

Session to Session

... promoting the strengthening and
growth of Biblical Presbyterianism
in America ...

October / November 1987, Vol. 1, No. 4

Christians and the Law: A Judge's Reflections

by John Feikens

There is little doubt that the legal profession is neither loved nor trusted by the American people. As a lawyer, and now as a federal judge, I am conscious of the perception of many people, particularly Christians, regarding lawyers and perhaps judges. Lawyers and judges are at times regarded as necessary evils. When I entered the law school at The University of Michigan, my uncle, an elder in the North Side Christian Reformed Church, said to me, "So, you want to be a liar, eh?"

This attitude of distrust has continued from ancient times. Down the centuries the Bible has thundered the admonition, "Woe unto you, ye lawyers." And when the Marxist-Leninist Revolution began, that movement vibrated with the cry, "The first thing we must do is to kill all the lawyers." Shakespeare anticipated the cry in *Henry VI*, but at least he confined it to the mouth of a slow-witted butcher.

Why this perception? Why such distrust?

From time to time I assist in teaching a course in ethics at The University of Michigan law school. Routinely I ask students this question: What do you think the purpose of a trial is? The frequent answer is that a trial is a search for truth. That answer does not completely satisfy me.

Even though trials are searches for truth, truth in absolute terms is rarely found through this legal process. I point out to the students that the purpose of a trial is to find a *just* solution; the resolution of a dispute in a *just* way is the goal.

Some Christians are not able to accept that concept of relativism in truth-finding. They say, "We want to know the real truth in this case." To them justice is bottomed on absolute truth. In the presence of conflicting versions of truth, which trials usually are, they are uncomfortable. It only adds to their unease to argue to them that justice can be obtained in a case even though truth may be elusive.

There is another characteristic of the legal system which poses even greater difficulty for them. There is deliberately introduced into a trial the technique of confrontation. The adversarial system is intentionally

used in order to find a just solution. Many Christian people simply cannot understand this need for conflict. As Congressman Paul Henry points out in his work *Politics For Evangelicals*, Christians tend to see conflict as in itself evil. He writes, "Evangelicals generally argue that conflict would be resolved if all parties to the conflict were reconciled to God."

We must deal head-on with these two characteristics which are essential to the legal system and which thus subject the system itself to great distrust.

It might be appropriate to note what John Calvin had to say about this problem:

Many persons suppose the office of . . . judge to be of no use among Christians, for they cannot, consistently with piety, apply for [that] assistance because they are forbidden to have recourse to revenge or litigation. But as Paul, on the contrary, clearly testifies that the magistrate is the "minister of God to us for good," we understand from this that he is divinely appointed, in order that we may be defended by his power and protection against the malice and injuries of wicked men, and may lead peaceable and secure lives. . . . Those who positively condemn all controversy at law ought to understand that they thereby reject a holy ordinance of God. . . ."

Continued on page 2

Congregationalism is Cold Comfort

by J. Gary Aitken

A group of very sincere and concerned men, working as the Ad Interim Committee of the General Assembly, have proposed to the recent General Assembly which met last month in Grand Rapids, that the Presbyterian Church in America become essentially congregational in its church government. The purpose of this proposal is to assure that no higher court, such as the General Assembly or a Presbytery, could ever "take action for, and on behalf of a lower court. . . ." This structural limitation, in turn, is intended to guarantee the right of a Session to retain control of its local affairs, and of a majority within any

Continued on page 3

Session to Session

With a similar theme, Richard Neuhaus writes in *Christian Faith and Public Policy*:

Power itself is not evil. Indeed Christians affirm the power of God and hope for its final realization in his kingdom, which is the ultimate exercise of power. In our provisional moment [that is to say in our times], however, there is a multiplicity of powers contending for power. In such a situation conflict is inevitable. Christians should resist the false notion of reconciliation that seeks to avoid or end all conflicts between powers, frequently to the further weakening of the less powerful. The reconciliation which we seek as Christians is based upon the triumph of right, of justice. . . . Conflict is often instrumental to a resolution that is more proximately just.

Looking beyond the legal arena, we can see similar dynamics operating in politics. Here, conflict, confrontation, and opposition exist in a never-ending cycle. Many Christians become nervous, particularly if they are told, as Judge Learned Hand has said, that there must be "tolerable accommodation to the conflicting interests of society." This kind of compromise for them is upsetting.

Congressman Henry has written that "all politics involves compromising the conflicts of interest within a society. . . ." Because politics is a never-ending cycle of conflict seeking consensus, moralists of all stripes become quickly frustrated. They seek absolute answers of eternal significance as opposed to the calculated compromises of politics. They tend to do one of two things. Either they become political extremists seeking to impose their self-assured truths on society in the effort to establish the grand and final solution to social conflict, or they withdraw from political life because they refuse to taint themselves with compromise.

George F. Will has commented on the dangers of ideological politics and the futility of "Pontius Pilate" gestures. In his book *The Pursuit Of Happiness, And Other Sobering Thoughts*, he illustrates the problem of gesture politics in an essay on Simone Weil, who died of self-inflicted starvation during World War II in an effort to show solidarity with those suffering in occupied Europe. He writes:

Her fierce disappointment with politics epitomized a mood—a generalized hostility to the responsibilities of power—that is a constant temptation to intellectuals. . . . She shattered her health with empty gestures, like not eating to show solidarity with this group or that group. The baffling questions are: how could someone so learned, and so determined to be virtuous, behave with such futility? And why is her life as well as her thought so attractive to many intellectuals?

Her life of elaborately, not to say ostentatiously, cultivated self-denial reflected a theme of her later writings, a peculiar idea of the morally responsible life. It is the idea that the goodness of an act consists

entirely in the goodness of the motive, not of the consequences. This is a disastrous approach to social affairs, where policies have complex consequences, and consequences are more important than motives. Her obsession with her own motives allowed her to offer pacifism as a response to Hitler. . . .

At the end, Simone Weil's life was a tragic model of self-absorbed rightmindedness. And at the end, her thought was a recipe for irresponsibility.

The ability to accept political compromise is the mark of political maturity. Congressman Henry pointed this out when he said, "Purist ideological crusades and ascetic withdrawal must both be seen as the acts of sophomoric arrogance. . . . If Christians are to rise above political naïveté, they must begin by recognizing that political problems are immensely complex and clouded. And they must recognize that the motives behind political action are generally mixed. Hence, politics is not a simple battle between good and evil, or virtuous men and evil men."

In the book *Prisoner For God: Letters And Papers From Prison*, the German theologian Dietrich Bonhoeffer presents another example of the adversary ethic in action. Bonhoeffer's passion to do good and confront evil is perhaps best illustrated in *The Cost of Discipleship*. That passion originally led Bonhoeffer to pacifism. But as the evil of Hitler's Nazism became more apparent, Bonhoeffer rejected pacifism as a cowardly escape from moral responsibility and involved himself in a plot to assassinate Hitler. The Gestapo uncovered the plot, imprisoned and eventually executed him. After ten years in prison, Bonhoeffer reflected on the moral significance of the consequences of well-intentioned actions:

Some seek refuge from the rough-and-tumble of public life in the sanctuary of their own private virtue. Such men however are compelled to seal their lips and shut their eyes to the injustice around them. Only at the cost of self-deception can they keep themselves pure from the defilements incurred by responsible action. . . .

To ignore the ethical significance of success is to betray a superficial acquaintance with history and a defective sense of responsibility. . . . All the time goodness is successful we can afford the luxury of regarding success as having no ethical significance. But the problem arises when success is achieved by evil means. It is no good then behaving as an arm-chair critic and disputing the issue, for that is to refuse to face the facts. Nor is opportunism any help, for that is to capitulate before success. We must be determined not to be outraged critics or mere opportunists. We must take our full share of responsibility for the moulding of history, whether it be as victors or vanquished. It is only by refusing to allow any event to deprive us of our responsibility for history, because we know *that* is a responsibility laid upon us by God, that we shall achieve a relation to

the events of history far more fruitful than criticism or opportunism. To talk about going down fighting like heroes in face of certain defeat is not really heroic at all, but a failure to face up to the future. The ultimate question the man of responsibility asks is not, How can I extricate myself heroically from the affair? but, How is the coming generation to live? It is only in this way that fruitful solutions can arise, even if for the time being they are humiliating. In short it is easier by far to act on abstract principle than from concrete responsibility.

I submit that God requires of us this kind of discerning, humble involvement in the struggles of life, especially in legal and political matters.

John Feikens is a United States District Judge in Michigan. His remarks were originally made in Grand Rapids during the 1987 General Assemblies, at a plenary session sponsored by the North American Presbyterian and Reformed Council.

Congregationalism, cont. from page 1

congregation to retain control of its property.

This right of control over local property is already mandated in the *Book of Church Order*. The suggested proposal attempts to make that right even stronger, but it thereby gives up our presbyterian system of graded church courts in which authority is derived from Christ, as defined by the Word of God in such passages as I Corinthians 5:3-5; Matthew 18:18-20; Acts 15:4, 28; 16:4; and 20:28. These structural changes appear to hold immense and inevitable dangers for the PCA.

It is a source of cold comfort to recall from church history that one of the finest and truest Calvinists who ever lived was also a minister of the Word in the Congregational churches of New England in the first half of the eighteenth century. It was Jonathan Edwards who, as minister of the Congregational Church in Northampton, Connecticut, was thrown out of his church at the height of his effectiveness because he refused to baptize the children of families in the congregation who had not confessed faith in Christ. Congregationalism simply assured that a faithful minister could be removed from his pulpit by a majority of the congregation who loved their unbiblical traditions better than their pastor's faithful ministry.

A century later, it was the same Congregational churches of New England which, lacking any biblical mechanisms to control or check error, spun off the heretical Unitarian Church. As though that historical tragedy were not enough, the remnant of Congregationalism merged with the most liberal Protestant denomination of our time, the United Church of Christ, a denomination that was able to affirm the theological basis for merger in

one short paragraph.

The prospect of the PCA becoming congregational is cold comfort indeed.

J. Gary Aitken is a teaching elder at Covenant Presbyterian Church in Columbia, South Carolina.

Christians and the Political Process: A Congressman's View

by Kenneth A. Myers

Among the many people in Washington for the Congress on the Bible back in September was Congressman Paul B. Henry (R-MI), son of evangelical theologian Carl F. H. Henry. Speaking at a luncheon in the Senate's Dirksen Building, Congressman Henry lamented the fact that the "evangelical community has not matured consistent with its growth in numbers in terms of assuming its proper institutional role in our society."

Henry made it clear that he was not eager to see just any role played by evangelicals, and he denied that the mere assumption of power by them was sufficient to Christian duty. He also warned about the exploitation of Christians by other forces. Here are some of his remarks:

There are those at the fringe who have sought to exploit the growth of the evangelical movement for their own hidden agendas. And as such, they have tended to corrupt or dismember the movement's legitimacy in the public's eye. . . . I urge you to pay particular attention to this phenomenon as you seek to apply biblical principles to the quandary of how we are to exercise Christian conscience within a pluralistic society. If you fail to do so, the evangelical community as a whole will suffer the consequences of your silence, for others have taken the liberty of speaking in its name.

How should the Christian community seek to apply biblical principles to the public culture and the political process? Must we stoop to demagoguery and grandstanding in order to be heard in an increasingly secular society? Can we not join forces in a more mature effort aimed at educating, rather than merely titillating, the society in which we live?

It is true that we live in a time in which the forces of secularism and humanism have undermined many of the moral norms and presuppositions of the Judeo-Christian tradition. But we must not yield to the temptation of careless demagoguery as a substitute for thoughtful theological and ethical reflection in the face of this challenge.

Session to Session

Book Notices

Piety and Politics: Evangelicals and Fundamentalists Confront the World. Edited by Richard John Neuhaus and Michael Cromartie. (Washington: Ethics and Public Policy Center, 1987, 424 pp.) This anthology may well be the best collection representing the variety of evangelical and fundamentalist opinion on political matters, with essays by Carl F. H. Henry, Jerry Falwell, Ronald Nash,

Ronald J. Sider, James Skillen, Jim Wallis, Lloyd Billingsley, Stephen Monsma, and Dean Curry. There are also pieces written from "outside" by observers as diverse as George F. Will, Harvey Cox, Martin Marty, and Joseph Sobran. An excellent collection.

Gerald Buss, *The Bear's Hug: Christian Belief and the Soviet State, 1917-1986.* (Grand Rapids: Eerdmans, 1987, 223 pp.) Buss is Senior Chaplain at Hurstpierpoint College in Sussex, England, and a member of Keston College, one of the most respected of groups monitoring religious freedom in communist countries. Given all the enthusiasm about *glasnost*, this carefully researched and readable book will be useful background for assessing the state of religious freedom in the Soviet Union. —K.A.M.

Don't miss a single issue of *Session to Session*!
Mail this coupon to *Session to Session*
Wallace Memorial Presbyterian Church
7201 Sixteenth Place, Hyattsville, MD 20783-4399.

☐ **Yes...**

Include me as an individual supporter of *Session to Session*. Enclosed is \$10.00 for the first year.

☐ **Yes...**

Include us as a "supporting Session" for *Session to Session*. Enclosed is \$100 for our Session members for the first year. Also enclosed is a list of the names and addresses of our Session members.

name _____

address _____

city _____ state _____ zip _____

Make checks payable to
Wallace Memorial Presbyterian Church

Session to Session is dedicated to promoting the strengthening and growth of Biblical Presbyterianism in America. It is published bimonthly by the Session of Wallace Memorial Presbyterian Church, located in the Washington, D.C. suburb of Hyattsville, Maryland. Individual subscriptions are available for \$10.00 per year. Church Sessions donating \$100 per year will receive subscriptions for all elders. Send all inquiries to Session to Session, Wallace Memorial Presbyterian Church, 7201 Sixteenth Place, Hyattsville, MD 20783-4399.

Executive Editor: O. Palmer Robertson
Managing Editor: Kenneth A. Myers
Advisory Editors: George E. Devlin, F. Kingsley Elder, Douglas A. Felch, Sinclair B. Ferguson, W. Robert Godfrey, Joseph H. Hall, Norman E. Harper, William B. Herrington, Glen C. Knecht, Joseph A. Pipa, Jr., Robert R. Rich, and William H. Smith

Session to Session

Wallace Memorial Presbyterian Church
7201 Sixteenth Place and Erskine Street
Hyattsville, MD 20783-4399

■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■
■ NON-PROFIT ORG ■
■ BULK RATE ■
■ U.S. POSTAGE ■
■ PAID ■
■ HYATTSVILLE, MD ■
■ PERMIT NO 95 ■
■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■