

Merikay and the Pacific Press: Money, Courts and Church Authority

by Tom Dybdahl

The events and documents reviewed below raise important issues for the church. It is hoped that publication of the article will stimulate discussion of these issues by persons of varying convictions.

—The Board of Editors

On May 22, 1972, Merikay Silver went to her boss to ask for a raise. Her salary for editorial work at the Pacific Press Publishing Association was not sufficient for her needs.

The Press manager, Leonard F. Bohner, refused her request. It was the beginning of a series of events and legal actions that are still unresolved after more than three years.

Mrs. Silver went to work for the Press in the spring of 1972. She had not completed her college degree, but because of her talents and previous accomplishments she was hired in the editorial department. She did the work of a book editor, but her official title was that of editorial assistant.

When her first paycheck arrived, she was surprised by the small amount. From her discussions with the Press, she had expected to receive about \$600 per month. Instead, she received about \$400. Then, when her husband, Kim, lost his job, they ran into serious financial problems.

Tom Dybdahl is a graduate of the Theological Seminary at Andrews University and of the School of Journalism of Columbia University. He writes from Takoma Park, Maryland.

She decided to speak with the manager and try to do something about it.

So, on May 22 she went with a co-worker in the book department, Max Phillips, and presented her case. Specifically, she asked for the "same compensation and benefits as a married man doing the same work." She had two reasons. First, the General Conference had voted recently that women were entitled to head of household status, and the benefits that accompanied it. Second, a Federal law required equal pay for equal work.

But neither argument carried weight with Elder Bohner. "If we gave head of household status to you," he said, "then all those women out in the factory would want it." And the meeting ended with his firm statement that Mrs. Silver would never receive "a man's wages."

Two days later, a friend and co-worker of Mrs. Silver's, Lorna Tobler, met with Elder Bohner and William L. Muir, the Press treasurer, and asked about equal job opportunities for women at the Press. Mrs. Tobler was the secretary to Lawrence Maxwell, editor of the *Signs of the Times*, and had worked at the Press for many years. She drew specific attention to Title VII of the Civil Rights Act of 1964, the section of the law that prohibits discrimination in hiring and payment practices. But the manager was unwilling to change his position.

Both women, however, refused to give up. They believed that current policies were unfair, and determined they would not be silent. Mrs. Tobler had several more visits with Elder

Bohner, yet there seemed to be no progress. She made several suggestions in a May 31 letter about how women could be better utilized at the Press, but received no response. She decided to appeal to the next higher authority.

In July, Mrs. Tobler wrote to Elder R. R. Bietz, then a vice-president of the General Conference and the chairman of the board of the Press. She pointed out that although the General Conference wage guidelines entitled Mrs. Silver and others to head of household status, the Press refused to comply. He replied that if the Press was not in full harmony with the policy, a solution would be found.

Mrs. Silver also wrote to Elder Bietz and enclosed several statements from the writings of Ellen White on the subject of women working for denominational institutions. She felt that there was nothing in the writings to justify the payment of lesser wages to women, but he replied that he didn't think there was a single statement "which would give anyone the impression that women should have the same wages as the men," although he said he was not opposed to the idea.

In August, Mrs. Tobler met personally with the General Conference President, Robert H. Pierson, as well as with Elder Bietz. Both expressed confidence in the leadership at the Press, and gave assurances that something would be done. At the meeting with Elder Bietz, he asked that she not distribute copies of the Title VII law to other women employees.

More weeks passed, with more correspondence. The women gave specific examples of inequities and problems, and continued to receive general assurances. There was a board meeting at the Press on October 13, which Mrs. Tobler asked to address, but Elder Bietz demurred, saying the agenda was full.

By November, nothing had changed. The women had spoken to their superiors—all the way to the top of the church—without apparent success. They were unwilling to simply sit and wait any longer. On November 7, both women filed complaints with the Equal Employment Opportunities Commission (EEOC).

About this time, an investigator from the Wage and Hour Division of the Department of Labor came to inspect Press employment records, in response to an anonymous complaint. He also interviewed a number of workers.

As a result, Mrs. Silver received over \$1,000 on her first paycheck of 1973. But she felt that it was insufficient back pay compensation.

When she checked into the matter she found that the figures supplied by the Press management to the investigator did not coincide with the figures on her paychecks. She spoke with the investigator, and the following day he returned, and after copying some wage forms conferred with Press management.

A few hours later, Mrs. Silver received a call from the investigator. He told her that he felt management had withheld information from him, and that if she wanted, the Department of Labor would go to court in her behalf. But she did not want to make an immediate decision. So she consulted with her friend Joan K. Bradford, an attorney who had previously advised her. Mrs. Silver decided that rather than waiting for a government agency to act, she would act.

And so, on January 31, 1973, eight months after her original request for a raise, Merikay Silver filed a civil action against her employer, the Pacific Press Publishing Association. It was filed as a class action on behalf of herself and other women similarly situated.*

Civil Action #C-73
0168 CBR was a simple discrimination case at the outset. The briefs filed by Mrs. Bradford on behalf of her client were primarily an attempt to demonstrate that the Press was violating the Title VII section of the Civil Rights Act. She charged that the Press had violated the law in four specific ways:

- 1) Having a pay scale based on sex without regard to any standard of job performance;
- 2) Paying women employees below the job category in which work was actually done;

*Since then the legal aspects of the case have become more complicated. Now there are three separate suits involved. 1) *Merikay Silver v. PPPA*. This was the first suit filed, and is now due for trial in October, 1975. While Mrs. Tobler is not named, she has participated and assisted with the suit. 2) *EEOC v. PPPA*. This suit deals with alleged retaliation, and was filed on September 20, 1974. 3) *Department of Labor v. PPPA*. This was filed in the summer of 1973, and deals with violations of the Equal Pay Act. Since all the suits involve the same basic issue, they are considered together, and quotes from the briefs are related to the issues they involve, and not separated according to case. The EEOC suit was tried in March and the decision is now being appealed by the Press.

- 3) Denying women substantial fringe benefits based on head of household status;
- 4) Retaliating against women employees in an effort to make them abandon any legal remedies for their employment problems.

“Merikay Silver filed a civil action against the Pacific Press. It was a class action on behalf of herself and other women similarly situated.”

The initial briefs were short on specifics, but after studying the records, Mrs. Bradford was able to point to particular problems. The Press had six job categories, ranging from managerial and supervisory to hourly office workers. In the three higher-paying categories, there were only two females, and these were paid well below their male counterparts. In the three lower-paying categories, the only male employees were students.

In addition to this, rent allowances and a year-end bonus further widened the gap between men and women. The rent allowance paid by the Press was a flat figure which had no relation to actual rent paid—only to sex and marital status. The overall effect of this was to produce differences of up to \$1,500 per year in the pay of persons in the same category doing the same work. The year-end bonuses provided additional differentials of \$1,000 or more.

The briefs also argued strongly in favor of the suit’s being a class action, that is, a suit on behalf of all women employees of the Press. Mrs. Silver did not want to appear to be suing simply for personal gain, and she felt strongly that she was fighting for a principle that would benefit all women employees.

The suit asked specifically that there be a preliminary and permanent injunction restraining the Press from discriminating against women, and from “harassment” of those who sought legal remedies for their employment problems. For Mrs. Silver and the members of the class action, the suit requested back pay including fringe benefits, and punitive damages of \$500,000. In addition, it was asked that the Press pay personal expenses and lawyer’s fees for the plaintiff.

Mrs. Silver did not expect the case to continue very long. As she wrote in her description of the situation: “We . . . thought that management would attempt to settle such a suit in a friendly way and correct the situation at the Press.” But the Press had a rather different view.

As soon as the suit was filed, everything changed. What had been a matter for general discussion, and a cause of annoyance to the Press, was now much more than that. It could no longer be ignored.

The Press answered the charges through its lawyer, Donald McNeil, on March 26, 1973. They admitted that “during a portion of the time . . . Pacific Press did not pay to plaintiff funds to which she was entitled as a head of household allowance.” But they denied all other discriminatory practices. The Press also argued against the class action because “many if not most of the members of the alleged class do not wish to make use of the civil courts to determine disputes.”

Meanwhile, Mrs. Tobler and Elder Bietz exchanged more letters. He deplored the use of the courts, while she argued that there was no other recourse; that the matter had been continually postponed and put off. “All the time this problem was building up,” she wrote, “when did the brethren ever invite sisters in and ask them to help work out a solution? When, in fact, did they do this to help solve any problem? At the last board meeting, you felt there was too much on the agenda to permit me even to address the brethren. As it turned out, nearly the whole time was devoted to this matter—with not a single woman present! . . . Is it any wonder there is a communication gap?”

She went on to suggest that a group of leading brethren and concerned sisters meet to work out together “a schedule of step-by-step corrections over a period of time that would be workable financially. You would find us as conscientious and dedicated to the Lord’s work as any of the brethren on your committees. It may be that you would have difficulty convincing the brethren that this is not a come-down from their positions of authority. But that is precisely the type of unfortunate attitude that has brought us into the present dilemma.” But such a meeting was never held.

By this time, rumors circulated around the Press as to what was going on. Many employees knew that the Press was being sued, but did not know the specifics. Mrs. Silver felt that she ought to present her side of the matter. So in the middle of June, 1973, she sent some material to each of the women workers at the Press.

Enclosed was a letter explaining her position. She told the women she had filed a class action so she would not be accused of suing the church personally, or for personal gain. The suit was a last resort, she said, and came after trying to work "through the channels" for many months. Mrs. Silver said she had received two offers of settlement, but had refused both because they required her to drop the class action.

"I don't believe I should accept the back pay money offered to me for myself alone while you are denied it unless you decide for yourself that you don't want the back pay," she wrote. She invited the women to a meeting with her lawyer so that they would "know what the law and the lawsuit are about before you decide."

The material also contained two letters from her attorney, Mrs. Bradford. One explained the class action and what it meant. The other was a copy of a letter written to Elder Bohner, the Press manager, outlining the Federal laws she believed he was violating.

But there was not a great deal of support from the women of the Press. About 50 attended the meeting, yet only a few were willing to give open support to the suit.* Legal matters continued to develop slowly. On November 1, 1973, Elder Bietz filed an affidavit regarding the class action. He argued that "virtually all" of the employees of the Press wish not "to have their work affected by this litigation nor to take part in it."

This affidavit was supported by nine pages of petitions with 188 employee signatures. The petition was entitled "A Petition to the Management and Board of Directors of the Pacific Press Publishing Association: by the loyal group of employees whose signatures are affixed." The petition deplored the suit and urged management to retain the best legal counsel to settle the

*Later on, when the court sent out notices about the action, 46 women employees at the press joined the class either by returning the court notice marked "yes" or not mailing the notice at all.

action. It stated that the current lawsuit and the actions associated with it were "a threat with hurtful and detrimental consequences to every loyal employee of the Pacific Press." The petition expressed concern that the suit would increase costs and result in a loss of sales, and might "even effect the ultimate closing of the doors of the institution."

In addition, the petition went on to state that the undersigned could not "condone a judgment which would favor one group or person above another, even though that group or person may feel their cause to be just." It concluded with the words: "Signed by the loyal majority."

Mrs. Silver's attorney responded with further arguments that the suit remain a class action. She argued that many had signed the petition through fear, and others had obviously misunderstood what the suit involved, since they thought it would favor one group or person over another.

In support of her argument, Mrs. Bradford filed three affidavits: one from Mrs. Tobler, and two from other Press employees. One woman wrote that many others were sympathetic to the suit but were "afraid to voice their opinions in public" because they "would be called names and have fellow workers turn their backs on them, and be embarrassed in public, as has happened with Lorna and Merikay." She further stated that since the petition had the word "loyal" in it three times, "anybody not signing would look disloyal."

After hearing the arguments, the judge certified the case to proceed as a class action. (This still stands, although it could be changed before the trial.)

Throughout the experience Mrs. Tobler had been a strong support to Mrs. Silver. As the months had passed, however, she found herself in a more and more difficult position. Her husband, Gustav, had been working in Mountain View as the editor of the German edition of the *Signs of the Times, Zeichen der Zeit*. But as the German-speaking audience in the United States dwindled, it was decided that he should edit the missionary magazine from the press in Hamburg. In late 1972, he left to take up his new duties there. Mrs. Tobler did not accompany him.

A major reason she stayed in California was

that she was deeply involved in the events at the Press and felt that she should stay until there was some resolution. As the months passed, the Tobler separation became the subject of considerable discussion. The officers of the Euro-Africa Division became concerned, and asked Elder Tobler to bring his wife to Hamburg.

On October 12, 1973, the Press treasurer, William L. Muir, handed Mrs. Tobler a letter informing her that her employment was "terminated" on or before October 31, 1973, "in order that you may return to Germany with

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your husband." The reason given was that the Euro-Africa Division was insistent that she join her husband.

Upon receipt of the letter, Mrs. Tobler asked Mr. Muir if there was any criticism of her work. He informed her there was not. Neither she nor her husband had been consulted before the letter was written.

One week later, on the 19th, she wrote a letter to the Press management asking them to rescind the action. She stated that it would "certainly be viewed by the law as a reprisal, and I myself can explain it in no other way."

In addition, she commented briefly on her marital situation. "Ordinarily, I feel no particular obligation to keep people informed on the state of our marriage, but under the circumstances I will tell you that Gustav and I think we have a great thing going. We wouldn't trade our marriage for anybody else's. We feel that unity of heart and mind is more important than any other kind. Sometimes this sort of unity calls for temporary physical separation. . . . It has not been easy for either of us, and we have been looking forward to the day in the near future when I would be able to go, too." That same day she filed charges with the EEOC that she had been discharged as an act of retaliation for her support of Mrs. Silver.

On October 26, the Press board adopted a resolution clarifying the use of the word "ter-

minated." They argued that the word had been misconstrued, and that the intent of the letter was to inform Mrs. Tobler that her services at the Press were not indispensable, and that she was free to join her husband whenever she wished. In any case, she was not fired, and continued her job.

On December 1, 1973, the president of the Pacific Union Conference, W. J. Blacker, replaced Elder Bohner as manager of the Press. Soon afterwards, he informed Mrs. Tobler that the Euro-Africa Division was absolutely insistent that she go to Hamburg to be with her husband. He said that some action would be taken, but gave no specifics.

About this time, an associate secretary of the General Conference Publishing Department, Bruce M. Wickwire, became involved in the case. He had been disturbed a great deal by the suit and felt that Mrs. Silver was in the wrong to pursue it. On December 10, he sent out the following letter to the General Managers of the three North American Publishing Houses.

"Dear Friends,

RE: ARTICLES AND MANUSCRIPTS
BY MERIKAY SILVER—PACIFIC PRESS
PUBLISHING ASSOCIATION EMPLOYEE.

Due to the fact that Merikay is presently at variance with the church,

And because, by her tendency to ignore Christian counsel,

And inasmuch as she has involved the PPPA in civil court litigation,

It is hereby requested that before any further production or promotion of her works is done, counsel be sought from General Conference administration and the General Conference Publishing Department, this request to apply until further notice.

Thanking you for your cooperation."

No copy was sent to Mrs. Silver.

Nevertheless, she heard of the letter, and on January 17 filed retaliation charges with the EEOC. The letter, however, was not a ban on any further publication; it merely recommended that General Conference officials be consulted. Although existing contracts were honored, nothing written by Meriday Silver since then has been accepted for publication by any of these presses.

Court cases do not just disappear. Eventually, they must be resolved in some manner. But months and months went by, and little seemed to be happening. Legal arguments were filed, meetings were held, yet the case continued.

After Mrs. Silver's lawyer filed the initial discrimination charges, the Press had responded only in a general way. They admitted underpaying Mrs. Silver, but denied all other discriminatory acts.

But it was not to be a simple case of discrimination against women. After some initial work by Mr. McNeil, the Press hired as its chief lawyer, Malcolm T. Dungan, a constitutional lawyer with the San Francisco firm of Brobeck, Phleger, and Harrison. It became his job to define and defend the position that the Press would take. Under his direction, the case was moved into another arena: religious liberty.

The basic argument raised by the Press was that this was in fact not primarily a case of discrimination against women, but rather a case of whether the government had the right to become involved in the internal affairs of the church. The entire problem was termed "a church controversy which ought to be resolved within the church and according to the doctrine of the church."

The reasoning went like this: The Pacific Press is a part of the church, and all church workers are "ministers." The case was, therefore, a controversy between the church and one of its ministers, Merikay Silver. As the brief stated: "Just as the initial freedom of selecting a minister is a matter of church administration and government, so are the functions which accompany such a selection. . . . Matters of church government and administration are beyond the purview of civil authorities." Since a church should be free to deal with its ministers in any way it chooses, the argument ran, the government should have no interest in the case.

A main thread of the argument was that it is contrary to church policy that members resort to the use of the courts for any reason. By continuing her suit, Mrs. Silver was "at variance with the church" and "a prime candidate for early disfellowshipping." Therefore, any actions taken against her (such as the letter to Publishing House managers about publishing her

writings) were not "retaliation," but rather the means chosen by the church to deal with an errant minister.

However logical the argument was, it led to some problems. First of all, it put the church into the position of making an argument that could easily be understood as the church's insisting that its constitutional privileges gave it the right to discriminate against women. Of course, church leaders denied that they wished to discriminate, they merely wanted to assert that the government had no right to interfere in any way with church employment policies. But as Mrs. Tobler put it: "How ironic that having borrowed from worldly industry the practice of exploiting female labor, we should now reject the correction of that abuse on the grounds that we're Christians."

Another problem involved the definition of the structure of the Seventh-day Adventist Church. Since the Press was a General Conference institution, and the General Conference had become involved in the case, it was necessary to establish where authority lay within the church. In order to do this, the briefs went beyond merely quoting the *Church Manual* and its definition of church order.

Rather, the Press' briefs said that from a legal standpoint, there are only two forms of church government: congregational and representative, or hierarchical. Since the Adventist church was assuredly not congregational (that is, with complete autonomy in every local congregation), it was clearly of the "representative or hierarchical variety." The church was described as having "orders of ministry," with different levels of authority, and a first minister at the top. In his affidavit, Elder Pierson referred to himself as the "first minister" of the Seventh-day Adventist Church.

Mrs. Silver's lawyer charged that this represented a major change from the traditional Adventist view, and that church leaders were taking upon themselves powers which they did not properly possess. She argued that these legal briefs promoted ideas contrary to official positions as stated in the *Church Manual*.

But in the reply brief, the Press further defended this view by stating that "although it is true that there was a period in the life of the Seventh-day Adventist Church when the denomination took a distinctly anti-Roman

Catholic viewpoint, and the term 'hierarchy' was used in a pejorative sense to refer to the papal form of church governance, that attitude on the church's part was nothing more than a manifestation of widespread anti-papery among conservative Protestant denominations in the early part of this century and the latter part of the last, and which has now been consigned to the historical trash heap so far as the Seventh-day Adventist Church is concerned."

Such arguments underscored the fact that much of the case involved theology. The lawyers had become involved in some complex and important church issues. What emerged as the most important single point was this: Is there a legitimate Christian use of the courts?

From the beginning, some had simply written off the case as wrong because the women involved had sued the Pacific Press. Indeed, the words of Paul are very clear: "When one of you has a grievance against a brother, does he dare go to law before the unrighteous instead of the saints? . . . I say this to your shame. Can it be that there is no man among you wise enough to decide between members of the brotherhood, but brother goes to law against brother, and that before un-believers? To have lawsuits at all with one another is defeat for you. Why not rather suffer wrong? Why not rather be defrauded?" 1 Corinthians 6:1, 6, 7 RSV

In their defense, the women argued that they had followed the biblical plan for dealing with problems as outlined in Matthew 18. That is, they had gone to the particular brethren involved, first privately, then with others. When they received no help, they had gone to higher authorities. Only as a last resort had they appealed to law. But even this did not solve the problem; nowhere did the New Testament say: "If other means fail, then you may go to law."

This issue had come up regularly in the church's handling of the case. It had been the primary factor in the letter about Mrs. Silver's writings, in which she was termed "at variance with the church" and having a "tendency to ignore Christian counsel" for continuing the suit.

The issue of using the courts also figured in the next major event of the case, that of the Press' annual constituency meeting. Since the

Press carries on business in the state of California and is organized as a nonprofit membership corporation, it must hold an annual meeting of members, usually called a constituency meeting. Traditionally, Press employees applied for membership in the constituency after a period of employment. Applicants were elected en masse by acclamation.

At the 1974 annual meeting, held May 13, there were 58 applicants for membership in the Press constituency. One of them was Mrs. Silver. For the first time in memory, Elders Blacker and Bietz decided that the election of members would not be en masse and by voice acclamation. Instead, the vote would be done individually and by secret ballot. A tally sheet listed the name of each applicant, with spaces to be marked for or against. Of the 58 applicants, 57 were accepted. Mrs. Silver was not.

In defending the action, Press management argued that if Mrs. Silver's name had come up with the others, the meeting might have been disrupted and confused. They believed that many members would oppose her application, and thus cause her public shame.

Mrs. Silver, on the other hand, pointed out that she had not asked for and did not want special treatment. She felt that it merely amounted to an easy way to deny her membership in the constituency of the Press, and filed retaliation charges with the EEOC.

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Then, the theological arguments that had been present all along were brought to the foreground early this year, after the case had dragged along for more than two years.

On February 14, 1975, the General Conference Executive Committee met in a special Friday morning session to discuss the lawsuit. There is some dispute over what was said at the meeting, but the action that emerged was very

clear. The committee recommended that the board of the Press “discontinue the employment” of Mrs. Silver and Mrs. Tobler.

The General Conference action was entitled “Counsel to Pacific Press on Church Discipline.” It began by stating that scripture teaches that Christians are not to take fellow Christians before civil courts for settlement of even “legitimate grievances” and went on to quote from Matthew 18 and 1 Corinthians 6. It also quoted Ellen White that those who involve the brethren in lawsuits are “piercing the wounds of Christ and putting Him to an open shame.” (5T 243)

The action stated that “whereas Merikay Silver and Lorna Tobler have sued the Seventh-day Adventist Church; and whereas despite the church’s patient and sincere efforts to remove the causes for dissatisfaction and misunderstanding, Merikay Silver and Lorna Tobler have continued at variance with the church and unresponsive to spiritual counsel: VOTED, that the General Conference Committee, with deep regret but with awareness that employees of church institutions must meet the highest standards in adherence to Bible teachings and fidelity to church authority, reluctantly recommends to the PPPA board that Merikay Silver and Lorna Tobler be discontinued from church employment.” It also recommended that their local church boards be appraised of the action.

On Wednesday, February 19, the Press board met, and by secret ballot voted to discontinue the employment of both women, effective the 21st. The women were notified by letters post-marked February 20, and were also informed of the monetary settlement they would be given for services rendered.

The EEOC immediately applied for a temporary restraining order on behalf of Mrs. Silver and Mrs. Tobler to prohibit the Press from firing them until the *EEOC vs. Pacific Press* trial. The request was granted, and the women were reinstated by court order to await the trial.

The trial was held at the end of March. It provided the fullest airing of the theological question on civil suits, and pointed up some of the complexities involved.

In its briefs, the Press had stated that the church could not tolerate “members to bring

church disputes into civil courts.” In an earlier affidavit, Elder Blacker had testified that “it is a matter of utmost gravity for a member to take a dispute with another member, or with the Church, before civil authorities.” In his affidavit, Elder Neal Wilson, General Conference vice-president for North America, had written that “one of the teachings of the church is that where differences of opinion exist or where there is a grievance, these should be settled within the church and not in civil or criminal courts. . . . This is to expose the church, which is the body of Christ, to open shame.”

But the issue was not quite that clear. For one thing, while there existed some consensus that church members should not sue one another or the Church, the *Church Manual* makes no mention of any doctrine or teaching on that point.* Thus, there was no statement that such action would warrant any church discipline.

Some of this ambiguity had been pointed out earlier in affidavits filed on behalf of Mrs. Silver. Two Seventh-day Adventist lawyers had stated that there was “no tenet of the Seventh-day Adventist Church which forbids members to use the courts of law for redress of grievances between members and nonmembers, between members and other members, or between members and the church or any institution of the church.” Even further, they had stated they believed it was false to say that “the use of the court is viewed as a matter which is not permitted a member of the Seventh-day Adventist Church.”

For another thing, Mrs. Silver’s lawyer argued that the church had not always been consistent in this matter. In particular, she pointed to a case involving the Central California Conference, in which Elder Blacker and other leaders had some involvement.

A Seventh-day Adventist dentist, Dr. Earl E. Brenneise, rented offices in a building owned by the Central California Conference. When there

*Since this article was written, at the recent General Conference session in Vienna the following reason for disfellowshipping was added to the *Church Manual*:

“7. Instigating or continuing legal action against other church members or against the church or any of its organizations or institutions, contrary to biblical and Ellen G. White counsels.”

was a misunderstanding over the lease, the Conference sued Dr. Brenneise. He then brought a cross action for declaratory relief, and won.

Prior to the court's decision, however, Dr. Brenneise had written to Elder Blacker, then president of the Pacific Union Conference, to ask for an internal church hearing. Elder Blacker responded by saying that the incident was "unfortunate, of course . . . it appears I should do nothing more regarding your letter, and we will hold everything pending until the court renders its decision."

"Do we oppose the Roman Catholic form of church governance, or was that merely an expression of past times now consigned to the 'historical trash heap?'"

After the court decided favorably for Dr. Brenneise, he was still willing to have the matter heard by a church organization. Over a two-and-one-half year period, he wrote to Elder Blacker several times, asking to be heard by a Seventh-day Adventist group and informed of the reason civil action had been brought against him. He wrote numerous letters to the General Conference president and the vice-president for North America, to no avail.

In addition to this particular suit, it was brought out in testimony that there were a considerable number of suits involving church members and church institutions. These made it difficult, the plaintiffs argued, for the church to affirm that in reality it had a firm objection to litigation.

After five days of hearings, the judge issued his decision. He ruled that the women be reinstated in their jobs under the same conditions that had prevailed during the two weeks prior to their firing, but that they need not be given editorial work.

The decision briefly recounted the facts of the entire controversy. The judge agreed that the Press was a religious publishing house, with the right to hire only "members in good standing of the Seventh-day Adventist Church."

But he found that the Press "sought to terminate the employment of Tobler and Silver

because they had opposed practices they believed unlawful . . . and because they made charges, testified, and assisted and participated in investigations and proceedings. . . ." He ruled that since the Press was not exempt from complying with the Title VII provisions of the Civil Rights Act on the basis of the First Amendment, this action constituted "an unlawful employment practice."

The injunction was to remain in force until one of two things happened. Either the *Silver vs. PPPA* suit was settled, or until either woman was no longer a member "in good standing of the Seventh-day Adventist Church."

The Press appealed the judge's decision in favor of the EEOC. In addition, they applied for a stay of injunction pending appeal, and this was granted. It did not alter any part of the judge's conclusions concerning the injunction, but it allowed the Press to terminate the employment of the women without running the risk of being cited for contempt of court—until the appeal on the *EEOC vs. PPPA* case is heard. The *Silver vs. PPPA* case remains to be tried. Meanwhile, Merikay Silver and Lorna Tobler are no longer employees of the Pacific Press.

One major question through the whole episode is why the case has not been settled out of court. Both sides have expressed a desire to see the issue resolved. Why does it still go on?

While each side blames the other, there are some areas of agreement. The Press has agreed to make a monetary settlement with Mrs. Silver and her lawyer, Mrs. Bradford. In addition, they have agreed to back pay for women who may have been discriminated against while working at the Press. They have agreed to set up a panel to monitor the employment practices of the Press and make sure that they take steps to rectify the problems of the past.

But two major areas of difference remain. One, the Press is not willing to make all the across-the-board administrative changes that are being requested. To specific suggestions that the Press open up new job categories to women, or hire more women for management positions, the response has been that these things "are being worked on" and will be achieved as rapidly as possible.

But the most important difference centers on

the issue of who will monitor the changes. The women have argued that it is necessary for some representatives not employed by the church to monitor the process of change. Since the Press feels that government involvement in church affairs is the central issue, it has taken the position that no information of any kind regarding its employment practices can be given to anyone not designated by its board. The plaintiffs feel they cannot rely on the impartial judgment of the Press management to correct inequities, and thus the suit remains deadlocked.

Can any good thing come out of all this? At present, the answer seems to be a qualified maybe.

In the beginning, the primary issue was discrimination against women. Since that time, some changes have been made. The General Conference has adopted the "equal pay for equal work" concept, without regard to sex, and is encouraging other church institutions to do so.

The Press has also made some changes. It has equalized the rent allowance for single and married men, and raised the rent allowance for women. It has increased the base pay of some women, and made a number of lump sum back payments, although not on a systematic basis. On the other hand, the Press has not opened up some job categories to women. Nor have any women been hired for management positions since the suit began.

Yet, the church must beware of the temptation to be more concerned with its image than with practicing justice. Some of the letters written to Mrs. Silver and Mrs. Tobler by the

brethren show much more concern that this matter not "get outside" or be taken "to law" than that the wrongs be righted immediately.

Secondly, the suit has forced two important theological issues to the foreground: the nature of the church and the position it will take with regard to lawsuits among members.

Is the Seventh-day Adventist Church hierarchical? If so, in what sense? What is the relative authority of various "ministers?" Do we have a theological aversion to the Roman Catholic form of church governance, or was that merely an expression of past times now consigned to the "historical trash heap?"

What is the church's position on lawsuits? The Press argued that suing another church member or a church institution is contrary to Adventist beliefs, but the evidence shows that it has been done and is being done. Is it proper for church authorities to rule that a particular suit is out of order, while those initiated by a church conference or institution are acceptable?

The *Silver vs. PPPA* suit is scheduled for trial sometime in October, if there is no settlement or postponement. After that there may be appeals. The matter has gone on for over three years. A great deal of money and time have been spent. Two competent women workers have been fired. And the end is not in sight.

But even a court decision will not settle the issue. That can only come when both employers and employees, in our church institutions, make the search for what is fundamentally right the basis of their relationship. As Gustav Tobler said early on: "Whatever the cost may be, fairness and justice can only bring blessing in their train."