

IRS Probes Religious Groups

By Marjorie Hyer

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NEW YORK, June 2— Given the constitutional guarantee of free exercise of religion, how far may the government inquire into the internal affairs of a church organization?

Whatever the philosophical answer, there is mounting evidence that the Internal Revenue Service spends a fair amount of time these days keeping tabs on religious organizations.

Eighteen months ago, the IRS began an investigation of the National Council of Churches. The agents never said what they were looking for, but from the kind of records and documents requested, "the intimation was that they were concerned about political activity," explained the Rev. Dean M. Kelley, the Council's expert on church-state relations.

What was at stake, of course, was the NCC's tax-exempt status. Under the Internal Revenue code, taxpayers may whittle their income tax by deducting contributions they have made to certain charities, first among which are religious organizations.

The law stipulates that "no substantial part" of the program of tax-exempt organizations may be given over to political activities.

No one has ever defined how much involvement is "substantial", though anything over 5 per cent is generally considered to be living dangerously.

In the forefront of the civil rights movement of the '60s and the antiwar sentiment of the '70s, the NCC is without question involved politically. But it is not "substantial" involvement, its leaders said.

After a careful search of NCC records and publications, Kelley calculated that the "political" activities of the Council never came to more than about 3½ per cent of the total Council

program.

"We're under such fire for being political, when what we've actually done is really very minuscule," mused the Rev. Dr. Jon Regier, associate general secretary. "It's almost in indictment against us that we haven't done more."

At any rate, on April 10 the NCC was notified verbally—they're still waiting to get it in writing—that the IRS had completed its audit and had found nothing to jeopardize the organization's tax status, save for relatively minor technical violations. This involved the NCC acting as a conduit for American businessmen overseas seeking tax deductions for contributions to union

churches abroad—such as the American Church in Paris—which are not domestic U.S. corporations.

But if church leaders shared the ordinary citizen's feeling of relief that comes with winning a bout with the tax collector, they were also apprehensive about what prompted the investigation in the first place.

There is growing uneasiness among liberal churchmen that the zeal of the IRS for strict enforcement among church bodies may be motivated less by a passion for law and order than by a desire to intimidate religious groups that have gotten too uppity in their criticism of the way the country is being run.

"Early in the Nixon administration," Dr. Regier recalled, "the Commissioner of Internal Revenue invited some of us down and told us that it was his intention to see to it that the churches 'stick to preaching the gospel and don't get involved in social issues.' Those were the words he used."

Some observers relate government inquiry into churches' tax positions with the growing and vocal oppo-

sition to the Vietnam War in many religious bodies.

One of the most outspoken antiwar groups, Clergy and Laymen Concerned, was in fact spawned by the National Council of Churches. Though now an independent, interfaith organization, CALC still gets considerable financing through the tax-deductible channels of the Council.

Contributions designated for CALC may be given to the Council, which has a special committee that allocates money to a particular CALC function, which is

"within the exempt purposes of the NCC," explained the Rev. Dr. H. Leroy Brininger, associate general secretary of the NCC.

CALC is doing "what we would probably be doing ourselves if somebody else wasn't," added Dr. Regier. "When people give us money to use for peace, we feel free to give it to CALC," though it must go for activities covered by the NCC tax-exemption.

CALC's co-director, the Rev. Richard Fernandez, estimated that in 1971 the peace action organization received approximately \$250,000 through NCC channels towards a budget of about \$700,000. "The bulk of the money we receive day in, day out is not tax exempt," he said.

In the context of the total NCC budget, the proportion of allocation to CALC is tiny enough to be within acceptable limits Dr. Regier said. The tax law, in any event, does not make tax-exempt status dependent on total abstinence from political activity. Kelley cites a paragraph that states: "The fact that an organization, in carrying out its primary purpose, advocates social or civic changes or presents opinion on controversial issues with the intent of mold-

ing public opinion or creating public sentiment, to an acceptance of its views, does not disqualify an organization for exemption."

Kelley is convinced that the First Amendment to the Constitution, with its prohibition against government "establishment" of religion, protects religious bodies against the kind of scrutiny that some have been subjected to by IRS agents. Kel-

ley maintains that the Internal Revenue laws uphold that protection but are erroneously interpreted by the IRS.

Kelley and others believe the present practices should be tested in court. They may get their wish before too long, when a case to which Kelley refers as "a vendetta by the IRS" against a religious organization comes up before the appellate court, probably in the fall.

The organization in question that lost its tax-exempt status for "political activity" during the Kennedy administration, is the Christian Echos National Ministry, Inc., headed by the right-wing clergyman, the Rev. Billy James Hargis, one of the most dedicated and unrelenting enemies that the National Council of Churches has ever attracted.

Kelley believes the First Amendment forbids the government from examining the politics of any religious body, right or left. Relishing the irony of the situation, he says with a grin, "We shall probably find ourselves supporting the position of Mr. Hargis."

Post 6-3-72

Unitarians to Oppose U.S. On Attempt at Record Probe

DALLAS, June 2 (AP)—The president of the Unitarian-Universalist Association says the denomination will "resist by all possible means" federal government moves to reopen investigation of its records as a result of publication of the Pentagon Papers.

Dr. Robert N. West, who re-

ceived a standing ovation from 700 delegates at the UUA's 11th annual convention here Wednesday night, told them:

"It is not our battle alone as we resist this encroachment

... If I were a Baptist, a Presbyterian or unaffiliated with a religious group, I would be as

deeply concerned as I am as a Unitarian."

West said the decision by Beacon Press, publishing arm of the 375,000-member denomination, to print the "Sen. Mike Gravel Edition of the Pentagon Papers" was based on two things.

"First, our concern regarding peace and war, and second our interest in the functioning of representative democracy prompted our action. If a church or religious group should not be concerned with peace, then who should?"

West called the Justice Department's requests for the denomination's records "an unprecedented move by the federal government against a religious group."

"At the moment, the investigation is temporarily stayed and we have not turned over any records," he said. "But twice FBI agents have appeared at 25 Beacon Street (headquarters of the Unitarians in Boston, Mass.) in attempts to serve subpoenas."

The UUA received an injunction to stay the investigation until the Supreme Court rules later this month on the plea for senatorial immunity in connection with Sen. Gravel's release of the Pentagon Papers to Beacon Press.

The Alaska senator is to address the convention here Sunday.