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File Folder INTERNAL REVENUE SERVICE CHURCH AUDITING
BRIEFING (1 OF 3)

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POTTER, CLAIRE

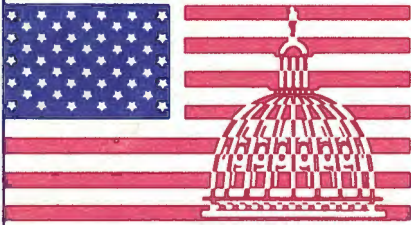
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DOC NO	Doc Type	Document Description	No of Pages	Doc Date	Restrictions
1	PAPER	RE. PRESIDENTIAL BRIEFING [PG. 1]	1	ND	B6

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A CALL FOR CHRISTIANS TO UNITE IN PRAYER AND FASTING FOR AMERICA

PRAY AND FAST FOR AMERICA NOVEMBER 4, 1983
PRAYER FOCUS: AIDS, CAP ACT, ABORTION

INTERCESSORS FOR AMERICA

Newsletter

November 1, 1983
Vol. 10, No. 11

Dear Intercessor,

Before the U. S. Congress at this time is pending legislation which deserves our fullest prayer support. Termed the **CHURCH AUDIT PROCEDURES ACT**, this bill would curb harassment of legitimate churches by the Internal Revenue Service during tax investigations and audits.

We're made increasingly aware of abuses in such audits, with the IRS acting virtually without restraint under the broad powers spelled out in Section 7605(c) of the Internal Revenue Code. Only the most determined and financially secure churches have been able to withstand IRS demands for financial records, lists of contributors, and church minutes. Such documents, the IRS has contended, are necessary to determine whether the organization is, by **their** definition, a church, and thereby tax exempt. If such information is not provided, the church's tax exempt status can be automatically revoked, requiring legitimate churches to go to court to have their exempt status upheld.

The problem will only intensify as the IRS, with greatly increased manpower in the church-audit field, begins monitoring compliance with the January 1, 1984 requirement for churches to pay in to the Social Security System (F.I.C.A.) for its non-ordained staff.

The **CHURCH AUDIT PROCEDURES ACT** (CAP Act) will amend the Internal Revenue Code to clarify the procedures IRS may use in auditing churches. Nothing in the bill affords the churches anything exceptional or extraordinary. Individual taxpayers and corporate taxpayers are afforded similar rights under IRS regulations. The uniqueness is contained only in the fact that the procedure would be a matter of law, not regulation.

The legislation has a remarkably broad base of support, including the National Association of Evangelicals, The Moral Majority, the National Council of Churches, and the American Civil Liberties Union (strange bedfellows, indeed!). Seventy-five congressmen from thirty states have co-sponsored the legislation in the House.

Most recently, on September 30, hearings on the bill were held by the Senate subcommittee which oversees activities of the IRS.

Prior to the hearings, the **Washington Times** reported that the White House favors passage of the CAP Act and ordered the Treasury Department to support the legislation over "vigorous objections" from the IRS. The Times article said that John Svahn, head of the White House Office of Policy Develop-

ment and Kenneth M. Duberstein, President Reagan's chief congressional lobbyist, "demanded that the Department testify in favor of the measure." The White House also pressured the IRS specifically to support the bill, according to congressional aides familiar with the CAP Act.

However, during the hearings, IRS Commissioner Roscoe L. Egger, Jr. was not as supportive of the bill as requested by the White House, but rather defended current IRS church audit procedures as sufficient and stated that the Service was "sensitive to the nature of the church-state relationship."

A former IRS agent who testified spoke out in direct opposition. William J. Lehrfeld, now a Washington attorney, said, "There is no justification whatsoever, under the current Internal Revenue Code, and its administration, to give religion, despite its constitutional privileges, the relief contemplated by this bill."

"It should not surprise anyone that the Internal Revenue Service is opposed to the Church Audit Procedures Act," said Tedd N. Williams of the Rutherford Institute during the hearings.

Another observer, a Christian who attended the hearings was more explicit. "I saw a spiritual force at work (in the I.R.S.) which left unchecked would kill the Church. I would term it the spirit of Jezebel. It cannot stand to have its power, its authority taken away. Beneath its shell of cooperativeness, it is brazen, pompous, malicious!" Our brother concluded by saying, "The Body of Christ needs to wake-up to this spiritual force."

THE CHURCH AUDIT PROCEDURES ACT

by
John Beckett

We are asking for a three-fold response.

First, please pray for the religious freedom of the churches of America, and that the IRS powers, now confronted and exposed, will yield to the restraint which the CAP Act would provide.

Secondly, the supporters of this bill need more specific examples of IRS contact with churches and church-affiliated schools, whether or not their tax-exempt status was upheld. Please report cases to National Integrity Forum, P.O. Box 2701, Washington D.C. 20013.

Finally, contact with your congressman and your senator is very timely, expressing your views on this legislation.

It is refreshing to see godly legislation which we can support, and we indeed thank those who are courageously undertaking this battle on behalf of the Church. May the victory be the Lord's.

AIDS: A Moral and Political Time Bomb

By Dr. Ronald S. Godwin

"The mysterious, horrible, and incurable disease spreading like bubonic plague through the homosexual enclaves of New York and San Francisco—brings forth an inescapable conclusion. There is social and political dynamite here, waiting for a fuse." These words from a carefully documented column by highly respected, conservative journalist, Pat Buchanan, set off a furor in every city where Mr. Buchanan's columns appear.

Gays screamed that the nationally known television and newspaper journalist was a "Nazi." Federal health officials held press conferences and called him an "alarmist." Buchanan simply responded with a second column, letting additional graphics and more facts speak for themselves. While he was about his column, Mr. Buchanan raised a fundamental question that must be faced sooner or later by all of us. We will deal with that question a bit later. But first, consider what is known about AIDS.

AIDS Facts

- The most fearful fact about AIDS, aside from its 100% lethal death toll, is the mystery which surrounds it. This mystery renders the calming assurances of federal health authorities suspect at best—and, perhaps, even irresponsible.

- AIDS (Acquired Immune Deficiency Syndrome) strips the body of its immune defense system, by which it normally fights off otherwise deadly diseases.

- Circumstantial evidence, repetitively amassed, indicates that AIDS is an infectious, communicable disease. The communicable organism is probably viral, perhaps, similar to a leukemia virus—though even more deadly.

- AIDS appears to transfer from victim to victim via bodily fluids—blood, semen, possibly lymph—possibly via saliva and bowel matter. Just how communicable AIDS can become is simply not known by anyone at this time, making the public statements of the health authorities out of date and irrelevant in a matter of days.

- AIDS is most frequently, in fact, primarily, spread by homosexual contact. The more promiscuous the homosexual, the greater his risk. The bloodier the homosexual act, the greater the risk.

- Drug abusers and eventually their wives seem to fall victim via contaminated needles. Infants, children, surgical patients,

and hemophiliacs are being struck down in ever greater numbers via contaminated blood transfusions.

- A particularly tragic fact is that AIDS has now become the number one cause of death among vulnerable, defenseless hemophiliacs—many of which must have 30 to 40 transfusions a year just to survive. In order to get enough clotting material, blood from as many as 20,000 donors must be pooled. One contaminated blood donation out of 20,000 can threaten the life of a hemophiliac.

- How long the communicable organism incubates inside the body before a victim learns of its deathly presence seems to vary between six months to three years. A Brooklyn woman, widely written about in the New York Post, died after having blood transfusions three years earlier with no other known exposure since.

- AIDS is deadly—that much is known. All 1979 and 1980 AIDS patients are dead. Of those suffering from AIDS for as long as two years, 82% no longer suffer—they too are dead! No one has been known to survive AIDS to date.

- More precisely, AIDS knocks out a person's immune defenses and then allows some of the most horrible killer diseases known to man to ravage the victim's body. AIDS symptoms include diarrhea, fever, swollen glands, and weight loss.

Two examples of the "killer diseases" that attack AIDS patients are: *Kaposi's sarcoma* and *Pneumocystis Carinii pneumonia*. *Kaposi's sarcoma*, a cancer of the skin, often turns the faces of many AIDS victims into purplish, swollen masks of horror while covering their bodies with open lesions. It is usually irreversible. *Pneumocystis Carinii pneumonia* savagely wrecks its sufferers before killing almost all of them.

Somewhat less lethal but even more communicable are a host of other epidemic "gay diseases," being spread inside and outside the gay ghettos of America. Some examples follow:

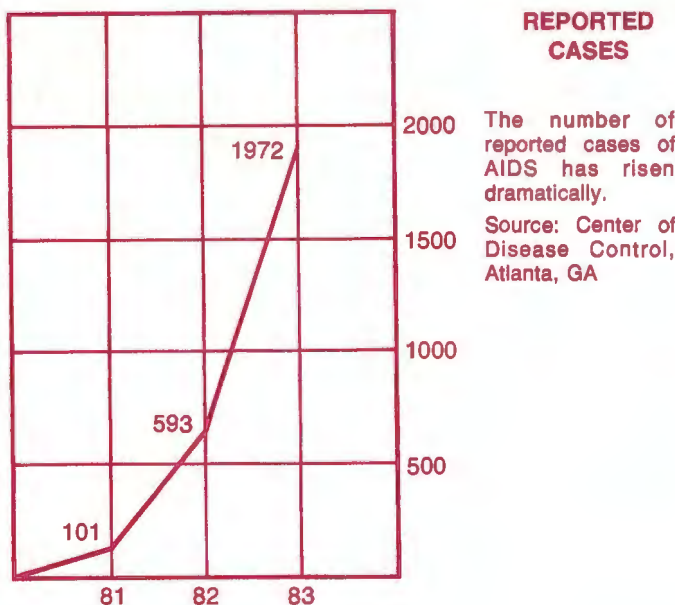
"Do not lie with a man as is detestable. Do not have and defile yourself with him in any of these ways, because I am going to drive out before you the land was defiled; so I will vomit you out of the land, it will vomit you out of the land that were before you. Even these detestable things - such as their people." (Lev. 18:2)

Hepatitis A, extremely common in homosexual circles, can be passed on via food and water, which means people are at risk every time they eat in a restaurant where an active homosexual works. People in Minneapolis and San Francisco have learned this the hard way.

Hepatitis B, an infection of the liver, is untreatable and often causes cirrhosis and finally death. Hepatitis B can be passed from a carrier to a new victim by blood transfusion, by contaminated needles (drug addicts), by semen, and by saliva. Dentists who drill the teeth of hepatitis B victims face a special risk. People who indulge in the "Hollywood kiss" with homosexuals or who have close and repeated social contact may also find such behavior dangerous.

Amebiasis, *shigellosis*, and *giardiasis* are diseases of the bowel. Shigellosis sometimes kills children. In San Francisco, the Health Department found that 10% of the food handlers they tested had one of these highly communicable diseases and that 70% of this contagious group admitted to being homosexual.

What gays do to each other, according to Dr. Paul Cameron, an expert on homosexual practices, frequently involves the in-



gestion of waste from the bowels of one or both partners. Semen and blood are also often ingested or absorbed through tears or breaks in the skin. Under such circumstances, over 97% of male homosexuals suffer from cytomegalovirus (a virus). No wonder diseases like gonorrhea, syphilis, hepatitis A, hepatitis B, amebic bowel ailments, herpes, and AIDS spread like wildfire in and outside the gay community.

In short, what gays do to each other makes them sick and more and more frequently, dead! But, even more alarming, what gays do to each other has begun to spread the diseases they carry to exponentially increasing numbers of defenseless, heterosexuals whose only mistake was to need a blood transfusion, to decide to eat in a certain restaurant, or to secretly choose a bisexual mate.

The Politics of a Plague

Obviously, homosexuals need our help; most certainly, those who are sick need medical help; and, in fact, millions of dollars are already being spent on AIDS research. The Public Health Service has gone so far as to call AIDS its number one priority. But as laudable as these activities are, there is still something very wrong about the way health officials and government authorities are handling this epidemic.

This writer believes that what is wrong can be traced to what someone has called "the politics of a plague."

A rhetorical shell game is going on here. When Legionnaires Disease struck and when Toxic Shock Syndrome surfaced, the health authorities moved immediately and decisively to protect the general public. There was no lecturing people about their prejudices, just quick, firm action to protect ordinary citizens.

So why the sudden preoccupation about public attitudes on the part of health authorities while an epidemic becomes pandemic before our eyes? Why the exhaustive debate over how

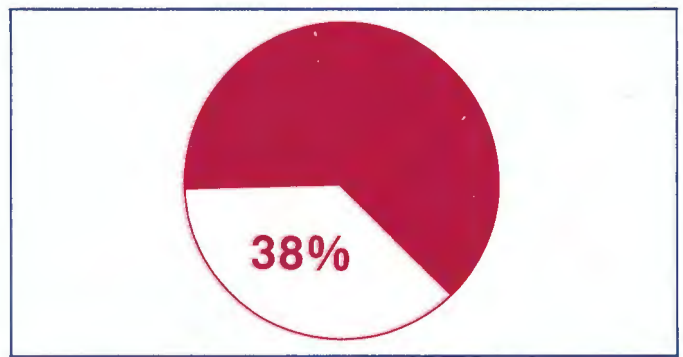
much AIDS research is enough research, while millions of Americans are left to wonder what is being done to protect them?

The answer is to be found in the fact that the homosexual lobby is so powerful and the homosexual influence in the media so pervasive that an entire nation stands essentially defenseless before a malignant minority—unable to take the simplest steps to protect itself while it wrings its hands in impotent self condemnation.

Cons Better Protected

The general public, then, has a right to question why prisoners are being afforded better protection from AIDS and other sexually transmitted diseases than is the general public. The New York Post, Wednesday, June 1, 1983, carried a story saying that four Rikers Island cons had died from AIDS and that at least six more prisoners are battling the incurable disease.

Fearful that the epidemic had found a captive audience on which to feed inside New York City jails, the head of the city's correction officers demanded that (1) the correction department undertake a program of continual medical examinations to diagnose AIDS among inmates, (2) AIDS carriers be "isolated" from non-contaminated individuals, and (3) "all homosexuals be prohibited from serving food to other inmates at Rikers Island and other city prisons."



Of the 1,972 people known to have AIDS as of August 1, 1983, 759, or 38%, are now dead.

Source: Center for Disease Control, Atlanta.

Why did the prison officials take immediate and decisive steps to protect the prison population while federal health authorities only "ask" homosexuals with obvious AIDS symptoms to refrain from donating blood? Because, in this writer's opinion, prison officials did not have to worry about political repercussions.

More specifically, why have federal health authorities not stipulated, as Pat Buchanan's column suggested, that homosexuals (1) be forbidden from working in food handling businesses, (2) be forbidden to donate blood—both on pain of legal penalty? That these simple steps are possible is obvious from what other free countries are doing to protect their citizens.

An article in the New York Tribune dated June 16, 1983 states, "France has started screening blood donors in a bid to prevent the often fatal disease AIDS from spreading through blood transfusions. Under rules set out by the Health Ministry, potential donors will have to respond to searching questionnaires concerning their sex life, drug habits and country of origin, in an attempt to set up "clean" blood banks." If France can protect French citizens, why can't equal protection be provided American citizens?

But Buchanan asks the fundamental question, "*Which takes precedence, the right of gay men to equal and courteous treatment at the blood bank or the right to life of three million Americans who need transfusions every year?*"

Therefore, officials who moralistically claim that those who ask to be protected from the carriers of deadly diseases are panic stricken hate-mongers, argue speciously. There are actually millions of Americans who do not hate homosexuals. Rather, they believe on deeply held religious grounds that homosexuality is morally wrong. They further believe they have a right to have blood transfusions without fear of contracting cancer.

They believe that young children and hemophiliacs should be protected from AIDS! They believe that an unsuspecting public should not have to worry about catching hepatitis and amebic bowel disorders from eating food in public restaurants.

Over the last two decades, Americans have become increasingly tolerant of homosexuals and "homosexual practices." What consenting homosexuals did in private was of no real concern to all too many of the last several generations.

Now it turns out that homosexuals and their practices can threaten our lives, our families, our children, can influence whether or not we have elective surgery, eat in a certain restaurant, visit a given city or take up a certain profession or career—all because a tiny minority flaunts its life style and demands that an entire nation tolerate its diseases and grant it status as a privileged minority.

Reprinted with permission from the July, 1983 Moral Majority Report. Dr. Ronald S. Godwin is the Executive Vice-President of the Moral Majority. He has a PHD in Planning and Management from Florida St. University, is Assistant to the President of Liberty Baptist College and is a contributing author to the Moral Majority Report.

*lies with a woman; that
al relations with an animal
Do not defile yourselves
that is how the nations that
you became defiled. Even
hed it for its sin, and the
. . . . And if you defile the
vomited out the nations
e who does any of these
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28-29)*

NOVEMBER PRAYER FOCUS

AIDS - (See article pages 2 and 3) That God would prevent the spread of this dreaded disease to the general public, use it to expose the depravation of homosexuality and cause those who are practicing homosexuals to repent and totally reject their detestable life style. May He have mercy and bring healing to those AIDS victims who repent and turn to Him.

CHURCH AUDIT PROCEDURES ACT - (See article page 1) That it would be approved by Congress and implemented to limit the authority of the IRS, and protect Christian organizations from unnecessary, burdensome audits.

ABORTION - Let us continue to be vigilant in our prayers for the unborn. Call upon God to send a spirit of repentance throughout our nation, expedite legislation to prohibit legalized abortions and bring an end to this holocaust soon.

NATIONAL REPORTS

WASHINGTON, D.C. - The Senate Judiciary Committee approved a bill recently to permit students to use public school facilities for prayer or Bible study after classes. The committee voted 11-4 to send the full Senate a proposal by Senator Jeremiah Denton (R, Ala.) requiring public elementary and high schools to give students the same right to use classrooms or auditoriums for religious purposes as they have for student clubs. (Washington Times)

WASHINGTON, D.C. - A new Gallup Poll reflects what pollster George Gallup, Jr. describes as "a rising tide of interest and involvement in religion among all levels of society, and particularly among Protestants" in this country. A telephone sampling of 1,029 adults indicated that six out of ten Americans said they were currently more interested in religious and spiritual matters than they were five years ago. At the same time, Gallup said that only about 12 percent of the population could be classified as "highly committed" to their religious faith. (Washington Post)

ARIZONA - Sisters of Canaan in the Desert, Phoenix, report that Paramount Pictures plans to make a film taken from the "grossly blasphemous" book, "The Last Temptation of Christ," by Nikos Kazantzakis. The book depicts Jesus gripped with sin and lust, fighting desperately against being the Messiah. Filming is supposed to start in mid-January, 1984. Write to: Paramount Pictures, 5555 Melrose Ave., Los Angeles, CA 90038, Attn: Mr. Robert Chartoff and Mr. Erwin Winkler.

WASHINGTON, D.C. - The U.S. Senate has unanimously passed a series of amendments to the "Protection of Children Against Sexual Exploitation Act" of 1977. The bill specifies hefty increases in fines and closes two loopholes. Not only will porn-for-profit be outlawed, but non-commercial trafficking as well. Further, distribution of all child pornography would be outlawed, not simply that which can be adjudged legally "obscene." (NAE Washington Insight)

WASHINGTON, D.C. - Federal District Court Judge Joyce Hens Green has ordered the federal Office of Personnel Management to admit the Planned Parenthood Federation of America into the Combined Federal Campaign, the charitable fundraiser among the 4.7 million federal employees. Judge Green cited what she alleged was the bias of OPM Director Donald Devine against Planned Parenthood because of its proabortion stance. (National Right To Life News)

SOUTH CAROLINA - President Reagan continued his efforts for tuition tax credits and a constitutional amendment to allow oral group prayer in public schools in a speech at the University of South Carolina. Reagan said the federal government can help restore education excellence "by encouraging parental choice and competition, and that's exactly what we want to do through our programs of tuition tax credits and vouchers." And, in reference to school prayer, "I just have to believe that the loving God who has blessed this land and thus made us a good and caring people should never have been expelled from America's classrooms." (EP)

Washington Watch

Franklin Square, one of the major business hubs in downtown Washington, continues to be troubled by open prostitution and pornography sex shops. Recently D.C. government officials and the Neighborhood Association have teamed up in a new effort to clean up the area. (Washington Post, Oct. 3, 1983)

Let us thank God for this initiative, one of the first. Pray that it will be successful, and ask God to release further initiatives.

Let us intercede too, for the pastors and churches of D.C., that they will be strengthened and hold forth the Gospel without compromise.

MIDDLE EAST: A CALL TO INTERCESSION AND OCCUPATION

IFA Research Director, Gary Bergel, visited Israel and Lebanon in early August to prepare an update on the spiritual, political and military climate in the Middle East. An account of his findings has been documented in a report available for distribution.

The report begins with a biblically historical review of the land of Canaan, and points out that the Israelites' failure to obey God by tearing down the Canaanite altars and completely possessing the land has led to the conflict that exists there today.

Gary goes on to explain the Church's Commission, the Canaanite-Islam connection, that Canaanite Strongholds still exist, and concludes with evidence of the Holy Spirit moving in a very special way throughout that area.

To obtain a copy of this report, please send your request with \$1.00 to IFA. We believe you will find it very enlightening and informative.

The newsletter is published monthly by INTERCESSORS FOR AMERICA, P.O. Box 1289, Elyria, Ohio 44036, a tax-exempt, non-profit organization. Your contributions provide our financial support. Contents may be quoted or reprinted, provided excerpts are in context. News items warranting national prayer attention, or reports of answered prayer are welcome. Please provide supporting documents where possible. Your IFA staff: John Beckett, President; Guy Kump, Executive Director; Gary Bergel, Director of Research; Jean Ziegler and Tamarah Johnson, Secretaries. (216) 327-5184.

file IRS

October 26, 1981

Mike Coleman
P.O. Box Z
Mobile, AL 36616

Mr. Morton Blackwell
The White House
Room 191
Washington, D.C. 20500

Dear Mr. Blackwell,

I want to thank you for the time you took out of your busy schedule to meet with myself and Roy Adams of Senator Denton's staff on October 9th. I am very grateful for your assistance in helping us get a bill passed through Congress reforming Section 7605(c) of the Internal Revenue Code which deals with church audits. It looks like Senator Grassley will sponsor the bill on the Senate side and that Congressman Mickey Edwards of Oklahoma will sponsor the bill on the House side. As you stated in our meeting, there are no political downsides or negatives to this bill. This bill will not tie the hands of the I.R.S. from being able to audit illegitimate, tax-abusing churches, but it will, in fact, provide greater due process to those legitimate churches and hopefully avoid abusive practices by the I.R.S. toward legitimate churches.

You stated an interest in calling a White House briefing which Elizabeth Dole would chair to discuss the merits of the bill once the bill has been introduced and I do plan to notify you when that happens. I wanted this letter to serve as an expression of my gratitude for your help. I trust that your trip to Alaska went well. John Whitehead and I continue to work together on this piece of legislation. Thank you for your assistance.

Sincerely,

Mike Coleman

Mike Coleman
Church Financial Administrator

MC/bh

Maack Bell - 224-6572
Orin Hatch's office

4 attorneys - IRS + Churches
want high level
meeting w/ Ed Meese
or President

Orin Briggs -
former Thurmond
Staffer *

William Bad

Robert Toms -
you met him there
w/ Herb Ellingwood
Counsel - Assoc. for
Christian Schools →

John McHario -

plus

LA w/ Sen. Crassley
has been working

on this - and other
LAs are interested

Jack Bell wants
to know if this
worth pursuing

He has done case
work on this + is
knowledgeable on

this issue - they will
write legislation
if warranted

plus 3 senators - Helms,
Armstrong, Thurmond
have written letters -

COMMISSIONER OF INTERNAL REVENUE

Washington, DC 20224

JUN 20 1981

Honorable Hank Brown
U. S. House of Representatives
Washington, DC 20515

Dear Mr. Brown:

I am responding to your letter dealing with the subject of Internal Revenue Service policies towards private, tax-exempt schools. Your letter also raises issues concerning the litigation in Wright v. Miller, Civil No. 80-1124 (D.C. Cir.) and Green v. Regan, Civil No. 1355-69 (D. D.C.) as well as with the effect of the Ashbrook and Dornan Amendments.

Your letter raises the question of intervention in the Wright case by private school groups. You should be aware that in the Wright case, the court has allowed the Reverend Wayne Allen on behalf of the Briarcrest Baptist Schools of Memphis, Tennessee, to intervene in that litigation as a party. That case has been appealed to the Court of Appeals by the plaintiffs and a decision is expected in the near future.

In Green, the court has allowed Clarksdale Baptist Church to intervene. You should note that in response to Clarksdale's Motion to Intervene, the Department of Justice advised the court that the Service had no objection to the granting of the Church's motion and that, if requested by the court, the Department would file a brief supporting intervention by the Church. It is my hope that the granting of intervention will give the court the opportunity to focus on the troubling First Amendment issues that have been raised.

You also question whether, in light of the Ashbrook and Dornan Amendments to the 1980 Treasury Appropriations Act, the Internal Revenue Service and the Department of Treasury may comply with the revised injunction entered in Green in 1980.

I have carefully reviewed this matter and, after consultation with the Office of Chief Counsel and the Department of Justice, I have concluded that the Internal Revenue Service is required to obey the Green orders. This position

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is supported by well-settled principles of statutory interpretation and the legislative history to the Amendments. In connection with the debate regarding the Fiscal 1980 Appropriations Act, Representative Ashbrook stated that this Amendment was intended to prohibit the Service from going forward with new rules until the Congress or a court acted.

The subject of policy towards private, tax-exempt schools is currently being studied within both the Treasury Department and the Internal Revenue Service. We have received letters from both religious and secular private schools expressing their concerns in this area. In studying this matter we have identified several aspects of the prior proposed revenue procedures with which we disagree. We are presently working toward a solution to these problem areas which takes into account major concerns which were expressed with respect to those procedures. You may be assured that the suggestions we have received will be carefully considered in formulating the policy of this Administration regarding private, tax-exempt schools.

With kind regards,

Sincerely,



June 4, 1981

Mr. Powell Moore
White House Legislative Liaison
1600 Pennsylvania Ave.
Washington, D.C. 20500

Dear Powell:

I've attached a copy of a letter, and attachments, which was recently mailed to Max Friedersdorf.

I have also attached a copy of my personal resume and a copy of the certificate my wife received for working in the recent presidential campaign.

Powell, you know how long I have worked in the vineyard, and I think you fully appreciate that while my Christian friends are thought to be too conservative or even reactionary in some sectors of the party, they did contribute significantly to the great Reagan victory. In fact, pollster Lou Harris attributed them with providing two-thirds of the ten percent margin of victory.

My point is simply this, the President has met with conservatives, he has met with black groups, he has met with Puerto Rican groups, he recently met with Senator Kennedy, and if there is any group that really deserves his attention it is the evangelical/fundamentalist community who provided large numbers of voters in his winning effort.

I would appreciate your personal intervention in this matter on behalf of me and my clients which represent nearly five hundred thousand families in most of the states of the union, and represent many many hundreds of thousands of families who are their friends and associates.

Obviously, I am aware of the great demands on the President's time, but frankly, this group is deserving of one short meeting to make a very simple and meritorious request that the President direct the IRS to take a long hard look at its policy of trying to regulate church schools.

On March 3, 1981, the U. S. Supreme Court again affirmed the right of church schools to be free from government regulations by interpreting the federal Unemployment Tax Act as providing exemption for church schools from the federal unemployment tax and the scrutiny of state bureaucrats over the hiring

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Mr. Powell Moore
June 4, 1981

Page 2

and firing practices of church schools.

Let me thank you in advance for your consideration of this matter and any help that you can provide.

Sincerely,

OGB/ag
enc.

Orin G. Briggs

Dec. 23, 1980

The Honorable Carroll A. Campbell, Jr.
1723 LHOB
Washington, D.C. 20515

Dear Carroll:

In the absence of knowing anyone closer to Governor Reagan I feel compelled to write a letter of friendly suggestion with regard to what appears to be a failure on the part of the new administration to properly recognize its obligation and friendship to the Christian/Moral Majority vote.

It is my understanding from having talked to Dr. Walt Handford who is, as you know, pastor of a church in your district with over 2000 members, and after talking to Dr. Charles Stanley, Pastor of First Baptist Church of Atlanta, Georgia, that neither Dr. Jerry Falwell, nor any other leader of the Fundamentalist and Evangelical Christian community have been able to either talk with Governor Reagan or get a specific message to him and a response to that message.

Actually, I find this incredible, and seems to be a harbinger of bad times for the new administration if they do not have enough political wisdom to know that it is more important to meet with your friends than it is to meet with a group of "black leaders who did not vote for Reagan." It is even more astonishing, when you realize that, according to Lou Harris, the "Moral Majority" voters "gave Ronald Reagan two-thirds of his ten percent margin in the election."

Carroll, as a spokesman for the Fundamentalist/Evangelical vote in South Carolina which obviously helped provide the small margin of victory in South Carolina, I feel like I must hasten to say that, while this particular group of voters will never vote for a liberal Democrat, they are not opposed to taking a walk during an election; and I am afraid if there's not a proper response from Reagan toward this group that you may very well find that they'll stay at home in the next presidential election, and maybe in the next congressional election two years from now.

Without belaboring the point any further, let me suggest that you could significantly solidify your support among this group in South Carolina if you could arrange the meeting with Reagan.

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The Honorable Carroll A. Campbell, Jr.

Page 2

I know that Dr. Handford, as a moderator of the Southwide Independent Baptist Fellowship, only wanted to express his support to the President-elect and urge him to be faithful to his pledge for a conservative government free from excessive bureaucracy.

Carroll, it is a shame that the President-elect has seen fit to see all the special interest groups who are looking for favors and yet has failed to meet with representatives of his most faithful supporters who really are not looking for any kind of handouts, but only wish an opportunity to assure the President of their continued support of his efforts to work for conservative government.

Sincerely,

OGB/ag

Orin G. Briggs

cc: Dr. Walt Handford
Dr. Bob Jones III
Dr. Bill Monroe
Dr. Charles Stanley

bcc: Jack Buttram
Elmer Rumminger

CARROLL A. CAMPBELL, JR.
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Congress of the United States

House of Representatives

Washington, D.C. 20515

January 12, 1981

BANKING, FINANCE AND URBAN
AFFAIRS COMMITTEE

SUBCOMMITTEES:

FINANCIAL INSTITUTIONS SUPERVISION,
REGULATION AND INSURANCE

INTERNATIONAL TRADE,
INVESTMENT AND MONETARY POLICY

GENERAL OVERSIGHT AND
RENEGOTIATION

HOUSE ADMINISTRATION
COMMITTEE

SUBCOMMITTEES:

ACCOUNTS

PERSONNEL AND POLICE

CONTRACTS

Mr. Orin G. Briggs
1804 Bull Street
Columbia, South Carolina 29201

Dear Orin:

I have been mulling over your letter of December 23 since it was forwarded to me in South Carolina, and believe you have made some understandable points -- understandable, particularly, in view of how the media has been handling its coverage of the new President's intentions toward his supporters in the Christian/Moral Majority. As you know, the press has approached the influence of Fundamentalist Christians on politics in general and the Republican Party specifically in a rather sensationalist manner and has, I believe, tended to over-dramatize imagined slurs to that group. Quite frankly, I think the difficulty in reaching President-elect Reagan has been due to two factors: the enormity of the task facing him and the chaotic conditions that admittedly prevail at the Transition Office. And, I am no stranger to that difficulty myself. Since the election, I have seen the President-elect only twice.

I am totally comfortable, however, with the continued, firm commitment Governor Reagan has demonstrated both to the constituency which elected him and to the principles on which he campaigned. As a sense of organization replaces the euphoria and chaos that characterizes the aftermath of a successful election, I am confident that Mr. Reagan and his team will seek the advice of the Fundamentalists who worked so hard for his victory. Certainly, I am prepared to use whatever influence I may have to insure that this is the case.

In the meantime, I am not blind to the fact that some individuals have a perception of being left out. I am pleased to note, however, that my own conversations with Dr. Handford and others indicate that they do understand that many of these apparent problems are only a result of confusion during the Transition period which will be ironed out in due course, and they in no way dilute support for President-elect Reagan. Surely it is far

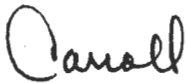
PRESERVATION COPY

Mr. Orin G. Briggs
January 12, 1981
Page 2

too early to be making judgments about the performance of the new Administration which would dictate the actions any of us would take in future elections. Of course, lack of participation in the political process is as good as support for a differing political philosophy.

I appreciate your deep concern about access to the President-elect, and share your sense of the importance of providing Mr. Reagan with the best possible advice. I look forward to working with you to see that this is accomplished.

With warm regards,



Carroll A. Campbell, Jr.
Member of Congress

CACJr/nm

cc: Dr. Walt Handford

JUL 20 1981

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68 BOULEVARD de COURCELLES
75017 PARIS, FRANCE
766 . 02 . 12

July 11, 1981

Orin G. Briggs, Esquire
1804 Bull Street
Columbia, South Carolina 29201

Dear Orin:

I am just back from Washington, and I believe a strategy is shaping which should do us some good.

Your reference to March Bell turned out to be very strategic as he was very helpful. I also met with a volunteer special counsel to that same committee, Mary Kaaren Jolly, and we talked through the problem and the strategy. Senator Grassley is on this committee also, and, as you know, he is also head of the IRS Oversight Committee. Senator Armstrong was very responsive and is prepared to assist us.

As you know, Presidential Counselor Morton Blackwell is responsible for White House liaison with various groups including religious groups. They have previously used the method of resolving conflicts between agencies and various groups by holding a briefing in the White House, and in my conversations with him, he agreed to do this for us. The way it works is that we would design, say, a four-hour hearing with testimony from our side, and we would invite specified members of the IRS to come in and talk about their policy toward religious organizations. We could ask them to answer specific questions and deal with specific sub topics. The White House would bring in a reporter, and the transcript would be available for our use later. If we can design the participants and the content of that briefing, I think we can produce an important transcript to use to our advantage in molding opinion within the Administration and the various congressional committees, as well as for reference in litigation including the appeal in the Bob Jones case.

Here is the scenario and timing that I would recommend for your consideration, and I would appreciate your comments:

1. By the end of July, we should organize and request the White House briefing to occur the last week in August.

PRESERVATION 1

Orin G. Briggs, Esquire
July 11, 1981
Page 2

2. At the same time, we should press ahead with the request for the presidential briefing which should occur the second week in September. I expect we will be able to use the ammunition obtained in the briefing to good advantage in the presidential briefing, and we can hand the President our summary of it, with an advance copy to his aides and to our friends throughout the Congress and its committees.

You have the strategy pretty well designed for the presidential briefing. With regard to the White House briefing, let's have the request for the briefing come in writing jointly from the Center for Law and Religious Freedom, the IRS Oversight Committee, the Committee on the Judiciary, and its subcommittee on the Constitution, as well as personally from Senators Thurmond, Grassley, Armstrong, East, and Helms.

From our side, I would suggest that Bill Ball be our principal spokesman and that he put into the record a comprehensive summary of the most egregious case histories, as well as a very effective constitutional brief and argument. Like a good trial, I would recommend that we coordinate anything else that is done from our side under that central strategy. The object will be to create a record that could be used to great advantage in, (1), molding opinion within the Executive and Legislative branches, (2), smoking out opinions and strategies from the IRS to make them a better target, (3), demonstrate that they are not only doing this in violation of the Constitution but are also wasting money while acting ultra vires, (4), prepare a good package of the foregoing which can be summarized for the President.

Since getting the government to act is much akin to punching a marshmallow, we need a strategy that will try to precipitate all this opinion into some kind of direct action by the Executive Branch or the Legislative Branch to forestall this offending activity.

Orin, my sense is that the timing now is very critical for this matter and that we need to move ahead with all dispatch. I also believe that the scale of effort is not adequate--that is, we are not putting enough time on this matter. I think we should talk to Dr. Bob, III about your logging a day or two a week, if necessary, in Washington to keep all of this on the burner. If we are to impact the policy and affect the cases that are pending, I believe we should scale up our efforts now.

I would appreciate your personal comments; then I think we should have a conference call with the other counsel to finalize our strategy.

Orin G. Briggs, Esquire
July 11, 1981
Page 2

Very truly yours,

A handwritten signature in cursive script, appearing to read "Bob", written in black ink.

Robert L. Toms
RLT:im

CC: William B. Ball, Esquire
John J. McLario, Jr., Esquire

JUL 28 1981

LAW OFFICES
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511 N. SECOND STREET
P.O. BOX 1108
HARRISBURG, PENNSYLVANIA 17108

WILLIAM BENTLEY BALL
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KATHLEEN A. O'MALLEY

TELEPHONE
AREA CODE 717
232-8731

July 24, 1981

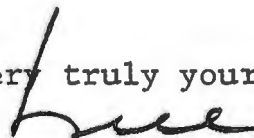
Orin G. Briggs, Esq.
1804 Bull Street
Columbia, SC 29201

Dear Orin:

I have read Bob Toms' letter to you dated July 11 re an approach to the presidential briefing matter. This sounds fine to me. There is an element of urgency which I feel with respect to the project. I am beginning to realize that IRS is going to do its own thing, in its old ways, unless and until there is very strong and perceptive corrective action by people above who have the power to make changes but need to know what changes are required.

Bob speaks of meeting the President the second week of September. I expect to be in England then (roughly from September 8 to September 22), but if that plan goes awry, then on vacation elsewhere September 18 to October 4.

Very truly yours,



William B. Ball

WBB:dh

cc: Robert L. Toms, Esq.
John J. McLario, Jr., Esq.

THE PRESERVATION COPY

Jack Bell - 224-6572
Orin Hatch's office

4 attorneys - IRS + Churches
want high level
meeting w/ Ed Meese
or President

Orin Briggs -
former Thurmond
Staffer *

William Bael

Robert Toms -
you met him there
w/ Herb Ellingwood
Counsel - Assoc. for
Christian Schools →

Johnnie Lewis -
PH w/ Sen. Cravens
has been working
on this - and other
HAs are interested
Jack Bell wants
to know if this
worth pursuing
He has done case
w/ Bill OR this + so
I'm not going to
- they will
- like register
at unannounced
- Sen 3 Senators - DeLoach,
Casper, Thurmond
- have written letters -

IRS - Chuck auditing file

did

JOHN W. WHITEHEAD
ATTORNEY AT LAW
P. O. BOX 409
MANASSAS, VIRGINIA 22110
(703) 791-5179

OF COUNSEL
THOMAS S. NEUBERGER
ADMITTED TO PRACTICE IN
DELAWARE

June 3, 1981

Mr. Morton C. Blackwell
Special Assistant to the President
The White House
Washington, D. C.

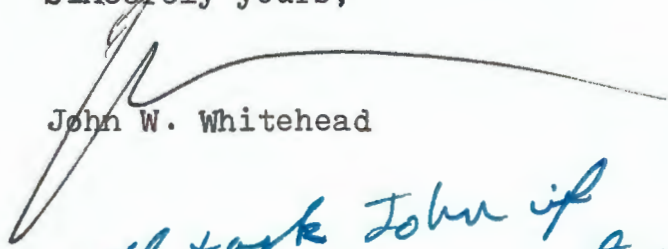
Dear Morton:

I am sorry we didn't get a chance to discuss the I.R.S. auditing of churches. However, the materials we left you are a good overview of the problem. Anything you can do will be most appreciated.

If I can be of any assistance, feel free to contact me.

With best regards, I remain,

Sincerely yours,



John W. Whitehead

JWW:vc

6/16
Orvia Biggs, lawyer
in S.C., is sending
names of people

Call + ask John if
he wants me to set up
a meeting/briefing with
IRS people for him.
If so - whom should I
invite?

6/15 he wants a briefing + he will
send us list of people, etc.

**MEMORANDUM
OF CALL**

TO: _____

Kathey

YOU WERE CALLED BY— YOU WERE VISITED BY—

Jay Cole

OF (Organization) _____

PLEASE CALL → PHONE NO. *501-521-1758* FTS
CODE/EXT.

WILL CALL AGAIN IS WAITING TO SEE YOU

RETURNED YOUR CALL WISHES AN APPOINTMENT

MESSAGE _____

RECEIVED BY _____

DATE _____

TIME _____

63-109

☆ U.S. G.P.O. 1981-341-529/26

STANDARD FORM 63 (Rev. 8-76)
Prescribed by GSA
FPMR (41 CFR) 101-11.6

Orin G. Briggs
James B. Carraway

Law Office
Orin G. Briggs
1804 Bull Street
Columbia, South Carolina 29201

803-252-1700
add to John Whitehead package

June 16, 1981

Mr. Morton Blackwell
Special Assistant to the President
for Public Liaison
Office of Public Liaison
Room 134
Old Executive Office Building
Washington, DC 20500

Dear Morton:

A lot of exciting things have happened since I talked to you during the campaign about NICPAC support of a strong conservative.

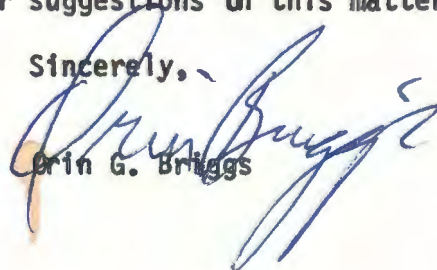
The purpose of my letter is to send you a copy of recent correspondence requesting a meeting with the President about the IRS involvement in regulation of church schools.

I found out from your assistant that you were lending assistance to an effort of John Whitehead to have a briefing with appropriate IRS officials on the IRS policy of church audits.

Obviously these efforts should be coordinated, and I would defer to your judgment as how best to accomplish this coordination. However, it is my opinion that we are not likely to get any significant change in IRS policy unless that instruction comes from the White House.

I would like very much to talk with you about this matter at your convenience and would appreciate very much your advocacy on behalf of our request which was made by Senators Thurmond, Helms, and Armstrong. I have been informed by an attorney close to Ed Meese that if the Senators call Max Friedersdorf and reaffirm their request, we should be able to get a meeting with the President or at least with Ed Meese. Your assistance and your suggestions on this matter will be deeply appreciated.

Sincerely,


Orin G. Briggs

OGB:pw

United States Senate

WASHINGTON, D.C. 20510

May 22, 1981

Mr. Max L. Friedersdorf
Assistant to the President
for Legislative Affairs
The White House
Washington, D.C. 20500

Dear Max:

Since 1971, the IRS has proposed and has sought to implement far-reaching new regulations which would require constant IRS monitoring of church school admissions policies, church school activities and school disciplinary rules.

As you know, there was a strong expression by Congress in opposition to the IRS policy toward church schools set forth in the Dornan and Ashbrook amendments to the 1979-1980 Appropriations Bills for the Treasury Department.

Frankly, those of us who have advocated that the IRS return to its duty of collecting taxes and avoid a substantive policy-making role have been encouraged by some recent statements by President Reagan. We are also aware that, before any major modifications are made in a policy as far-reaching as the policy espoused by the IRS toward church schools, appropriate officials in the Reagan Administration would have to review the proposals and likely ramifications.

Just recently, the IRS has instituted another monitoring program which involves the agency sending detailed questionnaires to churches, seeking information about the names and employment of board members of the school, and other private information which we do not believe the Service needs.

We believe it is safe to assume that the Administration is probably reviewing this entire IRS policy, but we would like to suggest a means of speeding up that review. Specifically, we request that a meeting be arranged between President Reagan and four attorneys who represent a broad range of church schools for the purpose of asking for a thorough and objective review of this entire federal government policy. We believe that this meeting is necessary in order to help the Administration formulate a new policy for IRS review of church matters; we believe that a new policy is warranted to prevent the financial ruin of hundreds of church-owned schools and other legitimate religious organizations through the enforcement of bureaucratic fiat.

Mr. Max L. Friedersdorf
May 22, 1981
Page Two

Let us conclude by quoting from a speech President Reagan made at the Religious Roundtable National Affairs Briefing in Dallas, Texas, on August 22, 1980. There President Reagan made a very unequivocal promise to get IRS off the back of church schools and other legitimate ministries of churches. On that particular occasion he said:

Fully backed by the White House, the Internal Revenue Service was prepared to proclaim, without approval of the Congress, that tax exemption constitutes federal funding. The purpose was to force all tax-exempt schools -- including church schools -- to abide by affirmative action orders drawn up by -- who else? -- IRS bureaucrats.

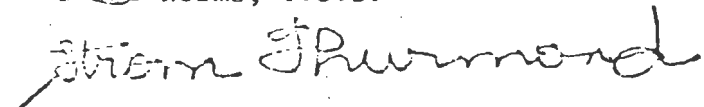
On that particular point, I would like to read you a line from a certain political platform, written in Detroit, about a month ago. It goes like this: 'We will halt the unconstitutional regulatory vendetta launched by Mr. Carter's IRS Commissioner against independent schools.'

We believe that the time has come to closely review the overly-aggressive IRS policy toward church schools and to develop a policy which will preserve religious freedom. In order to fully inform the President of the position of this group of attorneys, we have enclosed an analysis of the issue by William Ball, along with a briefing memo. It is our hope that a meeting can be arranged in the near future at the President's convenience.

Sincerely,


William L. Armstrong, U.S.S.


Jesse Helms, U.S.S.


Strom Thurmond, U.S.S.

Attachments sent

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INTERNAL REVENUE SERVICE CHURCH AUDITING
BRIEFING (1 OF 3)

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RE. PRESIDENTIAL BRIEFING [PG. 1]	

Freedom of Information Act - [5 U.S.C. 552(b)]

- B-1 National security classified information [(b)(1) of the FOIA]
- B-2 Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- B-3 Release would violate a Federal statute [(b)(3) of the FOIA]
- B-4 Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- B-6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- B-7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- B-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- B-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

Background and History

The two school associations to be represented at this meeting have more than twenty-four hundred member schools throughout the entire United States with a total enrollment of approximately 500,000 students. The church affiliation of these schools covers a wide range of denominations within the evangelical and fundamentalist church community.

While this particular constituency is quite friendly to the Administration, it should be noted that the senators requesting this meeting feel quite strongly that there is significant and overriding merit to the position that is being taken which advocates that IRS get out of the public policy enforcement game and return to its statutory duty of collecting taxes.

William B. Ball was graduated from Notre Dame Law school in 1948. He is noted nationwide as a prominent constitutional lawyer and is frequently called as a speaker at religious and legal symposiums. He has been lead counsel in constitutional litigation in 20 states and in 19 cases before the United States Supreme Court, including as winning counsel in the landmark decision in the Amish case, Wisconsin vs. Yoder. He has lectured and debated constitutional law issues at the University of Minnesota, University of Chicago, Amherst College, Harvard Graduate School of Education, University of Pennsylvania and many others and has published numerous articles in law reviews and other legal periodicals.

Requested White House Action

The group would request a plenary and objective review of the IRS campaign which has systematically crusaded against conservative church schools and other religious organizations to the end that a new policy could be developed which would restrict IRS monitoring and regulating church schools so that any such review would be consistent with specific Congressional authority and will be consistent with the United State Constitution. (See attached legal opinion).

Proposed Agenda

Senator Jess Helms to introduce the participants

Statement by President Reagan with regard to present administration policy

Statement by William Ball on constitutional dilemma

Comments by senators

Reaction by President Reagan and staff

Further discussion if needed



CHRISTIAN
LEGAL
SOCIETY

p.o. box 2069,
Oak Park, Illinois 60303
(312) 848 6335

March 31, 1981

Mr. William Ball
Ball & Skelly
Post Office Box 1108
Harrisburg, Pennsylvania 17108

Dear Mr. Ball:

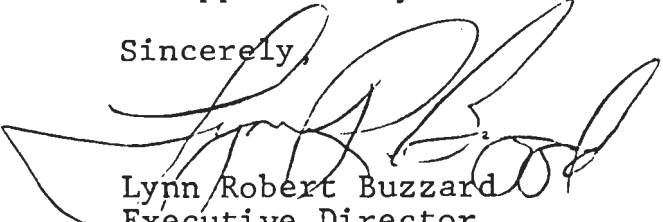
The Center for Law and Religious Freedom has received numerous inquiries regarding the scope and nature of Internal Revenue Service policies and practices which appear to embody attempts to enforce certain social policies or "public policy". Though these inquiries have been received over the last couple of years, they seem to have become more frequent perhaps with publicity given to the Bob Jones University case and Green v. Miller.

I'm sure you would agree with us that the use of such tax power raises numerous constitutional questions and is of great concern to large segments of the public, perhaps the religious community especially. Many who may even concur with the goals espoused through such regulatory activity, still have great concerns about the legitimacy of this approach.

It would greatly assist the set up for the Law and Religious Freedom in its own attempt to analyze these issues and to provide effective leadership if an analysis of this issue from a legal and constitutional perspective could be made available. We understand that you have some significant involvement in issues of this sort and because of this and your long standing commitment to religious liberty and the defense of the same through the legal process, we would invite you to prepare an opinion regarding these matters and make it available to the Center for Law and Religious Freedom. This will assist in providing a principled approach to these issues rather than merely dealing with isolated cases as they emerge in various courts.

We appreciate your consideration of this request.

Sincerely,



Lynn Robert Buzzard
Executive Director
Center For Law & Religious Freedom

LRB:sd

BALL & SKELLY
ATTORNEYS AT LAW
511 N. SECOND STREET
P. O. BOX 1108
HARRISBURG, PENNSYLVANIA 17108

TELEPHONE
AREA CODE 717
232-6731

WILLIAM BENTLEY BALL
JOSEPH G. SKELLY
PHILIP J. MURREN
RICHARD E. CONNELL
KATHLEEN A. O'MALLEY

April 15, 1981

TO: Mr. Lynn R. Buzzard
Executive Director
Center For Law and Religious Freedom

RE: Unconstitutional Intervention of
IRS In Religious Affairs

Introduction

I write you today pursuant to your request for an opinion from me, as a Fellow of the Center and as a constitutional lawyer, respecting concerns, which you find to be widespread, over activities of the Internal Revenue Service in relation to churches and religious ministeries. The following brief summary will confirm those concerns and will point to the fact that I.R.S. has been engaging in activity which directly violates constitutional guarantees.

Preliminarily, it is important for the Center to understand: the aberrant activity of I.R.S. cannot be overcome through litigations brought by religious groups. The burdens are far too great - too great in terms of cost, delay, publicity and morale. American religious bodies are, by and large, engaged in peaceable and beneficent works such as worship, evangelization, education, sepulture, and care of the aged, children, the poor and the ill. Most are not governmentally funded and refuse to be. Their very limited funds are held in strict stewardship for their religious ministries. They cannot maintain litigation budgets. It is not their business to be in the courts. It is a great irony, that churches - which are the very core of law-abiding good citizenship in our nation - should have forced upon

them the image of public resisters to government. And doubtless you are well aware that litigations with government are very threatening to religious institutions - for example, colleges - which, when their existence is endangered by government, may face rapid loss of support, memberships or enrollments.

Tax exemption is the lifeline of religious institutions in our country. The I.R.S., over the past few years, with the sanction, if not the encouragement, of past national administrations, has repeatedly adopted policies which would cut off that lifeline. After long study of these policies, I must conclude:

1. The I.R.S. policies are absolutely outside any powers given I.R.S. by the Congress of the United States. Incredibly, these policies, given the mantle of the power and prestige of the Government, are nothing but attempts by individual public servants to laminate their personal views onto other citizens.
2. The I.R.S. policies are palpable violations of the civil rights of religious bodies, particularly those freedoms protected by the Religion Clauses of the First Amendment.
3. The I.R.S. policies rest upon the false presumption that the taxing power may be used as an instrument for bringing about social change - indeed, those forms of social change which are the preferred notions of those public servants who have been allowed a free hand in manipulating the tax power.
4. The I.R.S. policies are correctable at once by informed and forceful executive action.

I thought it would be useful, first, to examine the constitutional position of churches and their ministries under decisions of the Supreme Court; next to discuss particular impositions of I.R.S. in light of constitutional considerations and in respect to authorization, or lack of it, under Section 501(c)(3) of the Internal Revenue Code.

I. THE SUPREME COURT HAS HELD THAT
GOVERNMENT MAY NOT ENTANGLE ITSELF
IN CHURCH AFFAIRS NOR, EXCEPT IN
EXTREME CASES, IMPINGE UPON LIBERTIES
OF CHURCHES OR THEIR MINISTRIES

Two basic principles relating to religious ministries have been emphatically stated by the Supreme Court of the United States during the past decade:

(1) Government may not become excessively entangled in the affairs of religious bodies; church-state separation must be observed. That is the principle protected by the Establishment Clause of the First Amendment. The relevant Supreme Court decisions bar any substantial government involvement in the affairs of churches or their ministries, such as schools. In Walz v. Tax Commission, 397 U.S. 664 (1970) the Court warned against governmental involvements which produce "a kind of continuing day-to-day relationship which the policy of neutrality seeks to minimize" and the entangling of "the state in details of administration" of church affairs. In Lemon v. Kurtzman, 403 U.S. 602 (1971), the Court laid it down flatly that government must not entangle itself in the affairs of church-schools. In Catholic Bishop of Chicago v. NLRB, 559 F. 2d 1112, aff'd., 440 U.S. 490 (1979), the Court expressed grave concern over the forbidden entanglements which would be involved were NLRB to

exercise jurisdiction in Roman Catholic schools. All of this, too, is of immense relevance with respect to recent I.R.S. actions which have called for grossly unconstitutional entanglement between I.R.S. and churches and religious ministries.

(2) Churches, religious bodies, their staffs and members may pursue the exercise of religion without governmental restraint except where a "compelling state interest" dictates restriction and then, only if no alternative means exists for the realizing of that governmental interest. That is the principle protected by the Free Exercise Clause of the First Amendment. The relevant Supreme Court decisions show that religious bodies and religious interests are treated, under the Constitution, very differently from secular private organizations and interests. See, e.g., Cantwell v. Connecticut, 310 U.S. 296 (1939), Sherbert v. Verner, 374 U.S. 398 (1963), Wisconsin v. Yoder, 406 U.S. 205 (1972) and McDaniel v. Paty, 435 U.S. 618 (1978). That fact is one of immense relevance in respect to recent I.R.S. actions which have either held churches to restrictions related to secular bodies or which have attempted to define the religious mission of churches - a matter forbidden by such decisions as Kedroff v. St. Nicholas Cathedral, 344 U.S. 94 (1952).

Of course, religious activity also enjoys protection under other constitutional headings - e.g., the freedom of speech, press and assembly provisions of the First Amendment, rights of privacy implied in the Ninth Amendment, the general protections of the Due Process Clause and of the Equal Protection Clause. Primary focus here will be given to the Religion Clauses of the First Amendment.

II. I.R.S. HAS VIOLATED, AND CONTINUES
AT THIS HOUR TO VIOLATE, CONSTITUTIONAL
LIBERTIES OF CHURCHES AND THEIR MIN-
ISTRIES

VOTER EDUCATION COMMUNICATIONS. (Revenue Ruling 78-248, June 2, 1978.) This ruling by I.R.S. (upon which tax exemption depends) raises a presumption that "single issue" voter communications "widely distributed among the electorate during an election campaign" constitute, by their very nature, "participation or intervention in a political campaign" (contrary to the provisions of Section 501(c)(3) of the Internal Revenue Code). The ruling forbids religious groups to send questionnaires to political candidates, for use during a campaign, which questions "evidence a bias on certain issues." I.R.S. does not explain the term, "bias", and I.R.S. reserves to itself the determination of what constitutes "bias". The ruling is so broad that it would plainly apply even to a homily wherein a clergyman would explain to his own parishioners, within the walls of his own church, the evil of voting for a candidate who, for example, had won a mass following by preaching revolution, or racial hatred, the legalization of prostitution, or any other issue having grave moral significance.

Here is a flagrant violation of civil liberties but, in particular, it is a bar to the exercise of rights of religious bodies in bearing moral witness in our society. Violation of this ruling means the cut-off of the lifeline of tax exemption. The ruling is in no sense a reasonable implication of the wording of Section 501(c)(3), as prior I.R.S. conduct so well indicates. Only in June, 1978, nine years after Section 501(c)(3) had been enacted, did I.R.S. express this singular interpretation of the statute. Indeed in an earlier Revenue Ruling, 66-256, the Service had stated

that, as to a tax-exempt organization which addresses itself to political issues, ". . . its only responsibility is to bring the views expressed to the attention of the community." The Supreme Court in Buckley v. Valeo, 424 U.S. 1, 14 (1976) laid down the governing principle:

"Discussion of public issues and debate on the qualification of candidates are integral to the operation of the system of government established by our Constitution. The First Amendment affords the broadest protection to such political expression in order 'to assure [the] unfettered interchange of ideas for the bringing about of political and social change desired by the people'."

This principle is extremely significant to churches. Historically the liberty of churches in the United States has included the bearing of witness on issues deemed moral. Characteristically, these issues have come into focus as "single" issues, as so many instances in our history will show - e.g., the Abolitionist movement, National Prohibition, the Vietnam War.

PRIVATE SCHOOLS' TAX-EXEMPT STATUS. (Proposed Revenue Procedure on Tax-Exempt Status of Private Schools, 1978, and see Orders of the U.S. District Court for the District of Columbia, May 5, June 2, 1980, in Green v. Miller, Civil Action No. 69-1355.) In its Proposed Revenue Procedure, I.R.S. held that any private school formed or substantially expanded in the wake of a federal court desegregation decree, was presumptively racially discriminatory and must hence lose its tax exemption. This incredible judgment was, on its face, a denial of due process. To churches having religious schools, the blow was extremely damaging, since it threatened the very slender resources out of which these

ministries to youth are maintained. Yet an even more reprehensible feature was involved in the I.R.S. proposal: a church-school could overcome the scandalous and unproved presumption of racial discrimination by allowing I.R.S. to program its ministry - that is to say, its curriculum, staffing, student life, admissions policy, and recruitment. For example, Section 4 of the proposal called for the church-school to engage in "active and vigorous" minority recruitment programs. Apart from the total unconstitutionality of government's pressuring private, non-tax-supported religious institutions to engage in recruiting programs, is the fact that government has no right to pressure these institutions to pay, out of their limited funds, for a non-Congressional authorized social program. Again, through the use of accordion-like terminology such as "active and vigorous" (with which the whole proposal was rife), I.R.S. administrators were made the legally uncontrolled judges of the evidence respecting recruiting. Finally, I.R.S.'s general unfamiliarity with the churches it sought to regulate was made crystal clear here: Christian schools, for example, do not "recruit", they evangelize and evangelization may not be governmentally required under the Establishment Clause of the First Amendment.

The myriad provisions of the Proposed Revenue Procedure reflect:

a. Lack of Congressional authorization. The provisions are nothing but expressions of the personal biases of non-elected I.R.S. officials. The proposals are simply their "home made" law.

b. Unconstitutional delegation of legislative power.

The whole scheme is made to depend on language containing no tangible standards for the exercise of I.R.S. discretion. It is an open invitation to a reckless wielding of power by I.R.S. public servants and to corrupt bargains of compliance to be made by private school administrators frightened over the prospect of economic shut-down.

c. Excessive entanglements between government and church ministries. Part and parcel of the proposal is unlimited inquisitorial power. Every species of entanglement already condemned by the Supreme Court is written into the Proposed Revenue Procedure.

The Congress reacted to the I.R.S. proposal through the Ashbrook and Dornan Amendments. These dictates of the Congress have now been circumvented by the U.S. District Court for the District of Columbia, aided, one is forced to conclude, by the Internal Revenue Service.

The case is Green v. Regan , an earlier desegregation case in which civil rights plaintiffs sued I.R.S. and got a court ruling that private non-religious schools must lose tax exemption if racially discriminatory. Religious schools, with their many constitutionally distinctive characteristics reviewed in cases such as Lemon v. Kurtzman, were not parties in this case and their claims and rights were never litigated. In 1976 the plaintiffs sought to reopen the Green decree and to broaden it.* Remarkably, the demanded broadening

* The case was at that time entitled Green v. Miller.

was to consist of the very Proposed Revenue Procedure which the Congress had just forbidden to be funded. Without opposition from the defendant I.R.S., Judge Hart, of the District Court, granted the decree sought and expressly included religious schools as bound by it. Immediately upon hearing of this, religious schools sought intervention in the case. At this critical juncture, it was the plain duty of I.R.S. to support the intervention if only because a new, unlitigated element (the religious interest) was now made part of the case. The public interest lay in assuring that this element would be litigated and the risk of public expense through remand obviated. Instead, I.R.S. stood silent, and the court, in the face of that, at once denied intervention. The conduct of I.R.S., in this phase of the Green case, caused wide comment that the action had now become a "sweetheart suit" - that, in other words, the conduct of I.R.S. has been unethical. It is plainly a further expression of I.R.S. bias, of I.R.S.'s lawlessness, and of its blindness to religious liberty.*

INTEGRATED AUXILIARIES OF CHURCHES. (Income Tax Regulations §1.6033(g) January 4, 1977). The Internal Revenue Code provides that an "integrated auxiliary of a church" enjoys the same tax exempt status as a church. In 1977, after Section 501(c)(3) had long been administered, I.R.S. published a regulation which provided a novel definition

* The religious schools in question have appealed the denial of intervention to the U.S. Court of Appeals for the District of Columbia. The Department of Justice, which had told the District Court that Treasury and I.R.S. took "no position" on the intervention, on April 1, 1981, informed the Court of Appeals that they had "no objection to an order permitting the appellants to intervene in this proceeding." This is still far from what justice and the sound administration of the tax laws demand.

of "integrated auxiliary". Stating that annual returns are not required to be filed by churches, or their integrated auxiliaries "whose principal activity is exclusively religious", the regulation went on to say:

"An organization's principal activity will not be considered to be exclusively religious if that activity is educational, literary, charitable, or of another nature (other than religious) that would serve as a basis for exemption under section 501(c)(3)."

The regulation goes on to supply a number of examples of what the administrators of I.R.S. consider to be "exclusively religious" activities.

The definition of "integrated auxiliary" supplied by I.R.S. is flatly unconstitutional and in direct conflict with teachings of the Supreme Court and several lower federal courts. It rests upon secularist assumptions relating to the nature of churches, religious ministries, and religion itself. These assumptions attempt to legally confine religion to worship, the "religion of sacristy and steeple." Precisely such regulation existed in Germany under the Kulturkampf of Bismarck, and has characterized the Nazi and Communist regimes. It is utterly foreign to the American constitutional tradition which recognizes that religious liberty embraces such spacious concepts as moral, social and political witness, evangelization, education, care of the sick and the poor. The I.R.S., in its regulation, states that, because a church school's program "corresponds with the public school program for the same grades and complies with State law

requirements for public education", that school's activity is therefore not "exclusively religious". In Lemon v. Kurtzman, supra, the Supreme Court held precisely the opposite. There the Commonwealth of Pennsylvania had claimed that the "secular functions" of religious schools in Pennsylvania could be publicly aided. The Supreme Court held that these schools' activities could not be split into "secular" and "religious" functions. The schools, it held, were "an integral part of the religious mission" of their sponsoring churches.

I.R.S. has continued to aggressively pursue this unlawful policy of making its own judgments upon doctrine and belief.

III. THE I.R.S.'S RELIANCE UPON "PUBLIC POLICY" AS ITS JUSTIFICATION FOR MANIPULATING TAX POWERS FOR SOCIAL CONTROL IS ESPECIALLY DANGEROUS

Perhaps no aspect of I.R.S. activity in recent years needs public exposure and condemnation so much as its persistent use of the term "public policy" as the basis for its impositions. The powers of a federal administrative agency are lodged in but one source: the Congress. Unhappily, I.R.S., like many another federal agency, has been allowed - without Congressional or executive reproof - to get into the habit of making its own law. The tax power is, of course, a governmental power which it is supremely important be kept to the letter of the law as made by the people's representatives. To allow administrative agents to make law is

utterly alien to the American concept of government. The present prevalence of abuse of power by administrative agencies lends not the slightest legitimacy to that abuse. What we see in those abuses (and nowhere worse than in the conduct of I.R.S. to which I have referred above) is actually the embracing of the old European "reason of state" doctrine - the notion that the king could violate the common law for ends the king deemed important. In our day this doctrine has been the staple of totalitarian nations' jurisprudence.

Avoiding constitutional commands and principles, I.R.S. has relied insistently on that doctrine - which it expresses through its use of the term, "public policy". "Public policy", says I.R.S., dictates particular I.R.S. regulations; citizens must mold their conduct to conform to what the I.R.S. public servants choose to denominate as "public policy"; whatever the latter individuals select as "public policy" shall be, in effect, the law of the land - preempting the true law of the land. Note, for example, the following from I.R.S. Publication 557, HOW TO APPLY FOR AND RETAIN EXEMPT STATUS FOR YOUR ORGANIZATION (1979):

"In order to determine whether recognition of exemption should appropriately be extended to an organization seeking to meet the religious purposes test of section 501(c)(3) of the Code, the Internal Revenue Service maintains two basic guidelines:

- 1) That the particular belief of the organization is truly and sincerely held; and
- 2) That the practices and rituals associated with the organization's belief or creed are not illegal or contrary to clearly defined public policy.

Hence, your group (or organization) may not qualify for treatment as an exempt religious organization for tax purposes if its actions, as contrasted with its beliefs, are contrary to well established and clearly defined public policy. If there is a clear showing that the beliefs (or doctrines) are sincerely held by those professing them, the Internal Revenue Service will not question the religious nature of those beliefs." (Emphasis supplied.)

I must repeat my concern that I.R.S. has not been content merely to make pronouncements about "public policy"; instead it has aggressively pursued this concept in litigation. The case presently in the courts, Bob Jones University v. United States of America, 468 F. Supp. 890 (D.C., S.C., 1978) (now on appeal in the Fourth Circuit), is a disturbing illustration of this. There I.R.S., not venturing to contradict the sincerity and reality of a college's religious claims, nevertheless contends that these claims must be overridden in the name of I.R.S.-invented "public policy" on race discrimination. That contention is so far-reaching as to have invited the concerns even of religious groups not remotely connected with Bob Jones University or even with higher education - e.g., the Catholic Hospital Association, a nationwide Roman Catholic body, took specific note of the implications of this case as to sex discrimination. In its newsletter of February, 1981, the CHA stated: "This case has impact upon entities such as the Catholic Church which requires a celibate, all-male clergy."

SOME CONCLUSIONS

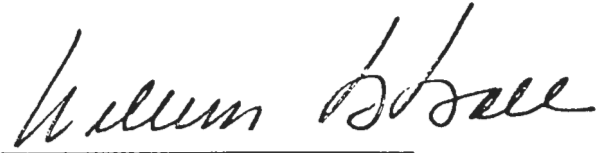
I am sure that attorneys and religious leaders throughout the country are pleased that the Center is interested in the issues which my memorandum to you raises. The Center may desire, however, also to know what recommendations can be made for the resolution of these issues.

It is clear that two courses of action must be pursued and that the administration of President Reagan alone can carry out those courses of action. Nothing else will save a daily worsening situation, and action is needed at once.

The first course of action is to immediately place executive restraints on the Service. Clearly, immediate revision of regulations, rulings and procedures which violate First Amendment liberties of religion is called for. That revision could be drafted within a period of six months, and meanwhile a moratorium should be placed on all enforcement of present regulation illegally affecting religious bodies. Doubtless, too, executive action should include removal from office of those individuals who have been the promoters of I.R.S. lawlessness.

The second (but simultaneous course of action) is to call for an immediate change of position in ongoing litigations. Two cases come immediately to mind, the aforementioned Green v. Regan and Bob Jones University cases.

Thank you for taking time to absorb this rather lengthy memorandum. It represents, as you know, the concerns of a great number of people in our beloved country.

A handwritten signature in cursive script, reading "William B. Ball". The signature is written in dark ink and is positioned above a horizontal line.

William B. Ball