

ROSS, RIGHTS AND JUSTICE

Rev. William Steele*

After a complaint by David Attis, a local Jew, the Moncton Anglophone School Board has been found guilty by a Human Rights Board of Inquiry of promoting racism, particularly anti-Semitism, by allowing Malcolm Ross to teach.¹ In a number of books that he has written, Malcolm Ross claims that there is a Jewish conspiracy to undermine Christianity, and that the Holocaust was really a minor event and has been exaggerated as part of this conspiracy. He has been found to be an unfit role model for children, and the School Board has been required to remove him from teaching. A judicial review, while quashing some clauses of the order of the Board of Inquiry, has refused to quash the clauses which require that Malcolm Ross be removed from the classroom.²

Malcolm Ross is a member of St. Andrew's Presbyterian Church, Moncton, and I have been requested several times by Malcolm Ross' supporters to speak out in his favour. Some members of my congregation have suggested that I speak out in condemnation of his views. Until now I have said little. I have wrestled with the dual ethics of Ministry, that which requires a Minister give pastoral care and support to all members of his or her congregation, including those whose views are out of harmony with the teachings of Christ, and that which requires one to speak out, prophetically, against public and social evil such as racism and anti-Semitism. Pastoral care includes challenge of un-Christian views held by the parishioner, and it also ought to include loving Church discipline of unrepentant and recalcitrant members. Sometimes the pastoral and prophetic aspects of the ministerial ethic are in tension with each other; as when a member of the congregation publishes racist and anti-Semitic writings. The pastor must give that member and his or her family as much pastoral care as they will receive. The pastor also has a responsibility to the Church and to society to speak out so that evil may not increase and infect others. Sometimes the pastor must remain silent in public until he or she has exhausted all avenues of pastoral care and challenge. But the time comes when to say nothing in public is culpable. The silence of the Church in Germany during the Nazi persecution of Jews comes immediately to mind.

Some issues require comment and others need to be raised now that Brian Bruce, the single person Board of Inquiry, has filed his report. This paper is a personal reflection on: Malcolm Ross and his writings; human rights; and the power and the limits of the power of governments. In order to maintain

*Pastor of St. Andrew's Presbyterian Church, Moncton, N.B.

¹*Attis v. Board of Education District 15* (1991), 121 N.B.R. (2d) 1, (*sub nom. Attis v. New Brunswick School District No. 15*) 15 C.H.R.R. D/339 (Human Rights Board of Inquiry). [References hereinafter are to the edition reported in this *Journal* at 238.]

²*Attis v. Board of Education District 15* (1991), 121 N.B.R. (2d) 361 (Q.B.).

confidentiality, comments on Malcolm Ross and his writings are based solely on his public utterances and published writings.

Malcolm Ross and his Writings

Malcolm Ross is a model husband and father, an outstanding professional in his vocation of teaching, and a devout man. Yet his writings bring such pain, anger and fear to the Jewish community. If I were a Jew in Moncton, I would undoubtedly feel afraid and angry.

Because I am not an historical scholar, I requested a number of Christian scholars and pastors who are ethnically Jewish to read and evaluate the Ross writings. Each one declined to read them, and each one expressed the reason in words something like this: "I lost too many members of my extended family in the Holocaust to be able to read such writings and remain undisturbed. Emotionally, I could not handle it."

Like myself, Malcolm Ross is not an historical scholar. He is a popularizer of the views of purported scholars. His books are not balanced scholarly examinations of the sources of history, presenting and evaluating evidence for differing views of such events as the Holocaust. There are doubtlessly many factors behind his writing. One is legitimate anger that is misdirected at Jews.

Heresy in the Church based on Reflection on the Holocaust

Christians and Jews have inherited a legitimate polemic against each other's faith that goes back to the New Testament. That polemic was based on religious differences, not race, because in New Testament times most Christians were Jews who accepted Jesus as the promised Messiah of Israel, and who understood Israel to be expanded to include all people who accepted Jesus as Messiah, Saviour and Lord. Jesus, whom Christians confess to be Lord of all creation is a Jew. So Christians cannot be anti-Semitic without denying their Christian faith. Yet the sad fact is that the New Testament has been misused by Christians to justify racial contempt for Jews.

In reaction to the anti-Semitism, or anti-Judaism, of many Christians and in response to the horrors of the Holocaust, Christians have attempted to make amends, to reexamine the New Testament text, and to develop new attitudes to Jews. While some Christian scholars have been able to reexamine, from a self-critical, and reforming, orthodox Christian perspective, and repent of evil attitudes and beliefs towards and concerning Jews, others have been critical of Christian orthodoxy, and blamed orthodox Christian beliefs themselves as the root of the anti-Semitism of Christians. These "anti-orthodox-Christians" attempt to combine elements of Christian faith with agnostic, humanistic beliefs, and have many beliefs in common with liberal Jews, for liberal Jews also attempt to

combine elements of Judaism with elements of secular humanism.

Some of these "liberal Christians," among them ethnic Jews who have been converted to "liberal Christianity," wish the Church to change her doctrine on such foundational points as the Deity and Messiahship of Jesus and his universality because these are allegedly anti-Semitic. But Dr. James Daane, a Presbyterian theologian, has pointed out that it would take nothing less than the denial of the Christian faith to remove everything that some people regard as anti-Semitic. Indeed, one may argue that demands for the change of foundational Christian doctrines are actually anti-Christian.

Malcolm Ross angrily jumps to the conclusion that these "liberal Jewish Christians" have been planted in the Church by some Jewish body to undermine the Christian faith. But his anger is misdirected. It should be directed to those churches which are unfaithful to Jesus Christ, to the New Testament, and to the Christian Creeds and Confessions.

Malcolm Ross claims that his writings are religious. The Board of Inquiry denied that his writings reflect religious expression, but Mr. Justice Creaghan admitted them to be religious. Questions arise here about what counts as religious expression. The phrase "religious expression" seems somewhat vague. I believe that at the heart of the matter is what counts as religion. We need to distinguish between religion as cult and religion as ultimate beliefs. Religion as cult refers to what is traditionally known as organized religion. This includes credal statements of religious bodies and communities, prayer, Scripture reading, worship services of church, synagogue, temple and so on. Religion as ultimate belief refers to the cluster of foundational assumptions, beliefs, attitudes and practices, that justify a way of life, and beyond which there is no appeal to further more ultimate justifying assumptions.

The beliefs that there is a Jewish conspiracy or that the numbers of Jews killed in the Holocaust were minor are in no way Christian. They are not part of the confession or creed of any Church. If they are religious, in the sense of cult, they are beliefs of some religion other than Christianity, perhaps some religion that synthesizes aspects of Christian belief with beliefs of a religion of anti-Semitism.

The beliefs that there is a Jewish conspiracy and that the numbers of Jews killed in the Holocaust were minor are also not religious beliefs in the sense of ultimate beliefs, but beliefs about historical events which require the justification of historical research.

Some historical events are also confessed events, and are thus religious (cultic and ultimate), as well as historical. The Resurrection of Jesus is such. If it did not happen in history, then the whole Christian confession falls. Malcolm Ross is insensitive to the significance of the Holocaust, as an historical event which has,

for Jews, a confessional aspect.

To the Christian, the Holocaust demonstrates just how terrible human sin is. The guards and executioners were not monsters, but human beings. It also raises for Christian and Jew questions about the extent of God's sovereignty, his control of the universe. This is not a new question, but it is given a new poignancy by the Holocaust. The Orthodox Jew and the Christian affirm the sovereignty and the goodness of God in spite of appearances, in spite of the Holocaust. But the Holocaust challenges us anew to reflect on the presence of God in His world.

Both Christian and Jew see the suffering of God in the Holocaust. As Eli Wiesel depicts in "Night," a young Jewish man's agony while dying on a cross is God's agony. The Christian goes further and is forced to look back to Calvary, where God, who cannot die, died as a human being, bearing the agony of the world. The Christ of Calvary was present in the suffering of the Holocaust, and in all human suffering.

Jews may not like this Christian interpretation of the Holocaust. But to deny the orthodox Christian this interpretation is to demand that he or she cease to be a Christian in reflecting on the Holocaust. Because Christians confess that Jesus Christ is Lord, we must reflect on the Holocaust under that Lordship.

Reflection on the Holocaust also angers Malcolm Ross because some "liberal Christians" find in it cause to deny the death of God as a human being on the cross of Calvary. Some of these people are ethnic Jews. So armed with a conspiracy theory, Malcolm argues that the use of the Holocaust to deny the Christian Faith proves the theory. Heresy in the Church, however, has other causes than a Jewish conspiracy.

The Kingship of Christ

Malcolm Ross claims that he is fighting for the Kingship of Christ in society. He defines the Kingship of Christ to mean the supremacy of the Church in society. Now the doctrine of the Kingship of Christ is very important to Christians, particularly to Presbyterians. In 17th century Scotland, Presbyterians were persecuted and numbers killed at the behest of Stuart kings, who wished to control the Church. We insisted that Jesus Christ alone is King and Head of his Church, and that no human being or human authority may claim headship over the Church. This doctrine of the limitation of the authority of the State is concomitant with the doctrine of the limitation of the authority of the Church. The supremacy of the Church in society is a medieval notion, and not at all a Presbyterian doctrine.

Christians, and particularly Presbyterians, do confess Jesus Christ to be God's King over the whole of creation. We confess Christ to exercise His Lordship in society through Christians in public office bringing His values and norms to their

life and work, and through Christian communities practising the morality of Christ's Kingdom. And while Christians must live and promote the values of Christ in our public lives, and in our social policy concerns, we may never use public office to force Jesus Christ and his values on unwilling people. Christ's norm of justice means freedom for Jews, Muslims, Hindus, New Agers, secular humanists and Christians to live and to engage in their public lives in ways that express their faith.

Malcolm Ross describes himself as a Christian Traditionalist. He fails to see the discrepancy between Traditionalism and orthodox Christianity. Included in Malcolm Ross's Christian Traditionalism is monarchism, a variant of free enterprise capitalism, and individualism. I suggest that Malcolm Ross, who opposes 20th century secular humanism, unconsciously opts for a synthesis between the secular humanism of the 19th century and Christianity.

Biblical precedent is claimed for monarchism. But the monarchy is at the root of the oppressive English class system. A republican system of government which gives expression, in principle, to the equality of all persons is, in my view, much more in keeping with a Christian view of the social order.

The individualistic materialism and selfishness of free enterprise capitalism are just as foreign to the Biblical requirements of the stewardship and ecology of creation, a just distribution of wealth, and mercy to the poor and oppressed, as are the collectivistic materialism and selfishness of socialism.

The claim for absolute freedom of speech for the individual, which is made by Malcolm Ross and his supporters, is contradictory of the medievalist supremacy of the Church that he advocates. It is also an expression of a kind of individualism which is contrary to the Christian balance between the freedoms and responsibilities of the individual and those of his or her communities: family, church, business, educational community and society at large. Individuals do not have the freedom to say what they wish without being accountable to their various communities.

The Bruce Report: Human Rights and Justice

One major concern I have with the Bruce report is that it is illustrative of the unconscious religious bias of human rights commissioners who, unwittingly, may impose their bias, especially the bias of religious and moral relativism, on those who reject relativism. Such bias imposed on others denies pluralism in society, and is corrosive of freedom of religion.

Thus, the report is vitiated by the modern belief that no religion may claim superiority to any other. Bruce backs this up by quoting Chief Justice Dickson's notice that "the commitment of the international community to eradicate

discrimination extends to the prohibition of the dissemination of ideas based on the racial or *religious* superiority.”³

By their very nature, foundational beliefs of every religion include critique of incompatible religious beliefs. Religious believers always have and always will debate the merits of their respective religions vis-à-vis the merits of others. Bruce’s report rings the death knell for public religious debate, disagreement, and thus for religious freedom. The report promotes a subtle religious intolerance for every set of beliefs that are contrary to religious relativism.

If Bruce is claiming that there ought not to be discrimination in civic life based on ideas of religious superiority, then he is correct, but he does not make that clear. A person ought not to be granted, nor disqualified from, a teaching position in a public school because he or she is a Christian, or a secular humanist, or a Jew. Nor ought a refugee be given priority nor disqualified from entering Canada because of her or his religion as such. (One who is persecuted because of his or her religion is given priority, not because of his or her religion, but because he or she is persecuted.) But this is not what Bruce says.

Genuine tolerance permits, in civic life, all religions to exist together, with every one making its absolute claims, rather than asserts as a truth the absolute claim of secular humanism that all religions are relative. Bruce permits religions other than secular humanism to have public expression only so far as they submit to the absolute of relativism. Religious pluralism as a just social policy is not the same thing as pluralism as an expression of religious truth. Bruce fails to distinguish between pluralism as a just social policy and pluralism as a form of religious and moral relativism. A society that values a social policy of religious pluralism must be concerned about bias in favour of relativism by a human rights commissioner.

Another large part of my unease with the Bruce report has to do with the crucial need to limit the government to doing public justice in order to avoid totalitarianism, even if it is totalitarianism by a democratically elected government. (By “totalitarianism” I mean the assumption by the government of control over every aspect (the totality) of societal and community life). A related concern is the addition to our court system of special agencies which have wide powers to interfere in the affairs of individuals, communities, and institutions. (Again, shades of totalitarianism.)

In accepting that a human rights board of inquiry is the correct format for proceeding against Malcolm Ross, Bruce relies on precedents and arguments set in other Human Rights cases. But there are deeper philosophical reasons for

³*Supra*, note 1 at 252.

questioning the whole direction of human rights legislation in Canada. These precedents to which Bruce refers need to be questioned. We need to question whether human rights commissions and boards ought to be used in any other way than to protect persons, communities, and institutions from intrusion by governments. For the authority of governments is limited, and must remain limited to doing public justice. The law courts are the proper institutions for addressing alleged breaches of the law by individuals. We face the danger that governments may use human rights commissions to intrude in areas of life where they have no concern, in order to enforce social change. A human rights inquiry ordered by a minister of a government in a province that was, *de facto*, under one party rule, and especially when the Premier had indicated that he wished the person complained against to be removed from his position, is open to suspicion of being an instrument of government social engineering.

The quashing of the ruling denying Malcolm Ross the right to publish, sell or distribute anti-Semitic writings, while in the employ of the School Board in a non-teaching position, must give little satisfaction to the Jewish community, and does little to restore to the man the right to work in the field of his chosen vocation. The outcome of the hearing and review may well further indicate the inadequacy of the human rights complaint as an instrument of justice in dealing with the words and actions of an individual who promotes hatred against others.

Conclusion

In conclusion, I have serious reservations about whether justice has been done in the Malcolm Ross case. Justice Creaghan defends the order removing Malcolm Ross from the classroom as a justifiable limitation of his constitutional rights.⁴ Removing Ross from the classroom where he does not teach his pernicious views may give David Attis and the Jewish community some satisfaction, but it does not prevent Ross from continuing to promote hatred against Jews.

For justice to be done, the Jewish community needs to have access to the courts. I believe that Ross' defense that his views are religious does not hold weight. It is most unfortunate that New Brunswick law does not allow a suit for defamation of a group.⁵ Criminal legislation against the promotion of hatred does

⁴The ruling opens up the way, however, for rulings against other classes of persons whose out-of-school activities may prevent them from being suitable role models for children. Is a practising homosexual a suitable role model for children? Is a teacher who writes against the morality of homosexual practices a suitable role model for children?

⁵Manitoba allows such a suit under the *Defamation Act*, R.S.M. 1987, c. D20, s. 19(1):
Libel of race or creed.: The publication of a libel against a race or religious creed likely to expose persons belonging to the race, or professing the religious creed, to hatred, contempt or ridicule, and tending to raise unrest or disorder among the people, entitles a person belonging to the race, or professing the religious creed, to sue for an injunction to prevent the continuation and circulation of

not seem to have the desired result of ridding society of that evil. Certainly a civil action for libel would be ethically proper, and it might be workable in ridding society in large measure of the promotion of racism. The law in New Brunswick should be changed to allow this action.

the libel; and the Court of Queen's Bench may entertain the action.