



VOICE OF REASON

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The Newsletter of Americans for Religious Liberty

No. 33

Religious Liberty Loses in Peyote Ruling

On April 17 the Supreme Court dealt a severe blow to religious liberty in its 6-3 ruling in *Employment Division of Oregon v. Smith*. The ruling, written by Justice Antonin Scalia, held that state law may override a "free exercise of religion" claim to protect sacramental use of the hallucinogenic drug peyote by Native Americans, even though 23 states and the federal government allow special exemptions from drug laws for such use.

Justice Scalia based his ruling in part on the Court's 1940 *Gobitis* ruling, which upheld a state law denying Jehovah's Witnesses children conscientious exemption from a compulsory flag salute law. Scalia ignored the fact that *Gobitis* was reversed by the Court in 1943 in *Barnette*. Scalia wrote that allowing conscientious objection in this limited case "would be courting anarchy . . . in direct proportion to the society's diversity of religious beliefs," and that "we cannot afford the luxury of deeming presumptively invalid, as applied to the religious objector, every regulation of conduct that does not protect an interest of the highest order." He added that accommodation of religious minorities should be left to the political process.

Justice Sandra Day O'Connor concurred in the result but said that the Scalia majority (with Rehnquist, White, Kennedy, and Stevens) erred by overturning established precedents. She said that "the 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."

In his dissent, joined by Brennan and Marshall, Justice Blackmun wrote that the majority had overturned "a settled and inviolate principle of this Court's First Amendment jurisprudence," and showed little "judicial restraint" in "deciding the constitutionality of a criminal prohibition which the State [Oregon] has not sought to enforce."

A wide spectrum of constitutional scholars (such as Harvard's Laurence Tribe, Stanford's Gerald Gunther, NYU's Norman Redlich), religious organizations (such as the National Council of Churches and the American Jewish Congress), and the ACLU have asked the Supreme Court to reconsider the *Smith* decision.

Commentators agree that the *Smith* ruling expands the power of the state while weakening individual liberty and promoting "moral majoritarianism." ■

Churches and Politics

On April 27 the U.S. Supreme Court declined, without comment, to accept for review a 1989 ruling by the Second Circuit U.S. Court of Appeals (New York) in *Abortion Rights Mobilization v. U.S. Catholic Conference*. That action is likely to have serious consequences.

The suit, filed originally in 1980 by writer Lawrence Lader and several clergy, attempted to compel the Internal Revenue Service to remove the tax-exempt status of the Roman Catholic Church on the ground that it "participated in political campaigns in all parts of the country," supporting and opposing candidates on the basis of their positions on abortion rights. The suit charged that this electoral political activity violates federal tax law.

Lader and the other plaintiffs charged that by allowing the church to retain its tax-exempt status, "the IRS has granted the Church the equivalent of a cash subsidy for partisan political activity," and has conferred a competitive advantage on that church in comparison with other religious bodies which do not violate the law.

Despite earlier success at the federal district court level, the Second Circuit ruled 2-1 in September 1989 that the plaintiffs lacked "standing" to bring the suit, both as taxpayers and as clergy of competing religious bodies. In a dissenting opinion, circuit judge Jon O. Newman said plaintiffs should not be required to break the law themselves in order to have legal standing as "competitors."

The Supreme Court's action in this case is similar to that in the case which a wide spectrum of religions and individuals (including ARL's executive director) sought to challenge the constitutionality of former President Reagan's precedent-shattering establishment of formal diplomatic relations with the Catholic Church. In both cases there is apparently no way for anyone to successfully challenge government actions which probably violate the First Amendment.

In the wake of the Supreme Court action in *ARM v. USCC*, we can expect more and more religious bodies to get into the electoral process, if for no other reason than to offset the influence of the Catholic Church hierarchy's involvement in politics. (Please note that we refer to the church's hierarchy and not to its rank and file members, who are divided on abortion rights and most other political issues while lacking control over their church's papal-appointed hierarchy.)

Religion will become increasingly politicized. Politics will increasingly intrude into religion, adding to strains and stresses within faith groups. Political division along religious lines will grow, damaging both interfaith harmony and the political process. The Reaganized Supreme Court evidently forgot, or disagreed with, an earlier and wiser Court which held that one of the purposes of the First Amendment is to prevent political division along religious lines.

Religious bodies and other tax-exempt organizations which
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Ulster and the U.S.

Northern Ireland's "troubles," the animosity and violence between the Catholic and Protestant communities, have ancient and complex roots. But one thing is clear: the sectarian mistrust and hostility remain in large measure today because children are religiously segregated during their entire educational lives, and British policy, since the early 1920s in Northern Ireland and in the rest of the U.K. since the mid-1800s, has fostered and subsidized the segregation.

Striving mightily to wind down religious segregation in education is a group called All Children Together (13 University St., Belfast) which for 15 years has promoted school integration. Polls have shown that five out of six people in both the Protestant and Catholic communities either support or would accept religious integration. Under a 1989 Education Reform Order by the U.K. government, applicable to Northern Ireland, religiously integrated schools will be eligible for 100% government grants for capital funding and given priority for new building and extensions. Religiously segregated schools will receive only 85% government grants for capital spending.

But just as Catholic Church officials opposed common schooling when Northern Ireland was separated from the Republic of Ireland in the early 1920s, so now Catholic Church officials are threatening to sue the government to block this very mild reform measure. They are demanding 100% subsidies for religious segregation and indoctrination in education.

Northern Ireland will have to solve its own problems, but we in the U.S. can learn something from its plight. Sectarian special interests in this country, despite a long string of setbacks, are still trying to get tax support for private sectarian schools. Having failed to significantly breach the wall of separation guarding public education and religious liberty, they are trying to tunnel under the wall by getting Congress to provide tax support for sectarian day care centers and to exclude such centers from regulations barring sectarian indoctrination and selectivity in hiring and admissions. These interests are also promoting the idea of school choice to soften politicians, the public, and educators to the idea of eventually including sectarian private

schools in public funding.

We must not forget for a moment the lesson Northern Ireland has to teach, that tax support for private sectarian schools is sure to divide society and reduce interfaith good relations. Since the U.S. is 166 times larger in population and far more complex than Northern Ireland, tax support for sectarian and other private schools here would mean the complete fragmentation of our school population along religious, ethnic, ideological, social class, and other lines. As Madison warned, it is proper to take alarm at the first experiment on our liberties. ■

Vatican Deficit

In March the Vatican announced a budget deficit of \$85 million for 1990 and urged Catholics to increase their donations. This is all very interesting, for the Catholic Church is the beneficiary of a truly enormous amount of tax subsidies in the leading industrial countries. Catholic schools and other institutions receive generous tax support in Canada, Britain, Northern Ireland, Spain, France, Belgium, the Netherlands, and Australia. In West Germany about a "tithe" of each citizen's federal taxes goes to the church of which he/she is a member. Even in Norway the Catholic Church gets a share of tax funds. In Spain one-third of taxpayers designate the Catholic Church to receive a small portion of their taxes (two-thirds opt against giving the church that tax support).

In the U.S., Catholic elementary and secondary schools receive tax-paid services and goods annually worth at least \$500 million. Church hospitals, charities, and colleges also receive large amounts.

Then, too, as Catholic priest-sociologist Andrew Greeley has pointed out, U.S. Catholics donate to their church at only half the rate of Protestants, despite the fact that U.S. Catholics have family incomes averaging about 20% higher than Protestants. Greeley attributes this difference in donations to widespread

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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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ARL in Action

In the Courts

In May Americans for Religious Liberty joined with more than 50 medical, health, religious, women's, and other groups in an *amicus curiae* brief to the U.S. Supreme Court in *Rust v. Sullivan*. The case involves the Reagan administration's 1988 cutoff of federal aid to family planning and reproductive health services under Title X of the Public Health Service Act. The program had provided about \$140 million annually to 4,000 family planning clinics serving 4.3 million women per year, 85% of them poor women. The Reagan administration cut off funding for all facilities which provided any information about abortion. The *amicus* brief urges the Supreme Court to review the Second Circuit's ruling upholding the cutoff. The brief says that the Reagan cutoff and the lower court ruling jeopardize the health of women, interferes with the integrity of the physician-patient relationship, and severely diminishes the availability of quality of health care for low-income women.

ARL has joined with 12 religious and health organizations in an *amicus curiae* brief to the Tennessee Court of Appeals in *Davis v. Davis*. The case involves a controversy over custody of seven frozen embryos produced through *in vitro* fertilization. The *amici* take no position on which party gets custody of the embryos, but are challenging the trial court's holding that "human life begins at the moment of conception." The brief argues that according legal rights to frozen embryos violates constitutional and state law precedents, and also violate constitutional rights to privacy, liberty, and free exercise of religion.

ARL has also joined in an *amicus* brief, with other groups in the National Coalition for Public Education and Religious Liberty, in *Pulido v. Cavazos*. The Missouri case, now on appeal to a federal circuit court of appeals, involves whether or not mobile vans may be parked on the street near parochial schools to provide federally funded remedial services to parochial school students. A district court ruling in December held that the mobile classrooms could not be placed on

parochial school property but could be placed immediately adjacent to it. The court also held that costs of the mobile classrooms could not be paid in such a way as to diminish the proportion of federal aid going to public school students.

ARL joined with the American Jewish Congress and 22 other organizations in the National Coalition for Public Education and Religious Liberty in April in an *amicus curiae* brief to the Eighth Circuit U.S. Court of Appeals in a public school Bible reading case. The federal district court for Western Arkansas last year ordered the Gravette, AR, school district to halt school Bible readings by community volunteers. The school district appealed the ruling, claiming that the Bible readings had nothing to do with religion and was merely intended to teach moral values.

Since our last report, ARL president John M. Swomley has spoken before college, high school, church, and conference audiences in Modesto, Sacramento, Chico, Berkeley, Santa Cruz, and Albany, CA. In April he debated parochialism at a forum sponsored by Vanderbilt University Law School in Nashville, TN, and abortion rights at the Republican Club of Northeast Missouri State University with Sam Lee, architect of the Missouri abortion restriction law upheld by the Supreme Court last year in *Webster*. He delivered an address on freedom of conscience at the memorial service for federal judge John Oliver at All Souls Unitarian Universalist Church in Kansas City.

ARL executive director Edd Doerr has spoken before college, conference, and church audiences in St. Petersburg, St. Augustine, Ormond Beach, Cocoa, and Boca Raton, FL, Bethesda, MD, San Diego, Riverside, and Los Angeles, CA, and Southbury, CT. He also appeared on radio talk shows in Harrisburg, PA, West Palm Beach, FL, San Antonio, TX, Washington, DC, and Los Angeles, CA.

ARL treasurer Ken Gjemre and his firm Half Price Books, the largest chain of used book stores in the U.S., were the subject of a *Newsweek* feature article on May 28.

Churches and Politics, *continued from page 1*

obey federal tax law will be at a competitive disadvantage compared to churches actively involved in electioneering.

It is always possible, of course, that ecclesiastical politicking will backfire, alienating voters of all faiths. That appears to be what happened when San Diego Catholic bishop Maher publicly withheld communion from Catholic Assemblywoman Lucy Killea when she supported freedom of conscience on abortion in her recent campaign for a state Senate seat. Maher's high-handed action turned what was sure to be a loss into an electoral win. On the other hand, Archbishop Anthony Apuron of Guam reportedly threatened to excommunicate any Catholic legislator who did not vote for a stringent anti-abortion bill: the lawmakers gave in to the pressure.

As religious liberty, freedom of conscience for women, and church-state separation will face new threats from the stepped-

up intrusion of the Catholic bishops into political campaigns, citizens of all persuasions who value freedom and civil liberties will need to increase their own participation in the political process. ■

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Vatican Deficit, *continued from page 2*

dissatisfaction with the way their church is run and to their church's opposition to contraception.

As Ben Franklin put it two centuries ago, there is something terribly wrong with a church "when it does not support itself and God does not support it, so that its professors are obliged to call for the help of the civil power." What would Ben have

thought of a church which cannot support itself even with massive help from the "civil power"? ■

MOVING?

Send both old and new addresses with both old and new zip codes to **ARL, Box 6656, Silver Spring, MD 20916.**

Update

Reproductive Rights

On May 21 the U.S. Supreme Court left standing, without comment, a New York federal appellate court ruling upholding \$69,000 in fines levied against Randall Terry and his anti-choice group Operation Rescue. The fines had been imposed after Operation Rescue demonstrators repeatedly violated court orders prohibiting them from blocking access to clinics during anti-choice protests aimed at shutting down the clinics. The appeals court held that, "There is no constitutional privilege to assault or harass an individual or to invade another's personal space." The suit, *Terry v. New York State NOW*, was brought by the National Organization for Women under the 1871 Ku Klux Klan Act, which bars conspiracies designed to deprive a class of people of their rights. The appeals court held that, "As conspiracies directed against women are inherently invidious and repugnant to the notion of equality of rights for all citizens, they are therefore encompassed under the act."

On May 14 the Supreme Court declined, by a 5-4 split, to lift a March 29 court order barring anti-choice protesters in Atlanta from blocking access to clinics and harassing patients. The issue is still before the Georgia Supreme Court.

"Severe negative reactions are infrequent in the immediate and short-term aftermath, particularly for first-trimester abortions," according to a survey of "scientific studies on psychological responses to legal, nonrestrictive abortion in the United States," reported an article in the April 6 issue of *Science*. "Severe negative reactions after abortions are rare and can best be understood in the framework of coping with a normal life stress." In a related development, on May 15 a panel of leading psychiatrists reported that governmental restrictions on abortion are far more likely to cause women lasting harm than the procedure itself.

The National Conference of Catholic Bishops (NCCB) has hired the Hill and Knowlton public relations firm and the Wirthlin Group polling firm to help its nationwide campaign against freedom of conscience on abortion. The Knights of Columbus, a Catholic fraternal group, has indicated it will contribute \$3 million to the \$5 million campaign. A large number of Hill and Knowlton employees immediately objected. One-third of H&K's 400-person New York staff sent a petition to H&K president Dilenschneider protesting the decision to represent the bishops. "We should not be representing any group in its advocacy of a position which would restrict the fundamental rights of all of us as Americans," the petition said. Several H&K employees have offered to provide free service to pro-choice groups.

The U.S. Agency for International Development (AID) budget request to Congress for 1991 is \$26 million less than the \$220 million Congress appropriated for 1990 for family planning aid, though population experts say much more is needed. The Bush administration announced in February that the U.S. will not make a 1990 contribution to the United Nations Population Fund for the fifth straight year.

The French abortion pill, RU-486, has a 96% success rate and is quite safe to use, according to a report in the *New England Journal of Medicine* on March 8.

On April 26 Chicago federal district judge Ann C. Williams struck down an Illinois law barring fetal research, describing it as so broad it

prohibited a woman from getting advanced treatment for infertility or fetal genetic screening. She held that the law "is unconstitutional because it restricts a woman's fundamental right to make reproductive choices free from governmental interference." Two dozen other states have similar laws.

In April a group of moderate and conservative Republicans formed a group to mount a campaign to change their party's official anti-choice stance. Republicans for Choice head Ann Stone says the group hopes to raise \$1.5 to \$3 million to support pro-choice Republican candidates.

An estimated 200,000 anti-choice demonstrators held a rally in Washington, D.C., on April 28. Both President Bush and Vice-President Quayle told the demonstrators that they supported the denial of abortion rights to women. The rally attracted about one-third as many people as attended the pro-choice demonstration in Washington in April 1989.

Government-funded family planning and contraceptive services save taxpayers \$1.8 billion a year and prevent 1.2 million unintended pregnancies, nearly half of which would end in abortions, a study by the Alan Guttmacher Institute has found. The savings represent money that would have to be spent on medical, welfare, and nutritional services required by law for poor women who have unplanned pregnancies.

Pennsylvania's 18 Catholic bishops issued a "pastoral letter" in April insisting that all Catholic legislators adhere to the bishops' position opposing abortion. House Speaker Robert O'Donnell, a Catholic who has voted pro-choice, said that "duty as a public official is separable from one's duty to God in some ways." Rep. John F. Pressman, also a Catholic, who supports choice, said, "If I am correct or incorrect in my posit, I will be judged in heaven—or not—by my Lord Jesus Christ and not by the bishops and priests that are on this earth."

Connecticut Governor William A. O'Neill signed into law on April 29 a law incorporating the Supreme Court's 1973 *Roe v. Wade* ruling into state law.

Guam's new anti-abortion law is being challenged in court by the ACLU. The law was passed by the territorial legislature after the Catholic archbishop threatened to excommunicate any legislator who voted against the bill. Only one of Guam's senators is not Catholic.

Church "Misuses" U.S. Aid

Catholic Church officials in India have apparently "misused" millions of dollars worth of U.S. government donated food intended for malnourished mothers and children, according to a report by Price Waterhouse, an accounting firm which audited the program for the U.S. Agency for International Development (AID). About a third of U.S. food donated to India is distributed by Catholic Relief Services (CRS), said by the Price Waterhouse report to have failed to adequately monitor the food distribution. U.S. officials are saying they believe the problems uncovered by Price Waterhouse are "serious and widespread." The report found that at 79 out of 84 CRS food distribution centers in India, measuring devices for giving rations to poor people gave short weight, thus reducing the food ration by 15% to 20%. Price Waterhouse estimated losses from the short weights at \$3 to \$4 million during fiscal 1987-88. U.S. officials said they were not persuaded that the errors uncovered were largely innocent, as CRS claims.

Church-state separationists have long questioned why U.S. aid should be routed through sectarian agencies instead of public or at least religiously neutral agencies.

Supreme Court Actions

On May 21 the Supreme Court unanimously ruled that Mormon parents may not take a charitable or religious tax deduction for money spent to support their children during the young people's church-required period of missionary duty. The decision in *Davis v. U.S.* reinforced the IRS interpretation of the tax code. Justice O'Connor's opinion said that to allow the deductions "would create an opportunity for tax evasion that others might be eager to exploit."

On April 16 the Court declined without comment to review a 1989 Eighth Circuit U.S. Court of Appeals ruling upholding the Purdy, Missouri, ban on public school dances. Students and parents challenging the ban said it violated church-state separation because its motivation was sectarian and clergy took a leading role in blocking a revocation of the ban. Dissenters in the appellate ruling in favor of the ban said that "this is a case about religious tyranny."

On April 23 the Court overturned a Minnesota Supreme Court ruling that had exempted an Amish group from obeying a law requiring reflecting triangles on the rear of slow-moving vehicles. The state court had held that the state's compelling interest in highway safety could be served by putting silver reflection tape on the edges of horse-drawn buggies. The Court ordered the Minnesota court to reconsider its ruling in *Minnesota v. Hersberger*, in the light of the Court's April 17 peyote ruling.

Also on April 23 the Court declined to review a federal appellate court ruling, *St. George v. Foremaster*, that a Utah town, St. George, could not constitutionally subsidize a Mormon temple's electric bills.

Posthumous Victory

In an important, precedent-setting decision, the D.C. Court of Appeals ruled 7 to 1 on April 26 that lower courts had erred in affirming an emergency order that required a dying pregnant woman to undergo a Caesarian section to try to save the life of a 26-week fetus. The surgery was performed on Angela Carder on June 16, 1987, over the objections of Carder, her family, and her physicians. The baby died within three hours; Angela Carder died two days later.

The court held that "in virtually all cases the question of what is to be done is to be decided by the patient—the pregnant woman—on behalf of herself and the fetus. If the patient is incompetent or otherwise unable to give an informed consent to a proposed course of medical treatment, then her decision must be ascertained through the procedure known as substituted judgment." The court added that "a fetus cannot have rights . . . superior to those of a person who has already been born."

Lynn Paltrow and other ACLU Reproductive Freedom Project attorneys organized the appeal. Americans for Religious Liberty was among more than 100 groups and individuals which filed *amicus* briefs on behalf of the Carder family in the suit, *In re A.C.*

Pat Robertson's New "Christian Coalition"

Phoenix-like, televangelist Pat Robertson's new "Christian Coalition" has risen from the ashes of his own failed 1988 presidential campaign and Freedom Council and Jerry Falwell's defunct Moral Majority. The new group, which claims 25,000 members and a first year budget of \$1.5 million, says its aims include outlawing abortion, legalizing government sponsored group prayer in public schools, keeping religious symbols on public property, and protesting films and TV programs that "defame our Lord." The group is not tax exempt and thus may engage in unlimited political action.

Christian Coalition has been endorsed by such ultraconservative

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activists as Southern Baptist Rev. Charles Stanley, Rev. D. James Kennedy, Concerned Women of America's Beverly LaHaye, and Rev. Michael Scanlan, president of the maverick Catholic charismatic University of Steubenville in Ohio.

The coalition's executive director, Ralph Reed, 29, former head of the College Republican National Committee, says that, "What Christians have got to do is take back this country, one precinct at a time, one neighborhood at a time and one state at a time." The coalition is largely being developed from Robertson's campaign mailing list of 1.8 million households.

Robertson's group won a victory in March in Irvine, CA, when it got the city to reverse a municipal policy of requiring clergy not to mention "particular deities or even their religion" when opening city council meetings with prayer.

Parochial

In March Kentucky federal district judge Charles M. Allen ruled unconstitutional the U.S. Department of Education policy of spending more for remedial education of parochial school students than for public school students. Allen ruled in *Barnes v. Cavazos* that the "off the top" method of allocating federal funds, under which parochial schools were given preference over public schools, "reduces the amount of funds available for public school students by over \$187,000." As in the similar Missouri ruling in December in *Pulido v. Cavazos*, the Kentucky court upheld the provision of remedial services to parochial schools in mobile classrooms located adjacent to the church schools, even though this segregates students by religion.

On March 27 Louisiana federal district judge Frederick J.R. Heebe, in *Helms v. Cody*, struck down federal and state programs of providing educational materials and equipment to parochial schools.

The Illinois legislature is considering a voucher plan for state aid for parochial schools, up to \$120 per student, even though 20% of the

Update, *continued*

state's public school districts are in financial trouble. The bill would also permit more choice among public schools, though apparently only for families who can afford the extra transportation costs.

Colorado parochiaiders are trying to initiate a state constitutional amendment to allow state support for parochial schools under a voucher plan.

Falwell Wins

A Lynchburg, VA, municipal judge has approved \$60 million in tax-free industrial development bonds for televangelist Jerry Falwell's Liberty University. The special treatment for LU is expected to save Falwell's enterprise \$2 million per year in interest.

David Lipscomb University, a fundamentalist institution in Nashville, TN, is seeking approval for a similar \$15 million tax-free bond issue. Americans for Religious Liberty, ARL member Harold Steele, and others are protesting the proposal.

Boy Scouts Sued

Elliott Welsh and his son Mark filed suit against the Boy Scouts of America in March, charging religious discrimination. The Welshes say that the Scout oath "to do my duty to God" discriminates against their religious views in violation of the 1964 Civil Rights Act. In 1970 Welsh won a Supreme Court ruling that acknowledged the right of persons to be military conscientious objectors without having a religious affiliation.

Bush's Judges

According to White House counsel C. Boyden Gray, the Bush administration is following the Reagan administration policy of appointing only conservative judges to federal courts. "It's structured a little differently," Gray told the *New York Times*, "but the result is very much the same."

Con Con Developments

A national constitutional convention, which could result in serious weakening of the Bill of Rights, remains an issue in several state legislatures. If 34 legislatures pass the necessary resolutions, Congress must call a convention to consider changing the Constitution. At one point 32 states had passed the resolutions, but Florida and Alabama have withdrawn theirs. Rescissions were attempted in 12 states this year, and the efforts are still pending in Colorado, Delaware, Pennsylvania, and South Carolina. Pro-convention resolutions are pending in Massachusetts, New Jersey, Ohio, Rhode Island, Wisconsin, and California.

U.S. School Spending Low

The U.S. ranks 14th out of 16 industrial countries in spending on elementary and secondary education, according to a study released in January by the Economic Policy Institute, which ranked countries by the percentage of per capita income spent on K-12 education. Sweden ranked first, with 35.3%, followed by Austria, Switzerland, Norway, Belgium, Denmark, Japan, Canada, West Germany, France, Netherlands, United Kingdom, and Italy. The U.S. spent 20.5% per capita income on K-12 education. Ranking behind the U.S. were Australia and Ireland.

City Seal Unconstitutional

Chicago federal judge James Zagel ruled in February that the Zion City, IL, city seal is unconstitutional. The seal, which incorporates a

cross, a scepter, a crown, a dove with an olive leaf, all biblical symbols, and the motto "God reigns," reflects the founding of the town in 1900 largely by members of the Christian Catholic Church. The town's original city council was made up entirely of members of the Theocratic Party. The ruling is being appealed.

Mormon Veto

The Utah House Education Committee has rejected a bill to require a third year of mathematics for high school graduation largely because the Mormon Church pulls students out of schools for "released time" religious instruction for one hour each day. Utah is at least 67% Mormon.

Falwell Honors Bush

President George Bush accepted an honorary doctor of humanities degree from televangelist and former Moral Majority leader Jerry Falwell's Liberty University on May 12. Bush used the occasion to reiterate his support for a constitutional amendment to authorize government sponsored prayer in public schools.

Columnist Cal Thomas, a former Moral Majority official and "special guest" at the ceremony honoring Bush, rejected the suggestion that Bush spoke at the LU graduation in order to "throw a bone" to the Religious Right.

Courtroom Prayers Challenged

Five Charlotte lawyers and the North Carolina Civil Liberties Union are suing in federal district court to halt state judge Bill Constangy's custom of opening court each day with a recited prayer.

Moonie Money

A Jewish former employee of the True Nature Health Food Store in Illinois has been awarded a \$30,000 settlement from the store's parent company. Store workers had been pressured to join Rev. Sun Myung Moon's Unification Church.

International

Madrid: On February 21 the Spanish government signed an agreement placing the Jewish and Protestant faiths on an equal basis with Catholicism. Justice Minister Enrique Mugica, who is Jewish, indicated that the Socialist Party government is planning a similar agreement with Muslims. There are about 15,000 practicing Jews and 60,000 active Protestants in Spain. About 80% of Spain's 40 million people are considered Catholic, but fewer than 30% are practicing.

Letter

Dear Edd Doerr:

On behalf of myself and the students in our class, thanks much for taking time and sharing your opinions with us on the church-state problem. The students were very impressed with your informative, easy, informal presentation. It was a good conclusion to the semester.

Robert F. Carberry
Associate Professor Social Sciences
Flagler College
St. Augustine, FL

fewer still attend church regularly, and only a third opt to allow the Catholic Church to collect from the government about 0.5% of their income taxes. The percentage of Spaniards who are nontheists or humanists is among the highest in Western Europe, though they are not organized.

The new agreement finally overturns the 1492 decree of King Ferdinand and Queen Isabel, the "Catholic Monarchs," ordering the advancement or expulsion of the country's large Jewish and Muslim populations. Under the agreement, which reinforces the guarantee in Spain's post-Franco 1978 Constitution of "freedom of ideology, religion and worship" and accords equal status for all groups, Jews and Protestants can negotiate with employers regarding religious holidays, will be entitled to instruction in their own religions in public schools and the armed forces (where Catholic worship is still compulsory), will have religious weddings recognized as having civil effects, and Jewish and Protestant faiths will qualify for tax exempt status and their clergy will qualify for social security benefits.

The Jewish and Protestant groups, however, declined to take advantage of the arrangement whereby about 0.5% of an individual's federal taxes may be designated for church support. Protestant leader Jose Cardona said that a nonconfessional state should not subsidize any religion.

Meanwhile, the conservative new head of the Spanish Catholic bishops, Cardinal Angel Suquia, has begun attacking government plans to further liberalize abortion laws.

Mexico City: In his visit to Mexico in May, Pope John Paul II urged a religious test for public offices (no unbelievers need apply), denounced birth control (in a country struggling valiantly to reduce its population growth rate from 3.5% in 1975 to 2% today), sharply criticized Mexicans who switch from Catholicism to Protestantism, and demanded an end to the country's constitutional ban on church-run schools. Mexico's constitution is mildly anti-clerical in reaction to previous church abuses.

London: Britain's High Court on April 9 rejected an appeal by British Muslims that Salman Rushdie, author of the controversial novel *The Satanic Verses*, be prosecuted for "blasphemy," ruling that British "blasphemy" law applies only to Christianity, not to any other religion. On April 24 the House of Commons shortened the time limit for legal abortions from 28 to 24 weeks.

Lagos: Nigeria's new constitution provides that Muslim Shari'a religious courts will not have jurisdiction over non-Muslims. Another clause in the new charter stipulates that "the government of the federation or of the state shall not adopt any religion as a state religion."

Brussels: In April the Belgian Parliament legalized abortion during the first trimester if a physician deems a woman to be in "a state of distress." That leaves Ireland as the only country in Western Europe which totally outlaws abortion.

Tokyo: Japan's Parliament in April reduced the time limit on legal abortions from 24 to 22 weeks, apparently in an effort to increase population growth.

Miscellaneous

The Religious Newswriters Association has given its first "Into the Darkness Award" to the National Conference of Catholic Bishops. The award was created by the RNA to recognize "that individual or group in religion that has done the most during the year to stifle the people's right to know."

Gideons International has agreed to stop distributing Bibles in Rapides Parish (County) public schools in response to a parental complaint and the threat of a lawsuit by the Massachusetts-based group The Freedom Writer.

Cleveland, OH, judge Robert J. Corts has ordered the words "in the year of Our Lord" removed from civil marriage certificates.

In May the U.S. Fourth Circuit Court of Appeals in Richmond, VA, struck down North Carolina's sales tax exemption for Bibles, holding that the exemption "forces the state to discriminate on the basis of the contents of a book, . . . which is intolerable under the First Amendment."

Books

Abortion and Divorce in Western Law: American Failures, European Challenges, by Mary Ann Glendon (Harvard University Press, \$10.95, 197 pp.)

Harvard law professor Glendon's book is a strange mix of good and bad. Her factual data on U.S. and Western European abortion and divorce law are most useful, as is her discussion of the failure of U.S. family law to provide as adequately for children and the poor as Western European laws. Where she is wildly wrongheaded is in her prescription for American abortion law, aired not only in this book but also on Bill Moyers' TV show and in *The New Republic*. Glendon blasts the U.S. Supreme Court for recognizing a constitutional right to freedom of conscience on abortion, preferring instead the European way of regarding abortion as a matter for legislative compromise and of legislatively-conferred privilege, which can be taken away or modified. Glendon suffers from a severe case of legal tunnel vision. She shows no understanding of American poll findings, neglects to mention the significance of Italy's abortion referendum, overlooks what science and history have to say about the controversy, totally ignores the church-state and religious liberty angles, cites European compromise legislation without describing how or why the compromises were arrived at, confuses morality with legality, and betrays no hint that she knows anything about the women's rights movement. Though her book was published before the Supreme Court's 1989 *Webster* ruling, Glendon clearly prefers the Borkian, moral majoritarian "solution" of allowing each state to inhibit the fundamental right to reproductive choice as its male-dominated legislature sees fit, even though this would mean that a woman's rights could change radically each time she crosses a state line.

With "friends" like Glendon, women need no enemies.

Edd Doerr

Abortion Rights

Facts on Reproductive Rights: A Resource Manual (NOW Legal Defense and Education Fund, 99 Hudson St., 12th Floor, New York, New York, 10013; \$14.95 plus \$2 for postage and handling) is an up-to-date, as of December 1989, encyclopedic compendium of information on the abortion rights issue. It covers the *Webster* ruling, new Supreme Court challenges, parental consent and notification laws, contraceptive failure rates, violence against clinics, phony abortion "clinics" run by anti-choice activists, and related issues. *Facts* is an excellent resource for debaters, writers, journalists, and just about anyone with a question on the subject. The only two subjects not dealt with are the psychology and motivations of the anti-choice activists and the question of fetal "personhood," the subject of the ARL sponsored book, *Abortion Rights and Fetal Personhood*.

Over Our Live Bodies: Preserving Choice in America, by Shirley L. Radl (Steve Davis Publishing, Box 190831, Dallas, TX 75219, \$7.95 plus \$1.50 for postage and handling) is a punchy defense of choice. The author shows how conditions were for women before *Roe* in 1973, why defending choice is important, and what people can do to help defend choice.

Edd Doerr

The Catholic School, by Harold A. Buetow (Crossroads Publishing, \$24.50, 422 pp.)

With the debate over tax aid for sectarian private schools still raging, this book by a priest-professor at Catholic University of America (an institution run directly by the bishops) is somewhat informative. The author unabashedly shills for tax aid for his church's schools while at the same time making it abundantly clear that they are pervasively sectarian institutions serving ecclesiastical purposes. Yet while Buetow is clear on the parochial school operating philosophy and his church's demands for tax aid, his legal arguments are full of errors and often silly. His book, woefully short of facts despite 65 pages (sic!) of footnotes, offers few

statistics and ignores the state referenda which have consistently demonstrated public opposition to parochialism. The author completely ignores the more than 75% of U.S. Catholic students who attend public schools and the reasons why, in both actual numbers and percentages, Catholic school enrollments have declined by half during the generation since Vatican Council II. He also neglects to describe the sort of feudal society the U.S. would degenerate into if he and his church's leaders succeeded in undermining the constitutional wall of separation between church and state.

Edd Doerr

Resources

Available from ARL, Box 6656, Silver Spring, MD 20916.

Abortion Rights and Fetal 'Personhood,' edited by Edd Doerr and James W. Prescott. The *must read* resource in the struggle to preserve freedom of conscience. (\$12.95, plus \$1.50 for postage and handling.)

ARL's amicus curiae brief to the Supreme Court in *Webster* on behalf of Nobel laureates and other scientists. (\$5, includes postage.)

Religious Liberty and the Secular State, by ARL president John M. Swomley. A clearheaded, authoritative response to 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 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 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.)

Voices for Evolution, edited by Betty McCollister. Statements and resolutions on "creationism," evolution, science, and school policy by scientific, educational, and religious organizations. (\$5 plus \$1.50 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.)

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 \$1 for postage and handling.)

James Madison on Religious Liberty, edited by Robert S. Alley. Madison's own writings plus authoritative essays analyzing their importance. (\$17.95 plus \$2 for postage and handling.)

Protestants and the Mexican Revolution, by Deborah J. Baldwin (University of Illinois Press, \$26.95)

Mexico's tiny Protestant community, which first received religious freedom under the Constitution of 1857, strongly supported Mexico's liberal revolution of 1910. Protestants saw political change as the way to create a better society, particularly in education. Protestants had suffered harassment and persecution, including nearly 100 martyrdoms, during the long dictatorship of Porfirio Diaz. But they persisted in building many schools and creating good will for themselves among liberal reformers, who wanted, among other things, to break the Catholic Church's monopoly on religious matters. Protestants were so enthusiastic for political change that they accepted the 1917 Constitution's restrictions on many aspects of religion's public role, while the Catholic hierarchy bitterly denounced them.

Professor Baldwin concludes that "Nineteenth Century Mexican liberalism found these Protestant churches acceptable as a symbol of progress, as a vehicle to promote education, and as a religious alternative distant from the Catholic hierarchy."

Baldwin's book is admirably researched and well written.

Al Menendez

Jim and Tammy, by Joe L. Barnhart (Prometheus Books, \$18.95)

Those interested in the rise and fall of TV evangelists Jim and Bakker, and their place in the whole context of modern Pentecostalism, will enjoy Barnhart's lively account. The author's thesis: "The success of televangelists lies largely in their being parasites on family culture and morality. Far from providing a foundation for morality, they have gained for their religion a free ride on the back of the family culture that most Americans embrace."

Al Menendez

The Fundamentalist Phenomenon, edited by Norman J. Cohen (Eerdmans, \$14.95)

Here is an excellent volume for readers who wish to keep abreast of the rising tide of fundamentalism in Protestantism, Catholicism, Judaism, and Islam today. These 15 essays by a varied group of academics, writers, clergy and theologians were originally presented at a 1988 conference at Hebrew Union College in New York. Two chapters are especially noteworthy: David Saperstein on fundamentalist involvement in recent U.S. politics and Patrick Arnold on the frequently-ignored reemergence of fundamentalism in the Catholic Church.

Al Menendez

Americans for Religious Liberty

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