



VOICE OF REASON

Fall 1988

The Newsletter of Americans for Religious Liberty

No. 27

Election '88: Good News and Bad

T 1988 elections brought a mixture of good news and bad. First, the bad news. The Bush-Quayle victory is a blow to those who hoped the federal government would cease pushing a religious agenda that is inimical to the best interests of interfaith peace and harmony and to the preservation of public education. It may be that George Bush will revert to his pre-Reagan image, but one should not count on it. He owes the Republican right wing and fundamentalist activists a debt and he cannot afford to antagonize them. The long-range threat to religious liberty and reproductive freedom lies, of course, with the Supreme Court, where three members who are strong supporters of church-state separation are well beyond retirement age.

A second piece of bad news was the victory by anti-abortion forces in all three state referenda (Michigan by 58% to 42%, Colorado by 60% to 40%, and Arkansas by 52% to 48%). *Baltimore Sun* Supreme Court reporter Lyle Deniston suggested that the abortion issue may have returned to front-row center in U.S. politics as a result of this triple victory for anti-abortion forces. He said the results will embolden the zealots to press on in the remaining dozen or so states which still provide Medicaid funding for abortion.

The *Washington Post*, however, editorialized that the results were as much a tax and spending issue as an abortion issue. They cited polls showing that while Americans favor a woman's legal right to an abortion by a wide margin, they oppose spending tax money to provide abortion services. It is a kind of compromise that makes some voters happy, according to the *Post's* editors.

However one interprets these referenda, it appears clear that anti-abortion forces are gaining momentum in their efforts to repeal or restrict *Roe v. Wade* by any method, large or small. It also needs to be pointed out that the anti-choice forces in the three referendum states spent at least three times as much money as the pro-choice forces, much of it collected through fundamentalist religious groups.

The good news is that the Democrats maintained their hold on both houses of Congress, by slightly larger margins. This could make any Bush moves to the right difficult or impossible and it could induce Bush to name moderates to the Supreme Court and other federal benches (and to the Cabinet). He will have a difficult time naming hard-line conservatives. The Senate may not approve. (The defeat of Connecticut's maverick Republican Senator Lowell Weicker saddens the religious and civil liberties community. He was a stalwart defender of these causes, and his absence will be long felt.)

Another bit of good news is that Republicans who were associated with the Robertson wing of the party did badly everywhere, as in 1986. GOP rightist candidates were defeated badly in Tennessee, Virginia, and Maine, where Jasper Wyman, a self-styled "evangelical religious activist" and anti-pornography crusader received the lowest vote cast in any U.S. Senate race (19%). Voters may be tilting conservative but they will not

tolerate the outer fringes of fundamentalist politics.

But the big news is the presidential race. Once again, the religious factor was important to the outcome.

The 80% vote for the Bush-Quayle ticket among white evangelicals solidified the South and Border states. It's no surprise that Bush's best Southern state was South Carolina—the most Protestant state, the state with the highest number of "born again" white voters.

Evangelicals and fundamentalists may have been relatively quiet in this campaign but they were there. Doug Wead, a Pentecostal activist and author, and Herb Ellingwood, a Pat Robertson aide, led the "Bush/Quayle Family Issues Coalition" which worked the churches. The "Presidential Biblical Scorecard," a glossy 48-page publication listing candidate positions on so-called "Bible-based family issues" was sent to 1.5 million voters. It endorsed Bush but with some reluctance. Scorecard publisher David W. Balsiger spent most of his time attacking Michael Dukakis and the Democrats, calling them the party of "secular humanists, feminists, homosexuals and ultra liberals." Balsiger called on "Christians" to "regain control of the nation from the liberal minority." This group also accused Dukakis of "pulling the plug" on his comatose brother Stelian, a victim of a hit and run driver a decade ago.

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New Fundamentalist Alliance Challenges Church-State Separation

With minimal fanfare, a new ultraconservative national organization has been formed to attack church-state separation, religious liberty, and public education. At once a coalition and a membership group, the self-styled "Americans for Educational Choice" has two goals: tax support for sectarian private schools through tuition vouchers and/or tuition reimbursement tax credits, and freedom of tax-supported nonpublic schools from the rules applicable to public schools.

Organizations making up the new coalition read like a directory of ultraconservative, Radical Right, Religious Right, and "moral majoritarian" pressure groups. They include the Catholic League for Religious and Civil Rights and Citizens for Educational Freedom (both founded by long time parochial lobbyist and theoretician Rev. Virgil Blum, S.J.), Agudath Israel (an ultra-Orthodox Lubavitcher group), Christian Legal Society, Christian Schools International, Beverly LaHaye's Concerned Women for America, Phyllis Schlafly's Eagle Forum, Free

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Bork's Bombast

Speaking to the 15th anniversary bash of the pro-parochial, anti-choice Catholic League for Religious and Civil Rights in Washington on November 17, defeated Supreme Court nominee Robert Bork spelled out his view of the religion clauses of the First Amendment.

Bork argued that the "expansion of the no-establishment and free-exercise concepts by the modern Court tends to favor fringe religions and cults at the expense of mainstream churches, especially the Catholic Church." The Catholic Church, he claimed, "is being harmed because a disproportionate number of no-establishment cases involves Catholic interests." He said the "large faiths suffer more inhibitions on their symbols and find their schools punished" by "broad interpretations" of the Establishment Clause. Bork said the "modern interpretation" of this clause "expels religion from more areas of life where it once played a role."

Bork added that "an anti-religious animus has affected our laws because most judges come from the intellectual and information classes which have largely rejected religion."

He also denounced the right to privacy concept, saying, "the privacy cases will soon deny rights to the community even though all laws, without exception, rest upon moral choice and moral assumption."

Bork claimed that a "cultural war" exists in the U.S. today between those who favor a "systematic exclusion of religion from public life" and those who "recognize that human beings have an ineradicable need for the transcendent." In closing, Bork warned that "if religion departs from public life, some other ugly principle will arise to replace it."

Bork's comments were crowd-pleasers at the gathering of extremists. This year's conference marked a sharp turn for an organization that claimed to be fighting anti-Catholic defamation, founded by long time parochial advocate Rev. Virgil Blum, S.J., in 1973. The 1988 gathering was oriented toward legal action in the twin areas of parochialism and abortion.

Conference speakers included Harrisburg lawyer William

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Ball, who has specialized for years in building a political coalition between conservative Catholics and evangelical Protestants. One-time Reagan staffer and anti-abortion zealot Stephen Galebach and New Right spokesman James McClellan urged the Catholic League to press even harder to overturn *Roe v. Wade* and to secure court-sanctioned tax aid for church-run schools. Lutheran pastor Richard John Neuhaus was there, too, promoting his radical revisionist views on religion and society.

Winners of the annual awards included Colorado Senator William L. Armstrong, cited for his successful fight for church colleges' right to maintain sectarian moral standards and receive public funds at the same time. Another recipient was Alabama Federal Judge W. Brevard Hand, whose only claim to fame was his ruling a couple of years ago that "secular humanism" was the established religion in U.S. public schools, a ruling overturned on appeal. New York's Cardinal John O'Connor and his auxiliary bishop Austin B. Vaughan were cited for their "heroic" efforts to stop abortion. ■

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Editor: Edd Doerr

Americans for Religious Liberty is a nonprofit public interest educational organization dedicated to preserving the American tradition of religious, intellectual, and personal freedom in a secular democratic state. Membership is open to all who share its purposes. Annual dues are \$20 for individuals, \$25 for families, \$10 for students and limited income.

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In a fund-raising letter, Pat Robertson warned that Dukakis supported legalized drugs and prostitution, moves to strip churches of tax exemption, and planned to fill his administration with homosexuals. In a post-election interview with *Focus on the Family* magazine Robertson boasted, "We have the largest voting bloc in America, a bloc that is large enough to elect anyone to any office in any state."

The evangelical fervor for the Republicans shows no sign of abating. George Bush swept evangelical college campuses, with margins up to 96% at Oral Roberts University.

While Bush and Quayle won 80% of the "born-again white Protestant" vote and 60% of the white mainline Protestant vote, Dukakis and Bentsen won 53% of the Roman Catholic vote, 71% of Jewish votes, and about 67% of "unchurched" and other religions' votes. Hispanic Catholics went heavily for Dukakis everywhere except for Cubans in Florida. Mormons in Utah and Idaho and Dutch-descended Protestants in Michigan, Wisconsin, and Iowa went 3 to 1 for Bush. Black voters, overwhelmingly Protestant, went 9 to 1 for Dukakis.

Political analyst Jim Castelli observed that, "White Protestants and Mormons total about half the population. Catholics, Jews, blacks and those of other religious traditions total just under half the population. There are two different Americas, and those tensions can be seen in elections. Essentially, the white Protestants vote more as a bloc and seem unshakable in their support for the Republican Party."

The results show deep cultural and political divisions among U.S. religious groups. Among evangelicals, there seems to be less willingness to vote for those of other religious traditions. Michael Dukakis' multi-cultural image—a Greek Orthodox Christian who attended a Quaker college and married a Jew in a Unitarian ceremony—may have appealed to religious liberals but turned off white evangelicals.

The Republicans can take comfort from their overwhelming

Utah Defeats Parochial Aid

Utah voters on November 8 defeated, by 70% to 30%, a proposed state constitutional amendment which would have authorized substantial tax aid (in the \$600-\$700 range per student per year) to sectarian private schools through tuition reimbursement tax credits. The vote margin, interestingly, was identical to that by which Massachusetts voters defeated a parochial aid amendment in 1986.

Between 1967 and 1988 voters in Massachusetts (twice), Maryland (twice), Michigan (twice), New York, the District of Columbia, Missouri, Nebraska, Idaho, California, Oregon, Washington State, Alaska, and now Utah have voted down proposals to allow tax support for parochial and private schools.

Strangely, the Utah parochial aid defeat, like the other referendum defeats for parochial aid over the last twenty years, received almost no media attention.

Protestant vote and their still strong Catholic support. But demography may not be on their side. Only about 47% of voters in the ABC sample called themselves white Protestants, while nearly 30% were Catholic. The number of born-again white Protestants declined from 17% in 1984 to 12% in 1988. The CBS exit poll found only 9% of the electorate in the born-again category. Bush and Quayle may find it necessary to reach out to the other half of America if they wish to preserve their mandate.

Bush's 54-46 victory was due largely to a public perception of prosperity, despite the unprecedentedly high Reagan administration deficits and poor balance of trade, and the pronounced weaknesses of the Dukakis campaign. ■

ARL in Action

Americans for Religious Liberty's seventh anniversary was celebrated October 21-23 with a conference at the Birmingham Temple in Farmington Hills, MI, near Detroit. The conference, hosted by ARL co-founder Sherwin Wine, featured addresses by ARL president John M. Swomley, Michigan ACLU director Howard Simon, former Michigan National Organization for Women president Carol King, Detroit College of Law constitutional law professor Harold Norris, and ARL executive director Edd Doerr. ARL past president Lynne Master and issues director Eli Master also spoke at the conference.

The celebration began with a special synagogue service prepared by Rabbi Wine on the themes of personal liberty, pluralism, and church-state separation. It concluded with a service at the Farmington Universalist Unitarian Church at which Edd Doerr spoke on the theme of his recent book, *Religious Liberty in Crisis*. Doerr was presented the Freedom Award of the Birmingham Temple for his services to ARL and for "championing the cause of individual rights and civil liberties for the past thirty years."

ARL president Swomley has spoken in recent weeks at the University of Puget Sound, Highline Community College, Eastern Washington University, Seattle Central College, and Whatcom Community College, all in Washington State, and at United Methodist, Unitarian Universalist, United Church of Christ, and Lutheran services and meetings in Washington State, British Columbia, Kansas, and Missouri.



From left to right: Edd Doerr, John M. Swomley, Marilyn Rowens, Eli Master, Lynn Master, Sherwin Wine, Harold Norris.

ARL's Doerr has been a guest on TV and radio programs in Michigan, Texas, California, and Maryland. He debated the abortion rights issue at the School of International Service at American University and spoke at church services in Maryland and Pennsylvania. In October he introduced writer and ARL advisory board member Isaac Asimov at a conference in Cambridge where Asimov was presented a special award for his contributions to creativity by the Lord Foundation.

ARL supported pro-choice coalitions in the referendum campaigns on abortion rights in Michigan, Colorado, and Arkansas, and the Utah coalition which successfully defeated tax aid for sectarian private schools.

New Fundamentalist Alliance

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Congress Foundation, Heritage Foundation, Knights of Columbus, Lutheran Church-Missouri Synod, National Association of Evangelicals, National Catholic Educational Association, National Center for Privatization, National Society of Hebrew Day Schools, U.S. Catholic Conference Department of Education, and Alliance for Catholic Defense.

Individual members of the group, chaired by J. Peter Grace, are a Who's Who of the Radical Right. They include Catholic Cardinal Bernard Law (principal sponsor of unsuccessful referendum attempts in Massachusetts in 1986 to get state aid for his church's parochial schools and to outlaw abortion), Rep. Henry Hyde (R-IL), Rep. Pat Swindall (R-GA, under federal indictment for ten counts of perjury in Atlanta and defeated for reelection on November 8), Sen. Orrin Hatch (R-UT), outgoing Rep. Jack Kemp (R-NY), Reagan cabinet member Donald Hodel, parochial attorney William B. Ball, defeated Supreme Court nominee Robert Bork, columnists Pat Buchanan and William F. Buckley, Holly Coors, Jerry Falwell, Edwin Feulner, economists Milton Friedman and George Gilder, General Alexander Haig, New Jersey Gov. Thomas Kean and Wisconsin Gov. Tommy Thompson, columnists James J. Kilpatrick and Russell Kirk, former Reagan U.N. ambassador Jeane Kirkpatrick, former Reagan Attorney General Edwin Meese, Rev. Richard John Neuhaus, Pat Robertson, Donald Rumsfeld (a voucher promoter under the Nixon and Ford administrations), Phyllis Schlafly, and Moral Majority theoretician Paul Weyrich.

It is no coincidence that these groups and individuals also tend to represent the fundamentalist wings of Catholicism, Protestantism, and Judaism, and, in addition, are generally outspoken against women's rights and freedom of conscience on abortion.

St. Louis businessman Thomas J. White is credited as the primary organizer of the new group, while its Washington office just happens to be the office of Citizens for Educational Freedom (CEF), an extremist Catholic pressure group which has campaigned and lobbied vigorously for 25 years for state and federal aid for sectarian schools.

The new group went public on September 19 with a Washington dinner honoring former Reagan Education Secretary Edward Bennett.

Tax aid or support for sectarian private schools has been a hot controversy in the U.S. since the early 19th century, though public opinion and constitutional law have almost always opposed parochial aid. All but the most minor and peripheral forms of parochial aid have been ruled unconstitutional by the Supreme Court, though these peripheral aids (textbooks, transportation services, assorted "auxiliary" services, payments for record keeping and testing, etc.), as an Americans for Religious Liberty survey has shown, cost American taxpayers more than \$1 billion annually. In addition, statewide referenda over the past twenty years—in Massachusetts (twice), New York, Maryland (twice), the District of Columbia, Michigan (twice), Missouri, Nebraska, Idaho, California, Oregon, Washington State, Alaska, and now Utah—have uniformly meant defeat for the parochial aiders. The only victory they can claim is a 1986 South Dakota win on textbook loans.

Parochial aid promoters talk a lot about "choice," but the choice they really want is that of churches and other private school sponsors to choose to put their private institutions on the backs of all taxpayers, who are to be denied the right to choose which religious institutions they will support. Parochial aiders also claim

that they want to expand diversity in education, yet individual students are exposed to far more diversity in our pluralistic public schools than in any given sectarian school.

The case against any form of tax support for sectarian private schools is clear. It would violate the right of every taxpayer to voluntarily support only the religious institutions of his/her free choice. (About 5.7 million children, less than 11% of total enrollment, attend nonpublic elementary and secondary schools, well over 90% of which are operated by religious bodies. Despite extravagant claims by private education enthusiasts, nonpublic enrollment is down from the 1965 high of 6.5 million students and 13% of total enrollment.) The Supreme Court has consistently held that all major forms of tax aid for sectarian schools are unconstitutional, though the Reagan administration's court packing over the last eight years could undermine the Court's long history of support for the First Amendment principle of separation of church and state.

Since nonpublic schools are nearly all operated by sectarian special interests and mainly for the purpose of denominational indoctrination, and since they practice forms of selectivity and discrimination not allowed in public schools, appreciable tax support for them would cause a proliferation of sectarian and ideology oriented private schools to reduce education to a plethora of feudal enclaves dedicated more to indoctrination than to democratic education and academic freedom. Children would be divided along religious, ethnic, racial, social class, gender, academic ability, and other lines. The virus of sectarian separatism, distrust, and bigotry would spread from Northern Ireland, Iran, and Sri Lanka to our shores.

The overwhelming majority of students in nonpublic schools attend institutions operated by the most reactionary elements in the Catholic, Protestant, and Jewish traditions, traditions opposed to freedom of conscience on abortion, the Equal Rights Amendment, and, generally, to contraception and divorce. So most of every tax dollar diverted to nonpublic schools would be used to indoctrinate boys and girls with doctrines and attitudes hostile to women's rights.

Nonpublic schools serve few poor and handicapped children, so parochial aid would transform public schools into little more than "wastebaskets" for children unwanted by the private schools, and, in the process, redistribute income from the poor to the more affluent.

Tax support of nonpublic schools at the same rate as public schools would cost U.S. taxpayers at least \$25 billion annually, and this does not reflect the loss of economies of scale currently realized by our public schools.

The new parochial aid conspiracy being organized by "Americans for Educational Choice" will cause major battles in Congress and state legislatures. Defenders of church-state separation, civil liberties, and public education will have their hands full. ■

Where There's a Will . . .

Including a bequest to Americans for Religious Liberty in your Will is a good way to ensure that future generations will have the tools to defend our most basic freedoms. You can always add ARL to your Will.

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December Dilemmas

The U.S. Supreme Court has agreed to review another nativity scene case during the 1988-89 term. This one, from Pittsburgh, gives the High Court another opportunity to set straight the rather murky decisions it has rendered and to offer guidance to communities which must face this now-annual December dilemma.

In 1984, in *Lynch v. Donnelly*, the Court approved the inclusion of religious symbols, like the creche, in publicly-sponsored Christmas ceremonies but only if secular holiday symbols were also included and only if the entire celebration was primarily secular in nature.

This half-victory for the church-state accommodationists has been seized by "moral majoritarian" activists (often the Knights of Columbus) as a wedge toward Court approval of fullscale religious activities by public authorities.

The Reagan White House was the first to move with unseemly haste when it restored the creche to the annual National Pageant of Peace event on the Ellipse in Washington in 1984, just after the Court's ruling in *Lynch v. Donnelly* was announced. Appeals by Jewish, secular, and some Christian groups fell on deaf ears.

This controversy has symbolic significance. Its resolution by the courts and by the court of public opinion may serve as a clue to the strength of the Constitution's Establishment Clause in our times. Admittedly, public opinion seems strongly on the side of publicly sponsored Christmas and/or Hanukkah symbols. The Williamsburg Charter poll in early 1988 revealed that 80% of Americans saw no constitutional problem when public authorities erect symbolic representations peculiar to one's religious tradition. But public opinion is not always right, especially in civil liberties conflicts. Nor is the public well informed on all issues.

Here is what the courts have said during the past decade of controversy:

Government agencies are not required to erect creches at any public site or at the request of any private group. The decision rests on the character of the property. If it is a park which has traditionally been used for various kinds of expression of free speech, a Christmas display is constitutional. But a lawn area in front of the municipal building which has not been a public forum does not fall under this requirement.

It is almost certain that government cannot erect or sponsor a religious Christmas display unless there are also secular symbols of the season included. This makes displays of the Jewish menorah even more complex because Hanukkah is not a secular holiday, nor is it a national holiday as Christmas has become. Some argue that the menorah is equivalent to a Christmas tree rather than a creche but that argument seems specious. Furthermore, a *permanent* religious display is clearly unconstitutional.

The context and intent of civil officials are still important considerations. If there is a long history of community conflict or a clearly evident legislative intent to advance a particular religion, the courts may not sustain a Christmas display.

It apparently makes little difference whether private or public land is involved, if there is substantial government involvement. The dispositive issues remain.

Religious Christmas carols may be included in public school Christmas programs only if there is a clear educational objective. Schools may not celebrate religious holidays or seek to advance religion or to convince students to accept a particular religious perspective. Religious art and literature may be used as part of the observance of the holiday only in a prudent and objective manner. Religious symbols connected with Christmas or Hanukkah can be displayed in classrooms on a temporary basis as teaching aids. It also appears that students can request dismissal

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Resources

Available from ARL, Box 6656, Silver Spring, MD 20906.

Religious Liberty and the Secular State, by ARL president John M. Swomley. A clearheaded, authoritative response to the Rehnquist and other revisionist attempts to discredit church-state separation. (\$15.95 hardcover, \$10.95 paperback, plus \$1.50 postage and handling.)

Religious Liberty in Crisis, by Edd Doerr. A useful, non-technical introduction to the major church-state controversies in the U.S. today, by ARL's executive director. (\$5.95 plus \$1.50 for postage and handling.)

Dear Editor, by Edd Doerr. A "how to" book on writing letters to editors, plus a wide-ranging selection of the author's published letters on religious liberty issues from *The New York Times*, *The Washington Post*, *National Geographic*, *Harper's*, and other periodicals. (\$5.95 plus \$1.50 for postage and handling.)

Religion, the State and the Burger Court, by Leo Pfeffer. A comprehensive up-to-date examination of the whole range of church-state issues by the dean of constitutional authorities on religious liberty. An indispensable resource for layperson and lawyer alike. (\$22.95 plus \$2 for postage and handling.)

James Madison on Religious Liberty, edited by Robert S. Alley. Madison's own writings plus authoritative essays analyzing their importance. (\$20.95 plus \$2 for postage and handling.)

Religion and the State, edited by James E. Wood, Jr. A 596-page treasury of essays on every aspect of religious freedom, published as a tribute to Leo Pfeffer, dean of church-state constitutional lawyers. (\$35, plus \$2 for postage and handling.)

The Supreme Court on Church and State, edited by Robert S. Alley. A comprehensive up-to-date collection of the major U.S. Supreme Court rulings on religious liberty, with commentary by a leading church-state scholar. Indispensable for lawyer and concerned layperson alike. (\$15.95 plus \$2 for postage and handling.)

Crusade of the Credulous, by William J. Bennetta. A collection of articles about "creationism" and the effects of the fundamentalist movement on public education. (\$2 plus \$1 postage and handling.)

Public Funds and Private Schools, by ARL executive director Edd Doerr (50¢ each, 10 for \$4.00. Postage and handling included.)

Does Religion Belong in Our Public Schools? Reprint of Edd Doerr's September 1987 *USA Today* article on school prayer, "creationism," "secular humanism," censorship, "equal access," missionaries in public schools. (50¢ each, 10 for \$4.00. Postage and handling included.)

December Dilemmas, *continued from page 5*

from any or all of these exercises. "Predominantly religious" activities are not permitted.

Civil libertarians hope that the present Supreme Court will use the Pittsburgh case to strengthen the Establishment Clause rather than weaken it by appeals to "historical memory" or a sentimental fondness for cherished symbols.

But courtroom wrangles won't solve the December dilemma alone. It may be that the ultimate resolution will come from the appeal to reason and conscience which still stands as a vital part of the American experience. The *Washington Post* expressed a reasonable view shortly after the 1984 Pawtucket ruling. Its editors concluded, "The answer lies in the common understanding we have as Americans about our diverse religious views and our respect for each other's beliefs. This tolerance binds us as a people and protects us as individuals. We have agreed that each person may practice his own religion without interference from the state, and we don't want the government to do anything that will promote one religion over another.

"Let creches appear on every church lawn in Rhode Island. Let the Pawtucket merchants association build one out of marble. But keep the city council and the taxpayers' money on the other side of Thomas Jefferson's wall lest an intrusive government, eager to support the large majority, crowd out, separate and impose on others whose rights are sacred too."

Update

Reproductive Rights

Two days after the fall elections the Reagan-Bush administration filed a brief asking the Supreme Court to overturn the 1973 *Roe v. Wade* ruling which recognized the right to freedom of conscience on abortion as a constitutionally protected right. The case in question, *Webster v. Reproductive Health Services*, involves a Missouri law which defines personhood as beginning at conception and says that no public funds can be used to perform an abortion or to inform women about this option.

Although a majority of voters in Michigan, Colorado, and Arkansas on November 8 voted against Medicaid funding for abortions for poor women, even victims of rape and incest, an NBC poll in October showed that 64% of respondents favored keeping abortion legal.

During the recent election campaign president-elect Bush came out for criminalizing abortion, while vice-president elect J. Danforth Quayle declared that 12-year-old victims of incest or rape should be forced to continue their pregnancies.

During 1988 more than 10,000 demonstrators were arrested in cities across the country for trespassing or otherwise trying to shut down clinics which include abortions in their medical services. The nationwide demonstrations and shut-down efforts are promoted by Operation Rescue, a New York State based anti-choice outfit sanctioned by Jerry Falwell and a number of Catholic bishops. (ARL executive director Edd Doerr was present as a pro-choice observer at an October 29 attempt to shut down a women's clinic in Falls Church, VA where 238 anti-choice protesters were arrested. Discussions with demonstrators showed that nearly all were zealots of Protestant or Catholic fundamentalist backgrounds.)

The National Organization for Women (NOW) is planning a march for women's rights in Washington in April. Our next newsletter will carry further details.

The Supreme Court on November 14 declined to review a lower court ruling that an Indiana man could not block his wife from obtaining an abortion.

A federal district court in New York has ruled that Operation Rescue

The annual "December dilemmas" might move closer to resolution if more Americans would acquaint themselves with the following facts.

A great many of the early American colonists did not celebrate Christmas. Its celebration was illegal in Puritan New England (too "popish" and profane). By the mid-nineteenth century Christmas was accepted as a holy day by Catholics, Episcopalians, and Lutherans, but not by Presbyterians, Baptists, and Methodists.

Alabama was the first state to declare Christmas a holiday, in 1836. Twenty-eight other states did likewise during the next thirty years, thirteen of them during the Civil War. It was only in 1870 that Congress recognized Christmas as a holiday in the District of Columbia, and it was not until 1890 that all states and territories recognized the holiday.

Public celebration of Christmas has always owed more to commercial than to religious interests in the U.S.

Government sponsorship of Christmas observances not only favors Christianity over other religions, but also prefers some branches of Christianity over those which still do not attach religious significance to December 25. Many Christians regard Christmas celebrations as a pagan adoption not based on the Bible.

Americans of many religious traditions believe that they and their religious organizations are quite able to celebrate religious holidays without government sponsorship. ■

leaders must pay \$50,000 to the National Organization for Women to compensate New York area clinics for losses due to Operation Rescue interference.

An article in the October 19 issue of *The Rockhurst Hawk*, a newspaper published "under the authority of Rockhurst College," a Jesuit institution in Kansas City, called for an organized campaign for the "destruction" of abortion clinics, even when such bombings "could mean that a bystander could be injured." The author, not identified as to whether he is a student or faculty member, wrote that physicians who perform abortions "would make Stalin, Castro, and Ortega proud" and that "the time has come for righteous people to take a firm, uncompromising stand, resorting to the equivalent of a civil war, if necessary." ARL president John Swomley, a Kansas City resident, called upon Rockhurst president Rev. Thomas J. Savage to "repudiate both the tone and recommendation of armed violence in the editorial."

The National Organization for Women on November 28 called for federal government action against "anti-abortion extremists for their escalating violations of federal statutes, including racketeering, anti-trust, and anti-Klan laws." NOW said that, "If the Justice Department exercised the same zeal in protecting women's existing constitutional rights as they have in trying to roll back our rights, the violence and threats at clinics would stop."

Parochial

Wisconsin Governor Tommy Thompson says he will continue to try to get the legislature to pass a voucher plan for tax aid to parochial and private schools.

The Eighth U.S. Circuit Court of Appeals has ruled that a group of Missouri taxpayers has legal standing to challenge federal aid to church-run schools.

New York City's school board is still trying to defy the 1985 Supreme Court ruling (*Aguilar v. Felton*) barring tax aid to parochial schools on their campuses. The board's latest maneuver is to rent the school yards of three Catholic schools in Brooklyn and use them to erect "stationary

instructional units" for providing services which cannot legally be provided inside the parochial school buildings. The New York Committee for Public Education and Religious Liberty (PEARL), which won the *Aguilar* case, has protested the move as unconstitutional and as using public funds to pay for religious segregation of students.

ABC Bill Dies

In the closing days of the 100th Congress, the Act for Better Child Care Services (the ABC bill) died in the Senate. The controversial bill would have allowed tax support for sectarian day care centers. ARL, the ACLU, and other groups had criticized the legislation for not having adequate church-state separation provisions. The issue is expected to come up again in Congress in 1989.

Prayer Bill Costs N.J. Taxpayers

New Jersey taxpayers will have to pay \$287,170 in legal expenses because their legislature passed a "silence for prayer" law over the governor's veto. Federal district and appellate courts found the law unconstitutional and ordered the legislature to pay the expenses of its attempt to defend the law, which the state attorney general had ruled was unconstitutional before it became law.

In other action, the U.S. Supreme Court in December declined to reinstate a \$70,000 award to a woman in Hawkins County, TN, who was arrested for refusing to leave her daughter's school. Vicki Frost and other fundamentalist plaintiffs had sued the local school district to allow their children to avoid reading textbooks or attending classes to which the parents objected on religious grounds but which even the federal court ruling in Frost's favor could not find legally objectionable. Frost lost her case in the U.S. Sixth Circuit Court of Appeals, which ruled in favor of the public schools.

Spiritual Healing and the Law

The most recent chapter in the seemingly endless saga of religion, medicine and the law is being written in California where the state supreme court has ordered a trial for the mother of a child who died of meningitis while under Christian Science treatment. Laurie Walker of Sacramento will be tried for "involuntary manslaughter" and "felony child endangerment" despite a 1976 amendment to the California penal code which recognizes "treatment by spiritual means through prayer alone."

Stanley Mosk, writing for a unanimous court, concluded that the amendment was not intended to apply in extreme cases where prayer was obviously not working. The court did acknowledge, however, that

Semantic Games

Why do the media refer to the pope as "the Pontiff" and to church officials such as Cardinal John O'Connor as "John Cardinal O'Connor"? "Pontiff" is the title which popes long ago took over from the Roman emperors, "Pontifex Maximus" ("highest bridge to heaven"), while placing a title between first and last names is an aristocratic affectation not used by most Catholics. By uncritically going along with such semantic one-upmanship, the media give free propaganda and preference to one religion while tacitly disparaging all others.

If the media insist on using "Pontiff," then they should also use Khomeini's title, "most sublime messenger of Allah" ("Ayatollah Osman").

Alec Randall
Aspen Hill, MD

"Believing with you that religion is a matter which lies solely between Man and his God, that he owes account to none other for his worship, that the legitimate powers of government reach actions only, and not opinions, I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should 'make no law respecting the establishment of religion, or prohibiting the free exercise thereof,' thus building a wall of separation between Church & State."

Thomas Jefferson, Letter to
Danbury Baptist Association
January 1, 1802

the law does allow parents the right to choose spiritual or nonmedical methods as a legitimate substitute for conventional medicine. Christian Science authorities in Boston were cautiously critical in their official response to the case.

This is apparently the first time in the state's history that the child endangerment law has been used to prosecute a parent who relief on prayer for healing. The mother's attorney, Thomas Volk, cited the free exercise clause in his defense but the state supreme court rejected that argument, saying, "Parents have no right to free exercise of religion at the price of a child's life."

Catholic Fundamentalism Grows in France

While Protestant, Jewish, and Islamic fundamentalism have been much in the news in recent years, Catholic fundamentalism seems to have vanished. Not so. It has surfaced in a most unlikely place: sophisticated, cultured France, a largely secular nation where Catholicism itself has been seen as progressive in many matters since World War II.

But a slumbering monster seems to be stirring. A segment of French Catholicism has always leaned to the extreme right wing of the political and cultural spectrum. Many supported the fascist Action Francaise movement in the early decades of this century. The Catholic Right engineered the conviction of the Jewish soldier Alfred Dreyfus, and later supported the infamous Vichy regime which collaborated with Hitler. They were always a minority, to be sure, and French Catholic intellectuals like Francois Mauriac and Jacques Maritain urged Catholic accommodation with liberal democracy. France's leading Cardinal, Jean Marie Lustiger, continues that liberal tradition.

But angry, embittered followers of French Archbishop Marcel Lefebvre, now excommunicated by the Vatican, have recently fire-bombed a Paris theater that was showing *The Last Temptation of Christ*, threatened reprisals against other theaters, and denounced the government for encouraging the distribution of the new abortion-inducing drug RU 486.

Support for these actions has come from the National Front, France's far-right political party whose presidential candidate Jacques Le Pen captured one out of seven votes in the last national election.

Catholic Church authorities have denounced these incidents, but the hierarchy itself is committed to the recriminalization of abortion, which has been legal in France for more than a decade. Church authorities are also able to turn out a million demonstrators to pressure the French government to continue aid to parochial schools, begun by President DeGaulle in 1958 and costing taxpayers substantial sums.

France's Socialist Prime Minister Michael Rocard, a Protestant who has worked with liberal Catholics for decades, has expressed public concern that an ancient quarrel between church and state and between clericals and anticlericals is in danger of being resurrected, even in so enlightened a place as la Belle France.

Miscellaneous

Pope John Paul II denounced contraception again in November, even to prevent or limit the spread of AIDS. Msgr. Carlo Caffara, head of the ultraconservative John Paul II Institute for the Study of Marriage and the Family (a group linked to the ultraconservative secret group Opus Dei), told a press conference at the opening of a meeting of 300 Catholic theologians in Rome that 80% of Catholic couples use birth control and that 70% of priests and 90% of morality professors approve of birth control.

Catholic Church officials in Hawaii have brought suit to block a Planned Parenthood clinic from providing abortion services in a facility located on land largely owned by the church. Planned Parenthood has rented space in the Honolulu building since 1976.

The U.S. Supreme Court has declined to interfere with the right of the Middlesex County, N.J. Board of Social Services to discipline an employee who exceeded his authority and advised a pregnant welfare client against having an abortion.

Rev. Jerry Falwell has been notified that the IRS will begin an examination of his Liberty University in January and possibly later his Old Time Gospel Hour. The IRS is also investigating the operations of Pat Robertson and Oral Roberts. Falwell's Old Time Gospel Hour, whose donations are reportedly down for 1988, recently sold 32 acres of its Lynchburg, VA, property to Wal-Mart for \$3.2 million for a shopping center.

As victories for church-state separation go, it was not a big one. But when a federal judge struck down a 100-year old ban on dancing in the hamlet of Purdy, Missouri, separationists chuckled and did a little foot-tapping. The fundamentalist Baptist community south of Springfield had successfully eliminated all dancing until U.S. District Judge Russell Clark ruled that the ban "promoted the tenets of a particular religious group," thus violating the Establishment of Religion Clause of the First Amendment.

The California Supreme Court has upheld a decision by the Saddleback Valley Unified School District to ban religious advertising from public school campuses.

A California federal court ruled in June that the city of Oakland must prohibit its employees from harassing street evangelists gathered outside the city's Coliseum.

U.S. and Czech researchers report in a new book, *Born Unwanted*, by Henry P. David et al., that psychological and social problems are more common among children born to mothers denied permission for abortions than among wanted children.

The Indiana Court of Appeals has ruled in favor of a teacher fired because she failed to take her English class to a school convocation which involved religious content.

The large and regionally-powerful Southern Baptist Convention has moved further and further to the right, if that is possible. Repudiating many previous positions, the annual meeting of Southern Baptists declared that American families were "under constant attack from materialism and secular humanism." The delegates said that institutions directly or indirectly controlled by religious groups should be exempt

Books

Church and State in American History, 2nd Edition, edited by John F. Wilson and Donald L. Drakeman (Beacon Press, Boston, 1987, 313 pp., \$14.95), is a treasure trove of documents in the history of church-state relations and religious liberty in the U.S. Included in this excellent anthology are writings by Roger Williams, Thomas Jefferson, and James Madison, colonial documents, commentary by a broad range of scholars and activists, and texts of Supreme Court rulings. Included is an article by ARL executive director Edd Doerr. Our only complaint is that the book contains no material on the church-state controversies over birth control and abortion rights, or on the questions of U.S. diplomatic relations with the Catholic Church or sectarian influences on foreign policy.

MOVING?

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from the Civil Rights Restoration Act. Unqualified support was voted for school prayer, a ban on abortion, and a plan to root out "liberalism" in the denomination's seminaries and colleges.

International

Ireland's iron clad ban on all abortions, approved by two-thirds of voters in 1983, now applies even to information regarding abortion, said the nation's Supreme Court in May. The Court ruled that the passage of the anti-abortion amendment to the Constitution made it illegal for pregnancy counseling centers to provide information about abortion availability in England. The nation's 120,000 university students have vowed to ignore the decision. Student newspapers routinely publish the names and telephone numbers of clinics in England. An anti-choice group has sued the student union at Catholic University College in Dublin, where a student manual includes abortion information.

An Icelandic court has ruled that a Catholic citizen may not get a rebate for the part of his income and sales taxes paid to the established Lutheran Church.

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