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**The current constitutional debate concerning the separation of  
church and state as manifested in religiously based challenges to  
the public school curriculum**

**Tilley, James Garland, Ed.D.**

**The University of North Carolina at Greensboro, 1987**

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THE CURRENT CONSTITUTIONAL DEBATE  
CONCERNING THE SEPARATION OF CHURCH AND STATE  
AS MANIFESTED IN RELIGIOUSLY BASED CHALLENGES TO  
THE PUBLIC SCHOOL CURRICULUM

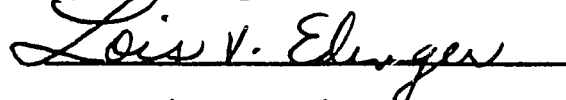
by

James Garland Tilley

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The purpose of this study was to examine the current debate concerning separation of church and state as manifested in religiously based challenges to the public school curriculum. There are two clauses in the First Amendment regarding separation of church and state. It was determined that the establishment clause controls the free exercise clause. Therefore, this paper concentrated on challenges which involved the establishment clause. This study concentrated on three major issues in the current debate: the creationist-evolutionist controversy, the secular humanism issue, and the issue of moral values and education. These three issues were studied to determine if the public schools have remained neutral with regard to religion.

The study first attempted to set the context in which each of these issues is being debated. Second, each side in the debate was described, and then conclusions were drawn. In order to set the context for the current debate, the historical development of the principle of separation of church and state was studied. In this part of the study, the philosophical and political antecedents of the principle, the articulation of the principle, and, finally, the application of the principle through the courts were examined.

With regard to the Creationist-Evolutionist debate, this study concluded that it is occurring on two levels. The first level was described as the legal-institutional level and on this level it was concluded that the schools have officially remained neutral toward religion. On the second level, the religious-cultural level, the study concluded that within a society such as this such debate is the basic dynamic and is a sign of health and vitality.

The study of the secular-humanist controversy examined extremes on either side of the question and mediating positions. It was concluded that while there are dangers on either side of this question, most educators have maintained neutrality on this point and probably consider themselves both religious and humanistic.

The study of the debate over moral values education concluded that the educational process is a value-laden one and has always been so. The current debate is the continuation of a search for which values will be transmitted to the next generation.

The study concluded with a proposal for a humanistic-democratic approach to education. In this approach the central value controlling both pedagogy and curriculum is personhood.

## TABLE OF CONTENTS

	Page
Title Page	i
Approval Page	ii
Table of Contents	iii
CHAPTER	
I. INTRODUCTION . . . . .	1
Significance of the Problem . . . . .	2
The Problem . . . . .	4
Purpose of the Study . . . . .	5
Method of the Study . . . . .	6
Definition of Terms . . . . .	7
Assumptions . . . . .	9
Organization of the Study . . . . .	10
Notes . . . . .	12
II. A HISTORICAL REVIEW OF THE DEVELOPMENT OF THE PRINCIPLE OF SEPARATION OF CHURCH AND STATE . . . . .	13
The Antecedents of the Principle . . . . .	13
New England Colonies. . . . .	19
Middle Colonies . . . . .	21
Southern Colonies . . . . .	23
Summary of the Colonial Period . . . . .	23
The Articulation of the Principle . . . . .	23
Philosophical Sources . . . . .	24
Political Sources . . . . .	25
Act of Toleration . . . . .	25
Quebec Act. . . . .	25
Colonial Disestablishment . . . . .	26
Social Sources . . . . .	27
Religious Sources . . . . .	28
Individuals . . . . .	29
The Constitution . . . . .	29
The Articles of Confederation . . . . .	29
The Constitutional Convention . . . . .	30
The Interpretation and Application of the Principle . . . . .	34
The Application of the First Amendment to the States . . . . .	35

The Application of the Establishment Clause . . . . .	35
The Establishment Clause Before 1947. . . . .	36
<u>Pierce v. Society of Sisters</u> . . . . .	36
Summary of the Facts of the Case.	36
The Ruling. . . . .	37
Implications . . . . .	37
<u>Cochran v. Louisiana State Board of Education</u> . . . . .	38
Summary of the Facts of the Case.	38
The Ruling. . . . .	38
Implications. . . . .	38
<u>Minersville School District v. Gobitis</u> . . . . .	38
Summary of the Facts of the Case.	38
The Ruling . . . . .	40
Implications . . . . .	40
<u>West Virginia State Board of Education v. Barnette</u> . . . . .	40
Summary of the Facts of the Case.	40
The Ruling . . . . .	41
Implications . . . . .	41
Summary of Establishment Cases Before 1947 . . . . .	42
The Establishment Clause Since 1947 . . . . .	42
Cases Involving Public Aid to Parochial Schools . . . . .	43
<u>Everson v. Board of Education of Ewing Township</u> . . . . .	43
Summary of the Facts of the Case.	43
The Ruling . . . . .	44
Implications . . . . .	45
<u>Lemon v. Kurtzman</u> . . . . .	46
Summary of the Facts of the Case.	46
The Ruling . . . . .	46
Implications . . . . .	47
<u>Committee for Public Education and Religious Liberty v. Nyquist.</u> . . . .	48
Summary of the Facts of the Case.	48
The Ruling . . . . .	49
Implications . . . . .	49
<u>Committee for Public Education and Religious Liberty v. Regan</u> . . . .	50
Summary of the Facts of the Case.	50
The Ruling . . . . .	50
Implications . . . . .	50
Parochial Aid Summary . . . . .	50
Cases Which Involve Attempts to Teach Religion in Public Schools . . . . .	51
<u>McCollum v. Board of Education</u> . . . . .	51
Summary of the Facts of the Case.	51
The Ruling . . . . .	52

Implications . . . . .	53
<u>Zorach v. Clauson</u> . . . . .	53
Summary of the Facts of the Case.	53
The Ruling . . . . .	54
Implications . . . . .	54
<u>Stone v. Graham</u> . . . . .	54
Summary of the Facts of the Case.	55
The Ruling . . . . .	55
Implications . . . . .	55
Summary of the Cases Involving Attempts to Teach Religion in the Public Schools . . . . .	56
Cases Which Involve Devotional Exercises In Public Schools . . . . .	56
<u>Engel v. Vitale.</u> . . . . .	57
Summary of the Facts of the Case.	57
The Ruling . . . . .	57
Implications . . . . .	58
<u>Abington Township School District     v. Schempp.</u> . . . . .	60
Summary of the Facts of the Case.	60
The Ruling . . . . .	60
Implications . . . . .	62
<u>Widmar v. Vincent</u> . . . . .	62
Summary of the Facts of the Case.	62
The Ruling . . . . .	63
Implications . . . . .	64
Summary of Cases Involving Religious Devotions . . . . .	64
A Case Involving the Teaching of Evolution . . . . .	64
<u>Epperson v. Arkansas</u> . . . . .	65
Summary of the Facts of the Case.	65
The Ruling . . . . .	65
Implications . . . . .	66
Summary of Principles Developed in Establishment Clause Case Law . . . . .	66
Conclusion of Historical Review . . . . .	68
Notes . . . . .	70
 III. THE CREATION-EVOLUTION CONTROVERSY . . . . .	 76
Definition of Important Terms. . . . .	77
Historical Background. . . . .	78
The Controversy . . . . .	81
Academic Freedom . . . . .	83
The Constitutional Question . . . . .	85
The Influences . . . . .	88
Religious Right . . . . .	88
Political Right . . . . .	89
Public Opinion . . . . .	90
Effects . . . . .	91

Conclusion . . . . .	93
Notes . . . . .	96
IV. SECULAR HUMANISM AND RELIGION IN THE PUBLIC SCHOOLS . . . . .	100
Introduction . . . . .	100
Development of American Humanism . . . . .	100
Diverging Streams of Humanism . . . . .	105
The Current Controversy . . . . .	108
Religion As Seen By Humanists . . . . .	110
Humanism As Seen By the Religious- Political Right . . . . .	110
Challenges to Textbooks . . . . .	116
Summary of Viewpoints . . . . .	117
The "No Problem" Viewpoint . . . . .	118
The Viewpoint of the Fundamentalists . . . . .	118
Neutrality . . . . .	119
Mediating Viewpoints . . . . .	120
Conclusion. . . . .	121
Notes . . . . .	122
V. MORAL VALUES EDUCATION AND THE PUBLIC SCHOOL. . . . .	126
Introduction . . . . .	126
The History of Moral Values Education . . . . .	126
The Colonial Period: Sectarian Morality . . . . .	128
The Post-Revolutionary War Period: Horace Mann and Non-Sectarian Morality . . . . .	129
The Post Civil War Period: William Torrey Harris and Social Transmission . . . . .	131
The First Half of the Twentieth Century: John Dewey and Education for Democracy . . . . .	132
Summary of Historical Overview . . . . .	138
Two Current Approaches . . . . .	138
A Transitional Decade . . . . .	139
Values Clarification . . . . .	141
Basic Assumptions . . . . .	143
Summary of the Values Clarification Approach . . . . .	143
Cognitive Moral Development . . . . .	143
Jean Piaget . . . . .	145
Intelligence . . . . .	145
Development . . . . .	145
Qualitative Stages . . . . .	145
Summary of Kohlberg's Moral Reasoning Approach . . . . .	149
Summary: Comparison of Values	

Clarification and Moral	
Development . . . . .	151
Objections to Current Approaches . . . . .	152
Neutrality . . . . .	153
Relativism . . . . .	155
Dangerous Techniques . . . . .	156
Conspiracy . . . . .	156
Summary of Objections . . . . .	157
Proposed Solutions. . . . .	158
Action Outside the Public School . . . . .	158
Separation of Church and State in	
Public Schools . . . . .	160
Accommodation Within the Public	
Schools . . . . .	161
Summary of Proposed Solutions . . . . .	165
Conclusion . . . . .	166
Notes . . . . .	169
VI. CONCLUSIONS AND RECOMMENDATIONS . . . . .	174
Restatement of the Problem. . . . .	174
Restatement of the Plan of Study . . . . .	175
Conclusions . . . . .	178
The Creationist-Evolutionist	
Controversy . . . . .	178
The Humanist Controversy . . . . .	180
Moral Values Education . . . . .	181
A Proposal for Public School Education . . . . .	182
What Are the Basic Values of	
American Democracy?. . . . .	185
The Ethics of Personhood . . . . .	186
Summary of Conclusions . . . . .	189
Application . . . . .	190
Achieving the Goal . . . . .	192
Notes . . . . .	194
BIBLIOGRAPHY . . . . .	196



## CHAPTER ONE

## INTRODUCTION

"Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof."

These words form the first two clauses in the First Amendment to the United States Constitution. With this simple, straightforward statement the founding fathers gave birth to the constitutionally guaranteed official toleration of all beliefs and the separation of church and state into two discrete spheres. Although toleration had a strong and growing history in Europe, separation of church and state was unknown to the European forebears. While it is true that anti-clerical sentiment had at times been strong in both England and France, separation was never a strongly held belief in Europe. In America, however, both religious and secular voices had argued for separation. <sup>1</sup>

The arguments put forth in the past for separation are as pertinent today as they were then. Roger Williams feared that the church might become subservient to the state and Thomas Jefferson feared that the state might become subservient to the church. Williams and Jefferson

were agreed that the authority of the state extended only to actions and not to beliefs. This "action-belief dichotomy" was at the heart of both arguments. The principle was clearly stated in one of the Supreme Court's early decisions relative to the religion clauses of the first amendment. In Reynolds v. United States, the Court determined that the First Amendment religious clause demonstrated that:

Congress was deprived of all legislative power over mere opinion, but was left free to reach actions which were in violation of social duties or subversive of good order. 2

The proponents of both the religious arguments and secular arguments were also agreed that European history taught that state-established religion led to great harm. As Justice Field pointed out in Davis v. Beason,

The oppressive measures adopted and the cruelties and punishments inflicted by the governments of Europe for many ages, to compel parties to conform in their religious beliefs and modes of worship to the views of the most numerous sect and the folly of attempting in that way to control the mental operations of persons and enforce an outward conformity to a prescribed standard led to the adoption of the amendment in question [emphasis added]. 3

#### Significance of the Problem

The two religion clauses of the First Amendment of the Constitution clearly declared the objectives of the framers, but the means whereby the objectives of toleration and separation were to be achieved were left to be decided through the dynamic processes of the courts.

The history of these two clauses reveals that Americans are still seeking to secure the objectives so parsimoniously stated in the First Amendment. Like most other constitutional matters, the interpretation and application of these two clauses have produced a dialectical movement toward the ideal enunciated by the men who wrote and adopted the "Bill of Rights." Progression toward the stated goal is occurring within the context of an increasingly pluralistic society in which there is a complex mixture of differing and sometimes conflicting belief systems. This religious heterogeneity has resulted in great difficulty in achieving the goals mandated by the First Amendment, but the goals are still being striven for.

James Madison argued for the protection of the rights of the minority, which he identified as inalienable:

The religion. . . of every man must be left to the conviction and conscience of every man; and it is the right of every man to exercise it as these may dictate. This right is in its nature an unalienable right. . . we maintain. . . that in matters of religion, no man's right is abridged by the institution of civil society and that religion is wholly exempt from its cognizance. True it is, that no other rule exists by which any question which may divide a society can be ultimately determined, but the will of the majority, but it is also true that the majority may trespass on the rights of the minority. 4

The challenge presented by the religion clause of the First Amendment is to ensure the right of all to freedom of belief without establishing a state religion. The

second clause of the First Amendment mandated toleration, that is, freedom of belief and exercise. The state can allow the free exercise of some and yet establish a state religion, but the state cannot allow the free exercise of all and at the same time establish a religion or prefer one particular religion. The First Amendment mandates state neutrality with regard to religious beliefs and, as such, is a foundational value of American society.

Another foundational value of American society is a belief in universal education. This belief in education had its roots in two particular American traditions. The first may be referred to as the liberal tradition. In this respect, the Jeffersonian belief that knowledge and freedom are inexorably bound together is axiomatic. Americans believe that an informed, educated electorate is a necessary condition for democratic government. The second American tradition which gave rise to a belief in the necessity of education is more recent in origin, but perhaps carries greater weight with most Americans than the first. This is the belief that education provides the means for success in life.

#### The Problem

The belief in universal education and the belief that education provides the means for a successful life combined early in American history to produce the common school movement and governmental support of education.

The subsequent homogeneity in the educational approach, which is in direct contrast with the heterogeneous approach to religion, is the basis of the problem to be studied. The schools of America have been the scene of much conflict revolving around the issues of "separation" and "tolerance." Therefore, this study will examine the current constitutional debate with regard to separation of church and state as manifested in religiously motivated challenges to the public school curriculum. The issue will be considered in light of the establishment clause.

#### Purpose of the Study

The purpose of this study is to examine the current situation in the American educational system in an attempt to evaluate the extent to which the state has maintained neutrality regarding establishments of religion. While there are numerous issues which present themselves for consideration in this connection, instances in which challenges to the school curriculum have been made on religious grounds are of major importance to educators. Therefore, the focus of this study will be on these religiously based challenges to the curriculum.

Specifically, this study will focus on three areas involving challenges to the curriculum: first, the creationist-evolutionist dispute; second, the secular humanism controversy; and third, various attempts to use the schools to establish "traditional values" or to censor

materials which do not maintain these "traditional values."

Curricula challenges raise a central question in the constitutional debate: Can any religious group use the school system to propagate its beliefs? These challenges often come from people or groups who have a well-defined and sometimes narrow view of American history and who are convinced that the public schools have departed from what public schools have historically taught. Those who seek to change or even censor materials or curricula, in effect, seek to use the schools to transmit their particular belief system to the exclusion of other competing belief systems. Another question which should be addressed in connection with this category of issues is: What approach should the public school adopt toward values and morality?

#### Method of Study

In this study the historical-critical approach will be followed. The development of the ideas, principles, and practices pertaining to the First Amendment will be examined. This examination will be based on a review of the relevant literature, particularly the relevant court cases. The present situation will be viewed in light of the past. In this approach to the subject, a synthesis of past experiences and knowledge will be used as a hermeneutic for the current debate and trends. After

discussing the literature and court cases which impinge upon the subject and examining the present situation in the light of the past, the implications of the current situation will be discussed.

#### Definition of Terms

A prerequisite to understanding the subject is a proper understanding of the basic terms involved. The first term of importance in this study is establishment. Some have argued for a narrow interpretation of the establishment clause, asserting that the amendment was intended to prevent the establishment of a state church. <sup>5</sup> This position has been summarized in the motto: "Freedom 'of' religion, not freedom 'from' religion." <sup>6</sup> The Supreme Court rejected this interpretation in the Everson case in 1947. <sup>7</sup> Since then, a three-fold test to ensure complete neutrality and separation has been created by the court. <sup>8</sup> In this paper, the word establishment will be used in a broad sense, that is, in the sense developed by the court.

A second significant term in this study is the word state. In the formula, "separation of church and state," the word state refers to any branch of the government on any level; it also refers to any agency of government. The word does not refer to state government as opposed to federal government. For the purpose of this study, the word state will apply to any branch or agency of government at any level.

Perhaps the key term in this study is religion. This term has been in, and is still in, the process of being defined. This is partially due to the subjective nature of the concept. As Pfeffer points out, it is difficult, if not impossible, to arrive at an adequate and acceptable definition of religion, because every attempted definition carries with it the bias of the definer.<sup>9</sup> However, the difficulty of defining religion has more to do with the changing nature of American society with regard to beliefs in general and religious beliefs in particular. As new beliefs appear and as the American society becomes more pluralistic, the Court is faced with the thorny issue of determining what constitutes an act of religion.<sup>10</sup> The Court, however, has given a broad definition to religion,<sup>11</sup> as it has to the term establishment. This broad approach to definition also extends to the free exercise clause. Justice Rutledge argued in the Everson case that the terms "religion" and "free exercise" are tied together by the term "thereof" and that both are to be broadly interpreted.

Religion appears only once in the amendment. But the word governs two prohibitions and governs them alike. It does not have two meanings, one narrow to forbid an "establishment" and another, much broader, for securing "free exercise." "Thereof" brings down "religion" with its entire and exact content, no more and no less, from the first into the second guaranty, so that Congress and now the states are as broadly restricted concerning the one as they are regarding the other.<sup>12</sup>

This broad and equal approach to the two clauses has given



rise to a further complication to the issue. During the nineteenth century, the belief-action dichotomy was held to by the Court. In this approach, belief was left unregulated, but religious actions were subject to the same protection and regulation afforded secular activity. In Cantwell and Connecticut,<sup>13</sup> Justice Roberts applied the Fourteenth Amendment to the free exercise clause. This began the erosion of secular regulation and gave rise to a perplexing question. This question is clearly stated by Morgan:

Is the free-exercise clause to be interpreted as affording protection to certain facets of behavior, above and beyond the protection of behavior afforded by other constitutional protections such as the press, speech, and assembly clauses? 14

In recent years, the distinction between belief and action as well as speech and action has been blurred, so that some have argued that certain kinds of activity have been exempted from regulations that would ordinarily pertain.

Attempts to limit the definition of the term religion have usually created more problems than they solved. The courts moved toward a broader usage of the word in recent years. In this study, religion will be used in the widest sense possible.

#### Assumptions

There are two clauses in the First Amendment that impinge upon the issue of church and state in the educational system. The first clause is often referred to

as the establishment clause. It prohibits the establishment of a state religion. The second clause bars state influence in the exercise of religion and has been referred to as the free exercise clause. An underlying assumption of this study is that the toleration or free exercise clause is dependent upon the separation or establishment clause. This simply means that there can be no free exercise if the establishment clause is violated. For this reason, the establishment clause is the canon used in this study to measure the current situation in the schools with regard to the First Amendment.

Another basic assumption of this study is that the First Amendment mandates government neutrality in matters of religion. The separatist and accommodationist views will both be discussed, but it is constantly assumed that neutrality is the goal, regardless of what means are used.

A third assumption in this study is that sectarian religious views which are taught in the curriculum of the public schools constitute an establishment of religion. This, of course, would violate the establishment clause.

#### Organization of the Study

Chapter Two is a historical review of the principles underlying the First Amendment. This review covers the three stages of development of these principles : the European and Colonial antecedents, the constitutional period, and the period of interpretation and application

by the Supreme Court. Chapter Three focuses on the creationist-evolutionist dispute. Chapter Four is devoted to a consideration of the secular humanist controversy. Chapter Five concentrates upon a variety of attempts to use the schools to maintain "traditional values." Chapter Six offers some limited conclusions suggested by the study and raises questions for further study.

## Notes

<sup>1</sup>See Thomas Jefferson, "A Bill for Establishing Religious Freedom." In Julian R. Boyd, ed., The Papers of Thomas Jefferson (Princeton, N.J.: Princeton University Press, 1950), 2: 545-546; James Madison, "A Memorial and Remonstrance." In William T. Hutchinson and William M.E. Rachal, eds., The Papers of James Madison (Chicago: University of Chicago Press, 1962) 8: 298-304.

<sup>2</sup>Reynolds v. United States, 98 U.S. 145 (1898) at 164.

<sup>3</sup>Davis v. Beason, 133 U.S. 333, 342 (1890).

<sup>4</sup>Hutchinson and Rachal, 8: 298-304.

<sup>5</sup>James M. O'Neil, Religion and Education Under the Constitution (New York: Harper Brothers, 1949), pp. 4, 82.

<sup>6</sup>Wilfred Parsons, The First Freedom (New York: Delcan X. McMullen Co., 1948), p. 79.

<sup>7</sup>Everson v. Board of Education, 330 U.S. 1 (1947).

<sup>8</sup>Lemon v. Kurtzman, 403 U.S. 602 (1971).

<sup>9</sup>Leo Pfeffer, Church, State, and Religion (Boston, Beacon Press, 1967), pp. 129-180.

<sup>10</sup>Ibid.

<sup>11</sup>See Torcaso v. Watkins, 367 U.S. 488 (1961) where the court explained this broad approach to the definition of religion.

<sup>12</sup>Everson v. Board of Education.

<sup>13</sup>Cantwell v. Connecticut, 310 U.S. 296 (1940).

<sup>14</sup>Richard E. Morgan, The Supreme Court and Religion (New York: The Free Press, 1972), p. 20.

CHAPTER TWO  
A HISTORICAL REVIEW OF THE DEVELOPMENT  
OF THE PRINCIPLE OF SEPARATION OF CHURCH AND STATE

The Antecedents of the Principle

The separation of church and state as it has been experienced in the United States is new in world history. In many ways the pattern of church-state relations which has developed in the United States can be seen as an experiment. Throughout the history of nations, institutional religion and civil government were in conflict with each other; each sought to use the other. At times religion dominated the state, but as a rule the state dominated religion and used religious institutions and their influence to further the ends of the state. <sup>1</sup>

In the pre-Christian world the priesthood was the keeper of the secrets, the tender of the flame, and, most importantly, the consort of the civil powers. The relationship between ancient Rome and religion has been described in the following way:

The quality in which the Roman commonwealth is most distinctly superior is, in my judgment, the nature of its religion. The very thing that among other nations is an object of reproach, i.e., superstition, is that which maintains the cohesion of the Roman state. These matters are clothed in such pomp, and introduced to such an extent into public and private life, as no other religion can parallel. . . . I

believe that the government has adopted this course for the sake of the common people. This might not have been necessary had it been possible to form a state composed of wise men, but as every multitude is fickle, full of lawless desires, unreasoned passion, and violent anger, it must be held in by invisible terrors and religious pageantry. 2

An example of civil government being dominated by religion can be seen in the unique form of government of the ancient Hebrews, which Josephus referred to as a theocracy. 3 Even under Roman rule the Jews retained a semi-independent state in which the ruling religious body had authority to administer religious laws with power to enforce penalties short of capital punishment. Under Roman rule, Judaism was recognized as a legitimate religion and, by the time emperor worship was fully established, Judaism was granted a unique dispensation in which Jews were not required to pray to Caesar, only for him. 4 The protected relationship with Rome which the Jews enjoyed later benefited the newly formed Christian religion which was at first considered to be a Jewish sect.

The founder of Christianity did not at first appear to present any threat to Rome and there is evidence that Rome viewed his case as religious only. In his teaching, Jesus seemed to take a dichotomous view of the world in which the spiritual and political were in separate realms. He advised his disciples to render obedience in both realms. 5 He disassociated himself from political concerns

by declaring that his kingdom was not "of this world."<sup>6</sup>

The Apostles apparently adopted the world view of Jesus and attempted to obey the political powers when they were not in conflict with their perceived religious duties. Paul, the most prolific writing Apostle, stated the early Christian view in his epistle to the Romans when he cautioned his readers to be subject to the established political powers.<sup>7</sup> This dichotomous view has been prominent in Christian philosophy and at times led to attempts to completely separate from the secular world. Paul's teaching that Christians are citizens of heaven has manifested itself in movements as diverse as Monasticism and the Anabaptist movements.

As Christianity grew, the Roman authorities began to view the new religion as a separate religion no longer connected to Judaism. As a separate religion, Christians no longer enjoyed the privileged exemption from emperor worship enjoyed by the Jews. However, they did not submit to the requirement to recognize Caesar as Lord. This conflict between Rome and Christians continued until Christianity was officially recognized and finally given the status of the official state religion when Constantine converted to Christianity.

The period between Constantine and the Protestant

Reformation can be viewed as having two phases. The first phase up until 1050 saw the establishment of an official church and "the lines between church and state were blurred beyond recognition."<sup>8</sup> Although the state was dominant during this period, there was no conflict between the established state and the official religion. As the Roman Empire began to wane and the world entered what is often called the Dark Ages, the leaders of the church withdrew more and more into monasticism.

Then with Charlemagne in A.D. 800 a new birth of learning flowed from the cathedral schools, a rebirth that prevented the intellectual life of western religion from ever sinking so low again. <sup>9</sup>

The church became the guardian of knowledge and with the rise of universities the church placed its stamp upon the schools, but at the same time acknowledged the state's power over the school. <sup>10</sup>

The second phase of the period between Constantine and the Reformation began with a revolution and ended with a revolution.<sup>11</sup> Pope Gregory VII conceived of a truly universal church with a centralized hierarchical system. In this scheme Rome would be able to administer Christian principles throughout the world through the priesthood. This concept with all that it entailed encountered resistance from Emperor Henry IV. The resulting conflict became known as the Investiture Conflict (1050 - 1122). Out of this conflict emerged the beginnings of the dual spheres of church and state, with separate powers and



responsibilities.<sup>12</sup>

The Gregorian ideal was a church dominated state based on Christian principles. This ideal failed and the second phase of the pre-Reformation period ended in a conflict between church and state manifested in the conflict between Phillip IV of France and Pope Boniface VIII. This conflict gave rise to the idea of a national monarchy free from the dominance of the centralized universal church. By the time of the European Renaissance, Europe had been prepared for a cooperative church-state relationship, without conflict, in which the state was dominant. In sum, the concept of an established state church remained intact and in fact was at the base of European culture.

The Reformation Period brought no basic change in the attitude regarding church-state relations inherited from the Middle Ages. Gaustad points out:

The Protestant reformers contrived to think of church and . . . state as natural and necessary allies; not enemies, but partners in life's pilgrimage here and life's preparation for hereafter. <sup>13</sup>

With the emerging nation states of Europe and the fragmentation of the universal church, the problem became which church was to be the official state church. Thus the Reformation gave rise to competing churches, each vying for state protection and support. In the end it was the competition between churches that popularized the concept of religious liberty and tolerance. Beginnings of

such ideas can be seen in Erasmus as well as a number of dissident sects, such as the Anabaptists. <sup>14</sup> These minority non-established and not officially sanctioned religions began to seek freedom to worship without state interference or compulsion. It was precisely this search for freedom of religion and escape from compulsory support of a state-established religion that brought many of the early colonists to America.

The colonization of the western hemisphere was led by Spain and England. Spain settled in South America, Mexico, and parts of North America. Everywhere the Spanish explorers went, they claimed on behalf of Spain and the Roman Catholic Church. Sweet observes that Spain became a pattern for England to follow.

Though primarily concerned with trade, the members of the (Virginia) company were from the start interested in promoting religion among the colonists as well as the conversion of the Indians. Undoubtedly, the example of Spain was ever before the early promoters of English colonization. Spain was the chief Roman Catholic nation in the old world, and hand in hand with the Spanish conquerors had gone the Spanish Catholic missionaries, and tens of thousands of the natives of New Spain and Peru had been won to at least a nominal acceptance of Catholic Christianity. Should not England, the leading protestant nation in the world, do as much? And thus, by planting colonies in the New World, England herself would not only be benefited, but the cause of protestantism would likewise be advanced, and the power of Spain might also be held in check. <sup>15</sup>

England became a bridge across which European culture was transmitted and replanted in the soil of the new world. <sup>16</sup> English colonization differed from that of Spain in one

essential way. Spain attempted to conform all immigrants to a prescribed religious standard.

English statesmen opened the gates of their American colonies to every kind of religious faith that could be found in Europe. Freedom of immigration was accorded not only to Catholics, Separatists, Puritans, Quakers, Presbyterians, and Baptists from the British Isles, but no less to Lutherans, Dunkards, Moravians, Mennonites, Huguenots, and Salzburger from the Continent. Even Jews were not excluded, particularly after they were allowed into England under Cromwell. 17

The Old World ways of dealing with church-state relations were also moved to the New World. While it was true that many came here to find freedom to practice their religion, it was also true that the freedom they wanted for themselves often was not readily extended to those of other religions. Both the Virginia Company and the Massachusetts Bay Company established colonies with official religions. In this way, established religion came to America. "State establishment of religion existed for a time in nine of the thirteen colonies and taxes were used to support the church." 18 The European approach to church-state relations was, however, modified to fit the New World conditions. The colonies also followed slightly different approaches among themselves. The colonial approach to religion can best be viewed from a regional perspective: the New England Colonies, the Middle Colonies, and the Southern Colonies.

#### New England Colonies

Although there were some initial differences between

the Plymouth Bay settlement and its neighbor, the Massachusetts Bay Colony, these differences faded by 1691 when the two merged to form Massachusetts. The congregational church was the established church of Massachusetts and there was a very restrictive attitude toward other religions. The extent of religious intolerance can be seen in the cases of Anne Hutchinson and Roger Williams, who were both were banished from the community for their beliefs. The treatment of the Quakers was even worse and laws were passed against them. Four Quakers were actually executed. 19

The controversy between Roger Williams and the officials of Massachusetts led to the establishment of Rhode Island. Williams was considered a liberal by most and a radical by some. He was a separatist even before leaving England, but he most clearly articulated his views while pastoring a church at Salem. Some of his views can be seen in the charges brought against him and acknowledged by Williams as true. These charges were summarized by John Cotton:

First, that we have not our land by patent from the king, but that the natives are the true owners of it, and that we ought to repent of such a receiving it by patent.

Secondly, that it is not lawful to force a wicked person to swear (or) pray as being actions of God's worship.

Thirdly, that it is not lawful to hear any of the ministers of the Parish Assembly in England.

Fourthly, that the civil magistrates power extends only to the bodies and goods and outward states of men. 20

Williams was tried and convicted of these charges and was sentenced to be banished. He subsequently fled into Indian territory where he purchased land upon which he founded Providence. This eventually led to the establishment of Rhode Island, which was established upon a covenant which acknowledged majority rule in civil matters only. In 1638, the first Baptist Church in America was established in Rhode Island. Anne Hutchinson and her followers joined Williams. The colony of Rhode Island was established on the principles articulated by Williams: separation of church and state and church membership not required for enfranchisement. Rhode Island became the first New England colony in which establishment was deliberately, explicitly, and officially disavowed. With the exception of Rhode Island, the New England colonies all practiced establishment.

#### Middle Colonies

From the beginning, the Middle Colonies were less homogeneous than the New England colonies. New Amsterdam (later New York) was settled by the Dutch and thus inherited the relatively liberal attitudes for which Holland had become known. New York practiced a form of establishment which has been referred to as multiple establishment.<sup>21</sup> In New York's system a number, but not all, of the protestant denominations were supported by the state.

Maryland had been colonized by the Calvert family, who were converts to Catholicism. It was the Calvert's intention to provide a place of asylum for the English Catholics as well as providing for Catholic missionary work among the Indians. <sup>22</sup> Lord Baltimore and his successors in his charter discouraged the official establishment of Catholicism and there was a more tolerant attitude toward all religions; consequently, there was more religious diversity in Maryland. In 1648 the Maryland Assembly passed a statute entitled "An Act Concerning Religion," which was in reality an act of toleration. The act had obvious limitations, such as the fact that its protections did not extend to Jews; however, it was, as Pfeffer has observed, "a great advance in the struggle toward the achievement of religious liberty." <sup>23</sup>

Among the Middle Colonies, three were dominated by the liberal ideas of William Penn. New Jersey, Delaware, and Pennsylvania were settled by English Quakers, but subsequently attracted a large variety of people, such as Dutch, Swedes, Welsh, and several German groups. These groups represented a great diversity of Christian sects, such as the Dutch Reformed, Swedish Lutherans, German Reformed, Mennonites, Dunkards, Welsh Baptists, Moravians, and Scotch-Irish Presbyterians. <sup>24</sup> The Middle Colonies led the way, first in toleration and then in full liberty. This diversity in people and religions gave early

indication of the coming national diversity.

### Southern Colonies

The Southern Colonies, for the most part, followed the pattern of Anglican establishment first adopted by Virginia. From the beginning, the Southern Colonies were more like England than the other colonies. This similarity was seen in the aristocratic atmosphere in the social life as well as in the approach to the church and state relationship.

### Summary of the Colonial Period

The Colonial Period was marked by the repetition of Old World patterns. This reproduction of Western European patterns resulted in established churches in colonies settled by countries which had established churches. The most frequent exceptions to this practice of establishment were found in the Middle Colonies, especially the so-called Quaker colonies.

### The Articulation of the Principle

Although separation of church and state as practiced in the United States is a relatively new phenomenon, this does not mean that no precursors of this principle can be found in the history of politics or philosophy. The founding fathers articulated a principle which had its roots in three definite sources: the first was a long growing history of philosophical thought; the second source of the principle can be found in more recent

political, social, and religious influences; and the third source was the influence of especially insightful leaders.

### Philosophical Sources

The philosophical sources of the First Amendment freedoms can be related to a number of concepts, but the most conspicuous of these concepts is that of natural rights or inalienable rights. This belief in natural rights is not a modern invention as some have asserted.<sup>25</sup> As Maritain points out, a belief in natural rights can be traced beyond the American and French revolutions through Locke to Grotius, Suarez, Francisco de Vitoria, St. Thomas Aquinas, St. Augustine, the church fathers, St. Paul, and even farther to Cicero, the Stoics, and the Greek poets, particularly Sophocles.<sup>26</sup> Those who believed in natural rights asserted that persons have certain rights by virtue of divine endowment and that this endowment has its own basis in a state of nature. The evolving doctrine of natural rights came to be identified with the definition of what it meant to be human. The framers of the Constitution came under the general influence of this philosophical tradition, but there were two specific philosophical influences: John Locke in England and the French Enlightenment. Of these two, it is debatable as to which was the most influential, but there can be little doubt that Thomas Jefferson was most directly influenced by John Locke.<sup>27</sup> Locke argued that:



. . . the state of nature has a law of nature to govern it which obliges everyone. . . that being all equal and independent, no one ought to harm another of his life, liberty, or possessions. . . . 28

Locke's thought was given concrete expression in the First Amendment to the Constitution.

The second specific philosophic influence upon the First Amendment found its fullest expression in the French Enlightenment, which was in turn the culmination of a long and growing liberal tradition.

#### Political Sources

Although the officially mandated separation of church and state had not been practiced in either the colonies or western Europe, there had been both social and political movements and acts which had prepared the way for such a mandate. During the Colonial Period the American colonies were generally governed by the laws that were in effect in England.

Act of Toleration. During the Revolution of 1688, the protestant dissenters cooperated with the leaders of the Church of England. Because of this the protestants were rewarded with the Act of Toleration in 1689. This Act gave dissenters the right to hold public services. Although some of the colonies were far more liberal than England, many of the colonies were brought under the relatively moderate provisions of the Act of Toleration. 29

Quebec Act. Perhaps the most significant official

act involving religious toleration on the North American continent prior to the Revolutionary War was the "Quebec Act." <sup>30</sup> As a consequence of the amendments to the Treaty of Paris at the conclusion of the Seven Years War, Canada was ceded by the French to the British. In the official proclamation, Britain agreed to grant the approximately 60,000 Roman Catholics many of the privileges they had enjoyed under the French, when the Roman Catholic Church was the established church. The proclamation was intended to be an official statement of toleration, but it was widely interpreted in the colonies as giving favored treatment to Catholics and many viewed it as a form of establishment. <sup>31</sup> The reaction in the colonies was widespread and intense and led to a number of formal protests. Among these was the "Petition to the King," which expressed both anti-Catholicism and fear that the Canadian example would become the pattern for the colonies. <sup>32</sup> As Pfeffer observed, the Quebec Act helped set the context for determining the meaning of the term establishment as it is used in the First Amendment. The debate over the Quebec Act showed that the term establishment was used in a very broad sense. <sup>33</sup>

Colonial Disestablishment. Yet another political precursor of this principle of separation of church and state as articulated in the First Amendment was the movement toward disestablishment in the various colonies

before the Revolution and continuing until 1791 when the First Amendment was drawn. Although establishment was the pattern in the Northern and Southern colonies, momentum for disestablishment and even separation had begun early and by the constitutional era was widely accepted. Virginia led the way in initiating the long struggle for toleration, liberty, and then separation. The movement for religious freedom in Virginia climaxed with Jefferson's bill for establishing religious freedom, which was first introduced in 1779 and finally passed under Madison's leadership in 1786.<sup>34</sup> As in Massachusetts, vestiges of establishment remained, but were eventually totally eradicated.

#### Social Sources

From the beginning, the colonies were less homogeneous than either England or Western Europe. People of widely differing backgrounds and experiences were brought together in a common migration from the "Old Country" to a new and challenging land. This initial diversity of classes, nationalities, cultures, and, most importantly, religions, was a new experience for many of these people and it had a tendency to broaden their views.

Many of the immigrants had come to this country to escape religious intolerance and even persecution and because of this were determined to gain and maintain religious liberty. There is reason to believe that many

of the people who came to this country were by conviction and temperament among the most radical of the Europeans. <sup>35</sup> This juxtaposition of radicals from such diverse backgrounds was in many respects volatile, as witness the Revolution, but the move toward the First Amendment required the influence of such a radicalized group.

During the Revolution, the interaction of all segments of the colonial population were united by an even stronger and more unifying experience - the war itself. This period brought people of diverse religions together in a common cause that was greater than their religious differences. The colonial experience gave even greater impetus to the growing toleration and desire for religious liberty for all.

#### Religious Sources

The middle of the eighteenth century was a time of religious revival in both the Middle Colonies and the New England Colonies. This religious movement, known as The Great Awakening, helped prepare the way for disestablishment. In Virginia, it led to the breaking up of the parish system, which had given great power to one minister and conceded some limited influence to the non-conformist ministers. <sup>36</sup> In New England, the movement was led by Jonathan Edwards. Edwards was a conservative who believed the church should be a spiritual institution.

Edwards took little interest in politics and discouraged church involvement in political matters. Edwards' view became the dominant view in the congregational churches of New England. Because of Edwards' influence, many of the more liberal congregationalists left the established church to join other more socially active churches. As a consequence, the congregational churches and establishment in general became less attractive to many in the New England colonies. 37

### Individuals

Pfeffer and Stokes discuss the contributions made by at least twenty-one significant religious and political leaders from Anne Hutchinson and Roger Williams to James Madison and John Leland. 38 Even with all the philosophical-religious thought preparing the way for the First Amendment and all the favorable social-political conditions which prevailed at the time, it is debatable if the First Amendment provision for separation could have been attained without the synchronous contribution of these and other very insightful and persuasive individuals.

### The Constitution

#### The Articles of Confederation

The newly formed nation was at first not so much a nation as a group of largely independent states. The formal instrument of government was "The Articles of

Confederation." The Articles were first proposed in 1776 and adopted by the Continental Congress in 1777, and finally approved by all the states in 1781. These Articles were effective as an interim form of government because they provided for only one branch of government, the Congress, which was a virtual continuation of the Continental Congress which was composed of delegations from the several states, each having equal weight. The insufficiency of the Articles and the need for a stronger central government became apparent very soon and the Constitutional Convention was convened in 1787 with twelve of the thirteen states represented (only Rhode Island refused the invitation). The purpose of the Convention was to adopt and recommend to the states a new instrument of government.

#### The Constitutional Convention

With regard to religion, the pronouncements, the proceedings, and the final product of the Constitutional Convention differed greatly from the Continental Congress. The records of the Continental Congress are replete with references to God. The Declaration of Independence opens by evoking God's blessings, and the sessions of the Continental Congress themselves were opened with prayer, but the original Constitutional Convention was quite different. The sessions did not begin with prayer, although Benjamin Franklin had so moved. Most significant

is the fact that the Constitution, as opposed to the Declaration of Independence, has only three references to religion. First, there is a clause exempting Sunday as a day to be counted in the time the president has to veto legislation given to him; second, the document is dated "in the year of our Lord;" and third, Article VI forbids religious tests for office. Of these three references, only Article VI is of any significance.

The absence of religious references in the Constitution, as distinguished from the actions and products of the Continental Congress, is significant. The question is: "Why the change between 1774 and 1787?" A number of explanations have been offered. Morgan argues that the Continental Congress and especially the Declaration of Independence were polemic and historical whereas the Constitutional Convention and the Constitution were legal.<sup>39</sup> Others have suggested that the absence of references to religion in the Constitution is due to the fact that the Constitution is an enabling instrument, that is, any power not granted to the federal government was reserved to the states.<sup>40</sup> Perhaps a more cogent explanation can be seen in what was taking place in the states in that period between 1774 and 1781. During this time,

All the states except Rhode Island and Connecticut adopted new state constitutions. Seven of these revolutionary state constitutions contained separate bills of rights, while the remainder had within them

various sections guaranteeing individual liberties. The provisions that relate to religion point up both the advances made toward the achievement of complete freedom and the restrictions still present. Most of the documents expressed support for religious liberty. Half provided for separation of church and state. 41

These state conventions show a general move toward disentanglement of state and church. The trend was seen in microcosm in Virginia. The Virginia conflict between the forces for religious liberty and establishment involved two men who would have great influence upon the Constitution, both directly and indirectly. Thomas Jefferson had led the movement which issued the 1776 Declaration of Rights which embodied a clear cut call for religious freedom. In 1779, Jefferson introduced a bill in the Virginia legislature calling for disestablishment. This was vigorously opposed by the Episcopal Church. The bill was defeated and the establishment forces introduced a bill calling for tax money to be used for teaching religion. At this time (1784), Jefferson was serving as ambassador to France, so James Madison, who was to become known as the Father of the Constitution, became the leader of the anti-establishment movement. Madison argued for disestablishment in his "Memorial and Remonstrance Against Religious Assessment." The assessment bill was defeated and Madison reintroduced Jefferson's bill for religious liberty, which was passed in 1786, the year before the Constitutional Convention. 42



Whatever the specific cause, the mood of the Constitutional Convention was markedly different from that of the Continental Congress. The mood of the Convention was also moving away from establishment. All these factors combined to produce an instrument remarkable for its neutrality with regard to religion.

#### The First Amendment

During the Constitutional Convention, there was some talk about including a bill of rights, but some felt a bill was unnecessary since the state constitutions already provided protection for individual civil rights.<sup>43</sup> During the process of ratification, it became evident that a bill of rights would be necessary.

In the ratifying conventions of almost every state some objection was expressed to the absence of a restriction on the federal government with regard to legislation regarding religion.<sup>44</sup>

Jefferson, who was in France, wrote Madison concerning the omission of a Bill of Rights.<sup>45</sup> Hamilton, argued that the inclusion of such a bill might be dangerous because no listing could be all inclusive and the failure to include a particular right might be interpreted as an intentional omission.<sup>46</sup> Notwithstanding these objections, the convention committed itself for the inclusion of such a bill in order to gain ratification. In his inaugural address, Washington called for Congress to keep the commitments made by the Constitutional Convention. In June, 1789, Madison, the congressman from Virginia,

introduced a series of proposed amendments which set in process the events which led to the adoption of the first ten amendments to the Constitution, which became known as the "Bill of Rights." These first ten amendments were ratified quickly by the states and became a part of the Constitution in 1791, only one year after the basic Constitution had been adopted by Maryland, the last state to do so.

The First Amendment contains the two clauses pertinent to religion: the establishment clause and the free exercise clause. Volumes have been written discussing the intent of the framers of the Constitution with regard to the church-state relationship. There is a sense in which efforts to discover the intent of those who wrote the Constitution begs the question. The Constitution has been viewed by the courts as a dynamic instrument which must be applied by judicial interpretation. The Constitution along with the body of case law which has developed since 1791 defines the church-relationship.

#### The Interpretation and Application of the Principle

The First Amendment prevented the national government from either establishing a state religion or prohibiting the free exercise of any religion, but the prohibitions did not apply to the states at that time. The Supreme Court became the official institution for interpreting and

applying the Constitution, but the nineteenth century saw very little activity by the Supreme Court with regard to the Bill of Rights. Chief Justice John Marshall did not believe the Bill of Rights applied to the states.<sup>47</sup> The Fourteenth Amendment was ratified in 1868. This amendment was passed to ensure the rights of citizenship to the freed slaves, but applied equally to all United States citizens. The Fourteenth Amendment became a conduit through which all the Bill of Rights and especially the First Amendment was applied to the states.

#### The Application of the First Amendment to the States

In 1925, the court rendered a landmark decision, Gitlow v. New York,<sup>48</sup> in which the First Amendment provisions for free speech and free press were determined to be liberties protected by the due process clause of the Fourteenth Amendment. In 1940, the free exercise clause was specifically applied to the states in Cantwell v. Connecticut.<sup>49</sup>

#### The Application of the Establishment Clause

The interpretation of the establishment clause has developed more slowly than that of the free exercise clause. Two basic views of the establishment clause have evolved: one is the "accommodationist" view and the other is the "separationist" view. Those who hold to the accommodationist view argue that as long as one religion is not singled out for special support government and

religion can cooperate with each other. Those who hold to the separationist view argue that the government should offer no aid or support to one, or any, religious group. Both interpretations of the establishment clause have at times prevailed.

One reason case law concerning the establishment clause developed slowly related to the rules the Supreme Court used to determine cases it would decide.

In order to be able to bring an action in federal court against a government officer, the plaintiff must show that the interest he presents is personal, substantial, and legally protected and that his interest has been injured or is in direct danger of injury from the government. 50

Another reason few cases reached the Supreme Court is that many states have laws that are very restrictive, thus minimizing state involvement in religion. 51

#### The Establishment Clause Before 1947

Before 1947, there were four significant cases decided on grounds other than the free exercise clause. These four cases were: Pierce v. Society of Sisters,<sup>52</sup> Cochran v. Board of Education,<sup>53</sup> and two Jehovah's Witnesses cases involving saluting the flag.<sup>54</sup>

#### Pierce v. Society of Sisters

Summary of the Facts of the Case. On November 7, 1922, the state of Oregon adopted a Compulsory Education Act which required every parent, guardian, or other person having charge of a child between the ages of eight and sixteen who had not completed eighth grade to send that

child to a public school during the time the school was in session. The Appellee was the Society of Sisters of the Holy Names of Jesus and Mary, an Oregon corporation with the power to care for orphans. The Society of Sisters had established an interdependent system of elementary schools, high schools, and junior colleges. The Society's schools provided both secular and religious education. Mr. Justice Reynolds, writing a unanimous opinion, observed:

The inevitable practical result of enforcing the act under consideration would be destruction of Appellee's primary schools and perhaps all other primary schools for normal children within the state of Oregon. 55

The Ruling. The Court followed the principle set forth in Meyer v. Nebraska.<sup>56</sup> The principle is that the care of children was primarily the responsibility of parents. In a unanimous opinion, Mr. Justice Reynolds affirmed the right of private primary schools to exist in these words:

The fundamental theory of liberty upon which all governments in this union repose excludes any general power of the state to standardize its children by forcing them to accept instruction from public teachers only. The child is not the mere creature of the state; those who nurture him and direct his destiny have the right coupled with the high duty to recognize and prepare him for additional obligations. . . . 57

The ruling also rested on the principle that businesses have the right to be protected from government interference with their patrons or customers.

Implications. The ruling did not involve the First Amendment clauses, but rather affirmed the rights of children and their parents. This case affirmed the right of private, including religious, primary schools to exist.

Cochran v. Louisiana State Board of Education

Summary of the Facts of the Case. In 1928, the state of Louisiana enacted a law empowering the state Board of Education to use severance tax monies to provide free textbooks for the school children of the state. The Board of Education, pursuant to the law, provided books for the children of the state, including children who attended private schools, some of which were religious schools. The appellants were citizens, taxpayers who sought to restrain the Board of Education from providing free textbooks on the grounds that the practice violated both the state and federal Constitutions. The State Supreme Court ruled in favor of the Board of Education. Upon appeal to the federal Supreme Court, the appellant argued that using public money for textbooks constituted a violation of the Fourteenth Amendment, because it required the use of public money for a private purpose. The private use, according to the appellant, consisted of giving aid to private religious and other non-public schools.

The Ruling. In a unanimous ruling, the Supreme Court upheld the Louisiana Supreme Court. In so doing, the

Court determined that :

The taxing power of the state is exerted for a public purpose and the private and religious schools. . . are not the beneficiaries of the appropriation. . . . The school children of the state alone are the beneficiaries. 58

This case never raised First Amendment questions and was decided on Fourteenth Amendment grounds.

Implications. In upholding the Louisiana law, the Court began the "secular purpose" doctrine. Chief Justice Hughes delivered the opinion of the Court. In his conclusion, Hughes hinted at the secular purpose doctrine when he wrote:

. . . we cannot doubt that the taxing power of the state is exerted for a public purpose. The legislation does not segregate private schools. . . or their pupils, as its beneficiaries or attempt to interfere with any matters of exclusively private concern. Its interest is education broadly; its method, comprehensive. Individual interests are aided only as the common interest is safe-guarded. 59

#### Minersville School District v. Gobitis

Summary of the Facts of the Case. In the public schools of Minersville, Pennsylvania, the local school board required students and teachers to participate in daily exercises in which the Pledge of Allegiance and flag salute were practiced. Lillian Gobitis, age 12, and her brother William, age 10, were expelled from school for refusing to participate because of their religious beliefs as Jehovah's Witnesses. Mr. Justice Frankfurter wrote the Court's opinion in which he explained the question the Court was being asked to decide:

When does the constitutional guarantee compel exemption from doing what society thinks necessary for the promotion of some great common end, or from a penalty for conduct which appears dangerous to the general good. 60

The Ruling. In an eight to one decision, the Court upheld the right of the state to require the salute on two grounds: first, that national "cohesion" or "unity" was of greater importance than any other legal value,<sup>61</sup> and secondly, that:

The courtroom is not the arena for debating issues of educational policy. It is not our province to choose among competing considerations in the subtle process of securing effective loyalty to the traditional ideals of democracy. . . . So to hold would in effect make us the School Board for the country. That authority has not been given to this Court, nor should we assume it. 62

This ruling came at a time when the United States was threatened with war and nationalism was running high.

Implications. The Court was not unanimous in this ruling and Mr. Justice Stone wrote a strong dissent. As early as two years later, three of the concurring Justices were ready to change their minds. <sup>60</sup> This decision was reversed in 1943.

#### West Virginia State Board of Education v. Barnette

Summary of the Facts of the Case. Following the Court's decision in the Gobitis case, the legislature of West Virginia amended its statutes to require all public schools to teach courses that would foster "Americanism." The state Board of Education implemented the curriculum in 1942. The requirement of the West Virginia Board of



Education included a required salute to the flag and a failure by the student to do so would be regarded as "an act of insubordination," which resulted in expulsion. Appellees brought suit against the state Board of Education, asking an injunction to restrain enforcement of the law against Jehovah's Witnesses. Under the law, children had been expelled and had been threatened with criminal prosecution. The lower courts granted restraint and the Board of Education appealed the lower court's ruling to the Supreme Court.

The Ruling. In a six to three ruling this case expressly reversed the Gobitis decision. It was not decided on religious grounds. Mr. Justice Jackson described the issues in the case as follows:

. . . Nor does the issue as we see it turn on one's possession of particular religious views or the sincerity with which they are held. . . . The question which underlies the flag salute controversy is whether such a ceremony so touching matters of opinion and political attitude may be imposed upon the individual by official authority under powers committed to any political organization under our Constitution. 64

Implications. Mr. Justice Jackson pointed to four grounds of the Gobitis case which were reconsidered in this case. First, it was decided that the dilemma posited by Lincoln did not apply. President Lincoln asked, "Must a government of necessity be too strong for the liberties of its people or too weak to maintain its existence?"<sup>65</sup> The Court rejected this consideration by affirming that a

government in which the rights of citizens are secured elicits more support from its citizens. Second, the Court applied the Fourteenth Amendment to state school boards. Third, the Court argued that the judicial arena, as opposed to the legislative arena, was the place where the rights guaranteed by the Constitution were to be applied. Fourth, the Court rejected the Gobitis opinion that national unity can be maintained by compulsory measures. Mr. Justice Jackson stated it this way:

If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be "orthodox" in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein. 66

#### Summary of Establishment Cases Before 1947

Each of these four cases before 1947 was decided on grounds other than the First Amendment establishment clause. The two Jehovah's Witnesses cases began to address the issue, but stopped short. The flag saluting cases did involve a kind of "censorship," but the Court did not frame this as a positive proposition which would, in effect, be an establishment question. The requirement to salute could, in the positive form, be seen as compelled belief.

#### The Establishment Clause Since 1947

Nineteen-forty-seven marks a turning point in case law concerning the establishment clause. From this point, a large number of establishment cases have been heard.

These cases can be grouped into four categories of cases: first, those cases involving public aid to parochial schools; second, those cases which involve attempts to teach religion in the public schools; third, those cases which involve devotional exercises in public schools; and fourth, those cases involving the teaching of evolution in the public schools. Twelve of these cases are of special significance.

#### Cases Involving Public Aid to Parochial Schools

The Court has heard cases dealing with both direct and indirect aid to religious schools. These cases have been decided on the basis of the establishment clause. The cases in this category include such matters as: transportation, textbooks, salaries for teachers, funds for facilities, tuition subsidies, and tuition tax credits.

#### Everson v. Board of Education of Ewing Township

Summary of the Facts of the Case.<sup>67</sup> A New Jersey law authorized local school districts to contract with local transportation companies to provide transportation to and from school. The Ewing Township School Board took action to reimburse parents for the cost incurred by them for transportation of their children to and from school by the local public transportation system. These reimbursements included payments to families whose children attended Catholic Parochial schools which were located on or near

public transportation systems. The lower Court held that the state legislature was without power to authorize such payments. The New Jersey Court of Appeals reversed the lower Court's ruling, saying that the New Jersey legislature had violated neither the New Jersey Constitution nor the federal Constitution. The case was then appealed to the Supreme Court. The appeal was made on two grounds. First, the appellant argued that the statute violated the Fourteenth Amendment in that the state of New Jersey was using its power of taxation to ensure to the benefit of private persons for private purposes. Second, the appellant contended that the act violated the establishment clause of the First Amendment.

The Ruling. The Court was divided five to four, but affirmed the Appeals Court ruling, in effect stating that the act was constitutional. Mr. Justice Black, writing for the majority, explained the decision. The explanation was significant, because the majority rejected the appellant's argument that the act violated the Fourteenth Amendment. Black observed:

The fact that a state law passed to satisfy a public need coincides with the personal desire of the individuals most directly affected is certainly an inadequate reason for us to say that a legislature has erroneously appraised the public need. . . . It is much too late to argue that legislation intended to facilitate the opportunity of children to get a secular education serves no public purpose. The same thing is no less true of legislation to reimburse needy parents or all parents for the payment of the fares or their children so that they can ride in public transportation to and from schools, rather

than run the risk of traffic and other hazards incident to walking or hitch hiking. 68

In explaining the Court's view of the second argument put forth by the appellant, Justice Black made some significant observations about the separation of church and state:

The "establishment of religion" clause of the First Amendment means at least this: neither a state nor the federal government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another [emphasis added]. 69

Reutter pointed out,

It was the bar on aid to all religions that disturbed advocates of aid to parochial schools. This interpretation was to become a key pillar in the reasoning supporting subsequent establishment clause decisions. 70

Even with this clearly separatist position, the majority affirmed the lower Court decision which upheld the New Jersey law. This inconsistency prompted Judge Jackson in his dissenting opinion to remark that the majority opinion reminded him of Byron's Julia who "whispering , ' I will never consent,' consented." 71

The Court's decision to affirm was explained by Mr. Justice Black, who indicated that the equal protection clause outweighed the establishment clause in this case:

We must be careful in protecting the citizens of New Jersey against state-established churches to be sure that we do not inadvertently prohibit New Jersey from extending its general state law benefits to all its citizens without regard to their religious belief. 72

Implications. The four who dissented from the

majority opinion began to argue for strict separation based primarily on the historical evidence cited by the majority. Mr. Justice Jackson chided the majority by pointing out their inconsistency: ". . . The undertones on the opinion advocating complete and uncompromising separation of church from state seem utterly discordant with its conclusion."<sup>73</sup> This case illustrates the power of dissenting opinions to influence later opinions of the Court. Mr. Justice Douglas was the swing vote on this case. Fifteen years later he viewed the Everson case in retrospect and conceded that the minority was correct.<sup>74</sup>

#### Lemon v. Kurtzman

Summary of the Facts of the Case.<sup>75</sup> In 1971, the Court heard two cases involving state reimbursement to teachers in parochial schools who taught secular subjects. Pennsylvania had passed a law by which the state could reimburse non-public schools for teachers' salaries, textbooks, and instructional materials in areas of mathematics, modern foreign languages, physical science, and physical education. Rhode Island had a law that, with certain restrictions, teachers would be reimbursed for up to fifteen percent of their salaries. Both states were attempting to solve problems created by teacher shortages by "purchasing secular services."

The Ruling. The Court consolidated these cases and, with one dissent, found both cases unconstitutional. The

ruling for the first time emphasized the word "respecting" in the establishment clause. The opinion written by Chief Justice Burger stated:

A given law might not establish a state religion, but nevertheless be one "respecting" that end in the sense of being a step that could lead to such establishment and hence offend the First Amendment.  
76

Quoting Walz v. Tax Commission,<sup>77</sup> Burger referred to three evils against which the establishment clause was intended to afford protection: "sponsorship, financial support, and active involvement of the sovereign in religious activity."<sup>72</sup> Burger went on to list the three-fold test by which the establishment clause cases should be decided. First, the law must have a secular purpose. Second, the primary effect of the law in question must neither advocate nor inhibit religion. Third, the law must not foster excessive government entanglement with religion. The Court found that both the Pennsylvania and the Rhode Island laws fostered excessive religious entanglement of government with religion. Burger pointed out that some types of aid, such as that provided in the *Everson* case or the textbook cases, had been permitted, but this case was different because teachers were different from textbooks. In order to constantly monitor teachers to ensure the secular purpose test, the government would become excessively entangled in religious matters.

Implications. The excessive entanglement test was

added to two previous tests (secular purpose and neutral effect), which had been articulated in Abington v. Schempp.<sup>78</sup> Another test was hinted at in this case: "potential for political divisiveness." Although this aspect of the opinion has not been raised to the level of the other three criteria set forth in this case, it is an important consideration.

In the same year (1971) the Court heard Lemon v. Kurtzman,<sup>79</sup> the Court also heard an establishment clause case involving higher education. In Tilton v. Richardson<sup>80</sup> the Court in a five to four decision upheld most of the Higher Education Facilities Act of 1963. The Act provided federal funds for buildings used for secular purposes by religious colleges. The basic reasoning was that college students were not as impressionable as younger children, that the aid was non-ideological, and that there was no excessive entanglement<sup>81</sup> Committee for Public Education and Religious Liberty v. Nyquist

Summary of the Facts of the Case.<sup>82</sup> In 1972, New York passed several amendments to the state's education and tax laws. These New York laws provided for, among other things, three kinds of parochial school aid: first, direct aid for maintenance in order to ensure the "health and safety of the students;" second, a tuition payment plan for qualifying families; and third, tax relief for families with children in non-public schools who did not



qualify for tax subsidies. The lower Court struck down the first and second sections of the law, but affirmed the tax relief sections.<sup>83</sup>

The Ruling. The Supreme Court in a six to three decision affirmed the decision of the lower Court in striking down the first and sections and reversed the lower Court's decision to affirm the third section. Mr. Justice Powell determined that the first section of the law dealing with public health and safety passed the secular purpose test, but failed the "effect" and "entanglement" tests. With regard to the tuition grants, the Court ruled that the New York law failed all three tests. The third section relating to tax relief failed the effect and entanglement tests. In considering the tax relief section of the law, the Court carefully distinguished between the relief being offered under the law and the exemption.<sup>84</sup>

Implications. Although the New York laws failed the "effect" tests, the Court again commented on the politically divisive nature of these laws:

While the prospect of such divisiveness may not alone warrant the invalidation of state laws that otherwise survive the careful scrutiny required by the decisions of this court, it is certainly a "warning signal" not to be ignored.<sup>85</sup>

Justices Burger, White, and Rehnquist partially dissented; however, in their dissent, they showed some inclination to accept some form of state aid to individuals which could

be general enough to meet the three-fold criteria for determination of establishment clause cases. <sup>86</sup>

Committee for Public Education and Religious Liberty v. Regan

Summary of the Facts of the Case.<sup>87</sup> This case, heard by the Court in 1980, involved a New York law which provided for payments to non-public schools for costs incurred as a result of compliance with certain state requirements, including testing and enrollment and attendance records.

The Ruling. The Court upheld the law in a five-four decision.

Implications. The Court reasoned that there was no "excessive entanglement." This case passed all three tests. <sup>88</sup>

Parochial Aid Summary

The Court has ruled during this century, especially since 1947, in numerous cases involving public aid to religious schools. Although some aid has been allowed, the kind of permissible aid is narrowly defined and must meet a three-fold test in order to conform to the establishment clause requirements. Tilton v. Richardson<sup>89</sup> provided for higher education an exemption from the rules which apply to secondary and primary schools. The Court has at times hinted at a fourth test, political divisiveness, but has not firmly added it to the criteria.

There are indications that the Court may be willing to modify some of its views on the general subject of church-state relationship. In Thomas v. Review Board of Indiana Employment Securities,<sup>90</sup> Mr. Justice Rehnquist offered a far-reaching dissenting opinion in which he suggested that the church-state relationship should be reviewed. Rehnquist wrote:

I regret that the Court cannot see its way clear to restore what was surely intended to have been a greater degree of flexibility to the federal and state governments in legislating consistently with the free exercise clause. 91

It is fair to say that Rehnquist is here giving evidence of a growing accommodationist view.

Cases Which Involve Attempts to Teach Religion  
In Public Schools

In addition to those cases which have involved public aid to non-public schools, there is a class of cases which involves attempts to teach religion in public schools. These cases have been decided by the Court on the basis of the establishment clause. There are three especially significant cases in this category.

McCollum v. Board of Education

Summary of the Facts of the Case.<sup>92</sup> In 1948, members of the Jewish, Roman Catholic, and some protestant denominations requested the Champaign, Illinois, Board of Education for permission to conduct classes in public

school classrooms for school children of their respective religions whose parents requested this instruction. The group of religious leaders, known as the Champaign Council on Religious Education, paid the instructors; there was no cost to the school board, but the instructors had to be approved by the school board. Students who did not request the religious instruction were not excused from school, but were required to pursue secular studies.

The Ruling. The appellant brought the action on First and Fourteenth Amendment grounds. The Appellee first moved to dismiss the case on three grounds: first, that no statute was in question; second, that the appellant had no standing to sue; and third, that no constitutional question had been raised in the lower Court. The motion to dismiss was denied. Mr. Justice Black wrote the Court's eight to one majority opinion. Black observed that the facts of the case

. . . Show the use of tax-supported property for religious instruction and the close cooperation between the school authorities and the religious council in promoting religious education. The operation of the state's compulsory education system thus assists and is integrated with the program of religious instruction carried on by separate religious sects. . . . This is beyond question a utilization of the tax-established and tax-supported public school system to aid religious groups to spread their faith. And it falls squarely under the ban of the First Amendment. 93

The counsel for the Board of Education urged the Court to reconsider and repudiate the decision in the Everson case. The appellee put forth two specific

arguments: first, that the First Amendment only prohibits preference to one particular religion; and second, that the application of the establishment clause through the Fourteenth Amendment should be rejected. Black responded to these arguments by saying, "We are unable to accept either of these contentions."<sup>94</sup> Black further observed that the Champaign released-time arrangement not only utilized tax-supported facilities for disseminating religious beliefs, but the state's compulsory attendance law "affords sectarian groups an invaluable aid." <sup>95</sup>

Implications. Whereas the Everson case was a five to four decision, this case was an eight to one decision, thus strongly affirming the Everson precedent. This case did three things of importance. First, it affirmed the Everson view that the First Amendment prohibits aid to "all religions," not simply preferential aid to one religion. Second, it affirmed the application of the establishment clause to the states through the Fourteenth Amendment. Third, it specifically rejected the release-time concept.

#### Zorach v. Clauson

Summary of the Facts of the Case.<sup>96</sup> Four years after McCollum v. Board of Education, the Court heard another "released-time" case. In this case, the Court upheld a New York City plan for released time for religious instruction. In the New York plan, children of parents

who requested permission from the School Board by filling out forms provided by participating religious groups, were allowed to leave the school for one hour each week for religious instruction. There was no cost to the Board, students not released stayed in school, and attendance reports of those who participated were given to the Board.

The Ruling. In a six to three decision, the Court rejected the argument that this case should be controlled by McCollum by making two distinctions. First, school facilities were not used, and second, there was no expenditure of public funds. The Court also rejected the argument that "keeping tabs" of released students and halting normal classes from activity constituted aid to religion.

Implications. Those who argue for accommodation can find some solace in the majority opinion. The Court argued that the First Amendment did not forbid all contacts between church and state, else there would be hostility between the two. Mr. Justice Douglas, writing the majority opinion, said:

We are a religious people whose institutions presuppose a Supreme Being. . . . When the state encourages religious instruction or cooperates with religious authorities by adjusting the schedule of public events to sectarian needs, it follows the best of our traditions, for it then respects the religious nature of our people and accommodates the public service to their spiritual needs. 97

#### Stone v. Graham

The Stone case presents an interesting example of

an attempt to teach religion in the public school. The courts ruled against this form of teaching religion in 1980.

Summary of the Facts of the Case.<sup>98</sup> A Kentucky statute required that a 16 X 20 inch copy of the Ten Commandments be posted in every public school classroom. These posters were to be purchased with private funds and contributed to the schools. Inscribed on each poster was a statement explaining the secular application of the Ten Commandments as the foundation of the Western legal code.

The Ruling. In a five to two Per Curiam ("by the Court" without identifying the author of the opinion) ruling, the Court found the statute requiring the posting of the Ten Commandments unconstitutional. The Court determined that the mere statement that the commandments served a secular purpose did not change the "undeniably religious nature of such material."<sup>99</sup>

Implications. The Court cited the Abington case to show that the mere "recitation of a supposed secular purpose" cannot change primarily religious content. To distinguish this case from the Abington case, the Court pointed out that the Bible can be an appropriate part of the curriculum as history, civilization, ethics, comparative religion, and so forth. On this point, a difference between a study of religion and the propagation of a religion can be seen. Mr. Justice Rehnquist

dissented in this case and in so doing indicated that it may not be either possible or desirable to completely avoid all religious instruction in school or at least that which "sane people may reasonably regard as religious."<sup>100</sup>

Summary of the Cases Involving Attempts to Teach Religion in the Public Schools

The Court's record with regard to released time is mixed, as evidenced by their rejection of the Champaign, Illinois Plan and their acceptance of the New York Plan. The Court ruled, however, that the use of tax-supported facilities for religious instruction is unconstitutional, that tuition reimbursements and tax credits are unconstitutional, and that tax money cannot be used to pay salaries for teachers who teach religion. With regard to the accommodationist-separationist controversy, the Court has delivered mixed signals. The Court has spoken more clearly in the matter of direct attempts to teach religion. In the Stone v. Graham case,<sup>101</sup> the Court rejected as unconstitutional attempts to teach religion unless a secular purpose can be clearly defined.

Cases Which Involve Devotional Exercises

In Public Schools

The Court has heard several cases involving prayer and Bible reading in the public schools. Two of these are of special concern to the primary and secondary schools and one is of special significance to colleges.



Engel v. Vitale

Summary of the Facts of the Case.<sup>102</sup> In 1962, the Court heard a case involving prayer in the public schools. The appellee was the Board of Education of Union Free School District No. 9, New Hyde Park, New York. This school, acting on recommendation of the New York State Board of Regents, had composed a prayer, which was recited by the school children of the district. The prayer was as follows: "Almighty God, we acknowledge our dependence upon thee, and we beg thy blessings upon us, our parents, our teachers, and our country."<sup>103</sup> This prayer was published as a part of the school board's "Statement on Moral and Spiritual Training in the Schools." This prayer was intended by the board to be general enough to be accepted by all religions. The parents of ten students said this prayer was contrary to the religious beliefs and practices of both themselves and their children.<sup>104</sup>

The Ruling. School authorities admitted that the recommended prayer constituted a religious exercise, but sought to distinguish this particular prayer because it was supposedly based on a national "spiritual heritage." The appellee also contended that since the prayer was not required it did not constitute a violation of the establishment clause. The appellant contended that the law permitting the prayer should be struck down ". . .

because that prayer was composed by governmental officials as a part of a governmental program to further religious beliefs.<sup>105</sup> The Court agreed with this argument in a six to one ruling. In the words of Mr. Justice Black, who wrote the majority opinion:

We agree with that contention since we think that the constitutional prohibition against laws respecting an establishment of religion must at least mean that in this country it is no part of the business of government to compose official prayers to recite as a part of a religious program carried on by government. 106

The Court rejected both major arguments of the appellee, that is, that the prayer was non-denominational and non-compulsory. The Court observed that instead of being a part of our tradition, this proscribed prayer was actively contrary to that tradition and to support this pointed to the controversy over The Book of Common Prayer, which occurred in England in 1548 - 1549.

The Court anticipated adverse reaction to this ruling and pointed out that this decision should not be interpreted as being hostile to religion. In a footnote, the Court affirmed that school children should be encouraged to express love for their country by reciting historical documents which contain references to the Deity.

Mr. Justice Douglas in his concurring opinion not only argued against hostility toward religion and for neutrality, but also hinted that the divisive character of

government interferences in religion was at issue in the decision. Douglas went on to point out that the proposed non-denominational prayer did not conform to the tenets of many of the children in the public school system. Douglas also rejected the decision of the Court in the *Everson* case , which allowed tax money to be used for transportation of children to religious schools.

Implications. The Douglas opinion in this case firmly set the Court's course. A decade earlier Douglas had argued that Americans are "a religious people." What he meant by that was explained here. Morgan concluded that Douglas had meant nothing by the statement in his "*Zorach*" decision. <sup>107</sup> The fact that Douglas was now in agreement with the hard line separationist position was a great blow to the accommodationists.

A year after the *Engel* case, the Court heard another case involving the issue of religious devotional exercises in the classroom. The reason for hearing such a similar case so soon after the *Engel* case is not completely clear. There are three possible reasons. First, the case involved the entire Court, whereas the *Engel* case involved only seven judges. Second, there had been widespread criticism of the *Engle* case on the basis that no prior cases had been cited in the opinion and this indicated a weak constitutional basis for the decision. Third, only one concurring opinion had been written in the

Engel case; three concurring opinions involving four judges were written in this case.<sup>108</sup>

Abington Township School District v. Schempp

Summary of the Facts of the Case.<sup>109</sup> This case actually combined two cases; one was from Abington Township,

Pennsylvania. The rule being challenged in this case provided "that at least ten verses from the Holy Bible shall be read, without comment, at the opening of each public school on each school day."<sup>110</sup> The other case came from Baltimore, Maryland, where reading the Bible and/or recitation of the Lord's Prayer was authorized by the school board. In this case, children of parents who objected were excused from the exercise.

The Ruling. The appellees in this case were of the Unitarian faith. The appellees testified that a literal reading of the Bible conveyed certain religious doctrines which were contrary to the religious teachings of the family. The children all testified that these doctrines were at one time or another read to them in the devotional period. The appellees also testified that they had considered having their children excused from the Bible reading period, but decided not to for fear that their children's relationship with their teachers and fellow students would be adversely affected.

Expert testimony was introduced into the trial that

showed that the reading of certain parts of the Bible were offensive to various religious groups. The defense also introduced expert witnesses and in cross examination it was shown that the New Testament was non-sectarian only within a Christian context.

The Court reviewed its past decisions , contrasting this case with those cases where accommodation of religion was approved. The Court pointed out that this case differed from the Zorach case (the released time case) in that public facilities were used. The Court also enunciated a test for establishment clause cases:

The test may be stated as follows: what are the purpose and primary effect of the enactment? If either is the advancement of or inhibition of religion, then the enactment exceeds the scope of legislative power as circumscribed by the Constitution. That is to say that to withstand the strictures of the establishment clause there must be a secular legislative purpose and a primary effect that neither advances nor inhibits religion. 111

The Court in an eight to one ruling rejected the argument that these exercises did not constitute establishment because individual students could be excused. The Court also rejected the argument that Bible reading should be allowed because it was a relatively minor encroachment on the First Amendment by saying, "The breach of neutrality that is today a trickling stream may all too soon become a raging torrent. . . ." 112 The Court affirmed that the First Amendment denies the state the right to establish a religion of secularism or to

prefer the non-religious over the religious, but it denied that their decision in this case had that effect. The Court also rejected the argument that to deny the majority's right to engage in the contested religious exercises would deny their right to free exercise. Finally, the Court rejected the argument that the exercises had a secular purpose.

Implications. This case had two primary implications. One was to confirm the ruling in the Engel case and the other was to add the "primary effects" test to the "secular purpose" test. These two tests were later supplemented by the "excessive entanglement" test.

These two cases, Engel v. Vitale<sup>113</sup> and Abington v. Schempp,<sup>114</sup> pertained to primary and secondary public schools. Together these two cases follow the strict separationist line and soundly reject the practice of religious devotional exercises in the public primary or secondary schools. The question of religious exercises in publicly supported colleges and universities was addressed in 1981.

#### Widmar v. Vincent

Summary of the Facts of the Case.<sup>115</sup> This case arose out of the experience of a group of students at the University of Missouri at Kansas City. The University routinely provided facilities for meetings of its over 100 registered student organizations. The students paid an

activity fee to help defray the costs of the University. From 1973 to 1977, a registered religious group called "Cornerstone" sought and received permission to use the facilities for Bible study. In 1977, the University refused the group permission to use University facilities. The refusal was based on a policy adopted by the school in 1972.

The Ruling. Since the University sought to exclude the religious group on the basis of the content of the group's speech, the Court in an eight to one decision ruled that the University must ". . . show that its regulation is necessary to serve a compelling state interest and that it is narrowly drawn to achieve that purpose." 116 The Court ruled that the University's exclusionary rule did not meet the test for two reasons: first, that an open forum in a public university did not commit the University to the goals of a group using the forum; and second, that since the forum was open to such a wide variety of secular groups, the overall effect would be secular. In their opinion, the Court was careful to affirm the rights of the University to establish reasonable restraints on time, place, and manner of students' speech or to exclude speech which substantially interfered with the educational process. The Court explained the narrow nature of its decision as follows:

The basis for our decision is narrow. Having created a forum generally open to student groups, the

University seeks to enforce a content-based exclusion of religious speech. Its exclusionary policy violates the fundamental principle that a state regulation of speech should be content-neutral and the University is unable to justify this violation under applicable constitutional standards. 117

Implications. It should be observed that this case was in reality a "free speech" case. The Court in two footnotes distinguished this case from the cases involving public graded schools. First, the graded school is generally not open to other groups and second, university students are less impressionable than younger students. This case, in effect, exempted colleges and universities from the rulings governing public graded schools.

#### Summary of Cases Involving Religious Devotions

The Court has applied a strict separationist view to the matter of religious devotional exercises in the graded public schools. The Courts have also ruled that Bible reading and officially recommended prayers are unconstitutional.

#### A Case Involving the Teaching of Evolution

There is a fourth class of cases which involve attempts by religious groups to either censure the curriculum of the public school or to use the public school curriculum to teach their own religious views. In this category, the first and perhaps the most debated issue concerns the teaching of the theory of evolution in the public schools. In 1968, the Court reached an important decision on the question of laws which prohibit



the teaching of evolution.

Epperson v. Arkansas

Summary of the Facts of the Case.<sup>118</sup> In 1928, the state of Arkansas adopted an "anti-evolution" statute. The statute was patterned after a Tennessee law which was the focus of attention in the famous "Scopes Monkey Trial" of 1929. The Arkansas law had never been enforced. In 1965, the state had adopted a biology textbook which devoted one chapter to the subject of evolution. A teacher in the Little Rock School System, Susan Epperson, faced the dilemma of what to do about the textbook. The lower courts did not address the constitutional question, but upheld the state's right to establish its public school curriculum.

The Ruling. The Court ruled unanimously that the Arkansas law could not stand because it violated the establishment clause. Mr. Justice Fortas stated the Court's view as follows:

In the present case, there can be no doubt that Arkansas has sought to prevent its teachers from discussing the theory of evolution because it is contrary to the belief of some that the book of Genesis must be the exclusive source of doctrine as to the origin of man. No suggestion has been made that Arkansas' law may be justified by considerations of state policy other than the religious views of some of its citizens. It is clear that fundamentalist sectarian conviction was and is the law's reason for existence. 119

The Court also referred to the rights of teachers and the state's right to determine the curriculum for the

public schools. One of the most often referred to parts of the opinion expresses the fact that the responsibility for operating the various public schools is largely in the hands of state and local officials and that the Court's role is to protect "the fundamental values of freedom of speech and inquiry and of belief."<sup>120</sup>

Implications. This case is the first one the Supreme Court was asked to hear which dealt directly with the purpose of legislation. There was no secular purpose in the challenged statute and it therefore failed the Court's test for establishment clause cases. This case presents a unique aspect of church-state relationships. It illustrates an overt attempt by religious groups to control the curriculum of the public schools. The Court's ruling in this case shows that religious censorship of the curriculum violates the establishment clause of the First Amendment.

#### Summary of Principles Developed in

#### Establishment Clause Case Law

Case law for the establishment clause can be traced from Everson. This period can be divided into two parts. The first part of the period extends from 1947 to 1962. From Everson to Engel, the Court appeared to be unsure which course to follow, strict separationist or accommodationist. In Everson, McCullum, and Engel, the Court took a strictly separationist approach, but in

Zorach they adopted more of an accommodationist view. In the second part of the period, from 1963 onward, the Court established a three-fold test for determining establishment clause cases. The "secular purpose" test is designed to determine if the legislation is designed to advance or inhibit religion. If the legislation has either purpose, it is unconstitutional. The "primary effects" test carries the secular purpose test beyond intent to the actual effects of the legislation when implemented. If the primary effect of the legislation is to advance or inhibit religion, it is unconstitutional. This leaves room for some limited aid to religion; as a result, the nature of the institution being affected must be determined. The Court recognizes that some institutions are more "pervasively religious" than others. A church is more "pervasively religious" than a religious school and a religious school is more "pervasively religious" than a church-related school. The more "pervasively religious" an institution, the more likely the primary effects of legislation will be either to advance or inhibit that institution. The third test is the "excessive entanglement" test, which is related to the "primary effects" test, but goes farther. This test seeks to avoid excessive government surveillance of aid being given to religious institutions.

In the four categories of cases relating to the

establishment clause, the Court has also given mixed signals. In the aid to religious schools cases, the Court took a more accommodationist approach, allowing for some aid if it can meet the three-fold test. In the released-time cases, especially Zorach, the Court also allowed for some accommodation. However, in the cases involving devotional exercises in public schools and those involving bans on teaching evolution in public schools, the Court has taken a strict separationist approach. The Court has ruled that officially proscribed prayers are unconstitutional and that the Bible can only be studied for secular purposes. The Court has also banned all attempts to impress sectarian religious views upon the public school curriculum.

#### Conclusion of Historical Review

The constitutional provision for separation of church and state is the consummate statement of a long philosophical, political, religious, and social preparation. The articulation of the principle of separation was brought about by the efforts of a few gifted, insightful, and persuasive leaders and the application of the principle has been made by clear-minded and courageous judges.

It is the nature of our society that the principles upon which our nationhood resides are subjected to constant debate. This review of the application of the

principle of separation of church and state as it relates to the public school system shows that the debate has revolved around two different approaches to the establishment clause: the separationist approach and the accommodationist approach. During the nineteenth century, the accommodationist approach was consistently followed. The twentieth century has seen the separationist approach gain the dominant position, especially from 1962 until this decade. The debate is presently being engaged in with renewed fervor because of the rising popularity of the accommodationist approach. Mr. Justice Rehnquist has argued for a reappraisal of the religion clauses of the First Amendment and has indicated his willingness to accept some form of accommodation between church and state.

The current debate revolves around three themes: first, the creationist-evolutionist controversy; second, the humanist controversy; and third, the issue of values in the curriculum. An examination of these three areas will reveal the current state of the debate concerning the separation of church and state as manifested in the public school system.

## Notes

<sup>1</sup>Leo Pfeffer, Church, State, and Freedom (Boston: Beacon Press, 1953), p. 727.

<sup>2</sup>Will Durant, The Story of Civilization, Vol. 3 (New York: Simon and Schuster, 1944), p. 93.

<sup>3</sup>Against Apion, Book II, Paragraph 17, in Complete Works of Josephus (New York: World Syndicate Publishing Company), X, p. 500.

<sup>4</sup>Henry Nelson Wieman and Walter M. Horton, The Growth of Religion (Chicago: Willett, Clark, and Co., 1930), p. 135.

<sup>5</sup>Luke 20:25.

<sup>6</sup>John 18:36.

<sup>7</sup>Rom. 13:1.

<sup>8</sup>Thomas Renna, Church and State in Medieval Europe-1050 - 1314 (Dubuque, Iowa: Kendall/Hunt Publishing Co., 1974), p. 1.

<sup>9</sup>Edwin Scott Gaustad, "Church, State, and Education in Historical Perspective," Journal of Church and State, 30 (Winter 1984), 19.

<sup>10</sup>Gaustad, p. 3.

<sup>11</sup>Ibid., p. 4.

<sup>12</sup>Renna.

<sup>13</sup>Gaustad, p. 19.

<sup>14</sup>Pfeffer, p. 25.

<sup>15</sup>William Warren Sweet, The Story of Religion in America (New York: Harper and Brothers, Pub., 1950), p. 26.

<sup>16</sup>Winthrop S. Hudson. Religion in America (New York: Charles Scribner's Sons, 1965), p. 5.

<sup>17</sup>Pfeffer, p. 72.

<sup>18</sup>Michael P. Benway, "The Church-State Relationship.

A Historical and Legal Perspective," Contemporary Education 54 (Spring 1983).

<sup>19</sup>Pfeffer, p. 76.

<sup>20</sup>Sweet, p. 68.

<sup>21</sup>Pfeffer, p. 79.

<sup>22</sup>Ibid., p. 81.

<sup>23</sup>Ibid., p. 84.

<sup>24</sup>Sweet, p. 85.

<sup>25</sup>Walter Lagueur and Barry Rubin, eds., The Human Rights Reader (Philadelphia, PA: Temple University Press, 1979), p. 3.

<sup>26</sup>Jacques Maritain, trans. Doris G. Anson, The Rights of Man and Natural Law (New York: Gordian Press, 1971), pp. 59-60.

<sup>27</sup>Note: Jefferson's view of inalienable rights came from Locke. Locke was his "hero." See Fawn M. Brodie, Thomas Jefferson: An Intimate History (New York: Bantam Books, Inc., 1975). See Locke's contribution to American democracy in W. T. Jones, A History of Western Philosophy, Vol. III (New York: Harcourt, Brace, and World, Inc., 1968), p. 279. Jefferson believed that a free mind was a natural right because it was created by God. See "The Virginia Statute for Religious Liberty," Jan. 16, 1786, p. 81.

<sup>28</sup>Jones, p. 267.

<sup>29</sup>Pfeffer, p. 93.

<sup>30</sup>Anson Phelps Stokes and Leo Pfeffer, Church and State in the United States (New York: Harper and Row, Publishers, 1964), p. 31.

<sup>31</sup>Stokes and Pfeffer, p. 31.

<sup>32</sup>Peter Guilday, The Life and Times of John Carroll (New York: The Encyclopedia Press, 1922), p. 76.

<sup>33</sup>Pfeffer, p. 33.

<sup>34</sup>Ibid., p. 112.

<sup>35</sup>Sweet, p. 2.

<sup>36</sup>Stokes and Pfeffer, p. 25.

<sup>37</sup>Ibid., p. 25

<sup>38</sup>Ibid., pp. 9-20; 39-63.

<sup>39</sup>Richard E. Morgan, The Supreme Court and Religious Freedom (New York: The Free Press, 1972), p. 20.

<sup>40</sup>Stokes and Pfeffer, p. 91.

<sup>41</sup>Robert T. Miller and Ronald B. Flowers, Toward Benevolent Neutrality: Church, State, and the Supreme Court (Waco, Texas: Baylor University Press, 1977), p. 4.

<sup>42</sup>Miller and Flowers.

<sup>43</sup>Pfeffer, p. 125.

<sup>44</sup>Ibid.

<sup>45</sup>Julian P. Boyd, ed., The Papers of Thomas Jefferson (Princeton, New Jersey: Princeton University Press, 1950), pp. 12 - 440.

<sup>46</sup>See Federalist Paper 84.

<sup>47</sup>Miller and Flowers, p. 6.

<sup>48</sup>Gitlow v. New York, 268 U.S. 652 (1925).

<sup>49</sup>Cantwell v. Connecticut, 310 U.S. 296 (1940).

<sup>50</sup>Miller and Flowers, p. 697.

<sup>51</sup>Ibid., p. 298.

<sup>52</sup>Pierce v. Society of Sisters, 268 U.S. 510 (1925).

<sup>53</sup>Cochran v. Louisiana State Board of Education, 281 U.S. 370 (1930).

<sup>54</sup>Minersville School District v. Gobitis, 310 U.S. 586 (1940) and West Virginia State Board of Education v. Barnette, 319 U.S. 624 (1943).

<sup>55</sup>Pierce v. Society of Sisters, 268 U.S. 510 (1925).

<sup>56</sup>Meyer v. Nebraska, 262 U.S. 390 (1923).



- <sup>57</sup>Pierce v. Society of Sisters, at 534,535.
- <sup>58</sup>Cochran v. Louisiana State Board of Education, at 375.
- <sup>59</sup>Id. at 375.
- <sup>60</sup>Minersville School District v. Gobitis, 310 U.S. 586 (1940), at 593.
- <sup>61</sup>Id. at 595.
- <sup>62</sup>Id.
- <sup>63</sup>Minersville School District v. Gobitis at 593.
- <sup>64</sup>West Virginia State Board of Rducation v. Barnette at 638-640.
- <sup>65</sup>Id.
- <sup>66</sup>Id. at 642.
- <sup>67</sup>Everson v. Board of Education of Ewing Township, 330 U.S. 1 (1947).
- <sup>68</sup>Id. at 15, 16.
- <sup>69</sup>Id.
- <sup>70</sup>E. Edmond Reutter, Jr., The Supreme Court's Impact On Public Education (Washington, D.C.: Phi Delta Kappa and National Organization on Legal Problems in Education), p. 49.
- <sup>71</sup>Everson v. Board of Education at 19.
- <sup>72</sup>Id. at 67.
- <sup>73</sup>Id. at 18.
- <sup>74</sup>Engel v. Vitale, 370 U.S. 421 (1962).
- <sup>75</sup>Lemon v. Kurtzman, 403 U.S. 602 (1971).
- <sup>76</sup>Id. at 612.
- <sup>77</sup>Walz v. Tax Commission, 397 U.S. 664 (1970).
- <sup>78</sup>Abington School District v. Schempp, 374 U.S. 203 (1963).

- <sup>79</sup>Lemon v. Kurtzman, 403 U.S. 602 (1971).
- <sup>80</sup>Tilton v. Richardson, 403 U.S. 672 (1971).
- <sup>81</sup>Reutter, p. 28.
- <sup>82</sup>Committee for Public Education and Religious Liberty v. Nyquist, 413 U.S. 756 (1973).
- <sup>83</sup>Id.
- <sup>84</sup>Id.
- <sup>85</sup>Id.
- <sup>86</sup>Id.
- <sup>87</sup>Committee for Public Education and Religious Liberty v. Regan, 444 U.S. 646 (1980).
- <sup>88</sup>Id.
- <sup>89</sup>Tilton v. Richardson.
- <sup>90</sup>Thomas v. Review Board, 49 L.W. 4341 (1981).
- <sup>91</sup>Id.
- <sup>92</sup>McCullum v. Board of Education, 333 U.S. 203 (1948)  
at 209, 210.
- <sup>93</sup>Id.
- <sup>94</sup>Id. at 212.
- <sup>95</sup>Id.
- <sup>96</sup>Id.
- <sup>97</sup>Zorach v. Clauson, 343 U.S. 306 (1952) at 313, 314.
- <sup>98</sup>Stone v. Graham, 449 U.S. 39 (1980) at 41.
- <sup>99</sup>Id. at 41.
- <sup>100</sup>Id.
- <sup>101</sup>Id.
- <sup>102</sup>Engel v. Vitale, 370 U.S. 421 (1962).
- <sup>103</sup>Id.

104 Id.

105 Id. at 425.

106 Id.

107 Morgan, p. 133.

108 Reutter.

109 Abington School District v. Schempp, 364 U.S. 203 (1963).

110 Id.

111 Id. at 222.

112 Id. at 223.

113 Engel v. Vitale.

114 Abington v. Schempp.

115 Widmar v. Vincent, 50 U.S. L.W. 4062 (1981), 578, 605.

116 Id.

117 Brandon v. Board of Education of Guilderland School District, 487 F. Supp. 1219:635 F. 2nd. 971 (1980).

118 Epperson v. Arkansas, 393 U.S. 97 (1968).

119 Id. at 106-108.

120 Id. at 104.

### CHAPTER THREE

#### THE CREATION-EVOLUTION CONTROVERSY

The current debate between those who accept the biblical account of creation as a literal explanation of origins and those who accept some form of evolutionary explanation is a new variation of an old theme. The debate in its current form has been complicated by the interjection of a new form of creationism which attempts to combine two different epistemological systems: faith (revelation) and reason (science). This new form of creationism is referred to as creation science. In order to set the debate in context, the two types of thinking represented by the parties in the debate need to be understood.

The creation-evolution controversy has been raging for nearly a century. Recently, several legislative proposals concerning the teaching of creation as well as evolution in the public schools have once again focused public attention on the issue. Proponents of both sides of the issue agree that the question of origin is an extremely important one. Speaking for the creationists, Wysong stated that:

The resolution of this controversy is vital to the formulation of a life philosophy. . . . Both creation

and evolution are theories of human behavior and therefore affect human behavior. 1

On the other side of the controversy, John Dewey, speaking of Darwin's work, said:

. . . the Origin of the Species introduced a mode of thinking that in the end was bound to transform the logic of knowledge, and hence the treatment of morals, politics, and religion. 2

#### Definition of Important Terms

There are several types of creationists and two main types of evolutionists. Johns sets forth three strategies which have been used in relation to origin:

Basically, three approaches have been followed: one extreme gives as much credence as possible to the conclusions of the geologist, the other gives as much credence as possible to the biblical record, and a third attempts to give equal validity to science and Scripture. Of course, many gradations exist between these three broad categories. 3

Evolution and creation are not necessarily antithetical.

Some creationists

. . . accept the geologic evidence for long periods of time, including the entire sedimentary record. . . and believe that matter and basic forms of life were originally created by divine fiat, with extensive speciation following the creation, 4

and "in most cases, evolutionary theorizing begins with pre-existing stuff which evolves." 5 Bergman defined

evolution and creationism in the following way:

Essentially, evolution is the belief that all living things descended from a few simple forms of life or from a single form of life that has progressed from a simple to many complex forms. Creationism is generally defined as the belief that all living things were created by an outside agency basically as they now exist. In addition, creationism supports the premise that there is purpose and order in the

universe in both living and non-living things, whereas evolution sees purpose and order only as man defines it. Creationism generally opposes the idea that chance is an important factor in the order of things and instead stresses order and purpose. 6

However, the new creationists profess no disdain for science. According to Godfrey,

College-educated fundamentalist Christians with a strong commitment to science. . . have set out to convince the public that "true science" supports the creation model of world and life origins. 7

Creationists do not generally disagree with evolutionists on the data, but differ in their interpretations of the data. Bergman set forth the example of similarity in bone structure. The evolutionist would see it as "evidence of a common evolutionary origin whereas a creationist would see it as evidence of a common designer." 8

The current debate has been joined by a type of "creationist" who insists on a very young earth and rejects the geological timetable and by "evolutionists" who are equally rigid in separating processes from God. Olson said,

With the alternatives limited by such a dichotomy, it is no wonder that the current battle between the extremes of evolutionists and "creationists" generates more heat than light. 9

#### Historical Background

Darwin's work, The Origin of the Species, created immediate furor in England, but, while widely reviewed in the United States in 1860, it was obscured by the critical election and the impending war. Some hardy scholars

quietly studied the work and a few men began "laying the foundation for a popular campaign on behalf of evolutionary science."<sup>10</sup> John Fiske, an undergraduate at Harvard, Edward Livingstone Youmans, a popular lecturer on scientific subjects, and Asa Gray, a Harvard botanist, led the movement to make evolution respectable. According to Kennedy,

Articles in religious journals and popular magazines show that American readers were fast becoming absorbed in the evolution controversy during the years after the Civil War. <sup>11</sup>

Up until the present century, creationism held the upper hand in terms of popularity. Thirty-seven anti-evolution bills were introduced into twenty state legislatures between 1921 and 1929. The first such bill to pass was the one in Tennessee which was contested in the famous "Scopes Trial"<sup>12</sup> in the summer of 1925. Similar legislation was enacted in Mississippi and Arkansas, but failed by narrow margins in other states. However, informal restrictions, such as censorship of textbooks by local school boards and superintendents of education, served to prevent the teaching of evolution in public schools for many years.

The "Scopes Trial" involved a Dayton, Tennessee, high school teacher who violated the law against the teaching of evolution in tax-supported schools. The legal issue was the validity of the law and the question as to whether or not it violated the principle of separation of church

and state. The trial was highly emotional and well-covered by the press and drew international attention. William Jennings Bryan was the prosecutor for the state and John Scopes was defended by Charles Darrow. The trial focused, not on the legal point, but on the issue of science versus the Bible. The original verdict was in favor of the state against John Scopes and he was given the minimum fine of \$100. In an appeal, which Scopes had planned to take all the way to the United States Supreme Court, the state law was upheld, but the fine against Scopes was dropped. The appellate court said, in effect, that the law was not meant to be enforced and that Scopes should not have been prosecuted. The decision kept the Scopes trial out of the Supreme Court. Although the state won a legal victory, Kennedy observed that:

The general effect of the trial was to discredit fundamentalism. This public reaction, together with the death, shortly after its conclusion, of Bryan. . . resulted in the gradual subsidence of fundamentalism as a militant political movement. 13

In recent years, there has been a revival of political and religious conservatism in the United States and the movement to have "balanced treatment" of creationism and evolution in the public schools has gained national attention. By the end of 1980, "two-model" scientific education bills had been introduced in the state legislatures of Florida, Georgia, Illinois, Iowa, Kentucky, Louisiana, Minnesota, New York, South Carolina,



Tennessee, and Washington, and were being introduced elsewhere. Various school boards around the country had passed resolutions that made concessions to creationist pressure. <sup>14</sup> Legislation requiring balanced treatment was passed in Arkansas and Louisiana in 1981. The Arkansas law was ruled unconstitutional in McLean by the United States Supreme Court in 1982.

### The Controversy

During the 1980's, a number of so-called balanced treatment bills were introduced into state legislatures. <sup>15</sup> These bills have been designed to avoid reference to God and the Bible and the authors of these bills argue that creationism is a science and, as such, should be given equal emphasis in the public school curriculum. The Louisiana bill, introduced by William Keith in 1981, read in part:

Balanced treatment of these two models shall be given in classroom lectures taken as a whole for each course, in textbook materials taken as a whole for each course, in library materials taken as a whole for the sciences and taken as a whole for the humanities, and in other educational programs in public schools, to the extent that such lectures, textbooks, library materials, or educational programs deal in any way with the subject of the origin of man, life, the earth, or the universe. When creation or evolution is taught, each shall be taught as a theory, rather than as proven scientific fact. <sup>16</sup>

The present controversy is concerned with the question of whether or not creationism should be given "equal time" in the public schools of America. Although the creationists insist that the question is scientific

rather than religious, the entire controversy has strong religious overtones. <sup>17</sup> Broad points out that "In Louisiana, creationism is being hailed as a science, while in California evolution was attacked as religion." <sup>18</sup> Brush sets forth the argument of the evolutionists that:

Creationism is not a legitimate scientific theory, that it exists today purely as a religious doctrine. . . . On the other hand, they [evolutionists] claim that the evidence for evolution is so overwhelming that, while it remains a theory and should be taught as such, it is difficult for any qualified biology teacher to present it as anything less than established fact. <sup>19</sup>

Olson pointed out that although the people who are trying to portray creationism as strictly scientific are sincere Christian people, they are wrong and there are many Christians who do not feel that creationism is scientific. <sup>20</sup> and Strike argued that the real motive of creation-science is religious. <sup>21</sup> Creationists, in turn, assign a religious character to evolution and claim that the teaching of evolution in public schools is a violation of the Constitution of the United States and that either

. . . the theory of evolution should not be taught or both evolution and special creation should be taught as equal but alternative explanations of the origin of humankind and the earth. <sup>22</sup>

The question of whether or not the issue of origins can be treated neutrally without establishing a "religious view" has been raised by some. <sup>23</sup> McMahon stated that neutrality is a myth and that

. . . scientific neutralism is not neutral - it is a faith of a different kind. Honest religious dialogue

is a rare occurrence in far too many secondary schools. 24

Bird asserted that exclusive teaching of either theory in publicly supported schools results in abridgement of free exercise of religion. Writing in the Yale Law Journal Review, Bird stated:

Both evolution and creation have religious and scientific aspects; neither is a testable, falsifiable theory of empirical science; some religions find strong support in evolution-science; other religions find strong support in creation-science; there seems to be no third religious position. The state is not allowed to establish any religion, be it theistic or non-theistic; teaching the science that supports one religious group to the exclusion of the science that supports the other is a violation of the first amendment rights of the group excluded. 25

Some creationists have rejected the very concept of neutrality and argue that religion must be taught. Bergman pointed out that indoctrination can occur in any subject and should be avoided. He said, "It is impossible not to teach about religion in the schools," 26 and that not teaching religion teaches students that it is unimportant.

The entire debate represents a continuing conflict between two world views. Each side in the debate believes sincerely that it is correct and represents the American way, but at least one issue in the debate involves the question of academic freedom.

#### Academic Freedom

Creationists contend that since evolution is

presently being taught to the exclusion of creationism, academic freedom is being suppressed. Bergman observed that:

If schools are truly to be places of inquiry, we must not inhibit investigations in any single area, but must look at all sides of the issues, even issues some people label "religious." 27

He went on to explain that few creationists want to forbid the teaching of evolution, but they want it to be taught as a theory and not as a fact and they want creation to be presented and discussed accurately. Bergman stated that "This freedom is not always granted to those teachers who want to teach creationism." 28

Clark said that:

If evolution could be proved, of course it should be taught. If creation could be proved, certainly it should be taught. But since neither can be proved, and there are millions of people who believe in evolution and millions in creation, both should be taught, and the pupils allowed to take their choice as to what seems the most reasonable. But it is manifestly unfair to teach only one side of the question. 29

Moser asserted that:

A denial of the right to be taught Creation-Science as an alternative theory for the origin of our universe is a denial of both the civil liberties and the religious freedom of the students. Academic freedom should apply to the students even more than to the teachers. The students should have the freedom to hear more than just one possibility when there is another viable option. 30

Moser and Bliss argue that students learn more about both creation-science and evolution-science when exposed

to a two-model approach, because teaching both offers a chance for comparison and contrast. Bliss conducted a study in which he found that students taught with a "two-model" approach developed more positive attitudes toward the subject and retained more information about both models than did students who were taught just one model or the other. 31

Many educators feel that academic freedom should not be interpreted to mean that all views must be presented, but only the ones which are legitimate. They reassert the belief that creationism is not a science, but a religion. Strike and Sagan compare creationism with mythology and suggest that teaching the concept of a flat earth would be just as tenable. Strike suggests that creationism does deserve a forum, but not in the classroom. He feels it should be presented to the scientific community. 32 Moyer feels that evolution and creation are not alternatives and that by teaching them both the state would be forcing children to choose between science and God. 33

#### The Constitutional Question

Apart from the question of academic freedom, the more fundamental question concerns the constitutionality of teaching creationism in the public schools. The creationists argue that evolution is a religion, the religion of secular humanism, and that creationism is a science. This approach inevitably leads to disagreement

about the legality of teaching creationism . 34

Is it legal to teach creation along with evolution in tax-supported schools? Creationists say that it is and point to the fact that the Constitution mentions both God and a Creator and the Declaration of Independence refers to the fact that "all men are created equal, endowed by their creator with certain unalienable rights." The "balanced treatment" act claims that schools censor creationism and that

Teaching only evolution amounts to establishment by the state of a religion because it gives preference to a theological liberalism, humanism, non-theistic religions, and atheism, and that these religious faiths generally include a religious belief in evolution. 35

The Court battle over the Arkansas act centered around whether or not it violated the principle of separation of church and state. The American Civil Liberties Union charged that the Arkansas "balanced-treatment" law

. . . constitutes an establishment of religion, abridges the academic freedom of both teachers and students, and is impermissibly vague, all in violation of the Constitution. 36

An evolutionist who testified in favor of the act, W. Scott Morrow, professor at Wofford College, said:

. . . the scientific community represents a "stacked deck" for the creationist. I know enough of my fellow evolutionists to know a closed mind when I see it. 37

In January, 1982, U. S. District Judge William R. Overton ruled that the Arkansas Act 590 of 1981, the

balanced-treatment for creation-science and evolution-science, was unconstitutional in that it violated the First Amendment's ban on any establishment of religion. <sup>38</sup> The judge in the McLean case based his ruling on the three-fold criteria established by the Supreme Court in the Lemon v. Kurtzman case. <sup>39</sup> These criteria formed a test by which a law could be examined to determine whether or not it violated the establishment clause:

First, the statute must have a secular legislative purpose; second, its principal or primary effect must be one that neither advances nor inhibits religion. . . ; finally, the statute must not foster " an excessive government entanglement with religion." <sup>40</sup>

In the judge's opinion, Act 590 failed all three criteria.

However, it is not against the law to teach creationism since Schempp banned state imposed devotions, but upheld the objective study of religion. Creationism can be taught in the public schools if it is taught objectively. There are still laws in some states which are more antagonistic to evolution than to creationism. It was not until March of 1967 that the Tennessee State Senate amended the law which led to the Scopes trial in 1925. In Mississippi it is still against the law to teach evolution.

The creationist-evolutionist debate has persisted for nearly the entire twentieth century. The intensity and duration of this debate can only be understood as manifestations of the underlying social dynamic. The

entire debate can best be understood as a manifestation of a conflict on the cultural-religious level which is far more extensive than the legal-institutional level in which it is presently being manifested.

### The Influences

Olson states that "Behind each of the two groups involved in the controversy is a home-front, a good sized segment of America's general public." <sup>41</sup> Each of the groups has its charismatic leaders, its organizations, and its devoted followers.

### Religious Right

The first influential group is the religious right.

Kennedy stated that:

Every society depends upon a system of values, otherwise it could not be a real community. Historically, these values have always been sanctioned by some kind of religious faith. American society has developed within a matrix of the Christian religious tradition. <sup>42</sup>

Bergman pointed out that:

Religious ideas have been extremely important in the development of Western Civilization - its values, culture, and social institutions. Religion has played an important part in the wars, governments, economic systems, and most other aspects of society. <sup>43</sup>

Kennedy suggests that perhaps this is why Americans have "invariably treated their political conflicts as moral issues and not as a naked struggle for power." <sup>44</sup>

While both evolutionists and creationists seem to "speak religiously" of their beliefs and to hold to them



with an evangelistic fervor, religious fundamentalism, a rapidly growing movement, has given its support to the creationists. Several Christian organizations have been active in the movement to seek "equal time" for creation-science in the public schools. Among these are the Moral Majority, the 700 Club, the Creation Research Society, and the Institution for Creation Research. These organizations have published books, made films, and sponsored public lectures and debates.

Teachers of evolution realize that there is a problem with regard to children who have been taught at home that the Genesis account of creation is literally true. These students are placed in the position of deciding that either their parents or their teachers are wrong. This dilemma is not unlike those posed by a number of other minorities in the public school.

#### Political Right

The religious right has been joined by the political right. Many fundamentalist Christian organizations have been politically active in seeking to get legislation passed which is favorable to their position. Strike said that:

Well-organized groups of creationists employ a wide variety of coercive political tactics at all levels of local, state, and federal government, as they seek to force the incorporation of their religious views into public school science curricula. 45

These groups have influenced many state legislators and

President Reagan publicly agrees with their position of "balanced treatment."

Evolutionists are equally active politically and just as influential. The American Civil Liberties Union, backing the evolutionists, was very active in the Arkansas case. The American Humanist Association has also prepared and distributed material arguing against the case for "equal treatment." 46

The television program, Cosmos, according to Harnack, was "co-incidental with the formation of the Moral Majority and the largest swing to a religio-political right this country has ever experienced." 47 Sagan, a leader in the evolutionist movement, is, like Falwell of the Moral Majority, a charismatic and visible leader.

#### Public Opinion

A number of surveys of college students, parents, and citizens in general has shown that the "majority of persons desired that both evolution and creation be taught in the public schools." 48 In an Associated Press-NBC News poll of 1,598 adults, 76% favored teaching both theories; 10% favored teaching only the biblical account; 8% favored teaching only the evolution account; and 6% were unsure. 49

Broad said that:

The taxpayers pay for the buildings and the textbooks, yet they get a lot of stuff taught that they don't agree with. Is it the taxpayer's education or the educator's education that is getting

handed down to our children? 50

Some citizens' groups are getting involved in the issue, seeking to have more control over what is taught in the schools. A model bill is being circulated around the country by a conservative group in South Carolina, "Citizens for Fairness in Education." Another citizens' group, "Citizens Against Federal Establishment of Evolutionary Dogma," is starting a national legislative drive to have a national bill passed. 51

#### Effects

As a result of the current controversy over creationism, many local school boards have eliminated evolution or added creation to their science curriculum through censorship of textbooks. In Colorado, where a "balanced treatment" bill was killed in the Senate, local school boards have control over the curriculum and the influence of the creationists has been felt. The Dallas School Board voted six to three in 1977 to approve the use of a biology textbook which presented creationism in a favorable light and was critical of evolution. 52

Legislation which would have provided "equal treatment" was defeated in Colorado, but the publicity received did much to help the cause of the creationists. A similar bill had been introduced and defeated in 1972.

In California, an anti-dogmatism policy which was adopted by the State Board of Education in 1972 was given

new attention after Segraves v. California <sup>53</sup> when the judge instructed the state to send copies of the policy to all concerned. Although the state won a narrow victory, the Creation Science Research Institute received a lot of publicity and the stamp of legitimacy for its views. Kelly Segraves said:

I think you'll find a very effective change taking place that will stop the dogmatic teaching of evolution and will protect the rights of the Christian child. <sup>54</sup>

A number of educational organizations have encouraged teachers to look at several theories of origin instead of just one. The school board of Columbus, Ohio, passed a resolution "encouraging teachers to teach creationism along with evolutionism in discussions that deal with the origins of life." <sup>55</sup> In Texas, the State Textbook Commission refused to authorize the purchase of several biology textbooks because they were biased in favor of evolution.

The states of Florida, Oklahoma, Mississippi, West Virginia, Delaware, Georgia, Alabama, North Carolina, South Carolina, Minnesota, and California have all endeavored, some successfully, some not, to pass bills requiring discussion of other theories as well as evolution. <sup>56</sup> Steps have been taken to assure equal representation of both views in Ohio, Arizona, Oklahoma, Tennessee, Oregon, Indiana, and Texas. Seminars on creationism have been taught at the University of Vermont,

Oklahoma State University, San Diego State University, Northwestern University, Fresno State University, the University of Texas, Iowa State University, Virginia College of Graduate Studies, the University of Wisconsin, and Bowling Green State University.

Many textbooks have been published recently which present both sides of the issue.

An important result of fifteen years of effort by so-called "scientific" creationists has been the de-emphasis or elimination of material on evolution in high-school biology textbooks written in the past few years. 57

### Conclusion

The creationist-evolutionist debate can be more clearly delineated when considered on two levels. The first level is the legal level. At this level, the question is reduced to a constitutional question of institutional relationships, that is, the church-state relationship. This relationship has been dynamically defined over a 200 year period as the establishment clause has been defined by the courts. On the legal level, the question raised by such cases as McLean<sup>58</sup> are clear and distinct. The courts have held, in effect, that the teaching of creationism violates the constitutional prohibition against the establishment of religion by the state.

The second level on which the questions raised in this debate can be considered is the religious-cultural

level. The legal level is included in the religious-cultural level, but is narrower and more clearly focused than the wider, less-focused religious-cultural level. This second level involves the interrelationship of religion and culture. At this level there is, in reality, a continuing question of how religion and democracy should relate. At this second level the clear distinct line between institutions, such as the church and the state, which exist on the legal level become blurred and indistinct. The wall" that separates church and state on the legal level has breeches and is at times non-existent on the religious-cultural level. At the second level, concepts such as "democratic faith," "religion of democracy," "civil religion," "Christian nation," and "Judeo-Christian heritage" are encountered.

As the debate moves from the legal level to the cultural level, two quite different epistemological systems come into conflict. Gilkey makes this point when he observes:

Apart from the constitutional issues, moreover, the creationist controversy raises other questions having to do with the relation of scientific truth to religious truth. . . The problems arise out of the very nature of an advanced scientific and technological culture that also remains a religious culture. 59

Gilkey goes on to argue that there is a kind of scientific fundamentalism in which science defines truth. This kind of epistemology or rationalism in effect denies that

"truth" can be arrived at by any other than the empirical method. This kind of scientific epistemology is manifested in such philosophies as naturalism, logical positivism, and, to a lesser degree, general semantics. When science moves to such questions as origins and destinies, it can be argued that science has become a kind of religion. When science also argues that all other epistemological systems but its own are invalid and uses the school system to propagate these beliefs, it can be argued that the teaching of this kind of science violates the establishment clause. This is precisely the argument being put forth by the fundamentalists. 60

## Notes

<sup>1</sup>R.L. Wysong, The Creation-Evolution Controversy (East Lansing, Michigan: Inquiry Press, 1976), pp. v and 2.

<sup>2</sup>John Dewey, "The Influence of Darwinism on Philosophy," in Great Essays in Science, M. Gardner, ed. (New York: Pocket Books, 1957), p. 16.

<sup>3</sup>W.H. Johns, "Strategies for Origins," Ministry, 54 (May 1981): 26.

<sup>4</sup>E.A. Olson, "A Hidden Agenda Behind the Evolutionist-Creationist Debate," Christianity Today, xxvi (April 1982): 27.

<sup>5</sup>Ibid., 27.

<sup>6</sup>J. Bergman, Teaching About the Creation/Evolution Controversy (Bloomington, Indiana: Phi Beta Kappa Educational Foundation, 1981), p. 8.

<sup>7</sup>L.R. Godfrey, "The Flood of Antievolutionism," Science Teacher, 48 (April 1981): 5.

<sup>8</sup>Bergman, p. 41.

<sup>9</sup>Olson, p. 27.

<sup>10</sup>G. Kennedy, ed., Evolution and Religion. The Conflict Between Science and Theology in Modern America (Boston: D.C. Heath and Co., 1957), p. 4.

<sup>11</sup>Ibid., p. 4.

<sup>12</sup>Scopes v. Tennessee, 289 S.W. 363 (1927).

<sup>13</sup>Kennedy, p. ix.

<sup>14</sup>Godfrey.

<sup>15</sup>W.J. Broad, "Louisiana Puts God Into Biology Lessons," Science, 213 (August 1981): 629.

<sup>16</sup>Ibid., 629.

<sup>17</sup>Bergman.

<sup>18</sup>Broad, 629.

<sup>19</sup>S.G. Brush, "Creationism/Evolution: The Case



Against 'Equal Time,'" Science Teacher, 48 (April 1981): 29.

<sup>20</sup>Olson.

<sup>21</sup>K.A. Strike, "The State of Creation-Science: A Comment on Siegel and Hahn," Phi Delta Kapan (April 1982): 28.

<sup>22</sup>Bergman, p. 45.

<sup>23</sup>H. Siegel, "Creationism, Evolution, and Education: The California Fiasco," Phi Delta Kappa, 63 (October 1981): 96.

<sup>24</sup>Michael McMahon, "Religion, Scientific Naturalism, and the Myth of Neutrality," Intellect, 102 (April 1974): 35.

<sup>25</sup>Wendell R. Bird, "Freedom of Religion and Science Instruction in the Public Schools," Yale Law Journal Review, (1978): 554-555.

<sup>26</sup>Bergman, p. 27.

<sup>27</sup>Ibid., p. 25.

<sup>28</sup>Ibid., p. 26.

<sup>29</sup>Harold Clark, The Battle Over Genesis (Washington, D.C.: Review and Herald, 1977), p. 34.

<sup>30</sup>M. L. Moser, Jr., "Creation-Science Trial in Little Rock," Baptist Bulletin (April 1982): 14.

<sup>31</sup>Ibid.

<sup>32</sup>K.A. Strike, W.J. Harnack, and Carl Sagan, "Cosmic Education vs. the Creationist Myth," The Humanist, 41 (July/August 1981).

<sup>33</sup>W.A. Moyer, "Argument for Maintaining the Integrity of Science Education," The American Biology Teacher, 43 (October 1981): 380.

<sup>34</sup>Bergman.

<sup>35</sup>R. Baum, "Battle Brewing Over Arkansas Creationism Law," Chemical and Engineering News, 59 (July 1981): 26.

<sup>36</sup>Ibid., p. 25.

<sup>37</sup>J. Weatherly, "Major Battle Coming Over Arkansas Creation Law." Christianity Today, xxvi (October 1981): 29.

<sup>38</sup>McLean v. Arkansas Board of Education, 529 F. Supp. 1255 (1982).

<sup>39</sup>Lemon v. Kurtzman, 403 U.S. 602 (1971).

<sup>40</sup>Judge William R. Overton, "Creationism in Schools: The Decision in McLean vs. the Board of Education," Science, 215 (February 1982): 934.

<sup>41</sup>Olson, p. 26.

<sup>42</sup>Kennedy, p. xi.

<sup>43</sup>Bergman, p. 27.

<sup>44</sup>Kennedy, p. xii.

<sup>45</sup>Strike, p. 558.

<sup>46</sup>American Civil Liberties Union v. Arkansas.

<sup>47</sup>Strike, Harnack, and Sagan, p. 5.

<sup>48</sup>Bergman, p. 28.

<sup>49</sup>Ibid.

<sup>50</sup>Broad, p. 629.

<sup>51</sup>Ibid.

<sup>52</sup>Bergman.

<sup>53</sup>Segraves v. California, Sacramento Superior Court, no. 278978 (1979).

<sup>54</sup>L.R. VanDolson, "'Monkey Trial' Ruling Pleases Creationists," Ministry, 54 (May 1981): 14.

<sup>55</sup>Bergman, p. 33.

<sup>56</sup>Ibid.

<sup>57</sup>L.D. Wolfe and P.J. Gray, "Creationism and Popular Sociobiology as Myths," The Humanist, 41 (July/August 1981): 45.

<sup>58</sup>McLean v. Arkansas Board of Education, 29 F.Supp.

1255 (1982), 684.

<sup>59</sup>Langdon Gilkey, "Creationism: The Roots of the Conflict," Christianity and Crisis, 42 (April 1982): 108-109.

<sup>60</sup>Gilkey, p. 108.

CHAPTER IV  
SECULAR HUMANISM AND RELIGION  
IN THE PUBLIC SCHOOLS

Introduction

The current controversy over humanism in the public schools has been described as "the issue whose time has come."<sup>1</sup> The issue of humanism is one of the most difficult and emotionally charged issues facing our system of public education. In order to help put the issue in perspective, this chapter will first trace the development of humanism, then attempt to determine just how the terms of the debate are being used by those on either side of the issue. Sample textbook legal cases will be discussed and some proposed solutions will be considered.

Development of American Humanism

The humanistic tradition is so much a part of our modern climate of opinion that it is generally taken for granted by modern thinkers, but this was not always the case. The thousand years of the Middle Ages were characterized by an attitude of otherworldliness; it was an era when the church and the king justified the hard life endured by most of the population as being redemptive and preparatory for the next life. By contrast, humanism

emphasizes an interest in man and nature, the here and now. The gradual transition from a medieval to a more modern world and life view took place during the Renaissance, and its most characteristic feature was a revival of Greek humanism. Humanism as an intellectual movement began in the fourteenth and fifteenth centuries. Men of the Middle Ages were not unlearned; they were learned in the Church Fathers, the Commentators, and, most importantly, in Aristotle. However, the learning of the humanist revival was the secular learning of the ancients: the poems, dramas, and essays that had for centuries been lost to the western world. The humanist movement began with the age of discovery, both of the eastern world and the manuscripts of the ancient world. The fall of Constantinople to the Turks did, in fact, stimulate the flow of knowledge from the east to the west. A large number of manuscripts were brought to Italy by emigres from the fallen Byzantine Empire.<sup>2</sup> The discovery of this ancient literature was accompanied by a growing taste for new knowledge that had been stimulated by a disillusionment with the church, consequently the relationship between the rise of humanism and the reformation was reciprocal.<sup>3</sup> There were, of course, other factors involved in the breakup of the medieval order. There were also geographical differences, such as those between the Renaissance in Italy and the trans-

Alpine Renaissance. The one unifying theme was a movement away from transcendental values which were authoritatively imposed by the church to a value system based on the empirical study of man and nature.

The geographical origin of the humanist movement was Italy, particularly in the growing town life of the North. The first stage of the humanist movement was epitomized by Francesco Petrarch (1304-1374).<sup>4</sup> Petrarch believed that anything great must necessarily come from Greece and Rome, and he spent his life collecting and translating the classics of antiquity. In an era when printing was still unknown in Europe, Petrarch wrote hundreds of letters to correspondents throughout the continent, letters in which he put forth his views on a great variety of human affairs and his fervor for the classics. His enthusiasm was contagious and infected many others. Faulkner called Petrarch the first modern man and believed that only two other writers were ever as popular as he was: Erasmus and Voltaire.<sup>5</sup>

Outside of Italy, the Renaissance took on a different form, or at least a different emphasis. The humanists of Germany, France, Spain, the Low countries, and England were motivated by a deeper religious sense. P.S. Allen pointed out two major differences between the Italian Renaissance and the Trans-Alpine Renaissance. First, the latter renaissance did not view the classical civilization

in patriotic terms; in fact, Europe during the classical period was vanquished territory. Second, scholastic philosophy and theology were creations of the North. <sup>6</sup> All humanists were profoundly interested in the classics, but, while the Italian humanists studied the ancient Greeks and Romans for what they could learn of man and nature, those humanists in the North studied the Hebrew, Greek, and Latin texts of the Bible and the Church Fathers in order to restore the moral vitality of Christianity. <sup>7</sup> The humanist influence upon scholarship led to continued emphasis upon the university. These European universities concentrated upon theology, medicine, and law. The discovery of the classics by the Europeans turned the studies within these centers of learning to the "study of humanity," that is, humanism. <sup>8</sup>

In addition to the humanistic scholarship of Europe, there was a corresponding lay movement. This was an ominous development for the church because religiously inclined humanists and laymen began to put distance between themselves and the church. This disillusionment of laymen with the church was especially evident in the Netherlands. By 1400 a group known as "the brothers of the common life" had come into being. While not separating from the organized church, this group opened a number of independent schools which taught, in addition to the elementary subjects of reading and writing, a

Christian ideal of character and conduct. At the end of the fifteenth century, there were thousands of laymen in the lowlands of Germany who had been pupils of the Brothers and who were becoming increasingly critical of the clergy. <sup>9</sup>

Perhaps the greatest of the humanists was Desiderius Erasmus (1466-1536). <sup>10</sup> Erasmus grew up in Rotterdam as the illegitimate child of a cleric and received his early education from "The Brothers of the Common Life." He was ordained to the priesthood in 1492. He left the monastic life after only one year. While studying in Paris, he met Lord Mountjoy, whom he accompanied to England, where he met the great English humanists Thomas Moore and John Colet. This exposure to Neo-Platonism and classicism awakened a religious scholarship which resulted in a lifetime of writing. He wrote thousands of letters in which his views were thoroughly expressed. <sup>11</sup> For the first two decades of the sixteenth century, Erasmus dominated the intellectual life of Europe. He was concerned about the abuses of the church and for awhile encouraged Luther in his work. By 1520, however, Luther's excesses of "passion," as Erasmus referred to them, had turned Erasmus against Luther. <sup>12</sup> Erasmus as a scholar put his faith in education, which he hoped would give people a better understanding of the Christian faith. To this end he devoted himself to the development of the



Greek text of the New Testament. His text, which became known as the "received text," became the basis for the "Authorized Version" of the Bible, which is even today the most widely read English version of the Bible. Erasmus felt that Christianity should be an expression of broad and tolerant values. He was convinced that a person could meaningfully engage in the affairs of this world and still remain a devout Christian.

#### Diverging Streams of Humanism

As Randall said, "It is thus apparent that we should speak of many different aspects of the new spirit rather than of a single, homogeneous humanistic urge." 13 Italian humanism was basically pagan, while German humanism was more religious. The northern humanism of Erasmus and Luther became the precursor of the English and American world and life view, but the southern, that is , Italian, form of humanism has also had a significant impact on the western world. The northern or German humanism of Erasmus was predicated on the idealism of neo-Platonism. This combined with the Lutheran stoicism gave rise to the

. . . conception of the dignity of a human society in which the walks of life are intrinsically good, and industry, thrift, and productive labor are elevated into the cardinal virtues. 14

This stream of humanism persisted through Luther and Calvin into Puritanism and hence to the western hemisphere. The belief of Erasmus that the Platonic life

of reason and the Christian life of morality could be joined into a simple undogmatic religion of morality died out with Erasmus, but his emphasis on reason persisted through to the end of the enlightenment when Voltaire armed with the sword of science again argued for reason and against dogmatism.

The Renaissance and the Reformation combined to give people an awakened sense of "this world." The emphasis on "this world" was not only seen in the de-emphasis upon the "next world," but a re-emergence of the ancient Greek and Roman emphasis upon man and nature. The fact that the focus of attention was placed upon the present human condition led to a renewed study of man and man's world. These studies became known as the "humanities," thus, the designation "humanism." The humanistic spirit was seen in literature, politics, and especially the emerging "new science," which emphasized investigation and empirical knowledge. <sup>15</sup> As the western world grew, the new humanistic spirit also grew and developed. The development of humanism involved a gradual separation from the religious world view and precepts of the reformation and a growing identification with the scientific world view of the scientific revolution. By the time of the Enlightenment, the religious content of humanism had virtually been left behind. The Enlightenment was characterized by a faith in reason as opposed to a faith

in revelation, so much so that the period has been designated the "Age of Reason." The one man who epitomized the "Age of Reason" was Francois Voltaire (1694-1778). Voltaire's view of history and morals as set forth in his Essay on Morals, was thoroughly skeptical and humanistic. Durant observes:

. . . he produced the first philosophy of history—the first systematic attempt to trace the streams of natural causation in the development of the European mind: it was expected that such an experiment should follow upon the abandonment of the supernatural explanation: history could not come into its own until theology gave way. According to Buckle, Voltaire's book laid the basis of modern historical science; Gibbon, Niebuhr, Buckle and Grote were his grateful debtors and followers; he was the "caput nili" of the all and is still unsurpassed in the field which he first explored. 16

Voltaire in many respects represents a significant portion of the American spirit of anti-authoritarianism, skepticism, and pragmatism. This strain of humanism combined with Puritanism to produce the uniquely "American" approach to life. In the American milieu, both the religious world view and the scientific world view have merged. The early settlers were very religious, but also pragmatic. The fathers of the nation were greatly influenced by the enlightenment philosophers. Thus, the religious and the humanistic views were both incorporated into the fabric of the new nation. This mingling of both the Renaissance and the Reformation has thus made a definition of "humanism" very complex and, at times, confusing. It is in this context that the current debate

with regard to secular humanism is occurring.

### The Current Controversy

The current debate has occurred consequent to a number of challenges to the public school curriculum on the grounds that the schools are promoting a world and life view which is, in effect, a religious view, the religion being that of secular humanism. Any discussion of this debate requires that the term secular humanism be defined. As is often the case, the debate is confused because those on either side of the question define the term in various and often conflicting ways. There are two very broad definitions offered to the term, humanism. The first broad definition views secular humanism and humanism as being synonymous and equates the term with western culture. For example, one such broad definition is that humanism is "believing in civility and placing importance in the traditions of culture."<sup>17</sup> Another example of the broad approach to definition is that given by Krauthammer in which he identifies a humanist as a student of the humanities.<sup>18</sup> In these broad definitions, there is nothing innocuous, because they are usually offered by people who consider themselves humanists. Others attempt to define the term more narrowly, but yet view the term non-pejoratively.

Many who consider themselves humanists have attempted to give a narrow definition to the term, but the attempt

has led to multiple and often conflicting definitions. Sometimes the definitions are stated in adjectival form, such as: Christian humanism, Greek humanism, ethical humanism, scientific humanism, religious humanism, rational humanism, and humanistic Judaism. <sup>19</sup> Hooks suggest that humanism is "an ethical doctrine and movement," and leaves room for "private religious belief." <sup>20</sup> Hooks later defines humanism by negation and denies that one who believes in an established church based on divine revelation can be a humanist. <sup>21</sup> Blackham suggests that humanism is "a concept of man" in which

. . . man is his own rule and his own end. Human life is in human hands. The strategy for living is "adopt and adapt," not "obey or conform." <sup>22</sup>

Blau adopts a more general approach by defining humanism

. . . as a perceptive loyalty to man and a generous caring for him. Its universal tendency is to stress human self-understanding and self-determination. <sup>23</sup>

Kurtz admits that "there are many varieties of and meanings given to humanism," but continues to offer four characteristics of contemporary humanism:

First, humanists have some confidence in man and they believe that the only bases for morality are experience and human needs. Second, many or most humanists are opposed to all forms of supernaturalistic and authoritarian religion. Third, many humanists believe that scientific intelligence and critical reason can assist in reconstructing our moral values. And fourth, humanism is humanitarian in that it is concerned with the good life and social justice as moral ends. <sup>24</sup>

Kurtz later modifies his second point with regard to religion:

Humanism cannot in any fair sense of the word apply to one who still believes in God as the source and creator of the universe. Christian humanism would be possible only for those who are willing to admit that they are atheistic humanists. It surely does not apply to God-intoxicated believers (This would not exclude a "religious" humanism, provided it is a naturalistic, non-theism). 25

The relation of religion and humanism is an important point to both the humanist and the anti-humanist. In order to set the arguments in contrast to each other, it is important to see how each side of the argument is seen by the parties involved.

#### Religion As Seen By Humanists

Schneider has defined humanism as a religion which has as its primary goal to free religion from dogma and theistic theologies and belief in supernaturalism. 26 Other humanists have as their primary objective to demythologize religion and to advocate a new pantheism. 27 Still other humanists are atheistic. According to DeFord, "Religious humanism. . . is to me merely a contradiction of terms. . . . Humanism in my view must be atheistic." 28 Zimmerman points out that many humanists disdain the term atheist because they hope to gain support for their cause by using this tactic. 29 Other humanists argue that humanism is a philosophy of man and is consequently not concerned with questions religion is traditionally concerned with. 30

#### Humanism As Seen By the Religions-Political Right

The current debate with regard to the extent of the

influence of secular humanism as manifested in the public school curriculum has been joined by a coalition of religious and political leaders. The religious leaders are generally referred to as fundamentalists ( a term with diverse and usually pejorative connotations) , and the political leaders are usually identified as conservatives. While most fundamentalists view humanism as a threat, some have not joined the religious-political movement.

There have been a number of challenges to the public school curriculum based on specific objections, such as the sex education curriculum, but there is a general theme to many of these challenges: that the curriculum is advocating the religion of secular humanism. The argument is set forth clearly by Blum, the President of the Catholic League for Religious and Civil Rights:

. . . is secularism a religion? We have seen that theologians say, yes, it is a religion. It is important to know, also that under the first amendment, secularism is a religion. . .

It is declared in the Torcaso Case of 1961 that there are, on the one hand, "religions based on a belief in the existence of God [and on the other hand] religions founded on different beliefs.

The Court went on to say that "secular humanism" or secularism is one of those religions which "do not teach a belief in the existence of God."

The U.S. Supreme Court has attacked religious freedom on two fronts. First, in a series of decisions it has ousted the Biblical religions from government schools, and has effectively established in these schools the religion of secularism. Secondly, the Supreme Court has imposed heavy economic penalties on parents who send their children to God-centered schools - on parents who exercise their first amendment rights to give their children a God-centered education. 31

LaHaye is a leading fundamentalist spokesman in the humanist debate. In two books widely read among fundamentalists, The Battle for the Mind and The Battle for the Public Schools, LaHaye suggests that the humanists entered a conspiracy in the nineteenth century to use the public school system as a means of propagating its religion. This was to be done in three steps: first, make school attendance compulsory; second, establish government sponsored schools; and third, establish teacher-training schools. <sup>32</sup> LaHaye quoted from Mel and Norma Gabler, whom he described as "the most informed individuals in the country" on the content of public school textbooks, in describing the teachings of humanism.

According to the Gabler analysis, as interpreted by LaHaye, the teachings of humanism are: evolutionary dogma, self-autonomy, situation ethics, negation of Christianity, sexual freedom, total reading freedom, death education, internationalism, and socialism. <sup>33</sup> LaHaye contends that humanism is a religion, not only in the broad sense of the term, but in a specific nine-fold way. He proposes that humanism has a theology, it has a Bible, it must be accepted by faith, it is a way of life, and that it inspires missionary zeal, among other things. <sup>34</sup>

LaHaye believes that "the humanist social planners" control America through "four vehicles of mind control. . . education, the media, organizations, and government." <sup>35</sup>



While admitting that the kind of humanist he is describing is very few in number (he estimates their number to be 250,000), he says, "They exercise inordinate influence on America." 36

The fundamentalists not only have a clear belief concerning the objectives and beliefs of the humanist conspiracy, they also have strong views about the methods by which they believe the humanists are attempting to achieve their goals. Carter identifies some "specific programs designed to convey a humanistic outlook on life" which will "shape young minds." Among these programs, he lists: psychodrama, role playing, touch therapy, encounter groups, values clarification, situation ethics, sensitivity training, and survival games. He asserts that:

. . . these new programs are designed to "free" the children from the Judeo-Christian notions of value and morality their parents may have passed on to them. These programs cover such topics as sex education, drug education, family life, human development, and personality adjustment. 37

The list of subjects and ways of teaching is very extensive and the number of groups making the challenge is amorphous, but the two most influential leaders in challenges to textbooks are probably Mel and Norma Gabler. The Gablers have challenged biology textbooks because they taught evolution, history books because the Gablers felt the books were revisionist, literature books because of the language, social studies books because they explained

the communist or socialist system of economics or because, in the view of the Gablers, they were anti-free enterprise, and even dictionaries. 38

Of all the challenges to textbooks used in public schools which are allegedly humanistic, one of the most difficult to fathom is the challenge to basal readers which use what is referred to as the look-say method or some modified form of phonics. These challenges are not made solely on pedagogical grounds, although they are attacked as being ineffective; such was the case in the book by Rudolph Flesch, Why Johnny Can't Read. The Gablers and LaHaye attacked the books on ideological grounds. LaHaye, in his book The Battle for the Public Schools, offers seven possible reasons for using the look-say method. While not endorsing all seven reasons, LaHaye appears to endorse the following explanations. The first explanation is that of human greed. According to LaHaye, it requires bigger books to teach look-say than phonics and publishers get more money for bigger books and therefore use the look-say method. Second, progressive educators favor look-say because it is based on their atheistic humanistic beliefs and offers a good vehicle to "brainwash" children. The third explanation offered by LaHaye is naivete. He feels that some ignorantly believe the look-say method is best. Fourth, LaHaye mentioned the conspiracy theory. Although he disclaimed personal

knowledge of the conspiracy, he concluded that there must be some connection between John Dewey, the Humanist Manifesto, and the fact that Russia does not use the look-say method. Fifth, LaHaye apparently fully endorses the idea that the look-say method of teaching reading is a means of secularizing our school system. LaHaye says of the process of secularization of the school system:

The process began with textbook modification: phonics texts inculcated too many character building principles, moral values, and acknowledgements of a Supreme Being. The best way to assure change was to replace the reading system. 39

The views of LaHaye and the Gablers represent what may be categorized as the fundamentalist position, but there are other more moderate and more traditional voices being heard in this debate. Two such views, one religious and one political, illustrate a more moderate, but equally distinct viewpoint.

In February 1976 the Roman Catholic bishops of Pennsylvania issued a statement entitled "Public Education and Student Conscience: A Dilemma for Concerned Citizens."<sup>40</sup> The bishops take a less caustic approach and in general favor public education, but none-the-less voice concern over the "de facto dominance of secularistic" philosophy in the public schools. The Pennsylvania bishops summarize their concern as follows:

In recent years a critical dilemma has emerged in public education. . . . On the one hand education cannot be free of values. . . . on the other hand, the law of the land, as interpreted by the courts,

prohibits any values in education except secularistic ones. How, then, are the religious rights of conscience of children and parents who do not accept the secularistic view of human nature and destiny to be respected in an educational system where only secularistic values are allowed? 41

Another view is articulated by McGraw in an article published by the Heritage Foundation. McGraw identifies the terms "secular values," "secularism," and "secular humanism" with "anti-theistic religion." She then observes that "the public" is becoming more concerned over the use of tax dollars to support the religion of secular humanism.<sup>42</sup>

#### Challenges to Textbooks

Not only have voices of concern been raised in the literature, but some of these concerns have been argued in the political forum in connection with challenges to specific textbooks. There have been a great number of textbook challenges, but two of the more recent challenges will be discussed here.

One of the most publicized textbook challenges occurred in Kanawha County, West Virginia. Mrs. Alice Moore, a minister's wife, was elected to the county school board in 1970. Until this time, the school board had routinely adopted textbooks at the recommendation of the county school textbook committee. Mrs. Moore was successful in influencing the board to change the policy for textbook adoption. Beginning in 1973, the new policy was followed for the first time. The policy required that

the proposed textbooks be given to the board thirty days in advance and that the books be put on public display. In 1974, Mrs. Moore raised a broad range of objections, in which she was joined by the Gablers. As a consequence, some books were rejected, but Mrs. Moore and the Gablers were not satisfied and proceeded to mobilize a mass protest in which as many as 10,000 children were kept out of class. The ensuing protests included violence and resulted in the rejection of a number of textbooks. 43

Two more recent cases involve challenges in Alabama and Tennessee where textbooks have been challenged on the basis that they teach the religion of humanism. In the Alabama case, District Court Judge W. Brevard Hand has asked the attorneys involved in the case to offer an acceptable definition of "secular humanism." 44 The Winston-Salem Journal of October 25, 1986, carried the following headline: "Fundamentalists in Tennessee Win Right to Reject Certain Textbooks." The actual ruling, as explained in the article beneath the headline, denied alternative books, but allowed parents who are offended by certain literature books to keep their children out of reading class.

#### Summary of Viewpoints

The current debate is a confusing one in which a wide range of objections have been grouped under the general designation of "secular humanism." The confusion is

compounded by the fact that each objector apparently has his or her own definition of the terms involved. The situation is confused even more by the wide range of viewpoints. The viewpoints can be generally categorized in four groups: first, there is a group which says there is no problem; second, the viewpoint offered by the fundamentalists; third, the viewpoint of the separatists or neutralists; and fourth, mediating viewpoints.

#### The "No Problem" Viewpoint

There are a great many people who do not see a problem. Some deny there is such a thing as "secular humanism." Begstrom articulates this view:

"Secular humanism" is the bogeyman of religious right wing groups who have taken for themselves such lofty-sounding names as the Moral Majority and the Christian Voice. Reading their religio-political tracts and listening to their sermons on radio and t.v., one might almost be persuaded that great hoards of "secular humanists" have indeed banded together to wreak havoc on America. . . . Their attacks on Christians and other citizens who dare disagree with them on a variety of issues are designed to intimidate dissenters and stifle debate, and their dire predictions about the coming invasion of "secular humanists" are carefully calculated to generate millions of dollars in contributions from frightened citizens. 45

Krauthammer says:

What is behind all the rending of garments over secular humanism? . . . . It is a handy catchall to evoke all the changes in the postwar American cultural revolution. . . . Ultimately, it is a reaction to a decline in religious values. 46

#### The Viewpoint of the Fundamentalists

The fundamentalists offer two approaches to the

problems they perceive in the public schools. The first strategy has as its goal a reformation of the school system which would lead to a school system which propagates the protestant Christian religion. Vaught states:

Nowhere do enlightened Christians have a greater opportunity for good than to make their influence felt in the public schools of our country. 47

This is the approach followed by the Gablers and the Moral Majority type of political action groups. Another approach advocated by the fundamentalists is to establish private Christian schools. Some go so far as to establish "home schools." 48

### Neutralism

The third kind of solution is that offered by people who believe in total separation of church and state. In these approaches, the schools are seen as neutral. A classic statement of this position was published by the American Jewish committee in which two primary convictions were affirmed.

1. Separation of church and state as defined by the U.S. Supreme Court's interpretation of the first amendment "offers a sound foundation for maintaining religious freedom." This means that the public schools are not to be used in furthering religion.

2. The public school "is one of the chief instruments for developing an informed citizenry and for achieving the goals of American democracy." The introduction of a religious emphasis in the schools is "inevitably" divisive and this would undermine the effectiveness of the public schools as "builders of democracy." The public schools must remain neutral in the realm of religion. 49

Wood argues that many of those who attack "secular humanism" in the public schools are making a veiled attack on academic freedom, based on an assumption that secularism requires antagonism to traditional religious values. Wood goes on to argue that the First Amendment requires that American education be secular in nature. 50

McKee summarized Vinet's views on separation of church and state by saying:

. . . for Vinet, the state must remain neutral in order to protect the abstract freedom of space to think and to believe. . . no common "public religion" can be established. . . .51

#### Mediating Viewpoints

A fourth kind of solution can be categorized as mediating proposals. One approach which lies between strict separation and the fundamentalist positions is offered by a number of Catholic leaders. Three of the most popular of these suggestions are: tuition tax credits, vouchers, and released time. Although the courts have previously ruled on these approaches, because of the conservative (accommodationist) shift in the Supreme Court, some are putting these forth for reconsideration. 52

Another mediating position is that the schools should not be neutral on morality, but, while remaining neutral with regard to religion, moral values can be taught. This view has been advocated and justified as an integral part of the progressive school movement. 53



### Conclusion

The historical development of humanism is, in combination with the traditions of Christendom (including the historical predecessors of Christianity), the history of the development of western culture. The present debate is the manifestation of an innate tension between western civilization's Greco-Roman heritage and its Judeo-Christian heritage. During the last 500 years, these two divergent aspects of American heritage have constituted the dialectic which has produced the current debate. In the past, the thesis and antithesis have taken various forms, but the roots of the debate are constant. In a dynamic society such debate is not only to be expected, but should be seen as a healthy means of moving that society toward the ultimate normative goals of the founding fathers. Humanism and religion are not usually considered mutually exclusive beliefs except by extreme humanists and extreme religionists. Many Americans consider themselves to be both humanistic and religious. This is probably the case with many educators as well.

## Notes

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<sup>2</sup>Myron P. Gilmore, The Rise of Modern Europe: The World of Humanism (New York: Harper Torchbooks, 1952), p. 183.

<sup>3</sup>John Herman Randall, The Making of the Modern Mind (Cambridge: Houghton Mifflin Co., 1940), p. 111ff.

<sup>4</sup>W.T. Jones, A History of Western Philosophy: Hobes to Hume (New York: Harcourt, Brace and World, Inc., 1969), p. 34.

<sup>5</sup>John A. Faulkner, Erasmus the Scholar (New York: Abingdon Press, 1923), p. 14.

<sup>6</sup>P.S. Allen, The Age of Erasmus (London: Oxford Press, 1914), p. 253.

<sup>7</sup>Faulkner, pp. 57-59.

<sup>8</sup>Randall, p. 115.

<sup>9</sup>Phillip Schaff, History of the Christian Church, Vol. VI (Grand Rapids, Michigan: Eerdmans Publishing Co., 1949), p. 618.

<sup>10</sup>See Hans J. Hillerbrand, Erasmus and His Age: Selected Letters of Desiderius Erasmus (New York: Harper Torchbooks, Harper and Row Pub., 1970).

<sup>11</sup>P.S. Allen, H.M. Allen, and H.W. Garrod, eds., Opus Epistolarum Des. Eram: Rotterdam (Oxford: 1906-1958), 12 vol.

<sup>12</sup>Faulkner, p. 152.

<sup>13</sup>Randall, p. 131.

<sup>14</sup>Ibid., p. 137.

<sup>15</sup>Ibid., p. 203.

<sup>16</sup>Will Durant, The Story of Philosophy (New York: Pocket Books, 1974), p. 222.

<sup>17</sup>Bernard K. Duffy and Susan Duffy, "Fundamentalism, Liberal Education, and Freedom of Speech: An Issue for

the Public Speaking Instructor," Communication Education, 33 (October 1984): 311.

<sup>18</sup>C. Krauthammer, "The Humanist Phantom," The Humanist (July 1981), :20.

<sup>19</sup>Edwin H. Wilson, "Humanism's Many Dimensions." In Paul Kurtz, ed., The Humanist Alternative: Some Definitions of Humanism (Buffalo, New York: Prometheus Books, 1973), p. 15.

<sup>20</sup>Sidney Hook, "The Snare of Definitions." In Kurtz, p. 33.

<sup>21</sup>Ibid., p. 34.

<sup>22</sup>H.J. Blackham, "A Definition of Humanism." In Kurtz, p. 36.

<sup>23</sup>Horace L. Friess, "Humanist Responsibilities," in Kurtz, p. 42,

<sup>24</sup>Paul Kurtz, "Humanists and the Moral Revolution," in Kurtz, ed., p. 49.

<sup>25</sup>Paul Kurtz, "Epilogue: Is Everyone a Humanist?" In Kurtz, ed., p. 177.

<sup>26</sup>Herbert W. Schneider, "Religious Humanism," in Kurtz, ed., p. 65.

<sup>27</sup>Williams Gardener, "Humanistic Theism," in Kurtz, ed., p. 69.

<sup>28</sup>Miriam Allen DeFord, "Heretical Humanism," in Kurtz, ed., p. 82.

<sup>29</sup>Marvin Zimmerman, "Aren't Humanists Really Atheists," in Kurtz, ed., p. 85.

<sup>30</sup>Lester A. Kirkendall, "Humanism As I View It," in Kurtz, ed., p. 118.

<sup>31</sup>Virgil C. Blum, "Religion in Education," Education Freedom, ed. Daniel C. McCrary (Fall-Winter, 1985-86): 11.

<sup>32</sup>Tim LaHaye, The Battle for the Public Schools (Old Tappan, New Jersey: Fleming H. Revell, Co., 1983), pp. 62-63.

<sup>33</sup>Ibid.p. 80.

<sup>34</sup>Ibid., pp. 123-140.

<sup>35</sup>Ibid., p. 147.

<sup>36</sup>Ibid., p. 179.

<sup>37</sup>Timothy D. Carter, "The Unproclaimed Priests of Public Education," Christianity Today, XXV (April 1981): 44-47.

<sup>38</sup>See James C. Hefley, Textbooks on Trial (Wheaton, Illinois: Victor Books, 1976). Note: This book also appears under the title, Are Textbooks Harming Your Children? by the same author and published by Mott Media, Milford, Michigan, 1976. Note: The Gablers have at times denied objecting to the transitive verb "bed" in the American Heritage Dictionary in 1969, but, while being interviewed by Bill Buckley on the program, "Firing Line," taped at KERA, Dallas, Texas, on January 11, 1982 and telecast at a later date, Mr. Gabler admitted complicity in the challenge which led to two editions of the dictionary being published, one for Texas and one for distribution in the rest of the country (see p. 11 of the transcript).

<sup>39</sup>LaHaye, pp. 43-50.

<sup>40</sup>"Public Education and Student Conscience: A Dilemma for Concerned Citizens," (The Catholic Conference, Box 2835, Harrisonburg, PA 17105), p. 25.

<sup>41</sup>Ibid., p. 6.

<sup>42</sup>McGraw.

<sup>43</sup>Note: A great deal has been written about this case. For the viewpoint of Mrs. Moore and the Gablers, see James C. Hefley, Are Textbooks Harming Your Children? (Milford, MI: Mott Media, 1976), pp. 157-176.

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<sup>45</sup>David Bollier, "Foreword to 'The Witch Hunt Against Secular Humanism,'" The Humanist (September/October 1984): 10.

<sup>46</sup>Krauthammer, p. 23.

<sup>47</sup>Dr. Laud O. Vaught, Church of God Evangel (October

14, 1985): 44.

<sup>48</sup>LaHaye, pp. 252-253.

<sup>49</sup>"Religion and Public Education: A Statement of Views," Pub. American Jewish Committee (1979).

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<sup>51</sup>Elsie McKee, "Alexander Vinet on Religious Liberty and Separation of Church and State," Journal of Church and State (Winter 1986): 106.

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<sup>53</sup>Samuel M. Holton, Speech at 1980 Annual Meeting of the Southeastern Philosophy of Education Society.

## CHAPTER FIVE

### MORAL VALUES EDUCATION AND THE PUBLIC SCHOOL

#### Introduction

The current challenges to the public school curriculum are many and varied, but there is at least one common theme at the heart of each controversy. The recurring theme relates to values in the classroom of the public school. The values theme runs like a common thread through several recent challenges to the public school curriculum ranging from sex education to death education. In order to understand the current approaches to values within the public schools, the history of the evolution of moral values education in the schools will be traced. After examining the evolution of moral education, the two current approaches most common in the public schools will be examined along with objections to these approaches. After discussing the current approaches and objections to them, some proposed solutions to the problem of values in the public schools will be discussed.

#### The History of Moral Values Education

The intellectual roots of American education can be traced to Europe. From medieval Europe, Americans inherited a belief in the importance of religion. From

the European Renaissance, Americans inherited a belief in humanistic education, which emphasizes the development of the individual for life in this world. From the European scientific revolution, Americans inherited the scientific, empirical approach which had begun with Bacon and Locke and culminated in the progressive movement of John Dewey. These roots provide the matrix of the value systems manifested throughout the history of America.

Moral values education in the public schools has evolved in four stages. The first stage was the Colonial Period. Although the Southern, Middle, and Northern colonies differed in many respects and each section made its own unique contributions to the development of the nation, the New England colonies had the greatest impact on public education as we know it today. The second stage extended from the Revolutionary War to the Civil War and was characterized by the contributions of Horace Mann. The third period came after the Civil War and covered the last half of the nineteenth century. This was a period of increasing immigration, which necessitated the assimilation of divergent ethnic, religious, and cultural groups. The friction caused by the assimilation process was clearly illustrated by the experience of Torrey Harris and the St. Louis school system. The fourth period covered the first half of the twentieth century and was the period of the progressive school movement, which was

greatly influenced by the ideas of John Dewey. The following historical review will briefly look at these four periods and the dominant influences in each period.

#### The Colonial Period: Sectarian Morality

The first stage of the development of moral values education occurred in the Colonial Period. The organizational roots of colonial American education began within protestant Christianity. In Europe the church and the school had been intimately connected and this connection was retained in most schools throughout the colonies. The Puritans were convinced of the necessity for schools to teach children to read the Bible. The New England educational system was begun by the church. The theocratic government of Massachusetts established a conducive atmosphere for transferring the authority for educating children from parents to the state simply because the church and state were joined. The Massachusetts laws of 1642 and 1647 have been credited with laying the foundation of the American public school system. Cubberly states:

It can be safely asserted. . . that the two laws of 1642 and 1647 represent the foundations upon which our American state public school systems have been built. 1

The law of 1647 made the civil authorities responsible for the education of all children between 10 and 16 years of age. Although not compulsory attendance laws, the laws of 1642 and 1647 taken together changed the locus of



responsibility for the education of children from the parents to the state. This was all done in an effort to religiously educate the children of Massachusetts. Comprehended in these laws were such fundamental American principles of education as: compulsory maintenance, local control, tax supported schools, civil authority for education, and levels of schooling. All of these principles grew out of the concern of protestant Christians for the education of their children. The original purpose of education in Colonial America was the preservation of orthodox protestant Christianity. <sup>2</sup> In pursuit of this purpose, sectarian religious content in the curriculum was very prominent. As the relatively homogeneous character of the colonies gave way to the relatively heterogeneous character of the republic, the curriculum was gradually secularized and the religious purpose and religious values were replaced by more secular purposes and values.

The Post-Revolutionary War Period: Horace Mann and Non-Sectarian Morality

The second stage of the development of moral values education in the public schools occurred after the establishment of the republic and extended to the Civil War. Early in the period, sectarian religious influences were still very strong, but by the beginning of the Civil War, and with the establishment of the common schools,

non-sectarian morality had become the dominant influence.

The person most responsible for the changes in American education during this period was Horace Mann. Mann has been called the "Father of the Common School." Mann was a reformer at a time when a spirit of reform was in the air and the Common School was an idea whose time had come. Schools in the United States were in deplorable condition after the Revolution; buildings were in disrepair, sessions were short, attendance was irregular, and teachers were poorly trained. <sup>3</sup> Mann believed that America's newly found freedom from England could not be kept nor could democracy be preserved without universal, free, and moral education. <sup>4</sup> Mann's views were attacked by the conservative religious leaders of his day. They objected to his opposition to the use of the rod in the schools and accused him of wanting to remove the Bible from the schools. Mann's most severe critic was the Rev. Matthew Hale Smith, who preached a sermon entitled The Ark On A New Cart. Later in a pamphlet, Smith wrote:

If he is not checked and that right early, a lasting blight will settle down upon the fair heritage of New England. I leave Mr. Mann's theories to the verdict of a moral and religious people. To them I propose this sentiment - Horace Mann, a secretary of the Board of Education, Ps. 109, 8th verse (Let his days be few and let another take his office). <sup>5</sup>

Mann objected to the Calvinism of New England and he believed in the perfectability of man through the process of education, but he did not want to remove the Bible from

the schools. He saw Christianity as an ethical religion and wished to divest it of its sectarianism and teach non-sectarian morality in the schools. <sup>6</sup> Mann believed that the goal of education would be virtue and simple skill. In Mann's view, character development was the great goal of the schools and this development could be accomplished in non-sectarian schools which had non-sectarian religious content in the curriculum. <sup>7</sup>

During this post-revolution, pre-Civil War period, the American educational system experienced its first significant controversy over religious values in the classroom. During this period, the values of protestant Christianity which were dominant in the early Colonial Period were replaced by non-sectarian religious values and the trend toward secularization continued. Mann and others invested the American educational system with a kind of messianic hope. The schools became the instrument by which they hoped crime, ignorance, and poverty would be eliminated.

#### The Post Civil War Period: William Torrey Harris and Social Transmission

The third stage of development in moral values education in the public school occurred after the Civil War. The entire American experience of this period is illustrated in the experience of one city and one leader. The city was St. Louis and the leader was the

superintendent of the city school system, William Torrey Harris. Harris became superintendent when he was only 33 years old. The city was a border city with both Northerners and Southerners. It was also a city with thousands of immigrants from Western Europe. Harris was an exceptional administrator and educational innovator. <sup>8</sup> Religious issues in the St. Louis school system were of special significance. There were a large number of Catholic citizens in St. Louis who were demanding tax monies for church-related schools. Other citizens wanted the King James version of the Bible taught in the public schools. Harris argued that the school should be a secular institution and that there should be separation of church and state in the educational system. <sup>9</sup> He believed the role of the schools was to transmit the culture of the society. This theory of social transmission was to become a very important part of the next stage of development.

The First Half of the Twentieth Century: John Dewey and Education for Democracy

The fourth stage of development of moral values education in American education extends from about 1900 to around 1960. This period can be described as a period during which schools were seen as instruments of educating for democracy. This fourth stage was dominated by the thinking of one man, John Dewey.

Dewey's life spanned 93 years and he devoted these

years to the improvement of the society which he saw as both the means and ends of education. He was a philosopher and an educator, for he believed that "education. . . is a process of living and not a preparation for future living." <sup>10</sup> Dewey's philosophy in its final form was an expanded form of pragmatism, a philosophy developed by William James, who in turn built upon the thoughts of the Englishman, Charles Pierce. Scholasticism, like its classical antecedents, Platonism and Aristotilianism, had attempted to answer the question, what is it? Darwinism tried to answer the question, what is its origin? Pragmatism, on the other hand, was concerned with the consequences of actions or ideas. <sup>11</sup> Pragmatism is, in reality, a theory of thought or the acquisition of knowledge. Ideas, concepts, and judgments are seen as instruments functioning in experienced situations and determining future consequences. Propositions are means in the process of inquiry; as such, they can neither be true or false, but are only characterized as effective or ineffective. In this way, Dewey makes "inquiry the essence of logic, not truth or knowledge." <sup>12</sup>

Dewey's pragmatism is seen in a number of ways, but one example of it is the way he dealt with the matter of freedom. He defines freedom as "the power to frame purposes and to execute or carry into effect purposes so

framed." 13 This is a purely extensional, operational, and consequential definition of freedom. This pragmatic definition enabled Dewey to advocate guidance by the classroom teacher and to defend this guidance as being in keeping with freedom because it helped to develop intelligent "operations." 14

Closely aligned with Dewey's pragmatism was his view of cognitive development. He rejected the romantic view of maturation and adopted a pragmatic functional-genetic philosophy, which was very much like Darwin's adaptation. In this view, mature thought emerges through a process of development which has been described as:

. . . neither direct biological maturation nor direct learning (behaviorism) but rather a reorganization of psychological structures resulting from organism-environment interactions. Basic mental structure is the product of patterning of interaction between the organism and the environment, rather than a direct reflection of either innate neurological patterns or external environmental patterns. 15

This theory is one in which the individual seeks balance in his or her environment. This epistemological interactionism laid the foundation's for Dewey's constant emphasis upon experience. The importance of experience in Dewey's approach to education can be seen in the following comments:

An experience is always what it is because of a transaction taking place between an individual and what, at the moment, constitutes his environment. 16

Education in order to accomplish its ends both for the individual learner and for society must be based upon experience. 17

Dewey also stated that:

The only true education comes through the stimulation of the child's powers by the demands of the social situation in which he finds himself. 18

In the interactionist approach, the purpose of the educator is to provide the kind of stimulation (environment) which will excite development. Kohlberg described Dewey's view in the following comment about progressive education:

The progressive. . . aim requires an educational environment that actively stimulates development through the presentation of resolvable but genuine problems or conflicts. For progressives, the organizing and developing force in the child's experience is the child's active thinking, and thinking is stimulated by the problematic, by cognitive conflict. Educative experience makes the child think - think in ways that organize both cognition and emotion. Although both the cultural transmission and the progressive views emphasize "knowledge," only the latter sees the acquisition of "knowledge" as an active change in the patterns of thinking brought about by experiential problem-solving situations.

The cognitive-developmental metaphor is not material, it is dialectical; it is a model of the progression of ideas in discourse and conversation. The dialectical metaphor was first elaborated by Plato, given new meaning by Hegel, and finally stripped of its metaphysical claims by John Dewey and Jean Piaget, to form a psychological method. In the dialectical metaphor, a core of universal ideas are redefined and reorganized as their implications are played out in experience and they are confronted by their opposites in argument and discourse. These organizations define qualitative levels of thought, levels of increased epistemic adequacy or interactional psychological theory.<sup>19</sup>

For Dewey, education and life were inseparable; education was life and life was education. Education was

not just preparation for some future life, it was living and learning from life in the present. This life was not lived in isolation, but it was meant to be experienced in community. Dewey's emphasis on community was perhaps developed through his early evangelical teachings concerning "in Christ" doctrine. The Apostle Paul taught that each Christian was given a new spiritual position in which to grow in progressive transformation toward ultimate conformation to the moral and spiritual likeness of Christ. This individual Christian growth was to occur in connection with a community of Christians, known as the "body of Christ" of the local church. This body of believers was to grow in much the same way the physical body grows. Each member was to both supply and receive from every other member that which nourished the members. This give and take reciprocal relation brings transformation to both the group and the individual. In this way, the welfare of the community and the individual are a whole. Dewey returned to this theme repeatedly. In Schools of Tomorrow, he said:

Pestalozzi. . . realized that natural development for a man means a social development. . . . "Nature educated man for social relations, and by means of social relations. . . ." The more closely and directly the child learns by entering into social situations, the more genuine and effective is the knowledge that he gains. . . knowledge that is worthy of being called knowledge, training of the intellect that is sure to amount to anything is obtained only by participating intimately and actively in activities of social life. 20



In The School and Society, he said:

All that society has accomplished for itself is put through the agency of the school, at the disposal of its future members. . . if the end in view is the development of a spirit of social cooperation and community life, discipline must grow out of and be relative to such an aim. . . The child must be brought into contact with more grown people and more children in order that there may be the freest and richest social life. . . . 21

In Dewey's view, the school was to represent the society and, in fact, became a microcosm of society. In this scheme, the teacher was the representative of society. He felt that oral discussions were important and that the classroom was "pre-eminently a meeting place." Discussions in the classroom were "to the school what spontaneous conversation is at home, excepting that it is more organized." 22

Because Dewey distrusted the state, he looked to the people through numerous organizations to protect freedom. 23 Dewey practically worshipped democracy and felt that it was the means by which a society could remain dynamic.

Dewey's views were at the root of the progressive school movement. The idea of a democratic school to educate youth for democracy was a relatively new idea when Dewey took it up. The word "democracy," which had referred to a political system, was now extended to include social and moral relations. The idea of community or sharing as the highest moral value of a democracy

advanced the ideas of Harris and Mann to a new level. Dewey's views were representative of the first half of the twentieth century and have been incorporated into the two most popular current approaches to moral values education: values clarification and cognitive moral development.

#### Summary of Historical Overview

From colonial times until the current time, there have been four stages in the development of moral values education in the public schools of the United States. During the first stage, the Colonial Period, schools in America were heavily influenced by the values of protestant Christianity. During the second stage, the period between the Revolutionary War and the Civil War, the common school was born under the leadership of Horace Mann. During this period, schools attempted to foster a non-sectarian religiously based value system. The third stage, the post-Civil War era, saw the gradual secularization of the schools and the dominant approach to moral values education was the transmission of a mutual American cultural heritage. During this stage, America was viewed as a "melting pot" of diverse ethnic, religious, and cultural groups and the schools were the primary instrument of culturalization. This period also produced an articulation of the principle of separation of church and state in the educational system by William Torrey Harris. The fourth stage, from the turn of the

century to around 1960, was characterized by the views of John Dewey. The dominant approach to values in this period was to educate for democracy by establishing a democratic atmosphere in the schools.

The American school has undergone a gradual evolution through stages in which each successive stage has at the same time rejected some of the previous approaches to values and added new concepts. The present approach to moral values education is one in which educators are attempting to maintain separation of church and state while dealing with a perceived need to return to a greater emphasis on moral values.

### Two Current Approaches

#### A Transitional Decade

The decade of the 1960's marked a change in the greater American society which was reflected in the public school classroom. The 1960's was a time of social revolution and upheaval. The decade was marked by assassinations, technological progress, political extremism, religious revival, civil rights protests, and the great protests against the war in Viet Nam. With all of this upheaval, there was a concurrent moral change. Some observers saw the moral revolution as a sign of social dissolution. <sup>24</sup> Others saw it as a period of progression from an inferior approach to morality to a more democratic approach to morality. <sup>25</sup>

The question of moral values in education was complicated by the decisions of the Supreme Court relating to prayer and Bible reading in the classroom. Some social commentators saw these decisions as the ultimate secularization of the schools and concluded that moral education could no longer occur in the public school.<sup>26</sup> The issue of moral values and religion was at the root of the curricular experimentation which led to the current approaches to moral values education. During this transitional period and just before, the content approach to moral education had been to identify a set of virtues and attempt to influence students to internalize them. This approach led to differences as to which virtues were "core virtues."<sup>27</sup>

What has been referred to as the "bag of virtues" approach came under growing criticism in the 1960's. Objections ranging from accusations that this approach amounted to indoctrination to accusations of hypocrisy were aimed at the approach.<sup>28</sup> Kohlberg explained his objection to the character traits approach in the following way:

First, it is impossible to define the content of moral education in terms of factual majority consensus about good and bad behavior. . . . In the second place, even if one were willing to accept a majority opinion as defining moral education, vague character traits or labels do not represent majority consensus, because they conceal a great lack of consensus about specific actions and values. . . . In the third place, even if one were willing to ignore the lack of consensus concealed by moral character

terms, these terms do not represent objective or observable behavioral outcomes of moral education. Psychologically, there are no such traits as honesty, service, responsibility, and so on. Research to date suggests that these words are only varying evaluative labels; they do not stand for separate consistent traits of personality. Insofar as consistencies of personality appear in the moral domain, they are quite different from labels of virtues and vices. 29

As a consequence of the secularization process, which culminated in the 1960's, and growing criticism of the traditional approach to character education, moral values education began to change in the 1960's. There are currently two basic systematic approaches to moral values education in the public schools: values clarification and cognitive moral development. These two approaches can best be understood by briefly explaining the approach of their leading advocates. The first approach, values clarification, has been advanced by Raths and Simon. The second approach is that advocated by Kohlberg and is based on his theory of moral development.

#### Values Clarification

The values clarification approach to moral values education is the most popular approach in current use. Those who advocate values clarification are emphatically opposed to the traditional approaches, which they say have sacrificed the moral development of children to "short term adult advantages."<sup>30</sup> The proponents of this approach claim that it should be the goal of adults to free children to choose their own values. This approach, they

say, is more democratic. Raths sets forth a seven-fold process of the development of values which can be represented as follows:

- Choosing: 1. Freely.  
 2. From among alternatives.  
 3. After considering the consequences.
- Prizing: 4. Cherishing, being happy with the choice.  
 5. Being willing to confirm the choice to others.
- Acting: 6. Doing something with the choice.  
 7. Incorporating the choice into a pattern of life. 31

The method set forth by those who advocate the values clarification approach has been explained by Smith:

In the past, philosophy and theology sought to understand and define values: objective, ontological, metaphysical, and moral values. Most of us still feel the effects of the Puritan and Victorian eras, when values were defined primarily in terms of moralistic "shoulds" and "should nots." Value clarification as a methodology considers this moralistic stance to be an imposition upon the individual of predetermined values, and it seeks instead a method whereby individuals can discover their own values. Thus, values clarification does not tell a person what his values should be or what values he should live by; it simply provides the means for him to discover what values he does live by. 32

In values clarification, the clarifying response is central to the entire process. This is to be accomplished by publicly declaring one's thinking. This public declaration can be done by voting<sup>33</sup> or by a public interview.<sup>34</sup> The student may refuse to answer questions on any particular subject, but if a pattern of resistance is detected, the teacher should seek to break the pattern because the process of values clarification is in that

case not being fulfilled. <sup>35</sup> In this phase of clarification, the techniques of group therapy, such as group confrontation, confession, and role playing, are prominent. <sup>36</sup>

Basic Assumptions. The values clarification process as described is based on one clear basic assumption: in a democracy, educators should not indoctrinate their students. Because of this concern, Raths et al. have often been charged with advocating ethical relativism, a charge which they deny. In their denial of ethical relativism, they explain that they are "disinterested" in universal absolutes <sup>37</sup> and are advocating a pragmatic approach which is based on the philosophy of Dewey and Whitehead. <sup>38</sup> They go on to define values as:

. . . evolving directly from our experiences and existing only as our experiences reflect them. . . . We clarify our values from life experiences and our real life behavior provides the evidence of what we have come to value. <sup>39</sup>

Summary of the Values Clarification Approach. In the values clarification approach, the purpose is to help people "move toward integration, consistency, and purposefulness and thus toward a condition where they can readily lead value-directed lives." <sup>40</sup> While admitting to preferring some values over others, <sup>41</sup> the advocates of values clarification make no attempt to define which values should "direct" people. <sup>42</sup>

Cognitive Moral Development

A second current approach to moral values education currently being used in the public school is the approach of Kohlberg. Kohlberg explained that his approach to moral values education was designed to solve both the problem of indoctrination and the problem of relativism, which he saw in the other approaches. Kohlberg rejected the socialization approach of Jackson as indoctrination, and the moral and spiritual values approach of Carr and Wellenberg as being vague. He also rejected what he referred to as the "bag of virtues" approach which was the traditional approach before 1960. Kohlberg summarized his objections to these approaches as follows:

I have summarized three cop-outs from the relativity problem and rejected them. Socialization, teaching positive values, and developing a bag of virtues all leave the teacher where she was - stuck with her own personal value standards and biases to be imposed on her students. 43

These three approaches were more or less traditional, but Kohlberg also rejected the most popular current approach, that of values clarification. His criticism of the traditional approaches was that they were all guilty of indoctrinating students in the biases of a particular teacher, but his criticism of values clarification was that it indoctrinates students in the belief that all values are relative and that no values can be taught. His observation that "the actual teaching of relativism is itself an indoctrination or teaching of a fixed belief" 44 strikes at the very core of the problem faced by educators



in the post 1960's. Kohlberg said of his approach that it was inspired by:

Piaget's notions of stages and Piaget's notions that the child was a philosopher. Inspired by Piaget's pioneering effort to apply a structural approach to moral development, I have gradually elaborated over the years a typological scheme describing general stages of moral thought that can be defined independently of the specific content of particular moral decisions or actions. 45

Jean Piaget. Jean Piaget (1896-1980) developed a theory of cognitive development which has become one of the most influential theories of this century. He is noted for his work as a developmental psychologist, philosopher, logician, and educator. Very early in life, Piaget became convinced that biology, especially Darwin's theory, could give light to the epistemological problem. This belief became the basis of his view; thus, he is described as a genetic epistemologist. He was an interactionist-relativist; he believed, as did Dewey, that knowledge was gained by the interaction of reason and experience.<sup>46</sup> The significant concepts of Piagetian theory can be stated in one sentence: "He is primarily interested in the theoretical and experimental investigation of the qualitative development of intellectual structures."<sup>47</sup> In order to understand this concept, the following terms should be understood.

Intelligence. For Piaget, intellectual activity could not be separated from the "total" functioning of the organism. Thus, Piaget considered intellectual

functioning as a special form of biological activity. 48 This activity is adaptation, which involves assimilation, accommodation, equilibration, and schema development.

Development. Another term which is basic to Piaget's thinking is development. Piaget was concerned with explaining changes in behavior from less to more advanced functioning. He was a developmental psychologist in the tradition of Hall, Stern, Baldwin, Binet, and Werner in that he studied ontogenetic change.

Qualitative Stages. Development in Piaget's view progresses through stages which are qualitatively different. The thought processes of children are unlike those of adults. These stages develop in invariant sequence and form an ordinal, but not an interval, scale. 49 It is possible for a person to become arrested at one particular stage of development so that, while not all adults are at the same stage, the majority have reached the stage of formal operations. Stages develop in hierarchical fashion. This means that each stage is incorporated into the next stage. Each stage has all that was learned previously, but the behavior is qualitatively changed by the acquisition of new structures.

Piagetian theory has many implications for those interested in education. Lavatelli summarized these implications in the following comments:

1. Intelligence grows through the twin processes of assimilation and accommodation. In the process of

assimilation, the child incorporates new elements from his experiences into existing structures; in the process of accommodation, existing structures change to accommodate to the new inputs. Experiences should be planned to allow opportunities for assimilation and accommodation.

2. Activity of the learner is essential. It is only as the child is forced to go beyond perceptual decisions to act mentally on what he is assimilating that mental structures change and intelligence grows.

3. As the child explores and manipulates, he makes discoveries. Some of his discoveries are wrong, but over a period of time he assimilates enough data from his experience to make corrections.

4. The teacher's role is to stimulate and guide, not to teach specific responses, not to tell the child the right answer, nor even to tell him that he is wrong. . . . Giving him the right answer will not convince the child. He must be convinced by his own actions. 50

Kohlberg's theory is built upon Piaget's theory and incorporates many of its concepts. Kohlberg posited that the development of moral reasoning is predicated on cognitive and volitional development. His theory is that there are three levels of moral reasoning: the pre-conventional, conventional, and post-conventional. The three levels have two stages each. The first level is characterized by egocentricity, the second level is characterized by conformity to social norms, and the third level is characterized by principled thinking. Children are usually at the pre-conventional and conventional levels. Kohlberg further posited that Piaget's pedagogical methods of stimulating cognitive development can be applied to stimulating moral development.

Gilligan, one of Kohlberg's associates at Harvard, suggested that Kohlberg's theory applies to men, but not

to women. She concluded that women speak "in a different voice" from men, especially in the area of rights and responsibilities. Whereas boys are taught to "take up for themselves," girls are taught to "control themselves." Boys are taught to become "separated" for their identity; girls are taught to remain "connected" for their identity. Boys play games with elaborate rules, argue about how they are followed, and continue the game. Girls play games with elaborate rules and when there is a problem they tend to stop the game and leave the scene or placate the offended rather than take a stand and argue the legality of the infraction.

Gilligan believed that women learn early in life that they are too vulnerable to take a stand because they have too much to lose. They have too little power and the cost is too high. The outcome is that women settle for a lower level of justice. According to Gilligan, most women are taught that the "good woman" is the one who takes care of others even at the risk of harm to herself.

If the highest level of justice is essentially equity and reciprocity, then all people would get a fair share and each person would get fair treatment, even if the positions of each person were switched. Gilligan proposed that there is an Ethic of Care which has three levels and two transition periods.

Level One: Care for self only (for survival).

Transition: When care for self is seen as selfish.

Level Two: Care for others only (for the dependent and unequal).

Transition: When only others can legitimately receive care, the person realizes that care for others is self-sacrifice.

Level Three: Care for self and others (interdependence is necessary).

Women are likely to see their job in family management as level two. Women themselves criticize other women for "taking time for themselves" or "accepting care from others." The highest level of justice, however, is judged by equity and reciprocity. Level three is characterized by justice. <sup>51</sup> Although Gilligan's views of female development have not been incorporated into Kohlberg's approach, they could easily be used in curricula based on Kohlberg's theory.

Summary of Kohlberg's Moral Reasoning Approach.

Kohlberg distinguished his approach from the values clarification approach. He stated that:

. . . Schools cannot be "value neutral" but must be engaged in moral education. . . . The content of moral education must be defined in terms of justice rather than in terms of majority consensus, if the civil rights of parents and children are not to be infringed on by such education. . . . Because moralizing is unavoidable, it seems logical that it be done in terms of consciously formulated goals of moral development. <sup>52</sup>

To Kohlberg, the basic universal non-religious value which

should be transmitted is justice. <sup>53</sup> In Kohlberg's view, justice is explained by reciprocity and includes liberty and benevolence. <sup>54</sup> The transmission of this value does not involve indoctrination since justice, to Kohlberg, is the highest stage in the natural development of moral reasoning.

In this conception, the goal of moral education is the stimulation of the "natural" development of the individual children's own moral judgments and of the capabilities allowing them to use their own moral judgments to control their behavior. <sup>55</sup>

The process of stimulation in Kohlberg's approach does not vary greatly from Piaget's theory or from the approach of values clarification.

The way to stimulate stage growth is to pose real or hypothetical dilemmas to students in such a way as to arouse disagreement and uncertainty as to what is right. The teacher's primary role is to present such dilemmas and to ask Socratic questions that arouse student reasoning and focus student listening on one another's reasons. <sup>56</sup>

The use of dilemmas is predicated on Piaget's view of disequilibrium. Listening to other children shows the child that there are higher stages of moral reasoning and stimulates him/her to adopt higher stages of reasoning. <sup>57</sup> Each higher stage of moral reasoning is characterized by greater equilibrium than its predecessor. <sup>58</sup>

Kohlberg's approach is an attempt to avoid the indoctrination of traditional approaches and the relativism of the values clarification approach. Kohlberg did extensive research in various cultures and concluded

that the one universal moral value is justice. Justice thus becomes the basic value to which educators should attempt to move students.

Summary: Comparison of Values Clarification  
and Cognitive Moral Development

Are these two approaches, values clarification and moral development, the same basic approach as some of their critics appear to believe? In order to answer this question, it would be fair to allow the leading advocates of the two positions to compare and contrast the two approaches. In looking at moral development from the values clarification perspective, Raths said the two approaches are different in several ways. First, according to Raths, moral development is based on the work of Jean Piaget, who was a psychologist, whereas his own work "comes directly from John Dewey and the work of educators." <sup>59</sup> Whether or not this is a fair appraisal is debatable since Kohlberg relied heavily on Dewey also. <sup>60</sup> Secondly, according to Raths, the two approaches differ as to goals. Moral development seeks to move people to higher levels of moral reasoning while values clarification seeks to move people toward "integration, consistency, and purposefulness and thus toward . . . value-directed lives." <sup>61</sup> Raths admitted that the goals are not incompatible, but seems to have rejected the idea that higher levels of moral reasoning are preferable. <sup>62</sup>

Raths also suggested that those who adopt the moral development approach have a closed mind with regard to what is good and bad as opposed to values clarification which takes no position with regard to good and bad. Raths also pointed out that values clarification is more concerned with the affective domain whereas the moral development approach is more concerned with the rational domain. 63

Kohlberg criticized values clarification on two grounds: first, that it is not value neutral and indeed should not and can not be, and second, that it fails to solve the problem of relativism.

Now I am not criticizing the values clarification approach itself. It is a basic and valuable component of the new social studies curricula. . . . My point is, rather, that value clarification is not a sufficient solution to the relativity problem. Furthermore, the actual teaching of relativism is itself an indoctrination or teaching of a fixed belief. 64

Although these two approaches follow some of the same pedagogical methods, they seem to be basically philosophically different.

#### Objections to Current Approaches

The objections to the current approaches to moral values education are varied and come from a variety of sources ranging from the fundamentalists to those who are leaders in moral values education. In an attempt to understand these objections, four general objections will be discussed. First, many critics argue that it is



impossible to be value neutral in the educational process. Second, many object to the relativism in the current approaches. Third, some object that the techniques employed in some approaches are dangerous because the teachers are unqualified to use them. Fourth, some object that the current approaches are deliberately designed to undermine traditional morality.

### Neutrality

Those who advocate neutrality argue that the facilitator (teacher) must

. . . be clear that we cannot dictate to children what their values should be. . . where the question involves a personal activity. . . an attitude. . . or a worry, interest, feeling, purpose, aspiration, or belief, our view is that it is unreasonable for a teacher to assume he or she has the answer. By definition, and as we see it, by social right, values are personal things. 65

This view that the teacher must remain neutral in the process of values clarification in order to avoid indoctrination is at the foundation of the values clarification approach. Kohlberg believed that neutrality in values issues is impossible and proposed to solve the problem by advocating a scientific developmentalism. 66 He accused the values clarification advocates of indoctrination by teaching relativism as a "fixed belief." 67

The idea of neutrality with regard to values has been attacked from a wide variety of sources and on a wide variety of points. Retzlaff argued from a religious point

of view that silence about God and religion is a value statement in itself.

A school's silence about God sends, at the very least, an agnostic message and implies that the machinery of human society can hum along without theological reference. In an effort to avoid advocacy, the school may easily, and probably will, slight the importance of religion in world culture.

68

Arguing from the same philosophical/religious viewpoint, Cruse stated that the belief

. . . that it is somehow possible for education to be "value-neutral" . . . constitutes a value judgment of the most sweeping kind, and one that is increasingly not acceptable to an intelligent populace. 69

Gow summarized the objections to the concept of neutrality with regard to values:

They appear to be devoid of religious bias and even moralistic bias, and to thus qualify admirably as nonsectarian and nondoctrinaire. But wait! The inescapable message of MVE [moral values education] is, as Rhodes scholar T.W. Harper points out (Toronto Star, February 1978): "Anybody's values are as good as anybody else's. In other words, everything, good, bad, better, best is relative. There are no moral absolutes. . . . Man and his needs, his pleasures and his fulfillments become the criteria of good and evil."

This is not a neutral position. This is the doctrine of Sovereign Man answerable to no one but himself: individual utilitarianism, moral relativism, situation ethics. Overlooked in the argument for a "pluralistic" approach to MVE is the fact that the very decision not to take a position on certain objective and moral principles is, in effect, to take a very specific position. A school that adopts an "open" self-serve cafeteria approach ("Whatever you choose will be right for you because you chose it.") is really adopting the doctrine of subjective moral relativism, whether it explicitly acknowledges that this is its position or not. That this stance does not reflect or uphold true pluralism at all - but is as "biased" as any other position - is a fact many people have not yet grasped. In the

quest to disestablish any particular religious view in the public educational system, we have simply traded one religious doctrine for another. 70

### Relativism

Kohlberg defined relativism as:

. . . the doctrine that values are relative to, and based on, the standards of the particular culture and cannot be questioned or further justified. 71

He went on to observe that relativists do not recognize universal moral principles. 72 As he did with regard to the charge of neutralism, Kohlberg disassociated himself from relativism. He argued for the acceptance of a universal, culturally transcendent moral principle. 73

Herberg presented a general condemnation of moral relativism in an article first published in 1968, but which summarized the logic behind much of the criticism of the current approaches to moral values education.

The philosophers sought to ground the truth, in its objectivity and transcendence, on the rational nature of things. The Hebrew prophets sought the truth in the revealed will of God. . . . It was precisely this conviction about truth that was the first to be challenged with the emergence of modernity. It was challenged on one level by the rise of relativism. What sense did it make to speak of truth in the old way when truth was so relative, so obviously man-made and culture-made, varying (as Pascal had put it) with the degree of latitude, or (in the latter vocabulary) with the psychological conditioning and cultural pattern? This kind of relativism was full of contradictions, to be sure, and flew in the face of the best evidence, but it appealed to the modern mind, which was rapidly losing all sense of transcendence. Relativism, of a kind more radical and pervasive than the Greeks had ever dreamed of, soon came to dominate the advanced thought of the west and increasingly also the convictions and feelings of the common man. In this kind of cultural climate, the dissolution of moral standards in the

sense in which Greek philosophy and Hebrew religion had understood them, was only a matter of time. 74

Dangerous Techniques

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LaHaye, who stated that moral values education:

. . . is really mortal man's most vicious assault on the minds of our children. . . . It attacks the moral commitment of any student, particularly the vulnerable children in our government-controlled school system. . . . There is no question in my mind, after examining school curricula, evaluating reports from Christian teachers who have been subjected to values-training seminars, hearing the reports of students in the classroom, reading national educational association literature, and studying the Humanist Manifesto (which clearly outlines humanist teachings), that humanist educrats are determined to preempt the moral values of parents and forcibly teach our nation's children the bankrupt values of humanism, whether or not parents like it. . . . Values clarification is an ingeniously evil technique of applying peer pressure to questions, selected by the humanist educators, that are usually far too advanced for the group. When no moral absolutes are permitted in a discussion, the group usually comes to the lowest common-denominator value, just as the educrats intended. This would ultimately create a value-free society - a very immoral society that will produce an anarchical, lawless culture. 76

#### Summary of Objections

These objections and others are often leveled against all current forms of moral values education. Of the four objections listed here, Kohlberg, by his own declarations, has disassociated himself from the charges of value-neutrality and relativism. The proponents of values clarification appear to have accepted the first two objections as being accurate descriptions of their position and argue that their approach is never-the-less correct and defensible. The third objection that some teachers are unqualified to use certain techniques appears to be a valid one which many teachers are sensitive to and

attempt to avoid. The conspiracy theory of LaHaye, like many conspiracy theories, appears to be without objective evidence.

### Proposed Solutions

The current controversy regarding moral values education is connected to the other issues of creationism and humanism in the public school, as are the proposed solutions. The proposed solutions are of three basic kinds: first, those that call for some kind of action outside the public schools; second, those that call for strict separation of church and state inside the public schools (separationism); and third, accommodation of church and state within the schools.

#### Action Outside the Public Schools

The first kind of solution being proposed contains some of the most radical proposals and usually comes from religious leaders. These solutions involve abandonment of the public educational process to greater or lesser degrees. Solutions of this kind include released time and tuition tax credits (vouchers) under the umbrella of freedom of choice in matters of education.<sup>77</sup> Arguing from this perspective, Cruse supported the idea of multiple curricula within the public schools, even if it leads to fragmentation, even to the point that "public education looks increasingly like a network of private schools."<sup>78</sup>

Another proposed solution is that favored by many fundamentalists who have given up on the public school. The solution these fundamentalists propose is two-fold: first, to attempt to re-capture the public schools from the humanists; second, failing in the first case, they propose, and in fact are, establishing an alternative to the public school in the Christian day school. LaHaye relates his very revealing personal experience on this point:

I am now convinced that most public schools are unfit to educate the children of Christian families. I know that is a controversial statement - and it was meant to be. But I assure you, it was not said without careful and deliberate consideration.

For over twenty-five years I have been watching the California school system, in which every evil fad conjured up by the humanists has been instituted. When my daughter was in the ninth grade and my son was in the seventh, I began doing battle with the humanists in our local junior high. Many of the moral convictions and standards I taught my children were ridiculed, and they were subjected to humiliation and scorn by their peers. The vice-principal of that school, a committed humanist, determined to undermine the training of my children against my will. He seemed to delight in his daytime power over my treasured possessions.

After much prayer, I called thirteen public-school teachers in our church for an informal meeting in our home. After I explained to them my concern that the battle for the minds of our young people was being lost on the junior-high through high-school level, they anonymously voted twelve to one in favor of our church sponsoring the first Christian high school in San Diego. An interesting side-light of that memorable evening occurred ten years later. The one dissenter came forward to admit, "I was the negative vote." Typical of a dedicated, conscientious teacher, she was trying diligently to salvage the sinking public school by serving as a quality teacher. Then she confessed, "I want you to know that I was wrong. This year I have begun teaching in our Christian school - and I love

it!" 79

Another approach which calls for political action outside the public schools has been set forth by LaBrecque:

. . . . Religious groups, if they are to contribute effectively to raising the general level of morality in society, need to do the following things: First, eschew an educational policy approach for morally educating the young, such as requiring religious exercises in schools. Second, don't lobby for the passage of social policies aimed at controlling people's behavior with regard to "social issues," such as the right to an abortion. Third, advocate state-sponsored inquiry for the purpose of ascertaining what societal conditions contribute significantly to the social consequences of the patterns of moral laxness existing in American society. Fourth, support the inclusion in the program of inquiry of the Marxist-oriented research questions. . . . Fifth, demand of the state, through aggressive political action, that it establish those social conditions deemed necessary by the inquiry for making proper moral development a natural, regular, and ordinary activity of our everyday life world. 80

#### Separation of Church and State in Public Schools

The second kind of solution, complete separation within the public school, is at the base of the values clarification approach. Those who advocate complete neutrality in matters of values argue that the constitution mandates complete separation of church and state in all state institutions. These are the separatists. Wood has made the separatist position very clear in numerous editorials in the Journal of Church and State.

The charge that the public schools are dominated by



"secular humanism" is deeply rooted in the notion that neutrality on religious questions in the public schools constitutes the teaching of "secular humanism" as a religious philosophy, which, in turn, is identified with secularism. This pejorative use of the term "secular humanism" is also offered by many as the explanation for any evidence of deterioration in academic achievement and moral values in the public schools. In fact, it is frequently argued that the widespread teaching of "secular humanism" in tax-supported schools has prompted many parents to send their children to parochial or religious schools.

This blanket indictment of public education is dangerous because "secular humanism" remains largely undefined by those most prone to employ it against the public schools and because of the assumption that the term is somehow to be equated with secularism and is, therefore, destructive of all traditional religious and moral values. The truth is that a nonreligious or secular humanism does not mean, let alone require, the rejection of Jewish/Christian religious and moral values. To be sure, whenever and wherever traditional religious and moral values are denigrated in the public schools, such practices should be condemned as being incompatible with the secular character of American public education and the guarantees of the First Amendment.

Unfortunately, the attack on "secular humanism" in the public schools is all too often but a thinly veiled attack on the public schools themselves - both on their academic freedom and their academic integrity. Much of the myth of "secular humanism" has been perpetuated by those who seek to Christianize the public schools, to make them more responsive to their own particular religious views, rather than have them remain schools in which a secular or nonreligious approach to the study of history, science, government, and literature prevails. The study of man, his environment, and human values is quite properly the focus of public education, just as the study of God and religious values is the natural focus of religious education in the home and the church or synagogue. 81

### Accommodation Within the Public Schools

The third kind of solution offered to the problem of moral values education in the public school comes from those who are calling for some kind of accommodation

between church and state. Some of these proposals come from people who deliberately call for accommodation, which would require the Supreme Court to redefine the principle of separation. Some Court watchers think that a conservative Court under Chief Justice Rehnquist may move in the accommodationist direction. Some proposals which would, in effect, require accommodation, come from people who are not consciously calling for accommodation. Some of these proposals come from people who see no conflict between what they are proposing and the First Amendment.

The accommodationist position has been advocated in both a descriptive and a prescriptive way. Stephens argued descriptively:

. . . that the doctrine of "complete separation between the state and religion," as expressed by Justice Rutledge, is probably no longer an absolute standard in the American mind and that it may be becoming a historical artifact. During the period of 1940-1970, it was an answer that served well, but like all historical answers, changing times and needs are challenging the doctrine's adequacy. If one grants this position, then the door is open for the country to consider other alternatives for defining how citizens' religion may be related appropriately to their government and its agencies and institutions. 82

Another possible accommodationist approach has been proposed by Van Dale:

In a decision from the United States Court of Appeals for the Third Circuit dealing with Transcendental Meditation in public institutions, Judge Adams developed what he sees to be a necessary and a workable way of defining religion for judicial purposes in America today. Recognizing the dilemma posed by the current "definition" of religion which comes from earlier Supreme Court decisions, Judge

Adams proposes the following criteria for determining the presence or absence of "a religion."

1. Are the "ideas in question" of such a nature that they can be described as dealing with the "fundamental questions" of human life? Do the ideas deal with what are generally viewed as "ultimate questions?"

2. Do the ideas constitute what can be described as a "comprehensive" set of ideas? Do they form a "belief-system?"

3. Are there "forma, external, or surface signs that may be analogized to accepted religions?" (Let it be noted here that Judge Adams' "definition" does not call for this third criterion if (1) and (2) are clearly present. But if some uncertainty persists after analyzing the presence of (1) and (2), criterion (3) can and should come into play).

One of the intriguing aspects of Judge Adams' approach is the way in which he attempts to incorporate into his three-fold test both the Court's earlier understanding of religion in institutional terms - criteria presented in (3) - and the Court's more recent understanding of religion in a broader sense - i.e., the dimensional and comprehensive criteria of (1) and (2). In its present form, I'm not convinced that Judge Adams' "solution" has extricated us from the judicial bind. Unless all three prongs of the proposed test are taken into account simultaneously, I don't see how Judge Adams can accommodate what I see to be the persuasive contentions of some philosophers of education regarding the necessary place of the religious dimensions of all subjects. But taken as a set rather than ad seriatim, the Adams trilogy may offer some promise. 83

Another call for accommodation contrasts the "pre-enlightenment cosmology" with the "post-enlightenment reductionism" and concludes that both are dangerous. A "middle way" is then called for, but is not explained. 84

There are other advocates of proposed solutions to the problem of moral values education in the public schools which suggest that there is no conflict between teaching certain core values in the schools and the First

Amendment. After listing several "core values," one author observed:

Christians ground these virtues in the God of the Bible who has provided us with a revelation of Himself, of human nature, and of the world in which we live. The non-Christian does not accept this basis. Indeed, he may have no basis at all for such commitments; but he does share these values, and we do not violate his convictions if we require that they shall be taught to his children in our public schools. 85

Congressman William Dannemeyer called for a curriculum emphasizing the last seven of the ten commandments as core values:

The first three commandments deal with the relationship between God and man. For the civil state to legislate compliance with any of these three would be to cross the line established and prohibited by the First Amendment to the U.S. Constitution. But at the same time, to suggest that individuals in political authority may not use the other commandments that deal with man's social relationships in order to orient the compass of the secular state is to subject the direction of our political system to whatever wind may come along—including secular humanism, itself a religion, which is the major contestant on the current scene. 86

Wynne articulates another more general set of core values which he describes as having nine basic characteristics. These characteristics can be summarized as follows:

1. They emphasize conduct as opposed to beliefs.
2. They emphasize day to day issues such as truth telling.
3. They assume that no single agency in the society has sole responsibility for moral education.

4. Moral conduct needs persistent and pervasive reinforcement.
5. Wrong acts must be punished.
6. Moral issues must be open to intellectual analysis.
7. Moral values are transmitted through persistent intimate contact.
8. Collective life must be emphasized.
9. Moral educators should view human nature pessimistically and be slow to break with established morality.<sup>87</sup>

Wynne defined common "moral values" as the

. . . vital common beliefs that shape human relations in each culture, whether their base is religious, traditional, or secular; however, such values are expected to be widely affirmed under most circumstances. 88

As to whether or not such an approach would amount to indoctrination, Wynne said:

On the whole, school is and should and must be inherently indoctrinative. The only significant questions are: Will the indoctrination be overt or covert and what will be indoctrinated? 89

Christenson has objected to the current approaches to moral values education and has advocated a list of values and attitudes that have stood the test of time."<sup>90</sup> He asserted that a list of 21 values and attitudes has been adopted by the Talawanda School Board<sup>91</sup> and suggested that these could well serve elsewhere.

#### Summary of Proposed Solutions

Three basic kinds of solutions have been offered by the critics to moral values education. The first proposal is to act outside the public school system, either in alternative schools or through political action or both to effect moral change. The second is that the schools must remain neutral. This approach allows for study about religion, but not the advocacy or denigration of religion. The third kind of solution calls for a core of values to be taught to the students.

#### Conclusion

This discussion of values and the public school began with a review of moral values education in America, in which it was seen that moral values education in America has evolved through four stages. In the Colonial Period, sectarian religious morality was dominant. In the Post-Revolutionary War period, the common school was born. This period was dominated by non-sectarian religious morality. The third period, the last half of the nineteenth century, was the "melting pot" era, in which the schools were used as instruments of assimilation and social transmission. The fourth period, the first half of the twentieth century, was the period of the progressive school movement and the schools were seen as democratic institutions which were preparing citizens for life in a democracy.

The 1960's was a decade of transition during which

the process of gradual secularization of the public schools, which had begun in seventeenth century Massachusetts with the laws of 1642 and 1647, reached its height. This was also a transitional period in moral education, which saw the traditional approaches to moral values education give way to the current approaches.

The current era (from circa 1970) is one in which two basic approaches to moral values education have been put in place. The first and most prevalent is the values clarification approach. The second is the moral development approach advocated by Kohlberg. These two approaches are significantly different, as seen by the way in which the advocates of each system view the other system. The critics of the current approaches have a tendency, however, to view Kohlberg's approach as being a variation of values clarification. This confusion may be due to the fact that there are some similarities in pedagogical techniques.

The objections to the current approaches are that they claim to be value-neutral, but are not, that they are relativistic, and that some of the pedagogical techniques are dangerous because many of the teachers are not trained psychologists. In addition, some fundamentalists charge that the current approaches are part of a humanist conspiracy to undermine the traditional moral values. It appears that values clarification may be guilty of at

least the first three charges to some extent. However, Kohlberg's approach is not value-neutral (it is education for justice), and it is not relativistic because Kohlberg believes in at least one universal transcendent moral value (justice).

Although the 1970's saw the emergence of two major approaches to moral values education, the controversy has not subsided. The critics have offered three basic approaches to moral values education. The first is that alternative schools be provided and political action be taken to change the public schools. The second is that the schools remain completely neutral in matters of religious values. The third is that the public schools make some effort to accommodate religious values in the form of a core-value curriculum.

The controversy over values in the public schools is concerned with what Becker refers to as "the religious cultural dimension."<sup>92</sup> He explains that issues in this dimension become extremely unclear.

In this context, relatively clear lines between institutions become the indefinite, indistinct (even non-existent) boundaries between less definite concepts like "religious values". . . . Here, one recognizes that the state which in dimension one (legal-institutional) is separated by a high wall from all churches, is related in a myriad of ways to religious forces alive in the culture. The wall has become a semipermeable membrane and there is not separation, but on going osmosis between the political and religious sides. <sup>93</sup>



## Notes

<sup>1</sup>Ellwood P. Cubberly, The History of Education (Cambridge, Massachusetts: Houghton-Mifflin Co., 1948), p. 366.

<sup>2</sup>D. Bruce Lockerbie, The Way They Should Go (New York: Oxford University Press, 1972), pp. 11-16.

<sup>3</sup>Edward I. R. Williams Horace Mann, Educational Statesman (New York: MacMillan Co., 1937), p. 5.

<sup>4</sup>Joy Elmer Morgan, Horace Mann at Antioch (Washington, D.C.: National Educational Association, 1938), p. 92.

<sup>5</sup>George Allen Hubbell, Horace Mann, Educator, Patriot, and Reformer. A Study in Leadership (PA: W.F. Fell Co., 1910), p. 126.

<sup>6</sup>Cubberly, p. 693.

<sup>7</sup>Ibid., p. 693.

<sup>8</sup>Henry G. Good and James D. Teller, A History of American Education (New York: MacMillan Co., 1973), pp. 312-313.

<sup>9</sup>Ibid., p. 314.

<sup>10</sup>John Dewey, Education Today (New York: G. P. Putnam's Sons, 1940), pp. 3-17.

<sup>11</sup>Will Durant, The Story of Philosophy (New York: Pocket Books, 1953), p. 512.

<sup>12</sup>Bertrand Russell, A History of Western Philosophy (New York: Simon and Schuster, 1945), p. 822.

<sup>13</sup>John Dewey, Experience and Education (New York: MacMillan Co., 1938), p. 75.

<sup>14</sup>Ibid., p. 77.

<sup>15</sup>Lawrence Kohlberg, The Philosophy of Moral Development. Moral Stages and the Idea of Justice (San Francisco: Harper and Row, Pub., 1981), p. 56.

<sup>16</sup>Dewey, 1938, p. 41.

<sup>17</sup>Ibid., p. 113.

- <sup>18</sup>Dewey, 1940, pp. 13-17.
- <sup>19</sup>Kohlberg, p. 54.
- <sup>20</sup>John Dewey, Schools of Tomorrow (New York: E.P. Dutton and Co., 1915), pp. 62,63.
- <sup>21</sup>John Dewey, The School and Society (Chicago: The University of Chicago Press, 1915), pp. 3-36.
- <sup>22</sup>Dewey, School and Society, pp. 48,49.
- <sup>23</sup>Durant, p. 526.
- <sup>24</sup>Will Herberg, "What is the Moral Crisis of Our Time?" The Intercollegiate Review (Fall 1986).
- <sup>25</sup>Kohlberg, p. 294.
- <sup>26</sup>William Ball, "Religion and Public Education: The Post Schempp Years." In T. Sizer, ed., Religion and the Public Schools (Boston: Houghton Mifflin, 1967).
- <sup>27</sup>For various listings of core virtues, see: H. Hartshorne and M.A. May, Studies in the Nature of Character, e vol. (New York: MacMillan, 1928) and R.J. Havighurst and H. Taba, Adolescent Character and Personality (New York: Wiley, 1948).
- <sup>28</sup>Robert F. Peck and Robert J. Havighurst, The Psychology of Character Development (New York: John Wiley and Sons, Inc., p. 191.
- <sup>29</sup>Kohlberg, p. 299.
- <sup>30</sup>Peck and Havighurst, p. 191.
- <sup>31</sup>Louis E. Raths, Merrill Harmin, and Sidney B. Simon, Values and Teaching (Columbus: Charles E. Merrill Publishing Co., 1978), p. 28.
- <sup>32</sup>Maury Smith, A Practical Guide to Value Clarification (LaJolla, California: University Associates, Inc., 1977), p. 5.
- <sup>33</sup>Raths, et al., p. 152.
- <sup>34</sup>Ibid., p. 62.
- <sup>35</sup>Ibid., p. 161.

<sup>36</sup>Ibid.

<sup>37</sup>For a comparison of group therapy and values clarification, see Alan L. Lockwood, Teacher's College Record, 77 (1975): 35-50.

<sup>38</sup>Raths et al., p. 290.

<sup>39</sup>Ibid., pp. 289-290.

<sup>40</sup>Ibid., p. 291.

<sup>41</sup>Ibid.

<sup>42</sup>Ibid., p. 290.

<sup>43</sup>Ibid., p. 291.

<sup>44</sup>Kohlberg, p. 10.

<sup>45</sup>Ibid., p. 12.

<sup>46</sup>Ibid., p. 16.

<sup>47</sup>J.H. Flavell, The Developmental Philosophy of Jean Piaget (New York: D. Van Nostrand Co., 1963), p. 15.

<sup>48</sup>B.J. Wadsworth, Piaget's Theory of Cognitive Development (New York: David McKay Co., Inc., 1971), p. 89.

<sup>49</sup>Flavell, p. 19.

<sup>50</sup>C. Lavatelli, Early Childhood Curriculum - A Piaget Program (Boston: American Science and Engineering, 1970), p. 48.

<sup>51</sup>Carol Gilligan, In A Different Voice (Cambridge, Massachusetts: Harvard University Press, 1982).

<sup>52</sup>Kohlberg, p. 297.

<sup>53</sup>Ibid., p. 296.

<sup>54</sup>Ibid., p. 300.

<sup>55</sup>Ibid.

<sup>56</sup>Ibid., p. 27.

<sup>57</sup>Ibid.

- 58Ibid., p. 99.
- 59Raths et al., pp. 296-299.
- 60Kohlberg, p. 49.
- 61Raths et al., p. 296.
- 62Ibid., p. 297.
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- 64Kohlberg, p. 12.
- 65Raths et al., p. 34.
- 66see Kohlberg, p. 12 and p. 64.
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- 68Eric Retzlaff, "Religion and Public Education," Educational Freedom, 19 (Fall-Winter 1985-86): 40-44.
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- 78Cruse, p. 53.
- 79LaHaye, pp. 239-240.

<sup>80</sup>Richard LaBrecque, "Church, State, and Moral Education," Contemporary Education, 54 (Spring 1983): 177.

<sup>81</sup>James E. Wood, "Editorial: The Battle Over the Public Schools," Journal of Church and State, 28 (Winter 1986): 8,9.

<sup>82</sup>W. Richard Stephens, "The Sacred Doctrine of Separation: Absolute or Artifact?" Contemporary Education, 54 (Spring 1983): 162.

<sup>83</sup>Robert VanDale, "Religious Values and Secular Humanism in the Schools," Religious Education, 80 (Winter 1985): 27.

<sup>84</sup>Niels C. Nielsen, Jr., "The Advancement of Religious Versus Teaching About Religion in the Public Schools," Journal of Church and State (Winter 1984): 114-115.

<sup>85</sup>"Editorial: Values in the Public Schools: A Prerequisite to Teaching," Christianity Today, 25 (April 1981): 16-18.

<sup>86</sup>William E. Dannemeyer, "Who Turned the First Amendment Upside Down?" Christianity Today, 26 (June 1982): 34.

<sup>87</sup>Edward A. Wynne, "Transmitting Moral Values," The Education Digest (April 1986): 27,28.

<sup>88</sup>Ibid., p. 26.

<sup>89</sup>Ibid., p. 29.

<sup>90</sup>R.M. Christensen, "Clarifying 'Values Clarification' for the Innocent," Christianity Today, 25 (April 1981): 38.

<sup>91</sup>Ibid., p. 37.

<sup>92</sup>William H. Becker, "Creationism: New Dimensions of the Religion-Democracy Relation," Journal of Church and State, 27 (Spring 1985): 318.

<sup>93</sup>Ibid.

## CHAPTER SIX

## CONCLUSIONS AND RECOMMENDATIONS

Restatement of the Problem

The current constitutional debate concerning the separation of church and state as manifested in public education is seen in microcosm in three religiously based challenges to the public school curriculum: creationism, humanism, and values in the public school. The controversies surrounding these challenges at first glance appear to be disconnected and unrelated. However, upon closer examination, a connection can be seen. For the most part, the opposing parties in these three debates hold to opposing world and life views. These views are based on two different epistemological systems: revelational faith on the one hand and scientific rationalism on the other hand. The conflict between these two views of truth and reality is, in effect, a conflict between the modern world and those who reject or seek to modify modernity. The tension between these two world and life views has produced objections by various groups and individuals to the public school curriculum. These objections have at times led to attempts to censure the curriculum of material which some consider objectionable.

At other times, attempts have been made to use the public school curriculum to impose a single religious/moral view on the wider culture.

The purpose of this study was to examine the degree or extent to which state supported schools have maintained neutrality with regard to religion. The question is: "Have the schools been used to establish a particular religious view?" If the schools have advocated a religious view, then the First Amendment clause has been violated.

#### Restatement of the Plan of Study

This study attempted to examine the current debate concerning the separation of church and state by examining the religiously based challenges to the public school curriculum. The approach followed in the study was based on the assumption that the public schools must remain neutral in religious matters in order to avoid violating the establishment clause of the First Amendment.

The examination of the current debate was based on a historical review of the development of the principle of separation of church and state. This historical review was followed by a review of how the principle of separation of church and state, so simply articulated in the First Amendment, has been interpreted by the Courts. The evolution of the principle of separation of church and state as it relates to public education was traced by

reviewing 16 specific court cases which illustrate the development of establishment clause case law. Significant establishment cases have been decided by the Court from 1947 forward. During the first part of this period, from 1947 - 1962, the Court followed an unclear pattern of accommodation and separation. Beginning in 1963, the Court adopted a stricter separationist approach. During the period from 1963 forward, the Court developed a three-fold test for establishment clause cases. First, the "secular purpose" test was designed to determine if the purpose of the legislation was to advance religion. Second, the "primary effects" test was set forth to carry the test beyond intent to the actual effects of the legislation. Third, the "excessive entanglement" test, which seeks to avoid government entanglement through supervision of government aid to religious institutions, was articulated. The latest period of case law development has been characterized by a separatist approach. There are some indications that the present Court may adopt a more accommodationist approach, but this point remains to be seen. The majority opinion in Committee for Public Education and Religious Liberty v. Regan, which was written in 1980, summarizes the difficulty in the separationist-accomodation dilemma:

Establishment Clause cases are not easy; they stir deep feelings; and we are divided among ourselves, perhaps reflecting the different views on this subject of the people of the country. What is



certain is that our decisions have tended to avoid categorical imperatives and absolutist approaches at either end of the range of possible outcomes. This course sacrifices clarity and predictability for flexibility, but this promises to be the case until the continuing interaction between the courts and the States - the former charged with interpreting and upholding the Constitution and the latter seeking to provide education for their youth - produces a single, more encompassing construction of the Establishment Clause. 1

After a review of the case law concerning the establishment clause and public education, this study concentrated on three categories of challenges to the public school curriculum. Two of these categories involve attempts to establish religious views in the public curriculum and one involves censorship. The first category of challenges is the creationist-evolutionist debate, which is an attempt to require the public schools to teach a particular religious belief and thus "establish" a religious belief. The second category of challenges, the humanist controversy, involves an attempt to censure the public school curriculum. In the humanist debate, certain religious leaders have accused the public schools of fostering the religious view of "secular humanism." The third category of challenges revolves around the question of moral values in the public school. In this debate, accusations have been made by those on both sides of the issue to the effect that the other side has attempted to use the public school to foster a particular world and life view.

On the basis of the examination of these three controversies surrounding the public school curriculum, some conclusions can be suggested. As an aid to understanding the context and consequences of these three controversies, a three-fold geometric analogy may be helpful. The controversies can be viewed as occurring in a three-dimensional context. First, there is a circular dimension; second, there is a horizontal dimension; and third, there is a vertical dimension.<sup>2</sup>

### Conclusions

#### The Creationist-Evolutionist Controversy

Conclusions concerning the creationist-evolutionist debate can be viewed as occurring in a circular dimension. Two circles comprise the context from which the debate springs. The two circles are concentric, but not equal. The inner, smaller circle represents the legal-institutional context. Within this context the courts have evolved a doctrine of separation which precludes the use of the public schools as a means of fostering a particular religious view. In the legal-institutional context, the question as to whether the public schools can teach creationism or scientific creationism has been answered. The creationist view is primarily a religious view and as such it can not be fostered by the public schools.

The outer circle represents the wider cultural

setting in which religion and democracy are in a relationship which sometimes causes stress. The American culture is one in which a religiously diverse nation of people have embraced a democratic ideal. The religious-democratic realm is one in which differing and often conflicting religious views must be tolerated and allowed full and free expression. If the public schools dealt only with scientific matters, the problem of creationism would never arise, since the teaching of religion is legally prohibited, but the courts have not prohibited teaching about religion. Teaching about religion is, in fact, a necessary part of the social sciences curriculum since religion is an integral part of American society. The social studies curriculum could and perhaps should teach about creationism. Creationism could be taught by attribution, that is, a teacher or a text could say certain people believe that the universe and human life are products of divine creation. In this context, any number of views about origins could be discussed without violating the principle of separation of church and state. This attribution approach would also be a means of exposing students to a wide diversity of views represented in American society. The religious-democratic dimension is and will continue to be characterized by democratic processes. Debate and even controversy are a sign of a healthy democracy. While the public schools will continue

to be a focal point of democratic debate, the schools can not yield to any particular religious view. The law, that is, the Constitution as interpreted by the courts, protects the American people from tyranny of either the majority or the minority. The schools must remain neutral and on the question of the religious belief in divine creation, the law has been adhered to.

### The Humanist Controversy

The humanist controversy can be seen as occurring in a horizontal dimension. The horizontal dimension is one in which the historical development of ideas and beliefs occurs. On the horizontal level ideas move from the past to the present. American education began by fostering a protestant Christian viewpoint, but as the system of public education evolved within a changing social context the educational viewpoint changed from a protestant Christian perspective through various stages. As the educational philosophy changed, it moved from a system in which a sectarian religious viewpoint was dominant to the present system in which a non-sectarian-humanistic viewpoint is dominant. The present controversy involves a misunderstanding of the way this evolutionary process has defined the present, but the controversy also involves conflicting visions of what the future evolutionary course should follow. The horizontal plane extends from the past to the present into the future. The second point of

controversy revolves around conflicting visions of what ought to be. In a democracy, antithetical visions move the society toward a synthesis. If the dialectical process is allowed to work itself out, then the American educational system is probably moving toward a viewpoint which is not only non-sectarian and humanistic, but will be non-secular as well. This means that some form of transcendent, but non-sectarian, religious view will be synthesized from the secular humanist-fundamentalist antithesis. At this point it should be noted that the term secular humanism may refer to a world and life view which is essentially religious in nature or even anti-religious. If and when this is true, secular humanism can not be fostered by the public school.

#### Moral Values Education

The debate concerning moral values education in the public schools can be seen as occurring on a vertical dimension. Whereas the creationist controversy and the debate over secular-humanism are social in nature and involve conflicting views over religion and the nation, the debate over moral values education is at bottom a debate over personal development. The vertical dimension debate springs from conflicting views of human nature, and the principles which govern or should govern human behavior. The values debate is perhaps the most difficult to grasp. The present educational approach to moral

values education is in a state of flux. The values clarification approach is a well-intentioned intellectual approach to resolve the dilemma created by the mandate to maintain a neutral stance toward specific religious beliefs and the social need to ensure the continuation of certain beliefs upon which American democracy is built, but it probably is inadequate. Kohlberg's approach offers hope of constructing an approach to moral values education which will resolve the dilemma. There are some basic moral values which have persisted in western civilization for two and a half millennia. The pragmatic spirit in America will probably continue to nurture these values. The question is: "how does a nation conserve and transmit values, many of which have a religious basis, without using the public schools to establish a religion?" Moral values education has always been and will continue to be a part of the American school system. The current debate reflects a continuing search for the values which will be transmitted to students.

#### A Proposal for Public School Education

The following is meant to provoke thought as to how America can move toward a value specific democratic philosophy of education. In a pluralistic, democratic society, the principle of dialectic toward a synthesis of greater truth, justice, equality, and liberty must be understood and safeguarded. This is especially true

within the institution of public education. A prime requisite for the survival of a democracy is to have an ethical standard whereby to judge the educational process. In order to construct an apparatus for such evaluation, two questions must be answered: first, what are the basic values of American democracy? and second, what educational philosophy most clearly reflects and promotes these values? Implicit in the first question is the belief that an ethical standard can be established by identifying the basic values of American society. Wallace explains how a system of ethics can be constructed upon democratic principles:

. . . We look for the ethical basis. . . in the ideals of our own political society. That society, for all its manifest defects, is still a free and democratic society. If we can clearly state the essential values of democracy, we can then suggest [a system of ethics.] 3

By measuring the educational process by that standard, it can be determined if the process is acceptable. By answering the second question, that is, what educational philosophy most clearly reflects and promotes these values, a model can be constructed which most effectively promotes and reflects the democratic values.

#### What Are the Basic Values of American Democracy?

Western democracies are the outgrowth of 2500 years of a quest to establish and secure a more perfect union in which certain basic values are realized. These values have been stated in various ways and have been experienced

to varying extents. They serve as an ideal toward which dynamic, democratic societies are hopefully moving. The assertion being made here is that the essential values of American democracy are derived from the concept of personhood as comprehended in the principle of certain inalienable rights, which define personhood and serve as the standard for justice and social intercourse.

A belief in inalienable or natural or sacred rights serves as the basis of personhood. That is, persons have these rights by virtue of divine endowment. This divine endowment has its own basis in a "state of nature." Since this is the case, as clearly recognized by our forefathers, those who seek a basis for these natural rights in the nature of man find themselves caught in a logical circle. Natural rights are a part of the definition of personhood.

Belief in natural rights is not a modern invention as some have asserted.<sup>4</sup> As Maritain has pointed out, this belief can be traced beyond the American and French revolutions through Locke to Grotius, Suarez, Francisco de Vitoria, St. Thomas Aquinas, St. Augustine, the church fathers, St. Paul, and even farther to Cicero, the Stoics, and the great poets, particularly Sophocles.<sup>5</sup>

Personhood, as defined in terms of natural rights, has been set forth in various terms at various times, but it can be safely assumed that the framers of our national



documents were mostly, if not exclusively, influenced by John Locke.<sup>6</sup> The most common terms are: life, liberty, and property.<sup>7</sup> Man's unique nature as defined by these terms consists of his individuality, that is, life; his autonomy, that is, liberty; and his right to self-affirmation, that is, property and/or pursuit of happiness.<sup>8</sup> These rights are declared to be "natural" and "inalienable" and are so because they are the means by which personhood, dignity, and self-affirmation are promulgated, preserved, and protected. Anyone or anything which denigrates these rights dehumanizes people. The central value of our democracy is the concept of personhood. A person has a right to his/her own individuality, autonomy, and self-affirmation and this concept is expressed in numerous ways in our national consciousness. Note the following random examples:

1. October 14, 1774: "Declaration and Resolves of the First Continental Congress." Resolved:  
 . . . that they (the English colony of North America) are entitled to life, liberty, and property and they have never ceded to any sovereign power whatever a right to dispose of either without their consent.

2. The Bill of Rights:

Article Number 5: "Life, liberty, or property."

Article Number 9: "Rights retained by the people."

Article Number 14: "No state shall deprive any person of life, liberty, or property."

3. Jefferson's First Inaugural Address, 1801:  
 "Freedom of religion, freedom of the press, and freedom of person."

4. Eisenhower's First Inaugural Address, January 20, 1953:

. . . We who are free must proclaim anew our faith. .

. . . This faith is the abiding creed of our fathers. It is our faith in the deathless dignity of man governed by eternal moral and natural laws. This faith defines our full view of life. It establishes, beyond debate, those gifts of the Creator that are man's inalienable rights and that make all men equal in His sight.

5. Carter's First Inaugural Address, January 20, 1977:

Our commitment to human rights must be absolute, our laws fair, our national beauty preserved; the powerful must not persecute the weak and human dignity must be enhanced [emphasis mine].

### The Ethics of Personhood

Garrett defines ethics as:

. . . The science of judging specifically human ends and the relationship of means to those ends. . . . It is also the art of controlling means so that they will serve specifically human ends.

The specifically human goal is the full human perfection of the human being as a person. . . . Thus, ethics has as one of its functions the sharpening of our knowledge about the. . . practices affecting the dignity of the individual human being. 9

Ethics in education should be seen in terms of personhood. This means that a democratic approach to education is one in which the means are to reflect and respect and promote the individuality, autonomy, and right to self-affirmation of the people involved in the educational process.

Having asserted that personhood, as defined by the concept of natural rights, is the basic value of American democracy, it is necessary to answer the second question, namely, what forms of education most clearly reflect and promote this value? As a step toward a philosophy of education, it may be helpful to consider the following

five elements of the educational process. The first element can be referred to as internalization. In order for a person to be persuaded in a matter, the message must have "personal meaning." Combs et al. state the principle in this way: Any information will affect a person's behavior only in the degree to which he has discovered its personal meaning for him." <sup>10</sup> This principle is related to the self-concept theory of motivation. In this view, human behavior is motivated by a desire to enhance and maintain the self concept. New information will be internalized, that is, made part of the self-concept, only when it does not conflict with the existing self-concept. For this reason, curriculum content must be presented in terms that are consistent with the student's self-concept. More specifically, the content must be perceived by the receiver to enhance or maintain the receiver's self-image.

The second element is the perception of choice. At this point, one's view of human nature is of great importance. The behaviorist sees the individual as an organism being acted upon by and reacting to stimuli in the environment. There are other theories which see the individual's behavior as being determined by inner drives over which the individual has little or no control. In these theories, people are left with little or no choice and are victims of their environment or their inner drives. In either case, there is virtually no choice. In

the educational process, there must be real choice and this choice must be perceived by the student. If, on the other hand, the teacher recognizes the autonomy and unique personhood of the one he/she is attempting to teach, he/she will realize the importance of choice. The principle of autonomy and choice marks the difference between education and brainwashing; therefore, this principle must be recognized for ethical reasons.

The third element which is essential to the educational process is the encoding process. Encoding implies intentionality, which in turn implies a desire to effect a change in another person's beliefs, attitudes, or actions. Encoding, in itself, is the process of choosing and using symbols (substitute stimuli) which stir up meaning in another person's mind. The previous two elements, internalization and choice (autonomy), show the importance of encoding. Symbolization must be in concert both with the self-concept of the receiver and with the internal processes by which the receiver interprets and assigns meaning to symbols. The content of specific subject areas must be designed with respect for personhood as a prime concern.

The fourth element in the educational process is the co-active element. The transaction between the teacher and student is a process of adjustment wherein both parties influence each other. The educational process is

a reciprocal one, in which there is a spiral toward understanding. With this in mind, the teacher must accept the feedback and adjust his/her message accordingly.

The fifth element in the educational process is the response to the process. The student can be unaffected, completely transformed, or be affected to a greater or lesser degree short of complete transformation. The educational process is usually cumulative in its effect. The self-concept is changed slowly. The teacher must be open to any response the student chooses to make so long as that student is in a moral and mental position to make free choice.

#### Summary of Conclusions

On the basis of this brief discussion of the values of American democracy and educational philosophy, it may be possible to construct a humanistic-democratic critical apparatus by which to evaluate the acceptability and effectiveness of the educational process. This apparatus would be predicated on the following principles:

1. People are autonomous. Democratic education must recognize this by providing for real and perceived choice.
2. Education in a democracy is dialectical and co-active in nature.
3. The personhood and dignity of the individual must be respected and promoted in content and methodology.

4. Dissenting views must be tolerated, protected, and promoted.

The humanistic-democratic educational approach would involve the following processes:

1. The student is a rational-emotive whole and behavior is holistic in nature. Curriculum content is most effectively comprehended when directed to the whole person.
2. Symbolization must be in concert with the receiver's personal perceptual field and schema by which he/she receives, interprets, and assigns meaning to symbols.
3. Curriculum should be designed to have a cumulative effect, because self-concept changes slowly.
4. Internalization - content must have "personal meaning" in order for it to be accepted by the student. This means that anyone who wants to influence the behavior of another person must show that person that the proposed action is in keeping with that person's self-concept.

#### Application

There are two discrete approaches to teaching. The first is educational; the second is instructional. The word "educate" comes from a Latin word, educatus,<sup>11</sup> which is the past participle of educare, which means to lead

forth, hence to draw forth, as something latent; to bring out or to elicit. The word "instruct" comes from another Latin word, instructus, which is the past participle of instruere, which means to furnish or provide. This word is formed from the Latin in, which means "on" or "on," plus struere, which means to build into or upon. Struere is from a word which means to pound or drive and with the prefix, it means to pound or drive into. The difference in these two words is crucial in teaching philosophy. The instructor attempts to drive information into the student. This is a content-oriented approach which can lend itself to an impersonal approach which views the student as a passive receptacle of information. This approach tends to dehumanize the student by disregarding the student's personhood and autonomy. Furthermore, the instructional approach engenders resistance on the part of the students who seek to protect themselves from this type of academic intrusion into their ego system. The teacher who adopts this approach finds that the student with a strong ego will rebel against "instruction" and the teacher's efforts will sometimes be counter productive, and, at best, they will gain less than optimum results.

The educator, on the other hand, will attempt to cultivate those innate qualities which constitute true personhood. The educational process gives greater recognition to the autonomy of the student and, while

respecting that autonomy and without attacking the student's self-concept, will attempt to elicit from the student a desire to internalize new information which will change the student in self-directed ways. The educator does not view the student as a passive receptacle, but as a co-active partner in the learning process.

It is a basic tenet of the developmental-interaction approach that the growth of cognitive functions - acquiring and ordering information, judging, reasoning, problem-solving, using systems of symbols - cannot be separated from the growth of personal and interpersonal processes - the development of self-esteem and a sense of identity, internalization of impulse control, capacity for autonomous response, relatedness to other people. 12

#### Achieving the Goal

Therefore, it can be said that the teacher who desires to confront the issue of content in the curriculum, while employing a co-active educational approach, is confronted with a dilemma in which a content goal orientation is in apparent conflict with the educational approach. At this point, a proposed solution is in order. To state the proposition in Kipling's imagery: Content is content and methodology is methodology and teacher attitude is where the twain do meet.

The student will have a tendency to resist any new information which is perceived as denigrating his/her personhood. The teacher must devise an approach which will not threaten the student. The teacher's great



challenge is to awaken within the student a sense of need which will be translated into a self-directed search for personal meaning. Combs et al. have shown that Maslow's hierarchy of needs provides a good means for creating and meeting this need within the student:

. . . teachers who are genuinely interested in the well-being of all of their pupils will manifest compassion and understanding to the extent that pupils will feel accepted as contributing members of the group. 13

A teacher's attitude toward the needs of the student is the key to avoiding the cycle of threat and ego defense, which is counter productive to the educational process.

## Notes

<sup>1</sup>Committee for Public Education and Religious Liberty v. Regan, 444 U.S. 646, 100 S. Ct. 840 (1980), at 851.

<sup>2</sup>Note: This approach was suggested by William H. Becker. It is followed here with some modifications. See William H. Becker, "Creationism: New Dimensions of the Religion-Democracy Relation," Journal of Church and State, 27 (Spring, 1985): 315 - 332.

<sup>3</sup>K.R. Wallace, "An Ethical Basis of Communication," The Speech Teacher (January, 1955), p. 5.

<sup>4</sup>Walter Laguer and Barry Rubin, Ed., The Human Rights Reader (Philadelphia, Pennsylvania: Temple University Press, 1979), p. 3.

<sup>5</sup>Jacques Maritain, trans. by Doris G. Anson, The Rights of Man and Natural Law (New York: Gordian Press, 1971), pp. 59-60.

<sup>6</sup>Note: Jefferson's view of inalienable rights came from Locke. Locke was his "hero." See Fawn M. Brodie, Thomas Jefferson. An Intimate History (New York: Bantam Books, Inc., 1975). See Locke's contribution to American democracy in W. T. Jones, A History of Western Philosophy, Vol. III (New York: harcourt, Brace, and World, Inc., 1969), p. 279. Jefferson believed that a free mind was a natural right because it was created thus by God. See "The Virginia Statues for Religious Liberty," January 16, 1786, p. 81.

<sup>7</sup>Some believe that the substitution of the "pursuit of happiness" in the Declaration was an attempt to reject Locke's concept of "property." This is not necessarily the case, since Locke himself at times included an explanatory term such as health for an explanation and expansion on the idea of "life." It could be that Jefferson was simply stating the idea of property as he understood it.

<sup>8</sup>Locke argued that ". . . The state of nature has a law of nature to govern it which obliges everyone. . . . That being all equal and independent, no one ought to harm another in his life, health, liberty, or possessions. . . ." or simply life, liberty, and property. He identified this property as existing in his own "person" and this no one has a right to but the person himself. A man's "labor" is his own. See W. T. Jones, A History of Western Philosophy, Vol. III (New York: Harcourt, Brace, and World, Inc., 1969), p. 267.

<sup>9</sup>Thomas M. Garrett, Business Ethics (New York: Appleton-Century-Crofts, Ed. Division Meredith Corp., 1966).

<sup>10</sup>Arthur W. Combs, Donald L. Avila, and William W. Purkey, Helping Relationships (Boston: Allyn and Bacon, Inc., 1978), p. 56.

<sup>11</sup>For definitions, see William Morris, ed. The American Heritage Dictionary of the English Language (Boston: Houghton Mifflin Co., 1980).

<sup>12</sup>E. Shapiro and B. Biber, "The Development of Young Children: A Developmental-Interaction Approach," Teacher's College Record (1972, 74(1)), pp. 55-79.

<sup>13</sup>Combs, Avila, and Purkey, p. 56.

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