

World & Nation

Curran trial becomes forum for church, civil law debate

By Jerry Filteau

WASHINGTON (NC) — The trial of Father Charles E. Curran vs. The Catholic University of America ended Dec. 23 as it had begun nine days earlier: with a cardinal on the witness stand and the lawyers arguing in a civil court about church law.

"This lawsuit is over whether I'm allowed to teach Catholic theology" at Catholic University, Father Curran told the District of Columbia Superior Court as he was cross-examined on the final day of the trial.

The university removed Father Curran from teaching after a 1986 declaration by the Vatican that his dissent from church teachings made him "no longer suitable nor eligible to teach as a Catholic theologian."

In order to decide whether Father Curran must be permitted to teach, Superior Court Judge Frederick H. Weisberg has to rule on a variety of disputed issues concerning contract law, the meaning of academic freedom at Catholic University and the limitations that the First Amendment places on a civil court in deciding a case in which church law and civil law are intricately intertwined.

No decision on the lawsuit was expected for at least two months. After the final witness was heard, Weisberg asked lawyers for both sides to submit post-trial memorandums — legal briefs summarizing their arguments — by Jan. 25. Under standard court procedures, a verdict incorporating the judge's legal opinion on the

questions at issue could then take up to several months to complete.

The case opened Dec. 14 with the university's lawyers calling for dismissal on grounds that the court lacked jurisdiction. CUA attorneys made this claim stating that the university acted on the basis of canon law when it relieved Father Curran of his teaching post. Weisberg denied the motion, saying that a civil contract was at issue, and that the court could act as a fact-finder in determining where canon law ends and civil law begins in the case.

After the last witness was heard Dec. 23, the lawyers for both sides got into another dispute over the canon law and civil law dimensions of the case.

In between — in what Weisberg termed "one of the most difficult and one of the most interesting cases I have ever had" in 11 years as a Superior Court judge — the parade of witnesses before the court included two U.S. cardinals, the last four presidents of Catholic University, and a stream of theologians and canon lawyers.

Cardinal James A. Hickey of Washington, who as chancellor of the university initiated the proceedings to remove Father Curran from his teaching post, spent about six hours as first witness in the case Dec. 14-15 and was recalled as a final witness Dec. 23.

Cardinal Hickey testified that the university acted on the basis of canon law requirements and out of its religious convictions when it took away the ecclesiastical license Father Curran

needed to teach on the university's theology faculty.

It was also church law and religious conviction that forced the university to bar the priest from teaching any courses in Catholic theology in any other department, he said.

Cardinal Joseph L. Bernardin of Chicago, who was chairman of the university's board of trustees at the time of the actions against Father Curran, offered similar testimony Dec. 16.

The Chicago prelate said academic freedom exists at Catholic University, but that the university has no binding description or definition of it because the board of trustees has never approved a definitive statement on the topic.

Father Curran, who is teaching at the University of Southern California while awaiting the outcome of his lawsuit, took the witness stand Dec. 22-23 to argue his side of the case.

He said his right to continue teaching at the university while dissenting from some Catholic teachings had been clearly established 20 years ago in a series of controversies at Catholic University in which he was a central figure.

Other witnesses, including Jesuit Father William J. Byron, current president of the university, and his three predecessors in that post, gave the court different and often conflicting views about the nature of academic freedom and the rights of professors at Catholic University.

Father Byron testified that Father Curran can teach ethics at the university if he agrees that he is not eligible to teach Catholic theology there.

Father Curran said submission to such a condition would infringe on his academic freedom and force him to deny "who I am... I am a Catholic moral theologian."

Whichever way the case is decided, lawyers and observers were calling the case a potential landmark in church-state law, and it was generally believed that any decision will be appealed by one side or the other, possibly all the way to the U.S. Supreme Court.

Among the questions debated in the trial were:

- Whether Father Curran's professorial appointment includes a contractually guaranteed right to teach.

- Whether removal of Father Curran from teaching because of his published views violates his academic freedom.

- Whether academic freedom, including a guaranteed freedom from academic penalty for theologians who dissent from non-infallible church teachings in the course of their professional activity, was in existence and a reasonable expectation of theologians when Father Curran became a tenured professor in 1970.

- Whether the university, simultaneously an autonomous American institution and Catholic institution with special legal ties to Rome, is governed basically by canon law or civil law when it comes to critical issues at the juncture between academic theology and church doctrine.

Epiphany: a magnificent feast that reveals God's salvation to all people



Advent Reflections

By Mary Lu Coffey

"Today you revealed in Christ your eternal plan of salvation and showed him as the light of all peoples." These words from the preface of Epiphany give a sense of the feast of Epiphany, a feast that culminates the Christmas season and, with the 20/20 vision of hindsight, allows us to understand who it was we prepared and waited for, whose birth we celebrated at Christmas and when he came. The word Epiphany comes from the Greek *epiphaneia*, and means appearance or manifestation of Christ. It is the original feast of Christ's birth in the East, and began to be celebrated in the West at the end of the fourth century.

On what does this feast focus that we have not already celebrated in the Advent-Christmas-time? Simply this: Jesus must be revealed to all

the world as the fullest expression of God's love for his people. Salvation is for all people, even though it was first made known to the Jews.

As we look at the Gospel for the Feast of Epiphany, some images present themselves for our consideration and our response. The first is the Magi — probably astrologers, we are told — on a journey, searching for a God they did not know, willing to leave home and travel in the dark and cold to find him. We too must set out anew on our journey of faith, opening our hearts and homes to welcome the stranger. We must be willing to risk all for the sake of the one who calls, believing that life follows.

Then there is the star. A star rose to reveal the birth of Jesus, a star guided the Magi to the Messiah. The star can be for us God's own light, a radiant revelation of his life. As it leads us to Christ and his mother, it leads us to ourselves. Who are the stars in our own lives, those who light our way by their faithful witness to the Gospel message? Who are the people whose way we must light? At least some of them are probably people we would not have chosen for ourselves, and truthfully, people who would not have chosen us.

And what can we make of the gifts? The wealth of nations is represented in the gold and frankincense. The myrrh was a precious ointment used to prepare a body for burial. Can we find in those gifts a sign of the Paschal Mystery, the suffering, death and resurrection of Christ into which we are all called?

Then there is Herod, the power broker, locked in by his own fear, threatened by the thought of a rival king, even a baby. By his own narrowness, he shut himself off from God's revelation. He can be a sign to us of the shadow of sin that touches each one of us, the barrier to growth when we are gripped by fear.

As we hear these familiar readings proclaimed this year, may we respond anew to the call to set out, guided by the light of Christ, mindful that we must die with him in order to rise with him to a new life.

One way of celebrating this magnificent feast at home is in adapting an old ritual — house blessing. Everyone gathers at the front door with chalk and water, and prays the Lord's

Prayer. The leader of the household writes over the door: 19CMB89. The blessing is said: "May all who come to our home this year rejoice to find Christ living among us; and may we seek and serve, in everyone we meet, that same Jesus who is Lord forever and ever." The letters "CMB" are, according to legend, the initials of the Magi: Caspar, Melchior and Balthasar. A way to conclude the celebration could be the burning of incense during a special meal, or sprinkling the rooms of the house with water, a reminder of the River Jordan and the baptism of Christ.

May we welcome all strangers who pass through our doors this year. The star shines over us; we bear the name of Christ!

Sponsor A Child like Marita (\$15 a month)

CHRISTIAN FOUNDATION For CHILDREN & AGING

Founded and directed by CATHOLIC LAY PEOPLE.

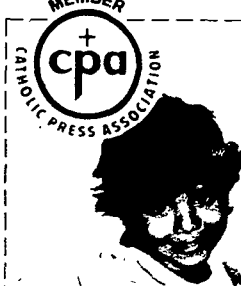
YOUR \$15 MONTHLY PROVIDES A NEEDY CHILD WITH: NOURISHING FOOD, MEDICAL CARE, the chance to GO TO SCHOOL and HOPE FOR THE FUTURE. YOUR CHILD WILL GROW IN THE DAILY KNOWLEDGE OF GOD'S LOVE AND YOUR LOVE.

You will receive a photo of your child, description of your child's country, family history, translated letters, & quarterly newsletters!

Plus you will receive the personal satisfaction of helping a child in need.

Let the little children come unto me.

— Mark 10:14



CHRISTIAN FOUNDATION For CHILDREN & AGING

Attn: Robert Hentzen President

13001 Wornall Road Kansas City, MO 64145

(816) 941-9100

☐ YES I would like to share my blessings with a needy child.

I would like to sponsor a ☐ boy ☐ girl A CHILD WHO MOST NEEDS MY HELP

I am enclosing ☐ \$15 for first month ☐ \$45 for three months

☐ \$90 for six months ☐ \$180 for the entire year

☐ I cannot sponsor a child at this time, but I enclose my gift of

\$_____ to be used for the EMERGENCY FUND for Children.

☐ Please send me more information on sponsoring a child

NAME _____

ADDRESS _____

CITY _____

STATE _____

ZIP _____

Make checks payable to: CHRISTIAN FOUNDATION FOR CHILDREN & AGING (CFA)

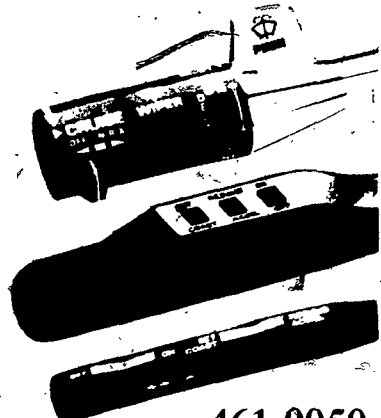
Member: U.S. Catholic Mission Association • National Catholic Development Conference

• Catholic Press Association • Financial report available on request CJ 1/5/89

Automatic Speed Control

Your "silent chauffer" for easy driving.

These custom control modules duplicate the factory controls incorporating set speed, resume, accel, decel, or coast. Windshield wiper, horn and headlamp functions where applicable. Full year warranty—no mileage limitation.



461-0050
777 Monroe Ave.
Rochester



TEMSTAD

