# Harlan: Concurrence

Mr. JUSTICE HARLAN, concurring.

I am in entire agreement with the Court's rejection of the "departure from doctrine" approach taken by the Georgia courts, as that approach necessarily requires the civilian courts to weigh the significance and the meaning of disputed religious doctrine. I do not, however, read the Court's opinion to go further to hold that the Fourteenth Amendment forbids civilian courts from enforcing a deed or will which expressly and clearly lays down conditions limiting a religious organization's use of the property which is granted. If, for example, the donor expressly gives his church some money on the condition that the church never ordain a woman as a minister or elder, *see ante* at 393 U. S. 442, n. 1, or never amend certain specified articles of the Confession of Faith, he is entitled to his money back if the condition is not fulfilled. In such a case, the church should not be permitted to keep the property simply because church authorities have determined that the doctrinal innovation is justified by the faith's basic principles. *Cf. 80 U. S. Jones,* 13 Wall. 670, 80 U. S. 722-724 (1872).

On this understanding, I join the Court's opinion.