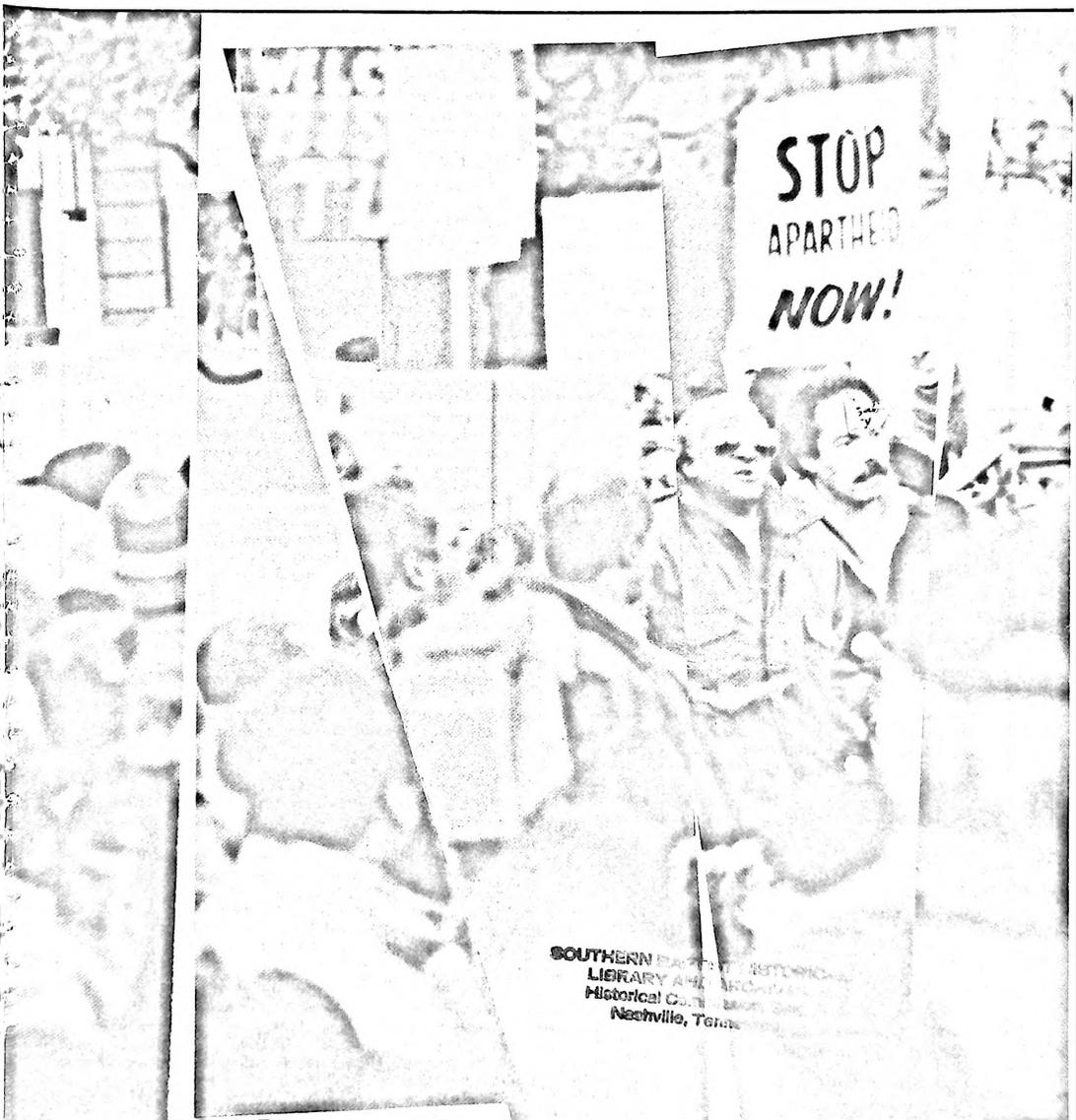


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REPORT from the CAPITAL



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REPORT from the CAPITAL

"... a civil state 'with full liberty in religious concerns'".

Vol. 41, No. 2

February, 1986

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In Line of Conscience

Noted church historian and author Norman Maring carefully traces the development of religious liberty and church-state separation in the United States in an article that could well serve as a primer for Baptists who have not had access to as succinct a study of their heritage. In the context of their early years, Baptists were not only a despised sect but a misunderstood people. They evidenced an unflagging zeal to worship God according to their own insights, and from that 18th-century experience emerged as the witness to the sanctity of conscience before God and as chief proponents of religious liberty for all Americans.

At the time they were navigating the perilous strait between an established and a free church, they took initiatives that ultimately led to the separation of church and state, which became charted in the Bill of Rights. In Maring's article you will find names of historic Americans/Baptist figures whose achievements should become inscribed upon the memory of every one who treasures religious freedom.

The leading of conscience clashes with rule of law in the issue of sanctuary. BJCPA General Counsel Oliver Thomas in VIEWS examines the suit filed by two church bodies who charge the U.S. government with violating their civil rights. The Immigration and Naturalization Service used paid informants and undercover agents to infiltrate congregations in Arizona in their endeavor to gather incriminating evidence against those participating in the sanctuary movement.

Marc Mullinax deals more directly with the resulting trial—in Tuscon, eleven persons stand trial, accused of conspiracy to violate immigration laws. Linking the issues to a review essay of Ignatius Bau's book, *This Ground is Holy*, Mullinax points to Bau's statement upholding activism as correct morally and justifiable biblically. Those engaged in sanctuary act on the basis of biblical belief and Christian conscience, and if convicted, it would become a "crime of conscience."

Churches, joined by colleges, universities and even municipalities around the country may be taking a more radical approach in their protest of racist policy in South Africa. Having heretofore conditioned their new and continued investment in U.S. firms doing business in South Africa on the basis of social as well as investment criteria, these institutions are now considering broadening their occasional use of divestiture in light of that government's refusal to dismantle apartheid.

The Baptist Joint Committee each year provides educational materials for churches who share our concern over diminishing interest in preserving church-state separation. James Dunn reflects on the lack of sensitivity regarding religion prevalent in the media and among elected officials. Two educational opportunities are the annual Religious Liberty Day observance in June and the biennial National Religious Liberty Conference, scheduled for October 6-8 this year. In addition, you might want to help educate others by sharing this issue of REPORT with others after have you have finished with it. □

Victor Tupitza

After hearing oral arguments in a pair of church-state cases, the U.S. Supreme Court appears ready to refine further the constitutional balance between the free exercise of religion and the government's need to regulate the military and the Social Security system.

In one of the disputes, an Air Force captain who is a practicing Orthodox Jew tried to convince the high court justices that his right to exercise the longstanding Orthodox practice of wearing a yarmulke—or skull cap—while on duty as a psychologist in a military hospital outweighs the military's need to enforce its uniform regulations.

In the other case, a Justice Department attorney argued that the family of a 5-year-old American Indian girl is not entitled to the federal Aid to Families with Dependent Children program or to food stamps because the child's father refuses to allow her Social Security number to be used for identification purposes because of religious beliefs. ●

For the second time in two years, the Supreme Court will decide if a worker is entitled under the Constitution and federal law to time off for religious observances.

The new case involves the claim of a public schoolteacher in Ansonia, Conn., that the local school board should provide him with paid leave to observe up to six religious holidays annually. The teacher is a member of the Sabbath-observing Worldwide Church of God.

Only last year the court ruled invalid a Connecticut law requiring employers in the private sector to accommodate the religious needs of workers by giving them the day off of their choice each week for religious worship. The justices held, 8-1, that the statute had the effect of establishing religion in violation of the First Amendment.

The new dispute centers on the claim of Ronald Philbrook, who joined the Worldwide Church of God in 1968, that his religion conditions receiving eternal life on the observance of "designated holy days."

A U.S. district court judge ruled against Philbrook's claims that the school board's policy of providing only three paid days annually for religious observances violated his free exercise of religion and Title VII of the Civil Rights Act, a section of the historic law forbidding discrimination on the job. The judge held Philbrook was seeking preferential treatment, not mere accommodation.

That ruling was overruled last year by the Second Circuit Court of Appeals, which held Philbrook's complaints were justified.

Because the high court's schedule for oral arguments during the current term has now been filled, Philbrook's case will not be heard until sometime after the 1986-87 term opens next October. ●

In an attempt to broaden the agenda—as well as the fund-raising potential—of his conservative, political-religious activities, Jerry Falwell has announced formation of a new organization that will encompass his well-known Moral Majority.

Falwell explained the newly chartered Liberty Federation will support a number of issues such as President Reagan's Strategic Defense Initiative, financial aid for Nicaraguan rebels, and anti-communist efforts in Taiwan, South Korea, the Philippines and South Africa. The organization, of which Moral Majority will be a subsidiary, will continue to address such "strictly moral" issues as abortion and pornography.

In addition, Falwell stated he anticipates the organization's budget to increase from \$7 million to \$12 million during 1986. The additional \$5 million in support is expected to come from new constituents, he said. ●

Baptists, Religious Liberty and a Democratic State

Religious liberty and the separation of church and state are often treated as exact synonyms, but a distinction should be made between them. The former is the more fundamental concept, and the latter a means of safeguarding it. Neither term is static. The early Baptist appeals did not envision a fully-developed understanding of this ideal, and they had only an incipient notion of the separation of church and state.

To demand the right to hold beliefs, worship freely, and to persuade others was a bold step, but the right to follow conscience in political and social arenas has produced a host of dilemmas not foreseen in the 17th century. Thus, the scope of religious freedom has been expanded, and a doctrine of church and state has been developed gradually in the United States; and the process of defining boundaries between the institutions of religion and government still continues. The theological convictions which nurtured the original vision of religious liberty need to be acknowledged, and the significance of those same views for the continued viability of religious freedom, and of other democratic freedoms as well, should be recognized by Christian churches.¹

At a time when religious uniformity was almost universally considered indispensable to the welfare of souls and to

At a time when religious uniformity was almost universally considered indispensable to the welfare of souls and to the stability of society, Baptists began to publish appeals for religious liberty.

the stability of society, Baptists began to publish appeals for religious liberty. The small company of first-generation Baptists furnished three leaders who penned such pleas in England between 1612 and 1620, suffering for their views. Today, their convictions are widely shared, but there were times when they were almost alone in their advocacy of religious freedom. The triumph of this viewpoint owes much to others than Baptists and to a convergence of favorable supporting trends, but Baptists deserve recognition for their courage and contributions to religious liberty and the separation of church and state.

It may be that the original Baptist champions of religious liberty were indebted to the Mennonites, as William Estep maintains.² It seems to me, however, that their arguments depended more upon political theories of Reformed theologians.³ In any case, the Baptists moved beyond either of these sources. Unlike the Mennonites, they believed that it was legitimate to hold public office, even if that meant participation in capital punishment or the conduct of warfare. They staked out positions in ad-

vance of previous Reformed political theorists in their denial that magistrates had any responsibility or jurisdiction in the sphere of religion. They maintained that freedom to assemble for worship, to hold beliefs, and to propagate their beliefs should be granted to all persons so long as they did not disturb the public peace.

In the seventeenth century, they argued more upon theological grounds than upon the natural-rights theories popular in the eighteenth century. "Christ alone is the Lord of conscience" was the foundation for their argument. Individual Christians and churches must be free to obey God's sovereign will, and civil magistrates ought not to interfere. Coerced attendance at worship, baptism and church membership, or affirmation of particular doctrines could only make hypocrites. When magistrates meddled in such matters it was held, they were usurping God's prerogatives and could only cause confusion. In the long term, they believed, God's truth would prevail in a free market of ideas.

Thomas Helwys, erstwhile member of John Smyth's congregation in Amsterdam and later pastor of the first Baptist church on English soil, around 1612, published the first tract in behalf of complete religious liberty in English, entitled *A Short Declaration of the Mystery of Iniquity*. This was followed soon after by similar pleas by other Baptists—John Murton and Leonard Busher. Helwys wrote:

Our Lord the King is but an earthly king, and he hath no authority as a king but in earthly causes; and if the king's people be obedient and true

Dr. Maring settled in Chapel Hill, N.C. following his retirement as Professor of Church History at the Eastern Baptist Theological Seminary, Philadelphia, Pa. He prepared this article as a "reflection" on religious liberty for an American Baptist Churches task group developing a denominational policy statement on church-state relations.

subjects, obeying all human laws made by our king, our Lord and King can require no more; for men's religion is betwixt God and themselves. The king shall not answer for it; neither may the king be judge between God and man. Let them be heretics, Turks, Jews, or whatsoever, it appertains not to the earthly power to punish them in the least measure.⁴

Although this broad assertion was fraught with far-reaching implications, the immediate concern of Helwys and his associates was more limited. They had a practical problem, namely the conviction that believer's baptism and gathered churches were according to God's revealed will, and that they must be free to act in obedience to that will. Their plea for religious freedom was essentially a request for toleration. They did not demand disestablishment of the Church of England, although such an outcome may be implicit in their statements. When, in 1689, the Act of Toleration allowed Trinitarian Protestants freedom to worship, Baptists generally accepted the conditions of registering their meeting houses and ministers and subscribing to the Thirty-Nine Articles of Religion (with the allowed exceptions). They long seemed content with this state of affairs and did little to protest the remaining disabilities or the denial of freedom of worship to Roman Catholics.

In 1644, Roger Williams,⁵ apparently with the earlier Baptist tracts, published his classic statement on religious liberty, *The Bloody Tenent of Persecution*. Having come to New England as a Separatist, he had challenged the Massachusetts Bay authorities over their coercion in religious matters. Partly because of his views on the relationship of civil government to religion, he was forced to leave the colony, whereupon he proceeded to found Providence in what became Rhode Island. In 1652, his associate, John Clarke,⁶ pastor of the Baptist church at Newport, after an encounter with the authorities in Massachusetts, published in England an account of their persecution—*Ill News from England*—(including the whipping of Clarke's companion, Obadiah Holmes). These men were in a position to go beyond simply publishing statements in support of religious freedom, for they were architects of a new colony. Their sentiments became embodied in the fundamental law of Rhode Island. In the charters which they secured there were guarantees of complete religious freedom: "that all . . . may . . . freely and fully have and enjoy his and their judgments and consciences, in matters of religious concerns." As Williams was only briefly a Baptist, his influence on the Baptists was virtually nil for more

than a century, and the memory of him and his writings disappeared into oblivion until revived by Isaac Backus.

It was in America that the concept of church-state separation was chiefly hammered out. Here, too, however, the idea of separation of church and state developed slowly. William McLoughlin has traced in great detail the evolution of this idea among New England Baptists.⁷ He has demonstrated that those Baptists in the seventeenth century, and much of the eighteenth, had no clear consensus regarding the boundaries between the churches and civil government. They wanted to be allowed to worship freely, but they made little protest over the conditions imposed by the Toleration Act, and they generally accepted the onerous

well have led him to support prayer and Bible reading in the public schools were he living today.⁹

Another locus in which Baptist witness gave impetus to advance religious freedom was Virginia¹⁰ just prior to and during the Revolution. Again it was the influence of Separate Baptists from New England who gave rise to protests against restrictions on their freedom to worship. A number of their ministers preferred to face mobs and jails rather than secure licenses to preach. Another Separate Baptist, John Leland, came from Massachusetts to spend fifteen years in Virginia, and he became a spokesman for seeping views of freedom of conscience.

During the American Revolution,

It is clear that there was a desire to prevent the establishment of a national church and that freedom to worship and propagate one's faith was intended, but there was no intention to divorce religion from public affairs.

procedures by which they could obtain exemption from religious taxes in New England.

With the Great Awakening, which brought an influx of new members and congregations into the Baptist life of New England and the South, there came a more spirited protest against taxes to support the churches from which many of them had withdrawn. Isaac Backus,⁸ one of those whose pilgrimage led him out of the Church of the Standing Order in Connecticut into the Separates and then into the Baptists, became the foremost spokesman of Baptists on behalf of religious liberty. Rediscovering the writings of Roger Williams, he drew upon his arguments and reinforced them with new ones derived from contemporary debate over natural rights. As a propagandist, he traveled, wrote, and spoke in favor of religious liberty, helping to crystallize Baptist opinion and to rally support from non-Baptists to protest taxes for the support of religion and eventually to try to remove the vestiges of establishment in Massachusetts. However his idea of the separation of church and state was still more limited than is generally understood today. As McLoughlin has written: "Backus and the Baptists of eighteenth century New England thought primarily of religious liberty in terms of ending compulsory religious taxation and not in terms of a high wall of separation." Backus, for example, favored religious qualifications for holding office, Sabbath legislation, and laws for punishing profanity and blasphemy. Stanley Grenz has argued even that Backus' views on prayer might

former colonies adopted constitutions as bases for their newly-achieved statehood. Religious liberty provisions were generally incorporated in these documents, but there were still religious qualifications for voting and holding office in most of them; and religious taxation remained a practice in three New England states for decades after the Revolution.¹¹ The Constitution of the United States specified that there should be no religious qualification for voting or holding office in the national government; and the First Amendment declared that "Congress shall pass no law respecting an establishment of religion, or prohibiting the free exercise thereof." Thus, the fledgling nation embarked upon an experiment so radical that many in Europe considered it folly and unworkable.

It was one thing to embody this provision in the Constitution, but it was another to interpret it in circumstances unforeseen by the Founding Fathers.¹² The motives of the Framers varied. Some wanted simply to keep the federal government from interfering in the internal religious affairs of their states. A multi-denominational kind of establishment would have pleased some, but others strenuously opposed governmental support of any religious institution. Few, however, were hostile to religion as such, and perhaps the phrase "benevolent neutrality" expresses a rather general attitude among them. What the clause of the First Amendment says, however, is simply that the Congress is not to effect a national religious establishment, and that it is not to deny reli-

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The First Amendment built "a wall of separation between Church and State."—Thomas Jefferson

VIEWS OF THE WALL

Oliver S. Thomas
General Counsel



A suit filed in January by the Presbyterian Church (USA) and the American Lutheran Church charges that the United States government violated the churches' civil rights guaranteed by the First, Fourth and Fifth Amendments to the U.S. Constitution.

The case arises out of the infiltration of churches involved in the sanctuary movement* by the Immigration and Naturalization Service (INS), an agency of the U. S. Department of Justice. According to the complaint, the INS through the use of paid informants and undercover agents infiltrated four Arizona churches in what must be termed an unprecedented invasion of mainline churches by the federal government.

The Baptist Joint Committee, along with more than a dozen other religious organizations, will be participating as an *amicus curiae* (friend of the court) on behalf of the plaintiffs. Baptists are participating in this important case because the court will be creating legal precedent that will affect the way law enforcement agencies (including your local police) relate to churches in the future.

Least some of you be frightened away by the case's relationship to the sanctuary movement, let me assure you that this is not a case defending that movement. The sanctuary movement merely provided the opportunity for the government infiltration which is the *real issue* in the case. In the words of the complaint, "The focus is on the free exercise of religion, transcending any particular issue, debate or movement...."

The case is supported by diverse religious organizations. Some support the sanctuary movement; some are ambivalent; others are firmly opposed to sanctuary or any other form of civil disobedience. Certainly the BJCPC by filing as an *amicus* neither takes a position nor expresses an opinion on the propriety of the sanctuary movement. While people of faith may disagree about when and if

civil disobedience is warranted, virtually all agree that the infiltration of churches by government agents is improper when less intrusive means of investigation are available.

The thrust of the lawsuit is aimed at the infiltration, surveillance and recording of worship services, Bible studies and mission group meetings, all of which included sincere and devout persons who were not engaged in any form of criminal behavior. According to the plaintiffs, undercover agents using electronic eavesdropping equipment posed as concerned Christians in order to be accepted into the fellowship of the various churches. Time and time again, religious services allegedly were infiltrated, monitored and taped with INS knowledge, consent and approval. Lasting for more than 10 months and yielding some 93 tape recordings of church activities, the investigation was apparently conducted without a warrant, without a finding of probable cause by a magistrate, in direct violation of the explicit guidelines of the Attorney General of the U.S., and in virtual disregard of the plaintiffs' civil rights.

As a result of this infiltration, the churches' ministries not surprisingly have been seriously damaged. Some church members have withdrawn from active participation, Bible studies have been canceled due to lack of attendance, members are fearful of government reprisals such as audits by the I.R.S. and, according to the complaint, many have erroneously concluded that the churches themselves were engaged in illegal behavior. Was the government justified in conducting the investigation in the manner in which it did? The answer must be an unequivocal no.

In order to pass constitutional muster in cases involving the free exercise of religion, the government action must be justified by a "compelling state interest." As a further requirement, the government must pursue its interest in the least intrusive possible manner. Assuming that the INS has a compelling interest in enforcing federal immigration laws, the question remains whether that interest has been pursued in the least intrusive manner available under the circumstances.

To no one's surprise, the INS insists that its investigation was at all times lawful and that it complied with the de-

mands of the Constitution. As for other less intrusive means of investigating the churches, INS officials maintain that their tactics were justified under the circumstances, and they vow to continue prosecuting churches that violate the immigration laws.

No one argues that church members should not be prosecuted when they break the law, but it strains one's imagination to think that the INS is serious when it suggests that there were no less intrusive means available for investigating the sanctuary movement. Whatever happened to search warrants, subpoenas, and other standard methods of fact gathering? The use of paid informants and undercover agents sounds like an investigation of the Mafia rather than of a handful of local churches.

Body bugs and other electronic eavesdropping devices are necessary when dealing with professional criminals who never confess, cling tenaciously to their privilege against self-incrimination, and dare not testify against each other for fear of ultimate reprisal. At the opposite end of the spectrum, the defendants in the widely publicized sanctuary trial not only admitted their involvement in the sanctuary movement, they made a habit of confessing on the evening news, in the local newspaper, and at any other place where they could find an audience. The most devastating proof any criminal defendant can face is his own confession, and the INS had access to detailed *public confessions* complete with video tapes and thousands of witnesses.

What are we to make of all this? Isn't this really just a Presbyterian or Lutheran problem? Or, better yet, isn't it just a problem for churches actively involved in the sanctuary movement? Again, the answer is no.

The outcome of the church infiltration case may in large part determine the permissible boundaries for federal investigations of churches for years to come. When government agents use the name of Christ fraudulently to gain access to the household of faith, they step outside the boundary of permissible law enforcement and into sacred space protected by the First Amendment.

Of course, churches shouldn't be above the law. But, there is a right and a wrong way to conduct an investigation when sensitive First Amendment rights

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*The sanctuary movement is an effort by approximately 300 churches in the United States to provide transportation, protection, housing and legal services to undocumented refugees fleeing from Central America. The movement may involve civil disobedience and has been compared to the underground slave railroad of the nineteenth century.

gious freedom to anyone. It did not say that the individual states could not do so. For a century and a half religious issues which were litigated were usually handled by state courts. Only in very recent times did the Supreme Court accept jurisdiction in religious liberty questions, doing so by making the First Amendment rights a part of the "due process" and "equal protection" phrases of the Fourteenth Amendment. Since about 1940, the Supreme Court has become the final arbiter in religious freedom cases, and the number and variety of them has proliferated.

The Supreme Court is often faulted for its decisions in church-state issues, as though it deliberately ignored crystal-clear mandates of the Constitution. It must be recognized that the religion clauses of the First Amendment are far from clear when they have to be applied to situations never contemplated by those who adopted them. It is clear that there was a desire to prevent the establishment of a national church and that freedom to worship and propagate one's faith was intended, but there was no intention to divorce religion from public affairs. From the outset there have been ambiguities, such as the employment of chaplains for Congress and for the military services, and in issuing proclamations calling for fast-days and days of prayer and thanksgiving. The close association of American institutions with religious faith has often been acknowledged. A Supreme Court Justice, in 1844, could claim that Christianity is a part of our common law; and as late as 1930 a decision by that court stated that "we are a Christian people." While some have tried to claim too much of a relationship between Christianity and the United States, attempting to make it officially a Christian nation, it is still true that American values and character were shaped in large measure by presuppositions derived from Christianity. The Constitution must not be interpreted to legitimate government support of any religious institution, but neither should it be understood in such a way as to make government hostile to religion.

Since the 1940's, the Supreme Court has handed down many decisions on questions related to church-state issues. It may be easy to decide that mandated prayer and Bible reading in public schools violates the intent of the First Amendment, but it is not so easy to be sure whether singing Christmas carols in a public school is prohibited. How does one determine that it is all right to pay

for transportation of children to parochial schools, but that it is not all right to pay for instruction in secular subjects in such schools? Are tuition tax credits or vouchers equivalent to supporting an establishment of religion, or do they interfere with religious freedom? Can one distinguish between elementary-secondary education and higher education with respect to granting public funds to denominationally related institutions? Is the dispensing of public funds to denominational hospitals or homes for the aged contrary to either the first or second parts of the religious liberty clause? How is that amendment related to the refusal of a school child to salute the flag, the denial by parents of medical attention to a child on religious grounds, or the unwillingness of an employer to allow employees to be free from work on their day of worship? Can the state set standards for schools or day-care centers operated by religious bodies? Do civil rights laws apply to colleges which receive no direct aid from government? Can government agencies define the terms "church" or "church agency"? Under what circumstances may property or activities of churches be subject to taxation? These are only some of the perplexing questions which require answers based on the scanty directions in the First Amendment.

There is no neat formula by which nine Justices can arrive at answers with mathematical precision, and the difficulty involved is sometimes reflected in the divided opinions of Supreme Court votes. The absolute separation of church and state is probably impossible to achieve in practice. The difficulty of interpretation has been exacerbated by our contemporary pluralism and by the increasing degree of overlap between the acknowledged function of religion and government today. We can ask that justices be as objective and impartial as possible, but they are human and fallible.

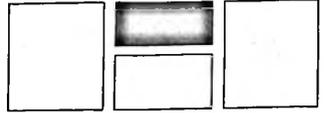
It is desirable that those who have a stake in religious liberty should inform legislators and challenge actions which hold a potential threat to religious freedom. With the help of specialists in Christian ethics, theology, and constitutional law, we need to do what we can to help clarify issues, adjudicate disputes over matters of conscience, and establish criteria which will serve as guidelines in the interpretation of complex issues. Religious liberty in the United States may not face the same kind of threats as it did in the days of Helwys, Williams, or Backus, but there are still threats which need to be recognized and challenged. To an even greater degree these threats

exist in some other nations. Eternal vigilance is the price of liberty, and not the less so of religious liberty.¹³ It is important not to lose sight of our Baptist heritage and its concern for religious liberty and of the theological foundations which undergirded their claims and to a great extent undergirded democracy as well.¹⁴

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News in Brief



High court rejects appeal made by fundamentalists

WASHINGTON
The U.S. Supreme Court has let stand lower rulings upholding an Iowa law that exempts the Amish community, but not independent fundamentalists, from sending their children to public schools or to private schools with state-certified teachers.

According to Iowa officials, that portion of the state's compulsory school attendance law was designed for groups such as the Amish who are "isolated from the mainstream of American life." All other children, the state contended in a legal brief asking the high court to reject the case, must attend a public school or a private institution with certified teachers because of the state's "compelling interest" in insuring the education of its citizens.

Ten parents of children enrolled in a Christian day school operated by the Calvary Baptist Church, Charles City, Iowa, brought a suit challenging the law. They contended that by limiting the exemption to groups such as the Amish, the state unconstitutionally established religion by creating a "suspect classification" of religions exclusively entitled to be exempted. □

Religious broadcaster loses final appeal

WASHINGTON
A colorful and non-traditional California religious broadcaster has lost what is likely to have been his last legal effort to stay on the air.

The U.S. Supreme Court has refused to review a lower court decision against Eugene Scott and his Faith Center Inc., a 10,000-member congregation located in Glendale, Calif. That panel affirmed proceedings by the Federal Communications Commission that resulted in the denial of license renewal applications to a Los Angeles radio station and a San Francisco television station owned by the church.

Scott and Faith Center have been battling the powerful regulatory agency since 1977, when the FCC demanded access to broadcast tapes of programs on a San Bernardino television station also owned by the church. Those proceed-

ings resulted in the loss of the license for the station when Faith Center refused to provide the tapes.

Following the proceedings in the San Bernardino case, the FCC initiated similar investigations into the Los Angeles and San Francisco stations.

Proceedings against all three stations have been based on charges by a former Faith Center employee that Scott engaged in fraudulent fund-raising on the air by soliciting funds that were diverted for uses other than those advertised. □

ADL supports decision barring prayer meetings

EVANSVILLE
A Jewish organization has asked a federal appeals court to uphold a ruling barring public school teachers from meeting to pray together in school before the start of classes.

The Anti-Defamation League filed a friend-of-the-court brief with the U.S. Court of Appeals for the Seventh Circuit in opposition to a suit filed by Mary May, a special education aide at Harper Elementary School in Evansville. May alleged school officials violated her constitutional rights by forbidding her and other teachers from holding prayer meetings and Bible studies among themselves in classrooms.

According to the ADL brief, the prayer group sought the official backing of the school system by advertising for new members through the school newsletter. The brief argued "the school employee body should not be divided according to religion and belief at a time and place where the state has required both teachers and students to be." □

Court rejects diocese's anti-abortion attempt

ALBANY
An effort by the Roman Catholic Diocese of Albany to block the opening of two abortion clinics has been rejected by New York's highest court.

In a unanimous decision, the State Court of Appeals overturned lower-court rulings that the State Health Department had not followed its own rules in approving the clinics.

It was the first case in which a Catholic diocese had filed suit to attempt to block the opening of abortion clinics. □

No 'equitable services,' church officials charge

MINNEAPOLIS
This city's public schools are not providing "comparable equitable services" for non-public school children, officials of the local Catholic archdiocese have complained to U.S. Education Secretary William Bennett.

Only 122 of the 404 non-public school children eligible for the federally funded Chapter I program are being tutored, since many parents have removed them from the program because of long bus rides, said Robert Tritz, government program coordinator for the Archdiocese of St. Paul and Minneapolis.

Law requires the public school district to provide Chapter I services to non-public students on a comparable basis, Tritz said, adding, "We don't feel that the program they handed down this year provides comparable services or anything near that."

Minneapolis school officials say they cannot find other sites for the remedial classes. With most of the schools in the city full, busing is the best way to provide services, they say. They contend the longest bus rides are less than 30 minutes long. □

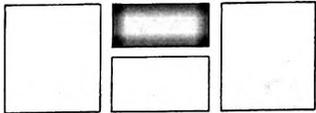
'Mark of beast' case loses in Supreme Court

WASHINGTON
Ezra Eli Borntrager, a Kansas City, Mo. attorney who refused for religious reasons to divulge his Social Security number in an application for admission to the bar of the U.S. Supreme Court, has lost his final appeal at the nation's high tribunal.

Borntrager believes Social Security numbers are the "mark of the beast" mentioned in several passages of the New Testament book of Revelation.

He argued that unlike other numbers assigned to him—such as those on his driver's license and financial accounts—his Social Security number is different in that it is "mandatory, omnipresent, (and) a universal identifier."

In refusing without comment to review the case, the Supreme Court let stand two lower federal court rulings against the Kansas City attorney. □



Home may continue admitting only Christians

NORTH HALEDON

A home for the elderly operated by members of two Reformed denominations has won the right to continue its policy of admitting only Christians as residents.

The Holland Home was begun in 1895 by members of the Reformed Church in America and the Christian Reformed Church. It was granted permission to expand its nursing care unit five separate times before a request for an additional 18-bed expansion was turned down in August by a review board of the Bergen-Passaic Health Systems Agency.

The agency, which is the local regulatory arm of the state health department, said it turned down the request because the admissions policy was unjustly discriminatory. The home appealed to the New Jersey attorney general's office, which ruled the admissions policy does not violate civil rights laws. □

Oregon church loses school zoning appeal

WASHINGTON

The U.S. Supreme Court has refused to review an appeal by an Oregon Assembly of God congregation challenging its city's requirement that parochial schools be zoned apart from church premises.

At issue in the dispute between the southwest Oregon city of Medford and the Medford Assembly of God was the church's refusal to comply with the zoning regulation on grounds it violated the free exercise of religion. □

Salvador church seeks end to deportations

WASHINGTON

In a highly unusual intervention into an American political issue, the leader of El Salvador's Roman Catholic Church has called on Congress to halt the deportations of Salvadoran refugees from the United States.

Archbishop Arturo Rivera y Damas of San Salvador made the appeal in a letter addressed to all members of Congress. He urged them to support proposed legislation to halt temporarily the deportation of Salvadorans who have fled violence in their own country. □



'History made in months,' Tutu says of Americans acting to end apartheid.

WASHINGTON

Bishop Desmond Tutu predicted an end to the South African system of apartheid during a recent address at the New Bethel Baptist Church here.

"We're going to be free," Tutu declared. "There's no doubt about it. We don't talk about it, but when."

The Nobel Peace Prize recipient visited the United States to raise support and financial assistance for anti-apartheid efforts in South Africa.

Tutu thanked the overflow crowd gathered at the church "on behalf of millions for your love, caring, commitment to justice and peace."

He emphasized the importance of the actions of Americans protesting apartheid during the past year. Because of those actions, he added, the world has "seen history being made in months."

Pointing to 1984 as a pivotal year, Tutu mentioned several events, including his own U.S. visit and Nobel Peace Prize, Jesse Jackson's presidential campaign, the South African riots and the American protests.

"We are now part of the victory movement," he declared. "We are not boasting. We are just saying, 'You have lost. You can't take on God and hope to win.'"

"In South Africa we know when the rubber bullets come, the police dogs, detention, torture, death, we can say, 'Ha-ha!'"

Tutu said he would say to white people in South Africa, "Why don't you join us and be what you are—our sisters and brothers?" He added he can hardly wait to see jailed activist Nelson Mandela sitting in the same office with South African President Pieter Botha.

"God is striding ahead of us," Tutu explained in conclusion. "He is a liberator God. He takes side with the weak and oppressed, the hungry and the homeless."

While Bishop Tutu addressed the Washington church, the congregation's pastor, Walter Fauntroy, was on a fact-finding tour of South Africa. Fauntroy, who also is the nonvoting congressional delegate from the District of Columbia, accompanied five other U.S. congressmen, including Rep. William H. Gray III, D-Pa., who also is a Baptist minister.

Americans split on issue

WASHINGTON

Recent public opinion surveys by George Gallup demonstrate the American people are split nearly evenly over the advisability of legislation to provide government aid to parochial schools.

In separate polls conducted last year but only recently released, Americans indicated a division over the idea of a constitutional amendment to permit such aid and a Reagan administration proposal for school vouchers to assist parents with children in parochial schools.

Judge dismisses suit brought by parishioners

NEW YORK

A lawsuit brought by parishioners of St. Bartholomew's Episcopal Church who object to the parish's plans to construct a skyscraper has been dismissed by State Supreme Court Justice Kenneth Shorter.

He ruled the vestry, the church's governing body, had the power to decide how to spend church funds. He said the plaintiffs "have failed to establish that defendants' conduct in pursuing real-estate development constitutes such irreparable injury as would warrant judicial interference." □

SANCTUARY

Christian conscience on trial

THIS GROUND IS HOLY: Church Sanctuary and Central American Refugees.

By Ignatius Bau. New York: Paulist Press, 1985, 288 pp, \$9.95 paperback.

On trial now in Tucson are eleven Christians charged with smuggling undocumented persons across U.S. borders and conspiring to transport them within this country. At first glance, this looks like a clear case of government agents catching U.S. citizens in the act of helping non-U.S. citizens evade immigration law.

Many and varied voices support the charges of alien-smuggling against the eleven. Law and order devotees want U.S. laws upheld. Some churchfolk praise the defendants' arrest because they feel those charged misused the good name and offices of the church. This critique has merit: churchfolk, above all others, should be model citizens and support the "higher powers." But, there is a catch.

We are talking about the Sanctuary Movement, and the catch is documented in a new book on the movement, *This Ground is Holy: Church Sanctuary and Central American Refugees*. Author and lawyer Ignatius Bau has written a treatise for those who have little problem with churches using civil disobedience. It is also a guide for those pensive about their own level of involvement in the Sanctuary Movement. *This Ground is Holy* asserts that activism on behalf of Central American refugees is on target historically, correct morally and justifiable biblically.

The people on trial say that God told them to engage in the activities which led to their arrest. Moreover, Bau reminds us, the U.S. government indirectly encouraged these activities.

Such are the conflicting claims in what should be a watershed case of the 1980s, the trial of the Sanctuary Movement in Tucson. Do U.S. citizens have a right to harbor, aid and shelter Central American refugees claiming to flee civil and political unrest?

To a person, workers in the movement cite their deep religious faith and conviction that they adhere to the spirit of U.S. law and the Christian faith. The Bible gives numerous unequivocal warnings for the faithful to help and succor the sojourning alien they find in their midst. "We get our concern for the poor and oppressed from the Bible," said one defendant.

Sanctuary's opponents question such high motives and charge the movement with trying to embarrass the U.S. government in the guise of questionable religious practices. The first duty of the Christian citizen is to uphold the laws of the land.

Which brings us to a key issue of the sanctuary controversy: the application of the 1980 Refugee Act passed by Congress. The Act declares that persons from other countries suffering from "a well-founded fear of persecution" because of their beliefs, religion or political persuasion are eligible for asylum in the U.S.

Bau and Sanctuary Movement workers interpret this phrase broadly and claim that the phrase enables them to aid the political refugee from Central America without state interference. The Immigration and Naturalization Service (INS) and sanctuary opponents, however, generally interpret this phrase narrowly. First, they claim that the overwhelming number (97-99.7%) of the undocumented aliens enter the U.S. for economic reasons. Secondly, they assert there is not enough political unrest in Central America to warrant wholesale admission of its citizens.

To question the validity of these claims is not the intent of this writer or of Bau. It is the thesis here that the churches and persons involved in the Sanctuary Movement are indicative of the generally increased social awareness of churches, and has to commend it the president's call for the private sector to assume more of its share in feeding the hungry, housing the homeless, and ministering to the needs of the poor.

In one of the more imaginative sections of his book, Bau suggests that sanctuary as a movement is an inevitable product of the increased social-political activity of churches. Not stopping at soup-kitchens, churches have gone on to form groups often interpreted as running counter to the goals of the administration—peace groups, activist, even antagonistic shelter ministries, and Sanctuary for Central Americans.

Churches have acknowledged they

feel the call to be on the cutting edge of society's conscience. Church members demonstrate against nuclear weapons, "witness for peace" in Nicaragua and get arrested for protesting South Africa's apartheid. These are done in the name of American patriotism and Christian citizenship: protesters love their country and follow their faith so much that they work to change their society for the better. And, the state has generally allowed this, acknowledging the church's valid claim to witness to its vision. Incarnating biblical commands, churches have tested the limits of the government's patience to stand back and let the church do its thing.

The arrest of the sanctuary defendants now on trial signaled the government's loss of patience. It drew an unprecedented line which churches may not cross with impunity. To draw that line, the INS sent agents into churches posing as Christians concerned with the refugees from Central America. Could it have reneged on its call for churches to get involved in the lives of the poor they find around them? More seriously, what damage was done to the First Amendment by employing alleged criminals with body bugs to be the infiltrating agents in the churches?

One wishes that lawyer Bau had addressed the government's obvious side-stepping of the legal and moral parameters it had set up for itself to follow when dealing with religion. Saying no to the Sanctuary Movement, the state mitigated its yes sent to churches involved in empowering the poor. Might it fear the empowered poor some day rising up and embarrassing the state? Was it saying to the churches, "Help the disadvantaged, but not too much"?

The ambiguity of the government's positions is highlighted by the recent terrorist attack at the Rome airport, in which an eleven-year old American girl was killed. The president lamented her murder publicly, as he should have. As silent midrash, however, are the snuffed out lives of over 200 children killed by U.S.-backed contras in Nicaragua in the past four years. These are somehow not given presidential recognition, but when the churches try to save lives in the region through sanctuary, then the government acts to end humanitarian assistance.

The church has a mission and a vision that the state knows not of. While it

Continued on page 13.

Divestment

Churches Act to Thwart Apartheid

America's religious groups led a growing national movement in 1985 that sought to pressure South Africa to dismantle its apartheid system of strict racial segregation. Protests, sit-ins and prayer vigils, many leading to peaceful arrests, were among the opinion-shaping tactics deployed.

But the churches also joined a mushrooming number of public institutions and municipalities in protesting apartheid in more tangible fashion: by considering moves to divest themselves of stock holdings in major corporations that do business with South Africa.

Church leaders active in the divestment movement say that U.S. corporate investment in South Africa helps prop up a morally corrupt regime. By divesting these shares, or threatening to, the churches can use whatever moral influence they may have. But many U.S.-based multinational firms maintain that the U.S. corporate presence in South Africa will hasten the pace of racial change there.

Shareholder activism as a means of seeking what is called corporate responsibility took hold in the late 1960s, primarily around the churches' opposition to the production of certain war material such as napalm and anti-personnel weapons. Until lately, however, actual divestment was viewed as a last resort, to be used only after dialogue and moral suasion had been exhausted.

That attitude still prevails among many religious institutions. But as racial violence continues unabated in South Africa, more pressure within the churches is likely to point toward outright divestment from firms heavily involved in maintaining a system in which the black majority has been denied economic and political power.

The Rev. Tim Smith, executive director of the Interfaith Center on Corporate Responsibility (ICCR) in New York, said there are three basic positions taken by church bodies in the coalition, whose combined investment assets total nearly \$10 billion—full and immediate divestment, selective or phased divestment, and active shareholder approaches.

"All three are responsible," said Mr. Smith. "What is irresponsible in view of the South African situation today is the 'no action' position."

Last April, the board of Union Theological Seminary in New York voted to divest all its South African-related stocks, and the process should be completed by next summer, said President Donald W. Shriver, Jr. "We think it can be done in such a way as to have no economic penalty to the seminary," he said in mid-December.

Many other major Protestant denominations are taking a more cautious approach, however, ranging from selective divestment in a few companies to a policy of non-divestment. The Presbyterian Church (U.S.A.) is an example of the former, having in December divested its stock in Mobil, Texaco, Newmont Mining and Fluor, after each corporation indicated it would not cease operations in South Africa.

The Southern Baptist Convention's Annuity Board is "committed to a philosophy of non-divestment, which until now has been the policy of most pension boards," according to the board's president, Darold Morgan. "We prefer to stay on the inside and pressure the corporate management to change," said Dr. Morgan, adding that divestment could be an option if companies were resolute in maintaining their operations in South Africa.

Gerald "Jed" Hornung, chief executive of the United Methodist Church pension board, which manages the largest church pension fund in the United States, said, "We would have no leverage if we sell our shares to someone who couldn't care less. Then we would have no witness at all."

The pension fund managers have instead vowed to intensify their longstanding commitment to pressure corporations to adhere to the Sullivan Principles—a set of guidelines for improving workplace conditions for black South Africans. Yet many church activists no longer believe the Sullivan Principles supply enough ammunition to combat apartheid.

To people like the ICCR's Tim Smith, the major question is not "Did you sell or didn't you?" The key issue, said Mr. Smith, is "What are the churches asking the corporations to do about their role in South Africa?"

He believes that a variety of pressures

We prefer to stay on the inside and pressure the corporate management to change.

DAROLD H. MORGAN

from the churches can help strengthen what he called a "turning tide" against United States' inaction toward South African apartheid. "This is now a mainstream American issue," he said.

Mr. Smith also scoffed at the notion that church money managers should be reluctant to reinvest church funds for fear of financial loss, and he praised those who predicted that no losses would be incurred. Secular money fund managers, he said, have begun to scrutinize their portfolio holdings of South African-related securities in the wake of protracted civil violence there.

Moreover, he added, some banks and companies have already begun to disengage from South Africa unilaterally, in part for the same reason.

The General Electric Co. has announced plans to cease its operations there, said Mr. Smith, who observed that other corporations will be watching the move closely. ICCR last May named GE along with 11 other companies as targets of a selective buying and divestment campaign unless they halted sales and service to South Africa's government. The other 11 are Burroughs, Chevron, Citicorp, Control Data, Fluor, Ford, General Motors, IBM, Mobil, Newmont Mining and Texaco.

In July, the South African Council of Churches took the risky and illegal step of asking churches in other countries to divest their holdings in South African businesses. The council's resolution, proposed by the Rev. Alan Boesak, president of the World Alliance of Reformed Churches, said that divestment would be a "peaceful and effective means" to pressure the South African government to bring about fundamental change in its race laws. □

James R. Owens
RNS Correspondent

INTERNATIONAL DATELINE



British faith groups act on religious freedom

LONDON

A multi-faith united front to preserve freedom of religion in Britain has just been launched here. A "British Council of Faiths" may result.

At what was called an open meeting in November, sponsored by the Scientology movement, a watchdog committee to monitor violations of religious freedom, made up of representatives of Christian, Muslim, Hindu and other religious groups, was formed. Known members of Cultists Anonymous and other groups opposed to recruiting techniques and other activities of religious cults were not allowed in.

Until now groups such as Scientology have usually been isolated by the established religions here, and make headlines only when accused of brainwashing, tax evasion or splitting families.

The Rev. Kenneth Cracknell, head of the British Council of Churches Committee for Relations with Other Faiths, said that he regarded as absolute an individu-

al's right to practice the religion of one's choice, to make converts or to be converted.

Last year the European Parliament, legislative branch of the European Economic Community, passed measures curbing activities by the Unification Church and other new religious movements. Proposed by a British Conservative Member of the European Parliament, Richard Cottrell, the bill restricting cult activities was passed by 98 votes to 28 with 26 abstentions. The London meeting was organized by the Scientologists to trigger joint opposition to the Cottrell proposals.

Asked if he were being used by Scientology and other cults, Mr. Cracknell responded, "Of course it is a risk we run. But any action to curb religious freedom must be opposed. These regulations are too important to ignore. I have profound sympathy with families who have lost members to the cults. But I also know of the profound distress caused in a Methodist family when a son joined the Franciscans. We can't have the state decide what's good and bad in religion. We had that for 300 years." □

Atheist student protests public school prayer act

MACGREGOR, MANITOBA

Seventeen-year-old high school student Chris Tait, an avowed atheist, was suspended as a matter of discipline for not following school rules governing prayer time.

"It's simply a case of defiance," according to Joe Mudry, superintendent of MacGregor Collegiate. His comment was in reference to the uproar caused when Tait, an above-average student, remained seated during the recitation of the prayer.

The youth's parents have filed a complaint with the Manitoba Human Rights Commission, alleging discrimination on the basis of religion.

Manitoba Public School Act allows children to be excused when the prayer is broadcast over the public address system. The school requires students who abstain from prayer to remain in the hallways. Tait refused to leave the classroom during the prayer recitation. □

Harassed pastor charges repression in Nicaragua

WASHINGTON

A Nicaraguan evangelical leader who was recently arrested and harassed by authorities said the leftist government has begun a campaign to repress evangelical Protestant activity.

But Jimmy Hassan, an evangelist and pastor in Managua, added, "No matter what the conditions and persecution, we will not stop preaching the gospel to the people of Nicaragua."

Mr. Hassan, national director of Campus Crusade for Christ, said authorities stole thousands of Bibles and religious books which they labeled "counterrevolutionary," and put a gun to his head during interrogations on October 31 and November 1.

Mr. Hassan said evangelical leaders have obeyed the laws and never opposed the government, despite charges by some government officials that they are agents of the United States. "My only activity is to preach the gospel," he said he told the authorities. □

Soviets hound Baptist publishing operations

MUNICH

Printing presses of "Kristianin", an underground publishing house of Baptists in the Soviet Union, continue to be discovered and destroyed by authorities, according to a recent report appearing in a German human rights newsletter.

Das Land Und Die Welt, which monitors the religious scene in the USSR, disclosed that early in October a press was destroyed and persons associated with the printing venture imprisoned. It was the sixth printing press to be destroyed.

Ivan Petrovich Plett was arrested and sentenced to his third term following discovery of the press in Glivenki, Krasnodar Territory. His prior arrests also took place because of "illegal" religious activities.

Later in that month another press, this one in Beltsy, Moldavian SSR, was destroyed and six persons arrested. Copies of the New Testament, printed on Moldavian (Romanian) printing equipment and about five tons of paper were confiscated.

Destruction of presses have taken place since 1974 and include equipment located in Latvia; Ivangorod, in the Leningrad region; Starye Kodaki, Dnepropetrovsk region; and in Issyk, the Alma-Ata region.

In each instance sentencing took place following conviction under various articles of the Russian Criminal Code. Both men and women were among those found guilty. □

Chile's Catholics plunge into political thicket

SANTIAGO

Chile's Roman Catholic hierarchy, with the full support of the Vatican, plunged headlong into the country's political thicket this year in search of a smooth transition from military dictatorship to civilian rule.

Gen. Augusto Pinochet, 70, completed 12 years in power in September and shows every sign of planning to stay on for life. Since commanding the 1973 coup d'etat which overthrew the leftist President Salvador Allende, Gen. Pinochet has consolidated his personal grip on the armed forces and the country's entire administrative apparatus.



NEWS-SCAN

Opposition leaders like to compare him to the late Nicaraguan despot Anastasio Somoza or the Philippines' Ferdinand Marcos. If something isn't done now, they warn, Chile could be headed for similar violent upheavals.

The Catholic bishops' conference decided during a series of meetings around mid-year that their church should take a new initiative in the crisis. Eighty percent of Chile's population is Catholic.

The bishops, viewing the increasing polarization of the country as a grave danger, faced two thorny problems: the bitter historical divisions among Chile's varied political factions and the existence

of a large, well-organized Communist Party feared by the upper and middle classes.

Some priests and lay members argued that repeated exhortations for peace and forgiveness simply echoed the military government's line that the opposition was responsible for all violence by calling for protests and strikes.

At the same time, the Catholic bishops were not eager to provide a church canopy for essentially political demonstrations which would be dominated by the left. The Communist Party's ability to mobilize large crowds is unmatched by any other sector—including the Catholic Church. □

A reign of terror in the Haitian city of Gonaives left at least three dead and fifteen injured. Government troops opened fire on demonstrators engaged in peacefully protesting growing repression in Haiti, and to mark the anniversary of the 1980 crackdown in which dozens of labor leaders, journalists and human rights advocates were arrested. Three young students, one of them standing in the doorway to his classroom, were killed in what is seen as a new level of human rights abuses by the Duvalier regime. . . . So common have religious sects become in the Cologne, West Germany, that the Roman Catholic diocese has set up a "hotline" to help family members and friends of those influenced by such groups. The "hotline" tries to "get rid of exaggerated fears while at the same time explaining how the sects operate, to give some idea of what relatives are dealing with," a staff member explained. . . . Foreign policy considerations frequently outweigh need in determining the allocation of developmental aid. The U.S. provides about \$14.30 per person in aid to the 22 million people of Central America, while in sub-Saharan Africa it provides only 70 cents per person. Experience shows that global politics can be overcome in emergency situations (Ethiopia) where the government is hostile to the U.S., although politics may prevent the U.S. from allocating the long-term development aid now needed there. . . . More people in Britain are taking only one shopping trip a week, so shops do not need longer opening hours, say Yorkshire Baptists. They expressed deep concern over government proposals to remove all restrictions on Sunday trading hours and are urging opposition to the deregulations. . . . One in every five political prisoners in the USSR is being held in a psychiatric hospital instead of a prison or labor camp, reports Ludmilla Thorne in an article on the "Soviet Abuse of Psychiatry." Writing in the journal, *Freedom at issue* she adds, it is no wonder that many Soviet dissidents have referred to the use of psychiatry for political purposes as spiritual murder. □

IEWS, from page 6.

are involved. The INS investigation of the sanctuary movement was the *wrong* way.

My involvement with the case has led me to an acquaintance with a fellow attorney who has reinforced my conviction that not all of us litigators are simply hired guns offering our services to the highest bidder. His name is Peter Baird, and he is one of the lawyers for the plaintiffs. Mr. Baird is a Presbyterian layman and a member of one of the churches involved in the lawsuit. Although neither Mr. Baird nor his family was actively involved in the sanctuary movement, they were subject to the same intrusion into their religious pri-

vacancy as were the defendants in the sanctuary trial. The thought of government agents tape recording his family's prayers and sneaking through their church's parking lot in order to write down license plate numbers so angered Baird that his law firm has agreed to represent the churches free of charge, or as we lawyers say, "pro bono." Already, Baird and his associates have spent more than a thousand hours working on the case.

In one of our recent conversations about the case, Mr. Baird advised me that he was incensed about the entire affair.

So am I, Mr. Baird. So am I. □

SANCTUARY from page 10.

must render unto Caesar the things that are his, God has requirements as well. The linch pin to a free state is the free church, empowered to worship, speak and act out of reach of government control or monitor. If this principle is compromised then the state can expect compromised Christian citizenship and patriotism. The churches have the best cadre of "freedom fighters" the state could ever want, if it would just get out of the way and let them flourish. Genuine citizenship demands responsible involvement, regardless of beliefs, and that is the message the Sanctuary Movement sends. □

Marc Mullinax

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CORRESPONDENCE

Reader response extends dialogue and thereby helps to focus and clarify the issues. Letters must carry both signature and address of the writer and should not exceed 200 words. We reserve the right to edit for length.

You made things so clear . . . we need to hear more often so we can know just who we are, how we got to where we are now and where we ought to go. The pressures are upon us to leave our historic Baptist position.

Thomas E. Halsell
St. Albans, WVA

I could not help but feel a deep sense of thrill and enjoyment as I realized how marvelously excellent it is for us to have people (BJCPA) in the nation's capital. I promise to pray for you constantly, that God's Holy Spirit may lead you to fight for freedom and the separation of church and state.

Salvador Molina
San Antonio, TX

The enclosure [is] one wee token of my fervent prayer that God will continue to cultivate your profound maturity and your singularly competent selfless leadership in realistically and effectively furthering His True word and way.

James P. Stuart
Santa Rosa, CA

I hope you know how many of us out here in the bonodocks are grateful for the energy and investment you offer. These are days when we would really be up a creek if we didn't have an advocate like you.

Hardy Clemons
Lubbock, TX

NEW TESTAMENT, from page 16
war. In this handbook, the author has provided helpful resources for those communities committed to the waging of peace from within a faith position.

Following an introduction comprised of quotes from such notables as John Paul II, Martin Buber, and as dissimilar as Camus and Billy Graham, Donaghy identifies peacemaking as integral to the life of faith and then proceeds to catalogue suggestions, practical and otherwise, for congregations interested in the process of peacemaking. In addition, he provides resources for prayer, worship, education, and congregational activities.

The book's final chapters are devoted to descriptions of the nuclear weapons freeze campaign and the abolitionist covenant in its interfaith and Christian versions.

The handbook is not devoted to a debate as to whether waging peace is either possible or important. Nor does it contain both sides of the issue concern-

ing whether or not mutually assured destruction is a viable method of waging peace. The book is calculated to help those already committed to a nuclear freeze position or similar efforts. Christians less confident of these measures and more comfortable with the long standing arms race as a deterrent to war will find no encouragement in these pages.

Ministers and lay persons who take seriously the issue of nuclear war will find in these two books ample resources for not only theoretical discussion, but also practical applications.

Mark S. Caldwell

TAX, from page 16
fort is underway in Congress. What is disturbing about this is that for the last decade hardly a year has gone by without major legislation involving either income taxes or social security taxes. One wonders if fixation with taxes has become a substitute for a more far-sighted social agenda. In 1981 this confusion of tax policy with social policy was complete and explicit: for the 1981 supply siders tax changes alone would create social utopia. Perhaps we should consider a different premise: that society can live with a variety of less than perfect tax systems and may even thrive if vision and some sense of higher purpose guides the way.

Donald Frey



Norman Maring traces the historically distinct paths of religious liberty and its corollary, the separation of church and state. Baptist distinctives are few. At their heart lies the commitment to the Bible as the final arbiter. How does this emphasis lead to soul liberty? Trace the path from soul liberty to church-state separation? How may church-state separation lead to actions that run counter to state interests?

Baptists' involvement with the free exercise of religion is the subject of Oliver Thomas' VIEWS. He says Baptists are incensed by the devious methods of government investigators in the sanctuary movement. Do you agree with critics who say the Old Testament's "cities of refuge" mean something other than what the sanctuary movement intends?

Are Christians free to develop that biblical concept to include sanctuary? Dividing your group into two, discuss these two positions.

Marc Mullinax's comment that patriotic Christians can be involved in civil disobedience carries forward author Ignatius Bau's argument that increased social-political activity of churches sometimes finds sanction in government policy. How would you defend civil disobedience as a first resort as well as a last resort? How does a Baptist know when the church has gone too far afield in its First Amendment exercises? At what point must the state let the church know it has gone too far?

James Owen speaks of churches involved in the moral issue of apartheid. He reports their "tangible protest" may lead to divestment in companies involved in South Africa. Have your group role-play the three options outlined in his article: immediate divestment, selective or phased divestment, and active shareholder approaches. □

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REFLECTIONS

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Executive Director



As we talked over coffee in the Student Center the president of an old and highly respected southern college lamented the loss of regard for the label "Baptist." "You know," he said, "it's increasingly more difficult to interest corporate executives and foundation donors in a school that belongs to Baptists." The veteran educator pointed out that almost without exception potential givers who balk at the Baptist connection call attention to excesses and extremisms of television preacher-politicians who wear a Baptist tag. They say, in effect, "if the Baptist Church can't control these self-styled spokesmen for Baptistdom you should kick 'em out."

This attitude on the part of the sophisticated, and otherwise well-educated managers of our society reveals an incredible ignorance of religion in general and of Baptist ecclesiology in particular, but that is the theme for another lamentation. For now, it is enough to catalogue this testimony as one evidence of a rising tide of anti-Baptist sentiment among institutional leaders in this country.

It was two days before the Christmas recess in 1983. Parties, early departures for distant destinations and preoccupation with personal affairs had taken their toll. The United States Congress was in neutral for all practical purposes. The phone call came like a fire alarm in the middle of a warm winter snooze. Staffers for the Senate Finance Committee had decided that the next afternoon at three they would meet and "define church." The occasion was the consideration of legislation affecting Social Security payments by church employees. The shocking aspect of this otherwise ordinary work session was that a batch of bright-eyed and brilliant, mostly young government employees would be so unaware of church-state history as to presume that they could do what had not been done definitively for 200 years.

The late John W. Baker showed up at three as did a host of other church "lobbyists" representing groups as diverse as the Moral Majority and the National Council of Churches. In unison (well, almost) the church people successfully protested the ambitious proposal of the Committee staff. For a decade the fuzzy phrase "integrated auxiliary" has wrought havoc with tax law and the churches. The Bob Jones decision suggests that tax exemption constitutes a government subsidy (at least sometimes). Much work needs to be done to educate the technocrats who are so influential in shaping public policy on matters related to church-state separation. For now, it must suffice to report this incident in which eager legislative craftsmen betrayed their anti-church bias.

Only when the full text of the current "tax reform" bill appeared in early December 1985 could one see that its effect would be to tax the churches. Section 1012 on page 746 (Tax Reform Act of 1985) unless amended by the Senate Finance Committee would presume to tax the pension plan ministries of the churches as they endeavor to care modestly for those who have given their lives in service.

It doesn't seem to matter that these stewards of retirement funds are not in competition with anyone else and serve only their own ministers and denominational employees. It

doesn't seem to make a difference that these boards and agencies are strictly non-profit, tax-exempt entities.

It doesn't seem to phase some zealots for tax reform that the revenue generated by taxing church pension programs would be tiny while the principle violated would be great. In fact, this dangerous incursion doesn't seem to have yet come to the attention of many members of Congress. One can see why it could be overlooked in the 1379 pages of the short, simple tax bill.

Theories abound about how a radical departure from previous policy could have "slipped through." For now, one must conclude that more than haste, insensitivity and ignorance of First Amendment considerations gave us this innovation, the taxation of religious institutions. The staff and some members of the House Ways and Means Committee display at least a hint of an anti-religion tilt in the terminology.

One can but sympathize with those who would like to zap the brass profiteers who use religion to feather their own nest. It makes sense for foundation executives and businessmen to exercise caution when the only Baptists they see are on television begging for money so they'll have more time to beg for more money. One understands a smattering of anti-clericalism in the body politic.

Conservatives resent the churches of the '60s and their attempts to change society, right wrongs, save the earth, push for peace and demand justice for all.

Liberals resent certain churches of the '80s and their efforts to restore Judeo-Christian values, get back to basics, save unborn life, get peace through strength and demand decency for all.

Church and synagogue insiders are uneasy about the role of religion in politics. Those outside organized religion are ready for the churches "to pay their dues."

On Capitol Hill fresh young zealots with little sense of history and no apparent understanding of church-state separation team up with grizzled (maybe frumpy) old-timers in the political wars who see in the new negativism about religion refreshing reinforcement for their ancient agnosticism. All this adds up to ganging up on the churches. There is a new brand of anti-religion that bears watching.

We have no cultural thrust matching Europe's anti-clericalism, and the typical citizen has no conflict between love of God and love of nation. One reason for this is that God has not yet been used to enforce one religious persuasion. Again, we may take the separation of church and state a little too much for granted.

On October 6-8, 1986 the National Religious Liberty Conference will address such questions around the theme, "Intersecting Values: Church-State Separation and Christian Citizenship." Come, join the discussion. □

REVIEWS



TAX JUSTICE: Social and Moral Aspects of American Tax Policy.

By Ronald Pasquariello. Lanham, MD: University Press of America, 1985.

Tax Justice is a primer about the American tax system, published by arrangement with the Churches' Center for Theology and Public Policy. It adopts the normative perspective that society ought to be judged by its treatment of its weakest members. The book starts from the axiom that "society has a moral claim on all income and wealth at least to the extent that income or wealth was obtained from social interaction." (p.8) Obviously, then, this book is at odds with the extreme individualism current in much political and economic thought.

Scripture probably is consistent with a number of theories of economic justice. A fair-minded person would find it impossible to produce a single,

unambiguous theory of economic justice by making a few neat deductions from a few clear scriptural premises. Thus, while *Tax Justice* appears consistent with one scriptural tradition, the Christian need not rule out other possible perspectives on tax policy that would also be consistent with scripture.

Tax Justice, however, could have been derived from other than Christian premises. The marriage of the theological-ethical and tax policy portions of this book is incomplete. If the explicitly religious parts were deleted, a social democrat of any or no religious conviction could feel comfortable with the policy norms established in this book: that taxes should redistribute from rich to poor, that taxes should fall equally on equal incomes, and that special treatment of special interests should be eliminated. That *Tax Justice* could be a social-democratic treatise is not meant as criticism; it is unlikely that even a more rigorously theological book than this would arrive at a totally novel view of the ideal tax system. Furthermore, in an

era when self-proclaimed "Christian economists" are more likely to represent a far-right mixture of religion and economics, this book deserves the attention reserved for prophets.

Much of *Tax Justice* is written in "expose" style. Yet, to our nation's shame, little here is really an expose. Virtually all the failings of the tax system documented in this book are very well known. The shame is that nothing has been done to correct well-known failures, despite periodic bouts of "tax reform." What are these failings? That the income tax is far harder on the poor than it ought to be, and easier on the rich. That corporations pay taxes in almost no relation to their earnings. That taxpayers of equal income may pay very different amounts of tax. That taxes on the inheriting of wealth have been almost eliminated. That the allocations of capital and labor are skewed in perverse directions by tax considerations. And so on.

This book is particularly appropriate at a time when yet another tax reform ef-

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NEW TESTAMENT BASIS OF PEACEMAKING

By Richard McSorley, Scottsdale, PA: Herald Press, 1985, \$7.95, Canada \$10.35.

PEACEMAKING AND THE COMMUNITY OF FAITH: A Handbook for Congregations.
By John A. Donaghy, The Fellowship of Reconciliation, 1983.

Pastors and others in congregations concerned about the peacemaking process will be pleased to learn of the availability of two fairly recent books in this field. *New Testament Basis of Peacemaking* by Richard McSorley is a new edition of an earlier work by the same title which develops and enlarges the gospel command "love your enemy" and the gospel teaching that we are all children of God. The Just—Unjust War Theory is treated more fully in this edition. Some new objections against Christian non-violence are proposed and answered and a new chapter on the U.S. Catholic Peace Pastoral is added.

After considering five New Testament principles which disapprove of war, McSorley analyzes nine New Testament

passages frequently, but erroneously, used to support war of various kinds. In each case, he states the basic argument for war and then a more lengthy reply. His most complete textual treatment is given to the Romans 13 text. Next, McSorley turns his attention to the Old Testament and handles the apparent contradictions between the Testaments in two ways, taking the New Testament as interpretation, fulfillment, and enlargement of the Old, and the superseding of the Old Covenant by the New. McSorley then documents the overwhelming disapproval of war during the pre-Constantinian era before considering in more detail what he calls the Just—Unjust War Theory.

McSorley claims the Just—Unjust War Theory is one the Church adopted al-

most by default in the absence of sufficient doctrinal or theological definition of attitudes concerning war. The fourth century theory associated with Augustine was the lever that separated Christian theory from practice. Following a description of the theory, the author briefly describes fourteen objections and then provides a parody on the theory of Just War entitled "The Just Adultery Theory", whereby adultery would be condoned using the same arguments for war.

The most intriguing section for readers already familiar with the textual and historical sections is the material where McSorley answers objections to pacifism—self-defense, protection of loved ones, and obedience to authority.

While McSorley's work is somewhat theoretical in nature, the second book, John Donaghy's *Peacemaking and the Community of Faith* is more practical. Donaghy begins by reminding us that peace is not given, it must be waged by makers of peace as surely as others wage

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REVIEWS

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