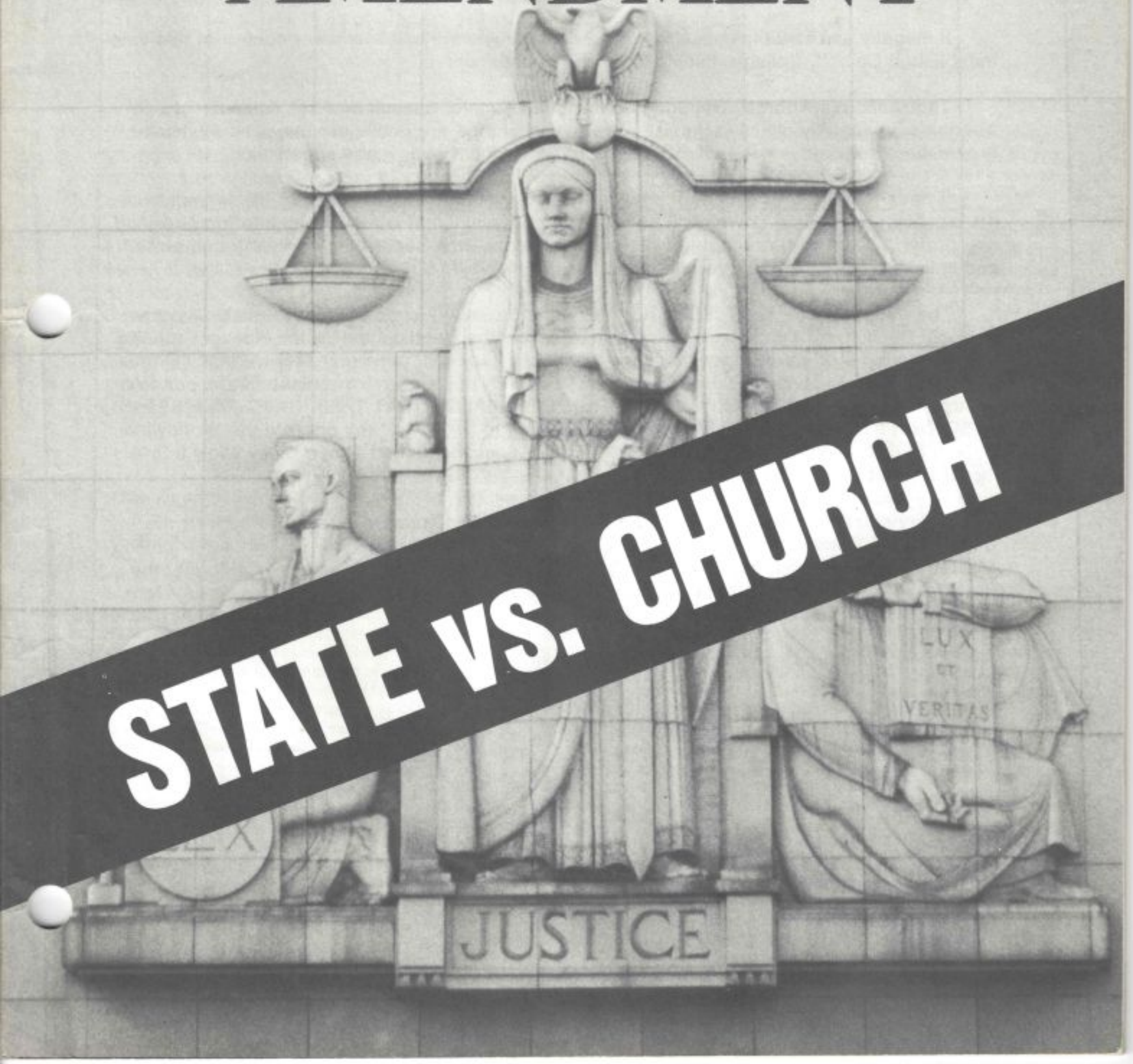
THE FIRST AMENDMENT



STATE VS. CHURCH

Dear Friend,

Thank you for your interest in the preservation of the constitutional rights and freedoms we have enjoyed in America.

On January 3rd, 1979, without the legally required prior notice or warning, an armed task force swooped down in a massive surprise attack, in utter violation of the Constitution of the United States, on the headquarters complex of the Worldwide Church of God, Ambassador College, the PLAIN TRUTH and other publications, and the Ambassador International Cultural Foundation in Pasadena, California.

It illegally and forcibly assaulted, seized possession of and took over control of this long-established Church, College, publications and Foundation.

The California Attorney General has launched a major assault on First Amendment freedoms by actually claiming that all assets of churches are public property and all monies they collect are held in public trust subject to government review and supervision.

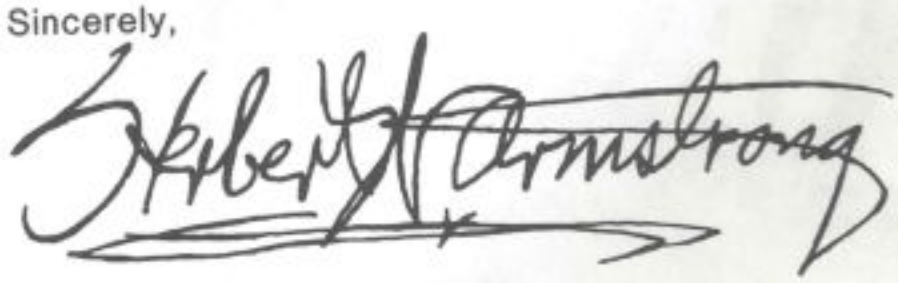
If he is permitted to succeed in his actions, no records of churches will be exempt from his examination, and no church will be safe from governmental intrusion and interference. And one of the foundational precepts of American freedom—the separation of church and state and individual religious liberty—will be ended.

The case is JUST THAT SERIOUS! Many old and established churches—including the National Council of Churches, the Methodist Church, the Baptist Church, the Roman Catholic and others have prepared strongly-worded protests and legal petitions, sent to the California Supreme Court. Such established and powerful church bodies have doctrinal differences from us, and from one another—BUT THEY SERIOUSLY REALIZE THAT THEIR RIGHT TO EXIST IS ALSO THREATENED in this state government action to *take over and operate* the Worldwide Church of God and its affiliated corporate organizations mentioned above. They know it is a threat to them as well as to us.

Every citizen must be informed and warned about this massive attempt to subvert the United States Constitution. We encourage you to let your views be known by writing or calling elected representatives, especially the Governor and the Attorney General of California, the President and the United States Attorney General. Also let the media know your views. Here are the pertinent facts in this case.

Again, thank you very much for your concern.

Sincerely,



Herbert W. Armstrong

The State vs. Religious Freedom

An Aide Memoire re State of California vs. Worldwide Church of God

PASADENA—The following report, dated March 31, 1979, and entitled "An Aide Memoire re State of California vs. Worldwide Church of God," is prepared under the auspices of the Emergency Committee for the Defense of Religious Freedom, an ad hoc voluntary association of lay members of the Worldwide Church of God in good standing. It is published as an official record of the events surrounding the Church's confrontation with the State of California.

I
INTRODUCTION

On 3 January, 1979, without prior notice of warning of any kind, an armed task force descended on the headquarters complex of the Worldwide Church of God in Pasadena, California. It forcibly assaulted, seized possession and took over control of the Church and its affiliated organizations, Ambassador College and Ambassador International Cultural Foundation. The task force consisted of a Court-appointed Receiver, retired Judge Steven S. Weisman, representatives of the Attorney General of California and private attorneys "deputized" by the Receiver, together with State investigators and law enforcement officers. The property and assets of the Church and its related organizations were summarily taken over; the offices and records were seized and their contents rifled; cartons and files of records were taken and carried off without receipt, inventory or accounting by private attorneys as well as public officials.

The Church's administration was displaced. The Receiver and his deputies were heard by Church employees to observe that the Church's founder and its temporal and pastoral head, Herbert W. Armstrong, "was out" along with his personal adviser and chief deputy, Stanley R. Rader. Mr. Rader's executive secretary was summarily fired and other personnel were insulted, intimidated and formally advised that any resistance or disobedience would result in instant dismissal, if not contempt proceedings or even jail.

Acting pursuant to the supervisory powers contained in an ex parte court order issued *in secret*, without notice or hearing, the Receiver took control of the entire administration of the Church and its affiliated organizations. One of his first acts was to instruct United California Bank, with which the Church had a $4 million line of credit, on which some $1.3 million was owed, to stop payment on all outstanding checks.

As a consequence checks totaling approximately $1 million, issued in payment for items ranging from salaries and welfare benefits to television and advertising media, were refused payment by the bank and returned. The bank also withdrew the Church's line of credit, declared a default on the loan, called it and paid itself by offsetting Church assets on deposit. The Receiver by this single stroke completely destroyed a hitherto impeccable credit rating, which the Church had labored years to build.

Locks were changed on the executive offices of the Church, and Church officials were excluded from their offices. The Church's publishing facilities were seized; contact between the chief pastor and the Church membership was choked off. Communications were screened and impounded to the extent that they contained language of which the Receiver disapproved. Using a confidential list, taken from confiscated records, the Receiver distributed a Mailgram to the ministry around the world, instructing Church ministers to advise their congregations that they were forbidden to send their tithes or voluntary offerings to anyone other than the Church's Court-appointed Receiver in Pasadena!

The foregoing events occurred neither in Hitler's Germany, nor yet in Stalin's Russia, nor even in Europe during the religious wars of the Middle Ages. They occurred in 1979, in the United States of America. How and why did they happen? How, in this country, were such things *permitted* to happen? To answer those questions, a little background is necessary.

II
THE CHURCH
(a) Doctrine

The Worldwide Church of God was founded by Herbert W. Armstrong some 46 years ago (originally as the Radio Church of God). It is a Christian church based upon fundamental teachings revealed in both the New and the Old Testaments of the Bible. As matters of doctrine, its members believe, for example, in the Virgin Birth of Jesus Christ; that He lived a sinless life; that He was crucified and rose thereafter and that the sins of those who repent are remitted through His blood; that salvation may be obtained only through His name; that He is the one and only Messiah and that His second return is imminent. Several beliefs

stemming from Old Testament teachings give to the Church's doctrine a certain affinity with the Judaic faith, such as keeping of the Saturday Sabbath and observation of Passover and the Day of Atonement as annual Holy Days. The Church's primary mission is "to spread the Gospel of the coming Kingdom of God to all nations of the world as a witness."

Since its founding, the Church has flourished and grown to the point where it now has approximately 100,000 members worldwide (including baptized members and their dependent children). Of these, only about 10 percent reside in California. Herbert W. Armstrong has been the Church's spiritual and temporal leader since its very beginning, and in Church theology is the appointed apostle of Jesus Christ on earth, charged with the responsibility of fulfilling the Church's primary mission of spreading His Gospel throughout the world.

(b) The Church's Work

The Church does not solicit funds from the public. Its members, however, tithe voluntarily and, in addition, make other voluntary contributions from time to time. The Church also receives significant financial support from an even greater number of nonmembers, generally referred to as co-workers (whose numbers are well in excess of 100,000). In the last 20 years, contributions and tithings have risen from $800,000 to a level exceeding $70 million annually. These funds, in turn, the Church spends in the furtherance of the Work and the fulfillment of its mission, which include the following:

(1) Worldwide travels by Mr. Armstrong, his personal adviser Stanley Rader and others for the purpose of meeting and conferring with heads of state and other dignitaries, speaking to millions of people through electronic and print media and otherwise carrying out the Church's primary mission of "spreading the Gospel to all nations." This is a key activity. In the last 10 years, for example, Mr. Armstrong and Mr. Rader have averaged more than 200 travel days per year.

(2) The publication and distribution of periodicals such as *Quest* magazine, *The Plain Truth*, *The Worldwide News* and *The Good News*, together with numerous books, many published by the Church-owned Gateway Publishing, Inc.

(3) Extensive television and radio broadcasting for the purpose of spreading the Gospel, for which the Church spends approximately $5 million annually.

(4) The support and operation of Ambassador College, an institution located at the Church's headquarters complex in Pasadena, which primarily trains students for the work of the ministry of the Church and also educates them in other areas. The college was originally founded as a seminary only, but was later expanded to include a liberal arts curriculum. At the peak of this expansion there was also a branch campus located at Big Sandy, Texas, and one in England. In early 1978 the Church decided to get out of the "college business," which was causing a heavy financial burden. The liberal arts curriculum was phased out and the college reduced to its original scope as a seminary. As a result the two branch locations became surplus.

(5) The production and presentation of concerts, opera, theater and other cultural activities and presentations, funded by the Church and conducted through the vehicle of Ambassador International Cultural Foundation.

(6) Numerous other charitable, educational, scientific and religious projects of which the following are representative, but by no means exhaustive:

(a) Archaeological excavations in Israel (including sites at the temple mount and Jewish quarter in Jerusalem) and in Iraq (at Babylon);

(b) Benefit funds for handicapped children in England and Monaco;

(c) Clinic for the underprivileged in Cairo;

(d) Institute for political research in Tokyo, Japan;

(e) An archaeological exhibit in Jerusalem;

(f) Leopold III Foundation anthropological exhibitions;

(g) Nepal mountain tribe education program;

(h) Society for Near Eastern studies in Tokyo, Japan;

(i) Thailand mountain tribe education program;

(j) University of Brussels, oceanographic research;

(k) University of the Ryukyus, exchange program (Japan);

(l) World Wildlife Association, Switzerland.

While California's Attorney General may not be aware of these humanitarian activities, they have received widespread recognition in the form of commendations and awards to the Church from heads of state and the leaders of governments throughout the world, including Belgium, Sri Lanka, Egypt, India, Israel, Japan, Jordan, Kenya, Kuwait, Lebanon, Monaco, the Netherlands, the Philippines, Thailand, Hong Kong, Iran, Costa Rica, Tanzania, South Africa, Spain, the Bahamas and Jamaica.

From the foregoing, it will be apparent that use of the word "Ambassador" in the name of the college and the cultural foundation is one of key significance, since it symbolizes the method by which the Church seeks to fulfill its Work and its primary mission worldwide.

(c) Organization

The internal organization of the Church is hierarchical in form, rather than congregational. In this respect its polity is comparable to that of the Roman Catholic, Greek Orthodox and Russian Orthodox churches. In other words, authority proceeds from the top down in temporal as well as ecclesiastical matters. Mr. Armstrong appoints the members of the Church's board of directors and is the temporal and pastoral head of its affairs. In this respect, his position and authority are comparable to those of the pope. The board of directors is the equivalent of the papal curia.

(d) Mr. Rader

Mr. Armstrong's personal adviser, Stanley R. Rader, is a lawyer and certified public accountant who has been involved with the Church for approximately 20 years. Prior to 1975, Mr. Rader was an outside professional consultant and was neither a Church member nor an officer or director of the Church. Mr. Armstrong believes that Mr. Rader has been instrumental in building and securing the Church's strong and stable financial base, thereby enabling it more effectively to carry out its Work.

In 1975 Mr. Rader became a baptized member of the Church and, at the same time, an officer and director. At that time, he resigned his membership and relinquished all interest in his law and accounting firms, as well as other entities in which he had formerly had an interest.

(e) Administration, Finance

The Church and its related organizations have a modern accounting system that would do credit to a major business concern. All of its financial records are on computer tape. Its data processing is one of the most modern of its type on the West Coast, according to the Receiver's auditors, Peat, Marwick & Mitchell. This complex is located in a high-security building on the Pasadena campus about a quarter of a mile from the Administration building. Parenthetically, neither Mr. Armstrong nor Mr. Rader has ever set foot in this building.

The accounting system has both internal and external controls. (The effectiveness of these controls was recently demonstrated when they signaled and identified a major defalcation by one of the Church's officers in 1978. The Church promptly took corrective action: The misappropiation was exposed, and a substan-

tial portion of it recovered. This, in turn, was reported to the membership in the *Pastor's Report* for 19 December, 1978.)

The Church and the college have been audited annually since 1956. The cultural foundation, which was organized about 1975, was first audited for the year 1977. These examinations, through the year 1977, have been conducted by the CPA firm now known as Rader, Cornwall, Kessler & Palazzo and have all been conducted in accordance with professional, generally accepted accounting standards and auditing procedures, consistently applied. As noted, Mr. Rader has had no interest in this firm since he resigned prior to becoming a member and officer of the Church.

The annual audited financial statements have been regularly given appropriate distribution to support the extension of various lines of credit to the Church, including the $4 million line of credit with United California Bank. In addition, periodic financial statements and expense reports were specially prepared for distribution to the Church's membership.

The cultural foundation, first organized in 1975, annually files a detailed financial report with the Attorney General on a prescribed form. Commencing in 1977, this has been certified by the foundation's auditing firm. The college also files an information return with the Franchise Tax Board annually as does the Church. The information contained in these filings is a matter of public record.

The Church and its related organizations recently retained the national accounting firm of Arthur Andersen & Co. to conduct the audit of all three organizations for the year 1978. As an integral part of this examination, Arthur Andersen will verify the integrity of the earlier accountings. While it denies that churches are under any obligation to render accountings to the State, the Church has nevertheless formally offered, on a voluntary basis, to make the results of this audit available to the Attorney General.

(f) IRS Audits

The Internal Revenue Service conducted audits at the college for the years 1970, 1971 and 1972. In 1975 it commenced a TCMP (Taxpayers Compliance Measurement Program) examination for the year 1974. This is a very detailed "fine tooth comb" procedure that required, in this instance, 18 months to complete and included an examination of financial records for 1975 and a portion of 1976, extending through the completion of the audit in late summer of that year. In the course of this procedure, the individual returns of Church officers, including Mr. Rader's, were also examined by the IRS. Each of these IRS examinations found no discrepancies and resulted in the issuance of "no change" letters, thus, in effect, certifying the adequacy of the financial and accounting systems and the financial integrity of the organizations as a whole.

***TELEVISION INTERVIEW**—Stanley R. Rader, accompanied by Church attorneys Allan Browne and Ralph Helge, is questioned by a Los Angeles, Calif., television station interviewer.*

These examinations were made on a voluntary basis, with the consent and complete cooperation of Church and college officials. The purpose was to verify the application of funds to proper religious and education purposes (i.e., non-personal uses) consistent with the bases for the granting of tax exemptions.

(g) The Church in Pasadena

The Church, as a rule, believes in putting its money in the Work rather than investing in monuments and edifices. As a consequence, its congregations usually meet in rented or leased halls or buildings, a fact that explains, perhaps, its rather low visibility outside of Pasadena. The notable exception to this rule is the Pasadena complex. In this instance, the Church, in a sort of a private urban renewal program, converted what had become a rather run-down section of the city into a showplace. The 1,250-seat sanctuary, Ambassador Auditorium, is one of the finest (and most beautiful) in the country, and the foundation's musical, ballet, theater and other presentations have made it into a major performing arts center.

Ambassador's concert series presents classical music, jazz, folk music, drama and opera. Highlights for a recent season included Mstislav Rostropovitch, Beverly Sills, Lazar Berman, Claudio Arrau, the Virtuosi di Roma and the Rome Piccolo Opera, the Philadelphia Orchestra, the Utah Symphony, the Tokyo Symphony, the Polish National Orchestra and the Prague Chamber Orchestra. The resident orchestra is the famed Los Angeles Chamber Orchestra. A concert by Giulini and the Vienna Symphony inaugurated the hall; Pavarotti performs annually, Vladimir Horowitz ended a 30-year exile from the West Coast concert stage at Ambassador Auditorium.

Among other pastoral and educational activities carried on is a large publishing operation, which prepares and distributes the Church's various publications to all parts of the world. The Church/college/foundation complex is Pasadena's second largest employer (after the Ralph M. Parsons Co.) and is also one of its largest taxpayers.

Until the events set in motion by the Attorney General's lawsuit and armed raid, the Church, together with its related institutions, was a healthy, thriving organization. It was financially sound and growing. It had been a good neighbor to the Pasadena community where it is located and a beacon of faith to its members around the world.

III
EVENTS OF THE RECEIVERSHIP

(a) The Strike

The Receiver's arrival at the Church's headquarters on 3 January, 1979, had all the earmarks of a military operation complete with storm troopers. Armed officers who accompanied the strike force had been instructed by the Receiver to "use all force necessary."

A Receiver is supposed to be a neutral

party appointed by the Court, who, as the Court's representative, does not become involved in the partisan aspects of litigation.

In this case, however, it was impossible to distinguish between the Receiver's representatives, those of the Attorney General and those representing the private interests of the former Church members whose formal complaints initiated the lawsuit (the "relators"). All seemingly had a common purpose and all shared the same partisan, witch-hunting zeal. Indeed, one of the Receiver's first acts was to appoint brothers Hillel and Rafael Chodos and their associate Hugh John Gibson (all of whom were attorneys for the relators) as Deputy Receivers. (When, in the course of a hearing on 5 January, Judge Vernon Foster questioned the propriety of this action, Deputy Attorney General Lawrence Tapper promptly deputized them as Deputy Attorneys General on behalf of the State.)

The Receiver's party had apparently prepared a "hit list" in advance, since major personnel changes were ordered promptly following the Receiver's tumultuous entry into the executive offices. Mr. Rader's personal secretary was summarily terminated. Despite his later denials, several employee-witnesses heard him announce at the same time that Mr. Rader and Mr. Armstrong were also "out." By the Receiver's own admission, all personnel were given one week to declare their loyalty and were curtly advised that anyone who remained loyal to the incumbent administration would be fired.

Church employees were insulted and physically intimidated. One pregnant woman was pointedly reminded that an officer, who was demanding her cooperation, had a gun and would use it.

A party headed by C. Wayne Cole was dispatched with the Receiver's blessing to Tucson armed with a prepared press release appointing Cole chief executive officer of the Church. Cole was the Director of Pastoral Administration for the Church. Arriving in Tucson late in the evening of the 3rd, he awakened the elder Armstrong, who was in bed with a temperature and was aware of nothing that had transpired in Pasadena. Cole advised him only that the Attorney General wished to conduct an examination of charges that gross improprieties had been committed by the Church administration and that someone was needed to deal with the Attorney General's representatives, on behalf of the Church. Cole concealed from Mr. Armstrong the fact that a Receiver had been appointed, that he had taken possession and control of the Church's headquarters, that he claimed the power to fire anyone and had purported to exercise this power by deposing Mr. Armstrong himself and Mr. Rader. Not really understanding or appreciating what had occurred, Mr. Armstrong, in response to Cole's urgent importuning, signed the press release, and Cole returned triumphantly to Pasadena.

A few hours later, when Mr. Armstrong was fully apprised of all the facts, he promptly and publicly repudiated the statement, reconfirmed the authority of the incumbent administration, including that of his personal adviser Stanley Rader, and, because of Cole's dissembling, disfellowshipped (i.e., excommunicated) him and replaced him, as Director of Pastoral Administration, with Roderick C. Meredith. One of the Attorney General's informants later stated that Cole had had extensive communications with the complainant group and the Attorney General's office prior to the filing of the complaint.

While the Receiver later denied having attempted to oust Mr. Armstrong, his denial doesn't jibe with his recorded statement, on 4 January, 1979, that regardless of what Mr. Armstrong said or ordered, he, the Receiver, had designated Cole as chief executive officer, and that was that.

The mentality that informed and motivated all this activity was a seeming predisposition to believe the worst, without substantial evidence and even in the face of contrary facts. For example, with no factual basis, Deputy Attorney General Tapper stated to a gathering of Church and State officials that Ralph Helge, the Church's secretary, its counsel and a director of the Church, had taken a $125,000 "kickback" from proceeds deposited by the buyer in the Big Sandy sale. This was a completely false statement, and the Receiver's counsel so verified some time later in a formal letter to Helge's law associate.

Church officials reacted to the first onslaught with stunned disbelief and naturally sought advice from their attorneys before taking any action. This conduct was later stigmatized by the Receiver as resistance, obstruction and lack of cooperation and characterized to the Court as being suggestive of evasion or "coverup."

(b) The Takeover

Entry to the Church's offices having been gained, various records and files, confidential or no, were rifled, gathered up and carried off with neither inventory nor accounting. Many are still missing, and the State has consistently refused to give any accounting as to what was taken, despite repeated requests from the Church. The Receiver dispossessed the Church's administration and asserted sweeping powers over its property, affairs and personnel.

On the morning of 4 January, 1979, Deputy Receiver Rafael Chodos instructed an assembly of Church members and employees from the stage of Ambassador Auditorium that:

> "The Receiver owns all the property, assets and records of the . . . Church . . . college and . . . foundation . . . [and] the law gives him the right to do with them as he sees fit." *1*

He advised those present that the order appointing the Receiver was valid and that anybody who defied it or him could be jailed for contempt.

Chodos further told the assembly they had better cooperate, in the following language:

> " . . . since we know zero, *except the bad part*, about this organization, we are going to need the help of all members of the staff . . . Need their cooperation . . . their information. We need it, and we intend to get it." (Emphasis added.)*2*

Chodos went on to emphasize the Receiver's power in the following language:

> "Judge Weisman, the Receiver . . . is your boss now. He . . . has the power to hire and fire, to dispose of all Church property, I want to emphasize this, as he sees fit in his judgment. Some people have not appreciated the extent of the Receiver's power. He owns everything. It is his property now."*3*

In addressing the same audience, from the same podium, somewhat later that same morning, the Receiver himself left no doubt that he seconded these views:

> "Now keep in mind this too. That when the Judge appointed me the Receiver, I am in charge."*4*

He went on to indicate that:

> "The bank accounts have to be changed, and all checks will go out under my signature."*5*

In a heavy attempt at humor, he added:

> "You ain't getting a red cent until I sign them."*6*

The Receiver advised the same assembly that he had given full authority over the Church to C. Wayne Cole. When asked whether this had Mr. Armstrong's authority, he bluntly responded:

> "Well, whether or not Mr. Armstrong *had* the authority, I *have* delegated him as the chief executive officer." (Emphasis added.)*7*

The State's authority, according to the Attorney General, extended to a reorganization of the Church's structure. From the same podium on the same day, Deputy Attorney General Tapper told the audience that the Church's hierarchical or-

ganization was too "autocratic." This, he said, was all going to be changed to a more democratic, or congregational, form through the medium of Court-supervised elections.

If this theory be correct, then the authority of the pope, that of the Archbishop of Canterbury and that of all other hierarchical church leaders are illegally constituted, and subject to change by decision of California's Attorney General.

(c) The Tally

The exercise of the Receiver's summary powers was made manifest in many ways. Following are a few examples:

(1) The CPA firm that had audited the Church's financial statements for over 20 years was summarily discharged. Its offices were likewise raided and its records seized under a specific threat of contempt by Mr. Tapper. No evidence of impropriety, unprofessional conduct or wrongdoing was produced or even cited.

(2) Employees were intimidated and threatened with immediate dismissal, and a number of actual firings took place.

(3) Desecration of Church property and teaching was not only permitted but willfully condoned on a continuing basis as, for example, by working on the Sabbath, smoking on the Church premises and particularly in the sanctuary, and allowing access on Church premises to disfellowshipped (excommunicated) former members (some of whom were even hired and given access to Church records and files).

All of these actions are in direct contravention of a specific Church doctrine, and therefore a desecration. The access accorded to those who have been disfellowshipped is particularly grave in the eyes of the Church, this being comparable to ordering that the sacraments be administered to an excommunicated member of the Catholic faith. These matters were brought to the Receiver's attention and were ignored. When the protests persisted, the Receiver sought and obtained specific Court authority to hire disfellowshipped former members in positions of authority and bring them upon the premises.

(4) Among the documents that were taken or carried away were records containing confidential membership lists, ministerial lists, financial and other records pertaining to welfare recipients within the Church, tithing records, communications between members and the clergy, attorney-client communications and the like. No claim of privilege of any kind was countenanced or entertained by either the Receiver or the Court.

(5) At various times, Church leaders, employees and officials were barred from their offices, from the publishing and communications centers, the data processing center and other areas.

(6) Communications between the Pastor General and the membership were screened and in one remarkable instance intercepted and impounded: A letter by Mr. Armstrong appealing to the membership for contributions to a legal defense fund to be sent to him in Tucson, Arizona, which was processed through the communications center, was stopped at the Pasadena post office upon the order of the Receiver. The Receiver then sent out a Mailgram to the Church's ministers worldwide (whose names and addresses had been obtained from confidential lists), instructing them to advise the Church's membership that they were forbidden to send their tithes to anyone but the Court-appointed Receiver!

(d) The Damage

The effect of the receivership itself, as well as the effect of the Receiver's actions on the Church's credit standing and, consequently, upon its ongoing operations was catastrophic. The Receiver's order to United California Bank resulted in the arbitrary refusal to payment of welfare benefits, checks to widows, to ministers, teachers and employees for salaries, checks issued to various other lenders for leased equipment, installment loans and credit card payments, to electronic and print media for radio and television time, advertising and the like, to artists and artist management firms for performance fees, and so on.

The mere appointment of a Receiver constituted an act of default under numerous loan agreements, including that with United California Bank, which promptly withdrew its line of credit, canceled a promised million-dollar loan, called outstanding loans totaling $1.3 million and offset Church funds on deposit in payment. The Church's self-insured status under the Workmen's Compensation Law was thrown into question and employees were actually urged to sue. The personal credit of employees was instantly impaired, and many of them were denied loans and other routine personal credit.

Church creditors, including major credit card companies, canceled various lines of credit, refused additional credit and demanded cash or certified checks in advance. In addition, of course, the sensational character of the charges and the systematic, well-publicized vilification of Church officials by the Attorney General's representatives, both in and out of court, produced a chilling effect on the membership and a consequent drop in the Church's normal revenues. Had the Church been located principally in California, it would quickly have been stranGled. That it is still functioning — and vigorously resisting the State's attack — is due solely to the fact that 90 percent of its membership lives outside the borders of California and is thus beyond the reach of Court's and the Attorney General's jurisdiction. Its hard-earned credit reputation within the State has been totally destroyed.

The title company refused to issue a policy of title insurance covering the college's Big Sandy campus property, and a pending sale of this property for $10.6 million (discussed in greater detail below) fell through when the buyer backed out. The Church not only lost the expected sale proceeds, it also lost the substantial income those proceeds would have earned, and it continues to be saddled with the crushing cost ($150,000 per month!) of maintaining this empty and unused property.

(e) The Cost

The drastic and brutal remedy of receivership is injurious in itself. However, the Court added insult to this injury by ordering the Church, in addition, to pay all of the costs of the receivership. This was no penny-ante bill.

Judge Title's order confirming the appointment of the Receiver pending trial empowered the Receiver to employ just about anyone he chose and to pay them and himself out of Church funds. Specifically, he was authorized to employ and retain "lawyers, accountants, appraisers, business consultants, computer experts, security guards, secretarial and clerical help and employees of all sorts . . . " The Receiver took this authority seriously indeed.

During a six-week period running roughly from early January to mid-February (when the original Receiver, former Judge Weisman, announced his wish to resign) the total bill for the Receiver and his assistants totaled a cool quarter of a million dollars. Early in the game, exercising his Court-granted powers, the Receiver transferred $150,000 in Church funds to his Receiver's account to defray receivership expenses as they accrued. According to his final account, submitted to the Court on 21 February, 1979, an additional $100,000 was needed.

Some of the highlights of this accounting make interesting reading.

(1) The Receiver claimed to have worked about 313 hours in a six-week period, requested compensation at the rate of $150 an hour and presented a total bill for $51,000. This amounts to about $8,500 a week or an annual rate of $442,000, which is approximately 10 times what he had earned as a Superior Court Judge. (It may be noted that the Receiver characterized the $200,000 an-

nual salary paid by the Church to Stanley Rader, formerly a practicing attorney *and* CPA, as "outrageous.")

(2) The Receiver employed not one but *two* sets of attorneys (one for "ordinary" matters and one for litigation matters), whose combined bills totaled just under $60,000. These counsel billed their services at rates comparable to those charged by the Receiver for himself. One of these also billed time for his daughter, also an attorney. This particular attorney (who, coincidentally, shares professional offices with Judge Weisman) billed over 200 hours over the six-week period and submitted a bill for $31,200, approximately $5,000 a week (or an annual rate of $250,000 per year).

(3) Guard services billed a total of just under $60,000, or approximately $10,000 per week.

(4) Peat, Marwick & Mitchell, the national auditing firm retained by the Receiver, submitted bills totaling $32,300.

(5) Two "operating officers" retained by the Receiver at varying periods submitted bills for, respectively, $15,100 and $19,300. The fees billed by one of these totaled $12,400, for an 11-day period (during which he claimed to have expended 155 hours, or approximately 14 hours per day), which was "discounted" to $11,160, or approximately $1,000 per day (an annual rate of something in excess of $300,000 per year). This individual also included bills for time put in by a relative. The rate billed by the other was $640 per diem (or an annual rate of $160,000 per year).

Both of these operating officers, it should be noted, were for some reason imported to Pasadena from the San Francisco Bay area, and their statements reflected, in addition to handsome fees, healthy sums for air transportation, cab fares, auto rentals, hotels and meals.

The gravy train was not confined to the Receiver and his entourage. The Attorney General's private attorney "deputies," the Chodos brothers and their associates, who led the initial charge on the Church and carried the laboring oar in the subsequent sustained attack, vigorously urged the Court *that the Church should be ordered to pay them too* and presented a bill for fees totaling more than $100,000. This action moved counsel for the Church, in a brief to the Supreme Court, to refer to the senior Chodos as a "bounty hunter."

Hillel Chodos (who advised the Court that he "refrains" from keeping time records), claimed to have worked over 300 hours on the matter and requested that the Church be ordered to compensate him at the rate of $200 per hour or a total of $75,000. This amounts to an annual rate approximating $450,000!

Mr. Chodos' associates, he urged, should be paid amounts aggregating a further $26,000.

It will, of course, be borne in mind that all of these individuals were the same parties who were vociferously and piously accusing the *Church* of overpaying *its* officials and overspending *its* accounts.

IV
THE ATTORNEY GENERAL'S POSITION

(a) Plenary Powers

In the United States, where the Bill of Rights originated, such concepts as separation of church and state, freedom of religion, due process of law, presumption of innocence, protection from unreasonable searches and seizures and proof beyond a reasonable doubt are almost automatically assumed. Each of these principles was designed to protect individuals and their private institutions against the arbitrary exercise of the State's awesome power. They are basic to our thinking in this country. When we read of decisions that require the extinguishment of a lighted cross in the windows of city hall at Christmas and Easter and forbid voluntary prayer in public schools or State subsidies for books or transportation to parochial schools, for fear of excessive State entanglement in religious matters, it seems inconceivable that medieval or Nazi-like raids on churches could occur in this country, or that any Court in this land would countenance such conduct for one minute.

It is only when we witness events such as those that occurred in Pasadena in January of 1979 that we realize the frailty of this protective fabric and its vulnerability to attack, particularly in a time of public and intellectual indifference, and even hostility, fueled by the macabre episode involving the People's Temple in Jonestown.

The sweeping claim of State power asserted by California's Attorney General, a claim that has been accepted and approved by two judges at the trial court level, is grim evidence of just how easily a fatal gash can be torn in that thin protective wall.

The Attorney General asserts (and has been granted) the absolute right to seize, examine, administer and reorganize churches at his discretion. This is based upon the theory that all church property in California is public property, held in trust for the public benefit of all the people, and that all church records are public records. Church leadership has no basis for objection or resistance to any action on the State's part, or even the right to counsel or defend the church in this respect. Neither do a church's members have any right to standing to intervene or question such action against their church by alien or hostile third parties. Further, the Attorney General does not need evidence of wrongdoing or proof beyond a reasonable doubt to justify such seizure and dispossession. Mere suspicion is enough.

These are not the ravings of some lunatic or extremist nightmare. They are propositions that have been seriously and repeatedly asserted, both in and out of Court, by the Attorney General's representatives and that have, to date, been accepted and enforced at the trial court level. The examples that follow are merely representative. Many others could be quoted.

(b) Churches Are Charitable Trusts

The key to the Attorney General's theory is his concept that all churches are charitable trusts. By invoking this helpful legal fiction, such troublesome impediments as due process of law, First Amendment rights and other constitutional protections are neatly sidestepped, and the whole problem is relegated to the technical niceties of trust law concepts.

(c) Public Property

Redefined as a charitable trust, a church is, *ipso facto*, no longer the owner of its property or the master of its own affairs. Neither do its members own or control it. According to Messrs. Tapper and Chodos a church's assets are *public assets* and its records are *public records*. There *are* no private interests involved and consequently *no private rights*. A church's property rests in the Court's custody, and its leaders are merely trustees who serve at the State's pleasure and are allowed to manage on a day-to-day basis. In their words:

> "Every other party who comes before the Court has some claim to its own property and has some right to resist intervention by the Court. But for 700 years, Your Honor, it has been the law in England and America that charitable funds are public funds. They are perpetually in the custody of the Court. The Court is the ultimate custodian of all church funds." [Chodos] *8*
>
> "It's [the Church is] Your Honor's charge. You are the guardian and this Church is your ward." [Chodos] *9*
>
> "The institution itself and all of those who run the institution are standing in a position of trust, the property being truly owned, not by the institution or individuals, but rather the people of California . . ." [Tapper] *10*
>
> "Under . . . [the laws of the

State of California], although the property is held by the charitable organization, it is held for the benefit of the public at large. If you keep in mind that with an $80 million cash flow to this organization every year, maybe $20, $30, $40 million is being subsidized by the other residents of the state of California and of the United States through tax deductions, there is a very strong public interest in how the money is spent." [Tapper] *11*

This concept deftly avoids questions about due process of law, constitutional guarantees or First Amendment rights.

"Normally in a private situation where you grant ex parte relief, the Court is put in a position of attempting to interfere with someone's rights, and to stop people from doing things that they would otherwise do with their own property, and maybe create great havoc to private interests that have not had an opportunity to be heard, and that is the power that should be exercised with great skepticism and great reservation." *12*

"In this case, however, *there are no private transactions . . . there is no one whose interests can be hurt . . ." 13*

". . . their property always and ultimately rests in the Court's custody, and they are always and ultimately subject to the supervision of the Court . . . *The Court is not taking something away from somebody or interfering with anyone's private rights.*" [Chodos] (Emphasis added.) *14*

To summarize, *all* property, *all* assets of *all* churches in California are public property, owned by *all* the people of the state. All churches are the wards of the Court, and their affairs and conduct are subject to the unlimited scrutiny, supervision and control of the State.

(d) Church Leaders May Be Replaced at Will

Since a church is a charitable trust, its leaders are "trustees" and may, therefore, be removed and replaced at will. According to the Attorney General, they serve at his and the Court's pleasure:

". . . what we are saying is that there are presently trustees who have been allowed to manage the charitable fund on a day-to-day basis . . . We believe that essentially those trustees serve at the Court's pleasure and may be replaced with a more trustworthy trustee." [Chodos] *15*

". . . *It is the Court's funds,* and the Court may remove and replace and substitute trustees *at its pleasure* . . . the trustees of that fund have no standing." [Chodos] *16*

(e) Church Restructuring

The Attorney General's authority includes the power to force the restructuring of any church organization of which he disapproves or that he considers to be too "autocractic." In his view, hierarchically organized churches are effectively prohibited in California.

The State complains that the Church in this case is run by one man, its patriarch and leader, Herbert W. Armstrong, and it insists that this be changed.

"It is our understanding that for many years these institutions have been run rather autocratically. California law provides that there should be opportunities for meetings of the members of a nonprofit organization; and that there should in connection with these meetings be opportunities for members to express their will through selecting the people who head the institution. I'm not aware that any of this has occurred in this case . . . And the prayer [legal term for *request*] . . . [of the complaint] has asked that, at some appropriate time, procedures . . . which will be totally Court supervised . . . [will] put the institution back on more traditional footing . . ." [Tapper] *17*

The Court appears to be of the same view:

"With reference to the conduct of the affairs of the Church, the administration of its assets and expenditures over the last several years, and up to the present time, it seems nevertheless to be conceded that for many years this was essentially a one-man operation, with Mr. Armstrong making all the decisions on a completely unilateral basis . . . All of these issues . . . *will have to be very carefully scrutinized* by the trial court, and they all represent *reasons why the Court is concluding* here that *some restraints have to be placed* on the conduct of the Church business . . ." [Judge Title] (Emphasis added.) *18*

By the above reasoning, the authority of the pope, any archbishop, the patriarch of the Greek Orthodox Church or the hierarchical head of any other similarly organized church may be challenged, disapproved and set aside by the State.

(f) The Attorney General May Act Upon Mere Suspicion

The Attorney General does not need proof or evidence against a church; a simple accusation will do.

"If there is the slightest hint or suspicion of wrongdoing, let alone proof positive or proof by a preponderance, it is the Court's duty to see to it there is a worthy trustee installed, that an investigation is made, that the facts are exposed." [Chodos] *19*

Thus the Attorney General is not obliged to investigate before acting. If someone accuses church leaders, or if he merely suspects them, he may move in. Such things as verification, evidence, facts—these are for later, if at all. First

***AREA MEMBERS**—Worldwide Church of God members from many Southern California congregations take a break for lunch at a sit-in conducted in the Church's Hall of Administration in Pasadena.*

come seizure, dispossession and control.

This theory was evidently accepted and approved by Judge Title. On 12 January, 1979, following a three-day hearing, he confirmed the Receiver's appointment, pending trial, and signed an order giving him the sweeping powers that had been demanded. This order was based not on findings of fact, but rather upon the suspicion of a possibility that something might be amiss:

> "As I have already indicated, I believe it is not the duty of this Court to finally determine those issues, but only to determine whether or not there is any reasonable *likelihood* that *perhaps* a trier of fact *in the future* . . . when this action is heard, will determine that there is *some possibility* of truth to these charges, probability of truth." [Judge Title] (Emphasis added.) *20*

(g) 'Wrongdoing'

The term "wrongdoing," in most people's minds, is associated with larceny, embezzlement, criminal fraud and similar conduct. The Attorney General's use of the term, however, is a good deal more elastic, since wrongdoing, in his definition, means paying salaries that he thinks are too high, spending more money on travel than *he* believes ought to be spent, dealing with companies of which *he* doesn't approve, contracting for sales of property without *his* permission, and the like.

> "There are various types of misuses. We all think of diversion of assets as out-and-out theft. But . . . in trust law there are far higher obligations owed by the people who are in control of properties than they would owe if it was just their own property . . . So you can get into sophisticated diversions through self-dealing, for example. If one were fiduciary of this institution and were engaging his own firms and paying his own money that might be a case of self-dealing . . . There are excesses that can occur in terms of salaries and other financial remunerations . . ." [Tapper] *21*

In other words, the State is authorized to intrude into the private affairs of every church and decide for itself how it may spend its money, how *it* may implement *its* mission: how much *it* may pay *its* ministers; how often those ministers can travel and to where; what sort of accommodations they may stay in or live in. The Attorney General might legitimately inquire whether Michelangelo had been the low bidder for the ceiling of the Sistine Chapel.

The State will examine the Church's statement of purpose and decide for itself how that purpose should be fulfilled and whether the Church is doing it properly:

> "The law provides that assets taken by a charitable corporation are held in trust for the purposes of that organization . . . primarily *we* look to the Articles of Incorporation to determine the purposes . . . *we* will be looking to see that the assets . . . are being properly used for the purposes of these institutions." [Tapper] (Emphasis added.) *22*

Judge Title obviously agrees:

> ". . . There has been an astonishing amount of money expended by Messrs. Armstrong, Rader and others for many purposes, particularly in connection with so-called travel expense, the purchase of expensive gifts and so forth . . . *Now certainly some expenditures along that line are completely proper and permissible,* and they are certainly within the discretion of those persons who are authorized to determine whether they should be made. Of course the persons have to be authorized and decide what amounts of money should be expended . . . *these are questions which* are open to, I think, some arguments and *will have to be examined very carefully* at the time of trial." [Judge Title] (Emphasis added.) *23*

The Court is referring to expenses incurred in the course of Mr. Armstrong's overseas travels (and those of other Church officials and delegations) in pursuit of the Church's primary mission of "spreading the Gospel throughout the world." The "gifts" referred to are gifts presented by the Church to foreign heads of state and other dignitaries. Clearly the Court is reserving to itself and the Attorney General the right to dictate just how much of this, if any, is proper and permissible.

(h) Ecclesiastical Matters

The State's power even extends to ecclesiastical matters. The Court's order of 19 January, 1979, gave to the Receiver complete authority over the college and foundation in this respect also, the only limitation pertaining to the Church itself. In this latter respect, the Court *reserved to itself* the right to determine what was and was not an ecclesiastical matter.

Furthermore, the Court issued a grim warning of how it would deal with any claim that some matters, such as tithing records, welfare payments, ministers' salaries, or similar clerical disbursements, were ecclesiastical in character:

> "If . . . I have one or two petitions come into this Court with arguments made that the *financial* records involve ecclesiastical matters, let me assure you that I will consider that evidence of bad faith . . ." [Judge Title] (Emphasis added.) *24*

(i) The Attorney General's Power Is Plenary

The Attorney General's power through the Court is virtually absolute. One has only to examine the text of the Receivership Order signed by Judge Title on 19 January, 1979, which gave the Receiver sweeping power and control over every aspect of Church operations, finances and administration, including the right to hire and fire at pleasure. This latter authority even included the right to discharge or suspend the Church's leader, Mr. Armstrong, and his personal adviser, Mr. Rader, upon application to the Court. In the case of Mr. Rader, such application was actually prepared and filed by the Receiver.

The Receiver himself was under no illusion regarding the extent of his power, as we have seen above.

> "The law is that the Receiver owns all the property, assets and records of the Worldwide Church of God, Inc., and Ambassador College, Inc. He is in possession of them. The law gives him the right to do with them as he sees fit . . . Anyone who defies the order is in contempt of court and . . . can be put in jail for his contempt." [Deputy Receiver Chodos] *25*
>
> ". . . The Receiver is your boss now, who has the power to hire and fire, to dispose of all Church property, I want to emphasize this, as he sees fit in his judgment. Some people have not appreciated the extent of the Receiver's power. He owns everything. It is his property now." [Deputy Receiver Chodos] *26*

(j) The Church Has No Right to Resist and No Right to Counsel

According to the Attorney General, the Church, being a public trust, has no private rights to be protected and therefore no basis for resisting the "protective" intervention of the Court or the Attorney General. Since its leaders, as "trustees," have no interest either and may, in any event, be removed by the Court at will, they have no standing or basis either for resisting on behalf of the Church or defending its interest. They may even be in violation of their trust if they spend Church funds to obtain counsel, since the Church is not entitled to

counsel other than the Court itself or, perhaps, such counsel as might be appointed by a Court-appointed Receiver.

> " . . . the charitable fund is the . . . subject matter of this proceeding. It isn't a party in the usual sense. It is in Your Honor's safekeeping. It has no interest to protect against the Court. *The Church* as a charitable trust *has no interest to protect here . . .* " [Chodos] (Emphasis added.) *27*
>
> "It is Your Honor's responsibility to do whatever needs to be done to preserve it . . . and protect the assets and records, and no one has any basis to resist that intervention." [Chodos] *28*
>
> "I am saying if there is any interest of the Church that needs representation before you, the Receiver should select that counsel. That counsel should be briefed to come and raise whatever arguments have to be presented for the Church, and it should be paid out of the Church fund upon approval by the Court after a proper application." [Chodos] *29*
>
> "What I'm suggesting is *this Church doesn't need a lawyer* to help this Court protect its assets." [Chodos] (Emphasis added.) *30*
>
> *"I don't think the Church has a single interest that needs counsel* before Your Honor. In my view, the Church ought to welcome the supervision of the Court." [Chodos] (Emphasis added.) *31*

(k) Members Have No Standing

While on the one hand the State contends that the Church's members must, by law, elect the Church's leaders, the State on the other hand insists they are without right or power to say how their contributions shall be spent and have no standing to intervene or otherwise question any action taken by the Attorney General. The charitable trust theory bars them from any interest or rights in or to the subject of the trust, *which they have created!*

> "Under the law once people donate money to a charitable organization, they no longer have standing to direct how it is to be used. It must be used in accordance with the laws of the State of California. And under those laws, although the property is held by the charitable organization, it is held for the benefit of the public at large. If you keep in mind that . . . this organization every year is being subsidized . . . through tax deductions, there is a very strong public interest in how the money is spent." [Tapper] *32*

Judge Title clearly agrees. When counsel for the Church argued that six dissident former members of the Church should not, through the State or otherwise, be permitted to overrule the wishes of the 100,000 faithful members in good standing, the Court admonished him:

> "Their wishes are immaterial, counsel." [Title] (13 February, 1979) *33*

On 20 February, 1979, Judge Robert Weil, in Department 88 of the Superior Court, heard a motion brought by an organization representing the vast majority of the members of the Church who were seeking leave to intervene in the Attorney General's action in order to assert and vindicate their own interest and their own personal constitutional rights, as well as those of their Church. Such motions, where the intervenor has the slightest direct interest, are usually granted as a matter of routine on an ex parte basis. In this case, however, it was set down for a full dress adversary hearing.

Despite the fact that it was the personal rights of the individual members to worship freely that were being trampled upon by the State and the manner in which their individual tithes and offerings were being spent that was in issue, Judge Weil adopted the State's charitable trust concept *in toto* and, basing his decision upon its niceties, held that the members had no interest or standing in the controversy concerning the money they had contributed or the Church, which they had built as the selected instrument for their chosen form of worship. The technicalities of trust law were invoked to exclude them from any voice in the matter or opportunity to defend their own substantive rights or those of their Church.

By way of postscript the Judge added that, in any event, since the Church had chosen to organize itself under the California nonprofit corporation law, it had to play by those rules. Ninety percent of California's churches that are so organized will undoubtedly be surprised to learn that their most fundamental substantive rights have, according to Judge Weil, been waived and declared forfeit on a technical question of form.

(l) Corporations Code Section 9505

The Attorney General's assertion of power is based upon a section of the State's nonprofit corporation law, Corporation Code Section 9505, which reads as follows:

> "SUPERVISION OF ATTORNEY GENERAL WHERE PROPERTY HELD IN TRUST:
>
> "A nonprofit corporation, which holds property subject to any public or charitable trust, is subject at all times to examination by the Attorney General on behalf of the State, to ascertain the condition of its affairs and to what extent, if at all, it may fail to comply with trusts that it has assumed or may depart from the general purposes for which it is formed. In case of any such failure or departure the Attorney General shall institute in the name of the State, the proceedings necessary to correct the noncompliance or departure."

One or two things are immediately apparent from a reading of this secion: The power it confers is virtually unlimited. It does not deal with charitable trusts, but rather nonprofit corporations, *which hold property* subject to public or charitable trust. It says nothing whatever about churches or religious organizations.

In order, then, for the Attorney General to justify Section 9505's application to an entire church, it is not enough to find that a church may hold some property that is subject to a trust; it is, rather, necessary to redefine the church itself as one entire charitable trust, *ipso facto*. This, as we have seen, is the cornerstone of the theory and the key to the Attorney General's strategy.

While it is not the purpose of this paper to develop the legal arguments on this question, pro and con, it may be pointed out that California's legislature obviously never intended that the charitable trust concept be applied in any such sweeping fashion to churches, since it not only did *not* mention churches or religious organizations in Section 9505 (undoubtedly assuming that no one would be foolish enough to import so shocking a concept into this section by implication), but in the comprehensive law it *did* enact with respect to charitable trusts, namely, the "UNIFORM SUPERVISION OF TRUSTEES FOR CHARITABLE PURPOSES ACT," *the legislature expressed itself specifically* on the point. This law sets up a regulatory and supervisory scheme for charitable trusts, which makes them liable to periodical examination by the Attorney General and requires them to register and file regular detailed reports. If churches were viewed as charitable trusts by the legislature and were liable to examination or under an obligation to account, it surely would have included them within the embrace of this legislation.

On the contrary, however, the legislature, in Government Code Section 12583, *specifically excepted* all churches and religious organizations from all of the provisions of the act and, consequently, from any obligation to account or from any liability to examination by the Attorney General or any other State official.

Clearly the legislature had in mind the constitutional sanctions and understood quite well that separation of church and state meant just exactly that.

Furthermore, the charitable trust concept, while it has received mention from the Courts in connection with churches, has been applied only in specific and very limited situations, as, for example, an aid to determining the most appropriate distribution of the property of a church that was voluntarily dissolving. It has never before been held or even suggested that the charitable trust doctrine could be invoked to uphold or justify the sweeping invasion of church affairs successfully accomplished by the Attorney General and countenanced by the trial court in this case.

In the words of Dr. J. Gordon Melton, director of the Evanston, Illinois-based Institute for the Study of American Religion:

> "The attempt to redefine the Worldwide Church of God as a 'public trust' and its property as 'in a sense public' is the most flagrant attack on the freedom of religion and the independent status of religious institutions in this country in many years . . . The effect of the actions of [Deputy Attorney General] Tapper has been to place all churches under State control and put strict limits on how they can spend their money and acquire and dispose of property. The possibility that such precedent-setting efforts will gain some credence is heightened by the public reaction to the tragedy of Guyana. Such backlash effects must not be permitted to take place." *34*

***A LOCKSMITH** changes the lock on a door to the Church's Accounting Department, denying Church employees access while giving the attorney general's office representatives access to financial records.*

Alice: When is a church not a church?

White Rabbit: When it is a charitable trust!

Alice: When does a church become a charitable trust?

White Rabbit: When the State says so.

Alice: Things are becoming curiouser and curiouser.

V
CHARGES

At this point, it is appropriate to examine the charges leveled at the Church and its leaders by the Attorney General; the "evidence" adduced by the Attorney General in support of these charges; and finally the real facts as established either by actual Court holding of defendants' evidence, uncontradicted or irrefutable.

(1) *Charge*: That the Church has failed and still refuses to make or render adequate or regular accountings.

"Evidence": None. In fact, numerous documents attached to the Attorney General's complaint affirmatively indicated otherwise. These latter consisted of selected excerpts from detailed reports of expenses, including foreign travel, prepared by the Church and circulated to its membership in 1975-76.

Facts: The Church and the college have been audited annually by an outside CPA firm since 1956. These examinations have been conducted in accordance with generally accepted professional accounting standards and auditing procedures. The effectiveness of these controls was recently demonstrated when they revealed a major discrepancy, which the Church promptly corrected and fully reported to its members. The foundation, which was organized in 1975, was audited for the first time in 1977. The 1978 audit for all three organizations is being performed by Arthur Andersen & Co., one of the "big eight" national accounting firms, which has been specifically retained by the Church for this purpose and for the purpose of verifying the integrity of earlier audits. No evidence has been introduced to show or even suggest that all audits have not been properly and professionally conducted.

In addition, as demonstrated by the documents attached to the Attorney General's complaint, the Church regularly prepared and circulated to its membership detailed expense reports, particularly in respect of foreign travel.

(2) *Charge:* Messrs. Armstrong, Rader and others were incurring exorbitant travel, gift and entertainment expenses.

"Evidence": The above-mentioned Church expense records and other documents from the period 1975-76 (all examined by the IRS in the course of its lengthy audit), which were disseminated to Church ministers and members. No evidence was introduced that the expenditures were not in furtherance of Church business or that they were unreasonably high.

Facts: In pursuit of its primary mission to spread the Gospel worldwide and in order to gain goodwill for the Church and obtain access to people in other countries, Church leaders travel widely and confer with foreign government leaders. The Church presents gifts to heads of state and other dignitaries, gives receptions for them and incurs other ordinary entertainment and travel expense. This has resulted in dramatic increases in the Church's membership, in its following and in the contributions, which enable the Church to carry out its Work. The charges detailed in the expense reports, as established by the Church's evidence, were not examples of individual "high living" by Church officials but were representative of charges incurred by entire Church delegations traveling on official Church business.

(3) *Charge:* Messrs. Armstrong and Rader are engaging in self-dealing with Church funds to their personal benefit.

"Evidence": As to Mr. Armstrong: None offered.

"Evidence": As to Mr. Radar:

1. In 1967, a partnership, of which Mr. Rader was a member, purchased an airplane and leased it to the Church. No evidence was offered on his or the partnership's profit, if any, therefrom, or on its value to the Church.

2. In 1971, Mr. Rader purchased a home allegedly paid for by the Church and sold it in 1978, pocketing the proceeds.

3. After the sale of the Beverly Hills residence, Mr. Rader bought another home from the Church, presumably at a knockdown price.

4. Mr. Rader is overpaid.

Facts:

1. In 1967, Mr. Rader was neither an officer, director nor member of the Church. The Church could not afford to purchase the airplane and could not lease it through normal channels, since lessors are reluctant to lease to churches, feeling that they do not want to be placed in the position of suing a church in the event of default. Mr. Rader formed the partnership and personally executed indemnities to the other partners in order to enable the Church to lease the airplane.

2. In 1971, Mr. Rader was specifically asked by the Church to purchase a house in Beverly Hills that would be suitable for entertaining visiting foreign dignitaries. In order to facilitate financing, the Church initially purchased the house. When the financing was ultimately arranged, Mr. Rader took over the property, paid the Church the $90,000 it had advanced as a down payment, assumed the loan allocable to the property and

gave the Church a second trust deed for the balance of the original purchase price. Because the residence was used to entertain foreign visitors in furtherance of Church work, the Church paid certain maintenance expenses on the property. These payments were reported by Mr. Rader as income on his tax returns, and he paid taxes and tithed on them.

Mr. Rader made all payments on the house until he became a member of the Church in 1975, subsequent to which the Church occasionally made payments on his behalf to the lender, treating the same as compensation to Mr. Rader. Mr. Rader reported all such payments as income and, as with the maintenance payments, paid taxes and tithed on them.

In 1978, Mr. Rader, pursuant to Mr. Armstrong's request, prepared to move to Tucson, Arizona, and, as a consequence, sold his house, realizing a gain by virtue of its appreciation.

3. The second house, in Pasadena, was independently appraised at $208,000. Mr. Rader purchased it from the Church for $225,000, cash.

4. Mr. Rader had successful law and accounting practices prior to becoming employed by the Church, and his salary of $200,000 is commensurate with his earning power. He travels 200 days per year on Church business, and he has made a major contribution to its growth and success. There was no showing that his compensation is excessive, and the allegation that it is may be judged in light of claims by the Receiver and his associates for compensation from the Church at rates more than double that paid to Mr. Rader.

(4) *Charge:* Messrs. Rader and Armstrong and others have been selling off and liquidating the Church's property on a massive scale at prices well below their market value, including some 50 parcels of property in Southern California and the 1,600-acre campus of Ambassador College in Big Sandy, Texas. It was claimed that this latter property, allegedly worth $30 to $50 million, was about to be sold for the knocked-down price of $10.6 million in a sale due to close on 4 January, 1979.

"Evidence": None as to closing date, except for a conclusory statement in an attorney's declaration that "it appears that the sale will close on 4 January, 1979." None as to value except for an excerpt from a magazine article (pure hearsay) allegedly quoting the prospective purchaser, who was puffing the price for resale.

Facts: Judge Title of the Superior Court *held* that no evidence was produced to substantiate the charge of property sales below market value, and the Attorney General conceded his failure in this respect. On the other hand, the Church produced independent professional appraisals to support each property sale, all of which demonstrated that those properties that were sold (and their number was substantially less than that charged) were sold at prices aggregating several hundred thousand dollars *above* appraised values. The fair market value of Big Sandy was fixed by a national appraisal firm at $6.6 million, some $4 million *less* than the sale price. Furthermore, these sales were made in consequence of a decision to eliminate the liberal arts curriculum at the college and cut it back to its original scope as a seminary. This rendered a large number of properties surplus, including the Big Sandy campus, which, even though empty, costs $1.8 million per year *just to maintain.*

(5) *Charge:* Defendants have threatened to deny access to the Church's books and records and have "demonstrated an intention to remove and destroy such books and records through shredding and other means."

"Evidence": None, according to Judge Title, who *held* in the course of a hearing on 21 February, 1979, that the State had presented no credible evidence that any documents had been destroyed, shredded or removed.

Facts: The Attorney General had never been denied access, since *he had never requested access.* Had he made and pursued a request in the same manner as the IRS, he would have been accorded the same privilege of consensual examination. All of the Church's financial records are on its computer, which is located in a full-security building a quarter of a mile away from the administration offices. Neither Mr. Armstrong nor Mr. Rader has ever set foot in the building. Nothing has been destroyed or carried off, since the best evidence to refute wrongdoing are the records themselves, which are wholly exculpatory. The Church has demonstrated that it has nothing to hide. No proof of any concealment has been produced.

(6) *Charge:* Mr. Armstrong and Mr. Rader are "siphoning off the property and assets of the Church and appropriating these to their personal use on a massive scale amounting to several million dollars a year; are pilfering the revenues and assets of the Church to their own personal use and benefit on a massive scale."

"Evidence": None.

Facts: The internal accounting system of the Church has scrupulously accounted for every penny that is received and expended and, as successive audits have proved, no such "siphoning" or "pilfering" could have taken place without its being reflected in the accounting records. As indicated above, a recent case of attempted pilfering was promptly detected and exposed without assistance from the State. The national accounting firm of Arthur Andersen & Co., in the course of its current audit, has been requested specifically to verify the integrity of the internal and external controls in the accounting system and to render an opinion with respect to their adequacy to detect any such misappropriation as well as to indicate their finding in this respect. Neither the Church nor the officials in question have anything to hide. On the contrary, they have a great deal to protect and vindicate. Because their names and hitherto unblemished reputations for integrity have been thoroughly blackened by the State's publicly proclaimed and endlessly repeated charges, they have a distinct interest in establishing their innocence of any wrongdoing.

(7) *Charge:* Mr. Armstrong is a feeble and senile old man.

"Evidence": His age — 86 years.

Facts: Mr. Armstrong still travels worldwide, is constantly writing innumerable articles, is presently working on five books to be published this year (one of which is already in print), conducts numerous meetings with Church ministers and officials, personally oversees all copy in Church publications and speaks and appears frequently in broadcast media and before live audiences. Perhaps the best evidence in this respect is a story appearing in the Los Angeles *Times* under the by-line of a reporter who attended a recent ministerial convocation in Tucson, over which Mr. Armstrong presided, for the precise purpose of observing Mr. Armstrong's physical condition. In the reporter's mind, his experience laid to rest the myth of Mr. Armstrong's senility, according to the published story.

VI
CHRONOLOGY OF COURT PROCEEDINGS
(a) Genesis of the Action

Sometime in late 1978, a small group of dissident former Church members went to see Beverly Hills attorney Hillel Chodos and consulted with him regarding alleged improprieties occurring within the Church. Among this group were:

(1) Alvin and Shirley Timmons, followers of Garner Ted Armstrong (Garner Ted Armstrong is the son of Church founder Herbert W. Armstrong. A charismatic man with an attractive television personality, he was active in the Church for several years prior to 1978. Many thought of him as his father's most likely successor as the Church's leader. Theological and philosophical differences with his father and Church leaders, as well as

differences regarding his personal conduct, led to his being "disfellowshipped" [i.e., excommunicated] by his father in 1978.

Some press reports concerning the father-son dispute speculated that Garner Ted's removal might have been procured by Mr. Rader in order to clear the way for his own succession. The senior Armstrong took the definitive action after long deliberation, with great reluctance and in deference to the strong urging of the ministry.

Since that time, Garner Ted Armstrong has formed his own Church of God International, based in Tyler, Texas, with the support of former members of the Worldwide Church of God, whose members he has invited to join his new organization.

Some have ascribed to him the instigation of the events leading to the filing of the present action. He has denied this. Were the Worldwide Church of God to be discredited, however, he would stand to benefit.);

(2) David Morgan, an electrician and former Church employee;

(3) Benjamin Chapman, the husband of Garner Ted Armstrong's secretary. (This same woman is the widow of Garner Ted's deceased brother.)

Mr. Chodos then went to see Deputy Attorney General Lawrence Tapper and communicated to him the information that had been furnished by his clients. After listening to this, Mr. Tapper authorized the filing of a complaint on behalf of the State, based upon their claims. Little or nothing was apparently done to investigate or verify these accusations before proceeding. This is evidenced by the fact that all but the most petty of them turned out to be groundless. It *is* certain, at least, that Mr. Tapper directed no inquiry to the Church or request for leave to examine its records; neither did he advise Church officials of the charges nor offer them an opportunity to refute or explain them. He simply made no contact whatever with the Church beforehand, but chose, instead, to proceed by stealth.

(b) The Complaint

The Attorney General's complaint is cast in four sections.

The first asks for an accounting; the second asks that the Church's directors be removed and that a new Board of Directors be selected by a vote of the Church's members, through the medium of Court-supervised elections; the third seeks the appointment of a Receiver; and the fourth asks for injunctive relief to insure cooperation.

The form of the complaint is known technically as "ex relatione" or "on the relation of" six individuals, known as relators, who allegedly furnished or "related" the information on the basis of which the Attorney General acted. These individuals, of course, were the clients of Mr. Chodos. Technically speaking, they have no standing as parties; it is the State of California that is the plaintiff.

The charges contained in the complaint are those that have been discussed earlier. Most of them are alleged in conclusory form and virtually all are based upon "information and belief," as opposed to the actual knowledge of the complainants. The complaint alleges that all of the assets of the Church, college and foundation are held in public trust.

Attached to the complaint were a number of declarations signed by certain relators and attorneys. None of these were in the proper form to constitute competent evidence, and none contained much more than conclusory and hearsay statements (in some instances, double and even triple hearsay). The flavor of some of the "improprieties" charged may be sensed from one or two samplings. For example, one relator complained that a better and more expensive grade of piping (copper) was used in constructing Ambassador Auditorium than necessary; galvanized pipe would have been adequate. A similar complaint was made with respect to the wiring. Another alleged that the chandeliers purchased for the auditorium were too fancy. And so on.

Attached to the complaint were extensive (and highly selective) excerpts from detailed expense reports prepared by the Church administration in 1975 and 1976 and distributed to the membership. Presumably these were intended to document claims of high living and personal extravagance on the part of Church officials. As noted above, the factual explanation for these items totally refuted this claim. What is curious, however, is the rather ludicrous contradiction presented by the attachment of these detailed, publicly distributed expense reports as exhibits to the very complaint that charged that the defendants never accounted or disclosed to the membership any significant financial information!

(c) The Ex Parte Receivership Order

An ex parte order is one that is obtained upon the application of one party only; that is to say, pursuant to a hearing at which only one party is present or represented. In our legal system, orders of any consequence are normally made only following a hearing at which *all* parties are either represented or have at least been afforded that right.

Having prepared the complaint, the Attorney General's next objective was to obtain the appointment of a Receiver to take over the Church, on an ex parte basis. Ethical considerations aside, this concept was a brilliant one, tactically. Receivership is perhaps the most drastic remedy known to the law. It is virtually never imposed ex parte, and it is normally ordered only following extensive, adversary hearings, in which competent evidence is produced to establish a compelling need. Had such an opportunity to be heard been afforded to the Church *before* the making of any order in this case, its evidence would have demolished the State's claimed grounds for needing a Receiver, and one never would have been appointed. The Church, however, was denied this all-important day in court.

The State of California commands enormous power. The fact that it has uttered a charge carries great weight, in and of itself. An order of the Superior Court carries weight of almost equal dignity. If, then, the State could persuade a Court to appoint a Receiver before affording the defendants a chance to be heard, a double presumption would arise in the public's mind that there was a good reason for its issuance, *by virtue of the mere granting of the order itself* and thus, in effect, throw the burden on the defendants to prove their own innocence.

This is exactly what happened.

Mr. Tapper, Mr. Chodos and his associates, together with their hand-picked candidate for the Receiver's job, ex-Judge Steven Weisman (a close personal friend of Chodos) secured a hearing in the chambers of Judge Jerry Pacht, sitting in Department 85 of the Superior Court, one of the two Writs and Receivers departments, on the afternoon of 2 January, 1979. (The manner in which Judge Pacht came to hear the matter [as opposed to some other judge] is of interest.

All injunctive and receivership orders in the Los Angeles Court are issued out of the two Writs and Receivers departments, Nos. 85 and 86. Cases are assigned to one department or the other on a mathematical basis, even-numbered cases going to one department, odd-numbered cases to the other. However, a case number is not assigned until the complaint is actually filed. Furthermore, the judges sitting in these departments are specially assigned on an annual basis, commencing the first of each year.

Judge Pacht is a member of California's Commission on Judicial Performance. Hillel Chodos is a fellow member of the same commission. Judge Pacht was assigned to Department 85 commencing 1 January, 1979; concurrently Judge Vernon Foster was assigned to Department 86. Pacht's predecessor in Depart-

ment 85 was Judge Charles Phillips. The 2nd of January, therefore, was Pacht's first day in office in that department.

Had the action been filed prior to year's end, a different judge would certainly have heard it. Had the action even been filed *before* ex parte relief was sought, in the manner required by the Court rules, there was only a 50 percent chance that it would be assigned to Department 85. The facts therefore suggest that Mr. Chodos, not wishing to leave anything to chance, engaged in a bit of astute shopping. He deferred acting until 2 January. According to a declaration filed by him, he telephoned Department 85 that morning and was put directly through to Judge Pacht by the clerk. Chodos advised the judge that he intended to seek ex parte relief that afternoon. Pacht suggested he send his proposed complaint in that morning, and Chodos accordingly had it delivered by messenger for the Court's perusal in advance.

By thus approaching the Court before actual filing, he eliminated any chance that the case might, on the luck of the draw, be assigned to Department 86. It is evident from the facts that Mr. Chodos and the Attorney General were afforded courtesies that are not available to other lawyers.)

This proceeding was most unusual in at least two respects. First, it was held in violation of the Court's so-called "four-hour rule" (Los Angeles Superior Court, Writs and Receivers Manual, S205.2 and 303.5). This is a rule that requires that all counsel intending to make ex parte applications notify the opposing party, or his counsel if known, in advance in order to afford the other side an opportunity at least to be present in chambers and oppose the granting of a requested order. This was not done in this instance, or even mentioned, so far as the record discloses.

Secondly, the hearing was held in *advance* of the complaint's actual filing. Normally, Courts will hear only applications with respect to cases that have actually been filed, and, in the case of ex parte injunctive relief, Court rule specifically requires that the complaint be filed first (Los Angeles Superior Court Rules 7.1 and 7.2; Writs and Receivers Manual S303.2).

Judge Pacht, according to the transcript (The fact that a reporter was present at the hearing in Judge Pacht's chambers did not become known to the defendants until almost a month later, long after the hearing before Judge Title. Thus neither they nor Judge Title had the benefit, during the three-day hearing before Judge Title, of knowing the precise grounds on which Pacht had been persuaded to act and, particularly, of the critical fact that his order was based on the very claims that Title himself held to be wholly unfounded!), was persuaded to act on the basis of three allegations, which were urged upon him by those present:

(1) That the defendants were assiduously liquidating Church properties on a "massive" scale, had already sold 50 parcels of property in Pasadena at values well below market and would, unless he acted, dispose of even more of them in the same way.*35*

(2) That the college's campus in Big Sandy, Texas, allegedly worth in excess of $30 million, would be sold on 4 January, 1979, for a price of only $10.6 million unless he acted to stop it. (Judge Pacht specifically referred to this allegation as the "cruncher.") *36*

(3) That the defendants were busily shredding, destroying, carrying off or otherwise concealing documents and evidence. *37*

(All three of these allegations later proved to be totally false. [One of the State's informants later stated that he met with Rafael Chodos on the morning of 2 January, 1979, and had an extensive conversation with him regarding these and other claims and specifically emphasized to him that the sales in question were sales of surplus property and were more than adequately supported by professional appraisals that demonstrated that these were *not* being sold below market. In other words, if the informant's statement about the meeting is accurate, the Attorney General had been advised that these charges were false *before* he went to see Judge Pacht!] The plaintiffs produced no competent evidence to support their claims and so conceded in the case of Big Sandy. *38*

On the other hand, the evidence produced by the defendants entirely disproved the claims and demonstrated that the sales were fully justified and well in excess of appraised market values. In one of his few favorable rulings, Judge Title so held with respect to the alleged "liquidations below value." *39* He also disposed of the document-destruction charge in similar fashion, holding that plaintiffs had simply failed to produce *any* credible evidence to substantiate this charge. *40* Had the Court enforced its own "four-hour rule," these facts would all have been placed before Judge Pacht!)

Nevertheless, Judge Pacht issued the order and authorized the receivership, and the damage was done. The momentum created by that order and the destructive presumptions stemming from it have blackened the Church's reputation and that of its leaders in the minds of virtually everyone whose only contact with the case has been obtained through the sensational public reporting of these events. The presumption of validity attached to a Court order is very strong, so it is not surprising that the press, the public and even the Courts have accorded great significance and deference to the Pacht order, reasoning that there must have been something very wrong to persuade Judge Pacht to issue so drastic an order, on an ex parte basis, without even four hours' notice.

Judge Pacht's qualms about the propriety of issuing so drastic an order without notice or hearing were quickly allayed by the Attorney General's exposition of his charitable trust theory and his assurances that the Court need not be concerned, since no private rights were involved, the Church's property being public property and its records public records. To this the Court responded, "I don't have any quarrel with that..." *41*

(d) Confirmation of Receiver's Appointment

Judge Pacht's order merely appointed the Receiver on a temporary basis, until a hearing could be held on whether the Receiver should remain in place pending trial. This hearing was set for 10 January, 1979.

Prior to that date, Church counsel applied to Judge Vernon Foster in Department 86 for an order dissolving the temporary receivership. This Judge Foster declined to do, but he did issue an order sharply restricting the Receiver's powers and reduced his role to that of mere record custodian.

Because the 10 January hearing promised to be lengthy, it was assigned to the regular trial department of Judge Julius Title, sitting in Department 48. Title, as he advised counsel from the bench, is a longtime personal friend of former Judge Steven Weisman, the Receiver. He also has a reputation for conducting hearings on an expedited, no-nonsense basis.

At the close of three days of testimony and argument, he found no evidence of specific wrongdoing. He further specifically held that the plaintiffs had failed to prove their claims regarding alleged liquidation of property or shredding of documents. However, he accepted the Attorney General's charitable trust theory at face value, held that there was enough evidence in the record to create a "suspicion" and therefore issued an order continuing the Receiver in power, pending trial. *42* The text of this order, actually signed on 19 January, 1979, is breathtaking in its breadth and sweep, as earlier noted.

Judge Title was later challenged for cause by counsel for the Church on the

basis of his friendship for Judge Weisman. He refused to disqualify himself, and a specially assigned hearing judge denied the challenge without hearing our opinion.

A number of subsequent hearings before Title, who was specially assigned to hear all matters touching upon the receivership, evidenced increasing irascibility toward any resistance to the Receiver's actions or the Attorney General's examination on whatever ground, even that of constitutionally protected rights.

The Receiver retained the national accounting firm of Peat, Marwick & Mitchell to conduct the examination. Their accountants set to work early in January and spent almost six weeks plowing through stacks of Church financial records.

However, the roughshod tactics of the Receiver and his operating officers had stimulated massive resistance on the part of the Church's members who conducted a three-day sit-in at the Church, effectively barring the Receiver from the premises. Judge Title, at the Attorney General's urging, ordered a small army of sheriff's deputies to assault the premises and arrest the passively resisting Church members. However, cooler heads prevailed. The Receiver was persuaded to moderate his actions. He fired his chief operating officer and permitted the Church's administration once again to assume its functions.

(e) Dissolution of the Receivership

Early in February, the Receiver announced to the Court his wish to resign, citing "obstruction and harassment." The Court set 21 February as the date for a hearing on the Receiver's final accounting and petition for discharge, as well as the designation of a successor Receiver. After disposing of preliminary motions and hearing argument on one or two peripheral matters, the Court, surprisingly, announced its intention of dissolving the receivership and permitting the examination to go forward under the protection of a comprehensive injunctive order.

The Court stated that the receivership had, to its observation, accomplished nothing in addition to the examination already conducted by the auditors (who, after six weeks, had failed to discover any evidence of siphoning, pilfering or wrongdoing), and this could go forward, if the Attorney General wished, without the necessity of a Receiver.

If all this were true, of course, then there never had been any need for a receivership in the first place. The Court, however, did not elaborate upon this evident implication.

On 1 March, 1979, a hearing was held by Title to consider the specific form of the dissolution and injunctive order. Over the vigorous objections of defendants' counsel, the Court adopted, in large part, a form of order drafted by the Attorney General that was, if possible, even more oppressive than the original receivership order. It ordered the Church to give to the Attorney General's auditors the entire computerized data base, laying bare all Church records, whether private, privileged, confidential or otherwise, in a manner that would have prevented the Church from even knowing what information had been taken. For example, the order required the Church to furnish on an exclusive 24-hour-access basis, two rooms in its security data processing center and to install there two copy machines, together with a computer terminal giving direct on-line access to the entire data base. The Court further ordered the Church to prepare and deliver to the Attorney General a complete tape copy of its entire computerized data base in form suitable for use on the Attorney General's computers!

(f) Reimposition of Receivership

Counsel for the Church promptly appealed from the injunction order signed by Judge Title on 2 March, 1979. A more moderate, protectively phrased form of order proposed by them had been ignored, and their protests at the oppressive nature and the utter lack of the most elementary constitutional and procedural protection in the order adopted were summarily denied. The Church's appeal had the effect of automatically staying the mandatory portions of the injunctive order (i.e., those requiring affirmative action by the defendants, such as the furnishing of computer terminals, copy machines, etc.). This rendered its key provisions ineffectual pending the outcome of the appeal.

On Monday, 12 March, 1979, a number of motions came on for hearing before Title, including the deferred hearing on Judge Weisman's proposed accounting. After having disposed of these matters, the Court, on its own motion, without notice, hearing or opportunity to prepare a defense or otherwise be heard, and on the basis of no new evidence save the notice of appeal itself, ordered the receivership reimposed on the Church and its related organizations. Title appointed one David Ray (whom he had requested ahead of time to be there, and who was present throughout the proceedings), as the new Receiver.

The Court acknowledged that defendants had a right to take an appeal and did not "find that taking the appeal in and of itself . . . [was] *per se* violative of . . . any order made by the Court . . . " but that its practical effect was to frustrate the Court's order permitting the audit. *43*

This, commented the Court, "has to make a reasonable mind suspicious that perhaps someone out there doesn't want that audit, *for whatever the reason.*" *44*

In other words, even though one conscientiously believes that one has a constitutional right not to be audited and resists on that basis, that is enough to make Judge Title suspicious! This one statement, better than anything else, reinforces the implication, which leaps out of the record, that the action taken by the Court was retaliatory in nature and intended to punish the defendants for exercising their right of appeal.

In the course of the same proceeding, Judge Title set $1 million as the amount of the bond required to stay the new receivership order, should the defendants elect to appeal from that order also. Within a matter of days, Church members by the hundreds had pledged their homes and personal belongings to make up the requisite amount. The aggregate of these pledges ultimately totaled almost $3½ million! While the Attorney General has excepted to the sufficiency of these personal sureties, the receivership has, for all practical purposes, been suspended for the moment, pending a determination of its validity on appeal.

(g) Appellate Proceedings

Promptly following the imposition of the original receivership, counsel for the Church filed a petition in the District Court of Appeal (the State's intermediate appellate court) for an extraordinary writ directing the Court to dissolve the receivership. This procedure bypasses the slower, more cumbersome regular appeal procedure and is designed to ensure speedy relief in cases that clearly require it. At the same time they requested this Court also to issue an immediate stay of the trial court's receivership order.

The appellate court denied the application for immediate stay, but kept the writ petition under consideration. The defendants then filed with the Supreme Court an application for an immediate stay, and the Supreme Court, in response to this, ordered the District Court of Appeal to send up the record. When this occurred, the District Court of Appeal complied, but then terminated further consideration of the pending petition by denying it, thus passing the entire matter up to the Supreme Court. The defendants then promptly filed a petition for hearing in the Supreme Court (in California, appeal to the Supreme Court is not a matter of right — the Court takes only those cases that it agrees to hear).

While this petition was pending in the

Supreme Court, two other parties filed applications with the Court urging it to grant the petition and seeking leave to enter the case as *amicus curiae:* One was the Washington-based "Americans United for Separation of Church and State"; the other was the Emergency Committee for the Defense of Religious Freedom, an ad hoc voluntary association of the Church's membership.

The Supreme Court kept the petition under consideration for almost 60 days, finally denying it on 21 March, 1979 (by a 4 to 3 vote), after Judge Title had approved the sureties on the appeal bond, and it became clear that the effectiveness of the second receivership order was stayed for the pendency of the normal appellate process.

It does seem clear that neither the District Court of Appeal's denial nor that of the Supreme Court constituted a denial of the matter on the merits and that neither of them implied any approval of what had occurred in the trial court. Actually the implication runs the other way, since the Supreme Court acted only when it became clear that the immediate emergency had been at least moderated. Even then, three members out of seven on the Court voted to grant a hearing!

(h) Related Proceedings

On 20 February, 1979, the Emergency Committee, referred to above, moved the Superior Court for leave to intervene in the principal action. Judge Robert Weil, sitting in Department 88, as described above, denied their motion on the technical basis that since the Church was a charitable trust, the members had no standing to intervene. The question of the State's actions and their effect on the members' constitutional rights was not addressed or dealt with by the Court.

On 15 March, 1979, a number of California resident and taxpayer members of the Church filed a "taxpayers' suit" against the Attorney General, seeking to enjoin the use of State funds for the unconstitutional purposes evidenced in the State's action against the Church. A motion for a preliminary injunction forbidding further proceedings by the State is presently set for hearing before Judge Vernon Foster in Department 86 of the Superior Court on Tuesday, 10 April, 1979.

A case filed by the Church and its officials in the Federal Court for the Central District of California under the provisions of the Federal Civil Rights Act and a related application for a preliminary injunction to prevent the State from proceeding with its action against the Church was heard before Federal Judge Robert Firth, who not only denied the application for injunctive relief, but purported to dismiss the action in its entirety upon the basis of the so-called "abstention doctrine," which, according to Judge Firth, required Federal Courts to abstain from interfering in matters of important State policy. Once again, the Court simply declined to address itself to the grave constitutional issues tendered for its consideration.

***MEDIA COVERAGE**—Representatives of the various media interview Stanley Rader as he waits to gain access to his office in the Church's Hall of Administration in Pasadena.*

A motion is currently pending before Judge Firth for a reconsideration of his dismissal order and will shortly be heard and argued.

As of the end of March, 1979, then, the various receivership and injunctive orders are the subject of a pending appeal to the District Court of Appeal. The Church is, for the moment, in charge of its own affairs, but the prohibitory portions of the Court's injunctions are still in effect, the threat of receivership still hangs over it like Damocles' sword, its credit standing has been shattered, at least for the duration of the litigation, and its ability to conduct its affairs seriously crippled.

Any other church, except the strongest and most widely dispersed, would long since have been destroyed or rendered totally bankrupt. The Worldwide Church of God, however, its membership galvanized by the attack on its integrity, has mobilized its resources and is determined to see matters through to the ultimate and inevitable appellate victory.

VII
COMMENTARY
(a) Church-State Separation

The first subject dealt with in the Bill of Rights is religious freedom. The first words of the First Amendment of the federal Constitution are: "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof." This priority of placement carries a weighty implication regarding the importance of the concept, as such, as well as its importance in the minds of the founders. The Supreme Court cases that have had occasion to consider and construe this provision have confirmed its importance as one of the foundation stones of civil liberty.

The proscription was originally intended as a limitation on the power of the federal government. It has since been held that the Fourteenth Amendment extended this limitation to the states and made it binding upon them also (*Murdock vs. Pennsylvania,* 319 U.S. 105). We tend to think of the First Amendment guarantees as a protection against the intrusion of government into the religious affairs of individuals and their private institutions of faith, but an almost equally important aspect is the reverse side of the coin: keeping religion out of government. Thus the wall between church and state erected by the First Amendment wards off encroachment from both directions (*Everson vs. Board of Education,* 330 U.S. 1).

It is the first aspect, however, the protection against governmental invasion, that is grievously violated in the present case. That it is a violation can hardly be doubted, particularly when one reviews the language of recent Supreme Court decisions that emphasize that government is not only forbidden to intrude into religious organizations, but that it cannot engage in activity that even *threatens* an entanglement in church affairs or religious matters.

Thus the Court has recently and emphatically struck down a state statute that would extend financial assistance to parochial schools (even though only in respect of instruction on secular subjects), simply because it would give the government "post-audit power to inspect and evaluate a church-related school's financial records and to determine which ex-

penditures are religious and which are secular . . . " This is impermissible, even though done with the consent, or even the request of the school or church involved (*Lemon vs. Kurtzman,* 403 U.S. 602). A similar statute was reviewed and rejected in *New York vs. Cathedral Academy,* 43 U.S. 125.

In this latter case the Court observed that this sort of detailed inquiry would *of itself* constitute a significant encroachment on the constitutional protections.

In its most recent expression on the subject, handed down in March, 1979, the Supreme Court once again reaffirmed and reemphasized this prohibition in holding that the National Labor Relations Board could have no jurisdiction over Catholic parochial schools, since so to construe the statute would necessarily bring it into conflict with the First Amendment. Here is what the Court says:

> "Rather, we make a narrow inquiry whether the exercise of the Board's jurisdiction presents a significant risk that the First Amendment will be infringed . . . The resolution of such charges by the Board (of unfair labor practices) in many instances will necessarily involve inquiry into the good faith of the position asserted by the clergy-administrators and its relationship to the schools' religious mission. It is not only the conclusions that may be reached by the Board which may infringe on rights guaranteed by the religion clauses *but the very process of inquiry* leading to findings and conclusions." (Emphasis added.) *NLRB vs. Catholic Bishop of Chicago,* March 21, 1979, Case No. 77-752, at page 12 of the opinion.

This right is so important that it is protected not only against actual infringement, but against the very *risk of infringement.*

While this discussion does not purport to treat the subject exhaustively, it may be observed that nothing in the language of any of the Supreme Court cases says that rights so important and so fundamental in character are dependent upon the niceties of form or technical procedure. Nowhere is there the slightest suggestion that a church may be simply characterized as a charitable trust and thereafter be invaded, taken over and examined at will, or that First Amendment rights are forfeited if a church or church group chooses to incorporate rather than to operate as a mere voluntary association.

At the working, trial court level, these bedrock principles are sometimes obscured in the press of routine business. That, of course, is why we have appellate courts. And that, too, is why the State's position in this case must ultimately be rejected and overturned. What is regrettable for our system of justice is that such outrage, humiliation, damage and hardship should have been visited upon a religious institution while in the very process of defending and vindicating its rights and its innocence.

(b) Correction of Wrongdoing

Thoughtful individuals who are genuinely concerned about maintaining the integrity of constitutional protections may still be sympathetic to the State's claim that it was necessary to act as it did and to impose a receivership in order to "protect" the Church and to correct wrongdoing. We will comment on the "protection" concept separately below, but we consider at this juncture the various responses to the very legitimate question: What does one do if a high officer in a church is stealing money?

At the threshold, it is well to observe that constitutional guarantees are not without their price. If we were simply to discard any constitutional guarantee that, while protecting the innocent and the worthy, at the same time sheltered wrongdoing and shielded the guilty from justice, we would very quickly be without any guarantees whatever. All we need to do is reflect upon the number of criminals who have "taken the Fifth," or how many defendants, obviously guilty of the most revolting crimes, have been turned loose because some technical infraction of Fourth or Fifth Amendment guarantees invalidated a confession or resulted in the exclusion of competent evidence because it was obtained in the course of an illegal search or seizure. So the fact that a sexton or minister might occasionally steal or embezzle or defraud is not a justification for tearing up the First Amendment.

On the other hand, the fact that the First Amendment exists does not by any means imply or require that such conduct must be protected or condoned. It should not! Indeed, wrongdoing should be pursued, investigated, prosecuted and, if conviction follows, punished, and nothing in the First Amendment or the cases suggest otherwise. No member of the Worldwide Church of God (those accused not excepted) has suggested that wrongdoing in that Church, or any other church, is clothed by the First Amendment with immunity from prosecution.

It is important, however, to make a very important distinction: Crimes are committed not by institutions (or churches) but by *individuals.* If individual wrongdoing has been committed, then the individuals responsible should be investigated, and if there is evidence that they have committed crimes, whether embezzlement, fraud, theft or whatever, they should be prosecuted.

Furthermore, the State does not need the powers it claims to have under Section 9505 in order to investigate and pursue wrongdoing. It already possesses the means necessary to deal with such conduct, as well as the tools by which to develop evidence of such wrongdoing if it exists. All the State has to do is to convene a grand jury and subpoena witnesses, records and other *competent* evidence, under accepted rules of procedure and subject to recognized safeguards accorded in such proceedings with respect to privileged matters and constitutional rights. There is no reason whatever why this could not have been done in the present case, and there has been no justifiable explanation offered as to why it was not done. This suggests that the Attorney General simply did not *have* any credible evidence of specific wrongdoing and therefore determined to embark upon what is classically known as a fishing expedition.

The enormity of what was done here is perhaps brought into somewhat better focus if one but asks, What if this had been Stanford University, whose principal officer was accused of stealing or pilfering? Or a major bank? Can one imagine that the Attorney General, instead of investigating and prosecuting the individual officer, would attempt to throw the *university* or the *bank* into receivership?

A prosecutor would normally seek the cooperation of the employees and officers of the organizations. He would investigate, build a case against the individuals and prosecute *them.*

Even so, we frequently read of embezzlements that go unpunished simply because the bank or university or other institution, as a matter of policy, does not wish to undergo the notoriety and public embarrassment at having one of its officers prosecuted or to incur the risk of possibly being sued for damages at some later date, should the accused be acquitted.

One need only apply these same principles to a church in order to bring the picture back into normal focus and perspective. This perspective is reinforced when we recall that religious institutions, unlike commercial ones, are protected by the First Amendment.

(c) 'What Do You Have to Hide?'

Another line of thought that flows naturally from this situation, in the mind of the detached observer, frequently runs like this: If there has been no wrongdoing, and the Church's finances are in order, why is it fighting so hard to prevent an audit? Does

it have something to hide? What is it attempting to cover up?

This is a natural, but insidious line of reasoning and one that the State has actively encouraged in this case. There are several answers to these questions.

First we might observe that there are many things that people do not hesitate to do on a voluntary basis (that is, when it is *their opinion* to do it or not to do it), but that they resist when someone applies force, wrongfully and against their will. For example, many people voluntarily contribute to the Community Chest, the Red Cross and other good works. They would undoubtedly, however, refuse or resist if someone attempted to force them to do so at the point of a gun. By the same token, an individual might make available personal financial information, which he was under no obligation to disclose, on a voluntary basis, but resist such disclosure if someone attempted to extract it from him by putting his arm in a hammerlock.

There is a more subtle danger involved in this process also, particularly in the case of individual rights. If one yields and acquiesces in the demand, even though illegal or unconstitutional, he may later be held to have *waived* his rights and his protection by the very act of cooperating.

So at the outset, the Church and the individuals in this case were presented with a cruel dilemma: They had been publicly accused by the State, in the most gross and intemperate terms, of wholesale theft. These charges were endlessly repeated in the public press and ultimately became imbedded in the public consciousness to the extent that the very mention of the Church or the individuals involved evoked an assumption of their guilt. Yet there was no evidence to support these charges, and the evidence to establish their innocence lay in the impeccable financial records that they had kept and maintained. Nevertheless the State had wrongfully and illegally seized those records and was systematically pouring through them, exposing and extracting information of every kind and description, including matters having nothing to do with financial data and that, by every settled law and standard, were entitled to absolute protection, such as lawyer-client correspondence, priest-penitent communications, membership lists, tithing records and so on.

The Church, which had voluntarily cooperated with the IRS on repeated occasions in the past and had, as a consequence, thoroughly satisfied the federal government that its financial housekeeping was in perfect order and demonstrated that it had no need or wish to conceal, was confronted with an entirely different situation in dealing with the State of California.

The Attorney General, who would have received the same cooperation had he proceeded in the same manner as the IRS, instead chose to assume an adversary stance: He put a gun to the Church's head and forcibly seized its property and records. Having been forced by the State into a litigation posture, the Church had no choice but to play by those rules, since, by failing to do so, it risked the waiver of its own rights and risked having its conduct construed as an admission that the State's action was legitimate, that it had a right to do what it was doing. In other words, the Church was damned if it did and damned if it did not.

The gross unfairness of this situation is demonstrated by the fact that the Church's books *were* in exemplary shape, its accounting system *was* exceptionally modern and up to date and its internal and external controls *were* comprehensive and thoroughly professional. Furthermore the foundation filed detailed financial reports annually with the Attorney General, which are a matter of public record, and the college and Church both filed annual information documents with the Franchise Tax Board. A substantial amount of information *was* regularly disclosed, as a matter of course, and of record publicly.

As pointed out above, the Attorney General, if he had honestly wished only to uncover evidence of individual wrongdoing and either to establish its existence to his satisfaction or rule it out, could easily have sought the voluntary cooperation of other Church officials or, failing to obtain this, have convened a grand jury to compel the production of evidence.

So the bottom line answer to the all-important question is: *No!* Neither the Church nor the individuals had or has anything to hide, nor have they ever attempted to hide it. On the other hand, they do have a great deal of importance to protect: their names, their reputations, their integrity and the integrity of their Church, its very livelihood and well-being, all of which have been macerated by the Attorney General's unwarranted assault.

Americans are known for their sense of sportsmanship and fair play. Thus knowing the facts of this case, fair-minded men can only be deeply offended by the suggestion that the defendants' legal resistance to unprovoked and unwarranted attack is itself evidence that they have something to hide. They must also reflect thoughtfully upon the fact that rights of individual privacy don't mean very much, if public branding is to be the inevitable consequences of their assertion.

It should also be borne in mind that despite the State's tactics, the Church and its officials, without waiving their basic rights, have formally made available to the Attorney General the audited statements for the Church, college and foundation during the years mentioned in the complaint and have, furthermore, formally offered, on a consensual and voluntary basis, to make available to the Attorney General the results of the audited examination currently being carried out by Arthur Andersen & Co., when it is completed.

(d) The Bottom Line

The specific allegations, which the Attorney General urged upon Judge Pacht and which, according to the record, persuaded him to act in the first instance, proved to be untrue. Not only did the Attorney General not have evidence to support them, but one of his informants states that on the morning of the same day one of his deputies was affirmatively advised that the principal allegations were unsupported and untrue.

The dark charges of shredding, destruction and carrying off of records have evaporated for lack of any credible proof and in the further light of testimony by the Receiver's own auditors that the Church's computer operation is "one of the most modern on the West Coast."

No evidence has been produced to demonstrate that Mr. Armstrong or Mr. Rader or Mr. Helge has "siphoned" or "pilfered" anything. In fact the Receiver's counsel found it necessary, specifically and formally, to refute Deputy Attorney General Tapper's gratuitous "kickback" accusation against Ralph Helge.

The highly respected national accounting firm of Peat, Marwick & Mitchell, retained by the Receiver, spent a month and a half auditing the financial records of the Church, the college and the foundation, and, through the date of their withdrawal, were unable to offer any support to the State's charges.

It seems fairly evident by this time that the Attorney General never did have any credible evidence of pilfering or siphoning or wrongdoing on *any* scale, let alone on the "massive scale" claimed, amounting to "several millions."

It is also apparent that even if evidence of individual wrongdoing had existed, the State's law enforcement agencies possessed ample means to pursue, uncover and prosecute individual wrongdoing, without the necessity for attacking the Church, throwing it into receivership, isolating its members, seizing its property and records, destroying its credit and financial standing and blackening its reputation.

But if none of this was necessary to correct wrongdoing, what then *was* the

Attorney General really seeking to achieve by the spectacular coup d'etat he mounted in order to seize possession of the Worldwide Church of God?

The answer is that he, the Attorney General, is attempting to establish the State's right to regulate religion in the state of California. What he really seeks to do is to set "reasonable" limits on what churches shall be allowed to pay their ministers and other officials, to determine which activities are and which are not reasonably related to the church's stated purposes and which, therefore, may legitimately be made the subject of church expenditure.

Just as the Public Utilities Commission regulates utilities, the Coastal Commission regulates the use of property in the coastal zone, the ICC regulates the transportation industry, the Attorney General seeks to review and determine what property churches may or may not sell and for what prices, what contracts they may and may not enter into and with whom, what properties they may or may not remove from the state of California (according to him, such property belongs to the people of California, even though it may have been contributed by people from all over the world!).

This is what emerges from the rather frightening concepts articulated by the State's representatives in this case, consistently and repeatedly, as emanating from the charitable trust concept.

We have here more than a mere "risk" of infringement of First Amendment rights. We have the ultimate abridgment and destruction of them. It is not the "camel's nose" under the tent; it is the camel's total occupation of the tent and the dispossession of its inhabitants.

This is the bottom line; the true significance of Section 9505 and the charitable trust concept.

(e) The Necessity for 'Protection'

"Protection" was the ultimate justification urged by the Attorney General for the appointment of a Receiver — "protection and preservation of the Church's assets." Viewing the devastation wrought by this "protective" invasion, one might be moved to speculate on what additional damage the State's representatives could have done even had they *not* been so benevolently motivated.

The founders of this Republic were moved to erect the First Amendment's protective barriers simply because their memories were long, and they clearly realized, with a cold chill, what inevitably results from the iron grip of the State's "protective" embrace.

If history teaches anything, it is the bloody lesson that in religious wars and struggles, more death, suffering and persecution is meted out under the claim of "protection" than almost any other guise.

When Tomas Torquemada was applying the thumbscrew and breaking bodies upon the rack in the service of the Spanish Inquisition, he was not wreaking vengeance upon these hapless souls or torturing them because he hated them. He was attempting to *protect* them from their own error and wickedness and to save them for their ultimate salvation. Bloody Mary, when she brought fire and destruction upon England's Protestants, did so under the same soiled banner of protection as, in like manner, did Oliver Cromwell a hundred years later in his equally bloody suppression of the Catholics in Ireland and England.

To the extent that these lessons of history are lost, it will be necessary, as George Santayana observed, to repeat them. Perhaps the spectacle that has been acted out in California in recent months will serve to jog men's memories and reawaken their vigilance in this respect. If so, then the damage that has been done there may not be altogether in vain.

The "protection" exercised in this case, consistent with historical example, has been wielded with a cynicism bordering on the vengeful, and its net effect has been to damage and destroy. Warren Abbott, a senior assistant Attorney General, was asked by a reporter for the Los Angeles *Times* whether all of this "protection" didn't come at a rather high price for the Worldwide Church of God, suggesting that by the time the Church had paid the staggering bill for such protection, there might be few if any assets worth protecting. Abbott admitted that this was a possibility. But if that happens, he added, it is the Church's fault for resisting, not ours.

These attitudes and consequences are not exceptional; they are typical. They are the inevitable results that flow when church and state become entangled, as history demonstrates, if we would but heed it.

(f) The Tactical Initiative

One final word with respect to the tactics that were pursued by the State. In retrospect, it may be seen that the grounds urged for the imposition of the receivership were wholly unfounded. This fact tells us something about the importance attached, in the Attorney General's mind, to the tactical advantage of seizure and possession, which, as we know, is "nine tenths of the law."

So it proved in this case. The mere fact that the Church had been placed in receivership upon the application of the State in and of itself spoke volumes to those who were uninformed as to the true facts in the case. Clearly, there must have been something wrong or something fishy, people must have thought, for a Court to take such drastic action, particularly on an ex parte basis, without notice or hearing. Furthermore, they would reason, the Attorney General would never make and publicize such shocking charges unless he had some evidence to back them up. These are the inferences that flow naturally from the mere fact of the Receiver's appointment, standing alone.

The momentum created by that single act has carried this action along implacably, cutting down before it every defense that the Church has attempted to raise on the merits.

Ultimately, of course, the State cannot prevail, but only because this particular Church refused to roll over and play dead. It resisted and will continue to resist, but this is something it can do only because the Church's leadership has the overwhelming support of its members, and the major part of this constituency lies outside the state of California. Were it a small church or one wholly within the state, it would by this time have succumbed to the onslaught, and hardly a ripple would be left to mar the surface and mark the point where the victim went under. This lesson should not be lost in recalling this case.

The State struck in a manner that was *calculated* to knock out the victim and kill its resistance before it could mount a defense or establish its innocence. Under ordinary circumstances, the victim would never have had the opportunity to do so.

Unless intelligent and reasonable men recall these things and determine to prevent their repetition, they will occur again, for this is the very nature of the State. And this, of course, is why the constitutional protection was originally needed . . . and still is.

SOURCES REFERRED TO IN TEXT

1 Transcript of Statement by Rafael Chodos to Church Members and Employees at Ambassador Auditorium on Jan. 4, 1979, p. 1.

2 Id., p. 2.

3 Id., p. 3.

4 Transcript of Statements by Receiver and Deputy Attorney General Tapper to Church Members and Employees at Ambassador Auditorium on Jan. 4, 1979, p. 5.

5 Id.

6 Id.

7 Id., p. 8.

8 Excerpts from Transcript of Proceedings Before Judge Title on Jan. 10, 1979, pp. 7-15 (Chodos), pp. 7-8.

9 Id., p. 12.
10 Receiver and Tapper Statements, p. 11.
11 Deputy Attorney General Tapper's Interview, Channel 4, p. 3.
12 Jan. 2, 1979, Reporter's Transcript Before Judge Pacht, pp. 8-9.
13 Id., p. 9.
14 Id., p. 3.
15 Pacht on Jan. 2, pp. 3-4.
16 Title on Jan. 10, p. 8.
17 Receiver and Tapper Statements, pp. 11-12.
18 Title on Jan. 12, p. 289.
19 Title on Jan. 10, p. 9.
20 Title on Jan. 12, p. 386.
21 Receiver and Tapper Statements, p. 11.
22 Id., p. 12.
23 Title on Jan. 12, pp. 388-389.
24 Reporter's Transcript of Proceedings Before Judge Title on Feb. 21, p. 137.
25 R. Chodos on Jan. 4, p. 1.
26 Id., p. 3.
27 Title on Jan. 10, p. 8.
28 Id., p. 9.
29 Id., p. 11.
30 Id., p. 12.
31 Id., p. 13.
32 Tapper Interview, p. 3.
33 Reporter's Transcript of Proceedings Before Judge Title on Feb. 13, 1979, p. 14.
34 Release & Statement by J. Gordon Melton, ISAR, p. 1.
35 Pacht on Jan. 2, p. 7.
36 Id., p. 2.
37 Id., p. 6.
38 Title, on Jan. 12, p. 400.
39 Id., pp. 386-387.
40 Title on Feb. 21, pp. 135-136.
41 Pacht on Jan. 2, p. 4.
42 Title on Jan. 12, p. 386.
43 Reporter's Transcript of Proceedings Before Judge Title on March 12, 1979, p. 43.
44 Id., p. 44.

Legal chronology of year-long crisis

Jan. 2: Four lawyers and an ex-judge meet with Los Angeles (Calif.) Superior Court Judge Jerry Pacht and secure his approval of their intention to file an action against the Worldwide Church of God. He agrees to sign the ex parte orders as soon as they are filed and to appoint former Superior Court Judge Steven S. Weisman as a receiver over all Church assets. The lawyers act on behalf of six former Church members who, among other things, seek to change the Church's government and depose its leaders. No representatives of the Church are present at this meeting.

Jan. 3: The California attorney general's office joins the former members to charge Pastor General Herbert W. Armstrong and Church treasurer Stanley R. Rader with siphoning off millions of dollars in Church funds annually for their personal use. Mr. Armstrong and Mr. Rader are accused of disposing of as many as 50 pieces of Church property at prices below market value within the previous six months and shredding records to obscure their actions. According to the complaint, the 1,600-acre Ambassador College campus in Big Sandy, Tex., is being sold for $10 million when its value is closer to $30 million. The suit demands an accounting of Church funds and monetary transactions and seeks to remove Mr. Armstrong and Mr. Rader from positions of authority in the Church and reorganize Church government. Later it is stated that the Church is a public trust and that all its assets and property belong to the state. Church officials, according to the attorney general's office, work only by permission of the State, which holds ultimate control over all churches in California.

The Church, Ambassador College and the Ambassador International Cultural Foundation are placed under the authority of Judge Weisman. Church administrative offices and vaults containing records are seized by the attorney general with the assistance of the deputy district attorney and other local law enforcement officers. Deputies take possession of numerous cartons of Church documents, which are never accounted for. The receiver instructs his team of auditors to "document and assemble" evidence to support charges in the complaint. No such evidence is ever discovered. The receiver claims the right to hire and fire Church employees and conduct Church business.

Evangelist C. Wayne Cole, through misrepresentation of facts, obtains a press release from Mr. Armstrong appointing himself "chief executive officer" for the Church.

Jan. 4: During a court hearing Hillel Chodos argues that Church attorney Allan Browne can't represent the Church because Mr. Armstrong and Mr. Rader do not have the authority to employ anyone to represent the Church. Mr. Chodos argues that only the receiver can designate attorneys for the Church, as the receiver is now the real head of the Church, having replaced by court order Mr. Armstrong and the board of directors.

The court disagrees and rules that Mr. Browne be allowed to represent the Church.

Jan. 5: After being informed of the full implications of the State's actions, Mr. Armstrong retracts his appointment of Mr. Cole and names Mr. Rader and four others as a team to handle the lawsuit and defend the Church under him.

Church attorneys challenge the appointment of a receiver before Superior Court Judge Vernon Foster. Judge Foster orders Judge Weisman, who had supported Mr. Cole's appointment, to refrain from interfering with Church activities, but instructs the Church to cooperate with the receiver, pending a Jan. 10 hearing.

Jan. 9: Judge Foster rules that the attorney general's auditors should not continue their investigation until a hearing determines the roles of the investigators and the rights of the defendants.

Jan. 10: Superior Court Judge Julius Title denies a Church motion to remove the receiver, ruling that the receivership does not violate any constitutional right of religious freedom. Judge Title rejects an argument by Mr. Browne that the Church stands on the brink of financial ruin because of the intrusion of the receiver.

Jan. 11: Mr. Rader announces that the

United California Bank has called in a demand note for $1.3 million from the Church's account, raising the question whether the Church will be able to meet its payroll.

Jan. 12: Judge Title tightens the receiver's control over the Church, giving him full administrative and investigative powers and stating that he has the authority to intervene wherever he "senses that something is out of order." He is ordered to take possession and control of the Church, given permission to hire a full staff to assist him and given the power to fire any Church employees who attempt to obstruct his receivership, including [with court permission] Mr. Armstrong and Mr. Rader.

Jan. 15: The receiver orders 60,000 copies of a letter from Mr. Armstrong to Church members halted at a Pasadena postal facility. The letter requested an offering to be sent to Mr. Armstrong in Tucson, Ariz., for the Church's defense.

Jan. 16: The Church files a $700 million federal lawsuit against the attorney general's office in an effort to remove State control of the Church.

Judge Title approves the sale of the Big Sandy campus for $10.6 million dollars.

Jan. 18: U.S. District Court Judge Robert Firth refuses to stay lower court proceedings against the Church, pending the outcome of a Church petition before the State District Court of Appeals.

Jan. 19: Mr. Rader announces that the Church has already spent $150,000 on the receivership. He says that in a short time the Church will find itself without credit and without cash.

Jan. 22: Mr. Armstrong addresses those gathered in Tucson for the 1979 ministerial conference and says the Worldwide Church of God is fighting a battle for all churches in the United States.

Judge Title, upon petition from Judge Weisman, orders that the money from the sale of the Big Sandy campus be deposited in the receiver's account.

Jan. 22-24: Some 4,000 to 5,000 Southern California Church members pack the Hall of Administration and Ambassador College grounds to show support for the Church and prevent the receiver's staff from entering the Pasadena facilities.

Jan. 24: Judge Weisman backs down and agrees to transfer from the Hall of Administration to other offices.

Jan. 25: California's Second District Court of Appeals refuses to remove the receivership.

Jan. 26: California Attorney General George Deukmejian says the State has not violated any of the Worldwide Church of God's rights. The Church files a petition with the State Supreme Court for an immediate stay of the receivership.

Jan. 30: The California Supreme Court refuses to stay the receivership and Church attorneys seek to have Judge Title removed from the case.

Mr. Rader brings a $551 million slander suit against Garner Ted Armstrong.

Jan. 31: The accounting firm that audited the Church's books files a $13 million slander suit against Garner Ted Armstrong.

Feb. 2: Because of a class action suit brought by Church members in Milwaukee, Wis., U.S. District Court Judge William Steger of Tyler, Tex., refuses to allow the receiver to collect any funds from the sale of Ambassador College's Big Sandy campus.

Mr. Rader says the receivership has cost the Church $3 million in working capital thus far and that by the end of February the cost will reach $5.5 million.

Feb. 6: Judge Weisman resigns as receiver, citing poor health and lack of cooperation.

Feb. 8: Mr. Rader announces that legal action will be brought against CBS television and Mr. Cole for illegally taping and using a recording of Mr. Armstrong.

Mr. Rader reveals to the press the Jan. 2 meeting between the lawyers, Judge Weisman and Judge Pacht. Judge Pacht says he has "no comment" on the charge that he rubber-stamped the receivership order after the secret meeting before the case was filed.

Feb. 21: Judge Title lifts the receivership, effective March 1, saying that it does not appear to be aiding the investigation of the Church.

Feb. 23: Judge Firth dismisses the Church's $700 million suit against the State, saying that a ruling in the Church's favor would "create unnecessary state-federal friction."

Feb. 25: Judge Weisman acknowledges in his report to the court that his receivership accomplished little, despite the expenditure of more than $106,000 and bills due totaling another $100,000. Judge Weisman claims that from the time he was named receiver Jan. 2 until his resignation Feb. 6, he devoted 313 hours to his task, sometimes working as much as 16 hours a day. He submits a bill for $46,950, based on a rate of $150 an hour. His bill included a claim for 106 hours that Judge Weisman said was spent on the phone at his home. He says $15,116.18 has been paid to A. Sheridan Atkinson, his chief operating officer; $15,533.85 to auditors; $34,222.38 to guard services; and $1,000 to Michael J. Clemens, Judge Weisman's attorney. Judge Weisman says another $29,150 is due Mr. Clemens for his services, and $25,212.83 is owed Judge Weisman's litigation counsel.

March 1: Judge Title dissolves the receivership and authorizes the attorney general's office to make a "full and complete financial examination and audit" of the Church.

March 5: Mr. Rader files a $13 million defamation of character suit against Deputy Attorney General Lawrence Tapper and attorney Hillel Chodos.

March 8: Mr. Rader announces that the Church will not cooperate with the court-ordered audit of the Church's books, calling it "unconstitutional on its face and repugnant to the Church of the living God." He announces that the Church has hired its own accounting firm to audit Church finances.

March 12: Judge Title reimposes the receivership, citing resistance to his March 1 order. David L. Ray is appointed receiver and given the same powers of his predecessor, including the right to fire Mr. Armstrong and Mr. Rader. Judge Title, however, permits the Church to post a million dollar bond to guarantee the protection of the Church's financial records during the appeal of the receivership. More than $2.3 million in surety pledges are collected from brethren in California.

March 13-16: While the sureties are being collected for the bond, Church members gather in Pasadena to protect Church properties. Several hundred members from as far away as San Diego and Bakersfield, Calif., attend all-day services in the Hall of Administration. Many families stay overnight.

March 22: The California Supreme Court, by a vote of 4 to 3, declines to hear the Church's case immediately, as the receivership has been stayed and the Church's assets are in no current danger.

March 26: Pasadena minister Joseph Tkach, in charge of collecting sureties for the bond, announces $3,749,689 has thus far been pledged by Church members in surety statements to protect the Church's financial records during the appeal of the receivership.

April 4: Mr. Rader asks California Gov. Edmund G. Brown Jr. to appoint a special prosecutor to investigate the state attorney general's office, saying the attorney general has stolen Church documents that disprove the allegations of malfeasance on the part of Church leaders.

April 5: Superior Court Judge David Eagleson orders the attorney general's office to define precise objections to sureties posted by members to avoid a receivership on the Church. The attorney gen-

eral had earlier filed a notice of exception to the sureties, demanding verification of the statements of personal wealth.

April 10: Judge Foster rejects an attempt by the Committee for Religious Freedom to stop the attorney general's office from using public funds to investigate the Church. The group had claimed that the use of public money was unconstitutional.

April 12: The Church asks the California Supreme Court for an immediate stay of financial receivership proceedings until the U.S. Supreme Court acts on its request for a review of the matter.

April 15: CBS broadcasts a segment about the Church as part of its *60 Minutes* program. The segment includes a portion of the illegally obtained tape of Mr. Armstrong.

April 19: It is announced that the California State Court of Appeals has granted stays on court action on Church surety bonds and auditing costs, to allow the Church time to ask the U.S. Supreme Court whether State officials may audit Church records.

May 23: Mr. Rader condemns the California Commission on Judicial Performance, which absolved Judge Pacht of any wrongdoing in his imposition of the receivership on the Church. Mr. Rader says Judge Pacht originally acted out of his personal friendship with Hillel Chodos, the attorney who represented the six ex-Church members who initiated the suit. Both Judge Pacht and Mr. Chodos are members of the Committee on Judicial Performance.

June 11: A court hearing on California's challenge to Church sureties is canceled after the State withdraws its objections.

July 4: Mr. Rader announces that officials of the attorney general's office have concealed the possession of 819 documents belonging to the Church.

July 6: Judge Johnson says Mr. Armstrong should comply with the attorney general's efforts to question him concerning Church financial transactions.

July 16: Superior Court Judge Robert Weil rejects the Church's objection that the State has no right to bring a lawsuit against a religious organization.

July 17: Earl Timmons, one of the six original relators of the suit, refuses to give a deposition to Church attorneys.

Aug. 1: It is announced that a lawsuit has been filed against Earl and Shirley Timmons to recover Church documents in their possession.

Aug. 8: Judge Johnson rules that Mr. Rader must resume his deposition or possibly be held in contempt of court. Since the State has not filed criminal proceedings against him, Church attorneys argue, Mr. Rader should not be required to give information that the State might use against him to bring a criminal complaint later. Judge Johnson denies the motion that Ralph Helge and another defendant, Henry Cornwall, not be required to give depositions.

Aug. 20: The American Civil Liberties Union of Southern California joins the legal defense of the Church by deciding to file a friend-of-the-court brief on the Church's behalf.

Aug. 29: Judge Johnson hears the Church's argument against a State order requiring that all Church documents, whether financial, physical or ecclesiastical, including those in the possession of former members or employees of the Church, be given to the State. Judge Johnson takes the matter under submission.

Sept. 4: Judge Johnson orders that the Church must surrender its documents to the State. Church attorney Browne called the order "sweepingly unconstitutional and void" and says it is "contrary to every United States Supreme Court decision I've ever read."

Sept. 16: A coalition of religious and civil rights groups ask the U.S. Supreme Court to accept the Worldwide Church of God petition for review and reversal of the State's imposition of a receiver on the Church.

Sept. 17: An American Civil Liberties Union (ACLU) attorney says that California has violated the First Amendment by taking control of the assets and management of the Worldwide Church of God. Nina Kraut, assistant legal director for the ACLU Washington office, says California has in effect "established a religion."

Sept. 21: Judge Johnson orders Mr. Rader to resume his deposition, which has been halted since April.

Sept. 24: Pasadena Superior Court Judge Henry Shatford declines to hear a motion for return of Church documents that are held by the attorney general's office, transferring the matter to Judge Johnson.

Oct. 1: The U.S. Supreme Court lets the lower court's appointment of the receiver stand. Five religious and civil liberties groups had filed a brief urging the high court to intervene, saying they "have never before encountered so destructive a governmental assault upon religious freedom as that presented by this case."

Oct. 5: In a filmed message seen at Feast sites, Mr. Armstrong says California's legal attack on the Church is no more substantial than "an ant trying to overpower a lion."

Oct. 10: Superior Court Judge Norman Dowds refuses to stop the State probe, ruling that the State has a right to investigate a church's financial affairs. Judge Dowds also approves the attorney general's use of public funds to investigate the Church.

The Church sues David Antion, C. Wayne Cole and Robert Kuhn for $5 million for confiscating nearly 300 "private, internal, confidential, ecclesiastical, financial and sensitive Church documents."

Oct. 13: In his Last Great Day message, Mr. Armstrong says California "has been moved by Satan . . . They're trying to destroy this government of God." Mr. Rader says the Church lacks the physical means to "resist this machine of destruction," but that ". . . the spiritual resources will overwhelm the physical powers of the State."

Oct. 15: The U.S. Supreme Court lets stand a lower court order that Mr. Rader must give a deposition to California authorities.

Oct. 22: The 9th U.S. Circuit Court of Appeals stays Mr. Rader's deposition, pending a later hearing on the State's case against the Church. Two appellate court judges, Walter Ely and Shirley Hufstedtler, initial the stay order.

Nov. 10: Mr. Rader announces that 15 major religious and civil rights organizations, including the Roman Catholic Archdiocese of Los Angeles, the Lutheran Church of America and the United Methodist Church, have urged the California Supreme Court to grant the Worldwide Church of God a hearing on its legal appeal against the State's action.

Nov. 26: The California Supreme Court again, by a vote of 4-3, declines to hear a petition filed by the Church contesting the violation of the Church's constitutional rights, despite the urgings of 15 religious and civil rights groups on the Church's behalf.

Dec. 7: U.S. District Judge Laughlin Waters delays Mr. Rader's deposition until Dec. 19, when he will announce his decision whether he will stay all state discovery proceedings pending the appeal of an earlier court order.

Dec. 14: Without comment, Judge Waters denies the Church's request for a stay of all proceedings in the state court while the federal appeal is pending.

Dec. 31: Judge Johnson orders that 7,000 Church-owned documents in the possession of the receiver's auditors be turned over to the California attorney general. The documents were originally taken from Church premises as part of the receiver's attempt to "protect" Church records. Church attorneys resolve to fight this "total miscarriage of justice" by taking appropriate legal action.

WHAT YOU CAN DO

Letters written by interested citizens to state and federal officials concerning the constitutional questions and other issues involved in the Worldwide Church of God vs. State of California confrontation would be most helpful. The letters may help to speed up a slow process and could prove of great benefit to the Church in its efforts to resolve its legal problems.

Listed here are the names and addresses of key individuals to whom letters could prove useful:

The President
The White House
Washington, D.C. 20500

The Hon. Warren E. Burger
Chief Justice of the United States
Washington, D.C. 20500

The Hon. George Deukmejian
California Attorney General
555 Capitol Mall
Sacramento, CA 95814

The Hon. Edmund Brown, Jr.
Governor of California
Sacramento, CA 95814

The Hon. Benjamin Civiletti
United States Attorney General
Washington, D.C. 20503

Sen. Alan Cranston
Senate Office Building
Washington, D.C. 20510

Sen. S. I. Hayakawa
Senate Office Building
Washington, D.C. 20510

In addition, letters to your state's senators (if different from California's, listed above) and representatives in Washington could be of benefit. To obtain the names and addresses of those officials, phone or stop by your public library's reference desk or consult a recent almanac.

When writing to elected officials, explain your deep concern about the constitutional and legal questions involved. Keep your letter as short as possible and to the point. Make sure it is legible—a typed letter is easiest to read. If you don't have access to a typewriter, be sure your handwriting is clear.

Be sure to include your return address and solicit the official's own views on the matter. Above all, avoid hostility and antagonism, and do not insult the official. Yet be firm in stating your strong feelings regarding the conduct of the State of California in this legal case and the dangers you perceive to religious rights and freedoms in the United States.

Finally, be sure to use the correct form of envelope address, the proper salutation and close. Most almanacs and many dictionaries include tables illustrating the proper forms of address for various dignitaries.

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