

World & Nation

Capsules

Contra aid 'sign of hope'

Washington (NC) — Renewed humanitarian assistance to the Nicaraguan rebels is "a sign of hope that all sides may now be working to forge a lasting and just peace," the head of the U.S. bishops' conference wrote in a letter to Nicaraguan Cardinal Miguel Obando Bravo. St. Louis Archbishop John L. May, president of the NCCB, said the \$47.9 million aid package approved by Congress March 31 would sustain the opposition forces while peace talks continue.

NCCB 'loyal, to a fault'

New York (NC) — Jesuit Father Avery Dulles has commended the U.S. bishops' conference for carefully balancing its role between Rome and the local bishop, and for its teaching style. Father Dulles, professor of theology at the Catholic University of America, spoke April 4 at the convention of the National Catholic Educational Association. He said the National Conference of Catholic Bishops "has shown no tendency to separate itself from Rome," and has been "loyal, almost to a fault."

Fighting increases risk

Washington (NC) — Increased fighting in two Ethiopian provinces poses a greater threat to relief operations than does the government's order temporarily removing foreign aid workers from those areas, according to a spokeswoman for Catholic Relief Services.

Beth Griffin, spokeswoman for CRS in New York, said agency officials fear that if fighting in the provinces increases "the number of people at risk of starvation will grow beyond the current estimate of 3 million to a number that will exceed the capacity of any relief agency to deal with it." On April 6 the Ethiopian government temporarily ordered relief workers out of Eritrea and Tigre provinces, areas of intense fighting between rebels and government troops.

Papal remains stolen

Aquila, Italy (NC) — The remains of St. Celestine V, the only pope to resign his papal office, have been stolen from the urn in which they had lain unmolested for more than 450 years. The theft was discovered April 18 by a nun-caretaker of the Basilica of Santa Maria di Collemaggio.

Italian press reports said thieves stole only the bones, leaving untouched the silver and crystal urn in which they were kept and other church objects. *Avvenire*, the Milan Catholic daily newspaper, reported April 19 that investigators could offer no explanation for the theft of the corpse.

Court rethinks warrants

Rome (NC) — Italy's Constitutional Court has agreed to examine a court ruling invalidating arrest warrants for three Vatican bank officials wanted in connection with the collapse of Italy's largest private bank.

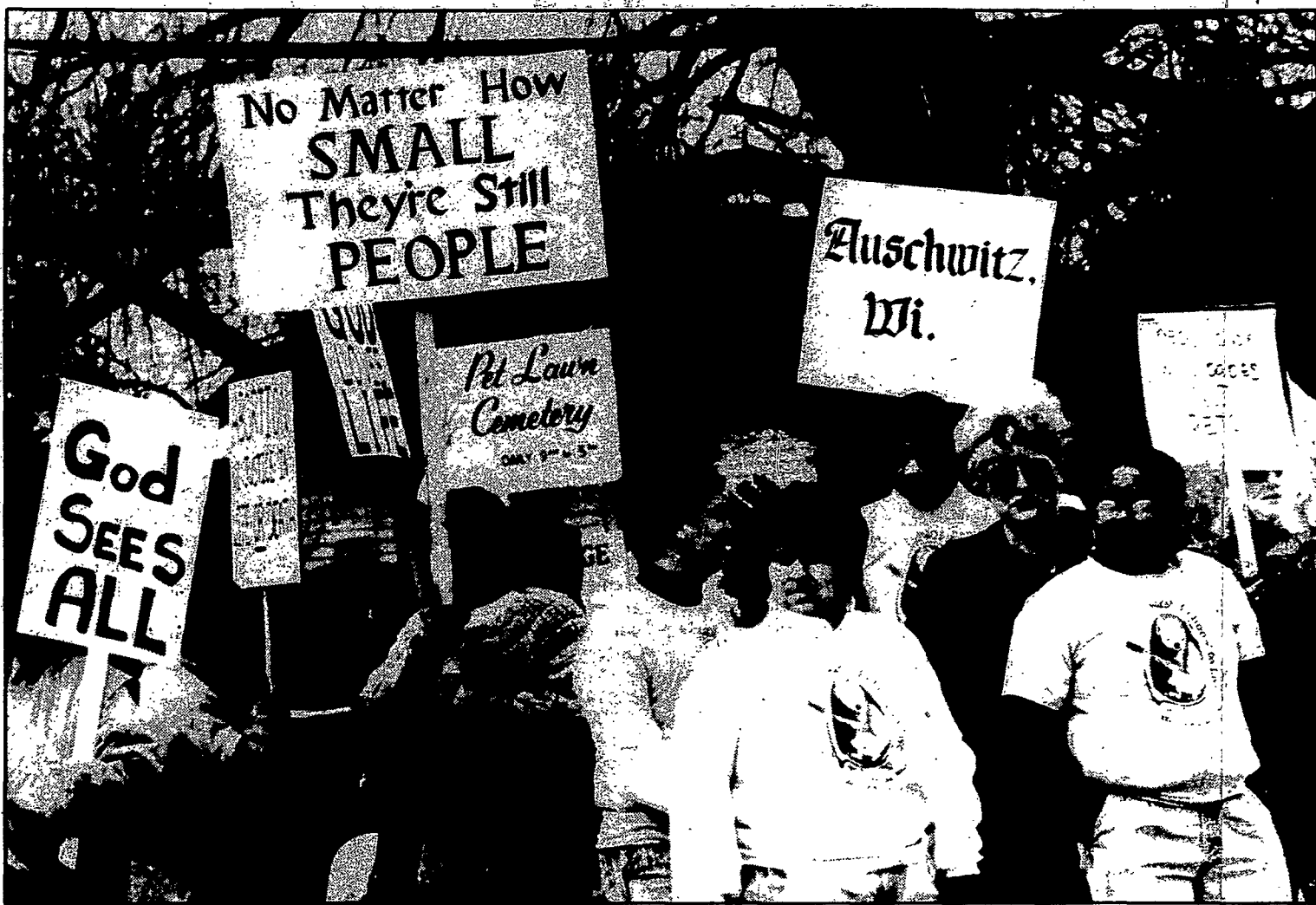
The Constitutional Court heard arguments April 19 by Italian magistrates challenging a ruling by Italy's Court of Cassation that the warrants — for the arrests of U.S. Archbishop Paul C. Marcinkus, Vatican bank president, and two bank administrators — were invalid because of a 1929 treaty that protects central Church agencies from Italian "interference." The court said it would issue a ruling by the end of May.

Congress bans 'dial-a-porn'

Washington (NC) — Congress included a church-backed, tough ban on dial-a-porn in an education bill which passed almost unanimously in the House April 19 and by voice vote in the Senate the following day.

Rapid signing by President Reagan was expected. The ban, which does not permit telephone companies to provide services in which telephone users pay a fee to dial and listen to pornographic messages, was supported by the U.S. Catholic Conference in a letter to congressmen.

"The scourge of dial-a-porn needs to be ended now before more children are severely injured," said the April 18 letter signed by Monsignor Daniel F. Hoye, general secretary of the National Conference of Catholic Bishops and USCC.



CREMATORIUM PROTEST — About 350 pro-life activists protest in front of Milwaukee's Pet Lawn Cemetery, which has been cited for violation of a city zoning ordinance for incinerating the bodies of aborted fetuses in its animal crematorium. Owners of the facility explained that when they began the cremations four years ago, they were responding to a disposal problem caused by the refusal of many crematoria and cemeteries to accept the fetuses. They announced, however, that they would comply with the city's order to stop the practice.

Low-key tone belies ARM case's high stakes

Washington (NC) — The only people gathering in the drizzle on the steps of the Supreme Court April 18 were tourists lining up for the next available seat.

Although the atmosphere remained low-key inside, the case being presented by attorneys for Abortion Rights Mobilization (ARM) and the Catholic Church places the Church's tax-exempt status at stake.

The question before the Supreme Court in this phase of the ARM suit is a technical, legal one — not exactly the stuff of which great courtroom drama is made.

But if ARM — chief plaintiff in the case — succeeds in its efforts, it could threaten the tax exemption of every Catholic parish and religious order or institution, as well as the tax deductibility of any person's contributions to Catholic religious organizations.

A ruling is expected before the close of the high court's current term this summer.

The justices will not decide the tax exemption itself or claims of purported improper Church political activity, but the question of subpoenas of internal Church documents, of ARM's power to bring suit at all and the lower courts' jurisdiction in the dispute.

Oral arguments on both sides last week focused on the technical with little mention of the abortion issue itself or the church-state implications the Catholic bishops and other religious bodies have said the matter raises.

The abortion rights group, a coalition of non-Catholic clergy and other backers of legal abortion, alleges that the Church engaged in anti-abortion politicking that violated IRS regulations forbidding political involvement by tax-exempt, non-profit organizations, and that the federal government consequently must be ordered to strip the Catholic Church's tax exemption.

As part of the nearly 8-year-old case, the abortion group subpoenaed internal church

documents on pro-life activities from the National Conference of Catholic Bishops (NCCB) and its public policy twin, the U.S. Catholic Conference (USCC).

When the NCCB and USCC refused to comply with the subpoenas, they were held in contempt of court and fined by a federal district court. A federal appeals court upheld the district court's ruling but the fines — \$100,000 a day — were delayed pending further appeals.

Attorneys for the U.S. Catholic Conference (USCC) argued that the Church cannot be forced to answer subpoenas in a court case if the case never should have existed in the first place and the subpoenas are invalid.

"There was no case or controversy" worthy of federal court action in the case, Kevin T. Baine, an attorney representing the USCC, told the court.

Thus, Baine said, with no case or controversy there can be no subpoena and no claims of contempt for failure to respond to a subpoena. "It's our view the subpoena was not only unlawful, it was also burdensome" to the USCC and NCCB to an undue degree, he added.

Baine argued that the USCC, as a "non-party witness," or third party, can correctly challenge the subpoenas because no other option was open to the Church. He noted that the IRS, not the Church, is the direct party of the suit although it is the Church's tax exemption that is at stake in the end.

Marshall Beil, lawyer for Abortion Rights Mobilization, argued that "the issue here seems to be unprecedented exemption from" court jurisdiction by the Church. Responding to a subpoena "is a duty ... all citizens have a duty to come forth and produce evidence if they have evidence," Beil said.

During questioning by the justices, Justice Antonin Scalia told Beil, "You're telling us there's no way the third party can ever stand

on his rights and say 'I'm not turning over the documents.'"

Justice Sandra Day O'Connor asked Beil if the appeals court could have dismissed the suit and if the Supreme Court could do so.

"Yes, the court has the power to do that but the power should not be exercised," Beil answered.

The claim of Abortion Rights Mobilization's clergy members "is a claim that goes to the whole of the Establishment Clause, a claim of a preference for one religion over another," Beil said.

Both the USCC's attorney Baine, and Alan I. Horowitz, assistant to the U.S. solicitor general at the Department of Justice who also participated in the oral arguments, claimed that Abortion Rights Mobilization members have not demonstrated sufficient injury to warrant pursuit of the case. Previously, the federal government, like the USCC, has tried to have the case dismissed.

The abortion rights backers have not, Horowitz noted, lost any tax exempt status themselves.

"In our view the injury that is claimed here is so ambiguous and so abstract" as to be undeserving of court attention, Horowitz said. "We think the claim of injury here is considerably weaker" than those allowed generally by the courts, he added.

The real issue is whether a private citizen can attempt to strip a church of its tax exemption just because of a personal disagreement with what the Church says on some public issue, Baine added.

"This case concerns the Catholic Church and abortion but you can substitute any church for the Catholic Church ... and any issue for the abortion issue," he said. "The point is here there's been no unequal treatment whatsoever."

After the oral arguments, Beil told reporters gathered outside on the Supreme Court steps that the case against the Catholic bishops is a question of "favoritism" by the IRS in "allowing the Catholic Church to engage in political activity."

The bishops, in turn, have said the ARM lawsuit threatens the freedom of all religions to speak out on any issue and could lead to similar suits "by virtually anyone who disagrees with the statements of any religious organization on a broad range of moral issues that confront the American public."

Beil disagreed with that argument, saying the case concerned "a specific violation of a specific statute" of the U.S. tax code.

In a friend-of-the-court brief filed in February, the National Council of Churches called the case "a First Amendment nightmare."

The First Amendment provides in part that "Congress shall make no law respecting an establishment of religion."

Pickers seek constitutional protection

Washington (NC) — The Constitution protects pro-lifers' rights to picket the home of an abortion doctor despite the doctor's privacy interests, an attorney for the Catholic League for Religious and Civil Rights told the U.S. Supreme Court April 20.

The attorney, Steven F. McDowell, Catholic League general counsel, also conceded that towns might properly limit the activity.

McDowell argued that "picketing, a legitimate, peaceful form of First Amendment expression" must be permitted and that "the streets are normally public" forums.

The high court heard oral arguments in

Frisby vs. Schultz, a case which developed after pro-lifers in 1985 began picketing the residence of Dr. Benjamin Victoria, an abortion physician. The town of Brookfield, Wis., where Victoria lives, then outlawed such demonstrations.

A federal district court issued an injunction preventing the law from taking effect, and the district court's act subsequently was upheld by a split, 5-5 federal appeals court vote.

If the Supreme Court follows its usual procedure, it will rule on the case by midsummer, when its 1987-88 term ends.