

MONEY AT BASE

Church-State Clashes Take New Channel

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Although it may never rank with the Thomas Beckett or Scopes trials as a dramatic courtroom confrontation between church and state, the legal difficulties of Herbert W. Armstrong's Worldwide Church of God with the California attorney general's office raises some profoundly difficult questions and troublesome thoughts about the nature of the relationship between religious and secular power.

That is the consensus of a number of experts on law and religion interviewed by The Times in recent days as the legal maneuvering and public posturing by both sides continued.

The experts point out that the Worldwide Church case is just the latest in a series of church-state conflicts either now in the courts or approaching that stage.

In fact, they say, the question of state encroachment upon the power of the church may be more in question today than ever before.

But the debate now deals less with issues of personal conscience and religious doctrine, as in the classic cases, and more with relatively pedestrian pocketbook matters.

There is a nagging doubt, however, that the two kinds of issues are separable.

"He who controls the purse strings is going to control the structure (of the church)," warns Lee Boothby, a lawyer for the Washington-based Americans United for Separation of Church and State, a national inter-faith organization.

Whether Boothby is right, the question involved is coming up increasingly in the courts.

There are two reasons for this, observers of church-state issues say. The first is what some perceive as a natural tendency of government to flex its muscle, to extend its power to regulate over church groups and other quasi-religious, nonprofit corporations.

The second is a backlash of sorts, a cynicism, even a fear of the Moonies and Hare Krishna by middle-class Americans who have seen their children lured away into a value system beyond their ken. A fear of another Jonestown.

Of course, the Pasadena-based Worldwide Church of God bears no resemblance to the Moonies or Jim Jones' predominantly black, lower-middle-class following.

Also, there have been moments in the past month when it has been hard to take the Worldwide Church-attorney general confrontation very seriously—for instance, at a recent press conference called by Stanley R. Rader, Armstrong's chief adviser who stands accused by the state of siphoning off millions of dollars of church funds for his personal use.

Rader had finished his standard plea that the attorney general's suit and the resulting receivership placed on the church constitute a major violation of the church's First Amendment rights.

Suddenly, Rader suggested that the real reason, the unvarnished, honest-

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10-God truth of the matter was that if it weren't for the fact that he, Rader, graduated No. 1 in his USC law school class 20 years ago and an assistant attorney general working on the case graduated somewhere deep in the bowels of that very same class, there would be no church-state confrontation today.

The state lawyer, Rader implied, has had it in for him ever since.

There may have been similar moments on the state side of the issue. But all in all, the experts say, the arguments on both sides are beginning to add up to a real church-state battle.

Consider the position of the Worldwide Church of God, as outlined by its lawyers in numerous court appearances last month and by Rader in a round of press conferences. Stripped to its essentials, it goes like this:

Six dissident "disfellowed" or excommunicated former members of the church—put up to it by the banished son, Garner Ted Armstrong—went to the attorney general with a list of unfounded complaints.

Among their complaints was the charge that the elder Armstrong, the self-proclaimed disciple of God on earth, was spending money far too lavishly in his efforts to spread the Gospel throughout the world.

The other major complaint was that Rader, a man who seemingly replaced Garner Ted Armstrong in the church patriarch's heart, was unduly benefiting from his position with a contract for \$200,000 a year plus unlimited expenses and homes in Beverly Hills, Pasadena and Tucson initially financed by the church.

Church lawyers say it is not the business of the state to regulate how Armstrong chooses to spread the Gospel. If Armstrong wants to speak to world leaders, travel in the first-class section of airliners or by private jet and stay in luxury hotels, so be it.

The important thing, they say, is that the members of the church were amply informed about these things through church publications and meetings. If they didn't like it, they could stop tithing and leave the church.

As for Rader's perquisites, the church's position is that they are not out of line with those given to top corporate executives in private industry.

Armstrong, Rader and their lawyers view the attorney general's suit and the receivership as an attempt by the state to overturn the essentially hierarchical leadership of the church and substitute it for something else—perhaps an elected board of directors.

To them, the issue is clear. Either a church has the power to name its own leaders and spend its own money, or it doesn't. If it doesn't, then the First Amendment is abrogated.

The state's position differs.

As argued in court and to the press, it states:

The attorney general's responsibility is clear. The law of California and the predominance of case law says the attorney general is responsible for ensuring that California corporation law is followed.

The Worldwide Church of God is a nonprofit corporation, its money held in a charitable trust. And the state is, in effect, the overseer of that trust.

If there is some reason to suspect the officers of the corporation have broken that trust—in this case by looting it for their own gain—the attorney general must act by filing a civil suit.

The temporary receivership, assistant attorneys general argue, was not too drastic a form of relief. There was evidence, they insist, earlier this month that the receivership was needed immediately to protect what was left of the charitable trust from its officers.

The state wishes to regulate only the financial affairs of the church, according to assistant attorneys general. The state's lawyers see the First Amendment issue as a phony question. But is it?

It might be worthwhile to remember that what is happening to the Worldwide Church of God isn't taking place in a vacuum, some experts think.

John Crossley, associate professor of religion at USC and a member of the American Civil Liberties Union's regional church-state committee, is concerned that the state's action is a reflection of California and the way things have been in this state in recent times. Jonestown, Scientology's problems with the federal government, the alleged snake-attack on an opposing lawyer by Synanon members have all had their effect, he says.

"I think (having) so many of these things has produced a syndrome that we have to stop crazy, kooky religions, religions out of the mainstream," Crossley said.

The recent events in California have added to something bigger, Crossley calls it "an antireligious movement abroad in the land."

It is made up, he explained, of "deprogrammers, mainline churches and synagogues worried about crazy cults with wrong doctrines wooing away young people."

Crossley is not alone in spotting that trend.

"There's no question that there's a greater temptation now for government to intervene in church affairs," John Stevens, a Seventh-day Adventist official and president of its Western regional church-state council, said.

"There's an antireligious climate, and I think there's a tendency for government to overreact," he added.

The problem will get worse before it gets better, Boothby predicts.

"We believe this coming year will see the greatest activity (in the courts)," he said. "In an attempt to prevent another Jonestown situation, we will see a ripping away of the protection of the First Amendment's religious clauses."

Boothby, whose Americans United for Separation of Church and State plans to file an amicus curiae brief on the side of the Worldwide Church of God, says the case may prove to be a bellwether.

The Worldwide Church case, he said, is "one of the gravest examples of state encroachment in church matters. Whether any of the allegations may ultimately be proven to be true is not the question. What is important is whether the state has the right to entangle itself in the affairs of a church as they've done in this case."

Boothby argued that the imposition of a receivership poses "an almost unbelievable threat" to First Amendment rights.

"Basically, we feel that when a state seeks to exercise this type of power, they should do it only after they've made a searching examination and with great reluctance.

We think the courts should chart a course that as much as possible retains the autonomy and freedom of religious bodies.

A better solution than a court-imposed receivership, Boothby said, is criminal action against church leaders accused of wrongdoing. That way, he and others argue, the state can avoid becoming entangled in church matters.

Proponents of this approach point to the case of the Pallottine Fathers, a Baltimore-based Catholic order.

Under the direction of the Rev. Guido John Carcich, the order allegedly misappropriated nearly \$1.4 million donated

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ed for the poor and concealed records of almost \$15 million in secret bank accounts.

While only 3% of the funds raised by the order went to the poor, it was alleged, Carcich lived a lavish life with secret trips to Las Vegas, real-estate investments in Florida and loans to powerful politicians.

When the scandal broke in 1976, Carcich was removed from his position, the Baltimore archdiocese conducted an audit, and Carcich was formally charged with misappropriation of charitable funds.

There was no court-ordered receivership and no question of church-state conflict arose.

But, observers point out, the Pallottine case differs from the Worldwide Church affair in at least one significant way.

Overseeing the Pallottine order was the Catholic Church hierarchy, and it removed Carcich. Power in the Worldwide Church emanates downward from Herbert W. Armstrong. Only Herbert W. Armstrong, it seems, can remove Herbert W. Armstrong.

Besides that, there are no criminal charges. A spokesman for the Los Angeles County district attorney said last week no investigation was under way. The matter is being left in the hands of the attorney general who has sought civil, not criminal charges.

Why no criminal charges?

Rader and his lawyers say that is because there is no proof of criminal activity.

A spokesman for the attorney general puts it somewhat differently.

Placing criminal charges against Armstrong, Rader and other church officials "doesn't solve the problem," Warren Abbott, assistant attorney general in charge of overseeing charitable trusts, said.

"That doesn't get the money back for the church," Abbott added. "Our job is to protect those (remaining church) assets, and criminal proceedings won't do that. The criminal courts are not a collection agency."

Defenders of Armstrong and the Worldwide Church point to a flaw in Abbott's argument. The expenses of the receiver, the tremendous cost of a long, drawn-out legal battle, the drop in the church tithing since the suit was filed—all these factors indicate that by the time the case is finally decided, there may be few if any assets worth protecting.

Abbott admits that is a possibility.

"If our court system doesn't work very well in this case, it is going to eat up the assets," he said. But if that happens it will be the fault of the church leaders and their lawyers, not the state, he claimed.

"They have it within their own power to resolve this thing," Abbott said. "They could end it immediately" by cooperating with the receiver and dropping their pretrial legal maneuvers, he said.

That is something the church shows no inclination to do.

That is fine as far as Abbott is concerned.

"Let's find out what the law is," he says. "We'd like a

decision on whether 9505 (the section of the state Corporations Code that empowers the attorney general to oversee charitable trusts) does apply to churches."

The Worldwide Church battle may provide that, but Abbott and other legal observers think it is just as likely that a test case will come from elsewhere.

Some are guessing it will be W. Eugene Scott's Faith Center Church. Scott, the Glendale-based television preacher, is fighting an attempt by the attorney general to force him to answer questions about church finances and produce financial documents.

Three weeks ago, lawyers for Scott opted to drop their countersuits in federal court that charged attorney general lawyers with violating Scott's civil rights under a post-Civil War statute that held government officials directly accountable for rights violations.

In return, the attorney general's office agreed to hold up on their push for Scott's appearance pending what one church lawyer called "an exhaustive appeal."

This appeal, some lawyers say, may result in a final decision by the California Supreme Court and the U.S. Supreme Court on whether the state attorney general can intervene to protect a church's treasury.

Even then, the Faith Center controversy may be just part of a larger mosaic of church-state legal confrontations:

—The U.S. Supreme Court has before it an appeal by the Chicago Catholic archdiocese in which the church tries to exempt itself from National Labor Relations Board rules that would seem to allow lay teachers union organization rights.

—Similar appeals, all on First Amendment grounds, are under way in lower federal courts after originating with archdioceses in Gary, Ind., Philadelphia and Scranton, Pa.

—Court battles are continuing in Kentucky, North Carolina, Vermont and Ohio over whether state school authorities can regulate parochial schools in those states.

—In federal district court here, three fundamentalist churches are trying to remain exempt from state and federal unemployment compensation laws.

—A legal battle is almost certain when the Internal Revenue Service puts into effect new regulations that would increase the amount of disclosure and reporting necessary for churches and other charitable groups that solicit funds.

—And lawyers for Hare Krishna are in Los Angeles Superior Court defending the sect against a civil suit brought by the city attorney that, in effect, charges members with using deceptive practices and aggressive tactics to obtain donations from travelers at Los Angeles International Airport.

The list goes on and on, and the debate is likely to continue, the experts say.

They disagree on who is to blame.

The problem, Boothby says, is "the repeated attempt of the state to define what is secular and what is religious."

The problem, Abbott says, is "every time we (government authorities) start talking to a church, they yell First Amendment."

The problem, Crossley says, "remains unresolved as ever."

And the problem is, everyone agrees, what exactly does that almost 200-year-old amendment mean when it says:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."