



# VOICE OF REASON

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## Birth Control Coverage Causes Political Controversy

Despite loud objections from Catholic and evangelical leaders, the Obama administration announced January 20 that most church-affiliated organizations will be required to provide free birth control coverage to their employees as part of the new health care coverage. The rule will go into effect on August 1 for all employers, except religious groups whose "primary purpose is to inculcate religious beliefs and that mainly employ and serve individuals who share those beliefs." The plan will eventually apply to a wider range of church-related universities, hospitals, schools and charities, which had also asked for an exemption.

The administration said that these affiliated religious organizations will be given one additional year to comply with the requirement.

The ruling, denounced by the U.S. Conference of Catholic Bishops and the National Association of Evangelicals, was called a "direct attack on religion and First Amendment rights" by Sister Jane Marie Klein, the director of a group of Catholic hospitals in Illinois and Indiana.

Health and Human Services Secretary Kathleen Sebelius defended the requirement. "This decision was made after very careful consideration, including the important concerns some have raised about religious liberty. I believe this proposal strikes the appropriate balance between respecting religious freedom and increasing access to important preventive services. The administration remains fully committed to the partnerships with faith-based organizations, which promote healthy communities and serve the common good. And this final rule will have no impact on the protections that existing conscience laws and regulations give to health care providers." She added that the ruling "will ensure that women with health insurance coverage will have access to the full range of the Institute of Medicine's recommended preventive services, including all FDA-approved forms of contraception. Women will not have to forego these services because of expensive co-pays or deductibles, or because an insurance plan doesn't include contraceptive services. This rule is consistent with the laws in a majority of states which already require contraception coverage in health plans, and includes the exemption in the interim final rule allowing certain religious organizations not to provide contraception coverage."

The decision was praised by many women's health groups and Democrats. It was also lauded by Catholics for Choice as "a victory for common sense and scientific advice in the interests of the common good" and by the National Council of Jewish Women as a "decision to respect the religious liberty of women—allowing them to make their own personal decisions about birth control rather than allowing their employers to decide for them." ARL president Edd Doerr, in a letter published in the *Washington Examiner*, said "The Obama administration's HHS rules are actually a good compromise and represent reason and common sense." Doerr added that the institutions that object to the requirements are "generously funded by taxpayers of all religious persuasions."

The controversy intensified. Even some liberal Catholics criticized the timing and framing of the decision. Some neutral observers felt it was politically inept and has handed Republicans a new issue. The Catholic bishops promised to use "legislation, litigation and public advocacy" to fight the HHS rule, according to Anthony Picarello, general

counsel of the bishops' national conference. Sen. Marco Rubio (R-FL), a possible vice presidential candidate, promptly introduced S.B. 2043, "The Religious Freedom Restoration Act," to expand the religious exemption. A more expansive measure introduced by Sen. Roy Blunt (R-MO) was rejected by the Senate 51 to 48. It would have allowed any employer, religious or not, with moral objections to birth control coverage to opt out. In a mostly party-line vote, three Democrats (Casey, PA; Manchin, WV; and Nelson, NE) supported the proposal, while one Republican (Snowe, ME) opposed it.

Conservative Protestants joined the criticism. The powerful National Association of Evangelicals said, "The HHS rules trample on our most cherished freedoms and set a dangerous precedent." The president of the two-million member Lutheran Church-Missouri Synod (LCMS) said his church was "deeply distressed" by the HHS requirement and warned against "overzealous government intrusions" into the "realm of conscience." LCMS members are concentrated in the swing states of Iowa, Michigan, Minnesota, Wisconsin and Ohio.

Republicans, including likely nominee Mitt Romney, pounced on the decision and promised to repeal it. Political observers warned that even a five percentage point drop in Obama support from middle-of-

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the-road Catholics, liberal evangelicals, and Hispanic Protestants could make the election a cliffhanger.

However, a poll by the Public Religion Research Institute (PRRI) found majority support for the concept that “employers should be required to provide their employees with health care plans that cover contraception and birth control at no cost.” Fully 55% of Americans, including 58% of Catholics, supported this, as did 61% of the religiously unaffiliated, 50% of mainline Protestants and 38% of evangelicals. Support drops a bit to 49%, including 52% of Catholics, who think religiously affiliated colleges and hospitals should be required to cover contraception. In general Democrats are more supportive than independents or Republicans, and younger voters are more in favor than older voters. Women are more favorable (62%) than men (47%).

Polls are all over the place on this issue. Some showed even higher support for contraceptive coverage. A new Pew Research Center survey showed that voters endorsed giving “religiously affiliated institutions” an exception by 48% to 44%. In this poll Catholics were slightly more in favor of a religious exemption 55% to 39%. Evangelicals were most favorable to an exemption 68% to 22%, while mainline Protestants were slightly against exemptions 46% to 44%. The religiously unaffiliated (18% of all) opposed exemptions 55% to 39%. The difference between evangelicals and the unaffiliated was only 29 points on this issue, far less than their differences on abortion and gay marriage.

Men favored the exemption 54% to 40%, while women opposed giving exceptions for contraceptive coverage 48% to 42%. Since women are more likely to be churchgoers than men, this was another mild surprise. Political party preference showed a greater division than religious affiliation: 73% of Republicans favored exemptions for religious groups, compared to 46% of Independents and 29% of Democrats. Tea Party Republicans were the most favorable while liberal Democrats were the least.

Among Catholics 63% of weekly churchgoers thought church-affiliated institutions should be exempt from the contraceptive requirement while only 48% of Catholics who attended church less often agreed. Only 15% of Catholics thought using contraceptives “morally wrong.”

To defuse the controversy, President Obama announced a modification on February 10 that would make insurance companies responsible for the costs of birth control coverage. The president told a press conference, “The insurance company—not the hospital, not the charity—will be required to reach out and offer the woman contraceptive care free of charge, without co-pays and without hassles.” Obama said this

action was a “sensible approach” that would “preserve the principle of religious liberty” as well as making sure that “free preventive care includes access to free contraceptive care.”

The decision was praised by the Catholic Health Association and Catholic Charities USA. Liberal Catholic columnist E.J. Dionne, Jr. called the move “a welcome step away from a religious battle that neither he nor the country needed” and said that “both sides of this controversy ought to take some satisfaction from the outcome.”

Baptist Joint Committee leader Brent Walker added, “Religious freedom is the first freedom and must be protected. At the same time we must be mindful of the health care needs of all employees. This is a win-win solution.”

Almost immediately, however, the Catholic bishops rejected the insurance mandate and said they would continue their opposition to any federal coverage of contraception, despite evidence that the majority of Catholics disagree with them.

Republicans have exploited the issue for political purposes. The initial HHS decision divided Catholic Democrats, apparently along gender lines. The narrow exemption policy was criticized by Sens. Bob Casey (PA), and Joe Manchin (WV), and senatorial candidate Tim Kaine (VA), but was praised by Sens. Patty Murray (WA), and Kirsten Gillibrand (NY), and Rep. Rosa DeLauro (CT). Republicans, including House Speaker John Boehner, promised a swift repeal.

The issue remains complicated. It was reported by the respected Guttmacher Institute that 28 states require contraceptive insurance coverage, though most of them have exemptions and exclusions for faith-based charities, hospitals and colleges. (Some do not, though no one can agree on whether there are eight or ten states that grant no exemptions for any religious entities, even churches or synagogues). The other 22 states do not require insurance carriers to provide birth control coverage.

Seven states with Republican attorneys general filed suit in federal district court in Nebraska on February 23 to block the birth control mandate altogether. They are Florida, Michigan, Nebraska, Ohio, Oklahoma, South Carolina, and Texas. Other suits seeking permanent injunctions against the mandate have been filed, including one from Colorado Christian University.

Religiously-affiliated insurance companies are apparently not exempt from the federal mandate, another sticky question. The Affordable Care Act becomes fully operative in 2014, unless the Supreme Court or a Republican president nullifies it. It provides a fine of \$2,000 per employee per year if an employer refuses to provide coverage to its employees. No wonder *The Washington Post* called this an “unusually complicated moral, legal, medical and financial issue.” ■

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## The Primaries So Far: Divided Religious Right Swings Toward Santorum

Evangelicals in general, and the Religious Right in particular, have divided their votes in the early Republican contests. Despite strong support for Rick Santorum from religious conservatives meeting in Texas, the former Pennsylvania senator won only in Iowa among evangelicals, while Mitt Romney led in New Hampshire and Nevada, and Newt Gingrich won in South Carolina. Gingrich and Romney ran about even in populous Florida.

Santorum made a startling comeback with victories in low-turnout caucuses and primaries in Colorado, Minnesota and Missouri. He continued his foray into vote-rich Michigan and Ohio. He told the Ohio Christian Alliance that President Obama “believes in a phony theology—not a theology based on the Bible” and is “opposing religious freedom like we have never seen before.” Santorum issued a crude attack on, and distortion of, John Kennedy’s 1960 declaration of support for separation of church and state, saying it made him “want to throw up” Santorum claimed, erroneously of course, that separation means “people of faith can play no role in the political process.” This attack on JFK and his denunciation of pre-natal testing (because it “leads to more abortions”) brought the social issues to the fore, leading *New York Times* columnist Maureen Dowd to call him “a small-town mullah.”

Santorum has placed first or second among the small segment of voters who cited abortion as their main issue of concern. In Michigan, for example, 77% of those (14% of all) who cited abortion as their main issue supported Santorum. This suggests that Santorum is appealing only to a minority of evangelicals and other social conservatives. (Santorum and Gingrich have signed numerous anti-abortion statements and have attended “Personhood” conferences, while Romney and Paul have not.)

In every state so far, Santorum has run much stronger among evangelicals than among non-evangelicals. (Evangelicals, a majority of GOP voters in South Carolina and Iowa, were 40% in Florida, 22% in New Hampshire, and 28% in Nevada.) Santorum edged Romney 37% to 55% among Arizona evangelicals, and received a solid 51% among Michigan evangelicals. Santorum also won among voters who said a candidate’s personal religious values mattered a great deal. This reflects Santorum’s emphasis on social and religious issues in February. Santorum swept the Dutch vote in western Michigan, winning a 14-point margin in Ottawa County. Members of the Dutch Reformed Church in the Midwest are probably the most religiously-conservative voters in the Midwest.

Wayne Slater, political writer for the *Dallas News*, summed up the dilemma: “In the beginning, religious conservatives wanted a Republican presidential victor who’d be the answer to their prayers. It hasn’t turned out that way. After 30 years of burgeoning political clout, the Christian right has struggled to find its place in an election season in which the economy has replaced the culture war. Its backers can’t agree on a GOP nominee, its issues aren’t defining the debate and its national leaders seem to have lost influence over the flock. How that plays out will not only affect fortunes of Republicans in their fight against President Barack Obama this fall but also may swing the outcome of many congressional races.”

This brings up the eternal question of whether the Religious Right is still a force to be reckoned with in American politics. Historian Michael Kazin told *The New Republic* readers in January, “The Christian Right is a fading force in American life, one which has little chance of achieving

its cherished goals.”

AlterNet writer Peter Montgomery vigorously disagreed. Montgomery argues that the Religious Right is trying to redefine religious liberty. “In the name of ‘religious liberty,’ they demand religious exemptions from generally applicable laws, but only for their religious beliefs; take government funding for religiously based programs but cry discrimination when a government grant program has anti-discrimination policies incompatible with their religious beliefs; portray those who oppose government funding of religion as anti-religious bigots and claim oppression when government officials are made to comply with the separation of church and state.” Montgomery warns that many “conservative leaders are products of the Religious Right’s educational and leadership pipeline, which is training thousands of college and law school students how to bring their ‘biblical worldview’ to bear on government, the courts and society in general.” Many federal judges, he says, are allies of the movement.

Montgomery adds that the Religious Right continues to engage in “an accelerated attack” on choice and family planning. “Just because the Religious Right is a minority does not make it a powerless one. . . . The increasing number of secular-minded Americans does not prevent the well-organized forces of the Religious Right from continuing to impact public policy, especially in areas of the country where they are strongest. This political and cultural movement will not be sinking beneath the horizon anytime soon.”

Other factors show up in the voting, Romney is winning upscale and urban-suburban Republicans. He carried Charleston, Hilton Head and Columbia, while losing the rest of South Carolina. He carried Michigan by amassing large majorities in the affluent suburbs of Detroit and in college towns. He carried all of the major population centers in New Hampshire and Florida. The Catholic vote, one third of all the votes in New Hampshire and Florida, went 2-1 for Romney. In Nevada the Catholic share of the GOP caucus electorate (one-fifth) gave almost half to Romney, with Santorum in last place. A smaller Catholic vote in South Carolina narrowly favored Gingrich. Santorum has run poorly among his fellow Catholic Republicans. Hispanic Catholics voted heavily for Romney in Florida and Arizona. Catholics favored Romney over Santorum in Arizona and Michigan..

Gingrich has run strongly in the rural white South, winning in the most anti-Obama counties, such as Abbeville, South Carolina, and Holmes and Liberty in the Florida Panhandle.

Ron Paul’s constituency consists mainly of younger voters, especially men, and the non-religious. He has run generally first or second among voters under age 30. In Florida, for example, he received the support of 25% of young voters but only 3% of the much more numerous voters over age 65. In New Hampshire, Paul placed first with 47% of the nonreligious voters. Data from South Carolina and Florida were too small for comparison. In New Hampshire, though, 12% of Republican voters said they were unaffiliated with any religious group. In Nevada 8% of Republicans were nonaffiliated, and 54% of them voted for Paul.

Romney is winning among his fellow Mormons, 93% in Arizona and 88% in Nevada. Both states would have gone easily for Romney, however, without the Mormon vote. Romney took 85% in Lincoln County, Nevada, 77% in Conejos County, Colorado, and 68% in Graham County, Arizona, all rural Mormon counties. ■

## Super Tuesday

Santorum and Gingrich hit the sawdust trail in the ten Super Tuesday states that voted on March 6. They directed their campaigns almost solely at evangelical voters and spoke to large, enthusiastic gatherings in evangelical and Baptist churches in Tennessee and Georgia. Santorum attacked pre-natal testing, college graduates, and public schools, as well as the usual targets of the Religious Right. He and Gingrich claimed America is facing a new wave of religious persecution from secularists, liberals and the Obama administration which will destroy religious liberty. Gingrich promised to end all embryonic stem-cell research, even that approved by former President Bush in 2001. Gingrich told a Georgia congregation that Americans have faced a “50-year assault by the forces of the secular left” against people of faith. He conveniently ignored the fact that Republicans occupied the White House for 28 of those years under Nixon, Ford, Reagan and the two Bushes.

Romney addressed some of the same issues in a more subdued or low-key manner, but did not differ substantially on the public policy implications of these criticisms. Ron Paul ignored them.

Polls show that no candidate has won the affection of evangelical voters, which is borne out by the early primary returns. In the first seven voting states, Romney led among evangelicals with 31%, while Gingrich and Santorum each took 29% and Paul 8%. A national Pew Research Center poll just before Super Tuesday showed Santorum pulling ahead among evangelicals with 40% to Romney’s 23% and Gingrich’s 20%. Paul lagged behind with 6%. But most voters have yet to be heard from, including those in such large states as Texas, California, Illinois, New York and Pennsylvania.

Evangelicals comprised 42% of early primary voters, while 26% were Catholic, and 32% belonged to all other groups. Nearly half of Catholics and other voters supported Romney.

The trends noticed earlier were repeated in the Super Tuesday results. Evangelicals remained divided, though leaning to Santorum, who took the evangelical vote in Ohio, Oklahoma and Tennessee. But evangelicals in Vermont, Massachusetts and Virginia favored Romney, and those in Georgia supported native-son Gingrich. Evangelicals went with the winner in each state except Ohio.

In every state evangelicals were more favorable to Santorum than non-evangelicals, especially Catholics who preferred Romney nearly

everywhere: In Ohio evangelicals supported Santorum 46%- 30% while Catholics voted for Romney 43%-31%. Even in Georgia Catholics supported Romney over Gingrich. Catholic voters have consistently opposed both Catholic candidates Santorum and Gingrich.

Voters who said a candidate’s religious belief mattered a great deal or somewhat were less supportive of Romney than voters who said a candidate’s religion was of little interest to them. This could reflect some anti-Mormon sentiment.

A strong rural-urban divide was noticeable. Even in states won by Santorum or Gingrich, Romney carried such cities as Atlanta, Nashville, Oklahoma City and Savannah, while losing decisively in the countryside. Romney narrowly won Ohio by carrying Cleveland, Cincinnati, Columbus and Toledo, while losing small towns and rural areas.

Santorum ran first among the small percentage of voters who cited abortion as their most important issue. Men outnumbered women in all the primaries except Oklahoma, where women gave Santorum nine points greater support than men in what may be the most Republican and conservative state in the nation.

Evangelicals accounted for 53% of Super Tuesday voters, owing to the number of Southern primaries. Santorum took 34% of those voters, while Romney and Gingrich almost tied with 28% each. Just over 9% chose Paul.

Romney received 50% of the Catholic vote (and 75% in Massachusetts, where Catholics were a majority of voters). Santorum received 25%, Gingrich 15% and Paul 10%. This points up one of the anomalies or irony of this year’s vote. In 1960 the most anti-Catholic states in the union were Tennessee and Oklahoma, where John F. Kennedy lost dozens of Democratic counties, and ran behind Adlai Stevenson’s 1956 vote. Pulpits were filled with anti-Kennedy tirades. Now, a half century later, a Catholic Republican who condemns JFK’s support for separation of church and state carries these states after conducting his campaign largely in evangelical and Baptist churches. (Santorum spoke at a worship service at Temple Baptist Church in Powell, Tennessee, where the congregation gave him rousing applause). How times have changed. ■

## Supreme Court Upholds Ministerial Exception

In an unexpected unanimous decision on January 11, the U.S. Supreme Court ruled that the First Amendment bars suits brought on behalf of ministers against their churches and limits government’s involvement in the way in which churches define ministry. It is impermissible for government to contradict a church’s determination of who can act as its ministers.

The Court overturned a Sixth Circuit Court of Appeals ruling in favor of a teacher, Cheryl Perich, in a Lutheran school who claimed that her firing violated the Americans with Disabilities Act. She also denied that she was a minister, which the church invoked as reason for her dismissal. Perich filed a charge with the Equal Employment Opportunity Commission (EEOC), which supported her and brought suit against Hosanna-Tabor Evangelical Lutheran Church and School. A district court ruled in the school’s favor, but the Sixth Circuit supported her claim, primarily on the grounds that she did not qualify as a minister under the ministerial exception rule.

The Supreme Court for the first time recognized the existence of a

ministerial exception, making this a ruling of considerable importance for church-state law in the future. The Court ruling was emphatic: “The Court agrees that there is such a ministerial exception. Requiring a church to accept or retain an unwanted minister, or punishing a church for failing to do so, intrudes upon more than a mere employment decision. Such action interferes with the internal governance of the church, depriving the church of control over the selection of those who will personify its beliefs. By imposing an unwanted minister, the state infringes the Free Exercise Clause, which protects a religious group’s right to shape its own faith and mission through its appointments. According the state the power to determine which individuals will minister to the faithful also violates the Establishment Clause, which prohibits government involvement in such ecclesiastical decisions.”

The decision “bars an employment discrimination suit” but “expresses no view on whether the exception bars other types of suits.”

But the Court was firm in its view that “Both Religion Clauses bar the government from interfering with the decision of a religious group

to fire one of its ministers.” The majority opinion cited two events in the public career of James Madison, who repeatedly emphasized “the essential distinction between civil and religious functions”

Chief Justice Roberts, writing for the Court, also noted that church property disputes before the court in the nineteenth century were dispositive. “Our decisions in that area confirm that it is impermissible for the government to contradict a church’s determination of who can act as its ministers.”

The Court held that not only was the church within its legal rights to declare who was or was not a minister, but that Ms. Perich “held herself out as a minister of the Church by accepting the formal call to religious services, according to its terms. . . . She claimed a special housing allowance on her taxes that was available only to employees earning their compensation ‘in the exercise of the ministry.’”

In addition, “Perich’s job duties reflected a role in conveying the Church’s message and carrying out its mission. . . . As a source of religious instruction, Perich performed an important role in transmitting the Lutheran faith to the next generation.” The facts dictated the result. “Because Perich was a minister within the meaning of the exception, the First Amendment requires dismissal of this employment discrimination suit against her religious employer.”

The Court said it was “reluctant to adopt a rigid formula for deciding when an employee qualifies as a minister.” But it concluded: “The interest of society in the enforcement of employment discrimination statutes is undoubtedly important. But so too is the interest of religious groups in choosing who will preach their beliefs, teach their faith, and carry out their mission. When a minister who has been fired sues her church alleging that her termination was discriminatory, the First Amendment has struck the balance for us. The church must be free to choose those who will guide it on its way.”

A concurring opinion by conservative Justice Alito and liberal Justice Kagan argued that “courts should focus on the function performed by persons who work for religious bodies.” They added, “The ‘ministerial’ exception should be tailored to this purpose. It should apply to any ‘employee’ who leads a religious organization, conducts worship services or important religious ceremonies or rituals, or serves as a messenger or teacher of its faith. If a religious group believes that the ability of such an employee to perform these key functions has been compromised, then the constitutional guarantee of religious freedom protects the group’s right to remove the employee from his or her position.”

Justice Thomas also filed a concurring opinion, arguing that a church’s “sincere determination” should be joined with the Religion Clauses to “require civil courts to apply the ministerial exception and to defer to a religious organization’s good-faith understanding of who qualifies as its minister.” ■

[*Hosanna-Tabor Evangelical Lutheran Church and School v. Equal Employment Opportunity Commission* (No. 10-553)]

## To Safeguard the Future

Religious liberty and church-state separation will never be completely secure. But you can help provide the means for their defense in the future in two ways.

Include a bequest to Americans for Religious Liberty in your Will, or include ARL as a beneficiary in a life insurance policy. Bequests and insurance proceeds to ARL are tax deductible.

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## The Catholic Vote: Up for Grabs Again

National polls show an almost even race between Barack Obama and Mitt Romney (assuming that he will be the Republican nominee). The same polls show an even split in the Catholic vote.

America’s largest religious community, claiming the allegiance of a quarter of the electorate, has sharp internal divisions between its progressive and traditionalist wings. This spills over into the voting booth. Catholics who attend church less frequently and often disagree with their hierarchical leaders tend to vote Democratic, as does the growing and more observant Hispanic segment of U.S. Catholicism. Vice President Joe Biden and U.S. Senators like Tom Harkin and Dick Durbin belong to this wing. Republican presidential candidates Rick Santorum and Newt Gingrich, as well as numerous congressional Republicans, represent the conservative wing. White Catholics, especially those who attend church services regularly, have been increasingly leaning Republican in the last couple of decades.

Now the U.S. bishops, once known for taking progressive (and often outspoken and unpopular) positions on such issues as capital punishment, immigration, and aid to the disadvantaged, have veered rightward. They are furious over Obama administration policies that they regard as anti-Catholic or anti-religious. A new “religious liberty” office at the U.S. Catholic Conference claims that the religious freedom of Catholics is being violated or threatened because contraception is going to be free under the new health care law soon to be operative and because some Catholic agencies have lost public funding on the grounds that they do not provide a full range of reproductive health services. The bishops also want a broader exemption for religious employers who do not wish to cover birth control with no co-pays, making contraceptive coverage virtually free. The present law grants exemption for religious agencies whose primary purpose is the “inculcation of religious values” and those that serve and employ mostly people of the faith that runs the agencies. That includes “integrated auxiliaries.” But the bishops and their allies want the exemption to include organizations that serve and employ a general population, like hospitals, colleges and social service organizations.

Critics of the bishops’ new stance, including many liberal Catholics, counter that the religious freedom of female employees in church-run agencies will be strengthened by the new policies. These issues seem to have no possibility of compromise, and they have, perhaps inevitably, spilled over into partisan politics. Laurie Goodstein, religion writer at *The New York Times*, wrote recently, “The idea that religious Americans are the victims of government-backed persecution is now a frequent theme not just for Catholic bishops, but also for Republican presidential candidates and conservative evangelicals.”

Several GOP candidates picked up on this theme during the final debate before the New Hampshire primary. One, Texas Gov. Rick Perry, hammered Obama for allegedly waging “a war on religion.” Gingrich, Santorum and Romney promptly agreed. President Obama is under intense pressure to accede to these demands, though doing so would likely anger his base.

Both sides have taken their case to the arena of public opinion. A November 28 ad in *The New York Times* from Catholics for Choice urged the President, “Don’t turn your back on women.” A December 21 ad in the *Washington Post* by the U.S. Conference of Catholic Bishops warned that “both religious freedom and access to health care” would be harmed if the HHS “preventive services” mandate is allowed to stand.

Prochoice groups hope that most Catholic voters will reject the bishops’ aims. Journalist Katha Pollitt observed in *The Nation* (December

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## Religious Lobbies Thrive

There are 212 “religious advocacy” groups in Washington, D.C., that spend at least \$390 million annually trying to influence public policy. This is a major finding from a report issued in November by the Pew Forum on Religion and Public Life.

The groups represent a variety of religious traditions. Interreligious groups are the most numerous at 54, followed by Roman Catholics with 41, and evangelical Protestants at 39. There are 25 Jewish-affiliated groups, 17 Muslim and 16 mainline Protestant organizations. The sixth-place showing of mainline Protestants reveals their declining influence in public life, since they dominated the religious lobbying scene from the 1920s through the 1960s. Nine groups represent “other religions,” including Bahai’s, Buddhists, Hindus, and Sikhs. “Other Christians” number six, while three are affiliated with such “peace churches” as Mennonites and Quakers. Two “secular” organizations also were counted by Pew researchers.

The Pew report, “Lobbying for the Faithful,” concludes that “Washington-based religious advocacy surged after 1970, with the number of groups rising at an accelerating pace with each successive decade.” The groups are more diverse than in the past. “The religious advocacy community in Washington has continued to grow and change in the past 20 years. And the increasing diversity of the U.S. religious landscape has brought many new groups into the mix.” Another factor is government. “The growing reach of the federal government in economic, environmental and social policy also acted as a magnet, drawing religious groups to the nation’s capital.”

The 212 religious advocacy groups working in the nation’s capital compare to the fewer than 40 that existed in 1970.

While the \$390 million in annual expenditures may be undercounted, since some groups did not report adequate data, the religious advocacy funds may be declining. Of the groups that included multiyear data to Pew, 54% reported a decline from 2008 to 2009, a net drop of \$14 million.

Religious lobbies devote their resources to “about 300 policy concerns,” both foreign and domestic. About 64% work on both international and domestic issues, while 19% concentrate solely on domestic issues and 17% focus only on international issues.

More than 82% of lobbies operate exclusively as nonprofit, tax-exempt 501(c)(3) organizations, while 5% are registered lobbyists that engage in direct lobbying efforts, and are classified as 501(c)(4) groups. The rest are tax-exempt organizations that have created companion entities that may engage in direct lobbying. These organizations must be careful, however, since the tax-exempt group cannot fund the political arm.

Religious Right organizations, broadly defined, accounted for \$101 million in advocacy funds during the 2008-2009 time frame.

The largest religious lobby is the American Israel Public Affairs Committee, which spent nearly \$88 million on its causes. The United States Conference of Catholic Bishops was a distant second, with expenditures of nearly \$27 million. A Religious Right component, the Family Research Council, came in third with \$14 million.

Pew researchers concluded that “religious lobbying and public policy advocacy have become enduring features of the Washington political scene.” ■

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## Religious Groups Decry Religious Divisions in Politics

A number of major U.S. religious groups called on candidates for public office to cease “appealing to voters along religious lines.” These appeals are “divisive” and tend to marginalize voters. “There is a point where an emphasis on religion in a political campaign becomes inappropriate and even unsettling in a religiously diverse society such as ours.”

Voters also have responsibilities to ensure that the constitutional ban on religious tests is upheld. “Voters should be encouraged to make their decisions based upon their assessment of the qualifications, integrity, and political positions of candidates. A candidate’s religious beliefs—or lack thereof—should never be used by voters, nor suggested by political candidates, as a test for public office or as a shorthand summary of a candidate’s qualifications.”

Above all, candidates for public office should adhere to the following principles:

- Attempt to fulfill the promise of America by seeking to serve and be responsive to the full range of constituents, irrespective of their religion.

- Conduct their campaigns without appeals, overt or implicit, for support based upon religion.

- Reject appeals or messages to voters that reflect religious prejudice, bias, or stereotyping.

- Engage in vigorous debate on important and disputed issues, without deliberately encouraging division in the electorate along religious lines, or between voters who characterize themselves as religious and voters who do not.”

The statement reminded both voters and candidates that an essential principle is at stake here. “Freedom of religion is one of our nation’s most cherished liberties. It is at the very foundation of America. Our nation’s Constitution protects religious freedom for all, prohibits reli-

gious tests for public office, and mandates separation of church and state. These are essential American ideals and values, which candidates for public office should respect.”

This interfaith statement of principles, “Religion in Political Campaigns” was released on February 21. Signatories included Jewish, Baptist, Methodist, United Church of Christ, Muslim, Hindu, and Sikh organizations, as well as the Interfaith Alliance and the National Council of Churches. ■

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### Catholic Voters, *continued from page 5*

19, 2011), “When it comes to family planning, the bishops lost the battle among the faithful decades ago.”

These disputes over contraception and abortion in insurance coverage and whether church agencies can refuse to place adoptive children with gay or unmarried couples may prove to be tempests in a teapot. But then, again, they may not, since there is an emotional quality to issues involving intimate aspects of family life that could move a small percentage of the electorate and influence the outcome of what is expected to be a close presidential election.

Catholic Americans have an uncanny knack for backing the winning presidential candidate, at least since 1932. (Two exceptions were in 1952 and 1968, when a majority of Catholics supported the losing Democratic candidates Adlai Stevenson and Hubert Humphrey, respectively.) In the last three presidential races, the Catholic vote was almost identical to the national result. Obama’s 53% nationally and 54% among Catholic voters was a typical result in 2008. Whether that will hold in 2012 may well depend on the resolution of issues affecting the intersection of church and state. ■



## Church and State in the Courts

Doctors in Texas must now comply with the state's sonogram law, which had been on hold. A three-judge panel of the U.S. Court of Appeals for the Fifth Circuit reversed a district court's injunction against the state's ultrasound law. The January 10 decision concluded that the law's requirements "are within the State's power to regulate the practice of medicine, and therefore do not violate the First Amendment." The court, admitting that abortion involves "a difficult and painful moral decision," ruled that doctors must give pregnant women "truthful, nonmisleading and relevant disclosures." Nancy Northrup, president of the Center for Reproductive Rights, disagreed with the ruling. "This clears the way for the enforcement of an insulting and intrusive law whose sole purpose is to harass women and dissuade them from exercising their constitutionally protected reproductive rights," she said. The Fifth Circuit sent the case back to the trial judge with instructions to proceed under its guidelines, emphasizing that prochoice groups had not demonstrated "a likelihood of success on the merits justifying the preliminary injunction." The law went into effect on February 7 after U.S. District Judge Sam Sparks ruled that he was bound by the appellate court, even though he said the law "effectively eviscerated the protections of the First Amendment." On February 10, the Fifth Circuit denied a request for a rehearing of the case by the entire court.




A federal judge ordered the removal of a religious banner from a Rhode Island high school on January 12. The district court noted: "No amount of debate can make the School Prayer anything other than a prayer, and a Christian one at that. Its opening, calling upon the 'Heavenly Father,' is an exclusively Christian formulation of a monotheistic deity, leaving out, inter alia, Jews, Muslims, Hindus, Buddhists, and atheists alike. The Prayer concludes with the indisputably religious closing: 'Amen,' a Hebrew word used by Jews, Christians and Muslims to conclude prayers. In between, the Prayer espouses values of honesty, kindness, friendship and sportsmanship. While these goals are commendable, the reliance on God's intervention as the way to achieve these goals is not consistent with a secular purpose." The court added that "the independence of both church and state in their respective spheres will be better served by close adherence to the neutrality principle."

U.S. District Court Judge Ronald R. Lagueux was critical of the authorities at Cranston High School West. "When focused on the Prayer Mural, the activities and agenda of the Cranston School Committee became excessively entangled with religion, exposing the Committee to a situation where a loud and passionate majority encouraged it to vote to override the constitutional rights of a minority."



The Justice Department announced on January 10 that it has settled a lawsuit against the Berkeley County (South Carolina) sheriff's office for violating the First Amendment freedom of religion and speech rights of prisoners under its jurisdiction. The Berkeley County Detention Center had previously denied detainees "appropriate access to religious



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materials and reading materials" in violation of the First Amendment and the Religious Land Use and Institutionalized Persons Act (RLUIPA). Congress passed RLUIPA unanimously, and it was signed into law by President Bill Clinton on September 22, 2000. It protects the religious freedom of persons confined to institutions such as prisons, mental health facilities and state-run nursing homes.



A ban on sectarian invocations before county commission meetings in Forsyth County, North Carolina, stands. The U.S. Supreme Court on January 17 turned down a challenge to the Fourth Circuit decision striking down the practice as unconstitutional. Last July 29, the U.S. Court of Appeals for the Fourth Circuit held in *Joyner v. Forsyth County* that the practice of regularly opening its meetings with Christian-inspired prayer violated the First Amendment. "Faith is as deeply important as it is deeply personal," wrote Judge J. Harvey Wilkinson, "and the government should not appear to suggest that some faiths have it wrong and others got it right."



Virginia Episcopalians convinced Fairfax County Circuit Court Judge Randy Bellows that they possess the legal right to maintain ownership  
*continued on page 8*

of properties now controlled by seven dissident congregations. Bellows ruled on January 10 that the national denomination, the Episcopal Church U.S.A., and its diocese of Virginia, have a “contractual and proprietary interest” in the properties under litigation since 2006. The breakaway congregations placed themselves under the jurisdiction of the Anglican Church of Nigeria, which holds a conservative stance on theological and cultural issues. The court ordered all property to be returned to the diocese. The conservatives who took over the parishes will probably have to move. The court decided this phase of the case on Virginia real estate law. First Amendment law would almost certainly have favored the Episcopal Church. Several historic churches are subject to the ruling, including Truro Church and The Falls Church.



The Michigan Court of Appeals heard arguments on February 9 that could change the way clergy relate to police in criminal investigations. A three-judge panel is being asked to decide whether a Baptist minister violated the state’s “priest-penitent” privilege when he testified against a church member in a rape case. The law, found in many other states, protects a member of the clergy from being compelled to reveal what he learned in a confidential counseling session or in a formal confessional setting. It is similar to lawyer-client privilege.

In this case, Rev. John Vaprepsan, questioned a suspect and his mother about the rape of a young girl. The suspect admitted his guilt, and the pastor notified the police.

The minister testified against the suspect, a church member, at a trial, but a judge disallowed his testimony, saying it violated state law. The appeals court must decide whether the session was confidential and whether it constitutes a true confession under the law. The defendant’s lawyer, Raymond Cassar, told the Detroit Free Press that the ruling could have far-ranging consequences because it “has the potential for turning men and women of the cloth into agents of the police.”



Oklahoma’s 2010 referendum banning Sharia law was held unconstitutional by the Tenth U.S. Circuit Court of Appeals on January 10. The appeals court affirmed a U.S. District Court ruling that even a voter-approved referendum cannot discriminate against any religion or violate church-state separation. The case was returned to the district court with the expectation that a permanent injunction against the law’s enforcement would be granted. ■

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## The Voucher Watch

• An Indiana judge upheld the state’s new school voucher law on January 13. Marion County Superior Court Judge Michael Keele dismissed the primary question of whether public funds can go to private religious schools, which are 98% of the schools participating in the so-called “Choice Scholarship Program.” He said the funding was indirect, even though the Indiana Constitution bans all forms of aid to religion.

A group of citizens with support from the National Education Association’s Indiana affiliate filed suit after the program went into effect in July. Nate Schnellenberger, president of the Indiana State Teachers Association, told *Education Week*, “The state tries to make a case the money is not going directly to a religious institution because of the way our voucher law is constructed. . . . But if we follow the trail of the money, it goes from state to parent to religious institution. Virtually all of the students using vouchers are enrolled in religious schools.” Schnellenberger said the ruling will be appealed.

In the first semester of the program, 3,919 students participated, and almost all of them attended faith-based schools. The first year cap was limited to 7,500 students, so only about half of those eligible enrolled. The cap next year is 15,000 but the cap will be lifted in 2013-14.

The program has numerous problems aside from the constitutional question. Journalist Jaclyn Zubrzycki observed in *Education Week Online*, “Opponents of the program question whether the private schools are really an option for all students. Private schools are able to select the students who attend their schools, and can ask students who do not meet behavioral or academic standards to leave. . . . The situation is particularly knotty for special needs students; currently, there is no special-needs voucher program, and students with certain disabilities who enroll in private schools sometimes need services provided only at public schools.”

Zubrzycki added that the program may have national consequences. “It is the only active voucher program in the country that is not limited to low-income students or students who have attended a low-performing school, and the only one with no eventual cap on enrollment.”

• About 20,000 more students participated in state voucher or tax credit programs in 2011-12 than in the previous year, according to the pro-voucher Alliance for School Choice Yearbook 2011-12. Nationwide, 210,524 students were enrolled in the 2011-12 school year compared to 190,811 in 2010-11, an increase of 10.3%. Nearly half of the students lived in Florida (60,859) or Pennsylvania (40,876). Arizona ranked third with 30,178, followed by Ohio (23,975) and Wisconsin (23,426). Georgia placed sixth with 11,096, followed by seventh place Iowa (10,820). Other states include Indiana (4,509), Louisiana (2,034), Utah (635), Rhode Island (341) and Oklahoma (160). There were also 1,615 students in the District of Columbia voucher program. Of the active programs, 15 were vouchers and 10 were tax credits. North Carolina adopted a tuition tax credit program for children with disabilities, providing up to \$6,000 depending on family tax liability. ■



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# Updates

## Legislative Roundup

State legislatures considered a variety of church-state issues this winter.

Republican-dominated **Indiana's** legislature advanced a creation science bill (SB 89). The bill would "require the teaching of various theories concerning the origin of life, including creation science." It passed the state Senate 28-22, despite opposition from numerous scientific, educational and religious groups. James McGrath, a professor of New Testament language and literature at Butler University, said creationism "involves poor, and at times deceitful, biblical interpretation" that is advocated by "charlatans propounding pseudoscience of their own invention that is neither biblical nor scientific."

The chairman of the Indiana House Education Committee, however, warned that the bill would be unworkable because it requires that origin of life theories from Christianity, Judaism, Islam, Hinduism, Buddhism and Scientology must be included in all courses. Rep. Robert Behning (R-Indianapolis) said, "I think it's about impossible to find somebody who would know about all those different theories of creation." Behning said he was uncertain whether his committee would consider the bill before the legislative session ends in March.

**Missouri** House Bill 1227 would require "intelligent design" to be taught in public schools. Similar bills died in previous legislative sessions. Another anti-evolution bill, House Bill 1276, hides behind "academic freedom."

**Oklahoma** will consider Senate Bill 1742, which aims to raise objections to evolution and to climate change.

Two anti-evolution bills (House Bills 1148 and 1457) have been proposed in **New Hampshire's** legislature. Author Leslie Brunetta criticized them in the *Concord Monitor* as "bad for my health and for the health of all Americans diagnosed with cancer." She explained: "Although most such bills die in committee, they legitimize the idea that the theory of evolution is just an opinion. It is actually a robust explanation for the diversity of life on earth, supported by thousands of observations and experiments, used to make testable predictions about nature—which includes our bodies."

**Arizona** is considering two bills aimed at teaching the Bible's literary and artistic influence. House bill 2473 would allow public and charter schools to offer an elective course in high schools on the "critical evaluation and examination of the Bible as a literary work." House Bill 2563 would require the State Board of Education to establish requirements for the course to be entitled "The Bible and Its Influence on Western Culture." The sponsors say the course must follow guidelines requiring religious neutrality and have an academic emphasis. Both bills have been assigned to the House Education Committee. (Georgia, Oklahoma, South Carolina, Tennessee, and Texas also allow for elective courses on the Bible in public schools, but they are few in number).

**Maryland** legalized same-sex marriage, and Gov. Martin O'Malley, an enthusiastic supporter, signed it on March 1. The law grants full marriage equality to same-sex couples and includes explicit protections for religious groups that oppose it. Opposition from African American clergy, the Maryland Catholic Conference, and all but three Republicans has made a referendum on the issue likely. A similar bill became law in **Washington State**, and may be challenged in a referendum. **Maine** voters will probably face a referendum on same-sex marriage in November, joining **Minnesota** and **North Carolina**. **New Jersey** passed a marriage equality law but it was promptly vetoed by Gov. Chris Christie. A referendum is likely in the Garden State.

**Virginia** passed a bill giving tax credits to companies that provide scholarships for disadvantaged students to attend private schools. The Arizona-style law will provide an initial \$10 million in tax credits, and companies can recoup most of their tax-free contributions.

The state also approved a bill that would allow faith-based child placement agencies to deny adoptions or foster care to gay couples.

But sweeping restrictions on abortion faced surprising opposition from a handful of moderate Republicans in the state senate. A personhood bill that would have defined life as beginning at the moment of conception was postponed for a year, and a bill cutting off state funds for abortions for low-income women with fetal deformities was rejected. Two bills that would have banned most abortions after 20 weeks died in committee. A highly controversial sonogram bill that was seen as invasive as well as medically unnecessary was withdrawn when even Gov. Robert McDonnell withdrew his support. A less invasive ultrasound bill passed and was signed by the governor on March 7. Politics clouded the picture. Many observers believe the sonogram controversy may have ended the vice presidential aspirations of McDonnell, who has been campaigning for Mitt Romney.

The **Florida** House passed a bill requiring women seeking abortions to wait 24 hours before the procedure can be performed and required clinics performing abortions to be owned by physicians. Doctors must also describe "fetal pain" in some instances. The bill faces more critical scrutiny in the Senate.

The **Pennsylvania** House declared 2012 "The Year of the Bible," passing H.R. 535 unanimously. The South Dakota House passed a nonbinding resolution that calls for academic instruction on the Bible in public schools. HCR 1004 carried 55-13 on January 25.

## House Passes FDR Prayer

The U.S. House of Representatives took time off from tackling budget questions to pass a bill requiring that President Franklin D. Roosevelt's "D-Day" prayer be engraved on the World War II Memorial on the Mall in the nation's capital. By a vote of 386-26 on January 24, the House sent H.R. 2070 to the Senate. The bill mandates that FDR's "Let Our Hearts Be Stout" prayer that was delivered to national radio audiences on June 6, 1944, be added to the memorial, even though architects testified that it would require major changes to the structure. H.R. 2070 also bars the use of federal funds to prepare or install the 527 words, raising questions about who will pay.

All 233 Republicans supported the bill, as did 153 Democrats. The 26 no votes were cast by Democrats. The bill, a good example of "civil religion," may not pass the Senate. The House vote revealed some internal divisions among Democrats. In Maryland the two African American Democrats split, with Elijah Cummings for and Donna Edwards against. In northern Virginia, Catholic Democrat Gerald Connolly voted yes, while Catholic Democrat James Moran from the neighboring district voted no. The two Muslim Democrats disagreed on this one. André Carson of Indiana supported it while Keith Ellison of Minnesota was opposed. The opposition, such as it was, primarily drew Hispanic, African American, Jewish, and nonaffiliated representatives.

The "World War II Memorial Prayer Act of 2011" was introduced by Rep. Bill Johnson (R-OH).

## Catholic Group Ends Adoptions in Illinois

Most Catholic Charities in Illinois have ended decades-long involvement with state foster-care and adoption services. The reason cited by the state's bishops is the new state law that same-sex couples must be

*continued on page 10*

## Updates, *continued from page 9*

considered as prospective foster parents or adoptive parents. Catholic officials thought they would be exempt on religious grounds, as in New York, but state government agencies and courts rejected the bishops' position.

Illinois' new civil union law is responsible for the decisions. Catholic Charities' refusal to participate did not convince Judge John Schmidt of Sangamon County, who ruled in August, "No citizen has a recognized legal right to a contract with the government." He did not, however, address religious liberty claims. Catholic Charities had received 60% to 92% of their revenues from the state, depending on the diocese.

### Mormons Are Conservative, Republican (No Surprise)

A new Pew Forum poll confirms that American Mormons are solidly Republican (by 74% to 17% for the Democrats) and hold decidedly conservative views on most political issues. The poll, released on January 12, found that Mormons are "far more socially and politically conservative than the general population." On a political philosophy question, 66% of Mormons, compared to 37% of all Americans, called themselves conservative. On several family and marriage-related questions, Mormons register 30-40 points more conservative than other Americans. Only 25% approve of President Obama's record compared to almost 50% of all Americans. Likely Republican nominee Mitt Romney is viewed favorably by 86% of his co-religionists.

### Republicans Gain Among All Religions

A Pew Research Center survey on party affiliation among registered voters shows that Republicans have gained among all religious groups. While Democrats still lead in "party identification," which includes Independents who lean Democratic, their margin over Republicans and Republican-leaning Independents is 48% to 43% compared to 51% to 39% in 2008, the year President Obama was elected. The largest GOP gains come from two groups that have nothing in common politically, Mormons and Jews. Mormon support for Republicans is up 12 points, from 68% to 80%, while Jewish support for the GOP increased from 20% to 29%, up nine points. Even black Protestants and atheists/agnostics inched toward the GOP. Voters under age 30 have shown a pronounced Republican trend. Young evangelicals have shifted from 69% Republican in 2008 to 82% in 2011, the year of the new survey. All white Protestants are 61% to 31% Republican, up six points since 2008. White non-Hispanic Catholics, a key swing group, now lean Republican 49% to 42%, an eight point gain.

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### Party Identification by Religion

Religion	2011		2008		% Republican Gain
	% Rep.	% Dem.	% Rep.	% Dem.	
Mormon	80	17	68	19	+12
Evangelical Protestant	70	24	65	28	+5
Mainline Protestant	51	39	45	45	+6
Catholic	43	48	37	53	+6
Jewish	29	65	20	72	+9
Unaffiliated	27	61	25	64	+2
Atheist/Agnostic	21	71	18	72	+3
Black Protestant	6	88	5	89	+1

### Reprieve for Religious Commission

An independent watchdog commission that monitors religious freedom around the world was reauthorized by Congress in December. The U.S. Commission on International Religious Freedom (USCIRF) is not formally a part of any branch of the federal government but receives its funding from Congress. Its \$4 million budget was cut to \$3 million. Established in 1998 by the International Religious Freedom Act, it has nine commissioners and a research staff whose main function is to evaluate religious liberty conditions overseas and to recommend actions by the U.S. government to correct abuses of religious rights. Some critics argue that the Office of International Religious Freedom at the State Department should be expanded and given more authority. USCIRF will exist at least until the end of September 2014.

### Churches Vacate City Schools

About 60 congregations relocated their worship services from New York City public schools on February 12. The U.S. Court of Appeals for the Second Circuit ruled last June in the "Bronx Household of Faith" case, that holding "worship services" in public schools transgressed the First Amendment. The U.S. Supreme Court declined to hear an appeal of the decision in December, and Mayor Bloomberg's administration gave the five dozen church groups until February 12 to find alternative sites. Politics has quickly entered the picture as 35 New York City Council members urged the state legislature to authorize rental use of public school buildings by religious groups. The state senate passed a bill on February 6 that would allow churches to hold services in schools, but the Assembly may balk. Assembly Speaker Sheldon Silver thought the Senate bill was flawed because it could allow any groups, however controversial, to use the schools. Many states allow church groups to rent space in public schools if space is available on the same basis and at the same cost as secular groups. *The New York Times* opined on February 2 that public schools should be kept separate from churches and encouraged the state's governor, Andrew Cuomo, to veto any legislation authorizing worship activities in public school classrooms.

### International Updates

**Ankara:** The leader of the world's Orthodox Christians called upon Turkey to grant equal rights to religious minorities and to safeguard religious liberty for all citizens. Ecumenical Patriarch Bartholomew I made this appeal on February 20 before a parliamentary subcommittee

which is drafting a new constitution for predominantly Muslim Turkey. Turkey's 1982 constitution guarantees religious freedom but its government has restricted the training of clergy of minority faiths and closed the only Orthodox seminary in 1985. A Turkish law placed religious and military schools under state control. The government has also interfered with the selection of church leaders, partly by requiring that patriarchs be Turkish citizens. Most Orthodox Christians are of Greek descent. Ownership of church property and places of worship has also come under government control.

The present government of Prime Minister Recep Erdogan is mildly Islamist, but it has promised changes to accommodate the nation's Christian and Jewish minorities. The European Union, which Turkey wants to join, has also made enhanced religious liberty a condition for membership. The Assyrian Christian community echoed the patriarch's pleas for religious equality, which would include funding for minority schools and churches. A Turkish government agency regulates mosques and pays the salaries of imams, but does not do so for Christians or Jews.

**Brussels:** The newspaper *Le Soir* reported that the Belgian government provides about 300 million euros (\$390 million) yearly to religious organizations. The Roman Catholic Church receives 85.8% of the total, while 8% of the grants go to humanist and secular organizations, 2.5% to Protestants, 2.1% to Muslims and 1.6% to Jews, Anglicans, Old Catholics and Eastern Orthodox Christians. Pew's "Global Christianity" survey shows that 50% of Belgians are Catholic, 42% are non-affiliated, and 8% belong to all other religions.

**Cairo:** Egypt's new parliament took office on January 23, and more than 70% of seats are held by Islamist parties. The Freedom and Justice Party, the political arm of the once-banned Muslim Brotherhood, won 47% of the vote in the elections and received 235 of the 508 seats in the lower house. The new speaker of the house, Mohamed Salad Katatny, belongs to this group. Even more ominously, the extremist Nour party, affiliated with the Salafist branch of Islam, received 25% of the vote and holds 125 seats. The Salafists favor strict implementation of sharia law and have been linked with attacks on Christian churches. Liberal and nonsectarian parties have fewer than 20% of seats. Only 1% of parliamentarians are women. *Washington Post* foreign correspondent Leila Fadel noted, "The strong Islamist presence in the People's Assembly, the lower house of Egypt's bicameral system, is indicative of the rise of political Islam since the revolts that shook the Arab World forced four autocrats from power."

Islamist parties also won recent elections in Tunisia and Morocco and may do well in Libya. Syria is in a virtual civil war, with sectarian tensions between Sunni Muslims and the Shiite-descended Alawites on the rise, potentially threatening the existence of the Christian minority.

But *The Economist* took a cautiously hopeful tone in a December 10 editorial, arguing that "Political Islam comes in many shapes and guises." The weekly continued, "None of this will be easy for outsiders. The foreign policy of Egypt, the Arabs' leading country, is likely to be less amenable to the West. Even mild-mannered Islamists may still prove narrow-minded on some scores. But that is no reason for the West to desert them, let alone hark nostalgically back to the era of secular strongmen. Democracy entails risks. It is often messy." In a later editorial, on February 18, the British weekly admitted that the Muslim Brotherhood remains an enigma. "The Brotherhood's growing influence worries the region's liberals and minorities, including Christians and Jews. They fear the movement's affiliates may never relinquish the power they have won at the polls and that they will impose strict Islamic rules on previously secular societies."

**Khartoum:** Sudan's Ministry of Guidance and Religious Endowments warned Christians in January against engaging in evangelism

*"I have come to value liberated minds as the supreme good of life on earth."*

— J. Frank Dobie

This is the epitaph written for his gravestone by the great Texas writer J. Frank Dobie, who died in 1964 shortly after receiving the Presidential Medal of Freedom from President Lyndon Johnson. Dobie is buried at the Texas State Cemetery in Austin.

and reminded them to register with the government. *Christianity Today* reported that "Christianity is now culturally and officially considered a foreign religion" in this heavily Muslim country.

**London:** The role of Christianity and the status of the established Church of England have come under intense review after a High Court ruling that a town council in southwest England must cease prayers before meetings. A counter offensive was led by Baroness Sayeeda Warsi, the first Muslim woman in a British Cabinet. In an article in the *Daily Telegraph* and in a speech at the Vatican, Warsi declared a "militant secularization has taken hold of our society." She said religion has been "neglected, undermined and even attacked by recent governments." She told Vatican diplomats that "an aggressive secularism is pushing faith out of any public place."

Her boss, Prime Minister David Cameron, urged the Church of England to lead a revival of traditional values to counter the nation's "slow-motion moral collapse." Even Queen Elizabeth II made a rare statement about religion, affirming that the Church of England has been "undervalued and underappreciated."

Baroness Warsi, who has been criticized and even attacked by conservative Muslims, relishes her role as "the chief political champion of faith's role in public life, regularly blasting critics of religion," says the *London Tablet*, a Catholic weekly. One critic, Evan Harris, vice president of the British Humanist Association, retorted, "Secular liberal democracy, which involves the separation of church and state and an end to religious privilege, is the best guarantor of religious liberty and free expression."

**Mexico City:** The Roman Catholic Church's issuance of a set of voting "guidelines" for the July presidential election has drawn fire. Mexico's Constitution, at Article 130, states that "priests and ministers cannot form political associations nor carry out propaganda for any candidate, party or political group." The church's "pastoral guidelines" do not endorse any party or candidate but they implicitly criticize parties that challenge church teaching. The guidelines published by the Archdiocese of Mexico declare that Catholic voters cannot "choose as a political option those who support or promote false rights or liberties that attack the teachings contained in the Holy Scriptures, tradition and doctrine of the Church." The guidelines warn that Catholics "should be alert to the commitments of the candidates and their parties to respect the foremost of all rights, which is the right to life, from the moment of conception." Bernardo Barranco of the Center for Religious Studies called the statement "a provocation" that "implicitly violates the law." Mexico's anticlerical laws, which forbade clergy from voting, were eased during the 1990s. Churches are expected to abstain from overt political activities.

**Regina:** The province of Saskatchewan has extended public funding to independent and religious schools if they use certified teachers and an approved curriculum. The plan pays for 50% of per-pupil expenditures. Three schools have qualified so far, including Islamic and Seventh-day Adventist academies and a Catholic school run by the Jesuits. ■

## Editorial

### Church Schools Are Religious (Did You Have Any Doubt?)

The unanimous Supreme Court ruling in January endorsing the “ministerial exception” as it applied to a Lutheran school’s employment decision will have far-reaching consequences.

It seems to us that the decision strengthens the separation of church and state because it limits government interference in the internal operations of religious groups. A host of court rulings going back at least to 1872 would seem to justify the laissez-faire approach. Government, as James Madison stressed, really has no competence to determine how churches should govern themselves or how they should define their employees or affairs. In the case just decided (see page 4), the Lutheran understanding of “ministers” and of “internal church resolution of disputes” was held to be of no compelling interest to secular authorities.

The same would be true of Mormons and Mennonites, for example, who choose “bishops” from among non-ordained lay people without any special ordination ceremonies. As the Court ruled, it is for the religious bodies themselves to make this determination.

It is also reasonable to state clearly that churches, and their integrated auxiliaries, have no claims on the public treasury. It is clear that faith-based schools are fundamentally religious institutions and thus have no right to public financial support. To ensure separation between religion and government, it is necessary to stress noninterference by government in religious life as well as independence of religious entities from public funds extracted from taxpayers who do not choose to support religious enterprises, their own or anyone else’s.

## Books and Culture



*The Economist*, the U.K.’s leading news magazine, praised the U.S. arrangement for church-state separation in “The Faith (and Doubts) of Our Fathers” in its year-end issue (December 17-30, 2011). Because the nation’s founders held as many diverse religious views as the general populace, religious tolerance and pluralism were implicitly recognized by the federal constitution. This occurred because “the founding fathers—and above all Jefferson—had a much broader vision of the danger that religious intolerance of all kinds posed to the new republic.”

*The Economist’s* editors lamented the resurgence of “Christian Nation” propaganda. “There is a great irony about all these disputes over America’s creators, whether they pit Christian against Christian, or religious types against secularists. Regardless of their own views on the spiritual, people like Madison, Washington and Jefferson were intensely concerned for the welfare and cohesion of the new republic. They worried not only about religious wars as such but about political disputes which were ‘religious’ in their intensity. They wanted to create a state and political system to which people with utterly different ideas about metaphysics, and many other things, could offer unconditional loyalty. People who disagree over legal or economic matters ought to be able to respect one another and compromise; people who disagree over things they regard as ultimate – and therefore see one another as heretics – usually can’t.”

Writing in the evangelical monthly *Christianity Today* (December 2011), Thomas Farr, director of the Religious Freedom Project at Georgetown University, chides American policymakers for ignoring the connection between “global religious liberty and American national security.” Farr argues that democracy in the Muslim world is threatened by the continuation of statutes against blasphemy and apostasy. “Sadly, American politicians and diplomats persist in ignoring the profound relationship between these two ideals. Quite apart from humanitarian considerations, there is mounting evidence that religious liberty is necessary for the stability and longevity of democracy in highly religious societies, and for the defeat of religion-based terrorism. Yet the United States, for the most part, has not encouraged or assisted other countries in reforming their repressive institutions and habits.”

*The Good News Club: The Christian Right’s Stealth Assault on America’s Children*, by Katherine Stewart. PublicAffairs, 2012, 291 pp., \$25.99.

The author, though a neophyte in church-state matters, has used her journalistic skills to expose forcefully the invasion of the public schools by aggressive fundamentalist religious groups. She first became aware of this activity when the “Good News Club” appeared at her daughter’s elementary school in Santa Barbara, California. Through considerable research and travel, she discovered that “Christian Nationalists” are driving an agenda in public schools that will be “the basis for Christian control of all the important parts of government and society.” By Christian, of course, she means an extremely narrow and controversial segment of evangelical and fundamentalist Protestants who disdain all other religions. She firmly believes that this infiltration of public education “should be of concern to anyone who cares about the future of public education—or indeed the future of secular democracy—in the United States.”

These groups seek far more than “equal access.” Stewart continues, “They don’t want equality; they want control. They don’t want toleration; they want the opportunity to practice their intolerance. They don’t want their religion to be included in the schools; they want the schools to be absorbed within their religion.”

Stewart thoroughly surveys the types of groups that have used recent Supreme Court decisions to penetrate the corridors of once-religiously neutral public schools. She blames the U.S. Supreme Court’s conservative majority, which “has effectively legislated religion back into the schools, often against the will of school administrators and the communities they serve.” The “originalists” on the Court redefined religion as “speech from a religious viewpoint,” and “relied increasingly on a distinction between ‘viewpoint’ and ‘content’ to analyze religion cases.” This “new theory of constitutional law would soon prove decisive in changing the role of religion in public schools.”

This new legal doctrine ignores the reasonable argument that “in a pluralistic society the injection of religion into public schools is divisive, inherently unfair, and unsustainable.” As a result, “well-funded and very well connected conservative Christian legal groups” have “imposed a new form of religious activity in public schools” that is neither wanted nor supported by a majority of parents.

Stewart analyzes the Texas textbook wars, abstinence-only education, controversy over teaching the Bible in public schools, and the proselytizing efforts of “peer to peer” evangelistic campaigns that target high school students, especially athletes.

Finally, she correctly sees the voucher movement as a threat to public education. “Although the voucher movement comes cloaked in the rhetoric of choice and free markets, its real agenda is to eliminate the system of public education.” The voucher movement works hand-in-hand with religious zealots to weaken the public education sector and “lays the groundwork for dismantling public education in favor of a private system of religious education funded by the state.”

It is gratifying that a journalist has explored what ARL president Edd Doerr called “the invasion of the soul snatchers” as far back as the fall of 1983, in our *Voice of Reason* issue number 10. As she has ably documented, the movement by militant fundamentalists to compromise the religious neutrality of our schools, and to disrespect and disparage other faiths, has gained steam and threatens the religious liberty of us all.

—Al Menendez

***The Bible, the School, and the Constitution: The Clash That Shaped Modern Church-State Doctrine***, by Steven K. Green. Oxford University Press, 2012, 294 pp., \$29.95.

In post-Civil War America, religious issues influenced national politics in the same emotional and intense way they do today. Battles were fought in state legislatures, courts and Congress over mandatory religious activities such as Bible reading and daily prayer in public schools and tax support for church-related schools.

Divisions were sharp along religious lines. Evangelical Protestants, the dominant group, supported Bible reading and prayer (since both were Protestant-oriented) and vociferously opposed public funding for church schools (since they were likely to be Catholic). Mainline Protestants generally agreed. Secular liberals and the Jewish community opposed both and wanted schools free of sectarian bias and conflict. Catholics opposed Bible reading unless their students could use the Douay Version of the Scriptures rather than the obligatory King James text. They began to develop a parallel system of parochial schools in response to the widespread anti-Catholicism in school textbooks and to the persistence of devotional religious activities.

In politics the Republicans supported Bible reading and prayer and opposed church school aid, primarily because they were dependent on Protestant voters almost exclusively and because the Know-Nothings, the old Whigs, and anti-immigrant Nativists merged with the Republican Party and kept it subservient to their interests. The Democrats straddled the issue because they received the bulk of the Catholic vote in many states (and the German Lutheran vote in the Midwest at that time).

Steven K. Green, who directs the Center for Religion, Law and Democracy at Oregon’s Willamette University, is the national expert on these issues that came to be known as “The School Question.” As such, this book should be seen as the definitive study. The controversy, as he shows, “laid the foundation for modern church-state doctrine.”

He shows how interconnected were these issues, and how several factors influenced their temporary resolution in the late nineteenth century. He examines the concept of “nonsectarianism,” which was really pan-Protestantism, and looks at the funding controversy.

Whenever moderates and liberals tried to modify the Protestant tone of public education, they were victims of “inflamed rhetoric and hyperbole.” Even more, the major Protestant churches blamed the Catholic Church and ranted against a “conspiracy formed by the American papal hierarchy against our public school system.”

Green exonerates Maine Sen. James G. Blaine, whose proposed con-

## *ARL in Action*

• In recent months ARL president Edd Doerr spoke to a group at Riderwood Retirement Center in Silver Spring, Maryland, and to a Texas educators’ meeting in Washington, D.C. At both meetings Doerr stressed that the overarching church-state issues of today are virtually the same as three decades ago, when ARL was founded. The Religious Right’s objectives of weakening the wall of separation between church and state that protects religious liberty remain unchanged.

• Al Menendez’s article “Reflections on the First Freedom: Why America’s Pioneering Concept of Religious Liberty Is Still Relevant” appeared in the January/February 2012 issue of *Liberty* magazine. Calling separation of church and state “a vital and significant contribution to civilization,” Menendez argues, “Observers from far and near have noted, often with envy, a nation that formally separates the institutions of religion and government but has vigorous, independent religious institutions and a culture and society rich in religious experience. The contrast with countries steeped in religious establishments and favoritism on the one hand or government-inspired religious repression on the other is instructive and noteworthy.”

• ARL joined several dozen organizations in the Coalition Against Religious Discrimination (CARD), which sent a letter to the Department of Justice’s faith-based office, asking the counsel to release information on the “case-by-case” procedures. The White House has said that it is reviewing policies of publicly-funded, faith-based groups that might apply religious tests to its personnel. CARD asked what procedures are in place to stop funding for discriminatory groups and whether any such determinations have been made during the past three years of the Obama administration.

• ARL has joined the newly-established Coalition for Liberty and Justice, an alliance of religious and secular organizations “dedicated to the preservation of individual religious freedom for individuals of all faiths and no faith.”

stitutional amendment banning aid to church schools was erroneously seen as an anti-Catholic gesture designed to cement the Protestant-Republican alliance. Green carefully examines the evidence and concludes that Blaine was trying to defuse religious animosity in public education by banning religious activities as well as forbidding aid to religious education, i.e. to create a religiously neutral school system. But evangelical zealots changed his amendment to require religious devotions in public schools. By the time the so-called “Blaine Amendment” reached its final vote in Congress, Blaine refused to vote for it.

Green also notes that Blaine was far less anti-Catholic than other Republicans of the era, including Presidents Hayes and Harrison. “Blaine’s own nominal religious commitments and ambivalence about advancing the nation’s Protestant identity was evidenced by his selection of Robert Ingersoll, the famous freethinker, to give a nominating speech,” when Blaine first sought the GOP nomination for president.

Green finds that the “no-funding” principle that barred state aid to most religious enterprises had a respectable, non-bigoted pedigree. “By 1876, the no-funding rule was the accepted legal doctrine in the states, one that had been developing since the 1820s.” He admits that “anti-Catholicism was a factor in the public debate over the Blaine Amendment and the larger School Question, but it was not the only factor.”

Green reminds readers that the decisions of the U.S. Supreme Court on religious instruction and religious school funding after World War II

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## Books and Culture, *continued from page 13*

“rested on the foundation laid seventy years earlier.”

This book should be required reading for students of church-state history and church state law.

—*Al Menendez*

*Roger Williams and the Creation of the American Soul: Church, State, and the Birth of Liberty*, by John M. Barry. Viking, 2012, 464 pp., \$35.00.

Roger Williams, a seventeenth century Puritan-turned Seeker, revolutionized political thought by advocating complete separation of church and state. As this splendid biography affirms, “Williams created the first government in the world which broke church and state apart.” In addition, Williams developed the “explosive concept that the state derives its authority from and remains subject to its citizens.”

Williams propounded a new, and potentially subversive, doctrine that religious and civil liberty were essential to a free society, thereby challenging centuries of religious and political authoritarianism.

Barry thoroughly explores the theological and political complexity of seventeenth century England and its North American colonies, including tiny Rhode Island, which Williams made an experiment in liberty. He explores Williams’ theological views in some depth, particularly the concept of “soul liberty.”

Williams certainly influenced the founders of the American Republic, largely through his own writings and his influence on John Locke. Locke was widely read, and his views on government were highly influential. Barry shows that Williams held even more advanced views of liberty than Locke, since Williams “granted liberty to Catholics and did not exclude atheists from liberty. Locke denied them freedom because he feared they would undermine the civil state.” Fortunately, “Williams was the creator of the tradition Jefferson continued.”

Barry regales us with a number of facts and anecdotes that are probably not widely known. Here are three:

- “When Roger Williams died, his fellow citizens in Providence marked his death with ‘a considerable parade’ and ‘guns fired over his grave.’”

- “He is one of only ten men honored in Geneva’s Reformation Wall for their contribution to the Reformation.”

- “Rhode Island declared independence from England on May 4, 1776, two months before the rest of the colonies.”

Barry’s thoroughly researched and superbly written biography rescues Williams from the shadows of history and restores him to his proper place in the pantheon of American heroes.

—*Al Menendez*

*Darwin the Writer*, by George Levine. Oxford University Press, 2011, 244 pp., \$35.00.

*Darwin the Writer* is not just another book about evolution. Rather, it is a book about Darwin the man, Darwin the writer, Darwin the thinker, Darwin the scientist. In examining Darwin’s *On the Origin of Species*, Levine, a professor of Victorian literature and an expert on the relations between science and literature, takes us on an extended tour through Darwin’s head. Not only did Darwin produce the breakthrough

and now well established theory of evolution through natural selection over vast expanses of time, but he did so in a book for ordinary readers of such transparency and step-by-step detail that put his ideas across in a way that no paper in a scientific journal could have.

Levine shows how Darwin takes the reader by the hand and walks him or her through Darwin’s observations of geological and biological complexities during his long trip on the *Beagle* and subsequent studies of nature. We are shown “how” Darwin sold his new theory to a broad Victorian audience.

Moving on from the bare science of evolution, Levine shows how Darwin influenced such writers as Hardy, Conrad, Dreiser, Kipling, Wilde, Eliot and London.

—*Edd Doerr*

*Gospel According to the Klan: The KKK’s Appeal to Protestant America, 1915-1930*, by Kelly J. Baker. University Press of Kansas, 2011, 326 pp., \$34.95.

The Ku Klux Klan, which ran roughshod over much of America during the 1920s, has never ceased to fascinate historians. The group, whose political sway extended from Maine to Oregon, for a brief time raised doubts that America’s commitment to religious pluralism was genuine. As this new history points out, the Klan was an example of “religious nationalism” that tried to preserve the political power and cultural identity of one religious tradition. “Protestantism served as the foundation of the movement, and the protection of its religious faith was a key component of the Klan’s mission,” writes the author, a professor at the University of Tennessee.

The Klan was far more than a violence-prone extremist group of the political Right. “The order’s prejudice, nationalism and faith were part of the dominant white Protestant culture of the United States. In the 1920s, the Klan was not a movement of the right-wing fringe but a movement of white Protestant citizens who wanted to protect their dominance and their culture.”

That is why the Klan stressed control of the educational system, demanding prayer and Bible readings and forbidding the teaching of evolution. No Catholics, Jews, freethinkers, African Americans or immigrants were considered part of the legitimate American narrative. They became “marginal characters in the stories of American progress and liberty.” This “religious nationalism was based on Protestantism, masculinity, anti-Catholicism and whiteness.” The Klan required its members to be members of a Protestant church and recruited ministers to be lecturers and leaders.

While much of this period had been analyzed before, Baker stresses the importance of the Klan’s print culture, including weekly and monthly magazines read by millions. She discusses in great detail the three-day riot in May 1924 between Klan rabble-rousers and students at the University of Notre Dame, which threatened to turn South Bend, Indiana, into a mini-religious war. While the students may have won that battle, “the riot emboldened Klansmen and their fellow Protestant brethren in their verbal and printed attacks on Catholics.”

While the Klan faded away, partly from internal corruption, its message, sadly, did not. “The Klan’s brand of religious nationalism, prejudice, and intolerance outlived the 1920s order...” She adds, “The intolerance and exclusion of the 1920s order still haunts the American landscape, but it is not limited to those who wear robes and hoods.”

She cautions that, even though “the campaigns and enemies have changed,...the 1920s Klan might apply as an object lesson in the American political and cultural battles of 2010.” She believes that the Tea Party movement contains some of the spirit of the Klan because its “vision of American history and the destiny of the nation represents a crucial legacy of the Klan.” She concludes with this warning: “The order’s legacy...appears in the long-lasting legacy of America’s religious

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intolerance and the fervent desire for the nation to return to its origins, but only if those origins are white and Protestant.”

While this book covers much familiar territory, it contains many original insights and evaluations that make it an important contribution to historical studies and deserving of a wide audience.

—Al Menendez

*The Tea Party and the Remaking of Republican Conservatism*, by Theda Skocpol and Vanessa Williamson. Oxford University Press, 2012, 245 pp., \$24.95.

The Tea Party movement is far more than a grassroots political crusade. It “includes grassroots activists, conservative media ideologues, and billionaire-backed free-market advocacy groups,” who “demand immediate measures to slash public spending and taxes, abolish the rights of public sector unions, and eliminate business regulations.”

The group has a far-ranging agenda. While “its enthusiasm and resources fuel the GOP,” ... “they want to remake it into a much more uncompromising and ideologically principled force.”

Demographically, the Tea Party “principally appeals to older, very conservative white voters.” This may limit its long-range appeal since these are not a newly-energized, or formerly indifferent, voting group, but are “people with long histories of voting for and giving money to Republicans.” Unlike previous movements that brought young people, African Americans and Hispanics into the electorate, the older, primarily white segment of the voting public is not likely to grow. Still, Tea Partiers contributed greatly to the Republican triumphs in Congress and state legislatures in 2010 by “helping re-inspire grassroots conservatives and setting a national agenda for the election.”

More than anything, Tea Partiers want to insure that only ultraconservatives will win Republican nominations and “make sure that moderate, compromise-oriented Republicans do not get nominated at all.”

While the Tea Party is an example of “citizen engagement in the democratic process,” it is “worrisome for U.S. democracy” because it is “married to a level of out-group intolerance and refusal to contemplate compromise.”

While the movement is somewhat cohesive, it has internal divisions and tensions between religious conservatives and secular libertarians.

Based on solid survey research and interviews with Tea Party activists, this is a must-read for the 2012 elections and beyond.

—Al Menendez

*One Hundred Percent American: The Rebirth and Decline of the Ku Klux Klan in the 1920s*, by Thomas R. Pegram. Ivan R. Dee, An Imprint of The Rowman & Littlefield Publishing Group, Inc., 2011, 281 pp., \$27.95.

The 1920s era Ku Klux Klan continues to interest historians and to be relevant to the tensions of our era. “The Invisible Empire flourished at the grassroots level, reflecting a sense of American identity and civic engagement that was shared by many white Protestant Americans in the aftermath of World War I.” The movement’s “emphasis on white supremacy, anti-Catholicism, and Protestant cultural chauvinism approximated broader patterns of intolerance that beset the United States in the 1920s.” Above all, “The bedrock of the 1920s Klan movement remained its commitment to the continuation of native-born white Protestant hegemony in American culture and governance.”

While it appealed to numerous anxieties and rapidly gained political power, its “extremism overwhelmed the community-based features of hooded fellowship, white Protestant identity, and local activism.”

Pegram shows how the Klan tried to influence and control public education through “insistent and sectarian demands for daily Bible readings in the schools, a vigilant though largely unsuccessful effort to root out and dismiss Catholic public school teachers, and a resolute determination to purge allegedly unpatriotic and pro-Catholic textbooks from the classroom.” Emphasizing Bible reading and religious exercises was paramount. “The preferred educational innovation for the hooded order was in Protestant character formation rather than in scholarly pursuits.” In fact, “The high tide of the Klan movement, especially in the Midwest, coincided with focused campaigns to remove lay Catholics from teaching positions in public schools.”

This reexamination of an organization that was a precursor to today’s extreme populist Right is highly recommended.

—Al Menendez

*Rule and Ruin: The Downfall of Moderation and the Destruction of the Republican Party*, from Eisenhower to the Tea Party, by Geoffrey Kabaservice. Oxford University Press, 2012, 482 pp., \$29.95.

The decline of the moderate or progressive wing of the Republican Party since the election of Dwight Eisenhower in 1952 is exhaustively detailed in this study. The changes, which began during the 1960s, transformed the Republicans into a “monolithically conservative organization.” The author adds that the GOP “has for all intents and purposes become a uniformly ideological party unlike any that has ever

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## Books and Culture, *continued from page 15*

existed in American history.”

Religious, cultural and economic issues blended to create this a transformation. In the 1970s there was a “resurgence of grassroots conservative activism fueled principally by the growth of the religious right,” observes the author, a Yale history professor. While this brought new voters to the GOP, it alienated many others. “While conservative forces in the GOP benefited from the grassroots strength of the religious right, however, the party lost the support of moderates and independents who did not share the evangelicals’ doctrinaire view of abortion, homosexuality, school prayer, the threat of ‘secular humanism,’ and a host of other moral issues.”

While Ronald Reagan’s presidency was a high point of conservatism’s triumph in the GOP, the president “did not repeat the errors of Goldwater in 1964 by reading moderates out of the party,” but rather demonstrated “his almost unique ability” to “mollify moderates” while “rousing conservatives.”

Not only have moderate Republicans vanished from Congress, but so have the activists. Kabaservice cites a 2002 survey of Ripon Society veterans which found that the primary liberal GOP organization of its time had lost three fourths of its members to the Democrats or Independents. A number had become conservatives, further dwindling the moderate Republican ranks.

Should any of this matter? The author thinks so. “With all of its flaws and failures, why should anyone lament the passing of moderate Republicanism? The most important reason is that the moderates upheld values and positions that are no longer adequately represented in American politics.” He adds, “The growth of ideologically polarized politics may prove toxic to government effectiveness and perhaps even to America’s social stability.”

This postmortem on moderate Republicanism deserves a careful reading.

—Al Menendez

*Class Warfare: The Fight to Fix America’s Schools*, by Steven Brill. Simon & Schuster, 2011, 479 pp, \$28.00.

This book’s covers are too far apart, to borrow a trope from Ambrose Bierce. While this tedious tome is ostensibly about education, in reality it is just a hack screed by a journalist with no experience as a teacher who drones on about the narrow slice of education politics occupied by educational pseudo-reformers. Brill, a cheerleader for the “blame-the-

teachers/bust-the-unions/teach-to-the-test” crusaders, has nothing to say about public education’s real problems—the poverty and its concomitants of a quarter of our students’ families, social pathologies that go largely unaddressed, inadequate and inequitably distributed funding, the relentless drives to divert public funds to discriminatory church-related and other private schools. Brill is enamored of charter schools and fails to acknowledge that over 80% of them are either worse or no better than public schools serving similar populations. He praises bomb throwers like Michelle Rhee, looks down on serious educators like Diane Ravitch and Linda Darling-Hammond, and has little but invective for teacher unions. He admits to being a private school grad and to sending his own kids to private schools. Were I to give this book of crass warfare a letter grade, it would be a D-minus.

—Edd Doerr

## Commentary

### *Baird v Eisenstadt* at 40

Every year on January 22 we celebrate *Roe v Wade*, the 1973 Supreme Court ruling that acknowledged women’s right to decide how to deal with problem pregnancies. Yet largely forgotten is the Supreme Court’s ruling in *Baird v Eisenstadt*, the 6-1 decision on March 22, 1972 that preceded and set the stage for *Roe*.

The case arose when Bill Baird, a leading birth control and abortion rights activist, was arrested and jailed in Boston for lecturing on birth control and distributing contraception to an unmarried woman.

Justice William Brennan wrote for the majority: “If the right to privacy means anything, it is the right of the individual, married or single, to be free from unwarranted government interference into matters so fundamentally affecting a person as the decision whether to bear or beget a child.”

Since *Roe* and especially since the Republican sweep in November 2010, efforts in Congress and state legislatures to impede women’s reproductive rights have mushroomed almost out of control. Religious and political differences have to be set aside. Women and men of all persuasions must work together to turn back these efforts. This year’s federal and state elections will be critical. *Roe v Wade* hangs by a very thin thread. Whoever is President after November will shape the Supreme Court for generations to come.