



# BAPTIST PRESS

News Service of the Southern Baptist Convention

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### Baptist Conference Faces Issue of Taxing Churches

WASHINGTON (BP)--Opposing viewpoints on the question of whether churches should be taxed clashed here during a conference on "taxation and the free exercise of religion."

Participants at the conference sponsored by the Baptist Joint Committee on Public Affairs heard Dean M. Kelley, staff associate for religious and civil liberty of the National Council of Churches (NCC), defend the historic tax exemption enjoyed by the churches. Arguments favoring the taxation of churches were advanced by Hope Eastman, a Washington, D. C., attorney who also specializes in the civil liberties field.

Kelley, author of a recent book, "Why Churches Should Not Be Taxed," has argued that "religion is entitled to special civil treatment" because it performs a "special function" within society.

To the difficult question of what constitutes a legitimate church, Kelley proposed the rationale that "any organization performing the function of religion--explaining the ultimate meaning of life for its adherents--is entitled to the status of 'church'."

Other safeguards Kelley recommends to insure against massive abuses of the special tax status of churches include the criteria that a legitimate church "will have a body of adherents with sufficient continuity to be identifiable over time and sufficient numbers to support it by their voluntary contributions."

Another strand of Kelley's argument was that government should not be given the role of determining by more "objective" criteria what constitutes a church because of its interest in preserving the status quo.

Eastman, who formerly belonged to the Washington legal staff of the American Civil Liberties Union (ACLU), and was active in the fight against overturning the Supreme Court's prayer and Bible reading decisions, said that in her view "churches should be taxed" to help insure the absolute separation of church and state.

She argued that recent Supreme Court decisions which have supposedly attempted to clarify the special constitutional status of churches have actually created more confusion, with the result that government is now more entangled with the churches than 30 years ago.

This process began in 1947, she said, with the famous Everson decision upholding transportation for parochial school students. That decision, which contains one of the strongest statements in favor of absolute separation of church and state in spite of its effect of upholding such transportation, has been eroded steadily by subsequent decisions, Eastman said.

She cited a 1971 decision in a New York church property tax case in which Chief Justice Warren E. Burger wrote that the proper attitude of government toward the churches is one of "benevolent neutrality."

Since that decision, she noted, the court has upheld a variety of plans to aid students attending parochial schools as well as direct government funding of denominational colleges and universities.

She went on to say that those who deny that government is not presently subsidizing religion are not facing the "real world."

Eastman, who has also led out in the struggle for women's legal rights, admitted to some "discomfort" in appearing before the group of 144 church leaders participating in the conference to advocate the removal of tax exemption for churches.

At the same time, she said she was not uncomfortable in advancing the viewpoint that the special tax status of churches amounts to government aid to churches in violation of the U. S. Constitution.

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Cauthen Released  
From Hospital

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HUNTSVILLE, Ala. (BP)--Baker J. Cauthen, executive director of the Southern Baptist Foreign Mission Board, was released from the Medical Center Hospital here Oct. 3. He had been hospitalized since suffering a heart attack Sept. 18.

The Cauthens were expected to remain in Huntsville until about Oct. 10 or 11 before returning to their home in Richmond.

Mrs. Cauthen reported that her husband is "feeling quite well" and said he has been exercising by walking up and down the hall at the hospital.

Cauthen, who collapsed while speaking at the televised Sunday morning worship service of the Jackson Way Baptist Church here Sept. 18, is expected to make a full recovery from the attack. His doctors, however, have advised him not to resume his responsibilities until after a two-month recuperation period and have suggested he not accept any engagements before the end of the year.

In his absence, the staff executive council is handling administrative responsibilities at the Foreign Mission Board.

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Catholic, Jewish Lawyers  
Clash at Baptist Meet

By Don McGregor

Baptist Press  
10/5/77

WASHINGTON (BP)--Trustees of some religiously affiliated organizations such as colleges hospitals, and children's homes may be shocked to learn they are liable for income taxes prior to Dec. 31, 1975, according to Charles M. Whelan, professor of law at the Fordham University School of Law.

Whelan, a Catholic, speaking before the 16th Religious Liberty Conference sponsored by the Baptist Joint Committee on Public Affairs, engaged in a debate of sorts with Leo Pfeffer, chairman of the department of political science at Long Island University and special counsel for the American Jewish Congress.

The two espoused different sides of a church tax discussion. Whelan spoke on "definitional problems in the Internal Revenue Code," and Pfeffer spoke on "the special constitutional status of religion."

Whelan said that the old concept that the government would not tax churches has been replaced by the concept that the government will define church organizations so as to tax those which have unrelated sources of income.

Those organizations of church bodies which find themselves classified other than as the church could also find themselves liable for income taxes not only since Dec. 31, 1975, when the new concept went into effect, but also before that period and since 1950, he declared.

He described it as an attempt by Congress, the Department of Treasury and the IRS to deal with a serious, intricate problem, but noted that it's been a bungling attempt because the writers of materials attempting to deal with churches do not understand the nature of churches.

Whelan suggested that American churches should get together and form a committee which would come up with drafts of formulas that would explain the historical position of the church.

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He added that it's essential that churches resist the IRS attempt to define the nature of the church through its "integrated auxiliary" regulation. He said the ability of the IRS to define an integrated auxiliary of the church gives the agency the ability to dip into the affairs of the church.

After Whelan had declared that churches should fight any attempt by the government to make their auxiliaries file tax returns, Pfeffer pointed out that he does not believe that churches should enjoy tax exemption. "They should pay their fair share of the cost of government that serves all," he said.

"Everything costs money. Government programs cost money, and the government has to get its money somewhere. Taxes are the only source," Pfeffer observed, adding that when too many bodies are taken out of the tax structure, government finds itself in trouble;

Pfeffer said that not only do churches share in the benefits of the protection of government and therefore should pay their fair share but they also can acquire great amounts of wealth. He added that the power to tax does not imply the power to destroy so long as the tax imposed on the churches is non-discriminatory.

He pointed out that churches must pay a price for tax exemption if they are determined to have it. He said they must abstain from influencing legislature. The churches must only preach on good and evil, he declared.

If there's to be a tax exemption, he added, the church cannot seek to influence even its own members in areas of legislation, and the limit of its tax exemption should be sufficient only to maintain a modest house of worship.

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Zambia Crusade Reports  
Over 4,700 Decisions

Baptist Press  
10/5/77

LUSAKA, Zambia (BP)--The Zambia Baptist Crusade held here in September resulted in 4,706 decisions for Christ including 2,706 professions of faith.

Franklin A. Kilpatrick, Southern Baptist missionary press representative, reported that in spite of a curfew imposed during the first part of the crusades, the services continued for the most part as planned.

"Attendance in Lusaka was still down a bit," Kilpatrick said, "though not disappointingly low. The laymen were especially active in leading the churches during the crusade."

Eighteen pastors and musicians from the United States who participated in the crusade were scheduled to meet with Zambian President K. D. Kaunda, but the meeting had to be cancelled because of the president's other responsibilities with affairs of state.

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