



VOICE OF REASON

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Coming To Your School Soon: Texas-Style Bias?

If the Religious Right has its way, millions of American school children will be learning history, social studies and science from a decidedly conservative perspective. This is because the Texas State Board of Education (SBOE) has an enormous influence on textbooks, ranging from what is included and not included in the material to purchasing power in the textbook industry as a whole.

Mariah Blake lays out this grim scenario in the January/February 2010 issue of the *Washington Monthly*: "Battles over textbooks are nothing new, especially in Texas, where bitter skirmishes regularly erupt over everything from sex education to phonics and new math. But never before has the board's right wing wielded so much power over the writing of the state's standards. And when it comes to textbooks, what happens in Texas rarely stays in Texas. The reasons for this are economic: Texas is the nation's second-largest textbook market and one of the few biggies where the state picks what books schools can buy rather than leaving it up to the whims of local districts, which means publishers that get their books approved can count on millions of dollars in sales. As a result, the Lone Star State has outsized influence over the reading material used in classrooms nationwide, since publishers craft their standard textbooks based on the specs of the biggest buyers. As one senior industry executive told me, 'Publishers will do whatever it takes to get on the Texas list.'"

SBOE chairman Don McLeroy is an avid creationist and religious conservative who does not balk at expressing his convictions or in insisting that others follow them. He told Blake: "Evolution is hooey. The secular humanists may argue that we are a secular nation. But we are a Christian nation founded on Christian principles. The way I evaluate history textbooks is first I see how they cover Christianity and Israel." Blake adds, "McLeroy and his ultraconservative crew have unparalleled power to shape the textbooks that children around the country read for years to come."

The Religious Right targeted Texas as early as 1994, though the groundwork was laid by Norma and Mel Gabler, who inaugurated a crusade for more conservative textbooks beginning in the 1960s. Conservatives targeted the 15-member SBOE, recruited candidates in Republican primaries, knocked off Republican moderates, and then went hunting for Democrats in the general elections. Blake writes, "Around this time, social conservatives decided to target seats on the school board itself. In 1994 the Texas Republican Party, which had just been taken over by the religious right, enlisted Robert Offutt, a conservative board member who was instrumental in overhauling the health textbooks, to recruit like-minded candidates to run against the board's moderate incumbents. At the same time, conservative donors began pouring tens of thousands of dollars into local school board races. . . . It took more than a decade of fits and starts, but the strategy eventually paid off. After the 2006 election, Republicans claimed ten of fifteen board seats. Seven were held by the ultra-conservatives, and one by a close ally, giving them an effective majority."

continued on page 2

Pro-Choicers Rally in Senate

After a devastating defeat on abortion funding in the House on November 7, pro-choice Senators defeated a similar proposal on December 8 by a vote of 54 to 45. Senator Ben Nelson (D-NE), joined by Orrin Hatch (R-UT), proposed a ban on abortion funding, directly or indirectly, in the Senate version of the Health Care Reform bill. Most Senators, including 50 Democrats, 2 Independents, and 2 Republicans (Collins and Snowe of Maine) thought the proposal too restrictive and voted to table (reject) the Nelson Amendment. Only seven Democrats (Bayh of Indiana, Casey of Pennsylvania, Conrad of North Dakota (a Unitarian, no less!), Dorgan of North Dakota, Kaufman of Delaware, Nelson of Nebraska, and Pryor of Arkansas) supported the funding ban. Senator Byrd of West Virginia was absent.

The Senate vote is noteworthy on several accounts: One is that Catholic Democrats voted 15-2 pro-choice, effectively snubbing the Bishops Conference. Catholic Republicans, of course, voted anti-choice 8 to 1, but it should be noted that one of the two Republicans who cast a pro-choice vote was Susan Collins of Maine, a Catholic. The other was Olympia Snowe, a Greek Orthodox Christian. All Protestant and Mormon Republicans voted anti-choice.

The vote among all Catholic Senators was 16 to 10 in favor of tabling the Nelson Amendment, i.e. a pro-choice vote. Also highly significant is that Catholic women Senators voted 7 to 1 for the pro-choice position. (Lisa Murkowski of Alaska was the only anti-choice vote.) This includes Mary Landrieu of Louisiana, who always has a tough time getting reelected in her conservative state.

Thus, while nearly 62% of Catholic Senators voted to table the Nelson Amendment, only 41% of Protestant Senators did so. Despite the political pressures of U.S. Catholic Bishops, Catholic Senators were almost 21 percentage points more pro-choice than Protestants.

All thirteen Jewish Senators voted to table, as did two of the five Mormons and the lone Greek Orthodox. Local political cultures also played some role. The only Unitarian Senator, Kent Conrad of North Dakota, cast an anti-choice vote, apparently necessary in anti-abortion

continued on page 2

Inside:

Maine Referendum Reveals Culture War Clashes	3
Christmas Controversies Are Few Despite Claims	4
States Vary Widely in Religious Commitment	4

Regular Features

Church and State in the Courts	5
The Voucher Watch	8
Updates	8
International Updates	14
Books and Culture	16

Texas-Style Bias, *continued from page 1*

The board has added insult to injury by hiring two zealots who lack historian credentials, David Barton and Peter Marshall, as “experts” to advise board members on what subject areas should be included in social studies and history textbooks. Barton heads up the extremist group “Wall Builders” that preaches a Christian Nation interpretation of American history. Barton, former vice chairman of the Texas Republican Party, has only a bachelor’s degree in religious education from Oral Roberts University. His specialty is proving that Colonial America was a theocracy that should be reinstated, regardless of what the Constitution says. He also urges a more aggressive campaign against “Islamic terrorism,” and downplays the contributions of racial and religious minorities in American history and culture. His ally, Peter Marshall, is a Massachusetts-based preacher who emphasizes America’s uniquely Christian character. Writes Blake, Marshall “argued that California wildfires and Hurricane Katrina were God’s punishment for tolerating gays.”

Groups like the highly esteemed Texas Freedom Network are fighting back, exposing the Religious Right campaign, and encouraging primary challenges to the zealots in March, and in the November election. But the theocrats haven’t given up, either. They are targeting moderate Republican Bob Craig in District 15. Randy Rives, a supporter of a fundamentalist-inspired Bible course for high school students and a defender of abstinence-only health education courses, has entered the Republican primary race. Rives has defended his position

“An education without some understanding of the profound role of religion in our nation’s history and its contributions to our nation’s success is an incomplete education, and our courts have said as much. What violates the Constitution is presenting material that either prefers Christianity over other faiths or depicts the United States as a Christian nation in some legal sense. Some of the proposals suggested by members of the State Board of Education and their appointees to curriculum panels commit both violations, and therefore infringe the religious liberty of public school students across Texas.”

— *Written testimony submitted to the Texas State Board of Education hearing in social studies curriculum January 13, 2010, by Derek Davis, director of the Center for Religious Liberty at the University of Mary Hardin-Baylor.*

on sexuality education even though his home, Ector County, where he served on the school board, has the highest teen pregnancy rate in the state.

The outcome, including the final vote on school textbook standards, is still unlikely to reverse recent trends. Mariah Blake concludes: “No matter what happens at the ballot box, the next generation of textbooks will likely bear the fingerprints of the board’s ultraconservatives.” ■

Pro-Choicers, *continued from page 1*

North Dakota. (However, as previously noted, Mary Landrieu defied similar sentiments in staunchly anti-choice Louisiana.)

Women Senators voted 15 to 2 to table (88.2%) while men were actually opposed to the tabling 39 to 43 (47.6%), a 41 percentage-point difference. Women members provided the winning margin for rejecting this amendment.

Democrats voted 50-7 (87.7%) for tabling, while only 2 of 40 Republicans (5%) voted to table. Both Independents supported tabling. Regionally, support for tabling was highest in the Northeast and Pacific Coast, while Southerners voted 16 to 6 against tabling. The vote was evenly divided in the Midwest, the Rocky Mountain West and the Border South. ■

U.S. Senate 12/8/09 Vote to Table Nelson Amendment

<i>Religion</i>	<i>All Yes</i>	<i>All No</i>	<i>Women Yes</i>	<i>Women No</i>
Roman Catholic	16	10	7	1
Mormon	2	3	—	—
Jewish	13	0	2	0
Eastern Orthodox	1	0	1	0
Protestant	22	32	5	1
Totals	54	45	15	2

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Thank You

We want to thank you, our wonderful members, supporters and friends, for making possible all that Americans for Religious Liberty has accomplished over the past 28 years.

- We have published 110 issues of our journal *Voice of Reason*, which is packed full of information and analysis not easily found anywhere else.
- We have published over 30 books and studies on significant issues impacting religious freedom.
- We have been involved in over 60 actions in federal and state courts.

Our journal is read far and wide. A German university wrote us recently to praise our research and analysis, and wondered whether the earliest issues will be available on our website. The good news is

that by this summer all issues of *Voice of Reason* back to 1982 will be available on our website—www.arlinc.org.

We are pleased to announce that all of our archives have been placed in a special library collection at the University of South Carolina.

Your generosity will enable ARL to continue to be an indispensable voice in the endless struggle to defend and expand religious freedom and church-state separation.

Needless to say, ARL has always operated frugally on a tight budget. With increased support we will be able to do even more to reach new people who share our concerns.

— Edd Doerr, President

Maine Referendum Reveals Culture War Clashes

By a vote of 52.9% to 47.1% Maine voters repealed the state's newly-enacted same-sex marriage law. Even though the law "allows individuals and religious groups to refuse to perform these marriages," a majority of voters did not support it. The turnout was heavy for an off-year: 300,848 voted "yes" to "reject" the law, while 267,828 voted "no" to retain it.

Religion was probably a factor. Rural French Catholics voted strongly for repeal, while French Catholic city dwellers were moderately in favor. But substantially Irish Catholic South Portland voted against repeal by a large margin. Rural Protestants were even heavier in favor than Catholics. Maine is an increasingly secular state, with church attendance ranking near the bottom of the states, along with New Hampshire, Vermont and Alaska.

Republicans were much more supportive of repeal than Democrats: 77% supported repeal in towns where 60% or more of voters favored McCain while only 44% voted yes in towns where Obama's vote exceeded 60%. High income and well educated towns opposed repeal, while towns at the lower end of the socioeconomic scale were supportive. Rural voters were more supportive than urban or suburban voters. Surprisingly, political independents and areas where Perot won in 1992 also supported the repeal.

Following is a more detailed analysis of the results:

Maine: The Yes Voters

The larger towns that favored repeal were characterized by low levels of education and income. Of 28 towns where more than 65% voted "yes," only six had more college graduates than voters without a high school education. Fewer than half (13) had per capita incomes exceeding \$20,000. Only two had above 20% college graduates. The rest were lower-middle to blue collar areas, many of which experienced population declines over the past decade.

There is some indication that education, or a lack of it, increased the pro-repeal vote. In the six towns that cast the highest pro-repeal vote, one out of five (19.5%) voters lacked a high school diploma.

Maine: The No Voters

The larger towns that overwhelmingly opposed repeal included the state's highest-income and best educated towns. All four of the towns with per capita incomes exceeding \$40,000 voted solidly against re-

peal, as did all six towns where more than half of voters are college graduates.

Education was even more of a factor than income. In communities with over 1,000 votes the "no" areas had about 50% higher income (\$29,296 to \$19,634) than the stronger "yes" areas. But those towns had more than 2.5 times as many college graduates on average (37.7% to 14.1%) as the strongholds of repeal.

Rural areas in every state have lower levels of income and education than suburban or urban areas. But in Maine many of the staunch "no" communities were populated by retirees and were coastal resort areas that attract writers and artists. The per capita income in the strongest rural "no" areas was \$27,415, almost as high as the larger "no" areas. Educational levels were high, with 33.7% of the population holding college degrees.

Of the 20 rural towns giving the highest support to repeal, in only three did college graduates outnumber those with no high school. Income was also low, with only two towns slightly exceeding \$20,000 per capita income.

The "No"-voting rural areas had four times as many college graduates as the "yes" strongholds, and their income level was 69% higher.

Also voting against repeal were Native Americans and the academic community at the University of Maine in Orono.

Chart 1

<i>Strongest Urban-Suburban</i>	<i>Average PCI</i>	<i>% College Graduates</i>	<i>% Without High School</i>
Yes for repeal	\$19,634	14.1	17.5
No against repeal	\$29,296	37.7	7.0
% Difference	+49.2	+267.4	-150.0
<i>Rural</i>	<i>Average PCI</i>	<i>% College Graduates</i>	<i>% Without High School</i>
Yes	\$16,217	8.3	22.9
No	\$27,415	33.7	10.1
% Difference	+69.1	+406.0	-126.7

continued on page 4

Christmas Controversies Are Few Despite Claims

Despite repeated claims from religious conservatives that there is a nationally coordinated war on Christmas, the 2009 holiday season saw only a few disputes, and those were promptly settled at the local level with a minimum of acrimony. In Sonoma County, California, local officials asked county departments to remove angels, stars, or any religious symbols from public property “so that we can celebrate the season yet not appear to endorse Christian or other religious doctrines.” A local veteran, Irv Sutley, had protested the appearance of numerous religious symbols in a government building.

Town officials in the Borough of Chambersburg, Pennsylvania, denied permission for a garden club to erect a nativity scene on the town’s war memorial because they did not wish to open the public square to an array of religious and political groups. In Luzerne County, Pennsylvania, commissioners voted to remove a crèche and a menorah from the courthouse lawn. In Marysville, Tennessee, government officials dropped Bible readings from official holiday celebrations.

County supervisors in Loudoun County, Virginia, voted to allow seasonal religious displays after a board-appointed citizens group had voted to ban all displays. The local Rotary Club then decided not to erect a Christmas tree on the courthouse lawn in Leesburg, the county seat.

Two state capitals also faced the December dilemma. In Washington State, the legislature banned all displays around the capitol rotunda in Olympia. In Little Rock, a Nativity scene was erected on a lawn within the grounds of the Arkansas state capitol. A federal court order allowed a solstice display erected by the Arkansas Society of Freethinkers, after Attorney General Charlie Daniels had rejected it for “aesthetic” reasons.

Perhaps the oddest event was a campaign by Merry Hyatt and the Redding Tea Party Patriots, who are collecting signatures for a referendum in California that would “require schools to provide children the opportunity to listen to or perform Christmas carols.” The state requires 433,971 valid signatures from registered voters to be collected by March 29.

Considering the size and diversity of America, these disputes hardly justify the comments by Religious Right activist Christopher Gacek, who said, “At Christmastime locust-like swarms of liberal activist attorneys prowl the country looking for signs of faith to devour.”

Maine Referendum, *continued from page 3*

Chart 2
2008 Referendum by Voting Groups

	<i>Yes for Repeal</i>	<i>No</i>
All	52.9	47.1
Republican	77.1	22.9
Democratic	43.9	57.1
Independent	55.8	44.2
Native American	39.7	60.3
Kerry '04 / McCain '08	65.3	34.7
Urban	43.2	56.8
Upper income	38.1	61.9
Rural French Catholic	72.8	27.2
Rural Protestant	78.9	21.1
French Catholic cities	56.5	43.5
University	26.8	73.2

The conservative *Washington Times*, founded three decades ago by the Unification Church and now facing a serious financial crisis and massive staff layoffs, went even further. In a Christmas Day editorial the paper claimed, “The war on Christmas and Christianity isn’t a conspiracy. It has become a culture. Ignorance of and indifference to the role of Christianity as a foundation of our nation and the civilization we have inherited are often more common and insidious than hostility. It all starts with those whose hostility to America’s Christian roots leads them to file lawsuits and rewrite history to make religion a threat to our rights instead of a guarantor of those rights.”

A more sensible view was expressed by J. Brent Walker, executive director of the Baptist Joint Committee, who wrote, “We are a religiously diverse nation. It’s not the job of our government to promote any one religion’s holiday symbols or even all of their symbols.” He added that neither government nor private parties can “display a nativity scene on government property if it appears that government is speaking the message or embracing the symbol as its own.” ■

States Vary Widely in Religious Commitment

Mississippi is the nation’s most religious state by all measurements, according to a Pew Forum study released at the end of 2009. The research group used polling data that asked frequency of church attendance, frequency of daily prayer and belief in a Supreme Being. The most important question asked, said researchers, was the percentage of people who say religion is “very important” in their lives. Mississippians were far away in first place with 82% answering in the affirmative. Next came Alabama and Arkansas with 74%. They were followed in the top ten by Louisiana, Tennessee, South Carolina, Oklahoma, North Carolina, Georgia and Kentucky—all Southern or Border South states with a long heritage of evangelical Protestant Christianity.

Utah, historically Mormon but less so today, ranked 12th overall but 2nd in frequency of church attendance. Other states that ranked above the national average on Pew’s religious commitment scale were Texas, Kansas, Nebraska, West Virginia, Indiana, Missouri, Virginia, Idaho and Florida. Maryland and the Dakotas ranked right at the national average.

A bit below the national average were Hawaii, Delaware, Ohio, Pennsylvania, Michigan, Illinois and New Mexico.

Some states, though religious in the popular imagination, turn out to be less so. Iowa, Minnesota and Wisconsin are five to six percentage points below the national average in religiosity.

A number of western states, including Arizona, Montana and Wyoming, are well below the norm, primarily because of low levels of church attendance. In these three states political conservatism is more popular than religious conservatism.

The six New England states have replaced the Far West as the least religious region of the country. New Hampshire and Vermont are dead last, and Connecticut, Rhode Island, Maine and Massachusetts are in the bottom ten. (So is Alaska, the one anomaly in the ranking, since it is a Republican stronghold, unlike the other least religious states.) Oregon is still in the bottom ten, along with Colorado and New York, but it is no longer the least religious state as polls suggested a decade or two ago. Its secular neighbor, Washington, has also moved up a few notches, ranking with Nevada and California as less religious than the nation

but not in the bottom ten.

There is a mild political correlation between religious commitment (as defined by this scale) and presidential voting. (see chart). McCain carried all but one of the ten most religious states, losing only North Carolina narrowly. Obama carried all but Alaska among the ten least religious states. Of the 20 most religious states Obama carried only four (North Carolina, Indiana, Virginia and Florida) and all of them by small margins. But Obama carried 80% of the states in the middle ranking, even more than the 70% of the “somewhat less” religious states. And there were any number of other factors, including income, education, political tradition, ethnicity, and the urban vs. rural character of the population, that affected the outcome of the 2008 race. ■

Religious Commitment and Presidential Vote

	<i>% Carried by Obama</i>
Most religious	10
Next most religious	30
Middle rank	80
Less religious	70
Least religious	90



Church and State in the Courts

A federal court has struck down the policy of having Christian prayers offered before meetings of the Forsyth County Board of Commissioners. The January 28 ruling concluded that “the invocation Policy, as implemented, has resulted in Government-sponsored prayers that advance a specific faith or belief and have the effect of affiliating the Government with that particular faith or belief.” This policy, the court held, “violates the Establishment Clause of the Constitution.” The court said the commissioners in Forsyth County, which includes Winston Salem, “could choose not to open meetings with prayer” or “to open their meetings with nonsectarian prayers.” All prayers, if given, must “reflect diversity and inclusiveness.”

The court emphasized that “The present case does not involve any infringement of the private rights of citizens to Free Speech or Free Exercise of Religion. Instead, this case involves only the sole question of whether the Government has endorsed a particular belief or faith in violation of the Establishment Clause.”

Joyner v. Forsyth County, was decided by the U.S. District Court for the Middle District of North Carolina and has been appealed to the Fourth Circuit Court of Appeals.



Christian schools lost their challenge to the University of California’s admissions policy by failing to prove that their students had been denied freedom of speech and free exercise of religion. The U.S. Ninth Circuit Court of Appeals upheld the University in a decision announced on January 12.

The case, *Association of Christian Schools International v. Stearns*, began in 2005 when the University of California determined that some courses taught at Calvary Chapel Christian School did not “adequately prepare incoming students for the rigors of academic study at the University of California.” The school—and many of its sister academies—used biology course textbooks promoting creationism that were published by fundamentalist Bob Jones University Press and Pensacola Christian College’s A Beka Books series. (See Al Menendez’s book *Visions of Reality: What Fundamentalist Schools Teach*.)

The Ninth Circuit ruling affirmed a federal district court’s conclusion that the university was well within its rights to reject textbooks that were biased and did not present balanced views. The decision said: “As a university, one of UC’s ‘essential freedoms’ is to ‘determine for itself on academic grounds... who may be admitted to study’,” the court wrote, quoting a 1957 Supreme Court decision. “UC exercises that freedom by reviewing high school courses to ensure that they adequately pre-

pare incoming students for the rigors of academic study at UC.”

The appellate court also said it was reasonable for the university system to approve only courses that “treat the study of religion or ethics from a standpoint of scholarly inquiry, rather than in a manner limited to one denomination or viewpoint.” The court also rejected the school’s claim that university policy denied their right to teach what they chose. “It is undisputed that UC’s policy does not prohibit or otherwise prevent high schools, including Calvary, from teaching whatever and however they choose or students from taking any course they wish.” In summary, the university’s admission policies “were reasonable and did not constitute viewpoint discrimination.”



A framed copy of the Ten Commandments returned to the wall of the Grayson County, Kentucky, courthouse after a divided Sixth U.S. Circuit Court of Appeals ruling on January 15. The court struck down an injunction barring the Ten Commandments from public property after two residents and ACLU had initiated a suit eight years ago. An appeal is uncertain.

The Commandments plaque was removed by county officials in 2002 from a display called “Foundations of American Law and Government,” which also includes the Mayflower Compact, the Declaration of Independence, and other historical documents. But the Sixth Circuit apparently thought the county display included enough secular material to pass Constitutional muster.

The Sixth Circuit ruling also ran counter to the trend. Wrote AP writer Brett Barrouquere: “The U.S. Supreme Court in 2005 ruled that displays inside the McCreary and Pulaski county courthouses were unconstitutional while the U.S. Sixth District Court of Appeals said a Mercer County Courthouse display that incorporated other historical documents was constitutional. Since then, Ten Commandments displays and monuments in Alabama, Georgia, Indiana, Maryland, Nebraska, Ohio, Tennessee and West Virginia have been challenged and taken down.”



A New Year’s Eve ruling by the Montana Supreme Court protects doctors from prosecution for helping terminally ill patients die. The four-to-three ruling sidestepped the question of whether assisted sui-

continued on page 6

Church and State in the Courts, *cont. from page 5*

cide is protected by the state constitution. Kirk Johnson of *The New York Times* explained, “The 4-to-3 decision, in a case closely watched around the nation by physicians and advocates for the disabled and terminally ill, was a victory for the so-called death-with-dignity movement. But it fell short of the sweeping declaration advocates had hoped for.” The Montana legislature may decide whether to join Washington and Oregon in giving legal protection to terminally ill patients and their physicians under carefully drafted provisions. The Montana legislature passed a measure in 1985 which shielded physicians from prosecution in cases where a terminal patient’s decision to die was voluntary. In his decision in *Baxter v. Montana* Justice James C. Nelson observed, “This right to physician aid in dying quintessentially involves the inviolable right to human dignity—our most fragile right.”



The Episcopal Church’s challenge to a Virginia statute that was passed just after the Civil War has received support from several other religious groups. Methodists, Presbyterians, Lutherans, the Church of the Brethren, and Seventh-day Adventists joined the Baptist Joint Committee’s (BJC) amicus brief before the Virginia Supreme Court. The Virginia Supreme Court must decide whether Section 57-9 of the Code of Virginia is constitutional. A lower court decided that eleven congregations of the Episcopal Church in Virginia that seceded from the national denomination could take their property with them, even though this action violates Episcopal canon law, which holds property in the name of the diocese and the national church.

The Virginia code, says the BJC brief, “imposes a one-size-fits-all method for resolving the disputes, thus interfering with a church’s constitutional right to adopt and apply its own rules of governance and replacing the church’s chosen means of resolving property disputes with one imposed by the commonwealth.” The Virginia law of 1867 treats all religions the same and therefore violates a 1979 U.S. Supreme Court ruling in *Jones v. Wolf* that states must respect each religious group’s determination of its own governing structures and property distribution rules.

BJC general counsel K. Hollyn Hollman said the Virginia law violates the Free Exercise Clause of the First Amendment. “The statute conflicts with federal constitutional protections that keep civil courts from interfering with internal ecclesiastical matters.”



Public university polices that refuse to recognize religious groups that maintain discriminatory requirements will be reviewed by the U.S. Supreme Court. The case, *Christian Legal Society v. Martinez*, from the Ninth U.S. Court of Appeals, involves the University of California’s Hastings College of Law and its decision to refuse to recognize or fund the Christian Legal Society (CLS) because the group bans gays and nonbelievers from its membership. The University requires that all recognized campus organizations will “not discriminate unlawfully on the basis of race, color, religion, national origin, ancestry, disability, age, sex or sexual orientation.”

CLS requires potential members to sign a statement of faith that would seem to exclude all but evangelical Christians and forbids membership to all who “advocate or unrepentantly engage in sexual conduct outside of a marriage between a man and a woman.”

The Ninth Circuit sided with the University, ruling that a nondiscrimination policy should apply to all groups. But a 2006 ruling by the

Seventh Circuit Court of Appeals in a case involving Southern Illinois University held in favor of the Christian Legal Society. The U.S. Supreme Court often chooses cases where appellate courts have arrived at different conclusions. The case is potentially far-reaching in its implications and could affect many public colleges, which require that campus groups abide by certain rules and regulations in order to qualify for financial support from student activity fees and campus meeting space.

CLS has received support from 18 national organizations, including the Boy Scouts of America, the U.S. Conference of Catholic Bishops and the American Islamic Congress. They have joined or filed amicus briefs initiated by Religious Right legal groups who contend that faith-based organizations have an absolute right to define their own standards of membership. The attorney generals of 13 states have also supported CLS.



The refusal of the California prison system to hire a Wiccan clergyman and the challenge to that decision will be heard by a federal appeals court this spring. A federal district court rejected the claims of Patrick McCollum, a Wiccan clergy member, that he was denied religious freedom and equal protection, when the California Department of Corrections and Rehabilitation (CDCR) refused to hire him as a paid chaplain. McCollum is challenging CDCR’s Five Faiths Policy, which limits paid chaplain positions to clergy representing Protestant, Catholic, Jewish, Muslim and Native American faiths.

McCollum’s suit, *McCollum v. CDCR*, is before the U.S. Court of Appeals for the Ninth Circuit. He claims that the federal district court’s ruling violates both the Establishment and Equal Protection Clauses of the Constitution.

The federal court ruled in *McCollum v. California* that McCollum lacked standing to sue because the provision of chaplains is a matter of prisoners’ rights and because he could not prove that he would have been hired if a chaplaincy position for Wiccans existed. The court ignored the question of religious discrimination in hiring that is forbidden by Title VII of the Civil Rights Act of 1964.

The case has attracted national attention. An amicus brief supporting McCollum was filed jointly by the American Jewish Committee, Americans United, the Anti-Defamation League, the Interfaith Alliance Foundation and the Hindu American Foundation.

The brief declares: “McCollum’s central claim strikes at the heart of the rights and freedoms that the Establishment Clause, the Equal Protection Clause, and Title VII were designed to guarantee. A state policy that classifies on the basis of religion (or any other protected ground) epitomizes disparate treatment that is properly subject to challenge by a member of the excluded group.” The brief continues: “In recognizing the ability of taxpayers to challenge governmental expenditures that advance some faiths over others, or that advance religion in general, the Supreme Court has remained faithful to the concerns of James Madison and his fellow Founders.” Furthermore, “McCollum’s request that the State fund its chaplain positions in a religiously neutral fashion is properly made as a taxpayer.”

In an extraordinary development, the extreme fundamentalist Wallbuilders group, in concert with the right-wing National Legal Foundation, filed an amicus brief on January 27 claiming that the Constitution’s religious liberty clauses were “never intended to protect paganism and witchcraft.” The Wallbuilders’ brief contends that the Founders only sought freedom for monotheistic religions. Wallbuilders, a Religious Right group run by David Barton, claimed: “There are, of course, references to ‘heathens’ and ‘pagans’ among the writings of the Framers, but there is no indication that those belief systems, including polytheism, are considered ‘religion.’”



Tax breaks for clergy housing allowances have come under fire from the Freedom From Religion Foundation, which has challenged the so-called "parsonage exemption" in a California court. The suit was filed October 16 in California Eastern District Court in Sacramento and is expected to be heard this year. The exemptions, passed by Congress in 1954, permit clergy to deduct housing allowances from their taxable income. Most religious groups provide clergy with a stipulated allowance as part of their compensation package. The suit claims this is a violation of the Establishment Clause because it provides tax benefits only to clergy rather than to a broad class of taxpayers. Though the Supreme Court has never ruled on this question directly, it did rule in a 1989 case, *Texas Monthly, Inc. v. Bullock*, that a tax benefit given only to religion, in this case to religious magazines, violated the Constitution.

In 2002 the IRS sued Rev. Rick Warren for allegedly excessive housing allowances. Congress mooted the case, then before the Ninth U.S. Circuit Court of Appeals, by passing the Clergy Housing Allowance Clarification Act, which stipulated that tax-free parsonage exemptions must be limited to "reasonable rental value."



A Milwaukee County sheriff violated the First Amendment when he forced his deputies to attend a fundamentalist religious meeting, a unanimous appeals court ruled on December 3. The U.S. Seventh Circuit Court of Appeals held that Milwaukee County Sheriff David Clarke violated the Constitution when he forced his staff to attend religious-themed meetings in May 2006. The meetings included presentations by the Fellowship of Christian Centurions, one of whose speakers told the assembled officers that God "established government and that people in authority are ministers of God assigned to promote good and punish evil." The Milwaukee Deputy Sheriffs' Association filed suit on behalf of two Muslim and Catholic deputies. A federal court ruled in 2007 that the programs "amounted to religious proselytizing." The Chicago-based Seventh Circuit agreed.



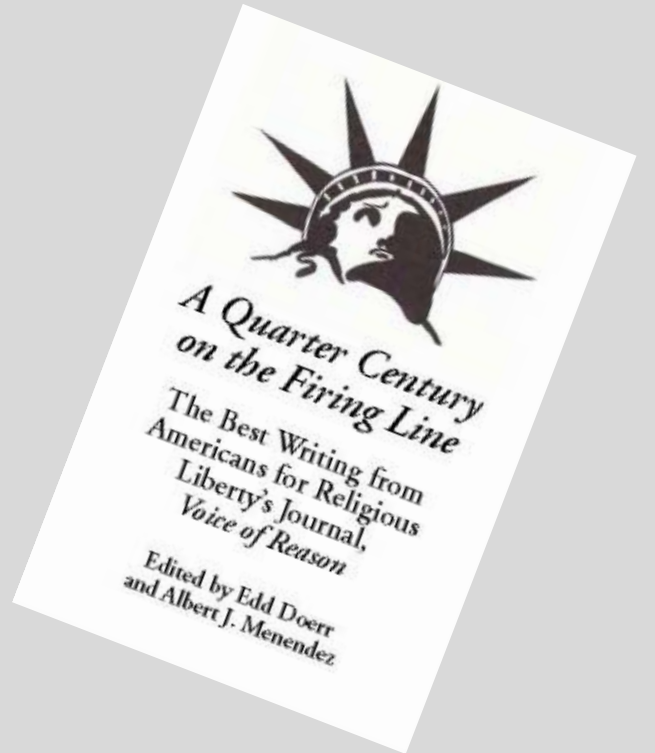
South Carolina officials did not appeal a federal court ruling that invalidated a proposed Christian license plate adorned with religious symbols and messages. The state had until December 10, 2009, to appeal the November decision by Judge Cameron McGowan Currie. The ruling, however, has been denounced by two candidates competing for the Republican nomination for governor, Lt. Gov. Andre Bauer and Attorney General Henry McMaster. Both called the decision "another attack on Christianity."



A December ruling by the U.S. Court of Appeals for the Fifth Circuit has upheld a Texas school district's policy regulating religious materials on campus. In 2005 the school district in Plano, a Dallas suburb, tried to regulate the unrestricted distribution of religious materials in schools. Students may distribute materials before and after school, during recess or at designated tables. Materials may be distributed during lunch at middle schools and high schools. The appellate court felt that these policies adequately addressed the issue by protecting religious liberty and limiting coercion or pressure.



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Former *Washington Times* editor Richard Minter filed a religious discrimination suit with the U.S. Equal Employment Opportunity Commission (EEOC) late last year, alleging that he was coerced into attending Unification Church services in New York. The Church, founded by Sun Myung Moon, owns the *Washington Times*, which denied the claim. The paper is presently in turmoil, having cut numerous departments, ended its Saturday and Sunday editions, and fired half its staff.



A lawsuit in Rhode Island will determine whether a private religious school can be given priority over public schools in the use of athletic playing fields. For years Pawtucket officials have granted St. Raphael Academy exclusive use of a public field that is located next to a public middle school. The girls' soccer teams from the middle school and a nearby public high school have been forced to practice in less accessible locations. ACLU Rhode Island director Steven Brown explained the basis of the lawsuit: "Government should not give special benefits to religious organizations over secular organizations, and we believe that that is precisely what has happened here."

The city has denied favoritism. The town's mayor, several city officials, and the state attorney general are all St. Raphael graduates. ■



The Voucher Watch

• President Obama's new budget reduces federal funding for the D.C. school voucher program from \$13.2 million to \$9.4 million and continues the requirement that funds can only be used for current students. The Department of Education must submit a report to Congress by June 15, detailing "the academic rigor and quality of each participating school."

• New Jersey's new Republican Governor Chris Christie has pledged support for school vouchers and for charter schools. But the state's financial problems make it unlikely that he will propose, or have any success, in supporting the two proposals. Observers are watching to see whether Christie will allot funds for charters or voucher initiatives.

Democrats have a majority in both houses of the New Jersey legislature, 23 to 17 in the Senate and 47 to 33 in the House.

• Nine members of the Vermont legislature have cosponsored a bill that would allow public school districts to pay tuition to "approved independent schools with a religious affiliation." Its primary sponsor is Rep. Greg Clark. Some small Vermont towns have no public schools, and tuition programs allow their students to attend schools in neighboring school districts. Religious schools are not allowed to participate for constitutional reasons. Courts in Maine (and in Vermont years ago) have barred state tuition payments for faith-based schools. ■

Updates

Coalition Asks Obama to Change Faith-Based Programs

The Coalition Against Religious Discrimination has asked president Obama to reform the Office of Faith-Based and Neighborhood Partnerships to make certain that employees of organizations receiving federal grants are not hired on the basis of their religious affiliation. Nor should recipients of aid be subject to "unwanted proselytizing or religious activities." The Coalition reminded the president that he promised these reforms during his campaign.

The Coalition is disturbed that the "case-by-case" approach taken by the Justice Department is inadequate and has in fact been nonexistent. The Coalition, in a February 4 letter to the president, said, "The White House should establish new standards by which the Justice Department can judge whether an organization is entitled to an exemption to the religious nondiscrimination laws. Your Administration's 'case-by-case' approach raises the problem of religious selectivity and provides scant opportunity for transparency or accountability. Following this approach indefinitely, while leaving the Bush-era rules in place, forestalls a critical opportunity for prophylactic guidance and presidential leadership against employment discrimination within federally-funded social welfare projects by faith-based grant recipients."

The Coalition, representing several dozen civil liberties, human rights and religious groups, expressed disappointment that "almost every aspect of the Bush Administration Faith-Based Initiative remains in place—the White House and all the federal agencies are still operating under all the inadequate rules and insufficient safeguards imposed by the previous Administration."

The Coalition urged that five policies be implemented in the near future to ensure that:

1. Program beneficiaries are not subject to unwanted proselytizing or religious activities.
2. Program providers give proper notice to beneficiaries of their religious liberty rights and access to alternative, secular providers.
3. Houses of worship and other religious institutions, in which religion is so integrally infused that it cannot be separated out, be required to create separate corporations for the purpose of providing secular, government-funded social services. This requirement protects the integrity of the religious institutions and provides accountability for government funds.

4. Secular alternatives to social services provided by houses of worship and other religious institutions are readily available to beneficiaries. All beneficiaries should be made aware of secular alternatives, and have realistic and convenient access to them.
5. Uniform guidance and training materials be developed for all federal agencies to ensure that government-funded providers understand constitutionally-required religious liberty safeguards. The guidance should be incorporated into contracts and grant agreements. Furthermore, providers should be required to certify their adherence to the safeguards—and government agencies should engage in oversight to ensure compliance.

Gingrich Promotes Religion for Political Ends

Former House Speaker Newt Gingrich, who may seek the Republican nomination for president in 2012, has blatantly proposed using religion as a tool for fellow Republicans to win elections. Architect of the "Contract with America," which helped lead to the Republican takeover of Congress in 1994, Gingrich unveiled a "New Contract with America" in February. While most of his proposals are standard conservative fare on energy, health care, national security and the like, Gingrich, who once showed little interest in religious issues, has embraced the Religious Right complaint that Christianity is under sustained attack from secularists and "liberals."

Gingrich wrote in *Newsmax* in February: "Today, an anti-religious, secular, socialist left is on the offense in the legislatures, the courts and the bureaucracies. From the ACLU crusade against the cross to the Ninth Circuit Court's ruling against 'One Nation under God,' our religious liberty is under attack. For those who know the Judeo-Christian heritage of America, this is an overwhelmingly religious nation with a shockingly and increasingly anti-religious elite." He continues, "We need a religious liberty and right of conscience bill that blocks every effort to drive God out of public life and every effort to coerce religious people on abortion, marriage or other issues of faith and conscience."

It is unlikely that most Americans share this unbalanced and exaggerated view of the state of religion in America today—a nation boasting of more religious freedom and diversity than any in history.

Gingrich, a convert to Catholicism, attends the National Shrine of the Immaculate Conception in Washington with his third wife Callista, who sings in the choir there. He and his wife have been filming “documentaries” on religious symbols in the nation’s capital and on Pope John Paul II’s role in the fall of Poland’s Communist regime in the 1980s.

Belief in Evolution Unchanged, Says Harris Poll

A new Harris Poll found that 45% of American adults believe in evolution, while 32% do not and the rest are uncertain. This is virtually unchanged from the 42% who affirmed evolution in a 2007 poll by the same firm. Of the four religious categories reported in the December 15, 2009, report, Jews were the most likely to express belief in evolution, with Catholics second. Protestants ranked third, and “Born-Again Christians” were the least likely to accept evolution.

Nearly as many respondents (40%) endorsed creationism, while 30% rejected it, and 30% were not sure. The religious pattern was reversed, with 68% of Born-Again Christians and only 20% of Jews endorsing creationism. Protestants were 19 points more likely to support creationism than Catholics. The percentage of all adults endorsing creationism in 2007 was 39%. Almost as many adults (42%) believed in ghosts as in evolution, the poll found.

Religion	% Believing in Evolution	% Believing in Creationism
Jewish	80	20
Catholic	51	37
Protestant	32	56
Born-Again Christian	16	68
All	45	40

Source: The Harris Poll surveyed 2,303 adults in November 2009.

New Stem Cell Lines Approved

In December the Obama administration approved nearly three dozen new lines of human embryonic stem cells that are eligible for federally funded experiments and research. The National Institutes of Health (NIH) authorized the new lines on December 2. “This is the first down payment on what is going to be a much longer list that will empower the scientific community to explore the potential of embryonic stem cell research,” said NIH Director Francis S. Collins. “Today’s announcement is the first wave.” Researchers are also moving toward approval of 76 additional stem cell lines, with 254 waiting for approval. NIH has authorized 31 grants totaling \$21 million for research on human embryonic stem cells that could be used to treat diseases of the heart and nervous system. NIH received \$10 billion as part of the economic stimulus plan.

Washington Post writer Rob Stein noted the significance of the changes. “Bush severely restricted federal funding for human embryonic stem cell research because of moral objections to the destruction of human embryos to obtain the cells. Federally funded scientists were limited to studying 21 existing cell lines that many criticized as flawed and inadequate; had to erect cumbersome bureaucratic procedures to separate government-funded research from privately funded work; and were sometimes prevented from sharing ideas.

“Now, although embryonic stem cell lines will still have to be created using private funding, federal funding will be permitted for experiments using a much larger array of lines, once those lines have been scrutinized to make sure they were created from embryos obtained

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ethically. That will vastly expand the number of scientists and types of experiments using taxpayer dollars.”

NIH guidelines created a comprehensive process for approving all lines, emphasizing ethical criteria. NIH chief Collins, a noted geneticist, said, “I think that there is an argument to be made that what is being done is ethically acceptable, even if you believe in the inherent sanctity of the human embryo.”

Bible Verses Dropped

A Michigan defense contractor announced in January that it would cease stamping New Testament Bible verses on combat rifles used by the U.S. military in Afghanistan and Iraq. Protests were mounting that references to selected Bible passages would make it appear that the U.S. was fighting a religious war against Muslim countries. The Military Religious Freedom Foundation received numerous complaints from Muslim, Jewish and Christian soldiers that the practice would harm their efforts in the war, as well as breaking a government rule against religious proselytizing. Gen. David Petraeus called the practice “disturbing.” The contractor, Trijicon of Wixom, Michigan, provided free modification kits to allow removal of the verses from telescoping rifle sights already in use in the Army and Marine Corps.

Antievolution Bills Introduced

As state legislatures around the country convened in January, legislators in at least two states, Mississippi and Missouri, introduced antievolution bills. In Mississippi, House Bill 586, which would have required that all biology classes be preceded by a lesson questioning evolution, died in committee on February 2.

In Missouri, Republican Rep. Robert Wayne Cooper introduced House Bill 1651, which requires that local schools “help students understand, analyze, critique, and review in an objective manner the scientific strengths and scientific weaknesses of the theory of biological and hypotheses of chemical evolution.” Cooper has unsuccessfully sponsored antievolution bills in the Missouri legislature since 2004.

As we went to press, a Republican member of the Kentucky House introduced a bill, HB 397, to encourage teachers to use “other instructional materials to critique and review scientific theories” relating to “evolution, the origins of life, global warming and human cloning.” It is similar to a Louisiana law enacted in 2008. Glenn Branch, of the National Center for Science Education, wrote on February 12, “Kentucky is apparently unique in having a statute (Kentucky Revised Statutes 158.177) that authorizes teachers to teach ‘the theory of creation as presented in the Bible’ and to ‘read such passages in the Bible as are deemed necessary for instruction on the theory of creation.’” It appears that none of the state’s 176 school districts abides by the law.

continued on page 10

Republicans Are Seen as More Religion-Friendly

Nearly half (48%) of Americans view the Republican Party as friendly toward religion, while 29% see the GOP as neutral toward religion and 12% see it as unfriendly. Democrats, on the other hand, are seen as neutral toward religion by 39%, friendly by 29% and unfriendly by 22% in a survey reported by the Pew Forum in December.

The Democrats have taken a hit from many voters, as the percentage seeing it as unfriendly toward religion has increased from 15% in 2007 and 2008 to 22% in 2009. Pew Forum researchers explained, “Views of the Democrats’ stance toward religion have soured sharply among groups that were already inclined to view the Democratic Party negatively, such as Republicans and white evangelical Protestants. But they have also turned more negative among both independents as well as

Democrats who are ideologically moderate or conservative.” The only political or religious groups in which a majority sees the Democrats as friendly toward religion are liberal Democrats. Even black Protestants have slipped in their affection, with only 45% seeing the party as friendly toward religion in 2009 compared to 58% who did so a year before. Declines of over 10% were also registered among Catholics and the religiously unaffiliated.

Only 9% of conservative Republicans and 19% of white evangelical Protestants thought the Democrats were friendly toward religion. Church attendance was less of a factor than religious affiliation or political preference. While there was a 47-point difference between liberal Democrats and conservative Republicans and a 26-point difference between black Protestants and white evangelicals, there was only a 10-point difference between non-churchgoers and weekly churchgoers in their perception of Democratic friendliness or hostility toward religion.

Both political parties are seen as friendlier toward religion than the

By the Numbers: Diversity, American Style

- Wisconsin 6 (Central Wisconsin) is the most German-American House district in the nation (43% claim German ancestry). Historically Republican, it went for Obama 50% to 49%.

- Hawaii’s 1st congressional district (Honolulu) is the nation’s most Asian-American district (53%). It gave hometown Obama 71% of the presidential vote.

- On the mainland the most Asian-American district is California 15, where 34% of voters are of Asian background. Its congressman is Democrat Mike Honda, a Japanese-American. Obama won 70% here.

- The most Hispanic district is Texas 16 (El Paso). Close behind are Texas 15 (Lower Rio Grande Valley) and California 34 (downtown Los Angeles). Obama carried all three.

- The top Scandinavian-American district is Minnesota 7 (the most rural western part of the state). Norwegian-Americans constitute 20% of the electorate. Not surprisingly, it is represented by Democrat Collin Peterson. (North Dakota’s at-large district is also heavily Norwegian).

- The top French-ancestry districts are Louisiana 3 and Louisiana 7, which encompass the state’s fabled “Cajun Country.” Both supported McCain. The third most French district is Maine 2, the 69% rural inland part of the Pine Tree State that gave Ross Perot his highest support in both 1992 and 1996.

- New Mexico 3 (northern New Mexico) tops the nation in Native American ancestry (17.2%), mostly of the Navajo nation in McKinley County. It supported Obama. In second place (14.5% Native American) is Oklahoma 2, in the northeastern part of the state once called Indian Territory. Part of the district includes “Little Dixie,” a conservative Southern-oriented area. Oklahoma’s 2nd district gave John McCain 65% of its vote, six points higher than George Bush.

- Massachusetts 9 is the most Irish-American district. Anchored in Boston and its southern suburbs, it includes the old blue-collar Irish neighborhoods of South Boston, Hyde Park and West Roxbury. While Obama won 61% of the vote, Kerry did even better with 64%.

- The most Italian-American district is New York 13 (Staten Island), where 28% of voters are of Italian ancestry. A Republican-leaning area, it gave McCain 51% and Bush 55%.

- The best-educated congressional district is New York 14, the Upper East Side of Manhattan, where 63% of adults hold earned

college degrees. Obama was the choice of 79% of voters in this historic “Silk Stocking” district once represented by John Lindsay when it was reliably Republican. The second best-educated is Virginia 8, which includes the close-in Washington suburbs of Alexandria, Arlington and Falls Church. Other districts with high percentages of college-educated adults are California 30 (Beverly Hills, Westside Los Angeles), California 14 (Silicon Valley) and Maryland 8 (suburban Washington’s Montgomery County).

- There are 11 congressional districts where a majority of adults are college graduates. Obama carried ten of them, losing only Georgia 6, the North Atlanta suburbs. Collectively, Obama received 64% of the presidential vote in these highly educated districts, a gain of six points over Kerry’s 58%.

- The most rural district is Kentucky 5, where almost 80% of residents reside in rural areas in the Cumberland Plateau and eastern mountains. A Union stronghold during the Civil War, it has been reliably Republican ever since and gave McCain an even stronger vote than Bush (68% to 61%).

- Virginia 2 (Virginia Beach—Norfolk) has the highest percentage of adults (nearly 32%) working for the government. This undoubtedly reflects the U.S. Navy’s Atlantic Command headquarters. The second district also has the highest percentage of military veterans in its adult population. In second place is Maryland 5, where 31% of adults work for the government in nearby Washington, D.C.

- Florida 19 (Palm Beach, Ft. Lauderdale) and Florida 13 (Sarasota and environs) have the highest percentage of adults aged 65 and older. Several other South and Central Florida districts are not far behind in senior-citizen population.

- The most African American district is Illinois 2, on Chicago’s South Side, and adjoining areas, whose representative is Jesse Jackson, Jr. In second place is Mississippi 2, the “Delta” region represented by Bennie Thompson.

- The most Polish-American district is New York 27 (Buffalo), where Obama won 55% and Kerry 54% in the previous election. Two other heavily Polish ancestry districts are Illinois 3 and 5, which include the North Side of Chicago and its adjacent suburbs.

- The highest West Indian ancestry population is found in Florida 17 (Northeast Miami), where many residents came originally from Haiti.

Source: *The Almanac of American Politics 2010*.

news media, scientists, or Hollywood. Political and religious attitudes largely shaped responses to these questions. Pew Forum researchers concluded, “Two-thirds of Republicans (67%) say Hollywood and the makers of movies and TV shows are unfriendly toward religion, compared with 48% of independents and just 31% of Democrats. Likewise, 61% of those who attend church at least weekly say Hollywood is unfriendly compared with 39% of those who attend less often.”

Majorities of Republicans and white evangelicals say the news media are hostile toward religion, though most others see the media as neutral. The same is true regarding scientists. “Republicans, evangelicals, black Protestants and weekly churchgoers also stand out compared with other groups for viewing scientists as unfriendly toward religion.”

The survey was conducted in August among 4,013 adults.

C Street House Is Now Taxed

The now-infamous C Street row house on Washington’s Capitol Hill, affiliated with the rightist “Fellowship” or “Family,” is now paying D.C. real estate taxes. *Washington Post* federal reporter Al Kamen found that the house, valued at \$1.8 million, has received a religious tax exemption for years. Portions of the property, however, were rented to private individuals, mostly conservative members of Congress, for residential purposes. An investigation by city officials led to partial revocation of the exemption, so that 66% of the property is now taxable. The owners paid \$1,714.70 in taxes on October 21, apparently the first tax they have paid since taking over the building from an evangelical group called “Youth With a Mission” in 1989. The property will be billed \$10,234 for 2010. The residence has been occupied by Sen. John Ensign (R-Nev), who has been embroiled in a public sex scandal and by former Rep. and now South Carolina Gov. Mark Sanford, also implicated in a messy scandal that led to a divorce and near-impeachment. Oklahoma GOP Sen. Tom Coburn also resides there, as did three House members.

Maryland County Nixes Religious Courses

Montgomery County, Maryland, officials will no longer pay employees to take classes that “utilize a specific faith-based method as a primary approach to problem solving or treatment.” County officials suspended the tuition assistance program in September after *The Washington Examiner* found that the programs included Bible memorization, New Age retreats and yoga classes, as well as Spanish language classes in Costa Rica and sailing lessons. The county had paid up to \$1,730 a year for courses that were supposed to be “directly related to an employee’s current or future job.” The faith-based courses were deemed unrelated. The county will carefully monitor future classes, which must be central to employee work and not “recreational.” Director of Human Resources Joseph Adler admitted that his department failed to provide proper oversight of a program that cost taxpayers thousands of dollars.

Republicans May Gain from Reapportionment

The upcoming Census is likely to add congressional seats to Republican-leaning states, according to demographers William Frey of the Brookings Institution and Andrew Beveridge of Queens College. States carried by John McCain in 2008 are slated to gain six House seats (and, therefore, electoral votes) after the final count is certified from the 2010 census. States carried by Barack Obama are likely to lose six votes. This projection is based on the final pre-Census estimates issued by the

Fifty Years Ago: Remembering JFK

John F. Kennedy’s warning against turning political campaigns into religious spats or get-even-time for outdated religious quarrels is still valid. After JFK met with C. Emanuel Carlson of the Baptist Joint Committee during the 1960 campaign, they issued this statement: “A frank renunciation by all churches of political power as a means to religious ends would greatly improve the political climate.” That is as true in 2010 as it was in 1960. It is perennial wisdom.

Religious News Service, August 24, 1960.

Census Bureau on December 23.

Under the complicated formula governing Congressional reapportionment, Texas is expected to gain three seats, while Ohio is projected to lose two. States that will probably gain one seat include Arizona, Florida, Georgia, Nevada, South Carolina, Utah and Washington State. States that anticipate a loss of one seat include Louisiana, the only Southern state projected to lose representation, and Iowa, site of the nation’s first presidential caucus. Several industrial states in the Rust Belt and Northeast are slated to lose a seat. They are: Illinois, Massachusetts, Michigan, New Jersey, New York and Pennsylvania.

These changes will affect the 2012 Congressional and presidential elections. Population changes since 2000 continue the trend that began in the 1960s, with highest growth rates in the Rocky Mountain states (Nevada, Utah, Arizona, Idaho, and Colorado), parts of the Southeast (North Carolina, Georgia and Florida), and Texas. Two states, Michigan and Rhode Island, have hardly grown at all, while Louisiana, North Dakota, West Virginia, Ohio and Vermont are sluggish.

School Bible Classes Gain Support

Oklahoma State Sen. Tom Ivester, a Democrat, filed Senate Bill 1338, which would allow public schools to offer Bible study courses to students in grades nine through twelve. Ivester’s proposal emphasizes that the courses would stress literary content. Students choosing to take the elective classes could use any translation they choose. If passed, the bill would have to be approved by the State Department of Education and the State Attorney General’s office and would make classes available to willing school districts by fall 2011.

The bill passed a state senate subcommittee on February 3 and was forwarded to the Appropriations Committee. Ivester said his bill provides a framework of rules and regulations to make certain the course stresses literature and history and avoids religious bias. A house version of the bill, HB 2321, which requires teachers to be certified, was approved by the education committee on February 10. Tamyra Cox, ACLU Oklahoma legislative counsel, said the certification requirement “would help avoid proselytizing.” ACLU has taken no position on the proposal.

In a related development, Morehouse Parish (county), Louisiana, schools will inaugurate a “Bible as History and Literature” elective at Bastrop High School in the fall. The course, which will count as social studies or literature, will use the much-criticized curriculum developed by the National Council on Bible Instruction. The full-year course will use the King James Version of the Bible as the primary textbook. Louisiana law allows for elective courses on the Bible that are “objective and academic.”

On January 28 the Tennessee State Board of Education announced guidelines for public schools when they inaugurate a “nonsectarian

continued on page 12

Updates, *continued from page 11*

academic study of the Bible” in elective classes next fall. According to the *Christian Post*, “Over 70 of Tennessee’s 95 counties feature elective courses on the Bible in their schools.” ACLU of Tennessee intends to monitor the classes to make certain that they remain free of sectarian bias.

The Kentucky State Senate passed Senate Bill 142 on February 25 that would establish guidelines for elective Bible courses that take place in some public schools. The sponsors said that all federal and state laws “maintaining religious neutrality and accommodating the diverse religious views of students” must be respected. Bible courses are required to be nonsectarian and must stress the Bible’s literary structure and its influence on “literature, art, music, mores, oratory, and public policy.”

Convergence of Religious and Racist Right Charged

Some of the major funders of Religious Right groups have been linked to racist and nativist groups, according to the Southern Poverty Law Center. The group, which monitors hate groups on the Far Right, revealed some of the connections in the Winter 2009 issue of the *Intelligence Report*.

Las Vegas resident James Edward McCrink contributed \$25,500 to the American Family Association, a major Christian Right organization that battles “the homosexual agenda.” McCrink also gave \$11,000 to the Discovery Institute, which promotes the teaching of “Intelligent Design” in schools, and similar amounts to the Alliance Defense Fund, a Religious Right legal group. But McCrink also gives generously to the Holocaust-denying Institute for Historical Review, the white nationalist New Century Foundation, and the Southern Legal Resource Center, which champions the display of the Confederate flag.

Another millionaire supporter of the Far Right is Robert W. Wilson, “a key philanthropist who supports nativist hate groups,” according to investigative reporter Rob Waters. Wilson’s main concern is stopping all immigration, and he gives \$1 million annually to the Federation of American Immigration Reform (FAIR), which the Southern Poverty Law Center calls a “hate group rooted in anti-Latino and anti-Catholic beliefs.” Waters says FAIR “has employed members of white supremacist groups in key positions,” and says “some of its board members write for hate publications.” Wilson has funded a variety of groups.

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Writes Waters, “Wilson says he’s an atheist, but he gave \$22 million in 2007 to provide scholarships for low-income children at Catholic elementary schools in New York because, he told an interviewer, Catholic schools ‘give a better education to their students than public schools do.’”

Valuable Resource Document Issued

The place of religion in American public life is so complex and often misunderstood that a comprehensive guide “Religious Expression in American Public Life: A Joint Statement of Current Law” was issued in January by the Center for Religion and Public Affairs at Wake Forest University School of Divinity. A drafting committee of 28 scholars and lawyers, representing many points of view, prepared the guide on the present status of American law regarding the role of religion in law, politics, media, the military, public education and the workplace. Many of the drafters are long-time friends of ARL and include ARL Board member Jeremy Gunn, as well as J. Brent Walker, Rabbi David Saperstein, Melissa Rogers, Oliver Thomas, K. Hollyn Hollman and Steven K. Green.

The statement affirms, “The starting point for our dialogue and agreement is our shared conviction that religious liberty, or freedom of conscience, is a fundamental inalienable right for all people, religious and nonreligious. In the United States, that right is secured by Article VI of the U.S. Constitution, the First Amendment and related constitutional and legal provisions”

Furthermore, “Under Supreme Court precedent, the prohibition against governmental establishment of religion prevents the state from promoting or endorsing religion. It also prohibits the government from denigrating or disapproving of religion. The prohibition against governmental interference with free exercise, together with supporting constitutional and legal provisions, requires the state to respect Americans’ rights to live their lives according to the dictates of their consciences.”

The document is available online at <http://divinity.wfu.edu/rpa/aboutstatement.html> or from the Center for Religion and Public Affairs, P.O. Box 7719, Winston-Salem, NC 27109.

Church Lobbying Affects New Jersey Vote

The 20-14 defeat of a same-sex marriage proposal on January 7 in the New Jersey Senate was influenced by an effective lobbying campaign mounted by the New Jersey Catholic Conference. Intense opposition from the pulpit may have turned the tide, according to legislative observers. A *National Catholic Reporter* article observed, “[The bishops] were critical,” said Sen. Raymond J. Lesniak, D-Union, a Catholic and a lead sponsor of the bill. ‘They defeated it,’ he added. ‘The bishops lobbied lawmakers directly, getting people to make phone calls, send e-mails, arrange meetings with legislators. It was the most intensive lobbying by the Catholic church that I have ever seen.’”

The New Jersey Supreme Court ruled in 2006 that same-sex couples must be treated equally under the state constitution. Lawmakers enacted a civil union statute, which granted some legal and economic protections short of marriage. The advocacy group Garden State Equality promised to challenge the actions in state court, claiming that the civil union act had been ineffectively implemented.

Religious Right Invades Iowa Capitol

Republican state senator Nancy Boettger reserved a senate room in the Iowa state capitol to screen a 12-part propaganda series produced by Focus on the Family. The series promotes a “Biblical worldview” and

claims that only 9% of American Christians follow a truly Biblical perspective. Lynda Waddington, a writer for *The Iowa Independent*, said the film series has drawn “a wealth of criticism both for its focus on debunked scientific theories and for alleged misrepresentation of Christian doctrine.” The program began on January 25 and was promoted by the Iowa Family Policy Center, a Religious Right lobby.

ARL president Edd Doerr protested the event in a January 25 letter in *The Iowa Independent*: “Use of the Statehouse by a sectarian religious group certainly violates the spirit if not the letter of both the Iowa and U.S. Constitutions. Not only that, but it could also spur competition among religious groups to obtain use of Statehouse facilities and thus generate interfaith ill will. Focus on the Family has a history of hostility toward the church-state separation and religious liberty principles found in the U.S., Iowa and nearly all state Constitutions. These scofflaws should be told to hold their religious meetings somewhere else, on private property.”

Personhood Amendment Blocked in Nevada

A Nevada judge ruled in January that a measure promoted by an anti-abortion group called Personhood USA was too vague and confusing to appear on the November ballot. Personhood Nevada, which was attempting to collect 97,000 valid signatures to get on the fall ballot, said it would appeal to the state supreme court. District Judge James Russell said the proposed wording that would have extended legal rights to “everyone possessing a human genome” would not be “understood by anybody.” The organization suffered a three-to-one defeat in Colorado in the November 2008 election.

Connecticut Stops Religious Graduation Sites

Five Connecticut school districts have ended the practice of holding high school graduation exercises in churches. On February 8 the Windsor public school district joined those of Enfield, East Hartford, South Windsor and Bloomfield in banning graduations at “The First Cathedral,” an evangelical church in Bloomfield. Many secular alternatives exist in the surrounding areas. ACLU and Americans United urged the changes, arguing that students and their families were “unconstitutionally subjected to religious messages when attending high school commencement.” David McGuire, staff attorney with ACLU-Connecticut was pleased by the decisions. “Regardless of intent, when schools host graduation at The First Cathedral, they devalue the faith of students and families in the religious minority. By agreeing to move graduation to a secular venue, the schools have demonstrated they value the religious diversity of all their students.”

Utah House Okays Ultrasound

Medical clinics performing abortions would be required to display ultrasound images if the woman chooses to see them under a bill approved on February 12 by Utah’s Republican-dominated House. The bill’s sponsors said it represents “full disclosure” and “informed consent.” Nonpartisan fiscal analysts said the law, if passed by the state Senate and signed by the governor, would require \$7,000 in state funds for the first year and would add additional procedure-reporting requirements for physicians.

Obama’s Prayer Breakfast Remarks Muted

President Barack Obama urged greater civility in public life at the National Prayer Breakfast on February 4, where he also condemned the

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“odious laws targeting gays and lesbians that are being proposed most recently in Uganda.” David Bahati, the sponsor of anti-gay legislation which would mandate imprisonment or execution for gays, is reportedly a member of “The Family,” the secretive group that has sponsored the Prayer Breakfast since 1953. According to Lara Marlowe in the *Irish Times*, Bahati was “disinvited by The Family’s American leaders when his presence drew media attention.”

A watchdog group, Citizens for Responsibility and Ethics in Washington, urged a boycott of the annual event, saying that attendees would give the Fellowship (another name for The Family) “greater credibility and facilitate its networking and fundraising.”

Seated at the front table was disgraced South Carolina Gov. Mark Sanford, who lived at the group’s C Street residence during his Congressional years in the 1990s. His soon-to-be ex-wife, Jenny Sanford, writes in her memoir, *Staying True*, that during some earlier marital problems “members of the fellowship encouraged me to heal the relationship and open my heart and be kind, even if Mark was in the wrong. I was even told not to withhold sex as punishment as that would make everything worse.”

Oregon House Drops Religious Garb Ban

By a 51-8 vote on February 10, the Oregon House supported lifting a 1923 ban on the wearing of religious clothing or insignia by public school teachers. “Abolishing this law will recognize that we can allow people to adhere to their religious faith and ensure that our public schools maintain religious neutrality in our schools,” said Rep. Sara Gelser, D-Corvallis, chairwoman of the House Education Committee. According to the Salem *Democrat-Herald*, “The Ban was passed while Kaspar K. Kubli, an open supporter of the Ku Klux Klan, served as Oregon’s speaker of the House in 1923. It was enacted to prevent Catholic priests and nuns wearing vestments or habits while teaching. In recent years it has been used to keep Sikhs, who say they must wear turbans, from teaching in public schools.”

The bill, HB 3686, which now goes to the Senate, provides that religious neutrality will still be protected when the law takes effect in July 2011. The Salem daily added, “HB 3686 also adds a new statute to make certain that no accommodation of religious clothing by a school district or public charter school obstructs a religiously neutral work environment.” Jewish, Protestant, Muslim, Seventh-day Adventist, Baptist and Sikh organizations supported the measure. ■

International Updates

Dublin: Irish atheists are challenging Ireland's new blasphemy law, which provides a fine for anyone found guilty if "he or she publishes or utters matter that is grossly abusive or insulting in relation to matters held sacred by any religion, thereby causing outrage among a substantial number of the adherents of that religion." Irish justice minister Dermot Ahern expressed a majority sentiment when he said the old 1937 law should simply have been abolished. "My personal position is that church and state should be separate."

But a reformed law took effect on January 1 despite little debate in Parliament and no apparent support for it among citizens. In 1999 the Supreme Court dismissed a case brought under the 1937 Constitution, ruling that blasphemy was a vague concept not clearly defined in law.

Dublin: An Irish government investigation concluded that Catholic Church leaders in the Dublin Archdiocese, home to one-fourth of Ireland's Catholics, sheltered child-abusing priests from the law over decades. The 720-page report was damning. AP reporter Shawn Pogatchnik wrote, "The report cited documents showing how church officials learned about some cases only when devoutly Catholic police received complaints from children or their parents—but handed responsibility back to church leaders to sort out the problems themselves."

All archbishops from 1975-2004 were complicit in the cover-up. Justice Minister Dermot Ahern told reporters of his "growing sense of revulsion and anger at how those children were dealt with and how often abusers were left free to abuse." Dublin Archbishop Diarmuid Martin said, "No words of apology will ever be sufficient."

The report has led to the unprecedented resignation of four bishops, two from Dublin and one each from Limerick and Kildare. Archbishop Martin said the church had placed its self-preservation over the rights of parishioners and welcomed the resignations. Writing in Catholics for Choice's journal *Conscience*, Irish journalist Eamonn McCann blamed the historic collusion between church and state in both Northern Ireland and the Republic for allowing these conditions to fester unnoticed by indifferent authorities, calling it "an archipelago of evil." While the Church is primarily responsible for ignoring these abuses, he noted, "The sectarian regime in the North had as little interest as their Southern counterparts—if for different reasons—in standing up for tortured Catholic children."

Jerusalem: The Russian Orthodox Church and a sympathetic Russian government are reasserting their cultural, political and economic influence in Israel. "A religious axis between Russia and Jerusalem, severed by communism, is being reformed," reported *The Economist*. In a major article, "Where Piety Meets Power," the British newsweekly said that "history is repeating itself" because the Kremlin is showing "keen concern to regain access to, or control of, properties in the Holy Land that were once Russian." A historic holy place, the Sergei courtyard was returned to Russian jurisdiction in 2008 by the Israeli cabinet at the personal request of Prime Minister Vladimir Putin. *The Economist* speculated that Israel was hoping to dissuade the Russians from selling missiles to Syria and anti-aircraft systems to Iran.

Russian influence is symbolized by an 1888 church and convent adjacent to the Garden of Gethsemane, where Grand Duchess Elizabeth, sister to the last Czarina, Empress Alexandra, is buried. Murdered by the Communists in 1917, her body was reburied at the altar of the Gethsemane convent, where she is now called "St. Elizabeth the New Martyr" after her canonization by the Orthodox Church. "What these new masters of religious diplomacy are now fashioning is a version of the Russian past that takes pride in the geopolitical as well as the spiritual," concluded *The Economist*.

Kampala: Uganda's lawmakers are considering the "Anti-Homosexuality Bill," introduced by David Bahati, a close ally of American evangelicals. The controversial bill, which mandates either the death penalty or life imprisonment for gays and lesbians, has been condemned by Western governments, and by human rights organizations worldwide.

The potential action threatens U.S. government aid programs and "has put Uganda on a collision course with Western nations," says *The New York Times*. The American evangelicals, Scott Lively, Caleb Lee Brundidge and Don Schmierer, denounced gays at a conference held in March 2009. All three are relatively unknown in the U.S., but representatives from "The Family" and an appearance by evangelical luminary Rick Warren in 2008 have allegedly moved the legislation forward. Warren, however, denounced the bill, as have numerous U.S. religious groups. *New York Times* reporter Jeffrey Gettleman reported from Kampala that "Uganda has become a magnet for American evangelical groups and is a country where conservative Christian groups wield enormous influence."

According to the *Guardian*, a British newsweekly, "Under Bahati's bill, 'serial offenders' would join HIV-positive people and those who have sex with under-18s in facing the death penalty if convicted of gay sex. Life imprisonment would apply to those found guilty even of touching someone from the same sex 'with the intention of committing the act of homosexuality.' Members of the public would have to report any homosexual activity to police within 24 hours or face up to three years in jail, a provision the bill's opponents say would lead to a witch hunt. Ugandans living abroad who broke the law could be extradited and punished, under the draft bill."

Uganda's Yoweri Museveni promised to amend the legislation, calling it a "foreign policy issue" in a speech to his party's conference. World leaders, including British Prime Minister Gordon Brown, Canadian Prime Minister Stephen Harper and U.S. Secretary of State Hillary Clinton, have interceded with the president, asking that the legislation be amended or withdrawn.

Kuala Lumpur: The Malaysian High Court struck down a three-year-old ban imposed by the government on non-Muslims who use "Allah" (The Arabic word for God) in their literature. Muslim authorities argued that the term is exclusive to Islam and should not be used by Christians. The government has appealed the December 31 decision. The case was initiated by a Catholic magazine, the *Herald*, which routinely used the term until 2007. Judge Lau Bee Lan held that Christians had a constitutional right to use the term.

The decision has led to arson attacks on at least nine Christian churches. The government has condemned the attacks as "outrageous incidents and acts of extremism designed to weaken our diverse communities." Bloomberg News Service reported that Malaysia "sought to contain attacks on Christian churches and allay international concerns amid fears that the violence could polarize the country's multiracial society and deter overseas investors." The nation of 28 million is 60% Muslim and 9% Christian. The rest are ethnic Chinese of various religions. Most Muslims are ethnic Malays, while most Christians live in Sabah and Sarawak on the island of Borneo. AP reporter Eileen Ng noted, "The Allah ban is unusual in the Muslim world. The Arabic

Moving?

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word is commonly used by Christians to describe God in such countries as Egypt, Syria and Indonesia, the world's largest Muslim nation."

Though the High Court temporarily suspended its own ruling in order to hear appeals, tempers are only slightly mitigated. The *Economist* wryly observed, "Burning churches, and the perceived anger of worsening violence, will unnerve foreign investors and tourists. They make Malaysia look far from the tolerant, prosperous country that most of its citizens think they belong to."

Lisbon: Portugal's parliament legalized same-sex marriage on January 8 by a vote of 125 to 99. If signed by President Anibal Cavaco Silva, the bill will make Portugal the third European Catholic nation to permit same-sex marriage, following the example of Belgium and Spain. Four mostly Protestant countries (Norway, Sweden, South Africa and the Netherlands) all allow gay marriage, as does Canada, which is roughly half Protestant and half Catholic. The action shows the decline of Catholicism as a political factor in Portugal, which also legalized abortion two years ago. However, Parliament, which initially approved civil unions in 2001, refused to allow adoptions by same-sex couples on the day it approved the marriage law.

London: Britain's Supreme Court decided on December 10 that it is illegal for a Jewish school to base its admission policy on a historic definition of Orthodox Judaism. In this case a Jewish secondary school in North London refused to consider a 12-year-old boy Jewish because his mother was converted to Judaism in a non-Orthodox synagogue. The school is mostly financed by the state, which is true for most faith-based schools in the United Kingdom. The school recently revised its admission policy to reflect "religious practice," rather than origin of religious identity. The school had fought to retain its definition of Jewishness but its governor said it could abide by "a test of Jewish practice required by the English legal system." Supporters of the decision hailed the High Court for ending "six decades of exclusion of children who are devout in their Jewish faith but considered by some to be not quite Jewish enough to enjoy the benefits of their community's leading faith school."

Moscow: Missionaries of non-registered religious groups face fines if they distribute religious literature in public under new guidelines published on December 3. Proposed changes to the Law on Religious Activity allow only authorized personnel of registered religious groups to engage in public religious activity. Fines ranging from \$65 to \$230 may be imposed if the regulations are approved by the Justice Ministry.

Nag Hamadi, Egypt: Coptic Christians rioted on January 7, Eastern Christianity's Christmas Day, after six members of their community were murdered after leaving Midnight Mass the night before. AP reported that the outrage "served as a reminder of the government's chronic failure to address sectarian strains in the society at a time when Islamist militancy is gaining ground."

North Rhine Westphalia, Germany: The German state of North Rhine Westphalia is home to one-third of Germany's Muslims and has pioneered the teaching of Islam in public schools. German law requires courses in religion as part of the school curriculum. Catholics and Protestants initially provided all of the classes, and Jews were permitted to offer these courses in 2003. Now, 200 schools throughout Germany provide courses in Islam that have teachers appointed by mosques and curricula certified by the education ministries of the various states. About 250 state-certified Muslim teachers are employed nationwide. According to the Interior Ministry, 80% of German Muslims, most of them immigrants from Turkey, support Islamic classes. *Christian Science Monitor* correspondent Isabelle de Pommereau wrote, "At stake is fairness as well as pragmatism: better to have state-supervised religious courses, conducted in German, than unsupervised Koran classes left in the

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hands of Islamic groups." In North Rhine Westphalia, 150 public schools offer Islamic studies to 13,000 children. The religion classes are "graded but not mandatory," says de Pommereau.

Paris: The French parliament began debate on January 26 on a proposal to ban the wearing of full facial veils, or burqas, in public hospitals, government offices and mass transit. The ban would not apply to public streets or parks. After six months of hearings, a panel of 32 legislators issued a 644-page report that enunciated the proposals, even though they are nonbinding. The report said the veil worn by some Muslim women was "contrary to the values of the Republic." The Interior Ministry announced that only 1,900 French Muslim women wear the full veil. Any such ban, if passed, would probably affect tourists from Saudi Arabia and other Persian Gulf nations.

Vatican City: Russia and the Holy See upgraded their diplomatic ties to full high-level ambassadorial relations on December 4. Pope Benedict XVI and Russian President Dmitry Medvedev made the announcement at the Vatican. The Associated Press speculated: "The step forward on the diplomatic front comes at the same time as a warming in relations between the Russian Orthodox Church and the Vatican."

Washington, D.C.: Nearly 70% of the world's 6.8 billion people live in nations that maintain "high restrictions" on religious freedom, according to a December report by the Pew Forum on Religion and Public Life. The analysis included both official curbs on religious liberty, which exist in such countries as Saudi Arabia, Pakistan and Iran, and the unofficial types of persecution found in such places as Nigeria, India, and Bangladesh. State-sponsored restrictions are more common. Saudi Arabia was the only country that ranked high on both measures of religious repression.

Pew found that 75 of the 198 countries maintained some restrictions on freedom of conscience. In 178 countries religious groups are required to register with the government; of these, 117 states frequently discriminate against minority faiths.

Muslim countries did not fare well: Ten ranked "very high" in religious repression. North and South America and Europe were the least restrictive, though Eastern Europe still tended to restrict religious minorities. "The relatively high government restrictions score for Europe's 45 countries is due in part to former communist countries, such as Russia, which have replaced state atheism with state-favored religions that are accorded special protections or privileges," the report said.

Asia and sub-Saharan Africa varied according to nation, while the Middle East and North Africa were judged the most repressive. ■

Books and Culture



Book Talk

Sarah Palin's best-selling memoir, *Going Rogue: An American Life* sold 2.7 million copies by the end of 2009. The book, which settles scores with many McCain campaign staffers, did not impress *New York Times* reviewer Michiko Kakutani, who wrote that Palin's selection, as well as her memoir, "underscores just how alarmingly expertise is discounted—or equated with elitism—in our increasingly democratized era, and just how thoroughly colorful personal narratives overshadow policy arguments and actual knowledge." He describes her book as "part cagey spin, part earnest autobiography, part payback hit job."

An insightful review by Dan Gilgoff in *U.S. News & World Report* argued that Palin is now "a leader for the Christian Right." She includes personal testimonies of her faith experience. Gilgoff wrote, "The book's final paragraph, meanwhile, reads like an altar call, the part of a church service when pew sitters are invited to commit their lives to Christ. 'I do know there is a God,' the former Alaska governor writes. 'My life is in his hands. I encourage readers to do what I did many years ago, invite Him in to take over.'" He added that the book "is poised to heighten Palin's profile as a Christian leader."

John Green, perhaps the preeminent analyst of religion's influence on political behavior, suggested that Christian conservatives were likely to respond positively to Palin's emphasis on her personal religion. "This community takes faith very seriously and likes people who talk about their faith journey."

Palin apparently clashed with McCain aides over creationism. In *Going Rogue* she wrote, "I know the word 'creationism' evokes images of wild-eyed fundamentalists burying evidence of *any* kind of evolution under an avalanche of Bible verses. But I needed the campaign to know they weren't going to put words in my mouth on this issue." She also accused the "leftist media" of "treating conservative Christian members of Congress a little bit different."

Since the Religious Right could never agree on a candidate in the 2008 Republican primaries, they may coalesce around the candidacy of Alaska's former governor if she decides to run in 2012.

American Original: The Life and Constitution of Supreme Court Justice Antonin Scalia, by Joan Biskupic. Farrar, Straus and Giroux, 2009, 434 pp., \$28.00.

USA Today legal affairs correspondent Joan Biskupic has written a comprehensive and informative biography of the Supreme Court's most combative and reactionary justice. Long a court-watcher and former *Washington Post* reporter, Biskupic probes Scalia's background, legal philosophy and record on the High Court since 1986. She covers every aspect of his record, not only his opinions but why many of his "provocative comments" are soaked in "vitriol."

Readers of this journal will be particularly interested in her take on Scalia's positions on cases involving the First Amendment Religion Clauses, as well as his adherence to a particular type of Roman Catholicism.

She begins by noting that a groundswell of support for Scalia's nomination came from conservative Italian Americans and Catholics. Even more important was the enthusiasm of movement conservatives. "What further boosted Scalia's chances in the selection roulette was the number of young Reagan insiders who were his followers. They devoured his opinions and were enamored of his verve."

She takes Scalia to task for his 1990 majority ruling limiting religious free exercise, especially for adherents of minority religions. Citing "law professors who specialized in religion," she notes that "Scalia's opinion constituted the most startling development in religious freedom jurisprudence in decades." Behind the scenes, Scalia lobbied his colleagues and "convinced a majority that illegal behavior did not merit free exercise protection." (The case dealt with the religious use of peyote by a Native American church in Oregon.) Even the generally liberal John Paul Stevens joined Scalia in this disastrous ruling that was challenged by congressional action in 1993.

The author deals with Scalia's conservative brand of Catholicism and whether it has affected his decisions in some cases. How does religion affect a larger judicial philosophy? "Scalia could not separate his constitutional views from the core of his identity, which was decidedly Catholic....Scalia was a product of his immigrant background, his traditional upbringing, and his devout Catholicism. President Reagan and his team probably did not consider Scalia's Catholicism when they chose him, except as it might have suggested his views against abortion. Yet it was a very traditional Catholic Scalia who joined the Court in 1986, a jurist who only a few months before his nomination had said in a speech that legal views are 'inevitably affected by moral and theological perceptions.' More than two decades later he would still suggest that such influences, while not determinative in rulings, were inevitable in one's overall thinking."

Biskupic also draws attention to Scalia's forceful defense of Christianity in an address before evangelical lawyers in Mississippi. "Scalia's willingness to talk about constitutional issues and express moral judgments in public forums outside the Court—and his ability to do it with such clarity and fervor—separated him from other justices."

She admits that it is difficult to make definitive judgments. "Testing the religious, political, or other nonjudicial inclinations of a judge was no easy task. The nature of judging dictated that a jurist's reasons for a vote were explained through law, through precedent, through references to statutes and the Constitution. No Supreme Court justice ever said he or she voted based on personal or political, let alone religious, views." But Scalia has continued to add fire to the debate. "Some of the debate over the justices' personal religious views was fueled, in Scalia's case, by his strong and repeatedly expressed views that the Court had gone too far in separating church and state. Scalia never veered from the path he had set in his early years on the bench, when he dissented as the majority struck down a Louisiana law requiring the teaching of creation science and faculty-arranged prayer at public high school graduations. He wanted to allow more government involvement with religious activities, more government support for religion—for example, in the form of vouchers for parents to send children to parochial schools."

In conclusion, Scalia, the author says, is "a potent force with staying power," though he is never likely to prevail on abortion or gay rights. But he "could help bring about more mingling of church and state," and "These final years of the first decade of the twenty-first century might offer Scalia his best ever opportunity to prevail." Finally, "Scalia will also certainly continue to nourish his originalist constitutional theory and bring it to wider audiences," even though his predecessor William

Erratum

Despite our best efforts to prevent their appearance, a typo appeared on page four of our last issue (109). In the story "Evolution Teaching Improves Dramatically," paragraph five should read, "15 remained the same," rather than 25. We regret the error.

Brennan said originalism was “little more than arrogance cloaked as humility.”

Everyone with an interest in the Supreme Court’s role in American life should read this outstanding book.

—Al Menendez

Rising Road: A True Tale of Love, Race, and Religion in America, by Sharon Davies. Oxford University Press, 2010, 327 pp., \$27.95.

This book had to be written, even if the events took place 90 years ago. It is the story of one of great miscarriages of justice in U.S. history: a Catholic priest, Rev. James Doyle, was gunned down on the porch of his rectory in Birmingham, Alabama on August 11, 1921, by Edwin Stephenson, an itinerant evangelist and Ku Klux Klan member.

The trial, which drew national attention, resulted in an acquittal for the preacher, and was condemned by the national media, including *The New York Times* and *The Nation* magazine, which said the verdict created a “chilling effect” toward Catholic life in the South. The preacher’s defense team included a young Alabaman named Hugo Black, later to be named to the U.S. Supreme Court by President Franklin D. Roosevelt. Most of the defense attorneys were avowed Klan members, as was the local police chief.

This story, which has been buried in dusty archives, lays out the numerous bigotries of the South during the Jazz Age, when white Protestant supremacists were at the height of their political power.

The precipitating factor in this tragedy was the conversion to Catholicism by Rev. Edwin Stephenson’s daughter and her subsequent marriage to a Catholic of Puerto Rican ancestry by Irish-born Doyle, pastor of a Catholic parish. Birmingham was then in the grips of an anti-Catholic movement, led by the Klan and a nativist group calling itself the “True Americans.” They fired all Catholic public servants, including teachers, firemen and policemen, and ignored the burning of a church and parochial school. Stephenson’s trial for murdering Father Doyle is the central drama in this gripping, unforgettable book.

Davies, a professor of law at Ohio State University, tells this dramatic story meticulously, with attention to legal details amid the swirling currents of the religious and racial antagonisms of the era. Anti-Catholicism and racism permeated the defense’s case, which tried to justify the defendant’s actions as, if not admirable, at least understandable.

The story has no happy ending. Rev. Stephenson was acquitted after four hours of jury deliberation on grounds of self defense and temporary insanity, though Davies concludes that the claims are “implausible” based on the evidence. The probable influence of the Klan on jury selection was a sinister factor, tainting the proceedings from the beginning. “Probably there was little the prosecutor could have done at the time to win a conviction of Reverend Edwin Stephenson. It is even possible that the case was over from the moment the court swore in the jury—that no amount of prosecutorial evidence, no impoverishment in the defense’s argument, would have been enough to persuade Stephenson’s judges to side with the Catholic priest over one of their own.”

No one, including Davies, is able to prove whether the jurors, all white Protestant males, were Klan sympathizers, but they all prayed and read the Bible before reaching their decision. The foreman assured journalists that they listened to “several selections from the Bible read by one of our number, a fervent and upright Christian.” The “ballot to free Stephenson was unanimous,” he said.

The state’s governor, Emmett O’Neil, was outraged. “We have not advanced far from savagery or barbarism if murder is to be justified on account of the religious creed of the victim.” But others were joyful. “Despite the governor’s criticism, Stephenson’s acquittal also attracted ample support in the community.”

Not only did Stephenson go free, but he was never disciplined by the leaders of his denomination. “No church penalty was ever imposed

‘On vouchers, voters already made their choice’

Michael Barone and Karl Rove urge the GOP to push a voucher plan for tax support of private and faith-based schools. This is a bad idea, a real loser.

American voters by the millions have made it abundantly clear in more than 25 statewide referenda by an average 2-to-1 margin that they do not want tax money to go to nonpublic schools in any way, shape or form. The GOP should push to make public schools better and more equitably funded.

—Edd Doerr

This letter appeared in *The Washington Examiner*, January 25, 2010.

on the minister for killing Father Doyle. He continued to marry couples for a fee for many more years” and died thirty five years later. The prosecutor was voted out of office. The primary defense attorney, Hugo Black, “joined the Klan at a huge ceremony two years later and was elected with Klan support to the U.S. Senate four years after Stephenson’s trial.” If there is anything good that emerged from this sordid spectacle, it was that Black became a stalwart defender of civil liberties on the Supreme Court years later and joined the decisions advancing civil rights for African Americans.

This book will haunt readers long after the last page is read.

—Al Menendez

Dispatches from the Abortion Wars: The Costs of Fanaticism to Doctors, Patients, and the Rest of Us, by Carole Joffe. Beacon Press, 2009, 196 pp, \$27.95.

Reproductive choice is not a simple matter of pro-choice or anti-choice, of whether *Roe v. Wade* was rightly or wrongly decided. As sociologist Carole Joffe spells out in this important, readable book, a woman’s exercising her “right to choose” is an almost infinitely complicated affair.

Roe v. Wade may have acknowledged (not created) a constitutional right to privacy that covers a woman’s decision to terminate an unintended or problem pregnancy, but exercising that right is dependent upon the availability of clinics or hospitals, trained medical personnel, navigation through complex legal rules and regulations, affordability (given that a large percentage of women seeking to terminate pregnancies are poor and minority), and the pervasive influence of “targeted terror” and no less obstructive laws, regulations, intimidation, and layer upon layer of what can only be termed fundamentalist “malignant patriarchalism.”

Joffe guides readers on a jolting ride through this often confusing maze with insight, sensitivity, and skill. She explains the nuts and bolts of medical practice in the real world, how physicians and nurses and other personnel deal or choose not to deal with the problems thrown up by colleagues and others, how poor and/or young women deal with the economic and other stumbling blocks thrown in their path, and how the fanaticism of assorted anti-choice fundamentalists (of varied religious persuasions) creates nightmares for too many women. She makes readers angry enough to spit nails.

Joffe also shows how pro- and anti-choice people can find common ground to reduce the incidence of unintended pregnancy through comprehensive sexuality education and better access to contraception, though increasing numbers of antis oppose both better sex education and contraception and even equate contraception with abortion.

She cites the Netherlands as an example to follow, quoting Planned Parenthood official Lynne Randall: “The unintended pregnancy rate is

continued on page 18

Books and Culture, *continued from page 17*

very low, the government is completely supportive of reproductive health care, contraception is widely available, abortion is free, and yet the Dutch have one of the lowest abortion rates in the world.” Joffe adds this is largely the case throughout Western Europe.

Joffe criticizes the “crisis pregnancy centers” for harming women by providing misleading information and propaganda. And she praises President Obama for lifting the Bush “gag rule” on U.S. government aid to foreign family planning agencies and for once again honoring American commitment to contribute to the UN Population Fund (UNFPA). She writes that Bush’s blocking of U.S. aid to UNFPA could have “prevented nearly two million unwanted pregnancies and nearly 800,000 abortions each year”, thus making Bush a major promoter of abortion. About the only thing I would suggest adding to this book would be more discussion of the Religious Coalition for Reproductive Choice and a plug for the excellent organization, Catholics for Choice.

This book easily merits five stars, and Beacon Press, a publishing arm of the Unitarian Universalist Association, is to be commended for bringing this book to the public.

—Edd Doerr

Evangelicals and Democracy in America. Volume I: Religion and Society, edited by Steven Brint and Jean Reith Schroedel. Russell Sage Foundation, 2009, 373 pp. \$49.95.

Evangelicals and Democracy in America. Volume II: Religion and Politics, edited by Steven Brint and Jean Reith Schroedel. Russell Sage Foundation, 2009, 373 pp. \$49.95.

Much has been written in recent years about evangelicals and their impact on political culture in this country. These two volumes contribute greatly to our knowledge.

The first volume reveals the complexity and diversity of conservative Protestants who comprise about one quarter of Americans. The authors explain the differences between evangelicalism and fundamentalism as well as their overlap, and trace the history of these two related forms of conservative Christianity. Evangelicals are seen as more patriarchalist than either Catholics or moderate/liberal Protestants, tend to have larger families, and are more interested in faith-based nonpublic schooling.

The media seem to pay more attention to evangelicals and fundamentalists because these groups are more interesting and colorful than more mainstream sectors of the religious spectrum. While Evangelicals are more diverse than the media portray them, their leaders tend to “promote favored positions” and ignore the diversity of their flocks.

Sociologist John H. Evans compares evangelical and mainline Protestants: “[F]undamentalist and evangelical Protestants see every issue as more connected to religion than mainline Protestants do and are both less privatized and less exposed to other influences. . . . [T]he issues defined as religious by fundamentalist and evangelical Protestants—and the press—are not of strong interest to the mainline, . . . [E]ven if the mainline speaks on issues, the press amplifies the culture war issues . . . only because they are more controversial and therefore interesting. . . . [T]he mainline willingly pulled back from participation in the public sphere to fulfill its own orientation of tolerance, democracy, and pluralism.”

Political scientist Rogers M. Smith traces the rise of the Religious Right to reactions to the Supreme Court’s school prayer (1962, 1963), abortion rights (1973) and civil rights and school desegregation rulings (1950s and 1960s), and he notes that a number of Evangelical leaders did not oppose *Roe v. Wade* at the time.

Volume II brings together the thinking of sociologists and political scientists on the political impact of Evangelicals and fundamentalists

The Lord Was Not on Trial

The Inside Story of the Supreme Court’s Precedent-Setting McCollum Ruling

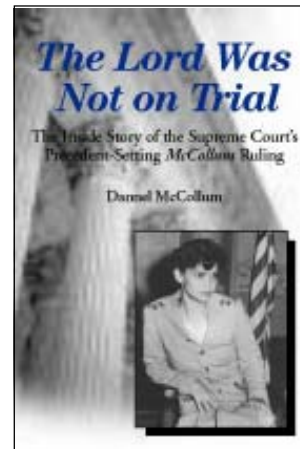
by Dannel McCollum

“McCollum was a major step towards helping to ensure that public schools are not in the business of deciding which religious beliefs should be favored in public schools.”

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“Dan McCollum’s book tells the inside story of the Supreme Court’s first ruling to find unconstitutional a practice involving religion and public education.”

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since the 1970s. Among the topics explored: Comparison of secularization in the United States with the rest of the industrial world; Religious Right impact on church-state controversies (school prayer, private school vouchers, religious symbols in public buildings); opposition to reproductive choice and to alleged “secular humanist” teaching in public schools; the annual (since 1953) National Prayer Breakfasts sponsored by the C Street “Family” (exposed in Jeff Sharlet’s 2008 book *The Family* but not adequately discussed here); “Christian Reconstructionism,” which is central to the rise of the Religious Right; fundamentalist patriarchalism and the rise of the homeschooling movement; and the anti-choice “Right to Life” movement.

Peter Dobbins Hall shows how “Resistance to [public school] integration would be the bellwether for a broad political mobilization by conservative Christians that would eventually mature into the Religious Right of the 1980s.” Hall ties this mobilization to the “Southern strategy” adopted by the Nixon administration.

Political scientist Clyde Wilcox winds up the book with an analysis of the melding of the Religious Right with the Republican Party. He cites a 2005 op-ed piece in the *New York Times* by former senator (and Episcopal minister) John Danforth (R-MO): “By a series of recent initiatives, Republicans have transformed our party into the political arm of conservative Christians. . . . The problem is not with people or churches that are politically active. It is with a party that has gone so far in adopting a sectarian agenda that it has become the political extension of a religious movement.” As Wilcox puts it, “To paraphrase Voltaire, when the Christian Coalition ceased to exist, it was necessary for the Republican Party to reinvent it.”

This impressive two-volume set could easily have been subtitled “All you might ever want to know about evangelicals and fundamentalists and a great deal more.” Written by informed sociologists and political

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scientists, it stands well above the products of most journalists and pundits. It is essential reading for anyone even remotely interested in American politics.

—Edd Doerr

Christian America and the Kingdom of God, by Richard T. Hughes. University of Illinois Press, 2009, 211 pp., \$29.95.

In this devastating exposé theologian Richard Hughes takes on the “Christian America” myth propagated by the political and cultural Religious Right. He makes it abundantly clear that this mythology comports with neither the secular U.S. Constitution nor the Christian scriptures, that the latter emphasize social justice and peace while today’s Religious Right shows little interest in either. He shows that the Christian fundamentalism of the twentieth and twenty-first centuries bears only superficial resemblance to historic Christianity.

Although fundamentalism’s issues have changed over the past century, the “seminal characteristics of fundamentalism—hostility to pluralism, paradox, and nuanced understandings of important ideas; rejection of ambiguity and preoccupation with the war between good and evil; a fixation on enemies; and opposition to key ideas of modern science—have remained constant as fundamentalism has morphed from one incarnation to another over the course of more than a century.”

Particularly disturbing, Hughes writes, is that “by 2004, this fundamentalist-evangelical power bloc effectively controlled the Republican Party [and Congress].” He also writes that not far below the surface of modern political fundamentalism is the jingoist, scary notion that “the Anglo-Saxon race” is the “representative . . . of the purest Christianity.”

Hughes’ expertise in both theology and history makes this book especially important in today’s America.

—Edd Doerr

The Faith Instinct: How Religion Evolved and Why It Endures, by Nicholas Wade. Penguin Press, 2009, 310 pp., \$25.95.

This blend of sociology and history tackles the overarching question of how institutional religion evolved and how and why it endures and remains influential in the 21st century. It is a question that probably admits of no definitive answer, but journalist and science reporter Wade makes a good stab at it.

In a nutshell he argues that “religious behavior evolved to induce social cohesion and thereby to govern two essential human social behaviors, self-restraint within a society and aggression, if necessary, toward members of other societies.” As a result of staying power and considerable adaptation, religion “continues to be a primal glue of all

human groupings,” “remains central to the definition of culture,” and “is integral to the cohesion of groups, to their power and to the competitive relationships between them.” Religion interacts with kinship, ethnicity, language, and culture, and culture “forms the fault lines between the world’s major civilizations.”

Wading into psychology and genetics, the author also suggests that “the capacity for religious behavior is inherent in human nature.” He continues, “Despite fluctuations, religious activity seems unlikely to disappear as long as the propensity for religious behavior is genetically embedded in the human neural circuitry.” This argument seems less defensible than his other arguments that are rooted in history.

He attributes the high level of religiousness in the United States, in part, to mandated constitutional neutrality by government and to the free market context in which organized religion operates. “The United States has made itself in some respects into a fine laboratory for the study of religion. Because of free competition without government interference, religious change seems to proceed at a much brisker rate than usual, with new sects rising to prominence in a matter of decades and declining almost as fast.”

This book is likely to stimulate thoughtful reflection.

—Al Menendez

Spirituality, Inc.: Religion in the American Workplace, by Lake Lambert III. New York University Press, 2009, 214 pp. \$35.00.

Last issue we reviewed a book highlighting the increasing religious domination of professional sports. Now comes a study of how religious zealotry is impinging on the corporate world and extending its influence from boardrooms to the workplace.

Lambert, a professor of religion at Wartburg College in Iowa, traces the rise of religious activities in office settings. Most are conservative Christian, but Muslims, Jews and Catholics also have their advocates. Lambert’s research uncovered “more than 1,200 faith-at-work organizations” in the United States.

Such practices inevitably engender charges of religious discrimination. He notes, “It is because of the potential for religious coercion that careful distinctions need to be made between spiritual practices and resources provided and encouraged by the businesses themselves, and spiritual practices initiated by workers and allowed by employers.” Not only are the unchurched or uninterested potential targets but, “The coercive character of workplace spirituality can also extend to including direct challenges to an employee’s current beliefs and worldviews.”

It is not surprising that religion-based complaints have skyrocketed

continued on page 20



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Books and Culture, *continued from page 19*

in the past decade, resulting in a 135% increase in religious discrimination complaints filed with the EEOC, the federal agency that handles employment matters. Religious harassment can be overt or subtle. He warns, "An employee who refuses to participate in corporate-sponsored spirituality—even when it is presented as religiously neutral and for professional development—if fired, demoted, or denied promotion, may have a legitimate religious discrimination complaint."

Christian businesses often think they can avoid lawsuits. "Even though an owner may identify his or her business as Christian, religious discrimination in employment is still illegal. A Christian business cannot hire only Christians, employ only Christians as managers, favor Christians in any way connected to their employment, or discriminate against non-Christian employees."

While the author admits that "the ultimate future of workplace spirituality is impossible to predict," he suggests that "religious diversity at work will undoubtedly grow, creating great opportunities for both inter-religious dialogue and inter-religious conflict."

—Al Menendez

The Future Church: How Ten Trends Are Revolutionizing the Catholic Church, by John L. Allen, Jr. Doubleday, 2009, 469 pp., \$28.00.

No one knows more about the Catholic Church than *National Catholic Reporter* correspondent John Allen. In his new book, he describes ten trends that will, in his judgment, affect and reshape the world's arguably most influential religion. These trends include globalization, ecology, the biotech revolution, the rise of the global South as the center of the future, expanding roles for lay people and a corresponding decline in clericalism, and something he calls "multipolarism." This term means that the future political and economic centers of power will not be in the United States or Old Europe but in places like Brazil, Russia, India and China.

All of the above will affect Catholicism's public identity, as will challenges from Islam and Pentecostalism. The church will become even more multicultural and will be impacted by the new demography of youth and internally by the growing strength of "evangelical Catholicism."

These trends may lead to policies that are "morally conservative" on the culture war issues but more "liberal on social justice" issues, he predicts.

"Catholicism in the twenty-first century will be led to a greater degree by the global South, meaning Africa, Latin America and Asia. At

the grassroots, Catholicism in this century will become steadily more non-Western, nonwhite and non-affluent." As a sociological entity it will be "global, uncompromising, Pentecostal and extroverted." These conflicting trends are "fraught with the potential for deep new fractures, this time on a planetary scale. The global Catholicism of the twenty-first century will rattle neoconservative cages with its emphasis on reform of economic systems and critique of American militarism, [but] will distress liberal Church reformers with its immobility..."

"The evangelical impulse means that Catholicism is becoming bolder in the public realm," and this could mean "sharper church-state tensions, especially on the culture wars." He adds, "At the institutional level, it means vigilance about the Catholicity of Church-run schools, hospitals, and charitable agencies."

American Catholics will continue to be divided like a broad-based political party. "American Catholics spent the first half of the twentieth century clawing their way out of a ghetto that had been imposed upon them by a hostile Protestant majority and the second half reconstructing ghettos of their own ideological choice." Many liberal Catholics already see themselves "in a form of internal exile" and have developed "a network of parallel institutions."

Allen has written a weighty tome characterized by informative insights and a nuanced understanding of a historically significant religion that cannot escape the certainty of change.

—Al Menendez

'Sex Ed, With No Federal Strings?'

Ross Douthat's column (2/1/10) didn't mention that comprehensive sexuality education (which would of course cover abstinence) is really not all that common in our schools. Western Europe has lower teenage pregnancy and abortion rates because of comprehensive sexuality education.

As for Mr Douthat's attack on *Roe v Wade*, why shouldn't the privacy rights and freedom of conscience of women be uniform throughout the United States?

—Edd Doerr

This letter was published in the *New York Times* on 2/7/10.