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# **ROEMER V. BOARD OF PUBLIC WORKS, MARYLAND: THE SUPREME COURT'S EVALUATION OF THE RELIGIOUS MISSION OF CATHOLIC COLLEGES AND CHURCH EXPECTATIONS**

VINCENT R. VASEY, S.M.\*

The Supreme Court of the United States, in one of its latest attempts "to police the constitutional boundary between Church and State," upheld a Maryland statute allowing subsidies to church-affiliated colleges in *Roemer v. Board of Public Works*.<sup>1</sup> In reaching its decision, the Court, by way of dicta, passed judgment upon the religious intensity of such institutions. Both the plurality opinion of the Court, as well as the dissenting opinions of Mr. Justice Brennan and Mr. Justice Stevens, agreed that Catholic higher educational institutions have so watered down the transmission of Catholic doctrine and practice that the distinction between their mission and that of secularly oriented colleges has become blurred enough to permit state aid to the former without violating the first amendment.<sup>2</sup> The *Roemer* decision should hearten those who have hitherto opposed state aid to religious schools, since it indicates that these institutions are losing their proper religious stamp, as so many religious affiliated schools and colleges have in the past, among them the most illustrious American private universities. On the other hand, the Court's evaluation of Catholic college education should give pause to Catholic educators and

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<sup>1</sup> 426 U.S. 736, 739 (1976).

<sup>2</sup> See *id.* at 750-51 (plurality opinion); *id.* at 770-71 (Brennan, J., dissenting); *id.* at 775 (Stevens, J., dissenting); text accompanying notes 23 & 24 *infra*.

challenge them to examine whether they have sold their birthright for a mess of pottage.

#### THE *Roemer* DECISION

At issue in *Roemer* was a Maryland statute which affords an annual subsidy to private institutions of learning, provided such institutions refrain from awarding only seminarian and theological degrees.<sup>3</sup> The grants are noncategorical, but none of the monies can be utilized by the institutions for sectarian purposes.<sup>4</sup> The *Roemer* Court, in affirming the district court's refusal to enjoin the administration of the statute,<sup>5</sup> relied on *Tilton v. Richardson*<sup>6</sup> which approved grants for the construction of academic facilities in institutions where religion does not permeate colleges so as to render religious and secular functions inseparable.<sup>7</sup> *Tilton* recognized the academic freedom prevalent at such institutions and noted their freedom from religious indoctrination. Sectarian colleges, it was observed, open their doors to people of all faiths, or no faith, do not require attendance at religious services, and in mandatory theology courses consider other than Catholic beliefs.<sup>8</sup>

<sup>3</sup> MD. ANN. CODE art. 77A, §§ 65-69 (1975).

<sup>4</sup> *Id.* § 68A. As originally enacted in 1971, the Maryland statute placed no restrictions on the purposes for which the funds could be utilized. Following the Supreme Court decisions in *Lemon v. Kurtzman*, 403 U.S. 602 (1971), and *Tilton v. Richardson*, 403 U.S. 672 (1971), in which the Court determined that state aid must be restricted to non-sectarian purposes to pass constitutional muster, the Maryland legislature amended the statute to provide that "[n]one of the moneys payable under this subtitle shall be utilized by the institutions for sectarian purposes." 1972 Md. Laws ch. 534, codified at MD. ANN. CODE art. 77A, § 68A (1975).

<sup>5</sup> A three-judge federal district court, by a divided vote, upheld the constitutionality of the statute, 387 F. Supp. 1282 (D. Md. 1974), and a direct appeal was taken to the Supreme Court.

<sup>6</sup> 403 U.S. 672 (1971).

<sup>7</sup> *Id.* at 680. In a companion case to *Tilton*, *Lemon v. Kurtzman*, 403 U.S. 602 (1971), the Court set forth a three-fold test for determining whether aid to church-affiliated schools passes constitutional scrutiny: "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.'" *Id.* at 612-13.

At issue in *Tilton* was a federal statute which provided funding for construction of academic facilities at private colleges. The statute contained a proviso that the funds could not be used for sectarian purposes. 20 U.S.C. §§ 711-721 (1970) (repealed 1972). Applying the three-fold test of *Lemon*, the Court found that the statute provided funding for a secular purpose, *i.e.*, construction, and that the sectarian proviso eliminated any possibility of advancing religion. 403 U.S. at 680-82. Finally, the Court noted that the academic freedom and admissions policies of the benefitted institutions tended to minimize any possible church-state involvement. *Id.* at 682. See generally Note, *Government Assistance to Church-Sponsored Schools: Tilton v. Richardson and Lemon v. Kurtzman*, 23 SYRACUSE L. REV. 113 (1972); Comment, *The Sacred Wall Revisited—The Constitutionality of State Aid to Non-public Education Following Lemon v. Kurtzman and Tilton v. Richardson*, 67 NW. U.L. REV. 118 (1972); 85 HARV. L. REV. 167 (1971).

<sup>8</sup> 403 U.S. at 682. The *Tilton* Court noted an important distinction between church-oriented

The *Roemer* Court emphasized the general nonpervasiveness of religion at sectarian educational facilities by citing *Hart v. McNair*,<sup>9</sup> and went on to demonstrate, by summarizing the following findings of the district court, that this generalization was applicable to the instant case: (1) the colleges in question are "characterized by a high degree of institutional autonomy;"<sup>10</sup> (2) they do not require attendance at religious exercises, and when they do encourage such exercises, they limit encouragement to furnishing opportunities;<sup>11</sup> (3) mandatory religion or theology courses are taught in "the spectrum of a liberal arts program;"<sup>12</sup> (4) while some classes begin with prayer, this is a result of the professors' academic freedom, as there is no policy of encouraging such prayer practice;<sup>13</sup> (5) the colleges hold academic freedom in high esteem, permitting each course to be taught

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precollege and college education. Church-sponsored primary and secondary educational institutions have usually failed to qualify as constitutionally permissible beneficiaries of noncategorical government aid. See *Meek v. Pittenger*, 421 U.S. 349 (1975); *Levitt v. Committee for Pub. Educ.*, 413 U.S. 472 (1973); *Committee for Pub. Educ. v. Nyquist*, 413 U.S. 756 (1973); *Lemon v. Kurtzman*, 403 U.S. 602 (1971); Note, *Government Assistance to Church-Sponsored Schools: Tilton v. Richardson and Lemon v. Kurtzman*, 23 SYRACUSE L. REV. 113, 120 (1972).<sup>9</sup> 413 U.S. 734 (1973). The challenged aid in *Hunt* was in the form of funds for the construction of private college facilities. In determining whether the aid had "the primary effect of advancing religion," the Court directed its inquiry at whether the aid "flows to an institution in which religion is so pervasive that a substantial portion of its functions are subsumed in the religious mission or when it funds a specifically religious activity in an otherwise substantially secular setting." *Id.* at 743. Noting the similarity of the aid and benefitted institutions to those in *Tilton*, the Court upheld the program. *Id.* at 743-45.

<sup>10</sup> 426 U.S. at 755 (quoting *Roemer v. Board of Pub. Works*, 387 F. Supp. 1282, 1287 n.7 (D. Md. 1974)). The district court noted that although there was Church representation on the governing bodies of the colleges, "no instance of entry of Church considerations into college decisions was shown." 387 F. Supp. at 1295.

<sup>11</sup> 426 U.S. at 755 (quoting *Roemer v. Board of Pub. Works*, 387 F. Supp. 1282, 1296 (D. Md. 1974)). The district court found that the schools in question all made chaplains available to their student bodies, the principal chaplain being a clergyman of the faith of the affiliated church. 387 F. Supp. at 1295. The chaplains were present, *inter alia*, in order to aid in furthering the spiritual development of the students, which the court held to be a secondary objective of the individual colleges. *Id.* The panel went on to note that "a majority of American liberal arts colleges have chaplains." *Id.* at 1295 n.6.

<sup>12</sup> 426 U.S. at 756 (quoting *Roemer v. Board of Pub. Works*, 387 F. Supp. 1282, 1288 (D. Md. 1974)). In his dissent, Justice Stewart stated that he would distinguish *Tilton* on the ground that in *Tilton*, theology courses were taught "according to the academic requirements of the subject matter and the teacher's concept of professional standards," 403 U.S. at 686-87, while the *Roemer* district court could make no such finding. Rather, the theology departments of the institutions in question in *Roemer* were staffed entirely by clerics and the "primary concern of these departments . . . is Christianity." 387 F. Supp. at 1294. Further, Justice Stewart pointed to the district court's finding that "a department staffed mainly by clerics of the affiliated church and geared toward a limited array of possible theology or religion courses affords a congenial means of furthering the secondary objective of fostering religious experience." *Id.* at 1294-96, quoted in *Roemer v. Board of Pub. Works*, 426 U.S. 736, 774 (1976) (Stewart, J., dissenting).

<sup>13</sup> 426 U.S. at 756-57 (quoting *Roemer v. Board of Pub. Works*, 387 F. Supp. 1282, 1293-94 (D. Md. 1974)). Prayers, clerical garb, and religious symbols in the classroom were found to be "peripheral to the subject of religious permeation." 387 F. Supp. at 1293.

according to the requirements of the subject matter and the "teacher's concept of professional standards;"<sup>14</sup> (6) faculty appointments are not made on a religious basis;<sup>15</sup> and (7) although the majority of students are Catholic, students are admitted without regard to religion.<sup>16</sup> For these reasons, the district court had found that the Catholic colleges fulfilled an essentially secular purpose; the Supreme Court accepted this conclusion.<sup>17</sup>

Distinguishing religiously affiliated colleges from parochial schools and Catholic high schools, the Court pointed out that in the case of the latter two institutions religious pervasiveness manifests itself in the form of general supervision by the diocese, financial responsibility of the parish, appointment of principals by church authorities, an official handbook of school regulations, and the existence of religious teaching in other than formal religion courses.<sup>18</sup>

#### CHURCH EXPECTATIONS

When the Court's description of Catholic higher education is juxtaposed to the official documentation of the Church, the dissenting opinions of Justices Brennan and Stevens can be seen to present a real challenge. Justice Brennan expressed the view that "[g]eneral subsidies of religious activities would, of course, constitute impermissible state involvement with religion. . . ." It is the devout believer who fears the secularization of a creed which becomes too deeply involved with and dependent upon the government."<sup>19</sup> Justice Stevens echoed this sentiment, writing: "I

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<sup>14</sup> 426 U.S. at 756-57 (quoting *Roemer v. Board of Pub. Works*, 387 F. Supp. 1282, 1293-94 (D. Md. 1974)). Justice Stewart disagreed with the Court's position on this question. See note 12 *supra*.

<sup>15</sup> 426 U.S. at 757 (quoting *Roemer v. Board of Pub. Works*, 387 F. Supp. 1282, 1294 (D. Md. 1974)). An exception to the non-sectarian hiring policy was made in the case of theology departments, which were staffed entirely with clerics. 426 U.S. at 757.

<sup>16</sup> 426 U.S. at 757-58 (quoting *Roemer v. Board of Pub. Works*, 387 F. Supp. 1282, 1295 (D. Md. 1974)).

<sup>17</sup> 387 F. Supp. at 1293, *cited in* *Roemer v. Board of Pub. Works*, 426 U.S. 736, 759 (1976).

<sup>18</sup> 426 U.S. at 764. The establishment clause was designed, *inter alia*, to proscribe excessive government entanglement with religion. *Walz v. Tax Comm'n*, 397 U.S. 664, 674 (1970). It has been said that "[t]he objective is to prevent, as far as possible, the intrusion of either into the precincts of the other." *Lemon v. Kurtzman*, 403 U.S. 602, 614 (1971). In order to determine whether a potential for entanglement exists, three factors usually are examined: "the character and purposes of the institutions that are benefitted, the nature of the aid that the State provides, and the resulting relationship between the government and the religious authority." *Id.* at 615. The *Roemer* Court noted that, while religion is usually pervasive in elementary and secondary schooling a more secular atmosphere is present in colleges, and therefore state aid in the latter instance often is upheld under the character-of-institution test enunciated in *Lemon*. 426 U.S. at 764-65.

<sup>19</sup> 426 U.S. at 770, 772 (Brennan, J., dissenting) (quoting *Walz v. Tax Comm'n*, 397 U.S. 664, 690 (1970); *Abington School Dist. v. Schempp*, 374 U.S. 203, 259 (1963)). In *Roemer*, Justice Brennan took the view that "[t]he discrete interests of government and religion are mutually best served when each avoids too close a proximity to the other." 426 U.S. at 772 (Brennan, J., dissenting). Toward that end, he found "payment of general subsidies to the religious

would add emphasis to the pernicious tendency of a state subsidy to tempt religious schools to compromise their religious mission without wholly abandoning it."<sup>20</sup> State aid to religious schools, he continued, may "discourag[e] wholesome religious activity."<sup>21</sup> Justices Stevens and Brennan thus posed a thoughtful query: may state subsidies to church-affiliated schools be sustained if they tend to *discourage* religious activities?

Since the celebration of Vatican Council II, the S. Congregation for Catholic Education has been zealously trying to define the purposes, role, and goals of Catholic universities.<sup>22</sup> It has sponsored meetings of educators and rectors of universities, issued letters, offered criticism of position papers, and composed documents in an attempt to explain the mission of a modern Catholic university. Pope Paul VI has on a number of occasions expressed high expectations for the contribution of these higher institutions of learning.<sup>23</sup>

The Second International Congress of Delegates of Catholic Universities was held in Rome in November 1972. The document elaborated in this Congress entitled, *The Catholic University in the Modern World*, was intended as a guide for all Catholic universities.<sup>24</sup> This statement was reviewed in the Spring of 1973 by the Plenary Assembly of the Congregation for Education, consisting of thirty-seven cardinals and bishops. In accordance with the discussions of this Assembly, Most Rev. Joseph Schoeffer dispatched a letter to communicate the decision of the assembly, which the Pope had personally approved.<sup>25</sup> Addressed to the presidents of Catholic universities, the letter contained a number of criticisms of the Congress' document *The Catholic University in the Modern World* including the following passage:

Although the document envisages the existence of university institutions without statutory bonds linking them to ecclesiastical authority (as, for example, most Catholic colleges and universities in America), it is to be noted that this in no way means that such institutions are removed from those relationships with ecclesiastical authority which must characterize all Catholic institutions. The consciences of all who work in these universities are committed to the implementation of the conditions set out in the document.

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institutions from public funds" constitutionally impermissible, adopting the position of the dissent in the court below. 426 U.S. at 770-71 (Brennan, J., dissenting) (citing 387 F. Supp. 1282, 1298-99 (D. Md. 1974) (Bryan, J., dissenting)).

<sup>20</sup> 426 U.S. at 775 (Stevens, J., dissenting).

<sup>21</sup> *Id.*

<sup>22</sup> See THE CATHOLIC UNIVERSITY, A MODERN APPRAISAL 1-28 (N. McCluskey ed. 1970).

<sup>23</sup> See, e.g., Address of Pope Paul VI to Members of the Council and Committee of the International Federation of Catholic Universities (May 7, 1971), reported in 69 DOCUMENTATION CATHOLIQUE 1109 (1972); Discourse of Pope Paul VI to the International Congress on the Theology of Vatican II, 58 ACTA APOSTOLICAE SEDIS 890-893 (1966).

<sup>24</sup> CONGRESS OF THE DELEGATES OF THE CATHOLIC UNIVERSITIES IN THE MODERN WORLD, THE CATHOLIC UNIVERSITY IN THE MODERN WORLD (1972), reprinted in 71 CATH. MIND, May 1973, at 27.

<sup>25</sup> Protocol No. 1511 (Apr. 25, 1973).

And what is more, each Catholic university should set out formally and without equivocation, either in its statutes or in some other internal document, its character and commitment as Catholic.<sup>26</sup>

The Supreme Court's evaluation of the Catholic colleges in the *Roemer* case is clearly stated. It should prove interesting to compare the Court's description with the following one drawn from *The Catholic University in the Modern World*: a Catholic university, as an institution, assures a Christian presence that confronts the problems of contemporary society; it inspires individuals and the university community with Christian principles; it endeavors to reflect continuously on human knowledge in the light of Catholic faith; it keeps ever in view fidelity to the Christian message and its institutional commitment to the service of the human family in its pilgrimage to the goal which gives meaning to life;<sup>27</sup> a Catholic university recognizes its call to create an integrated synthesis of knowledge, by making theology relevant to human knowledge and human knowledge relevant to theology and by witnessing to Christ and the truth; it adopts for this purpose an inter-disciplinary approach, striving to meet the needs of the world by competent professional training informed with ethical content.<sup>28</sup>

The *Roemer* Court minimized the responsibility of Catholic colleges to the Church: "[n]one of the four [colleges] . . . makes reports to the Catholic Church."<sup>29</sup> The correctness of this observation depends upon the meaning attributed to the words "Catholic Church." Ordinarily, Catholic institutions of higher learning are in the hands of religious who must report on, *inter alia*, their financial condition to competent provincial superiors.<sup>30</sup> These superiors, in turn, are required to submit information in quinquennial reports to General Administrations, usually located in Rome, who then must report on the condition of the entire religious congregation or society to the S. Congregation of Religious and Secular Institutes.<sup>31</sup> It is true that the obligation to make this latter report has been temporarily suspended.<sup>32</sup> This suspension, together with the eventual abrogation of the

<sup>26</sup> *Id.*

<sup>27</sup> CONGRESS OF THE DELEGATES OF THE CATHOLIC UNIVERSITIES IN THE MODERN WORLD, *THE CATHOLIC UNIVERSITY IN THE MODERN WORLD* 1 (1972), reprinted in 71 CATH. MIND, May 1973, at 27.

<sup>28</sup> *Id.* at 2, reprinted in 71 CATH. MIND, May 1973, at 28.

<sup>29</sup> 426 U.S. at 755.

<sup>30</sup> See A. GREELEY, FROM BACKWATER TO MAINSTREAM: A PROFILE OF CATHOLIC HIGHER EDUCATION 111-12 (1969).

<sup>31</sup> *S. Congregation des Religieux Questionnaire auquel doivent répondre aux termes du décret Cum transactis les religions et les sociétés dans le rapport qui doit être envoyée au S. -Siege tous les cinq ans*, IMPRIMERIE POLYGLOTTE VATICANE (1949). See also CODEX IURIS CANONICI, CANON No. 510.

<sup>32</sup> Communication of the S. Congregation of Religious and Secular Institutes (March 1, 1967). The acts of General Chapters of religious orders and congregations, however, must be transmitted to the S. Congregation of Religious and Secular Institutes. G. VAN DEN BROECKH, OÙ EN EST LA LÉGISLATION CANONIQUE AUJOURD'HUI? 32 (1975).

obligation itself in the coming Revision of Code of Canon Law as application of the principle of subsidiarity, still indicates, at least, the right of the Church to demand reports from universities in charge of religious congregations. Universities of religious, despite certain voices to the contrary, are moral persons in the Church<sup>33</sup> and as such are bound by the canons which regulate the juridical acts of moral persons the same as corporations are bound by the statutes of the state under which they were organized. A moral person, for example, who would incur a debt beyond the sum prescribed in canon law, or alienate property in excess of this sum needs an indult or beneplacitum from the Holy See.<sup>34</sup> Permission must be procured before property is alienated in the literal sense, *i.e.*, before ownership is transferred, and before a transaction is effected which, in a broad sense, amounts to an alienation of property, *e.g.*, property is mortgaged or subjected to a long term lease.<sup>35</sup>

No objection can be raised to the Supreme Court's finding that in the four colleges in question there was no compulsory Church service and that there was no indoctrination in the pejorative meaning of the word, *i.e.*, efforts to proselytize. Any Catholic university worthy of the name must respect the personal convictions of its students. Nevertheless, Catholic universities do have their religious mission, as discussed in Justice Stevens' dissent. Pope Paul VI, in a discourse to the Delegates of Catholic Universities, November 27, 1973, reiterated the perennial mission of these institutions in the larger apostolate of the Church. They do have their proper place and function in the context of today's world.<sup>36</sup> After noting that contemporary universities seek involvement in their surrounding communities and concern themselves with the placement of youth into the economic and technical world, Pope Paul VI recalled that the particular mission of a Catholic university is

to view things, in the different sectors of research and teaching, in the right perspective which makes it possible to set knowledge and intellectual effort in their full light. To show concretely that intelligence is never diminished, but is, on the contrary, stimulated and strengthened by this inner source of deep understanding, which is the Word of God, by the hierarchy of values derived from it, by the consistency, in short, of the thought and action that is its fruit; that is, in our opinion, the specific testimony expected of a Catho-

<sup>33</sup> See CODEX IURIS CANONICI, CANONS Nos. 99, 100, 531, 1495 ¶ 1. For a study of moral persons in the Church and the relationship between moral persons and corporations, see A. MAIDA, OWNERSHIP, CONTROL AND SPONSORSHIP OF CATHOLIC INSTITUTIONS (1975).

<sup>34</sup> See CODEX IURIS CANONICI, CANON No. 534. See also *Cum Admotae*, No. 9, 59 ACTA APOSTOLICAE SEDIS 374 (1967); *Religionum Laicalium*, No. 2, 59 ACTA APOSTOLICAE SEDIS 362 (1967); *Motu Proprio* "Pastorale Munus," No. 32, 56 ACTA APOSTOLICAE SEDIS 7 (1964). For both strict and liberal interpretations of the meaning of the term "alienation," see C. SHAEFFER, DE RELIGIOSIS 388 (1947).

<sup>35</sup> See CODEX IURIS CANONICI, CANON No. 534.

<sup>36</sup> Pope Paul VI, Allocution a La Fédération Des Universités Catholiques (Nov. 27, 1972), reprinted in 69 DOCUMENTATION CATHOLIQUE 1109 (1972).

lic university. In its original way, it contributes to manifesting the superiority of the intellect, which can never agree to put itself completely at the service of anything other than the search for truth, without taking the risk of losing itself.<sup>37</sup>

In this statement of purpose of Catholic higher education Pope Paul seems to have stated clearly that the Catholic view or outlook on the universe and truth should be pervasive in the teaching and learning process.

In fact, the role of Catholic universities is essential and irreplaceable in the Church. It is only at the university level that the Church can come into contact with academic, scientific, and intellectual endeavors; without universities it would be handicapped in its dialogue with important sectors of modern society. Moreover, the Church needs these contacts for its own enrichment so that it can carry out its mission with greater efficiency. In short, the Church hierarchy looks to Catholic universities for valuable aid in the advancement and development of truth.<sup>38</sup>

The *Roemer* Court stated that “[m]andatory religion or theology courses are taught . . . primarily by Roman Catholic clerics, but these only supplement a curriculum covering ‘the spectrum of a liberal arts program.’”<sup>39</sup> This statement represents a narrow view of theological and religious teaching in Catholic institutions. The teaching of theology or religion is essentially related to the teaching office of the Church, technically referred to as the magisterium. Theology cannot be a mere subject in the liberal arts program. It must vitalize the liberal arts program and the intellectual life of the university. For that reason research in theology cannot be conducted with the same freedom as it can be in any other field. A judgment about the value of a doctrine in theology cannot be left to a fellow theologian; a critical attitude toward the truths of faith cannot be assumed. The relationship between universities and the magisterium does not vary with the type of institution.<sup>40</sup>

Although the document *The Catholic University in the Modern World*<sup>41</sup> envisages the existence of universities without statutory bonds linking them to ecclesiastical authority, it is to be noted that this lack of formal association does not mean that such institutions are removed from these relationships with the ecclesiastical authority which must characterize all Catholic institutions.<sup>42</sup> There is no escaping the supervision of the magisterium by calling a theology program religious studies, or another

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<sup>37</sup> *Id.*

<sup>38</sup> Protocol No. 1511/68, S. Cong. for Catholic Education to Presidents of Episcopal Conferences (Apr. 11, 1974).

<sup>39</sup> *Roemer v. Board of Pub. Works*, 426 U.S. 736, 756 (1976) (citing *Roemer v. Board of Pub. Works*, 378 F. Supp. 1282, 1288 (D. Md. 1974)).

<sup>40</sup> S. Cong. for Catholic Education to All Rectors of Catholic Universities (Nov. 30, 1969).

<sup>41</sup> CONGRESS OF DELEGATES OF THE CATHOLIC UNIVERSITIES OF THE WORLD, *THE CATHOLIC UNIVERSITY IN THE MODERN WORLD* (1972), reprinted in 71 CATH. MIND, May 1973, at 27.

<sup>42</sup> S. Cong. for Catholic Education to Presidents of Catholic Universities and Directors of Catholic Institutions of Higher Learning (Apr. 25, 1973).

similar title. Some think that by using such terms they may operate outside the legislation of the Church. They may appeal to accreditation authorities or state charters, but "they sometimes appear to neglect the essential role of the bishops in guarding and authoritatively interpreting Divine revelation, the difference between genuine Catholic theology and religious studies, religious sociology, religious education, etc., and the demands of orthodoxy and doctrinal integrity."<sup>43</sup>

#### CONCLUSION

Pope Paul VI seems to agree with the Supreme Court's evaluation that Catholic higher education has so watered down its ideal that it reflects the values pursued by secular institutions. "In these latter years," he has written, "certain Catholic universities thought that they could answer the questionings of man and the world by attenuating their Catholic individuating notes. As a consequence, we have seen a loss of Christian values; these have been replaced by humanism which has become authentic secularism."<sup>44</sup> The subsidies granted by the government to these same universities has negatively influenced the Catholic people's desire to support what were once Catholic institutions in the sense described by the documents this Article has discussed.

Catholic universities must enter into a dialogue with various cultures, especially in the developing countries of the non-Western world where non-Christian religions have inspired a multi-secular philosophy of life and conduct. The discussion in *Roemer* suggests that liberal arts and theology are multi-faceted and would seem to be in harmony with the expectation of Pope Paul that Catholic universities will engage in a dialogue with all the various components of the intellectual world. He insists, nevertheless, that to sustain the Catholic end of the dialogue, Catholic universities must keep their proper character intact.<sup>45</sup> Those who hold a viewpoint different from Catholicism do not desire less of the universities, but rather demand a clearly defined Catholic position as an indispensable condition of a constructive and loyal dialogue. Cultural pluralism in no way precludes either respect for persons presenting an opposing view or a whole-hearted attempt to serve the truth in the vindication of one's own position.

The religious freedom that the *Roemer* Court observed on the campuses of the colleges concerned does not relieve a Catholic university from the duty to create an atmosphere in which youth is assisted in its search for Christ. In such an institution, which presents itself to the world as

<sup>43</sup> Letter by G. Cardinal Garrone to the Institute of Catholic Education (June 10, 1975), reprinted in S. GREENBURG, *A TIME OF DECISION* 30 (1976).

<sup>44</sup> Pope Paul VI, *Allocution aux recteurs des Universités de la Compagnie de Jesus*, reprinted in 72 *DOCUMENTATION CATHOLIQUE* 801 (1975) (French); *Osservatore Romano*, Aug. 8, 1975 (Latin and Italian).

<sup>45</sup> Pope Paul VI, *Allocution aux recteurs des Universités de la Compagnie de Jesus*, reprinted in 72 *DOCUMENTATION CATHOLIQUE* 801, 802 (1975).

religious, youth should develop a genuinely Christian style of life, as well as deeper enthusiasm and convictions to make them eventually witnesses of Christ in their professions.

If the dissenting views of Justices Brennan and Stevens challenge all Catholic institutions of high learning, they provoke, at the same time, all Church-oriented colleges and universities to measure their fidelity to their religious convictions. Such self-evaluation can be useful at this time when the allurements of state aid is making itself felt as a serious temptation to water down doctrine and practice, even at institutions whose religious aim once set the tone and informed the entire life of the campus.