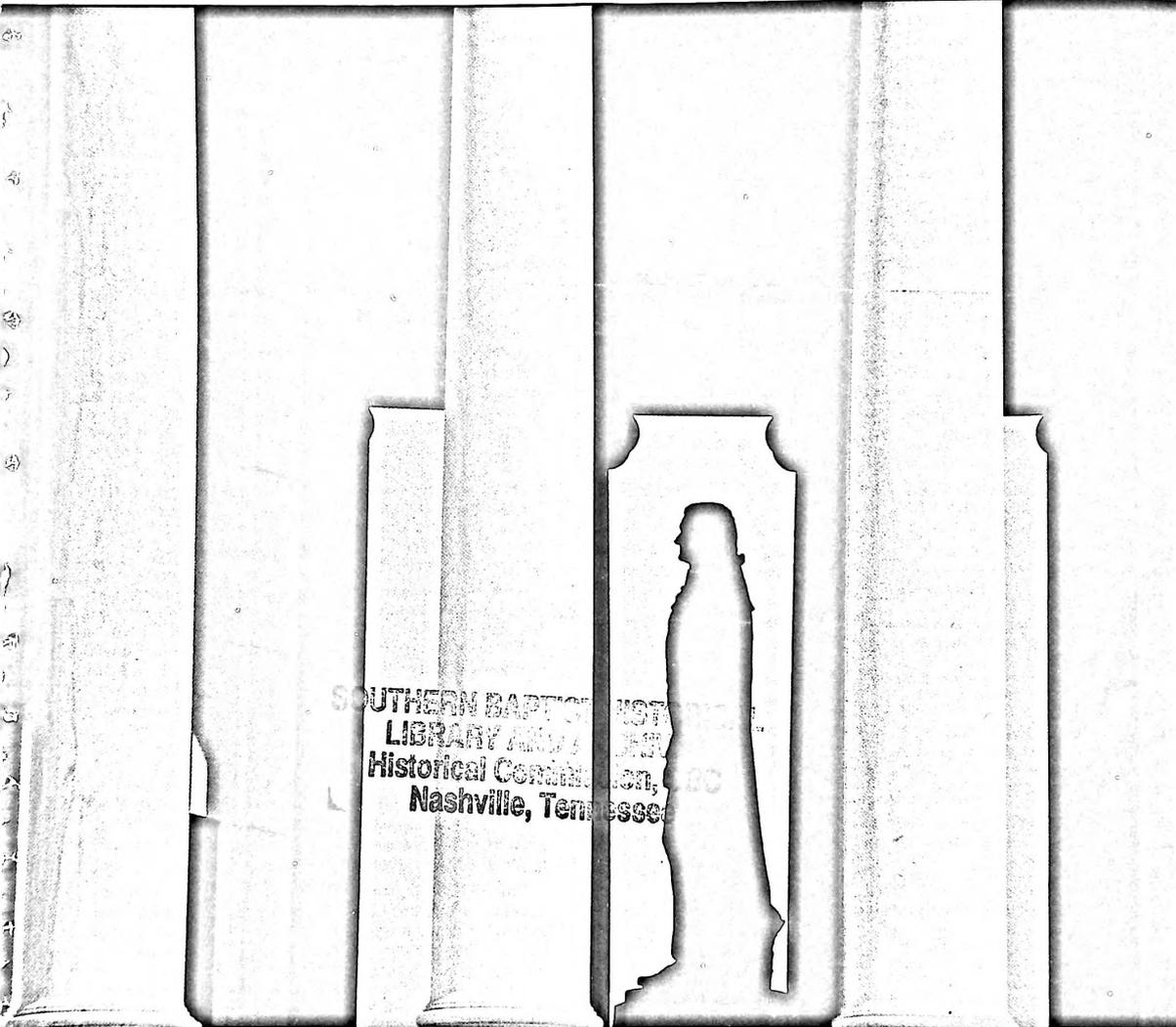


June 1990

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# REPORT from the CAPITAL



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Freedom of religion; freedom of the press; freedom of persons under the protection of the *habeus corpus*. These principles form the bright constellation which has gone before us, and guided our steps through an age of revolution and reformation.

JEFFERSON'S FIRST INAUGURAL ADDRESS

# REPORT from the CAPITAL

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

Vol. 45, No. 6

June 1990

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**Cover:** The Jefferson Memorial proves to be one of the most inspiring and visited of all monuments in the nation's capital. Inscriptions on its interior walls richly communicate the character of the third president of the United States. (Don Rutledge photo)

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## Assault on Free Exercise

**J**ames Dunn, at a press conference called by religious leaders to publicize the filing of a petition for rehearing with the U.S. Supreme Court by the American Jewish Congress, said it well: "Religious liberty is the precious treasure protected by the separation of church and state. In fact, the whole-hearted, full-throated, conscience-driven free exercise of religion is a distinctive contribution of American democracy." Free exercise, not the denial of unemployment benefits to the two men fired for their ceremonial use of the drug peyote in worship services of the Native American Church, was the central issue of the request for the Court to rehear the case.

The decision of the Court is one more development in recent years that suggests the state has not fully resolved the full scope of religious conscience as an individual right. The Baptist Joint Committee, the National Association of Evangelicals, the National Council of Churches, 13 other organizations, and 55 constitutional scholars participated in supporting the American Jewish Congress appeal.

Oliver Thomas (VIEWS) and William Bentley Ball write on the Case, *Employment Division of Oregon v. Smith*. Both Thomas and Ball agree the case would have been a "yawner" and totally unremarkable had the Court not abandoned a three-decade-old test used to evaluate free exercise claims. The Court, writes Thomas, decided that "only when a free exercise claim is linked with another constitutional right will it be entitled to the high level of protection that is normally given to First Amendment rights." Ball notes that the Court from the early '40s on had insisted that the freedoms of religion, speech, press and assembly were "preferred" freedoms. He concludes that the "Court has used a trivial circumstance as the vehicle for a catastrophic decision."

The Court is not alone in its unsettled view of the place of religion in American life. Dean Curry, of the Institute for the Study of Evangelical Culture at Boston University, calls attention to the emergence of evangelicals as an influence in politics and in shaping America's future. Writing on Biblical authority and social change, Curry deals with three theological approaches that could transform the cultural landscape. These include the imperious vision of *Christian Reconstruction* and its emphasis on replacing constitutional with Old Testament law; the *Politics of Biblical Justice* group, which regards "politics as a function of theology," justice being founded on "principled pluralism;" and *Kingdom Politics*, which sees its mission in terms of the active transformation of the world.

The 1990 Religious Liberty Day emphasis of the Baptist Joint Committee issues a word of caution to a generation that appears to be in search of authorities beyond that of Scripture and the authentic Lordship of Jesus Christ. Projecting new authorities, more often than not for self-serving reasons, is nothing new. Ironically, they continue to rise at a time when similar national ideologies and systems are falling all around us, many of them having eroded foundations whose guarantees were a free conscience and a free state. □

Victor Tupitza

● **PARENTS WHO DIRECTLY** support their missionary children may not deduct that money as a charitable contribution, the Supreme Court has ruled.

In a unanimous opinion, the high court held such contributions are not "for the use of the church" within the meaning of the Internal Revenue Code.

When Congress added the phrase "for the use of" to Section 170 of the code -- which originally allowed individuals to deduct only contributions made "to" a charitable organization -- it most likely was referring to donations made to trusts, foundations, and similar donees, wrote Justice Sandra Day O'Connor.

In that way, Congress assured that charitable contributions would be made in a legal arrangement in which the beneficiary would have the incentive and the legal authority to ensure that donated funds be properly used, she said.

"There is no evidence that Congress intended the phrase 'for the use of' to be interpreted as referring to fiduciary relationships in general or as referring to a type of relationship that gives a qualified organization a reasonable ability to supervise the use of contributed funds," O'Connor said.

The case before the court involved a Mormon couple, Harold and Enid Davis, who provided financial support for two of their sons who were selected as missionaries by the Mormon Church. The couple claimed they made their contributions "for the use of the church" and, therefore, should be allowed to deduct them on their tax returns.

But O'Connor said to interpret the tax code as allowing taxpayers to claim deductions for funds transferred to children or other relatives would burden the Internal Revenue Service with "insurmountable administrative difficulties in verifying that any particular expenditure benefited a qualified donee."

Such an interpretation, she added, would create an "opportunity for tax evasion that others might be eager to exploit."

Nothing in the case indicated the couple transferred funds to their sons "in trust for" the church or took any steps normally associated with creating a trust or similar legal arrangement, O'Connor wrote. Although the sons may have promised to use the money in accordance

with church guidelines, they did not have any legal obligation to do so, she said.

In addition, O'Connor wrote, nothing in the case indicated the church might have a legal right to the money or a civil cause of action against missionaries who used their parents' money for purposes not approved by the church.

The court also rejected the couple's argument that, under a Treasury Department regulation, they should be able to claim deductions for their sons' unreimbursed expenditures related to their sons' contribution of services.

That regulation, O'Connor said, indicates that taxpayers may claim deductions only for expenditures made in connection with their own contributions of service to charities.

"Petitioners' interpretation not only strains the language of the statute but would also allow manipulation of (the regulation) for tax evasion purposes," she wrote. "For example, parents might be tempted to transfer funds to their children in amounts greater than needed to reimburse reasonable expenses incurred in donating services to a charity. Parents and children might attempt to claim a deduction for the same expenditure.

"Controlling such abuses would place a heavy administrative burden on the (Internal Revenue) Service, which would not only have to monitor the taxpayer's records but also correlate them with the records of the third party."

● **A FEDERAL COURT** in Louisiana has ruled the federally funded Chapter 2 program that supplies materials and equipment to schools may not subsidize sectarian institutions.

Using a test adopted by the Supreme Court in 1971 to determine whether a government aid program violates church-state separation, U.S. District Judge Frederick J. R. Heebe ruled against the Chapter 2 program. He said it fails the second prong of the test because it "inescapably has the primary effect of providing a direct and substantial advancement of the sectarian enterprise."

The New Orleans judge noted that 41 of the 46 nonpublic schools served by the Chapter 2 program in the Jefferson Parish Public School District are religiously affiliated and of that number 34 are Roman Catholic. (RNS)

# Biblical Authority and Social Change: Three Approaches

One of the most significant religious and sociological phenomena of the past 25 years is the emergence of theologically conservative Christianity as a cultural force in America. For over half a century theologically conservative Christians — fundamentalists and evangelicals — lived in self-imposed exile on the periphery of public life. During this time, these conservative Christians wandered in a wilderness of cultural irrelevance, believing that this was the price to be paid for protecting the fundamentals of the faith against the onslaughts of theological as well as secular modernism.

This essay will not endeavor to recount the fits and starts that took place as evangelicals struggled to define a place for themselves in American cultural life. Along the way, however, most of the evangelical world, including those who see themselves as the direct heirs of fundamentalism, jettisoned a previously sacrosanct theological tenet: namely, the imperative of separation. It is not, I believe, an oversimplification to say that early 20th century fundamentalism occupied itself with saving souls, period.

As evangelicalism redefined its relationship to the broader American culture, a theological redefinition took place. Evangelism remained at the center of evangelical theology, but evangelical theology now broadened to include a cultural or social component. Therefore, evangelicals today, from Jerry Falwell to Jim Wallis, editor of the radical evangelical *Sojourner's* magazine, see social action or involvement with the broader culture as a faithful response to biblical

Christianity. The overwhelming majority of theologically conservative Christians — whether anabaptist, charismatic, evangelical, or fundamentalist — have rejected the strict separatist Christ-against-culture theology in favor of some version of Christ-the-transformer-of-culture theology (to use H. Richard Niebuhr's typology).

The task of cultural transformation has resulted in evangelicals paying increasing attention to the realm of politics and public policy. The kinds of political issues that evangelicals have concerned themselves with and the nature of evangelical political involvement have been quite diverse. Again, we need only to think of Jerry Falwell and Jim Wallis to realize the diversity of political agendas and responses among American evangelicals.

At the same time, American evangelicals of all political stripes share a common commitment to biblical authority. We cannot understand the sociology or theology of American evangelicalism's engagement of politics apart from this affirmation of the final authority of scripture.

This belief has been carried over into the way in which evangelicals of all denominations and ideological persuasions approach politics. Because of the diversity, it is difficult to generalize about the political involvement of all evangelical groups. But three facts stand out: first, evangelicals have become "players" in the American political arena; second, evangelicals see such political involvement as a reflection of biblical faithfulness; third, evangelical politics constitutes a putatively "third way" approach — a biblical approach — to public policy. In short, evangelicals believe they have something unique to contribute to the broader public conversation regarding politics.

But in what sense is evangelicalism's engagement of politics biblical? What do evangelicals mean when they speak of

Christian — i.e., biblical — politics? How is the Bible authoritative in matters of personal faith, authoritative in matters of politics and public philosophy? Here again generalizations are difficult; nonetheless, I would like to identify three approaches to public philosophy among evangelicals, each claiming to be biblical or Christian.

While not all evangelicals fit neatly into one of these three approaches, large numbers do. More importantly, however, influential church and educational elites within the evangelical world have adopted these approaches. Indeed, these three approaches represent the dominant ways of thinking about public philosophy among evangelical elites.

## Christian Reconstruction

The first approach to public philosophy is something of a paradox. It is probably the least well known, but it has grown in its influence. Christian Reconstruction, also known as Dominion Theology, is the product of the scholarship of a small group of temperamental Reformed evangelical theologians and intellectuals. The core of Reconstructionist theology has been developed by three men: Rousas J. Rushdoony, Gary North, and Greg Bahnsen. Along with a few

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**Dominion theology denies the clear distinction between state and society, posits no inalienable rights of conscience, and rejects the classical liberal justification for limited government.**

others, the brain trust of Christian Reconstruction are pariahs within mainstream evangelical theology. This is largely the result of the highly emotional and even caustic style that characterizes much of their writing and speaking.

Christian Reconstruction is built on three pillars: presuppositional apologetics, postmillennialism, and theonomy. In the first instance, Reconstructionist theologians affirm that all truth derives from God and his Word. Second, their theology is driven by an eschatology that

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This article by Dean Curry of the Institute for the Study of Evangelical Culture, Boston, was adapted from an essay appearing in *Evangelicals and Foreign Policy*, Michael Chromatic, editor. It was published by the Ethics and Public Policy Center, and adapted for use in REPORT.

posits that God's kingdom will be triumphantly consummated through the work of believers. (The world will get better and it is up to Christians to usher in the completed kingdom). Third, Christian Reconstruction teaches that all human beings and nations are bound by the "biblical law" of the Old Testament. Bound not just in the sense of being bound to the general principles enunciated in the Old Testament (such as the prohibition against adultery), but bound in the sense of literally obeying *all* the specific laws of the Old Testament. Christian Reconstruction reviles the individualistic pietism that characterizes traditional evangelical theology; for the Reconstructionist, sanctification is accomplished through obedience to God's law. Since the Old Testament laws are literally binding on every human being — even the unregenerate — the political sphere must ensure that God's laws are obeyed. If they are not, it is the political sphere's responsibility to exact punishment accordingly.

Christian Reconstruction's understanding of politics and public philosophy is complex and multifaceted. First, Reconstructionist theology believes that the civil and criminal law must be governed by Old Testament law. Second, while Christian Reconstruction favors a republican form of government, believing it to be the most consistent with the Old Testament pattern, Reconstructionist theology rejects the idea of liberal democracy. Dominion theology denies the clear distinction between state and society, posits no inalienable rights of conscience, and rejects the classical liberal justification for limited government, except in the realm of economic relationships. Third, Christian Reconstruction's understanding of foreign policy derives from the aforementioned premises and beliefs. The end of Christian theology is the triumph of God's kingdom, the dominion of God's people over all the nations of the earth.

#### Politics-of-Biblical Justice

The second approach to public philosophy that claims to represent biblical politics is what I call the Politics-of-Biblical Justice. This approach finds its most complete expression in the articulate scholarship of James Skillen and those who are associated with the organization he heads, the Association for Public Justice (APJ) in Washington, D. C. The approach that Skillen and APJ represent has been particularly influential on the campuses of evangelical liberal arts colleges whose leadership is generally sympathetic to APJ's approach to defining biblical politics.

Like Christian Reconstruction, the roots of the Politics-of-Biblical Justice approach are found in Reformed theol-

ogy. Unlike Christian Reconstruction, this approach rejects theonomy. According to Skillen, the entire New Testament teaches that:

Christians must not try to establish an earthly state or political community that would be for Christians only or that would be fully open only to those who confess Christian faith. It is not *Christian* justice for Christians to enjoy any political privilege at the expense of non-Christians.

While rejecting theonomy, the Politics-of-Biblical Justice is inherently transformationalist, though not necessarily triumphalist, in its eschatology. Christian politics flows directly from Christian theology; politics is a function of theology. The end of Christian politics is to bring about a *biblically based* transformation of society. In other words, the Bible does have something unique to contribute to politics and public philosophy. In fact, writes Stephen Monsma, evangelicals must be careful lest their political impact "be bound by their sociology. Evangelicals may end up being conformed to this world merely by reflecting the dominant cultural values and perspectives of the ... groups out of which they come."

Skillen states the case for a distinctive biblical politics more starkly when he writes that biblical revelation "has no place for 'secular politics' in the sense of a political life that has nothing to do with God's authority and revelation." Politics is not a penultimate human enterprise, but an activity of ultimate importance:

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**The challenge that evangelicals face is 'to take the insights of biblical Christianity out into the ... political world so that their power to have a positive, constructive effect on our society ... can be unleashed.'**

"human politics is not an affair of this age alone; it is not a secularized reality ... (It is) one important way of responding to the King who rules both this age and the coming age ... and, by God's grace, we will be able to carry our (political) deeds right into the coming kingdom." The challenge that evangelicals face, therefore, is "to take the insights of biblical Christianity out into the ... polit-

ical world so that their power to have a positive, constructive effect on our society ... can be unleashed."

The heart of biblical politics is a biblical understanding of justice which, according to Skillen, is built on "principled pluralism". "A just state, a just world is one in which all citizens enjoy the same civil rights and public care." The biblically mandated purpose of the modern state is to provide "nondiscriminatory public justice for citizens of all faiths" while the responsibility of Christians is to work for such communities of public justice. This approach is also sympathetic to liberal democracy, which "grow(s) directly, as a matter of principle, from a biblical view of the meaning of this age between the first and the second comings of Christ." This is an important statement, for Skillen believes that Greek, Roman, and Enlightenment political traditions, not the Bible, have been most influential in shaping Western (i.e., American) politics.

#### Kingdom Politics

The third approach to biblical politics is what I call Kingdom Politics. According to Kingdom Politics, in choosing to follow Christ, Christians turn their back on the principalities and powers of the world. The Christian way of living is a radically different way of living. There is a transformational component to Kingdom Politics. To the traditional anabaptists, the kingdom of God had nothing to say to the kingdom of the world; the ethics of God's kingdom were irrelevant to the ethics of the world. Kingdom Politics maintains the strict separation of kingdoms and ethics, but is activist in the sense that it sees its mission as active transformation of the world. In other words, Christ stands against culture, but has something to say to it.

Kingdom Politics defines justice — meaning economic and social justice — as the *sine qua non* of Christian politics. They tend to see social and economic justice as the heart of the Christian message. This theology of politics is derived from a hermeneutic that interprets the biblical story as one of economic and social liberation from earthly injustice. Biblical redemption occurs when Christians stand against injustices perpetuated by the principalities and powers of this world. As a descendant, though a mutation, of traditional anabaptism, Kingdom Politics is most closely associated with the theological writings of Stanley Hauerwas and John Howard Yoder.

Standing as it does in opposition to the world's principalities and powers, the political agenda of a biblical people

Continued on page 14

## VIEWS OF THE WALL

Oliver S. Thomas  
General Counsel



The case, *Employment Division v. Smith* should have been a "yawner." Two drug rehabilitation counselors had been fired for using peyote (an illegal drug) and later denied unemployment compensation benefits as a result. As members of the Native American Church, the men claimed they had a constitutional right to ingest peyote in their worship services.

Because eleven states and the federal government exempt the sacramental use of peyote by Native Americans from criminal prosecution, some prognosticators thought the Court would interpret the free exercise clause as protecting this ancient ritual. Others, like myself, believed the state's compelling interest in eradicating illegal drug use would be found to outweigh the free exercise claims. No one, however, suspected that the Court would, in deciding the case, abandon the three-decade-old test used to evaluate free exercise claims.

Church leaders and their attorneys dropped their jaws in disbelief as Supreme Court Justice Antonin Scalia, with a stroke of his pen, transformed the nation's "first liberty" into a constitutional stepchild. The free exercise clause provides no exemptions from "generally applicable governmental regulations,"

### ... Supreme Court Justice Antonin Scalia, with a stroke of his pen, transformed the nation's 'first liberty' into a constitutional stepchild.

said Scalia. Only when a free exercise claim is linked with another constitutional right — such as free speech — will it be entitled to the high level of protection that is normally given to First Amendment rights. Standing alone, however, the free exercise claim will be of little practical use after *Smith*.

The impact of the decision will be immediate and far-reaching. Just two days after the decision, *Smith* was cited by the Court as the rationale for vacating an order of the Minnesota Supreme Court upholding the rights of the Amish to adorn their buggies with silver reflector tape rather than with the garish orange signs the state had sought to force upon them.

And, lest we "mainstream" religion-

ists think we will be unaffected by the decision, consider the fact that tax, anti-discrimination, wage and hour, education, and land use laws are all "generally applicable government regulations." Thus, if a city ordinance prohibits discrimination on the basis of sexual orientation, the law will apply to local churches as well as the Holiday Inn.

Consider for a moment the plight of urban churches that are declared "landmarks" and therefore subject to extensive governmental regulation. A church in Boston recently was told by the landmarks commission that it could not even relocate the altar within its own sanctuary. While the commission's action was struck down as violative of the free exercise clause, post-*Smith* challenges are likely to be decided the other way.

It is most ironic that three of the five justices who signed this abominable opinion are Reagan appointees. Few, if any, in the Religious Right even considered the possibility that the Reagan Court might be so callously indifferent to free exercise claims while so-called "liberal" holdovers would vote to continue requiring the state to demonstrate a compelling interest of "the highest order" before it could burden the free exercise of religion.

What would possess five "conservative" justices to depart so dramatically from established legal precedent and belie by their action their oft-claimed "judicial restraint"? After all, the Court could have refrained from creating an exemption for religiously motivated drug use without disturbing fundamental constitutional law.

Part of the blame can properly be laid at the feet of the Religious Right, which, rushing headlong to support judicial nominees who would overrule *Roe v. Wade*, failed to scrutinize carefully their broader judicial philosophy. The Southern Baptist Convention Public Affairs Committee's endorsement of Robert Bork — despite the fact that he had assailed both *Pierce v. Society of Sisters* (the Magna Charta of the Christian schools movement) and *Wisconsin v. Yoder* (the high-water mark of free exercise) — is a glaring example of the dangers associated with a single-issue litmus test for judicial candidates. As a result, a number of church-state "statists" are now on the bench — justices who will vote to uphold most anything that a legislature passes, regardless of

whether it advances or inhibits religion.

Most importantly, Mr. Scalia, as well as most of the rest of us, has forgotten what it means to be in a religious minority. Said Scalia, "It may fairly be said that leaving accommodation to the political process will place at a relative disadvantage those religious practices that are not widely engaged in, but that unavoidable consequence of democratic government must be preferred to a system in which each conscience is a law unto itself. . . ."

The statement reeks of majoritarianism — a phenomenon that appropriately exists in the political branches of government, but not in the branch whose primary task is to enforce the constitutional rights of all, not just of the majority. In the words of Justice Sandra Day O'Connor, "[T]he First Amendment was enacted precisely to protect the rights of those whose religious practices are not shared by the majority and may be viewed with hostility. The history of our free exercise doctrine amply demonstrates the harsh impact majoritarian rule has had on unpopular or emerging religious groups such as the Jehovah's Witnesses and the Amish. Indeed, the words of Justice Jackson in *West Virginia Board of Education v. Barnette* are apt:

"The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections."

Would that Justice Scalia had paid closer attention to the Williamsburg Charter, drafted and signed more than a year ago by such notable conservatives as William Bentley Ball, Richard John Neuhaus, and Senator William Armstrong, which said: "Religious liberty, or freedom of conscience, is a precious, fundamental, and inalienable right. A society is only as just and free as it is respectful of this right for its smallest minorities and least popular communities."

Lest we Baptists have any doubt about the wisdom of these words, might I suggest Roger Williams' *Bloudy Tenet of Persecution* as tonight's after-dinner reading? □

# The Fault is not in the Laws

By William Bentley Ball

The Supreme Court ruled in April that since the State of Oregon could prohibit the religious use of the hallucinogenic drug peyote it could deny unemployment compensation to persons discharged for such use. Thus stated, the decision appears unremarkable. In fact, the Court's opinion opens up a constitutional fault of San Andreas proportions.

Many times before, the Supreme Court and all lower courts have issued rulings telling us that our First Amendment freedoms are not absolute. When my speech is sufficiently incendiary, or when your assembled followers become an unmanageable mob, the common good may require me to shut up and you to disband your crowd.

So, too, with religion. A century ago, the Supreme Court said that if a religion calls for human sacrifice, the First Amendment's Free Exercise (of religion) Clause does not protect such a practice. Polygamy could be made a crime, even though, to Mormons, it was religiously required. Child labor laws could prohibit a Jehovah's Witness from using her small child to hawk religious tracts on city streets. In all of these cases, the common good — protection of life, protection of the family, protection of children — was deemed a barrier to the religious practice in question.

But the Supreme Court, from the early 1940s on, had insisted that the freedoms of religion, speech, press, and assembly were "preferred" freedoms — fundamental and precious — unlike, for example, freedom of contract or economic liberties. These latter liberties were indeed held protectable, but not to the degree of First Amendment freedoms.

What practical difference does it make to say that First Amendment liberties are "preferred"? An enormous difference. A law restricting an "ordinary" liberty — such as the local zoning ordinance that forbids you to put a garage on your side yard — will be upheld by the courts if they can find that the ordinance has some possible reasonable basis for this restriction on your use of your property. But suppose an ordinance forbids citizens to circulate leaflets attacking the city government. Constitutionally (so we have always understood) that's a wholly different ball game. Your free press rights to circulate the leaflet can't be denied unless the government (here, the

local authorities) can prove that a "compelling state interest" (a *supreme* societal interest) justifies the leaflet ban. Just finding some "reasonable basis" — some ordinary public interest — for restricting your press rights won't do.

Further, the Supreme Court had held that it is up to government to prove with credible facts that its interest is "compelling." That rule made sense. Those who assert precious First Amendment liberties are usually at a disadvantage when government seeks to infringe upon those liberties. Government, in such contests, usually has the edge economically, in attorney staffing — and sometimes politically. As Charles Dickens noted in "Bleak House," legal processes have enormous potential for "wearying out the right." Hence, where our most basic liberties are concerned, it is essential that our courts not only invoke the standard of "compelling state interest" but that they make government prove it.

On April 17, 1990, all of that changed. In the peyote case, involving Native American Church religious practices, the Supreme Court expressly jettisoned the "compelling state interest" test. It held that in this and future cases, no "compelling state interest" need justify government action against religion. With two narrow exceptions, generally applicable prohibitions of conduct which government deems to be "socially harmful" must be upheld against objections based on religion. The first is the imaginary case posited by the Court in which government expressly bans the performance of a specific religious act. The Court here mentions (oddly, in this peyote case) "participating in the sacramental use of ... wine." The second is where religiously motivated action has involved not only the Free Exercise Clause but some other constitutional protection, such as freedom of speech or press. This second "hybrid situation" exception takes religious liberty from its high place in the Bill of Rights, giving it scope only if it is attached to some other right.

Where does this lead?

It moves the principle of religious liberty, as given in the First Amendment, to the back of the constitutional bus — maybe off the bus. The Court deems Free Exercise to be a free-standing right only in that improbable situation in which government singles out some religious practice as forbidden. If a prohibitory law is "generally applicable," too bad for religious interests that get in the way of it. Hence, the wage and hour prohibitions of a labor relations act could be applied to work done by clergy under

Where our most basic liberties are concerned, it is essential that our courts not only invoke the standard of 'compelling state interest' but that they make government prove it.

vows of poverty. And since the Court's reasoning is broad enough to include mandatory as well as prohibitory laws, religious schools could be required to be carbon copies of public schools.

The Court's opinion is strikingly cold in reference to religion. It has not a good word to say for the traditional glory of American religious liberty. The tone is entirely one of limitation and curbing, as though the free exercise of religion is a danger to be closely confined or is of little greater significance than the rampant exercise of whim.

The Court has used a trivial circumstance as the vehicle for a catastrophic decision. It could undoubtedly have upheld the State of Oregon's position on the ground that Oregon's action was justified by a proven, compelling state interest in limiting drug use. It is tragic that it utilized the case of two peyote ingesters to create a precedent that will govern future cases involving churches, religious schools, clergy, ministries — indeed, the future religious life of the nation. □

William Bentley Ball is a constitutional lawyer in Harrisburg, Pennsylvania. He has argued many religious rights cases before the U.S. Supreme Court. This article is used by permission of the author.

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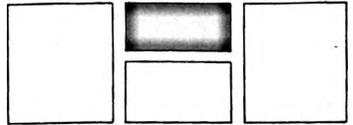
FREEDOM'S SPIRITUAL ROOTS

BAPTISTS AND THE BILL OF RIGHTS

OCT. 1-3, 1990

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# News in Brief



## Coalition asks high court to rehear peyote dispute

WASHINGTON  
A diverse coalition of religious and civil liberties organizations, joined by 55 constitutional law scholars, has asked the Supreme Court to reconsider its recent decision in a dispute over whether the First Amendment protects the religious use of the drug peyote.

"These individuals and organizations agree on very little," said Oliver S. Thomas, general counsel for the Baptist Joint Committee. "They all agree, however, that [this] decision is disastrous for the free exercise of religion."

In *Employment Division of Oregon v. Smith*, the Supreme Court held a state not only can prohibit the religious use of peyote but also can deny unemployment compensation to individuals dismissed from their jobs for using the drug.

In addition, the decision limits the application of a "compelling state interest" test in free exercise of religion cases. A majority of the court held the test, which was set forth in a 1963 Supreme Court decision and requires that governmental actions that substantially burden a religious practice must be justified by a compelling governmental interest — should be applied only in a narrow range of cases.

Acknowledging the petition for rehearing of *Smith* is a long shot, Thomas — who moderated a news conference to announce the filing of the petition — called it "our only shot."

Organizations supporting the petition for rehearing include the American Jewish Congress, American Civil Liberties Union, American Jewish Committee, Americans United for Separation of Church and State, Baptist Joint Committee, Christian Legal Society, American Friends Service Committee, Evangelical Lutheran Church in America.

General Conference of Seventh-day Adventists, Lutheran Church-Missouri Synod, National Association of Evangelicals, National Council of Churches, People for the American Way, Rutherford Institute, Presbyterian Church (U.S.A.), Unitarian Universalist Association, and Worldwide Church of God.

The high court's decision in *Smith* "gutted" the First Amendment's free exercise clause, asserted Dean M. Kelley, director for religious liberty for the National Council of Churches. "There is



Photo: Paul Hosefros/The New York Times

The Baptist Joint Committee was among 16 organizations and 55 constitutional scholars signing a petition urging the U.S. Supreme Court to reconsider a decision that they fear will "profoundly disadvantage" every religious group in the country. Participants in a press conference were, from left, Robert Dugan, the National Association of Evangelicals; James Dunn and Oliver Thomas, the Baptist Joint Committee; Henry Siegman, the American Jewish Congress; and the Rev. Dean Kelley of the National Council of Churches of Christ.

a shell of the free exercise clause left, but the heart and guts are cut out," he said.

The court not only devastated the Native American Church but also struck a serious blow to all religious groups in America, Kelley said. He and other speakers pointed to a number of cases now before lower courts — ranging from church landmarking disputes to church infiltration cases to church taxation disputes to a charitable solicitation case — that most likely will be affected by the *Smith* decision.

"If this decision stands, all religions in this country will be poorer," he continued. "But it will not stand. Eventually the Supreme Court will realize that its sweeping damage to the free exercise clause was a mistake. Then people sometime in the 21st century will look back on the *Smith* decision as the regrettable, tragic *Dred Scott* decision of the free exercise clause.

"In *Dred Scott*, Chief Justice Roger B. Taney announced in 1857 that blacks were so far inferior that they had no rights that the white man was bound to respect. In *Smith*, Justice [Antonin] Scalia said in effect that religious minorities have no rights to religious practice that majorities are bound to respect."

In the petition for rehearing, counsel for Alfred Smith and Galen Black — the two Native American Church members involved in the dispute — argued the majority opinion in *Smith* was decided on "far-reaching grounds" without the benefit of briefing or oral argument on the specific concerns it raised. A rehearing would allow the new constitutional principle advanced by the court to be explored in an adversarial context, the attorneys wrote.

"The court has taken a major step away from settled law," the petition said. "Such a departure from precedent and unsettling of societal expectations should not be undertaken lightly. . . . Surely such a step should not be taken without the question being forthrightly addressed by the parties."

Attorneys for the American Jewish Congress assisted counsel for the Native Americans in drafting the petition. That organization's executive director, Henry Siegman, said the court's decision can have far-reaching consequences for all religions, but primarily for religious minorities.

"The majority of the court seemed to ignore the fact that the free exercise clause, like the other protections of the



Bill of Rights, such as speech and assembly, was enacted precisely to protect minorities from the hostility of majorities," Sjegman said.

The *Smith* decision has placed religious liberty under a cloud, said James M. Dunn, Baptist Joint Committee executive director. Although for decades the courts have honored a "high threshold" against the intrusion of government into religion, in *Smith* the safeguards against such intrusion have been "dashed in a short-sighted stroke of judicial activism that leaves faith's freedom at risk," he said.

Religious liberty is no longer secured by the Constitution as interpreted by the court's majority, said Robert P. Dugan, Jr., director of the National Association of Evangelicals' Office of Public Affairs. "It now is to be bestowed by a beneficent majority as a matter of legislative grace or denied by a majoritarian rule unpersuaded by the claims of a religious minority," he said. □

## School's dancing rule can stand, according to court

WASHINGTON  
The Supreme Court has refused to review a dispute over whether high school dances should be allowed in a small Missouri community.

A group of high school students and their parents from Purdy, Missouri, charged the local school board's anti-dancing rule promoted the religious beliefs of the town's fundamentalist churches. The rule, which has been in place for a number of years, prohibits dancing on school premises.

When the students petitioned to have the rule changed, members of the town's Ministerial Alliance — made up of the pastors of five churches, including First Baptist Church of Purdy — voiced their opposition and enlisted their congregations to oppose the change, calling dancing a "sin."

In a closed-door session, the school board rejected the students' request. The students and their parents then filed suit against the school board.

A federal district court held the Purdy School Board's actions on the dancing question violated the First Amendment's establishment clause. The anti-dancing rule, the court said, is "inherently religious."

But a panel of the Eighth Circuit Court

of Appeals reversed that decision, holding that since dancing is a secular activity, the rule is neutral. The religious effect of the rule, the panel said, is "indirect, remote, and incidental."

By a 5 to 4 vote, the full appeals court refused to rehear the case.

In his dissent, the court's chief judge wrote: "In Purdy, Missouri, the no-dancing rule differs little from a school's posting of the Ten Commandments on its classroom walls. In both cases the school makes it abundantly clear to the students that it embraces the tenets of a particular religion."

In appealing to the nation's highest court, Larry M. Schumaker, attorney for the students and parents, said the anti-dancing rule made members of minority faiths "feel the school district considers their religious beliefs to be inferior."

Calling the rule "neutral" is a concept that "immunizes otherwise objectionable government conduct," Schumaker wrote. Although dancing is a secular activity, he said, the school board's opposition to it was intended to promote certain religious beliefs.

But Ransom A. Ellis, III, who represented the Purdy School Board, argued the real issue is whether public school officials may continue a "long-standing practice of not including in their extracurricular program a social activity without being found to make a law respecting an establishment of religion." To do so, he said, would call into question any public school rule or decision that has its basis in traditional morality, such as dress codes and rules against vulgarity.

Parallelism between religious beliefs and legislation does not always make a law religious, Ellis wrote.

Church members, he added, are still constituents and should not be denied their right to engage in the political process. □

## Court rejects challenge to church's tax status

WASHINGTON  
The Supreme Court has rejected an appeal by a group of abortion-rights advocates that challenged the tax-exempt status of the U.S. Catholic Church.

Without comment, the high court refused to review a decision by the Second Circuit Court of Appeals, which ruled the group did not have legal

standing to sue the Internal Revenue Service and Treasury Department for failing to revoke the Catholic Church's tax exemption.

The 10-year legal battle began when Abortion Rights Mobilization, along with 20 other individuals and groups, challenged the tax-exempt status of the U.S. Catholic Conference and National Conference of Catholic Bishops. It claimed the church agencies violated a tax-code provision by campaigning against pro-choice candidates in the 1980 federal election.

When the church refused to comply with a district court's order to produce internal church documents, the judge issued a contempt citation, including \$100,000-a-day fines.

The church agencies appealed to the Second Circuit Appeals Court, which stayed the fines pending appeal. But the court held the church did not have standing to press the case.

The Supreme Court reversed that decision and sent the case back to the Second Circuit for further consideration.

The appeals court then dismissed the lawsuit, holding that the plaintiffs did not suffer a "particularized injury" by the alleged actions of the church and, therefore, could not bring a complaint.

"The real issue in ARM was who enforces the tax code," said Oliver S. Thomas, general counsel for the Baptist Joint Committee. "If a church's political adversaries could drag it into court and force it to defend its exempt status, churches would be extremely skiddish about speaking out on controversial political issues. □

## Church exempt from paying compensation to transient

SAN FRANCISCO  
The California Workers' Compensation Appeals Board has reversed an earlier decision and ruled a Baptist church does not owe compensation to a transient injured while working at the church in exchange for financial assistance.

A workers' compensation judge held an exemption in state labor codes that protects religious, charitable, or relief organizations seems intended to prevent those entities from having to discontinue benevolence programs because of litigation and liability issues. (BP)

# Faith and Furnaces:

## A Modern Story

One of the worst things that can happen ... is for people to understand what Christianity is all about. It gets them into all kinds of trouble.

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Michael Elliott, an ordained Baptist minister, served Jefferson Street Baptist Chapel, Louisville, Kentucky. Currently, he heads Grace House, a mission for the homeless in Savannah, Georgia. One of his "Stories of Salty Saints," this sermon is adapted for use from his book, *Community of the Abandoned*. It is used by permission of Crossroads Press.

Once upon a time in the land of civil religion, a decree was sent out that all the country should worship the same thing at the same time. So a monument was constructed. The site was the farm land of Idaho. The farmers were run out of business and foreclosures took place almost every day so that there would be nothing to interfere with the plan. Since the value of the dollar was still fairly strong, the monument was made of gold. It was 90 feet high and 9 feet wide and the music of the "Star Spangled Banner" played around it all the time. At the very top was an open Bible. (The Bible was much too high for anyone to read so it was interpreted for those who were interested.)

The president then summoned all the mayors, governors, military advisors, bankers, lawyers, and preachers to come to the dedication service. All the farmers who used to own the land were relocated. Police barricades were set up to hold back the poor, the homeless, and the students who were protesting. They were far out of sight of all the people who were at the dedication service. So the governors and the mayors, the preachers and the military advisors, the bankers and the lawyers assembled for the dedication of the image that the president had set up, and they stood before it.

Then the press secretary issued a press release: "This is the new law that all true Americans are to follow. As soon as you hear the first few notes of the 'Star Spangled Banner,' you must kneel down, place your hands over your hearts, take out your wallets, and let the government have whatever it is they want. Further, you must pledge support for whatever policy is 'truly American' (we'll let you know what that is). Further still, everybody is to feel good about being American again."

As soon as the first few notes of the "Star Spangled Banner" were heard, all the true Americans knelt down, placed their hands over their hearts, took out their wallets, and in symbolic gestures, opened them in the direction of the monument. Everybody felt good. (The dedication service was so successful that the Soviet Union did the very same thing at their May Day celebration and China followed suit. Soon every country had its own version of the monument.)

A little later, some members of the

church came forward and denounced a small group of Christians. They told a mayor who told a senator who told an important preacher who told the president, "O King, live forever! You have made a new law that whenever the first few notes of the 'Star Spangled Banner' are heard, everyone must kneel down and feel good about being American again. And that whoever does not will be thrown out of the American system which, as everybody knows, is the hot place to be these days. But there is a small band of Christians that pays no attention to you, O Leader. They do not believe in all the things that you do, and they think that your monument is a waste of money and that it looks funny."

Then the important preacher and all present began to grow indignant. The president frowned. An order was issued that the small band of Christians be brought immediately. Their supervisors sent them memos saying that they were in jeopardy of losing their jobs because they were not totally adhering to the party line.

They had long expected that something like this might happen. So Shadrach (Shawn, for short), Meshach (Michelle), and Abednego (or Abby) left their offices and went to the place where everything was happening. Then the president and the mayors, the bankers and the lawyers, the military advisors and the other preachers and the governors all stood behind the important preacher who asked: "Brothers (he did not acknowledge Michelle's presence), did you do this on purpose? Did you know what you were doing? Didn't you hear what I ... er, I mean the president ordered?"

Then, because everybody present was a Christian and a true American, they decided to do the Christian thing. They offered Shawn, Michelle, and Abby another chance. "Now, if you are ready this time, we'll try again. You probably didn't understand the memo when it first came around. We'll get the band to start playing the 'Star Spangled Banner' again, you can kneel down, open up your wallets, and start feeling good about being Americans again. But if you do not, you will be fired from your jobs, and what God is going to take care of you then? Can God sign your paychecks? Will your God let you know about job opportunities and advance-

ments? Will God pull you up out of the fire when your families don't have enough to eat and have to apply for welfare?"

Shawn, Michelle, and Abby had struggled long and hard about what to do. Should they stand up for what they believed in, against what virtually everybody else was doing, or should they silently carry on within the system and thereby uphold the *status quo*? The threat of losing their means of livelihood really turned the heat up on their convictions. All they had to do was kneel down then and there and their jobs would be safe. Otherwise, the president continued, "I'll turn up the heat in your life and you will lose any opportunity to work with us."

So Shawn, Michelle, and Abby answered and said, "Mr. President and distinguished guests. Our God is not the same as your God, even though we use the same name. And our God will take care of us even if we do lose our jobs. But *even if our God doesn't*, even though many believe that our God doesn't exist, and even if they are right, we want you to know, Mr. President, that we are not going to bow down to the image that you are asking us to believe in!"

Given the choice between living in a system that makes men and women into slaves or being thrown into the fire as free people, *these Christians choose the fire*. As Clarence Jordan puts it, they would "rather be ashes than asses" (*The Substance of Faith*). That is straight talk that anybody can understand so the order is given: "Fire them!"

If the very system that supports you is contradicting what you believe in as a Christian, what do you do? As we read through the story of Daniel, or as we listen to the modern-day telling, we may miss the agony that one has to go through before making a choice.

Most people think there are three options: (1) You can lay it all on the line. State what it is you believe and put all your eggs in the basket of a God who says that you will be taken care of if you stand up for what you believe, even if it means going against relatives, friends, and fellow citizens, even if it means losing your job and watching your career go down in ashes before your eyes. (2) You can support whatever the majority supports. You can choose to be as moral as they decide morality should be. You can fall into

line and worship what they decide should be lifted up. This is the choice that kings, party leaders, and even presidents wish us to make. (3) You can work along in the system and hope that by quietly influencing people you come into contact with, change might be brought about. The last option is what the majority of believers choose.

In the story we have been considering, Shadrach, Meshach, and Abednego knew that neutrality was not a choice. There was no middle ground. Very often in life, when it comes to matters of faith, there can be no compromise. Yet that is precisely what so many of us attempt to do. We must recognize the fallacy in this thinking as applied to a Christian lifestyle.

To choose to remain silent or to choose quietly to influence one or two individuals whom we pass today is to choose to allow much injustice to continue. Choosing to remain silent is choosing *not to choose against*. This, says Robert McAfee Brown, is simply another form of choosing to side with the majority.

Christians feel torn in two. They will feel crazy for trying to fight a system and a structure that are hell-bent anyway. We will feel the hate of the world for standing up for the things that we believe in, just as Jesus said we would in the Gospel of John. We will feel like the Old Testament prophets who ripped their clothing in anguish over the evil that they witnessed.

In the midst of countless individuals who claim to be Christians, there are always a few who had some good teachers or somehow caught on to what God is all about. One of the worst things that can happen, said Clarence Jordan, is for people to understand what Christianity is all about. It gets them into all kinds of trouble. One of the worst things about Jesus' sermons, before preachers got hold of them, was that they could understand them.

When Shawn, Michelle, and Abby made their choice, they did so because they believed God would take care of them, but they were not absolutely certain of that. There was the chance that they would be burned by their beliefs. Even with "Blessed Assurance," they were willing to lay it all on the line. They stepped out in faith.

They were put into the fire, the text tells us, or they were fired or they were beaten or locked up or even crucified

(take your pick), and the heat was so hot that even those close to them got burned. The president and the preachers, the bankers and the lawyers, the military advisors and the politicians all watched. And what they saw they didn't believe. Instead of three people catching all that heat, they saw four. The president cried: "Come out! Shawn! Michelle! Abbey! Come out!" As Jordan points out, there are times for civil disobedience and there are not times. This was not one of the times. They came out. They obeyed the president. And he asked them, "Three? I thought that I saw four of you. Where is the fourth one?"

Where is the one who looked like the son of God? Maybe he is still in there. Maybe he is waiting for more Shawns, Michelles, and Abbys so he can walk around with them in the fiery furnace. For he knows what a fiery furnace is like (or to be without a place to lay one's head, or having nothing but God to rely on, or no job, or to be beaten or even crucified). Maybe he's waiting for more to choose correctly. Maybe one of the reasons we are having trouble finding the resurrected, living Christ is because we are not willing to go where he is. Maybe we are trying to be Christians without choosing to lay it all on the line. Where is he these days?

Jesus is with the black South Africans who are being persecuted for their fight for freedom. He is with the American blacks who are still living with racism. He is with those who are in jail for fighting against a nuclear arms buildup. He is with those who are sick and lonely and have no one to sit with them. He is with the oppressed and the hungry of this and every nation. He is with the poor. He is with the young woman facing an abortion because she feels she has no other options. He is with the alcoholic who wants to quit, but just cannot find the strength or the support. He is with the junkie who wants to kick, but cannot bear to be without a fix. He is with the prisoner who cannot bear the thought of being locked up again. He is with victims. If we want to find him, we must go where they are.

But he is also near those of us who have chosen incorrectly in the past or who have chosen not to choose. He is waiting. Waiting for us to come be with him. Waiting for us to make the word become flesh again. □



## 'Trial period' faces church in switch to Chinese rule

HONG KONG

Mainline Protestant church leaders pledged to remain faithful to the task of evangelizing during the next 10 years even though the impending switch to rule under China in 1997 has already begun to cause significant disturbances in the churches.

The leaders, in a recent "manifesto," also pledged to struggle with the people of Hong Kong for a political structure that "respects human rights, freedom and democracy" in the transition from British to Chinese rule.

A survey by the Hong Kong Christian Council in early April revealed that since 1985, about 11,600 Protestant Christians have emigrated, and that the number of remaining Protestants this year is 285,000.

There are as many Roman Catholics as Protestants in Hong Kong, and the exact numbers for Catholic emigration are not available but believed to be near that for Protestants.

What further worries leaders of all denominations is that those Christians leaving are among the best educated young professionals. The growing shortage of pastors and the general loss of confidence among all citizens led to the observation that local churches in the former colony will experience "a very difficult trial period." □

## Freedom move spontaneous, Romanian pastor tells BWA

"What happened in Romania was a real miracle of God," says Nicolae Gheorghita, pastor of the Second Baptist Church, Oradea, Romania.

He spoke with members of the Baptist World Alliance staff shortly after having been honored with the Religious Freedom Award by the Institute of Religion and Democracy in Washington, D. C.

Gheorghita, an endocrinologist who answered the call of God in 1981 to become a pastor, subsequently was harassed and persecuted by the Romanian government, which had valued his work as a doctor.

For three and one-half years he was forced to travel 80 miles from his home to his church because the government refused to allow him to reside in Oradea.

"I lived in a suitcase," he said, and had to move from home to home each evening.

He said of the move to freedom in Romania, it "was a spontaneous move of the people," and he is certain that it was God who confused the mind of Ceausescu. "He had at least 60 days to escape," Gheorghita said.

Full freedom remains to be achieved. "For 45 years we had no party other than the Communist Party," he said. "We will not be able to change communist domination overnight." □

## Baptist addresses synod; accents Bible, evangelism

FIRENZE, Italy

Declaring that "This is an historic occasion," Dr. Piero Bensi, former president of the Italian Baptist Union and of the European Baptist Federation addressed the 830 delegates and 500 observers here at the Synod of the Florentine Church.

It was the first time in Italy that Protestant pastors have been invited to speak in a Catholic Diocesan Synod.

Dr. Bensi, recognizing that "we live in an ecumenical era," told the gathering that the motives of the division and the reasons of the Reformation protest remain in large part valid even today.

But calling it the miracle of ecumenism, he said that fact doesn't seem sufficient reason anymore for not entering into dialogue, or for not meeting with one another, or for not praying together or reading the Bible together.

The thrust of Dr. Frensi's address was the importance and the urgency of evangelism. He stressed the need for uplifting the Bible, and said that believers in serving the city could find the most direct and easy way to cooperate with one another. □

## Human rights group returns to democratization goals

MUNICH

Observing that "the flow of information [in Eastern Europe] has grown so swiftly that it cannot but reflect on the nature of the bulletin," coupled with the impossibility of remaining timely in publishing these events, *USSR News Brief* announced that it will return to its original stated purpose.

The bulletin, published by the German-based organization *Das Land und die Welt*, began as a chronicle of opposition to the totalitarian regime, reporting useful and accurate information on violations of human rights in the USSR and on victims of such opposition, including their arrests and trials.

Explaining the decision, editor Conrid Lubarsky said, "It is still too early to speak of the observation of human rights," but violations are not of a "flagrant and provocative nature."

He confirmed that the number of political prisoners has fallen sharply, although they still exist. The most recent issue of *USSR News Briefs* listed persons incarcerated because of their opposition to military service on the basis of religious conscience.

Each fall over the past 10 years *Das Land und die Welt* has issued an authoritative "List of Political Prisoners in the USSR. It will continue the publication along with its monthly news bulletin.

As before, the staff considers its main goal to be that of "assisting in the democratization in the Soviet Union." Its sources of information include news bulletins and "samizdat" [self-published] material from throughout the USSR. □

## Ambassador's apologetic denies excesses in Cuba

NEW YORK

The conflict between church and state in Cuba was never as severe as occurred under European socialist regimes, according to the Cuba's ambassador to the United Nations.

Ambassador Ricardo Alarcon de Quesada admitted to widespread discrimination against the churches by the post-revolution government, but said there was never the bloody persecution of religious groups that accompanied other socialist revolutions.

The Cuban government relaxed its restrictions on the practice of religion in 1985.

The ambassador said although there was no bloody persecution, many bishops and clergy took advantage of an open emigration policy and left Cuba for the United States.

In general, Mr. Alarcon de Quesada said relations with Protestant Christian churches were better than those with the Catholic Church. □



## NEWS-SCAN

### North Koreans, Chinese invited to BWA Congress

SEOUL

The participation of North Korean Christians in the 16th Congress of the Baptist World Alliance continues to be the main concern of reporters from the Korean secular press.

At a press conference in Seoul, General Secretary of BWA, Denton Lotz, told press representatives that the North Korean Christian Council has been invited to send delegates to the Seoul Congress. Invitations also went out to Christians in China.

In response to a question on the political and social emphases of the Congress, Lotz referred to the workshops which deal with a variety of issues, including human rights. He then informed reporters of Baptist emphasis upon the separation of church and state.

"Baptists," said Lotz, "do not affirm a cultural Christianity. While the church does influence society," he explained, "we believe our influence is in the spiritual realm which has tremendous influence in society." He told reporters that Baptists live under many different political systems. □

### Bishops apologize to women for denial of suffrage

QUEBEC CITY

Quebec's Roman Catholic bishops, after half a century, issued a formal apology to the province's women for having fought to keep them from gaining the right to vote.

The apology came at a ceremony on the 50th anniversary of the vote being extended to women. Quebec was the last province to grant women the franchise.

At the ceremony, the president of the Assembly of Quebec Bishops said the church, "through an authentic evangelical conversion," had come to see the error of its position. □

### Canadians honor Bulgaria; protected Jews in WW II

Bulgaria, which entered World War II on the side of the Axis powers, has been recognized for having prevented the deportation of its 50,000 Jewish citizens, despite pressures from the Nazis.

The Canadian Jewish Congress, at its headquarters in Montreal, commemorated Bulgaria and the largely unknown story of its aid to Jews during the Holocaust.

"There are no Bulgarian Jewish 'survivors' because Bulgarian Jews survived," explained Alan Rose, executive vice president of the CJC, in presenting a plaque at the nation's embassy.

With almost all Jews in the country having emigrated to Israel following the war, Bulgaria maintained a good record even though the country severed its diplomatic relations with Israel during the Six-Day War in 1967. □

### Eastern-rite church given legal status by Romania

The Romanian government, through a decree passed late in April, has given legal status to the formerly banned Eastern-Rite Catholic Church, according to a Keston College news report.

The Eastern branch of the Catholic Church, which acknowledges the Pope as its head, was forced underground by the communist government in 1948.

The new Romanian government announced that ban shortly after assuming power in December, 1989. However, the church remained without full legal status and without any buildings in which to hold services and to conduct its affairs. □

Once staunch anticommunist, the Rev. Sun Myung Moon, appears now to have become a friend of the USSR. First, in a charitable act, he provided *Moscow News* with \$100,000 to assist in the restoration of their fire-damaged offices. Then, a recent issue of that liberal newspaper carried an interview (quid pro quo?) with the Rev. Moon in which reportedly he states a new assessment: "In my opinion, the Soviet Union will be at the centre of God's providence in the next century".

... The Estonian parliament has passed a law allowing conscientious objectors to military service to perform substitute labor. That service will last six months longer than the military service and will be performed at jobs where a severe labor shortage exists. Applications will be honored for grounds that include pacifism or other ethical, philosophical and religious considerations. The legality of this arrangement is still in question.

... One of the last remaining Jewish political prisoners in the USSR, Leonid Lubman, was released on April 28, according to a government spokesman. Lubman, sentenced for anti-Soviet agitation and propaganda, was due to complete a 13-year sentence at the end of August this year. ... The Damazhan house-church in Canton was closed down in February for refusal to register as required by the Guangdong provincial authorities. A report of the Overseas Missionary Fellowship said church premises were searched, with 10,000 Bibles and Christian books, equipment and money confiscated, and the pastor detained and taken away for questioning. ... Dr. Gottfried Forck, who was widely tapped to become President of the German Democratic Republic, has now officially declined candidacy. A faithful pastor, Dr. Forck has chosen not to become embroiled in politics, not even in a ceremonial capacity. ... "Those persecuted for Their Faith," a feature article in *Moscow News*, singled out Baptists for extensive commentary. Among the statistics noted: "Between 1962 and 1970 alone, prayer meetings of Baptists were broken up on 986 occasions, accompanied by arrests, searches, beatings, and fines totalling 94,300 roubles. The article points out "They don't clamour for rehabilitation; they give interviews, and never condemn their persecutors." □

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BAPTISTS AND THE BILL OF RIGHTS

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## Readings on Church and State

James E. Wood, Jr., Ed. Waco, Texas: J. M. Dawson Institute of Church-State Studies, 1989. 434 pp., paper \$9.95

James Wood, Jr., the Ethel and Simon Bunn Professor of Church-State Studies and director of the J. M. Dawson Institute of Church-State Studies at Baylor University, has produced yet another fine reference on church and state relations. His current work is a compilation of 30 essays that were originally published in the *Journal of Church and State* and represents some three decades of scholarly reflection and research. More than just an analysis of issues and trends in the American religious experience, *Readings on Church and State* also provides ecumenical and global perspectives that readers have come to expect from James Wood.

The most impressive aspect of this collection of essays is the calibre of contrib-

utors. Commenting on religious freedom in the colonies, the writing of the First Amendment, and 19th century concerns are such highly regarded scholars as Robert Miller, Edwin Scott Gaustad, Sidney Mead, and Martin Marty. Current issues also are well treated by Winthrop Hudson, Leo Pfeffer, James Leo Garrett, and Dean Kelley. Writers of the calibre of Kenneth Scott Latourette, Ernst Benz, and Franklin Littell write on world religions, missions, and challenges facing Christians in particular countries.

As with most books of this genre, readers will not be well served reading it from cover to cover. Rather, the book is designed to provide high quality articles on issues of importance to the student of church and state relations. The drawbacks of the volume are minor. More troubling, however, is the lack of when the selected articles were originally published in the *Journal of Church and State*. Perhaps future editions can provide this helpful information.

While not likely to be of compelling interest to a general reading population, *Readings on Church and State* certainly merits a prominent spot on the shelves of students of church and state relations.

Jeffery Warren Scott

AWASH, from page 16

occultism. According to Butler, Lincoln's "religious sentiments ... reflected the spiritual heterodoxy common to American since colonization." (p. 295)

Butler's work has much going for it. He does history "from below." That is, Butler analyzes and describes religious experience of the communicant in the pew, more than the preaching from the pulpit or the theologizing from the lectern. Although heavily footnoted and academic in its tone, the book nevertheless breathes with human anecdotes and amusing stories. One does not get the whiff of much polemicism in Butler's work. This, too, is good news in a day when the "intent of the framers" and the "Christian nation thesis" have been debated *ad nauseum* by partisans with a theological or political ax to grind on both sides. Finally, Butler does a good job of chronicling the influence of Baptists on American history — a much neglected aspect of our history as taught in our public schools.

In sum, Butler's work is well worth reading and will be a mainstay reference work in many libraries. (JBW)

## RESOURCES

### Life with Liberty Series

- \_\_\_\_\_ Baptists and Religious Freedom
- \_\_\_\_\_ Separation of Church and State
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Washington, D.C. 20002

### Authority, from page 5

must, according to Kingdom Politics, stand against the injustices that are part of all earthly political systems. The political challenge facing Christians, writes Hauerwas, "is to be a patient and hopeful people who are able to live truthfully between the times." In the framework of Kingdom Politics, there is nothing unique or valuable about liberal democracy. The only biblical public philosophy is that of the peaceable kingdom, the community of believers. All else falls short of what God demands. For Kingdom Politics, the moral equivalence of all political systems derives from theological assumptions, not from a reading of empirical reality.

These three approaches are attempts to work out a distinctively evangelical public philosophy. Some evangelicals' understanding of politics deviates from what I have described. But evangelical political engagement is overwhelmingly guided by the animating assumptions of these three approaches.

Each of these approaches reflects a commitment to forge a biblically faithful public philosophy. Each shares a similar epistemology which posits that truth is derived from biblical revelation. Therefore, each shares a commitment to developing a distinctively biblical or Christian politics. Each shares the belief

[Kingdom] Politics is derived from a hermeneutic that interprets the biblical story as one of economic and social liberation from earthly injustice.

that a distinctively biblical politics stands contra the position of the world. And finally, each believes that the future of God's kingdom is inextricably tied to the affairs of this world.

The rebirth of an evangelical political conscience is a welcome addition to the marketplace of ideas that is American democracy. Evangelicals have viewed their new role as one of bringing a new and unique perspective to the public square. □

We are constantly becoming the sum total of our choices, becoming more like ourselves every day. So, then, choose carefully.

## REFLECTIONS

James M. Dunn  
Executive Director



Nearly every college library has the words over the main entrance: "Ye shall know the truth and the truth shall make you free."

We face *different kinds of knowing*. One does not know much until he knows that.

*One knows facts . . . or doesn't.* It seems today that there is a vast chasm of not knowing. We call it ignorance.

"When, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them. . . ." Do you recognize those words? Sixty-two percent of high school seniors could not identify the opening words to the Declaration of Independence. According to test results announced on April 2, 1990, high school students have only "a trivial pursuit" sort of familiarity with history.

Thomas Jefferson said, "If a nation expects to be ignorant and free, in a state of civilization, it expects what never was and never will be." Ignorance is bondage.

*One knows in his innards . . .* some things you were born knowing. Pascal refers to the "God-shaped empty space" in the life of everyone. I envision a jigsaw puzzle with a piece missing. Only one certain part can fill it. Each one of us is like that. We know that we are born to be free. "The God who gave us life gave us liberty at the same time." We are wired up for freedom. To use a modern term, we are programmed for liberty.

Events of the last year offer eloquent testimony to this universal human hunger. The man in dark trousers and white shirt standing in front of a tank in Tiananmin Square, the pastor refusing to leave his church in Timisoara, the churches in Leipzig filled with nonviolent Christians singing up a revolution — rebels without rifles, they all bear witness to the hunger for freedom planted in each of us by God.

*We know different forms of freedom.* We know the truth about freedom in this way. Freedom is not absolute. Freedom has limits. No one is "free as a bird." No one is free to deny basic freedoms to others. Anyone's freedom denied is everyone's freedom endangered.

We are not free without responsibility. Freedom and responsibility are like two sides of a coin, inseparable. No matter how thin it is sliced, the coin of responsible freedom still has two sides. God made us *able to respond*, *response able*, *responsible*, and *if responsible*, free.

Every responsibility implies a certain freedom. We are not automatons, puppets. We live with the consequences of our choices and we know that. We know it and tremble. That's what the theologian Emil Brunner was talking about when he referred to the "terrible burden of freedom."

You and I are free to choose and responsible for our choices. The slow stain of choice makes us what we are and determines the limits of our freedom. We constantly are becoming the sum total of our choices, becoming more like ourselves every day. So then, choose carefully. Freedom is not absolute but by faith the choices freely made under God will likely determine the direction of other choices.

*Freedom is not free.*

One can easily be a part of the herd. "All we like sheep have gone astray." And, "We're all like sheep." The course of least resistance is by far the most popular route. Or the modern equivalent: "Don't worry, be happy." Yet, those who care pay a price for freedom. Sometimes the cost is

being cut off because we act on conscience. Sometimes the penalty is extracted in real terms of dollars and cents. The right to exercise our freedom does not mean that we will not have to pay. Certain freedoms come only at great cost.

Martin Luther King, Jr. had a dream of freedom for all of God's children in this land. He was free to disobey unjust laws but paid the price in the Birmingham jail. He was liberated to lead a great crusade for freedom but paid with his life.

There are different forms of freedom.

We experience *different types of truth*.

It is indeed in knowing truth that we are made free. The facts in a field of study give us freedom to talk, to teach, even to make a living handling that knowledge.

Philosophical truth about "how life is" can also be liberating. Perhaps the most important truth is not the same as knowing facts, memorized; or a place, envisioned; or a pattern of behavior, acted out courageously; or even a profound aspect of our nature, accepted viscerally. Rather, an important part of the truth is wrapped in flesh and blood.

We come soon to understand that it is in relationships that we find our way, that we are not solitary animals, lone wolves, but people who need people. With G. K. Chesterton we need to know that "we are all in a small boat on a stormy sea and that we owe each other a terrible loyalty."

We learn as Christians that when Jesus Christ took on flesh he ennobled and enhanced all humankind. And we begin to see his supreme truth in others who care for us and for whom we care. So, love and truth come together. Compassion and knowledge cooperate. We find the happy mix of being tenderhearted and toughminded . . . "to love one's fellowman sincerely, to think without confusion, clearly," not either but both!

There are different types of truth.

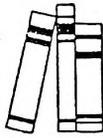
Beyond that, Jesus not only said "Ye shall know the truth." He also said "I am the way, the truth and the life." When people war over words, battle over beliefs, and clash over creeds, remember that the truth that sets you free is ultimately the Lord of all truth.

*Credo*

Not what but Whom, I do believe  
That in my darkest hour of need  
Hath comfort that no mortal creed  
To mortal man may give;  
Not what, but Whom!  
For Christ is more than all the creeds,  
And his full life of gentle deeds,  
Shall all the creeds outlive,  
Not what I do believe, but Whom!  
Who walks beside me in the gloom?  
Who share the burden wearisome?  
Who all the dim way doth illumine?  
And bids me look beyond the tomb,  
The larger life to live?  
Not what I do believe,  
But Whom!  
Not what,  
But Whom!

John Oxenham

# REVIEWS



## AWASH IN A SEA OF FAITH:

Christianizing the American People

Jon Butler, Cambridge, MA: Harvard University Press, 1990. 360pp, \$29.50.

Jon Butler has rendered a fascinating account of the relationship between Christianity and American history from the early 1600's to the Civil War. The author argues that our country's most enduring religious patterns were created by the idiosyncracies of the American experience; they were not simply inherited from European spiritual forbears. Accordingly, Butler's aim in the book is to go beyond the "traditional Puritan interpretation of American religious origins" and to reconstruct a "more complex religious past, one that reflects processes of growth and development far removed" from traditional explanations. (p.2)

Butler fashions his mottled tapestry by weaving thematic strands of religious practice with American history. He first examines the relationship between church and state during the seventeenth century. He repudiates the notion that New England Puritanism was normative for all of the colonies. Indeed, Butler notes the variegation in doctrine and practice, even within New England and especially during the latter part of the century.

Another theme involves the influence of magic, the occult and other forms of supernatural phenomena — not as a parallel influence competing with Christianity — but as a borderline manifestation of quasi-Christian religion. Although belief in magic and occultism waned during the eighteenth century with the rise of Enlightenment philosophy and experimental science, magic merged into our folklore and persisted as a part of our national ethos. That a conservative president in the 1980's backed by evangelical Christians could allow his daily routine to be guided by an astrologer's horoscope is strong testimony supporting this assertion. (p. 1)

Butler traces significant events from the late seventeenth century through revolutionary times. Religion was profoundly influenced during this period, first by the rise and development of the state church tradition, second, the major "sacralization of the American landscape" (i.e., the burgeoning of church buildings), and third, the rise of eight-

eenth century American dissenters, such as the Baptists, Quakers, and Presbyterians.

Butler devotes an entire chapter to what he considers the "spiritual holocaust" of African folk religion at the hands of the American system of slavery. The destruction of African religious systems constituted "wholesale cultural robbery," of an especially pernicious sort in which the slaves were robbed of their traditional means of comprehending life and dealing with tragedy. Butler notes the widespread fear about the effect of slave conversion and baptism on the institution of slavery itself. In partial answer to this concern, the St. James Goose Creek Church in South Carolina required slave candidates for baptism to repeat the following oath:

You do not ask for the holy baptism out of any design to free yourself from the Duty and Obedience you owe your Master while you live.

One of the high marks of the book is Butler's fresh analysis of the fairly usual theme of American revivalism in American church history. He thinks historians have overstated the importance of the "First Great Awakening" of the early to mid-eighteenth century. Instead, Butler places more emphasis on the state church tradition as giving American Christianity primary shape during the eighteenth century. He does concede, however, that the striking pluralism of Christian expression that soon supplanted the state churches in the late eighteenth century was increased (if not created) by the earlier revivalistic tradition. Then, the author does a good job of explicating and describing the texture of eighteenth century revivalism in terms of degree of emotionalism, doctrinal diversity, and preaching and worship practices.

As to the revolutionary period in the late eighteenth century, Butler minimizes the level of religiosity and church attendance in the colonies on the eve of the revolution. He likewise depreciates the extent of Christian influence on the revolutionary ethos. He

spirit of the Enlightenment and deism than Christian orthodoxy. Far more profound to Butler is the reverse question: What was the effect of the revolution on religion? According to Butler, it further retarded the development of the Tory-leaning state churches and gave the dissenting denominations a boost. This resulted in a post-revolution effort to stamp Christian values and goals on the new nation through a "Christianized" explanation for the revolution, attacks on irreligion (especially scepticism and deism), and the creation of new religious groups like the Shakers.

Butler adroitly analyzes the disestablishment debate at the time of the constitution's adoption. He concludes that the First Amendment was patterned after Jefferson's "Virginia Statute for Religious Freedom" and Madison's "Memorial and Remonstrance Against Religious Assessments." The First Amendment demands a system of governmental neutrality toward religion, rather than one that allows the government to give nonpreferential support for all religions. The major post-revolution dynamic in American religious history was that, as the state-established authority in religion faded, denominational authority expanded. Thus, the denominations in the early nineteenth century became the significant driving force behind the public expression of religion.

The author concludes by examining the religious practices of Abraham Lincoln as a paradigm for religion in the mid-nineteenth century. Although Lincoln believed in the supernatural and the existence of transcendent power, he also exhibited an aversion to organized religion and an indifference to Christian theology. Lincoln's religion was a curious blend of a "abstract, grand, fatalistic — almost Judaic ... emphasis on providence," influenced with little, if any, interest in the person or teachings of Christ. Along with all of this was a bitter fatalism, a traditional American scepticism and even a dash of mild

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