

Church, IRS Collide over Meaning of 'Church'

When does a church engage in "exclusive religious" activity?

The question has touched off a storm of protest from the churches, because the Internal Revenue Service is trying to answer it.

And that, say the churches, is none of Uncle Sam's business.

The issue arises from a new IRS regulation interpreting the Tax Reform Act of 1969. It requires many church-related institutions to file financial statements with the government, although it exempts churches themselves and "integrated auxiliaries" of churches.

According to the regulation, which was published in the Federal Register of Jan. 4, "an organization affiliated with a Church will be considered an integrated auxiliary if the principal activity of the organization is exclusively religious."

The rule further explains that an activity will not be considered to be exclusively religious if it is primarily of an educational, literary, or charitable nature.

IRS officials have indicated that men's and women's clubs, mission societies and seminaries would qualify for definition as integrated auxiliaries. Such operations as hospitals, orphanages and homes for the aged would not. Those not considered integrated auxiliaries would still be tax-exempt, but would have to file financial disclosure reports each year.

In response to questions, the IRS has issued a memorandum which lists several characteristics representative of a church. The memo, which is an unofficial definition that does not have the force of law, indicated that the definition of a church "must be interpreted in light of the common understanding of the word" for purposes of applying the Internal Revenue Code.

One of the objections raised by religious leaders is that the churches, rather than the government, should define their nature.

The Governing Board of the National Council of Churches had declared that "it is the responsibility of 'religion' and 'churches' to define themselves and their activities. It says that Congress and the courts have traditionally honored the First Amendment without attempting to define 'religion' or 'church.'"



According to the NCC resolution, "Efforts to spell out a definition of 'church' or 'religion' may have the effect of freezing in law the forms of one particular period rather than allowing the continuous evolution of forms to fit changing circumstances. Furthermore, by defining the nature of 'religion' or 'church,' government takes the first and most insidious step toward the structuring a sacred area where it has no power to legislate."

Father Charles M. Whelan, SJ, a law professor at Fordham University who has represented the U.S. Catholic Conference in legal affairs, asserts that the IRS regulation "implicitly defines 'church' in a very narrow way."

He notes that "the regulation implicitly excludes the social, charitable, educational and welfare activities of a church from the concept of church functions. And that portends a lot of trouble if the IRS were to make explicit what they have implicitly done. It would be very bad for the churches."

There have been some misinterpretations of what the new regulation requires, particularly with regard to schools. An explanation published with the text of

the regulation in the Federal Register suggests that church-related schools could be exempt from filing provisions, although some would have to apply for the exemption.

The explanation says that "the final regulation also excludes educational organizations below college level that are associated with a church from the filing requirements" under discretionary power granted to the Secretary of the Treasury.

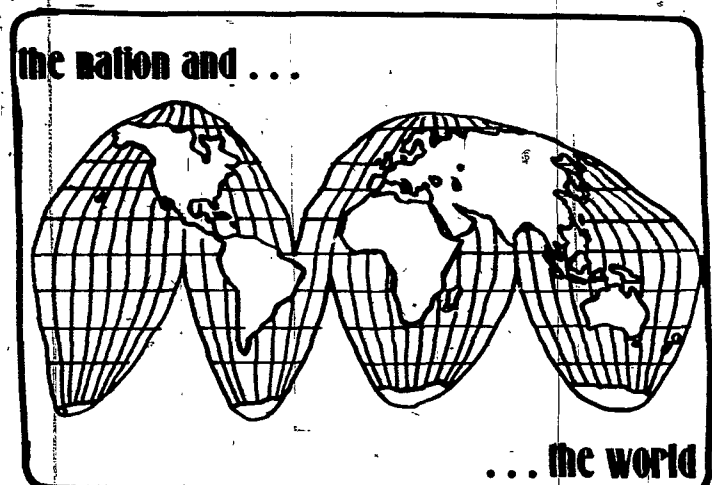
The Office of the General Counsel of the U.S. Catholic Conference stated in an advisory for the bishops that parish schools will not have to file the federal reports, and that separately incorporated schools will also be exempt.

Some religious leaders have suggested that any enterprise operated by a church is directly related to religion. Walter Jensen, director of business and finance for the Lutheran Council in the USA, says, "When a church operates a hospital or a home or whatever, its concern transcends giving (only) physical care. It is not right for government to dictate that certain of our institutions are no longer an integrated part of the church because they fail to meet certain political and secular standards developed by humans not sensitive to the historical mission of the church."

The possibility that financial records of church-related operations will be open to public scrutiny under the IRS regulation has also been criticized. E. Mallary Binns, a spokesman for Americans United for Separation of Church and State, maintains that "it is improper for an orphanage or a hospital, for example, to have to fill out a form that makes it a matter of public record what salaries they are paying. It is not the public's business to know about the internal operations of a church."

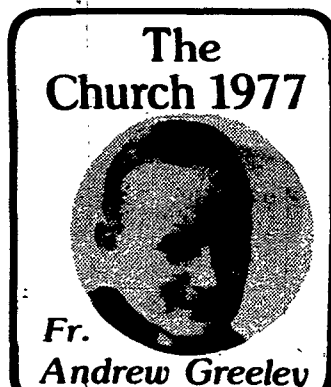
As a practical matter, most observers acknowledge that there has to be some accepted definition of a church if it is to be exempted from income tax. But the problem is who will make that definition.

It will probably take a court case to determine whether the IRS can constitutionally define what is a church and use that definition to apply the Internal Revenue Code. For the present, however, there seems to be universal assent to the position taken by John Baker of the Baptist Joint Committee that "the churches have not agreed and cannot agree with the proposition that the state is competent to develop a definition of a church into which each member of the diverse religious community must fit."



Uganda's President Idi Amin has declared that he will not allow an international commission into his country to investigate the deaths of Anglican Archbishop Janani Luwum and two Anglican cabinet officials. Pope Paul, calling attention to a litany of woes throughout the world, urged the Christian faithful not to lose heart but to renew their faith and hope in the promise of Easter, despite "disasters" in the world. The Rhodesian Roman Catholic Bishops Conference has sharply criticized the government of Prime Minister Ian Smith for its decision to deport one of the conference's members, Bishop Donal R. Lamont of Umtali. The bishops said it would be wiser for Smith to seek Bishop Lamont's counsel than to deport him.

Sol Linowitz, retired head of the Xerox Corp. and a member of the team that is negotiating a new U.S.-Panama treaty, was awarded the fifth annual Charles E. Wilson Memorial Award from Religion in America, an interreligious organization that prepares public service messages on the meaning of faith in society. Deprogrammer Ted Patrick has been freed from prison by a Superior Court judge here after seven months on his one-year sentence for probation violation in a Denver case and for unlawful imprisonment of a member of the Hare Krishnas. The General Council of the Adrian (Mich.) Dominican Sisters have purchased advertising space in the National Catholic Reporter and the New York Times to ask the U.S. bishops to place the question on their 1980 agenda.



A great debate is beginning to emerge within the progressive wing of American Catholicism about the role of the church in public life and the mission of Catholic colleges and universities. The debate came into the open at a recent meeting in New Orleans on the response of Catholic colleges and universities to the bicentennial "Call to Action." The principal papers were given by Archbishop Borders of Baltimore and Philip Scharper, who must bear the terrible responsibility of having been my first editor.

Scharper spoke of "social sin" (a concept which, frankly, sounds to me a lot like the old collective guilt by which we blamed today's Jews for the death of Jesus). He argued that it is the role of the Catholic university to stir up in its students a sense of social sin and a feeling of responsibility to do something about such sin. Archbishop Borders seemed to be suggesting that it was the function of the Catholic university to develop in its students an awareness of

the Catholic answer to problems such as world food and disarmament, so that the students could in turn transform un-Christian and secular public policies through their influence on national leadership.

However, a spokesman for the intellectual competency position was present — Bishop Cletus O'Donnell of Madison, whose credentials as an honest, open-minded, and democratic bishop are beyond challenge.

The bishop of Madison, who was assigned the subject of "neighborhoods," began with a powerful recollection of his own childhood neighborhood. But then he went on to raise the critical question: "When it came time to prepare for this meeting and my participation in it, I looked for the scholarly literature on neighborhoods with which I could ground, make precise, clarify, and document my gut feelings and instincts about neighborhood community. I called some friends of mine who are on the faculty of the University of Wisconsin at Madison, and with their assistance I found that there is very little such literature and virtually none of it comes from Catholic universities. I can understand now why the resources of the Call to Action meeting were so meager: the Catholic universities, with a few exceptions, have not done the scholarly research on things like neighborhood or race or ethnicity (or family) — all of which were part of the discussion at Detroit. Why, he wondered, had

he even been asked to speak on neighborhoods?

"So, I can tell you my feelings on these five questions; but why should you be concerned about my feelings? I am, God bless the mark, a canon lawyer by training. It intrigues me, then, why you should care about what I, as a bishop, feel about neighborhoods."

"So if I don't have the resources to connect, my insights, gut feelings, and instincts to a theology, a history, and a sociology of neighborhood, I have to say publicly it is not my fault but rather yours — you who are presidents, educators, administrators of Catholic higher education."

But the larger problem, according to O'Donnell, is not merely the absence of a well thought-out Catholic theory of neighborhoods: "We have as bishops taken stands on all kinds of fashionable subjects — Panama, the defense budget, the world food problem — all important concerns for our country, our church, and the world (and all in all, we have received good marks in the Catholic press for such statements). But it seems to me, however, that these stands and these statements we have issued for the most part are no more balanced, solidly documented, or carefully worded than are

my instincts about neighborhoods. I at least have had some experience in neighborhoods. When we go to meetings such as the Call to Action or meetings of bishops in Washington and take votes on things like Panama or world food or the defense budget, we don't — at least I don't — have that experience. To put the matter bluntly, we don't — at least I don't — know what we are talking about. And our people know that we don't know what we are talking about. If we continue down this path they will turn us off completely, just like American Protestants have turned off the endless stream of resolutions which have come in past years from the meetings of their leaders. If you want me to vote on a resolution about canon law — fine, I think I know something about that. But don't ask me about Panama because I don't know about it, and my opinion is worthless. I have never been to Panama. I have never lived there. I don't know any of the people there. I don't know the political factions involved in that country. Like Archbishop Borders and Mr. Scharper, I too worry about all the money we spend on guns, but I don't think it's an easy subject, and I don't think my feelings on it are worth very much.

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