Catholic Church enjoyed such strong church-state relations that the two were barely distinguishable.

For the rest of Protestant Canada, the Anglican Church dominated the scene and sought special status comparable to what it had enjoyed in England, namely state support.

The dissenting church bodies, which included Baptists and Methodists, showed such remarkable evangelistic growth that a Methodist clergyman, the Rev. Egerton Ryerson, then spokesman, was able to influence the government to pass the act quoted above.

At that time, such groups as the Quakers, Mennonites and German Baptists were being charged 20 shillings each to hold membership in their own churches.

Mr. Ryerson took the view that the church should neither control the state nor the state the church, but this did not preclude the Methodist leader from speaking out on the vast array of social problems of his day.

For example, the public school system was brought into existence through Mr. Ryerson's influence at a time when nearly all education was church-related. His appeals for church-state separation were finally in the British North America Act in 1867.

The Act, however, lay dormant until

*David Virtue, an evangelical, is a journalist in Vancouver and writes periodically for Religious News Service; New York.*

1951 when Quebec's Jehovah's Witnesses appealed to the Supreme Court and a so-called "Padlock Act" was struck down and the Witnesses were given similar religious liberties.

Under the Freedom of Worship Act—which had at first involved only Ontario and Quebec—all denominations in Canada officially became equal.

The Act effectively nullified any possibility of a state church in Canada, and the clergy reserves (state funding of churches and clergy) was abolished.

In 1961, Prime Minister John Diefenbaker signed the Canadian Bill of Rights which included a section giving Canadians the right to worship freely. Liberal protestants in Canada, reflected in the Anglican and United Churches, adopted the "social gospel" as a theological platform, while most evangelicals and nearly all fundamentalists kept out of social issues.

It was in men like William (Bible Bill) Aberhardt that a prophetic mix of fundamentalism and monetary policies developed, and Social Credit was born. But it was the slogan, "cab-horse charter," of Salvation Army General William Booth that has been seen by many as the greatest single effect on Canada's social welfare system. His call for food, shelter and work for everyman still affects Canada to this day.

Ironically, Salvationists suffered the indignity of being declared outcasts in parts of Ontario and Quebec. From the years 1882 to 1900, members of the Army experienced brutal treatment at the hands of the police. But to this day, the Army's soup, soap and salvation approach is still the mainstay of their work, and is highly regarded even by non-Christian human-

itarian, political and secular agencies.

But after growing apart for years and almost being divorced, the gap between church and state in Canada is again moving into a closer relationship.

The old polarizations are beginning to have less meaning than they once did, and while no establishment church is ever likely to emerge, the state is being challenged by the churches on the basis of ethical and moral principles which underlie church teachings.

During those years when church and state, through increasing secularization seemed to be moving apart, socially conscious denominations like the United and Anglican Churches were severely criticized for dragging questions of morality, justice and wrong-doing into secular affairs—what many called "meddling in politics."

That no longer is the case.

The Roman Catholic Church, for example, is now in the vanguard of social change through its Canadian Conference of Catholic Bishops and the Canadian Catholic Organization for Development and Peace.

Evangelicals, disparate and fragmented, have yet to find a suitable forum to speak with one voice. The Evangelical Fellowship of Canada has not succeeded in garnering the evangelical voice to pronounce collectively on social issues. The Believer's Church movement, is endeavouring to do this, but so far has been unable to unite highly individualistic churches and denominations throughout the country.

Mainline denominations, however, have spoken out repeatedly against the federal government's immigration policy, and on such socially sensitive issues as aid to Third World countries, poverty, native Indian land claims, pipeline development and guaranteed annual incomes for Canadians.

Whether or not the federal government listens and acts on their suggestions is not the primary issue.

The point is, the church is speaking with a collective voice and is being heard in the corridors of power.

Small pockets of resistance have emerged among groups calling for the separation of church and state, especially on issues relating to government funding of the private school system.

While a few object, thousands more Canadians recognize the deeper issue, which is, that while church and state must remain separate, it's impossible to keep God out of government."

# SENATE VOTE KILLS IRS CHURCH SCHOOLS RULE

By Carol Franklin

WASHINGTON—The U.S. Senate turned back an attempt to give the Internal Revenue Service the go-ahead on stripping tax exemption from private schools which do not meet certain standards of minority enrollment while adding a one year moratorium on any new IRS activity concerning the tax-exempt status of private schools.

The Senate action, combined with similar action in the House of Representatives in July, means that the IRS proposed revenue procedure on private schools is dead at least through 1980.

Sen. Jacob Javits, R-N.Y., was defeated in an attempt to remove from the Treasury-Postal Service appropriation bill a section forbidding the IRS to use any funds under the measure to carry out a proposed revenue procedure first announced last August. That procedure would deny tax-exempt status to private schools which have very low minority enrollment and have not shown affirmative action in recruiting such students. That amendment was defeated 31-54.

Sen. Jesse Helms, R-N.C., succeeded in attaching the moratorium amendment which the House of Representatives had earlier approved. His amendment would prohibit the IRS from using funds under the bill for any regulations which would cause the loss of tax exemption to private, religious, or church-operated schools unless in effect before August 22, 1978. The vote was 47-43.

The IRS issued the proposed revenue procedure on August 22, 1978 designed to deny tax-exempt status to private schools which do not meet a quota of minority students. The proposal was greeted by a storm of protest from private educators. After hearings in December the IRS issued a revised version in February. This also failed to please private school operators. Hearings were then held in the Congress.

Javits charged that the civil rights of many citizens would be "materially affected" if the IRS is prevented from denying tax exemption to schools which fail to meet standards of minority enrollment.

Sen. Bill Bradley, D-N.J., said that it was "an open secret following *Brown v. Board of Education* (a 1954 Supreme

Court decision which called for integration of public schools) that many of these schools we are discussing today were set up to avoid desegregation. Taxpayers should not have to support segregation by the tax exemption of schools. And private religious schools are no different from other tax entities in the eyes of the law."

Helms, who led the opposition to Javits as well as offering his own amendment to enlarge the ban on IRS activity, said that private schools in North Carolina had been set up to avoid the violence and drugs in public schools and to provide a "better education." "The establishment of these schools had nothing to do with race," Helms asserted. "This is IRS tyranny. They are making law by regulations."

Sen. Strom Thurmond, R-S.C., joined Helms and called the IRS proposal "vague, ill-defined, a monstrous burden on private schools." He also noted that the revenue procedure would create First Amendment problems of entanglement of church and state as well as imposing affirmative action plans on private schools.

Helms, a Southern Baptist, read a portion of the resolution passed by the Southern Baptist Convention in Houston on the IRS proposal. "We reaffirm our historic position in support of the separation of church and state, the right of the church alone to define its own religious mission, and the right of a church to establish schools as a part of that mission, . . . and We request that the Baptist Joint Committee on Public Affairs, while being sensitive to our position on racism, work vigorously . . . to oppose specifically the Internal Revenue Service's proposed intrusions into church owned and operated schools," Helms read.

After disposing of the Javits amendment, Helms introduced language that is more general in its effect. Sen. Howard M. Metzenbaum D-Ohio, objected to the amendment on the grounds that it would make possible evasion of tax responsibility by private schools. "We will be creating a category of schools that may do whatever they want with funds and continue to have tax-exempt status. They could lobby or enrich individuals. It is iniquitous to allow such activities. These

schools should be Christian in every sense of the word and also abide by the Constitution."

Helms responded that the amendment would not grant a permanent tax exemption but would impose a one year moratorium on the IRS so that the Congress could act. "You don't need to worry about these Christian schools either," Helms said. "They have no ulterior motives. They are not going to do anything un-American. They do not lobby. This is a lot of obfuscation about discrimination."

The amended Treasury-Postal Service appropriation bill passed the Senate by a final vote of 88-2. The House has already passed it so the measure now goes to conference to work out differences between the two versions. (BPA)

## Forced Retirement Banned Without 'Good Cause'

The Supreme Court of Iowa has ruled that local school boards may not forcibly retire teachers at age 65 under so-called "good cause" provisions.

Good cause, the court held, has to do with demonstrable faults, such as incompetency, inattention to duty, or partiality, rather than with attainment of a designated age.

"Age has nothing to do with fault, a fact which local school policy can in no way affect," the court opinion declared. "The legislature did not vest school boards with the power to designate or change what might constitute good cause by mere process of adopting local school policies."

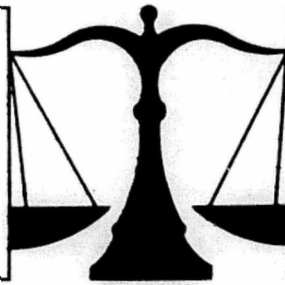
The court went on to point out that its views were bolstered by a provision in the Marion Independent School District's policy reserving the right to rehire teachers 65 and older. According to the court, the school board "obviously does not believe that a 65-year-old teacher is necessarily unfit to teach."

# Report from the I Capital

Still \$3.00 a year.

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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*.

In Baptist polity, it is generally assumed that the local church is the sole determiner of the qualifications for membership in that church and that the local congregation can vote to remove anyone from the membership roll. This assumption is essentially correct. Government has no legitimate control over a church's decision to remove a member from the membership roll *provided* that in so doing the church abides by its own constitution and by-laws.

In a recent South Carolina case, county court Judge O. A. Rankin confirmed the report of a special referee that the Hickory Grove Missionary Baptist Church had not followed the procedure provided for in subsections (3), (4) and (5) of §5 of its constitution. The court ordered complete reinstatement of the 16 members who had been expelled by the church.

Hickory Grove Missionary Baptist Church made a fatal legal mistake in the case: it failed to make an appearance at the hearing, and, as a result, there was no way available to it to challenge the allegations that the expulsion of members had not been in keeping with its constitution.

According to news stories, the church has said that it will not abide by the court's order and that it will appeal the decision.

If there are any morals to be drawn from this case, they would seem to be: (1) If a church is involved in a legal case it should be sure that it has competent counsel to represent it from the outset, and (2) If a church is a party to a court case, it should *never* fail to make an appearance to assure that its interests are protected. *Todd v. Pigg*, Civil and Criminal Court of Horry County, No. 78-CL-26-367, June 20, 1979.

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A new decision of the United States Court of Appeals for the First Circuit should be of interest to those who have been following with concern the way the

Attorney General of California has pounced on the Worldwide Church of God.

The case involves a Puerto Rican law which established a Department of Consumer Affairs "to defend and implement the rights of the consumer, to restrain inflationary trends; as well as the establishment and inspection of a price control over the goods and services for use and consumption." To achieve these ends, the Secretary of the Department was empowered to issue subpoenas for witnesses, documents, and information. He could inspect records and documents and was "empowered to carry out all kinds of studies and investigations on matters affecting the consumer, and . . . may require the information which might be necessary, pertinent and essential. . . ."

The Department started an investigation of private schools—including Roman Catholic parochial schools. Bishop Surinach refused, on First Amendment grounds, to turn over records and documents. The federal District Court dismissed the Bishop's complaint and the Court of Appeals reversed, holding that "the First Amendment indeed is encroached upon by the Commonwealth's efforts to obtain the . . . information from the schools. . . ." The court also held that the demands for information from the schools "burden the free exercise of religion and pose a threat of entanglement between the affairs of church and state . . . ." *Surinach v. Bosquets*, \_\_\_\_ F.2d \_\_\_\_, No. 78-1527 (CA 1 1979).

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An Illinois court has held that a proper basis for annulment existed when it was shown that a woman who was divorced lied and told a man whose religious beliefs forbade him to marry a divorced woman that her previous husband was deceased. *Wolfe v. Wolfe*, 389 N.E.2d 1143 (1979).

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Attempts by both the national and state governments to control solicitation of funds by charitable groups create First Amendment problems when those controls are made applicable to churches.

A congressional bill to regulate charitable solicitations is pending in a subcommittee of the House Committee on the Post Office and Civil Service. Many states and local communities have passed laws requiring any charitable group which solicits funds to register, adopt a uniform accounting system, and make public disclosure of how the money collected was spent. These have been challenged in court on a number of occasions.

Religious groups have made successful challenges in cases dealing with their right to solicit in public places such as airports and fairgrounds. Recently in *Erskine v. West Palm Beach*, \_\_\_\_ F. Supp. \_\_\_\_ (S.D.Fla. 1979), the City of West Palm Beach was preliminarily enjoined from enforcing an ordinance forbidding solicitation of contributions without a permit against members of the Unification Church. The court said that the ordinance appeared to vest unlimited discretion in the licensing authority in issuing or denying a permit and operated as a prior restraint without proper safeguards.

The United States Supreme Court may make a clear statement about the limits which the First Amendment puts on such laws and ordinances when it hears the case *Village of Schaumburg v. Citizens for a Better Environment*, No. 78-1335. The Court of Appeals for the Seventh Circuit held against the charitable solicitation ordinance of the Village, and the Supreme Court issued a Writ of Certiorari and should hear the case early this session. The Baptist Joint Committee on Public Affairs joined several other religious groups in filing an *amicus curiae* brief in the case before the Supreme Court. We will give a full report on the case as soon as the Court reaches its decision.



## Senate Action Advances Human Rights Concern

By Carol Franklin

WASHINGTON (BP)—By a vote of 85-0, the U.S. Senate passed the Refugee Act of 1979 bringing immigration law into line with "our national commitment to human rights and humanitarian concerns," according to the bill's sponsor.

Sen. Edward M. Kennedy, D-Mass., noted that "we have proud record of accomplishment in offering a helping hand to refugees . . . But today we are considering legislation that will help us to do this job better—to resettle refugees more humanely, with greater planning, and at reduced costs."

Kennedy called existing immigration law "inadequate, discriminatory, and totally out of touch with today's needs."

The measure, as passed by the Senate, would redefine refugees to eliminate the geographical and ideological restrictions presently in force. Current law was designed "to deal with people fleeing Communist regimes in Eastern Europe or repressive governments in the Middle East," according to Dick Clark, U.S. Coordinator for Refugee Affairs. The new definition would include "displaced persons," political prisoners, and those fearful of returning to their homeland because of fear of persecution.

Refugees would also be granted permanent resident status as are other immigrants, enabling them to find jobs more easily.

Sen. Walter (Dee) Huddleston, D-Ky., pointed out that opening up the definition of refugees might have negative results. "Are we helping solve the problem or are we creating more refugees?" he asked.

Kennedy responded that "this change in the legal definition of a refugee will not mean that an unlimited number of refugees can or will be admitted to the United States."

Kennedy noted that the new law would establish a ceiling of 50,000 refugees annually with emergency situations subject to congressional review. Present law allows 17,400 annually under "normal flow" conditions with a virtually unlimited number allowed in under emergency parole authority. "What is 'unlimited' is not the pending bill," Kennedy said, "but current law. Under the use of the parole authority . . . of the Immigration and Nationality Act, both the numbers as well as

the procedures involved in bringing groups of refugees to the U.S. are totally unlimited by law."

The Senate accepted a Huddleston amendment which would limit the 50,000 ceiling to three years at which time Congress would re-evaluate the quota. "This amendment acknowledges the controversial nature of this provision," Huddleston said.

The bill would also guarantee federal support of the refugee resettlement process, thereby taking much of the burden off of local and state governments. Coverage for all refugees entering the United States would include cash and medical benefits for two years, with a longer period for other programs that "help the refugees normalize their lives in their adopted communities," Kennedy said.

Kennedy made a point of citing other nations which have accepted large numbers of refugees. "We sometimes hear the

complaint that the United States is accepting more refugees than anyone else—and why should we do more for refugees when other countries are not," he said. "The plain fact is that other countries are acting in support of refugees. And while the United States, as a large country, accepts a large number of refugees, in per capita terms we accept less than several countries."

He noted that Australia and France have taken large numbers of "boat people" from Indochina and the largest group has been accepted by China. He also cited Tanzania which has taken 200,000 refugees from other African nations despite the fact that it is one of the 25 poorest countries in the world.

A bill similar to that accepted by the Senate is being considered by the House Judiciary Committee. It is expected to move fairly rapidly to full House action. (BPA)

## Religious Leaders Urge SALT Ratification

WASHINGTON—Protestant, Catholic, and Jewish leaders testified in favor of the Strategic Arms Limitation Treaty (SALT) before the Senate Foreign Relations Committee here.

Claire Randall, General Secretary of the National Council of the Churches of Christ in the USA, told the committee that the governing board of the NCC had voted unanimously in favor of the ratification of SALT earlier this year. "The ratification of the treaty by two nations with such opposing views gives evidence to all the world that differences between nations can be dealt with by peaceful means . . . The only rewards of an arms race with no limitations are widespread moral devastation, cynicism, hopelessness, and possibly even the end of civilization," Randall said.

Speaking for the U.S. Catholic Conference, John Cardinal Krol, Archbishop of Philadelphia, said, "No question of foreign affairs surpasses the arms race in terms of moral complexity and moral content. Along with the correlative issue of world poverty, the arms race forms the heart of the moral agenda of foreign policy . . . our purpose . . . is to speak on

moral-religious grounds in support of arms control designed to be a step toward real measures of disarmament. It would radically distort our intention and purpose if our support of SALT II were in any way coupled with plans for new military expenditures."

A Jewish spokesman, Albert Vorspan, vice president of the Union of American Hebrew Congregations, supported ratification of SALT with the comment, "We see in the SALT process the most realistic chance for checking an insane, wasteful and potentially catastrophic nuclear arms race. . . . The UAHC would like to see the treaty passed in its present form with no amendments or actions which would result in the need for renegotiation."

Also testifying before the committee was Coretta Scott King, widow of Martin Luther King, Jr., who told the committee that SALT is a personal issue for the people of the world who are hungry and jobless while "global military expenditures now exceed \$400 billion a year."

The Southern Baptist Convention overwhelmingly passed a resolution urging Senate ratification of the treaty during its annual meeting in Houston in June. (BPA)

# The Politics of Religious Freedom

Giovanni Barberini

Freedom of conscience, such as is postulated by Marxism in its classic form and the political system on which it is built means emancipation from religious 'prejudices', and therefore gives impetus to liberation and education connected with the intellectual, cultural and social evolution of man.

The fundamental principal which governs the relationship between the socialist State and the Churches is that of separation, conceived in a particular way. This is the reason why Churches and religious bodies are not invested with the right to determine the course of public life. They are considered social organs which are limited in competence and activity and destined *only* to satisfy the religious needs of their followers. The system is so devised as to leave to the State authorities the competence of identifying at its *discretion* what is necessary and sufficient in order to fulfil these needs.

The citizens, theoretically, by dint of the principle of equality ratified in the constitutions, may become part of and take part in all aspects of social life without the religious factor acquiring importance because of this. On the contrary, the Churches, because they are what they are, *entering* into public life would mean *leaving* their own compass, moving away from their own specific tasks. To leave confessions within the strict limit of the religion and of the cult means, according to the Marxist conception, the essence of the guarantee that the separation between State and Church represents freedom of conscience for those non-believers who would not be free if the Churches ex-

ercuted a political role or social function: and freedom for the believers themselves, which would become of value once the original idea of the Churches as associations of persons who intend to live as a community had been rediscovered.

## The State as educator

The social-political system which is inspired by Marxism is rather rigid, because it is extremely ideological. The undertaking of the socialist States has always been organized along a double line of action: instruction and education. Lenin often underlined the point that to obtain a complete victory for socialism it was indispensable that those who would have to construct the communist society would have to have a systematic and coherent Marxist political-ideological preparation.

Therefore we are in the presence of a State structure bound to educate which, consequently, cannot leave any space to other organs which have different concepts of life and different values. The State, Marxist inspired, is a *State which educates*.

## Limits to the activity of the Churches

Having noted these premises which give some significant indications about the model of political organization in which the Churches and religious associations operate in Eastern Europe, it is evident that the laws and the practices of the Socialist States are extremely limiting as regards the diffusion of religious thought and every activity of teaching, which are essential aspects of the life of the Churches. I would like to underline the fact that the limits imposed are in keeping with a 'logic' of the system, which can neither be forgotten nor weakened. It can only be adapted as far as the contingent political plane goes. It remains unaltered, however, on the ideological plane as a consequence of the contraposition which exists between a spiritual concept of life and historical dialectic materialism.

All the constitutions of the European Socialist States guarantee their citizens respect for freedom of conscience and the ecclesiastic organisations freedom to practise their cults. These are expressions

which have by now become 'classic'. However, it is important to examine the content of these constitutions so as not to misinterpret them. In fact to guarantee freedom of conscience and freedom to practise a cult does not also *automatically* guarantee freedom to teach for any religion or confession or the possibility of organising a religious thought.

## Fundamental Church role

*The celebration of religious functions.* In the outward practice of the cult all religious confessions consider the teaching of religious truth to their followers as an important role. Preaching is part of the celebration of the cult; free practice of the cult is guaranteed at constitutional level by all political systems even if differently formulated ('free profession of religion'; 'free exercising of the religious cult'; 'carrying out of religious rites which are not contrary to the laws').

But this arrangement, even if general, must be correlated with another which functions as a fundamental principle of the system, that is the prohibition of misusing religion for political aims. This misuse is considered or defined as 'anticonstitutional' in as much as it is carried

**One of the objectives . . . is the emancipation of the citizens from religious 'prejudices'.**

out for 'purposes contrary to the State interests.' The right to freedom must be rescinded whenever, according to the constitutions, misuse of the right begins.

Certainly, preaching can be misused and misused for political ends. But in the provisions of the Socialist legislative system, the misuse is of a general political character, total and inclusive. The State organs control the content of preaching. The protection which the law establishes in favour of the system is very rigid and I do not think that an equal rigidity surrounds surety of freedom; thus every possible limitation of freedom for political motives or ends is considered illegal and also actually hindered.

## Penal Sanctions

The ministers of the cults must not allow their evangelistic activity to conflict with other limits set down by the penal code. Indicated limits are: coercion of the individual conscience, discrimination on religious grounds, incitement to hatred

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*Adapted from the WACC JOURNAL, the official periodical of the World Association for Christian Communication, February, 1978. Used with permission.*



and intolerance of a persuasion, insult and injury to persons for religious motives, disturbance of religious functions.

In order to illustrate by example, I would like to point out some interpretations current at present. As regards the crime of coercion of the individual conscience it can be seen that the activity of persuasion carried out by means of adequate and convincing arguments which tend to bring about a change in ways of thinking and acting, do not come under the provisions of the penal code. Therefore, for example, the educational atheistic activity carried out by the organs of the party are not punishable, while the spiritual assistance given to a sick patient in hospital is judged to be vitiated, corrupted by forms of psychic coercion—and the judges can decide if it is or not—and is thus considered coercion.

The possibility given to the Churches to organise religious teaching within State Institutions is based on the premise that this teaching is not compulsory and is subject to some regulations. Certainly the option of religious teaching—as opposed to compulsory teaching with the possibility of absenting oneself—better reflects the young person's personal convictions and the exercising of his freedom of conscience. But it is likewise certain that a ruling which confers wide powers for decisions on the administrative authorities for the carrying-out of a choice accorded to the people, especially in a subject as delicate as the education of young people and children, easily encroaches upon and damages the very substance of the right it is said to guarantee.

In the Soviet Union, Romania and Bulgaria, religious instruction may only be taught *privately*, and families are *only* allowed to teach it to their own children and not to those of other families. It is also tacitly forbidden for religious organs to organise meetings for prayers and for instructing young people, children and women. The other countries—Poland, Yugoslavia and the German Democratic Republic—permit a completely legitimate activity of catechesis and in some cases an adequate structure outside the State Institutions. Naturally the activities and all the structures must undergo control by the State and are of necessity subjected to and must pass a complex system of sanctions. Once again the most anomalous situation is the Polish one which boasts a noteworthy structure for catechesis. The Catholic Church alone was able to organise 20,000 centres for catechesis.

As regards offence to persons for religious motives, the criticism of a religion or its dogmas presented as results of an economic-social system, is not represented in this way, since such criticism is considered a cultural fact. To the contrary, freedom to preach may not be used to foment religious intolerance and it would be a crime (offence against the sentiments of a non-believer) to assert that to bury a deceased person without a religious ceremony would reduce the deceased to the level of an animal. In 1965 the Polish High Court decreed that a Catholic priest who in a sermon used the expression cited above had abused his right of freedom of speech and that instead of preaching the principles of his faith, had intentionally made fun of the sentiments of nonbelievers.

With reference to the hindrance of religious functions, the provisions of the code are always set in action when the members of one Church behave in a hostile

### **. . . Churches have assumed a keenly sensitive political role, upholding . . . the movement for the respect of human rights and dissenting activities.**

manner with regard to the members of another Church. To the contrary, a form of behaviour which objectively could appear to be hindering the celebration of religious rites (for example, the interruption of a sermon by shouting or whistling) could actually be considered the exercising of the right to display and propagate atheist thought.

#### **The right to associate**

The question of the right to constitute associations with a religious cultural aim or character also comes under what has previously been said about the exercising of rights and freedoms allowed by the constitutions. The orders emanated permit the exercising of that right, subjecting the organisations to a very thorough and tough control concerning their founding, statutes, functioning and fulfilment. The right to form associations is not denied, but it meets with political difficulties (which in the most severe Stalinist period were all but insurmountable) so much so as to cause either their dissolution or suppression.

The reasons seem clear enough. In the first place it is difficult to see how cul-

tural associations and associations of a religious bent can feel themselves integrated, without being hindered, and at the same time put into practice considerable loyalty to the system.

Secondly it is difficult to identify, especially in some countries, the field of activity that a religious organisation could obtain for itself, considering the secularisation of all the social activities which the State has achieved and intends to maintain, even discovering new areas which can be removed from religious influence. It is not superfluous to underline how this removal comes about; particular care and logic are used, especially where movements and activities interested in youth are concerned, so that no obstacles are left in the way of the Marxist and Atheist education of the younger generations.

#### **Problems of evangelism**

Lastly I would like to make some observations on two problems which come under the general theme of evangelisation activity carried out by the Churches and which have incidence.

*The use of the mass media of communication.* The basic principle is that the use of such media (newspapers, radio and television) is considered a *public service*. The difference between the Western liberal-democratic idea and the Marxist one is very profound on this point. According to the first, because they are a public service, the religious confessions, just like the individual citizens and all the other social organs, are free to use these media, even though in a manner governed by set rules. According to the Marxist doctrine, these media are a public service but not in the sense that they are to be used by public opinion but as organs of the political powers. The free use of such information media by the Churches could permit them to interfere and intervene in questions relating to public life. On the contrary the means of communicating to the masses must be used to *educate* the citizens and develop the acquisitions of the socialist society.

*Non-interference by the Churches in political questions.* This is a fundamental point in the State-Church relationship, given the political situation of separation, because of which the Churches must not intervene in political matters. It is a general concept of the relationship which has its own *logic*, which has not however permitted in the past and much less permits today a uniform application because of historical context, social tension, the  
(See POLITICS, p. 11)

# INTERNATIONAL DATELINE

By Carol B. Franklin

## Religion in State Schools

LONDON—The interdenominational Order of Christian Unity has written to the ruling Conservative Party government asking it to take positive measures for the maintenance of religious education in state schools.

Religious education is compulsory under Britain's 1944 Education Act and there has been no indication that this government intends changing it. But under the previous Labor Government there were reports of possible change and also a growth of belief that moral education should be substituted for religious education.

The Order's letter called for a clear definition of the description "religious" to include a reference to superhuman authority. The Order also wants systematic inspection of the religious education work done in schools, action to ensure that Christianity remains central to religious education, and an assurance to teachers wanting to specialize in religious education that there will be adequate job prospects for them. (RNS)

## Proposed Rules Criticized

TAIPEI, Taiwan—Proposed regulations for the supervision of houses of worship on Taiwan have been criticized as "essentially harmful" by the General Assembly of the Presbyterian Church here.

While the full texts of the proposed regulations have not yet been released by authorities, they would control religious activities, church organization and structure, ministerial appointments, disposal of church property and other matters.

One of the proposed rules states that if a "Church is against national policy or is in contravention of its established aim or against public interest, the government authorities may give a warning, nullify any resolution which was made, order its reorganization, or dissolve the legal entity." (RNS)

## Church "Buy Off" Hits Poor

ST. PAUL, Minn.—Some countries in Latin America still "buy off" the Roman

Catholic Church by according it special privileges, says Father Leo Guilmette, O.M.I., general councillor of the Oblate order for Latin America.

The Church in Brazil, Chile, and Nicaragua has taken the side of the poor and rejects the privileges, he reported. But in Argentina and Colombia, the Church continues to receive them and the future outlook for the Church there is poor, he said.

The credibility of the Church in Colombia with its people is especially low, he said, because of a concordat with the Vatican which requires the government to pay Church salaries and other benefits. He predicted that the Church in Colombia "will fall apart like it did in French Canada." (RNS)

## China Assisting Churches

SHATIN, Hong Kong—Christian churches are being given some assistance by the Chinese government to find buildings to use for worship, a Lutheran theological education specialist reported here after a three-week visit to the People's Republic of China.

As examples of a more liberal government attitude toward Christianity, Andrew K.H. Hsiao, president of the Lutheran Theological Seminary of Hong Kong, said pastors and other Christians who have been "falsely accused" are having their reputations officially restored. He also said that the newly promulgated criminal code in China provides for prosecution of government workers who interfere with worship or destroy religious objects and Bibles.

Hsiao said he objects to the use of the term "underground church" to describe the situation of Christians in China. "As government policy of freedom of religion is really carried out, I think more and more churches will be opened and more and more people will be willing to attend services in public," he said. (RNS)

## Sacrilege Charged

NEW YORK—The newspaper of the Orthodox Church of Greece has charged

the Turkish government with sacrilege for sending civil servants to catalog the vestments and holy objects of the Ecumenical Patriarchate in Istanbul.

All sacred objects held by the Patriarchate, which is the spiritual center of Eastern Orthodoxy, have been classified by Turkey as "treasures of the nation," according to *Ekklesiastiki Alitheia*, a fortnightly published in Athens.

According to the story from Greece, Turkish authorities also recently visited the Patriarchate, located in a run-down section of Istanbul, to inventory all moveable assets that might be sold to pay newly levied taxes. Turkey is predominantly Muslim.

The Greek Church paper said the decision of Turkey to classify Christian holy objects as national treasures is an "unprecedented, unlawful and sacrilegious action . . . bound to provoke strong reaction from all Orthodox Christians, since the sacred objects in the Patriarchate's possession have not ceased being used liturgically and are the property of the Church, not museum objects." (RNS)

## No Anti-Missionary Support

An Israeli daily newspaper, *Alhamishmar*, claims that the government supports an anti-missionary organization, Yad Le'achim. Fifteen percent of the organization's yearly budget comes from the Ministry of Religion's secretive Special Projects Fund and its top officials are government employees, according to the report.

*Alhamishmar* claims that Yad Le'achim's special agents infiltrate missionary ranks and "expose" their "hidden identities." The director general of the Israeli Ministry for Religious Affairs, Israel Lippel, denied that any government employees served with Yad Le'achim. While confirming that the organization does receive government subsidy, he said the assistance was intended for Yad Le'achim's major educational work among immigrants and not its secondary anti-missionary thrust. (*Christianity Today*)

# Courts Not Competent to Define Nature of Denominational Structures

By Stan L. Haste

WASHINGTON—A Baptist agency here has asked the U.S. Supreme Court to review a California court decision holding that the United Methodist Church may be held liable in lawsuits filed against a Methodist-related group of bankrupt retirement homes.

The Baptist Joint Committee on Public Affairs, in a legal brief submitted to the high court August 31, said the California Court of Appeal ruling may lead to "the demise of religious denominations as they now exist" by allowing 162 former residents of Pacific Homes to sue not only the retirement facilities themselves but their sponsoring denomination as well. The suits total \$366 million.

United Methodist Church theologians and historians testified in the California Court that their church polity is connectional, rather than strictly hierarchical. But the Court of Appeal ruled last March that the UMC is a hierarchical church.

Nearly a year earlier, a lower California Court had held that the UMC is no more than a spiritual confederation and not a legal entity that could be sued under California state law. That court warned that allowing the retirement home residents to sue the church "would effectively destroy Methodism in this country" and "would have a chilling effect on all churches and religious movements by inhibiting the free association of persons of similar religious beliefs."

The Baptist Joint Committee brief, written by research director John W. Baker, argued that the diversity of church polity among denominations requires courts to refrain from placing them into the categories of "hierarchical" or "independent." Various shades between the two extremes, including "quasi-hier-

archical," "modified hierarchical," "connectional," and "cooperating congregational" churches, must be acknowledged, the argument continued.

The brief also maintained that the California Court of Appeal disregarded state law which holds that in matters of church polity or discipline "the state, and its courts, have no legitimate concern or jurisdiction."

The Baptist brief underscored that point by declaring that "because ecclesiology is based on theological beliefs and understandings, the state is not a competent definer or interpreter of the nature and pattern of religious intraorganizational relationships."

Without question, however, the issue in the California case which most concerns denominational officials of all faiths has to do with the legal obligations of agencies and institutions bearing their names. The Baptist Joint Committee brief goes so far as to say that the California decision, if allowed to stand, "would unconstitutionally mandate the demise of religious denominations as they now exist."

The Baptist agency also stated that it finds "offensive" the notion that because various churches and institutions share the same name, any one of them may be legally accountable for the others. Noting that most Baptist churches have chosen to cooperate for missionary, evangelistic, and social purposes, the brief warns that the California court position would even make local congregations liable for the actions of any other local church.

The high court will now take the Baptist brief under advisement along with those of other groups urging the justices to accept the case for full argument and decision. (BPA)

## Theology

(Continued from p. 2)

opponent of change and dissent. When allied with the state and institutions of economic and political power, the church has generally resisted social change and consequently been on the wrong side of economic, political, and social issues in human history.

Admittedly, it was the church, both Catholic and Protestant, which for centuries opposed freedom of thought, freedom of speech, freedom of press, liberty of conscience, and democratic government, and it was the church which eschewed social reform in Czarist Russia, to cite one example, in the face of the most blatant denials of economic and social justice, let alone other basic human rights, by monarchs whose rule extended over both the church and state.

The undeniable truth is that it has never been easy for the church to fulfill its mission in the world. Rather, it has been and remains "the enduring problem" through all the centuries of Christian history. As in previous years, the great need of today is that the church may be the church. Simply to profess Christ as Lord does not constitute for the church, any more than it does for the individual, authenticity of its claim to belong to Christ. In the light of its theological heritage, an incarnational expression of the church's witness in society is inescapable. Likewise, a Christian has an obligation to take part in politics and the political process, to develop a concept of incarnational politics, and, by so doing, to translate one's theology from abstract principles to postulates of practice.

## Politics

(Continued from p. 9)

strength of the Churches and the very content of the intervention.

History has recorded in the various countries a rich series of interventions on political questions, approval and criticism, with the consequent controversies. In actual fact, in some countries the Churches have assumed a keenly sensitive political role, upholding, often with a great deal of energy, the movement for the respect of human rights and dissenting activities. It is a new phenomenon which reveals the Churches, for example the Catholic Church in Poland, as most important dissenting social organizations. The strength of the Churches grows in proportion to social crises: those which affect the philosophic concept of life, the social proposal of life and the political structure itself.

## Prominent Baptist Dies

OTTAWA—Former Prime Minister John G. Diefenbaker, a devout Baptist who made a practice of resting from poli-

tics on Sundays, died here on August 16 at age 83. Diefenbaker served as prime minister of Canada from 1957 to 1963. He was re-elected to the House of Commons for a record-setting twelfth term in 1974. (EP)

## Expert Says Constitution Provides No Absolute Religious Guarantees

LOS ANGELES (RNS)—Neither the establishment nor the free exercise clauses of the First Amendment offer absolute guarantees against government interference with religion, says an attorney active in the Christian Legal Society.

Robert L. Toms, a Los Angeles executive committee member of the society's Center for Law and Religious Freedom, made the point in a paper presented to the Pasadena Bar Association.

"The establishment clause cannot prohibit an indirect benefit to religion, nor can the free exercise of religion be without restraint," he said. "Because of this gray area, some confrontation appears inevitable."

Mr. Toms cited four occasions that usually trigger state involvement with religious organizations: church property disputes, organizations engaging in activities licensed or regulated by the state, dissolutions of non-profit corporations, and cases of wrongdoing or violation of the "public trust."

In the latter two instances, Mr. Toms said, "the authority of the state is based

upon its special obligation to protect the public interest in situations where there may be no individual capable of asserting such interest."

The question therefore "is not whether the state has a right but what this right consists of, and how it may be limited," he said.

Mr. Toms noted that appellate courts have held that "a religious group may not claim the protection of the First Amendment with respect to its purely secular activities."

Citing a new California non-profit corporation law giving the state authority to control the religious corporations, Mr. Toms said that "where the statute runs into trouble is when the Attorney General is given the power to determine whether or not the corporation is carrying out religious purposes."

If the state starts to determine whether religious purposes are being carried out, "it may run into the First Amendment prohibition against examining religious doctrine," he warned.

## Quoting

—Dr. John Somerville

### NUCLEAR OMNICIDE

It is already objectively clear that the nuclear weapons which now exist in the arsenals of the opposing "superpowers" are capable, if used, of annihilating all forms of life and all vestiges of civilization in a new kind of holocaust for which a new term had to be invented: omnicide. This is abundantly confirmed in the overkill statistics of weapons technology.

For the first time in the history of life, every living thing is now confronted by a common enemy more powerful than death. What we have

always called death is, after all, a natural transition to new living units of one kind or another. But nuclear omnicide destroys living things in a way that renders impossible any transition to new living units. By killing the cell itself, it stops the cycle and destroys the natural relation of death to life. It is therefore the common enemy of both life and life-giving death.

If this is not absolute evil, what is?

Dr. John Somerville  
The Churchman

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## Report from the Capital

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