

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.

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The Coming Caesars

John W. Whitehead

One dangerous aspect of the modern secular state has been its tendency to define what is and is not permitted in terms of religion. The early church and, in particular, Tertullian, ridiculed the Roman Empire for that very thing. The pagan state throughout history has without fail been an umbrella state; that is, everything must fit under the umbrella of the government and be subject to its laws. In such a state, there is no appeal except unto Caesar. There can be no appeal to God, since God is either subject to the whims of the state, or he is irrelevant to the basic needs of man. This principle was implicit in the United States Supreme Court decisions which ruled illegal state-required prayer and Bible reading and the posting of the Ten Commandments in the public schools: God is irrelevant to everyday life.

Defining the Church

At present the federal government, through the Internal Revenue Service (I. R. S.), is moving perilously close to defining what is and is not permitted in terms of religion, much like the Roman Empire. Although the Internal Revenue Code contains no definition of a church (because it would be unconstitutional under the First Amendment), the I. R. S. refers to the following list of characteristics in determining the tax-exempt status of an organization "claiming" to be a church:

1. A distinct legal existence;

2. A recognized creed and form of worship;
3. A definite and distinct ecclesiastical government;
4. A formal code of doctrine and discipline;
5. A distinct religious history;
6. A membership not associated with any other church or denomination;
7. A complete organization of ordained ministers ministering to their congregations;
8. Ordained ministry selected after completing prescribed courses of study;
9. A literature of its own;
10. Established places of worship;
11. Regular congregations;
12. Regular religious services;
13. Sunday schools for the religious instruction of the young; and,
14. Schools for the preparation of its ministers.

Many questions are raised on the I. R. S. guidelines, such as, "a recognized creed and form of worship"—recognized by whom? Or, what prescribed courses must ministers take to be recognized by the I. R. S.? Also unanswered is the

history behind the guidelines—what model was used in developing the guidelines? Obviously the early church, according to these guidelines, may very well have not been considered a tax-exempt entity.

According to the I. R. S., religious organizations claiming to be churches must in some fashion follow the above guidelines to receive recognition as a tax-exempt entity under the law. In the 1979 I. R. S. publication *How to Apply for and Retain Exempt Status for Your Organization*, the I. R. S. reported that although religious organizations claim to be churches, "the Internal Revenue Service does not accept any and every assertion that such an organization is a church."

To ensure that churches are complying with the guidelines, the I. R. S. has embarked on several courses. First, extensive questionnaires have been sent to various churches. Many times receiving the questionnaire means someone has complained to the I. R. S. concerning the church and its activities. This could happen to any church. Other times it simply means that the I. R. S. is conducting what I. R. S. officials call a routine audit. Second, when I. R. S. officials suspect that their guidelines are not being followed, they inform the church that an investigation of their "religious activities" is necessary. This requires an audit of all the documents of the church. Moreover, as Martin Mawyer in "When Is a Church a Church? Ask an

I. R. S. Agent" (*Religion Today*, April 1981) notes, the I. R. S. has gone so far as to employ "certain agents to sit in on church meetings" for the purpose of judging and evaluating churches.

Auditing the Church

The Christian schools' conflict over the I. R. S.'s proposed regulations that were designed to identify racially discriminatory schools was well publicized. That struggle has now shifted to the courts (see *Moody Monthly*, March 1981, 16). However, what has been little publicized is the I. R. S.'s recent move to conduct sweeping audits of churches.

The I. R. S.'s authority to conduct audits of churches is found in the Tax Reform Act of 1969.

This law, for the first time in American history, allowed the I. R. S. to audit churches suspected of carrying on unrelated business activities. In giving the I. R. S. audit authority of churches, Congress, in Section 7605(c) of the Internal Revenue Code (enacted as part of the Tax Reform Act), placed restrictions on any attempt by the I. R. S. to delve into the religious activities of these churches; that is, the I. R. S. was not to look into the religious activities any further than necessary to determine that the organization was, in fact, a church practicing its sincerely held religious beliefs; and the content of those beliefs could not be brought into question by the I. R. S.

Unfortunately, the I. R. S. has not been careful in heeding the warnings of Congress but has been demanding the records of numerous churches in order to determine whether such churches are indeed churches. Churches currently under I. R. S. audit have responded with mixed reactions. Some church officials refuse to allow the I. R. S. to investigate their records, with some pastors facing possible jail sentences. Others, even though they disagree with the audit, submit to I. R. S. investigation, hoping their cooperation will bring them into favor with the I. R. S.

The attempts by the I. R. S. at asserting its authority over the church have resulted in some court cases. 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 I. R. S. 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 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 addition, in another case with very similar facts, an I. R. S. summons seeking to require the pastor of a church to produce church records was held by a different United States Circuit Court of Appeals to

be within constitutional parameters and, therefore, not an infringement of the First Amendment. This issue has not been decided uniformly by the courts. Therefore, look for more decisions in the months ahead in this area of concern.

Subduing the Church

To illustrate how pervasive the problem has become, the situation in which the Church of Christian Liberty of Brookfield, Wisconsin, has found itself deserves a close look. The I. R. S. contacted this small independent church some three years ago, demanding the records of the church's day school to confirm that the school was operating a non-discriminatory policy. The church refused on Biblical and Constitutional grounds, but invited the I. R. S. to visit the church and school. Shortly thereafter, two I. R. S. agents did visit the church and sat through a chapel service as well as observed classes and the multi-racial makeup of the small student body. At the end of the visit, the agents demanded to see the financial records of the school that are, in fact, church records. Again the church refused. The pastor went so far as to travel to the local I. R. S. offices to explain his Biblical and Constitutional reasons (based upon the separation of church and state) for not giving over the church records to the federal government.

Several months later, an I. R. S. summons was served on the church that demanded all its records. Among other things, the summons asked for the following church records:

1. All financial records;
2. All documents related to organization structure (such as Articles of Incorporation, by-laws, etc.);
3. All correspondence files;
4. All records of the names and addresses of persons who served as officers or ministers of the church;
5. All minutes of any meetings held by the church;
6. One sample of each brochure, pamphlet, handout, program or other literature pertaining to the church's ministry;

7. All records reflecting the names of any employees, associates or ministers of the church and particularly any reflecting the names of individuals who had been presented credentials of ministry (ordination, etc.);

8. All documents reflecting any sacerdotal functions performed by the church (marriages, baptisms, etc.);

9. All documents reflecting the principles, creeds, precepts, doctrines, practices and disciplines espoused by the church; and,

10. All documents reflecting membership requirements of the church.

After receiving the summons, the pastor of the church again traveled to the regional I. R. S. office in Milwaukee to explain why the church could not give the federal government complete and total access to the church records, a privilege not even members of the church enjoy. The pastor informed the agents that he had nothing to hide and that if they so desired there were certain items on the list that the I. R. S. could see in order to establish this church as a legitimate church.

Shortly thereafter, an agent from the I. R. S. visited the church and was shown, under constitutional protest, the articles of incorporation of the church that indicated that the church had enjoyed tax-exempt status with the I. R. S. for some ten years. Among other items, the agent was also shown: documentation reflecting that the pastor had performed marriages and baptisms, Sunday worship bulletins, the constitution of the church, and the *Westminster Confession of Faith*. The agent also spoke with board members as well as members of the church. This information, however, was not sufficient enough to assure the agent that the church was a legitimate church. The agent indicated that he needed all the records of the church. The church again refused.

Next, the I. R. S. took the church to court in seeking enforcement of its summons. Both a federal magistrate and a federal district court judge found in favor of the church in holding that the summons was overbroad in asking for too much information.

All the information demanded, it was held, was not necessary to determine whether or not the church was legitimate. Unfortunately, the I. R. S. did not stop there but has appealed the case to the United States Circuit Court of Appeals where a decision is pending.

God and Caesar

The intent of this article has not been to single out the I. R. S. for attack. The problem is not simply with the I. R. S. It is the whole apparatus of humanistic government in our day. However, it just so happens that much of the federal government's involvement with churches has been through the I. R. S. Moreover, this author is not alone in his criticism of this particular agency of the federal government (for example, see J. A. Schnepfer, *Inside the I. R. S.* (Stein & Day, 1978); Blake Fleetwood, "The Tax Police: Trampling Citizens' Rights," *Saturday Review* (May 1980); and Michael Satchell, "Fear The I. R. S.," *Parade* (April 12, 1981). We must also remember that the I. R. S. has been charged with the difficult task of identifying organizations that proceed under the facade of religion (that is, sham churches established for tax evasion purposes). With what the I. R. S. claims is a rise in sham religious organizations, the I. R. S. has been zealous in attempts at ferreting out such groups. The problem arises with a non-Christian entity that attempts to define what is a true church. As a consequence, many bona fide, legitimate churches have been challenged. In essence, the I. R. S. has difficulty telling legitimate from illegitimate activities of the church. Why? The I. R. S. lacks the spiritual discernment necessary to carry out such a function.

The philosophy behind the I. R. S.'s investigation of churches has been: "Prove to us that you are a church." Should it not be the other way around? In a land where criminals are presumed innocent until proven guilty, should not the same principle apply to churches under investigation by the government? This goes back to the fact that the I. R. S. assumes it has the authority to define and approve churches for tax-exempt purposes. This point brings us to the fundamental issue involved in recent I. R. S. activities. That issue concerns *authority*.

As noted above, many churches, when contacted by the I. R. S., have submitted to its authority and allowed the federal government to conduct a search for information. However, should the church allow the federal government complete and total access to all its records and activities? The answer really lies in two spheres, one Biblical and one Constitutional.

The Bible, in rather simple fashion, declares that we are to render unto Caesar the things that are Caesar's. But does the church belong to Caesar? In *Ephesians* 1:22 we are instructed that Christ is the head over the church. Certainly we cannot deny that the church is Christ's. Moreover, does the church need approval of the government to function? Has not Christ, by establishing individual churches, already approved of their existence?

The Apostle Paul admonishes Christians in *1 Corinthians* 6 not to take their disagreements into the secular courts. It is not a function of the government to judge church matters. It is a function of the church itself under the leading of the Holy Spirit, and ultimately Christ, to establish how it will conduct its activities. Certainly it is no business of the state to determine such things.

In addition, opening the gates of the church to government bureaucrats may find us in the same dilemma as was Hezekiah in *2 Kings* 20. Hezekiah opened the doors of his kingdom to the king of Babylon, and "there was nothing in his house, nor in all his dominion, that Hezekiah shewed them not" (v. 13). For this the Lord pronounced a strong curse on Hezekiah (vv. 14-18).

We live in a land blessed with a Constitution that provides us with freedom and liberty. The First Amendment mandates a separation between church and state. This doctrine says that the church is not to interfere with government and the government is not to interfere with the church. Like the Bible, the Constitution also restricts the government's authority to entangle itself with the church. This vital guarantee must be jealously guarded.

Liberty or Security

After Isaiah had pronounced God's curse upon Hezekiah in *2 Kings* 20, Hezekiah responded by

saying: "Good is the word of the Lord which thou hast spoken. And he said, Is it not good, if peace and truth be in my days?" (v. 19). In other words, as long as Hezekiah could live his own life in peace and security, he didn't really concern himself about the terror that was coming upon a future generation (including his own children).

The story of Hezekiah illustrates the spirit of our age. As Francis Schaeffer has shown, it is an age characterized by two basic values: personal peace and affluence. It results in the willingness to compromise most everything in order to keep these values intact. But, as Benjamin Franklin early in our history noted, he who is willing to sacrifice liberty for security deserves neither liberty nor security. Christians must not allow the spirit of the age to dominate their thinking (*Colossians 2:8*). The church is not ours to compromise. We must protect it. Aleksandr Solzhenitsyn speaks of how the Russian people would kneel inside the door to their apartments, pressing their ears to listen when the K. G. B. came at midnight to arrest a neighbor. He says that if all the people would have come out and driven off the officers, sheer public opinion would have demoralized the effort to subdue a free people.

The church is sacred. Even the government must realize this. If not, then Christians must put their faith to the test and stand and protest invasions into the sacred realm. A real faith results in works. And we who perceive the very real threat in the present situation must work diligently and quickly if we are to be the witnesses Christ has commanded us to be.