

THE TRINITY REVIEW

For though we walk in the flesh, we do not war according to the flesh, for the weapons of our warfare [are] not fleshly but mighty in God for pulling down strongholds, casting down arguments and every high thing that exalts itself against the knowledge of God, bringing every thought into captivity to the obedience of Christ. And they will be ready to punish all disobedience, when your obedience is fulfilled.

September, October 1980

Copyright 2003 John W. Robbins Post Office Box 68, Unicoi, Tennessee 37692

Email: Jrob1517@aol.com

Website: www.trinityfoundation.org

Telephone: 423.743.0199

Fax: 423.743.2005

The Chicken's Homecoming

John W. Whitehead

Editor's Note: For decades, professing Christians have been advocating the use of governmental power to achieve goals they desire, regardless of what the Bible says about the propriety of those goals or the proper function of government. Christians have supported public education, zoning ordinances, civil rights laws, unions, and government welfare programs. Now the chickens are coming home to roost. Churches and Christian schools are under attack from a government made powerful by the help of professing Christians. What follows is an account of the chickens' homecoming.

Over the past decade the Christian community has found itself engaged in a continuous battle, legal and otherwise, with the government. The issues involved in this struggle are varied. This paper will focus on the current key areas of Christian concern.

Abortion

On June 30, 1980, in the companion cases of *Harris v. McRae* and *Williams v. Zbaraz*, the United States Supreme Court held in a 5-4 decision that neither the states nor the federal government must fund abortions through programs which subsidize other medical procedures. Justice Potter Stewart, in writing for the majority, stated: "Abortion is inherently different from other medical procedures, because no other procedure involves the purposeful termination of a potential life." Stewart was joined in his opinion by Chief Justice Burger and Associate Justices White, Rehnquist, and Powell.

Justices Brennan, Marshall, Blackmun, and Stevens each filed dissents. In specific, the court in *Harris v. McRae* ruled:

The Medicaid Act does not oblige states to pay for abortions;

The right to choose abortion does not create a right to have abortions paid for with public funds;

The Hyde amendment⁴ does not effect an establishment of religion; and,

The Hyde amendment does not violate the equal protection clause of the Fifth Amendment.

Harris v. McRae is significant in its holding that the so-called "right" to abortion does not carry with it a collateral right to government financing of the exercise of that right. The fact that is not altered in *McRae*, however, is the Supreme Court's declaration in 1973 in *Roe v. Wade* that in effect unborn children are not "persons" protected under the Constitution. *Roe v. Wade* remains to this date the most destructive decision any judicial body has ever made. Since that decision, more than eight million abortions have been committed—that is an average of 2,700 each and every day since 1973. Today there are three abortions for each live birth in Washington, D. C.

The importance of a proper Christian response to the abortion issue cannot be underscored. One's position on abortion is in essence a statement on

one's position on the general sanctity of human life. It will also determine in many ways how the humanistic society we live in will respond to what the pre-World War II Nazis referred to as "useless eaters." Logically, since life is being destroyed before birth, why not tamper with it on the other end of the spectrum? As Francis Schaeffer and C. Everett Koop have asked:

Will a society which has assumed the right to kill infants in the womb—because they are unwanted, imperfect, or merely inconvenient—have difficulty in assuming the right to kill other human beings, especially older adults who are judged unwanted, deemed imperfect physically or mentally, or considered a possible social nuisance? The next candidates for arbitrary classification as non-persons are the elderly.... As the demand for affluence continues and the economic crunch gets greater, the amount of compassion that the legislature and the courts will have for the old does not seem likely to be significant considering the precedent of the non protection given to unborn and newborn.

Finally, a proper Christian response to this issue will determine how God judges a nation (*e.g.*, *2 Chronicles* 7:14). As of this date, the church has failed to respond effectively to this issue. The United States is presently under the judgment of God; and if the church does not act on and resist the wholesale slaughter of the innocent, then there will be little hope for a true Christian future.

Church Autonomy

The right of the church to remain free from government interference is a freedom that was guaranteed from this country's inception. It was once unthinkable that this concept could be challenged. In recent years, however, this fundamental principle has been brought into question.

Several illustrations point up this fact. First, on January 3, 1979, without prior notice or warning of any kind, an armed task force of the State of

California descended on the headquarters complex of the Worldwide Church of God in Pasadena, California. It forcibly seized possession of and took over control of the church. The task force consisted of a court-appointed receiver, representatives of the California Attorney General, state investigators, and law enforcement officers. The property and assets of the church and its related ministries 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 government officials. The church's administrator was replaced with the receiver and his deputies so that the State of California technically became the head of the church. The State's actions to date have been unsuccessfully contested in court by the church. As of this writing, the church has filed several appeals before the United States Supreme Court which have been unsuccessful.

Second, on March 16, 1980, Pastor Herman Fountain was arrested while conducting the worship service at Bethel Baptist Church in Lucedale, Mississippi, by a local sheriff who was accompanied by a female agent of the state Health, Education and Welfare Department. Pastor Fountain was immediately taken to jail and booked on assault and battery charges because, as director of the church's children's home for incorrigible youth, he had spanked a fifteen-year-old resident of the church home. Several ministers who attempted to continue the worship service were arrested for disorderly conduct because of their refusal to terminate the service when ordered to do so by the sheriff. Furthermore, "[t]he Sheriff's Department also demanded the records of the Children's Home which are church records. After finding these records, they confiscated them." The charges brought in court were later dropped.

There are, of course, other cases along this line which give one cause for alarm. For example, a pastor of an independent Bible church in Texas was jailed in February 1980 by a federal district judge. The offense? The pastor refused to surrender church records to the Internal Revenue Service. The I. R. S. had demanded that the church surrender all its records and the names and addresses of church

members and contributors for an administrative examination. The church was also required to complete an extensive questionnaire. On appeal, a United States Circuit Court of Appeals, in *United States v. Holmes*, ruled in favor of the church. The court, however, in denying the I. R. S. the authority to issue a blanket summons for information from the church, held that the church, in order to retain its tax-exempt status, "must allow the government access to information."

In a case with very similar facts, *United States v. Freedom Church*, an I. R. S. summons seeking to require the pastor of a church to produce church records was held by a United States Circuit Court of Appeals to be within constitutional parameters and, therefore, not an infringement of the First Amendment. The question, therefore, of the I. R. S.' power to compel the disclosure of the private records of churches is yet undecided.

In *Walker v. First Orthodox Presbyterian Church of San Francisco*, a significant decision, church autonomy was reaffirmed. In *Walker*, a church discharged its organist when it was discovered he was a practicing homosexual. The homosexual in turn sued the church under the authority of a provision of the San Francisco Police Code which prohibits discrimination in employment based upon "sexual orientation." Having a practicing homosexual on the church staff, the church argued, was in violation of its religious beliefs (based on the Bible) and church documents. The church, therefore, urged that the Police Code be held unconstitutional as applied to it. A Superior Court in San Francisco ruled in favor of the church, stating that "[f]reedom of religion is so fundamental to American history that it must be preserved even at the expense of other rights which have become institutionalized by the democratic process."

The cases discussed illustrate very clearly the growing mentality that it takes very little to justify attempted government invasions of the church. This trend must be reversed or in the very near future government regulations will entangle themselves further into the internal operation of the church.

Private Education

The private religious school is a traditional American institution which was established in this country some years before the public education system. With the arrival of the government-controlled public education system, private education dwindled drastically. In recent years, however, religious schools—primarily fundamentalist Christian schools—have expressed growth at a phenomenal rate, and this movement has been called the Christian school "explosion." It has been predicted, if the present trend continues, that by 1990 over fifty percent of the school age children in the United States will be educated in private religious schools.¹⁴ This movement has been accompanied by a growing number of confrontations with the government.

In 1925, in upholding parents' rights to send their children to private schools, the United States Supreme Court proclaimed that the "child is not the mere creature of the state." This conclusion was subsequently buttressed by the Supreme Court's decision in *Wisconsin v. Yoder* in 1972. In *Yoder*, the Court held that a school attendance law requiring parents to send their children to school until the age of sixteen violated Amish parents' freedom of religion and infringed upon their right to direct the religious upbringing of their children.

In light of *Yoder*, one would have thought that the government would have accommodated private education. However, subsequent to *Yoder*, parents in Vermont were prosecuted criminally for truancy because their children were enrolled in a Christian school not approved by the state. In Ohio, parents, too, were prosecuted criminally for truancy for sending their children to a Christian school which refused to submit to the state's "minimum standards" for educational institutions—the school argued that the standards were violative of its religious beliefs. In *State of Michigan v. Peter and Ruth Nobel*, parents who were teaching their children in the home and refused to accept state certification for their program were prosecuted criminally for truancy. In Kentucky, parents who had enrolled their children in Christian schools "unapproved" by the government were prosecuted criminally.²¹ Although these cases were decided favorably for the parents and schools involved

(upon religious liberty grounds), it is indicative of the statist mentality concerning attempted control of private education.

Unionization and Unemployment Taxation

In *N. L. R. B. v. Catholic Bishops of Chicago*, a significant decision in 1978, the United States Supreme Court addressed the issue of the forced unionization of private religious schools by the government.²² The National Labor Relations Board asserted jurisdiction over parochial schools for the purpose of deciding labor disputes. The schools protested on constitutional grounds, and the Court upheld the right of private religious schools to be free from such government regulation. The Court noted that there was no congressional statutory intent that allowed the N. L. R. B. to assume jurisdiction over such schools, and, even if such legislative intent were present, serious constitutional questions would be raised.

In another area of conflict, various state governmental agencies have, at the urging of the United States Department of Labor, attempted to levy an unemployment compensation tax on teachers who teach in private religious schools. The schools have argued that as integral ministries of the church, they cannot be taxed because such a tax would be a direct levy on the church itself. To date, the schools have generally been successful in the courts.

The Internal Revenue Service

The Internal Revenue Service has also viewed the rising private school movement with some consternation. By 1978, the I. R. S. had decided that its procedures for identifying schools with racially discriminatory policies were inadequate and that, despite having pledged an open admissions policy, many schools allegedly still practiced racial discrimination. Thereafter, the I. R. S. announced a proposed revenue procedure designed to identify these racially discriminatory schools and to deny such schools tax exempt status.²⁴ Because eighty percent of all private schools are religious and are

integral parts of the Church,²⁵ the proposed regulation was met with substantial opposition from the religious community—primarily Christian school administrators who saw the proposed procedure as government interference with the Church.²⁶ Following this confrontation, the I. R. S. issued a revised proposed procedure in February 1979.²⁷ Opposition, however, remained unabated. Moreover, the issues raised by the religious opposition to the procedure did not concern the right of racially discriminatory schools to retain tax exemptions but concerned the method by which the I. R. S. sought to implement its policy and the fear of the growing trend toward government intervention in church affairs.²⁸

That the battle between the I. R. S. and private schools will continue is evidenced by a federal court's decision on May 5, 1980, in *Green v. Miller*.²⁹ In this case, the court held that the United States Secretary of the Treasury was enjoined from according tax-exempt status to all Mississippi private schools which have been determined to be racially discriminatory in adversary proceedings or where a present inference of discrimination against blacks exists in such schools.³⁰ Moreover, in order to ensure that the government can gather information on the schools, the court required that all schools must print newspaper notices of nondiscriminatory intent four times annually and schools that advertise over radio must notify the I. R. S. of times and dates of transmission as well as a written transcript of such announcements.³¹ Detailed information on the schools' operations, the court held, must be supplied to the I. R. S. annually for three years.³² It is interesting to note that "church-related schools" were specially mentioned and that the government must take "all reasonable steps" to determine if Christian schools are discriminatory and, if so, revoke their tax-exempt status.³³ As a consequence of *Green v. Miller*, the I. R. S. has mailed questionnaires requesting information from various private schools in Mississippi. The Christian schools to date have refused on First Amendment grounds to supply the information.

Zoning Laws

Zoning ordinances have long been a nemesis to one's enjoyment of private property. In recent years, zoning ordinances have been utilized in various instances to exclude churches or Christian schools from various areas. In *City of Concord v. New Testament Baptist Church*,³⁴ a church appealed a denial of a permit to operate a school which was an integral part of it. It was finally held that the school was a permitted use under the city's zoning ordinance and to require the school to obtain a permit separate from the church was a denial of the free exercise of religion.

An opposite result was reached in *Damascus Community Church v. Clackamas County*³⁵ where the Oregon Court of Appeals reversed a lower court's opinion that the school was an integral part of the church and, therefore, that the use permit of the church was sufficient to encompass its school ministry. The court of appeals rejected the *City of Concord* case in stating that the ordinance was worded more broadly than the Oregon ordinance. The court also rejected the church's argument that the ordinance applied to it interfered with its right to free exercise.

In a recent California case, a group of persons living communally in a residential district while operating a church were enjoined from doing so.³⁶ Although the church group argued religious liberty before the appeals court, the zoning ordinance was upheld.

It is obvious that governmental attempts to regulate Christian schools will continue for some time. The issue to be decided may rest on the right to private property itself. In any event, the right of parents to control the education of their children is fundamental, and the Christian education movement will be confronted by continuing governmental interference with its operation.

Parental Rights

Parental rights concerning their children have been called into question in recent years by a humanistic society that has forsaken the biblical absolutes upon which it was founded. In this respect, the courts have in the area of abortion rights and related issues

curtailed the rights of parents to control the destiny of their children.

Tinker and Roe v. Wade

A signal case of concern was the decision rendered by the United States Supreme Court in the 1969 decision of *Tinker v. Des Moines Independent School District*.³⁷ In *Tinker*, the Court recognized that students have rights comparable to adults and that school officials do not have absolute control and authority over students. Implications for parental rights arise from *Tinker* in that the school historically has been and should be but an extension of the family. Logically, if the student can resist and challenge school officials, then the next step would be challenges to parental authority. The great breakthrough for individual autonomy, a foundation of secular humanism,³⁸ was the Supreme Court's abortion-on-demand decision in *Roe v. Wade*.³⁹ The implications of *Roe v. Wade* have been extended to other areas, and this decision is now a foundation for weakening the traditional family structure.

The Minor's "Rights" to Abortion and Contraceptives

In *Planned Parenthood v. Danforth*,⁴⁰ the Supreme Court ruled, based upon the "right" to abortion discovered in *Roe v. Wade*, that a state statute was unconstitutional which required written consent of a parent or guardian to an abortion during the first twelve weeks of pregnancy with respect to an unmarried woman under the age of eighteen. Likewise, in *Bellotti v. Baird*,⁴¹ the Court found unconstitutional a state statute requiring parental written consent before an abortion could be performed on an unmarried minor woman but providing that an abortion could be obtained under court order upon a showing of good cause if one or both parents refused consent.

The Supreme Court has now held in *Carey v. Population Services International*⁴² that a state statute which restricts the sale of contraceptives to those over sixteen years of age, and then only by a licensed pharmacist, is contrary to the right of privacy of minors and is, therefore,

unconstitutional. Even more disturbing is the decision in *Doe v. Irwin*⁴³ where parents sought to prohibit the distribution of contraceptives to their children without notice to the parents. The federal court involved held that minors possess a right of privacy which includes the right to obtain contraceptives without having to consult their parents. Although acknowledging that parents are interested in contraceptives being distributed to their children, the court held there is no duty on the part of a family planning center to notify the parents concerned.

The Implications for Parental Rights

The concern with these decisions lies in what they are saying about parental rights as a whole. First, the rights of parents are subordinate to the rights of privacy of their children to have abortions and sex. Second, the family is no longer the basic institution for determining values for children—instead, that is the government's province in and through its various agencies. In *Wisconsin v. Yoder*, Justice William O. Douglas in his dissent remarked:

If the parents in this case are allowed a religious exemption, the inevitable effect is to impose the parents' notions of religious duty upon their children. Where the child is mature enough to express potentially conflicting desires, it would be invasion of the child's rights to permit such an imposition without canvassing his views.... As the child has no other effective forum, it is in this litigation that his rights should be considered. And, if an Amish child desires to attend high school, and is mature enough to have that desire respected, the State may well be able to override the parents' religiously motivated objections.⁴⁴

In reply to Douglas' dissent in upholding the right of the Amish to withhold their children from school, the majority of justices stated: "The dissent argues that a child who expresses a desire to attend public high school in conflict with the wishes of the

parents should not be prevented from doing so. There is no reason for the Court to consider that point since it is not an issue in the case."

Therefore, the Supreme Court has left a question mark concerning whether or not a child has a constitutional right to refuse to attend a Christian school when his parents so direct. In light of the abortion and contraceptive cases, all decided since *Yoder*, the question mark looms even larger than originally thought. In fact, Harvard law professor Lawrence Tribe argues that when the parents "threaten the autonomous growth and expression of [family] members [*i.e.*, children]..." then there is no longer any reason to continue to protect family authority.⁴⁶ Who, however, is going to exercise the authority to determine when children are threatened by the family? In the humanistic society, the government will then become the parent.

Public Education

Since the Supreme Court's decisions in the early 1960's banning state-mandated prayer and Bible reading from the public schools,⁴⁷ in one area after another the right of Christians to express themselves in public education has been challenged. This trend, however, seems to be slowing in light of several recent cases.

In *Florey v. Sioux Falls School District*,⁴⁸ a federal court of appeals held that the observance of religious holidays does not, if properly administered and construed, violate the First Amendment's establishment or free exercises clauses. The court ruled that religious themes can be presented in holiday programs, such as Christmas pageants, if such themes are presented in a "prudent and objective manner" and as a traditional part of the cultural and religious heritage of the particular holiday.

The right of Christian students to meet on state university campuses has met with resistance over the past decade.⁴⁹ The rights of students to associate in furtherance of religious expression on the university campus were recently advanced in a federal court of appeals decision in *Chess v. Widmar*.⁵⁰ The facts in *Chess* concerned a

recognized student religious group that had met on the campus of the University of Missouri at Kansas City for four years. Thereafter, the university terminated the group's practice of meeting on the campus "on the ground that [the] meetings violated regulations adopted by the Board of Curators [of the university]" which prohibited university buildings or grounds from being used for purposes of religious worship or religious teaching by either student or non-student groups.⁵¹ In voiding the university's regulation, the court stated:

UMKC has the right, as do all public universities, to recognize student groups that seek to associate for the advancement of any and all ideas. It has exercised this right and has opened certain of its facilities to recognized student groups for lectures, discussions, symposiums, meetings, events and programs. But UMKC has denied access to these facilities to one such recognized student group based solely on its conclusion that the group's meetings include either religious worship or religious teaching. This denial clearly burdens the constitutional rights of the group's members and is not justified by a compelling state interest in avoiding an establishment of religion. A neutral accommodation of the many student groups active at UMKC would not constitute an establishment of religion even though some student groups may use the University's facilities for religious worship or religious teaching. Therefore, UMKC's regulation which prohibits religious worship and religious teaching in the University's buildings or on its grounds is not required by the Establishment Clause. Because of the burden it imposes on the rights guaranteed to the appellants by the First and Fourteenth Amendments of the federal Constitution, the regulation is invalid.⁵²

The troubling aspect of *Chess v. Widmar* came from the court's discussion of the rights of high school students to meet and discuss religious topics. The court stated:

This case is also distinguishable from those that involved the requested use of classrooms for prayer or Bible study by high school student groups. See, e.g., *Brandon v. Board of Educ.*, 487 F. Supp. 1219 (N. D. N. Y. 1980); *Hunt v. Board of Educ.*, 321 F. Supp. 1263 (S. D. W. Va. 1971). First, high school students necessarily require more supervision than do young adults of college age and this supervision necessarily poses a greater risk of entangling governmental authority in religious issues. Teachers ordinarily assigned to assist and supervise high school student groups may be thrust into an untenable position when assigned to supervise a prayer group. Even their presence in the room may suggest governmental approval of the religious activities of the group. There is no evidence in the record before us, however, that Cornerstone or any other student group at UMKC receives supervision or assistance from any member of the University's faculty.⁵³

It should follow as a matter of course that students, regardless of age, should have the right to voluntarily meet and discuss their religious beliefs. If this is denied, then the most important form of knowledge is denied. To deny this knowledge is to deny reality.

Conclusion

Francis Schaeffer has aptly pointed out that contemporary society is characterized by its reliance on arbitrary absolutes: "This means that tremendous changes of direction can be made and the majority of the people tend to accept them without question—no matter how arbitrary the changes are or how big a break they make with past law or consensus." Modern society is thus ripe for control from the top—an imposed order by an authoritarian government. The time to act is now. This means that those who hold to Biblical absolutes must reinsert themselves into society and confront the humanistic culture. If not, then we can only expect authoritarian control by the government.

End notes

1. 48 L. W. 4941 (1980).
2. 48 L. W. 4957 (1980).
3. 48 L. W. at 4949.
4. The Hyde amendment states: "[N]one of the funds provided by this joint resolution shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest when such rape or incest has been reported promptly to a law enforcement agency or public health service (P. L. No. 96-123, & 109, 93 Stat. 926).
5. 410 U.S. 113 (1973).
6. Francis Schaeffer and C. Everett Koop, *Whatever Happened to the Human Race?* (Revell, 1979) 89-90.
7. Shelton, "You Won't Believe This," *Alabama Alert* (March 1980) Vol. 5, 1.
8. ____ F. 2d 4312, 4317 (5th Cir. 1980).
9. *Id.* at 4317.
10. 613 F. 2d 316 (1st Cir. 1979).
11. 22 F. E. P. Cases 762 (1980).
12. *Id.* at 765.
13. Barton and Whitehead, *Schools on Fire* (Tyndale House, 1980) 45.
14. Kienel, ed., *The Philosophy of Christian School Education* (Western Association of Christian Schools, et al., 1977) 1.
15. *Pierce v. Society of Sisters*, 268 U. S. 510, 534 (1925).
16. 406 U. S. 205 (1972).
17. *Id.* at 214.
18. *State of Vermont v. LaBarge* 134 Vt. 276 (1976).
19. *State of Ohio v. Whisner*, 47 Ohio St. 2d 181 (176).
20. Nos. S-791-0114A, S-719-0115A (57th D. Ct. for the City of Allegan, Mich., filed Dec. 12, 1979).
21. *Hinton v. Kentucky State Board of Education*, *aff'd. in part, rev'd in part* *tsub. nom.*, *Kentucky Board of Education for Elementary and Secondary Education, et al. v. Rudasill*, 589 S. W. 2d 877 (1979). A year earlier, however, in a similar fact situation, it was found by a court that the state's actions were not in violation of religious liberty. *North Carolina v. Columbus Christian Academy, et al.*, No. 78-CUS-1678 (Gen. Ct. of Justice, Super. Ct. Div., filed Sept. 1, 1978). Also, recently in *State of North Dakota v. Shaver & Steinwand* (N. D. S. Ct., Mem.Op., Nos. 705 and 706, June 20, 1980) the North Dakota Supreme Court held a statute which required state approval for private schools did not unconstitutionally infringe on the free exercise rights of the Christian school involved in the case.
22. 440 U. S. 490 (1978).
23. See generally Comment, "Bringing Christian Schools Within the Scope of the Unemployment Compensation Laws: Statutory and Free Exercise Issues," 25 *Villanova Law Review* 69 (1979-80).
24. *Proposed Revenue Procedure*, 43 Fed. Reg. 37, 296 (1978).
25. *Tax Exempt Status of Private Schools: Hearings Before the Subcommittee on Oversight of the House Committee on Ways and Means*, 96th Congress, 1st Sess. (1979) 252.
26. *Id.* at 294-95, 511, 912.
27. The revenue procedure—with the stated purpose to identify certain private elementary and secondary schools that are racially discriminatory—is directed to two classifications of schools: those adjudicated to be discriminatory and those found to be reviewable. If a school is in either category, the I. R. S. will commence proceedings to revoke any previously granted tax exemption or to deny any pending application for such an exemption. *Announcement* 79-38, 1979-11 I. R. B. 204. The revenue procedure requires the I. R. S. to consider a school nondiscriminatory if the school can show either of the following: (1) that the school has a significant minority enrollment, or (2) that it has endeavored in good faith "to attract minority students on a continuing basis." *Id.* at 4.01(a) and (b). However, in the latter case an adjudicated school must enroll some minority students to obtain a non-discriminatory rating from the I. R. S. *Id.* at 4.01(b).
28. Neuberger and Crumplar, "Tax Exempt Religious Schools Under Attack: Conflicting Goals of Religious Freedom and Racial Integration." 48 *Fordham Law Review* 229, 232 (1979). In response to the furor raised, Congress voted in September of 1979 to amend a Treasury Department appropriations bill to deny the I. R. S. funding to implement the proposed procedure. *Treasury, Postal Service, and General Government Appropriations Act*, 1980, Pub. L. No. 96-74, & 615, 93 Stat. 559 (1979). This may be an illusory victory, even if the measure is reinstated in 1980, in that the appropriations limitation will remain in effect for only one year, after which the I. R. S. will have the opportunity to review attempts to put the revised procedure into effect.
29. Mem. Op. (C. A. 69-1355) May 5, 1980.

The Trinity Review September, October 1980

30. *Id.* at 2.
31. *Id.* at 3.
32. *Id.*
33. *Id.* at 5.
34. 382 A. 2d 377 (1978).
35. No. 78-10-182.
36. *City of Chula Vista v. Pagard*, 159 Cal. Rptr. 29 (1979). However, in *City of Santa Barbara v. Adamson* 97 Cal. App. 3d 627 (1980), the California Supreme Court held that the city of Santa Barbara did not demonstrate a sufficient compelling state interest to warrant its restrictions on communal living in face of fundamental constitutional rights to privacy. This ruling could have a positive effect on the *Chula Vista* case which is currently on appeal.
37. 393 U. S. 503 (1969).
38. See Whitehead and Conlan, "The Establishment of the Religion of Secular Humanism and Its First Amendment Implications," 10 *Texas Tech Law Review* 1(1978).
39. 410 U. S. 113 (1973).
40. 428 U. S. 52 (1976).
41. 99 S. Ct. 3035 (1979). In *H. L. v. Matheson*, ___ P. 2d ___ (Dec. 6, 1979), prob. juris. noted, No. 79-5903, 48 U. S. L. W. 3550, 3554 (U. S. S. Ct., Feb. 26, 1980), a statute requiring doctors to notify parents before performing an abortion on a minor was held unconstitutional.
42. 431 U. S. 678 (1977).
43. No. 78-1056, ___ F. 2d ___ (6th Cir. 1900).
44. 406 U. S. 205, 242 (1972).
45. *Id.* at 230-31.
46. Tribe, "Childhood, Suspect Classifications, and Conclusion Presumptions: Three Linked Riddles," 39 *Law & Contemporary Problems* 8, 35, n. 85. See also Comment, "Adjudicating What Yoder Left Unresolved: Religious Rights For Minor Children After Danforth and Carey," 26 *University of Pennsylvania Law Review* 1135 (1978).
47. *Engel v. Vitale*, 370 U.S. 421 (1962), and *School District of Abington Township, Pa. v. Schempp*, 374 U.S. 203 (1963).
48. ___ F. 2d ___ (8th Cir. 1980).
49. Toms and Whitehead, "The Religious Student in Public Education: Resolving a Constitutional Dilemma," 27 *Emory Law Journal* 3 (1978).
50. Mem. Op. (Ct. App. 8th Cir., No. 80-1048) August 4, 1980.
51. *Id.* at 5. On the university's request form, the student group stated that its purpose was to "promote a knowledge of Jesus Christ among students" and listed the subject of the proposed meetings to be "various topics relating to Christianity and the Bible." *Id.* at 6.
52. *Id.* at 24-25.
53. *Id.* at 22-23.
54. Francis Schaeffer, *How Should We Then Live?* (Revell, 1976) 218