VOICE OF REASON

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Blaming Blaine: A Distortion of History

By Albert J. Menendez

The never-ending controversy over government funding of faith-based schools has begun to turn ugly as groups favoring such aid are now aiming their considerable guns at state constitutional provisions banning state aid. At least 37 states maintain some type of ban on the use of tax funds for "sectarian or denominational" schools. And a new, concerted effort by pro-voucher and right-wing conservative groups has been launched to repeal these amendments. The Becket Fund and the Institute for Justice are spearheading the movement to abrogate what they call "Blaine amendments."

They are called Blaine amendments because of a now forgotten U.S. Senator from Maine and Republican presidential candidate in 1884 — James G. Blaine. Senator Blaine proposed an amendment to the U.S. Constitution in 1875 that would have banned public support for church-related schools. It passed the House but fell four votes short of the necessary two-third majority in the Senate. (Constitutional amendments require a two-thirds majority in each house of Congress and then ratification by three-fourths of state legislatures.)

According to today's conservative propagandists, Blaine was some kind of reactionary anti-religious, or, at least, anti-Catholic bigot. But was he?

A careful review of the historical record, a search of his memoirs and letters, and of several biographies suggests a very different picture. By his own admission, Blaine was seeking to clarify the clearly implied doctrine of the religion clauses of the First Amendment by adding a provision to paragraph 10 of Article I of the Constitution. It provided:

"No state shall make any law respecting an establishment of religion, or prohibiting the free exercise thereof; and no money raised by taxation in any state, for the support of the public schools or derived from any public fund therefore, shall ever be under the control of any religious sect, nor shall any money so raised ever be divided between religious sects or denominations."[1]

Blaine explained his reasoning in a letter of October 20, 1875, "Just let the old Jefferson-Madison amendment be applied to the States. This does not interfere with any State having just such a school system as its citizens may prefer, subject to the single and simple restriction that the schools shall not be made the arena for sectarian controversy or theological disputation. This adjustment, it seems to me, would be comprehensive and conclusive, and would be fair alike to Protestant and Catholic, to Jew and Gentile, leaving the religious faith and the conscience of every man free and unmolested."[2]

James Gillespie Blaine was born in 1830 in West Brownsville, Pennsylvania, to a family with a northern Ireland background. He was a precocious lad who finished college at 17, taught school at a military academy in Kentucky and at a school for the blind in Philadelphia before becoming a country newspaper editor and publisher in his wife's hometown of Augusta, Maine. Elected to the U.S. House of Representatives in 1863, he became successively Speaker of the House, U.S. Senator and twice Secretary of State. He sought the GOP presidential nomination three times, losing to Hayes in 1876 and Garfield in 1880, but won the nod in 1884. He lost a close election to Grover Cleveland. As a national leader, he was most closely identified with high tariffs to protect U.S. business and the expansion of American influence in world politics.

Blaine was considered one of the great orators in a time in history when oratory and eloquence were much admired in political discourse. Blaine was called "the plumed knight" in a flamboyant nominating speech at the 1876 Republican convention by Robert Ingersoll, perhaps the most noted orator (and an outspoken agnostic Republican!) of his time.

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Inside:

Colorado Enacts Voucher Program

Colorado's Republican legislature passed and its Republican governor signed into law a massive school voucher program twice rejected by the state's voters in recent years. On April 16 Governor Bill Owens made Colorado the first state to pass a school voucher program since the U.S. Supreme Court upheld a Cleveland-based program last year.

The Colorado law, which could cost public schools $200 million in state aid yearly, will take effect next year. Under its provisions school districts must provide vouchers to children who are eligible for free or reduced-cost school lunches and who attend schools that have received low or unsatisfactory academic performance evaluations.

The Colorado Education Association (CEA) may challenge the program in court, asserting that it is a clear violation of the Colorado Constitution. "This is a sad day for our children, our state and our constitution," said CEA president Ron Brady, who added, "In passing this bill,

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Bush Cripples His AIDS Initiative

By Frances Kissling

I was stunned and delighted when President George W. Bush announced in his State of the Union address that he planned a major commitment to fighting AIDS. A five-year, $15 billion program of treatment and care for those infected and even some modest support for condom education and distribution – it sounded like something that I, a fairly reliable critic of this administration, might have proposed myself. Could it be that I would be able to halt my barrage of letters to the president and to Secretary of State Colin Powell attacking their assault on family planning, their reneging on support for the UN Population Fund, and their "faith-based initiative," which would force-feed the poor with religious propaganda? Would I be able to stop worrying about all the women who could die from the administration's sellout to right-wing radicals who see abortions in any reference to women's health? Could I now write a letter praising my president for a well-intentioned humanitarian aid program?

I did write that letter, and now I'm sorry I did. As it turns out, the president's AIDS initiative is likely to attach antiabortion paranoia to every single dollar and to force-feed religion to the poor on a global scale. It also ignores this basic truth about AIDS: the pandemic has a woman's face, as UN Secretary General Kofi Annan has put it, and meeting women's needs is key to stopping it.

The State Department recently floated a proposal to apply the infamous "Mexico City policy" to all organizations that get the new AIDS initiative funding. That policy, a global gag rule imposed by President Reagan, lifted by President Clinton, and reinstated by President Bush on his first day in office, bars funding to family planning groups that provide abortion counseling, referrals, or services or that lobby on abortion rights, even if they do it with their own money.

The gag rule has never applied to HIV/AIDS assistance. Yet the administration tried to portray this move as somehow a "compromise" that merely requires family planning groups to separate their work fighting HIV/AIDS from everything else they do. But the two are inseparable, and every responsible international family planning program has been integrating them for years.

Family planning is not just handing out contraceptives, and neither is fighting HIV/AIDS. Central elements in both are education on reproductive health care, safe sexual practices, and pre- and postnatal care for mothers and their babies. Effective programs in both promote a woman's right to decide the number and spacing of her children, because AIDS is spreading most rapidly where young girls have no power to negotiate the terms of sex with older men or where women cannot insist on condoms or fidelity from their partners for fear of violence.

Women are also the chief caregivers of other AIDS victims and their orphans. Often they are forced out of work and school and into poverty. Bush's initiative promises medicines, condoms, and care for the sick, but it makes no reference to addressing women's needs.

On the contrary, the initiative would expect women to visit separate facilities for family planning and for HIV/AIDS education and services.

Where AIDS victims are stigmatized, many who are now treated quietly at family planning clinics would be forced either to go public or go without assistance. The initiative would force perennially short-funded nongovernmental groups with proven track records of successes against AIDS to set up separate buildings and bookkeeping systems and perhaps double their staffs and equipment in order to continue. In many poor countries where U.S.-funded family planning clinics are the only health care providers within miles, this simply will not happen.

Meanwhile, given the president's belief that religious groups are the best providers of social services, we can expect they will be favored recipients of the funds. Will evangelical Christian groups who still believe that homosexuality is a sin that can be cured by prayer proliferate? Will Catholic groups that abhor family planning offer anything that prevents AIDS other than abstinence?

The administration's agenda seems clear: to defund secular, tolerant providers of health care and family planning worldwide in favor of religious groups that will likely choose whom to treat and how to treat them based more on ideology than medicine. Dear President Bush: I write you yet again to urge you to reconsider this latest assault on women. You can and must do better.

Frances Kissling is president of Catholics for a Free Choice. This article appeared in the Boston Globe *on March 4, 2003, and is reprinted by permission.*

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Americans for Religious Liberty is a nonprofit public interest educational organization dedicated to preserving the American tradition of religious, intellectual, and personal freedom in a secular democratic state. Membership is open to all who share its purposes. Annual dues are $25 for individuals, $35 for families, $15 for students and limited income.

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the legislature is blatantly ignoring both the Constitution of the State of Colorado and the express wishes of the voters. It is alarming that the Legislature has so little regard for the Constitution it is sworn to uphold and for the voters' wishes."

Colorado voters rejected vouchers by 66% to 34% in a 1992 referendum. In 1998 60% of voters turned down a similar tax credit proposal. Both plans would have directed public funds to faith-based and other private schools, as does the law enacted in April.

Only about 6% of Colorado students attend nonpublic schools, which will be the primary beneficiaries of the new Colorado law.

There is new evidence, though, that the state's voters are no more favorable to private and parochial school vouchers than they were in the 1990s. A February, 2003 survey of Colorado voters found that voters were opposed to "using public tax money to pay tuition for children to attend private and religious schools" by a margin of 60% to 38%.

Furthermore, 86% of voters say that private and religious schools that receive public tax dollars should have to comply with the same state standards required of public schools. The poll question specifically asked about statewide testing, accepting students who are "disabled or have special needs," and hiring teachers who are "qualified and licensed."

The voters were also unhappy about the way the legislature and governor went about passing the plan. Voters, by an 88% to 10% margin, said a referendum should again be held on the issue. The survey of 651 voters was conducted by Harstad Strategic Research, Inc., of Boulder in early February.

Voucher opponents argue that the state's constitution is clear and emphatic in its rejection of public aid to "denominational or sectarian institutions and associations."

Constitution of the State of Colorado

Article VI, Section 34. Appropriations to private institutions forbidden. No appropriation shall be made for charitable, industrial, educational or benevolent purposes to any person, corporation or community not under the absolute control of the state, nor to any denominational or sectarian institution or association.

Article IX, Section 7. Aid to private schools, churches, sectarian purpose, forbidden. Neither the general assembly, nor any county, city, town, township, school district or other public corporation, shall ever make any appropriation, or pay from any public fund or moneys whatever, anything in aid of any church or sectarian society, or for any sectarian purpose, or to help support or sustain any school, academy, seminary, college, university or other literary or scientific institution, controlled by any church or sectarian denomination whatsoever; nor shall any grant or donation of land, money or other personal property, ever be made by the state, or any such public corporation to any church, or for any sectarian purpose.

Extortion Law Cannot be Used Against Anti-Abortion Demonstrators

The U.S. Supreme Court ruled on February 26 that the 1970 Racketeer Influenced and Corrupt Organizations Act (RICO) had been incorrectly applied against anti-abortion protesters. The lawsuit was initiated in 1986 by the National Organization for Women and two abortion clinics that sought to stop a widespread campaign by a coalition of anti-abortion groups by invoking the "extortion" provisions of RICO and the 1946 Hobbs Act. A federal district court in Chicago awarded damages for the plaintiffs of $85,000, which were tripled under the RICO law, from Operation Rescue and the Pro-Life Action League. The district court also issued a nationwide injunction against further disruptive protests. The U.S. Court of Appeals for the Seventh Circuit upheld the ruling in 2001.

But the Supreme Court, by an 8-1 margin, held that the protesters' actions did not fit the federal definition of extortion. Chief Justice William Rehnquist based his ruling on a narrow definition of "property," holding that the term could not be construed to include intangible things like the right of access to abortion services. Rehnquist, writing for the majority, said that the actions of the demonstrators constituted "coercion" rather than "extortion" and that Congress had not intended "a significant expansion of the law's coverage." Congress is the appropriate vehicle for expanding definitions of laws that it had passed. The original Hobbs Act has long been controversial because it gives federal prosecutors and courts jurisdiction over an array of actions that would ordinarily be construed as state crimes. Rehnquist said, "Because we find that petitioners did not obtain or attempt to obtain property from respondents, we conclude that there was no basis upon which to find that they committed extortion under the Hobbs Act."

In a concurring opinion, Justice Ruth Bader Ginsburg agreed that the Seventh Circuit had adopted an "expansive definition of extortion."

The only dissenter, Justice John Paul Stevens, said the majority opinion was "murky" and that "no other federal court has ever construed this statute so narrowly." He also warned, "The principal beneficiaries of the Court's dramatic retreat from the position that federal prosecutors and federal courts have maintained throughout the history of this important statute will certainly be the class of professional criminals whose conduct persuaded Congress that the public needed federal protection from extortion."

The ruling lifted the permanent nationwide injunction that barred groups and individuals from protesting at abortion clinics and nullified $257,780 in damage awards sought by the two clinics that were part of the suit.

Clinics are still protected by a 1994 federal law, the Freedom of Access to Clinic Entrances Act, or FACE, that authorizes criminal prosecution and civil penalties against those who interfere with access to abortion clinics through force, threats of force, violence, physical obstruction or property damage. Laws also exist that create "safety zones" around abortion clinics designed to keep protesters from interfering with access to the facilities by doctors, nurses and patients.

The case was *Scheidler* v. *National Organization for Women*, No. 01-1118.

Moving?

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A touch of the Blaine eloquence can be seen in the closing passage of a eulogy for the slain President James Garfield: "Let us think that his dying eyes read a mystic meaning which only the rapt and parting soul may know. Let us believe that in the silence of the receding world he heard the great waves breaking on a farther shore, and felt already upon his wasted brow the breath of the eternal morning."[3]

Why did Blaine's amendment fail? Historians differ, but one possible explanation has been advanced by historian Gaines M. Foster. In his study of the attempts by "Christian lobbyists" (almost all of them evangelical Protestants) to enact federal legislation to achieve "moral reconstruction" from 1865 to 1920, Foster concluded that Congress was unwilling "to establish the religious authority of the federal government"[4] and hence refrained from enacting most of the proposed legislation that touched on religion or religious questions. That reticence may well have included the amendment on denominational school aid.

There was another reason why the Senate rejected an amendment that the House had passed overwhelmingly, writes historian Mark Wahlgren Summers. "The Senate expanded Blaine's proposal to shut religious instruction out of prisons and reformatories and to permit Protestant Bible-reading in the public schools. By then even Blaine had lost interest; he failed to show up when the Senate fell four votes short of the necessary two-thirds required to pass it, and when he wrote his memoirs (*Twenty Years of Congress*), he omitted the affair entirely."[5]

It may very well be true that some anti-Catholic prejudice influenced the passage of these anti-subsidy amendments in some states. Religious conflict, usually between Catholics and Protestants, was on the increase during the Gilded Age, and intolerance against Catholics reared its ugly head during the Know-Nothing agitation of the 1850s. But Blaine was clearly opposed to this nonsense. He opposed the attempt by some Protestants to pervade the public schools with Protestant-oriented hymns, Bible readings, devotions or slanted curricula. Undoubtedly, many of his fellow Republicans disagreed. The GOP then, as now, had a powerful evangelical wing that favored federal and state "morality" legislation in such areas as Sunday closing laws, bans on Sunday mail (and even newspapers), prohibition, and strict censorship laws affecting literature, entertainment and lotteries. This precursor of today's religious right favored the retention of a Protestant orientation in public education. But Blaine did not support their efforts.

Blaine's position on religious intrusions into public schools can be seen in his letter of October 3, 1875, to the Ohio Republican Committee. He wrote, "The issue forced upon you in regard to the public schools may have far-reaching consequences. In a government where every citizen is entrusted with political power, the importance of a free education cannot be exaggerated. The schools must be kept free, free in every sense, and especially free from sectarian influence or domination. The bitterest of all strifes is the strife between religious sects; and if that strife be permitted to cross the threshold of our public schools, free education in this country is at an end."[6]

In fact, Blaine refused to pander to the anti-Catholic elements in his 1884 presidential campaign or in his two previous attempts to secure his party's nomination in 1876 and 1880.

Blaine, whose father was Presbyterian and mother Catholic, explained his revulsion at religious prejudice in an 1876 letter. "My mother was a devoted Catholic. I would not for a thousand presidencies speak a disrespectful word of my mother's religion, and no pressure will draw me into any avowal of hostility or unfriendliness to Catholics."[7]

Ironically, it was a bigoted Presbyterian minister, Dr. Samuel D. Burchard, who sabotaged Blaine's presidential bid with an intemperate remark at a campaign appearance by the candidate in New York City during the closing days of the election campaign. Burchard's attack on the Democrats, calling them "the party whose antecedents have been rum, Romanism and rebellion," almost certainly shifted some New York Catholic voters from Blaine to his Democratic opponent, Grover Cleveland. Blaine lost New York, where he was favored, by only 1,149 votes.

It appears that a weary Blaine had not heard the preacher's remarks, or had decided that it would be impolitic to refute them. He was on the way to a final rally in Boston before returning to cast his ballot in his hometown of Augusta, Maine. The damage was done, however, and Blaine narrowly lost New York, Connecticut and a few other states where he had been favored. He thus became the first Republican since the party's first nominee, John Charles Fremont in 1856, to lose the presidency. (Ironically, many New York Irish Catholics associated with Tammany Hall admired Blaine and were planning to vote for him. If the "Blaine" amendment had been considered so anti-Catholic, they would hardly have supported him. It is probable, though, that the Burchard remarks dissipated this support in the campaign's closing hours.) One biographer argues that Blaine did make a last-ditch effort to separate himself from Burchard's remarks. Speaking in New Haven on the Saturday evening before Tuesday's vote, Blaine said, "I am the last man in the United States who would make a disrespectful allusion to another man's religion. I should esteem myself most degraded if I could in any presence make a disrespectful allusion to that ancient faith in which my mother lived and died."[8]

Blaine, himself a Presbyterian, acknowledged Burchard's gaffe as a major blow. In a letter to Murat Halstead on November 16, 1884, Blaine wrote, "As the Lord sent upon us an Ass in the shape of a Preacher and a rainstorm to lessen our vote in New York, I am disposed to feel resigned to the dispensation to defeat which flowed directly from these agencies."[9]

In one other area, Blaine was adamantly opposed to the kind of mixing of personal religion and politics, and to the near-Inquisition which presidential candidates in the past few decades have been subjected to by many evangelicals and religious rightists. In an 1876 letter Blaine wrote, "I will never consent to make any public declaration on the subject [religion] because I abhor the introduction of anything that looks like a religious test or qualification for office in a republic where perfect freedom of conscience is the birthright of every citizen."[10]

Blaine was noted for a magnanimity of spirit on religious matters. Tolerance and respect for differing religious views seem to have been an animating part of his personality. In a encomium of former president Garfield, Blaine said, "The world of religious belief is full of solecisms and contradictions. Men by the thousand will die in defense of a creed whose doctrines they do not understand and whose tenets they habitually violate. It is equally true that men by the thousand will cling to church organizations with instinctive and undying fidelity, when their belief in maturer years is radically different from that which inspired them as neophytes."[11]

Blaine seems to have enjoyed serious religious debates and discussions. One of his biographers, Edward Stanwood, wrote, "Mr. Blaine

was all his life inclined to theological speculation, and often held long and earnest discussion on the points of creeds, not only with his own ministers, but with visitors at his home, and with members of his family."[12] He was a life-long Presbyterian, but he also joined a Congregational church in Maine, perhaps for political reasons since the Congregationalists were then the strongest religious group in upper New England.[13]

The "blame Blaine" strategy is not new. It can be traced to the 1967 constitutional revision strategy in New York. Advocates of state aid to parochial and private schools mounted a campaign to remove that state's ban on such aid, which proponents of aid likened to alleged Blaine-style bigotry. In a spirited campaign, the parochaiders were trounced, by 72% to 28%. Voters in this 40% Catholic state did not want to jettison this provision. Senator Robert F. Kennedy agreed with them and opposed the proposed deletion.[14]

Two decades later voters in the second most Catholic state, Massachusetts, also refused to remove the Bay State's ban on aid to church-related schools. Twice the issue was submitted to the electorate and twice did they reject it, the second time, in 1986, by a 70% to 30% margin.

In fact, more than two dozen referenda held throughout the U.S. since the late 1960s have considered this question, and voters have overwhelmingly chosen, by an average margin of two to one, to reject schemes that will drain the public treasury for sectarian special interests.

Maybe the late Senator Blaine wasn't so wrong after all. What he proposed was sensible and in keeping with our best traditions as a nation. He was not a bigot, though many in his party were and are unfriendly toward religious diversity and pluralism. But a new kind of bigotry which insists on state subsidies and symbolic recognition for its religion alone is initiating a national campaign to deny state residents the right to retain policies that are in keeping with our progressive heritage. The likely beneficiaries of this campaign are schools which are religiously intolerant and often disdainful of other religious traditions.[15]

Those who mistakenly condemn Blaine in their misguided campaign to remake law by rewriting history are doing a disservice to themselves and to the body politic. For one thing, we have seen that there is no evidence that Blaine's motivation in advocating a ban on public funding of religious schools was influenced by bigotry. He felt that this proposal would aid in the development of religious harmony by limiting sectarian passions that threaten democracy's civility.

Then, is there really anything inherently wrong about the citizenry's wishing to deny churches and church-related schools access to the public treasury? It has been a long-standing American principle that citizens should not be taxed for the dissemination of religious opinions that they themselves do not share. The "voluntary principle" which undergirds religious experience in U.S. history can be seen to be salutary and beneficial to all faith groups and has generally been accepted by all. It makes good sense. It is a long-standing, if implicit, recognition that Americans should only support the religious institutions of their free choice.

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[1] Quoted in James P. Boyd, *Life and Public Services of Hon. James G. Blaine* (New York: Publishers' Union, 1893), p. 353.
[2] Ibid.
[3] Often called "The Garfield Memorial Address," it was delivered by Blaine before a Joint Session of both houses of Congress in the hall of the House of Representatives on February 27, 1882. The full text is found in Thomas H. Sherman, *Twenty Years with James G. Blaine* (New York: The Grafton Press, 1928), pp. 166-194.
[4] Gaines M. Foster, *Moral Reconstruction: Christian Lobbyists and the Federal Legislation of Morality, 1865-1920* (Chapel Hill, NC: The University of North Carolina Press, 2002), p. 229.
[5] Mark Wahlgren Summers, *Rum, Romanism & Rebellion: The Making of a President, 1884* (Chapel Hill: NC: The University of North Carolina Press, 2000), p.79.
[6] Quoted in David Saville Muzzey, *James G. Blaine: A Political Idol of Other Days* (New York: Dodd, Mead & Company, 1934), p.82.
[7] Quoted in Edward Stanwood, *James Gillespie Blaine* (Boston: Houghton Mifflin Company, 1905), p. 13.
[8] Muzzey, *op. cit*., p. 317. Muzzey referred to Burchard as "a dull-witted Presbyterian minister" and cited a *New York Sun* description of the pastor as "an early Paleozoic bigot."
[9] Quoted in Stanwood, *op. cit*., pp. 294-295.
[10] Stanwood, *op. cit.,* p. 13.
[11] Boyd, *op. cit.,* p. 609.
[12] Stanwood, *op. cit.,* p. 38.
[13] Stanwood, *op. cit.,* pp. 351-352; Sherman, *op. cit.,* p. 157.
[14] For a vivid account of the New York controversy, see Edd Doerr, *The Conspiracy That Failed* (Washington, DC: Americans United, 1968).
[15] See Albert J. Menendez, *Visions of Reality: What Fundamentalist Schools Teach* (Buffalo, NY: Prometheus Books, 1993); Frances R.A. Paterson, *Democracy and Intolerance: Christian School Curricula, School Choice, and Public Policy* (Bloomington, IN: Phi Delta Kappa, 2003).

Steele v. *IDB*
Impressions of a Church-State Case

By Joseph H. Johnston

Joseph H. Johnston, a Nashville attorney, spent twelve years on a church-state case supported by Americans for Religious Liberty involving use of government bonds for a pervasively sectarian college. The U.S. Supreme Court refused to hear the challenge to the appeals court decision in February. These are Mr. Johnston's reflections on the case, which shows the increasing difficulty of mounting successful church-state litigation in today's legal climate.

In 1991, the case of *Steele* v. *Industrial Development Board* (otherwise known as *"The Lipscomb Case"*) began as a fairly simple, clear cut violation of such Supreme Court precedents as *Hunt* v. *McNair*, *Tilton* v. *Richardson*, and *Roemer* v. *Board of Public Works*. David Lipscomb University was found by the federal district court to be a pervasively sectarian institution and that the issuance of tax exempt revenue bonds for its campus expansion constituted direct aid that had the impermissible effect of advancing religion in violation of the Establishment Clause. It then became a legal odyssey of epic proportions. By October, 2000, when U.S. District Court Judge Aleta Trauger was finally able to rule on the merits, these three Supreme Court cases were still controlling, but their reasoning had been substantially undermined by more recent decisions by the Reagan/Bush Supreme Court, the same five-member majority that declared George W. Bush President of the United States in 2000.

By the time the case was argued before the Sixth Circuit in 2002, a plurality of the Supreme Court had declared that the "pervasively sectarian" test was no longer relevant in the analysis of Establishment Clause cases. (*Mitchell* v. *Helms)* The neutrality of governmental decisions as they relate to aid benefiting religious institutions was becoming the test of choice for the Court. In other words, whether an institution

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was pervasively sectarian such that a substantial portion of its function was subsumed in the religious mission was no longer relevant.

On appeal, the Sixth Circuit majority ignored the main thrust of the Lipscomb ruling by applying the neutrality test to the statutory procedure for issuance of tax exempt revenue bonds and found it to be neutral on its face as to religion. The District Court's holding that the Industrial Development Board's action in issuing a tax exempt revenue bond for the specific benefit of a pervasively sectarian university made the statute unconstitutional as applied was not addressed by the Sixth Circuit majority.

Further, the majority found that, not only was the statute neutral as to religion, but that revenue bond financing was not "direct aid" because it did not provide public funds or credit directly to the University. The tax exemption was a benefit enjoyed by the bond owners and not the University, even though the use of this government controlled financing mechanism allowed the university to secure loans at 3% below the prime interest rate.

The Supreme Court's denial of the Petition for Writ of Certiorari was a disappointment. However, if certiorari had been granted by the Court, it is likely that the decision of the Sixth Circuit would have been affirmed by the same five-member majority that erroneously decided the 2000 presidential election, thereby setting a precedent that would have had far more national implications than the denial of certiorari.

Overall, *Steele* v. *IDB* stands for the proposition that political considerations over time do result in changes of what are generally thought to be fundamental constitutional principles. Because of the Establishment Clause, the United States has been relatively free from sectarian conflicts that have plagued other nations. As the barrier between church and state becomes more and more tenuous, politicians will be able to favor one religious group over another and the competition among religious factions for political power and access to public funds will inevitably lead to conflicts such as those in Northern Ireland and in the Middle East.

The effect of the Sixth Circuit's decision in *Steele* will be that any pervasively sectarian institution will be eligible to use tax exempt revenue bonds to finance building projects so long as they declare the projects to be for a secular purpose. There is no onus on the part of the government to enforce secular restrictions on the use of such buildings. As a result, the buildings will ultimately be used for the religious mission of the institution.

I am waiting for an Islamic mosque to apply for tax exempt revenue bond financing for the construction and development of an Islamic school or college since the pervasively sectarian nature of the applicant is no longer a consideration for purposes of finding a violation of the Establishment Clause. If the application is denied, then there will be a prima facie violation of the Equal Protection Clause of the Fourteenth Amendment, and so it begins.

I firmly believe that Americans for Religious Liberty and similar groups should continue to raise Establishment Clause challenges – win or lose. President Bush's faith-based charities programs are the next step toward eliminating the wall of separation between church and state in America. History needs to reflect that such changes were not accepted without a fight.

I regret we were not able to get a decision on the merits six years ago. Perhaps the outcome in the *Lipscomb* case would have been different in 1997, but this would probably have been only a temporary delay in the progressive demise of the Establishment Clause's protection of religious freedom in America.

Bush School Guidelines: A Step Backward?

The Bush administration announced in February that public schools could be denied federal funds if they do not allow students to pray outside the classroom or allow teachers to hold religious meetings among themselves. The decision was contained in a February 7 document, "Guidance on Constitutionally Protected Prayer in Public Elementary and Secondary Schools."

This policy is the Bush Education Department's interpretation of an obscure passage, Section 9524, of the 1965 Elementary and Secondary Education Act as amended by the No Child Left Behind Act of 2001. This provision requires that "local educational agencies," i.e. school boards, must certify in writing with the state education department "that it has no policy that prevents, or otherwise denies participation in, constitutionally protected prayer in public schools."

Secretary of Education Roderick R. Paige, who often emphasizes that he is a deacon at a Southern Baptist church in Houston, said, "Public schools should not be hostile to the religious rights of their students and their families. At the same time, school officials may not compel students to participate in prayer or other activities."

The new guidelines are skewed toward allowing maximum religious activities in schools and clearly emphasize the free exercise rather than the no establishment provisions of the First Amendment. The conditioning of federal funds on the compliance of schools with the guidelines adds a new element of compulsion that may force more religious activities in schools than the Equal Access Act of the 1980s provided.

Unlike the Clinton administration's 1995 "Guidelines on Religious Expression in Public Schools," which warned of the compulsory nature of "a captive audience," the new guidelines move the schools closer toward participatory religious activities. The schools must, for example, allow students "to pray or study religious materials with fellow students during recess, the lunch hour, or other noninstructional time."

Teachers are given more leeway. "Teachers may meet with other teachers for prayer and Bible study before school or during lunch." The language used also seems to favor Christianity and/or Judaism since it

makes no mention of texts sacred to other religious traditions. "Teachers may participate in their personal capacities in privately sponsored baccalaureate ceremonies." Students may pray at assemblies or graduation ceremonies as long as they were chosen as speakers through "neutral, evenhanded criteria" and with no regard as to whether they will pray or speak on religious topics. This seems to go farther than the U.S. Supreme Court would allow.

One critic of the guidelines, K. Hollyn Hollman, general counsel of the Baptist Joint Committee on Public Affairs, wrote, "By design the guidance says more about what the First Amendment protects than what it prohibits. . . . The penalty of losing federal funds (as required by statute) will apply only when free exercise is curtailed, not when religion is government-sponsored. It is one of several indications of an uneven approach toward the First Amendment. There is no mention in the new guidance of the unique environment of compulsory schools. . ."

Not surprisingly, religious conservatives applaud the new moves. Forrest Turpen, executive director of the Christian Educators Association, said the guidelines "ought to have believers jumping for joy." Eric Buehrer, president of Gateways to Better Education, a conservative pressure group based in Lake Forest, California, is encouraging "Christian parents to make sure that their children's teachers get the message" by downloading the guidelines from the Internet and "hand it [sic] to your kid's teacher."

The guidelines are already having an impact. The state education department in Hawaii has let students distribute 70,000 packets of evangelical Christian material to schools across the islands. The packets, produced by the Jesus Hawaii Project and sponsored by 184 Protestant churches, are called "a student survival kit" and include a Christian video, a compact disc, a copy of the New Testament and Christian literature aimed at teenagers. Hawaii is a largely Buddhist and Catholic state, but Protestant evangelicals have been given a free hand to propagandize for their religion in public schools.

These new guidelines are available at www.ed.gov/inits/religionandschools/prayer-guidance.html.

Editorials

Santorum's Mouth

Pennsylvania's junior senator, Rick Santorum, has a problem with his mouth. Many of his public comments are just downright embarrassing and puerile. It may be that he, like Peter Pan, has just never grown up. Lacking the intellectual maturity and gravitas that voters have a right to expect from members of the U.S. Senate, Mr. Santorum continues to strike the wrong note for a religiously pluralistic society.

A decade ago one of VOR's editors characterized Santorum as "a thoroughly unpleasant young man who might best be described as a Jesse Helms in diapers." While he may no longer wear diapers, he is still a Helms-like figure of division.

He is recently in hot water for defending the Texas sodomy law (Kansas and Oklahoma also have such outdated legal provisions on their books) by warning that the right to privacy might allow "bigamy, polygamy, incest and adultery" or even "anything." His exact words were "If the Supreme Court says that you have the right to consensual sex within your home, then you have the right to bigamy, you have the right to polygamy, you have the right to incest, you have the right to adultery. You have the right to anything."

Comments like these, and the convoluted, theologically sophistic explanations he later offered as justifications, show what a confused man the Pennsylvania senator is. Misrepresenting the right to privacy, which is clearly implied in the Constitution, and comparing it to some actions which are illegal in most states, confuses the issue and raises questions about his judgment.

An even more egregious comment was made by the senator in January, 2002, while attending a celebration of the centenary of the birth of Monsignor Josemaría Escrivá (now a saint, we almost forgot!), the founder of the super-secretive, ultraconservative Catholic group Opus Dei.

On that occasion Santorum told *National Catholic Reporter* correspondent John Allen that he regarded President Bush as "America's first Catholic president" and added that John F. Kennedy – whom we all mistakenly assumed laid claim to that distinction – was "wrong to separate his religion from his politics."

Santorum should be ashamed of himself for this patent lie, since JFK almost lost the presidency in 1960 because he was a Catholic and because millions of bigots voted against him solely because of his religious affiliation. The University of Michigan Survey Research Center concluded that Kennedy lost a net 2.2 million votes (when pro-Catholic voting was compared to anti-Catholic voting) in that election, costing him the electoral votes of many states, including at least Kentucky, Ohio, Tennessee, Oklahoma, Florida, Washington State and probably others. Kennedy's own support for separation of church and state appears to have been a matter of deep personal conviction, according to numerous historians like Arthur Schlesinger, Jr. and Robert Dallek.

Kennedy felt that it was improper for powerful religious groups to dictate public policy and that it was imprudent for public officials to advance their personal religious convictions in public life. In that area, he was the right President for the right era, and his positions accorded with the principles of the Founding Fathers and the practices of most U.S. presidents until recently.

It's a shame that Senator Santorum does not appreciate these basic principles. They have made it possible for his Catholic religion to flourish in the U.S. along with other faiths. Using religion as a weapon to advance political ends is abhorrent to most Americans. Using political and legal means to promote a particular brand of religion is equally reprehensible.

The fact that George W. Bush has done both and is likely to continue to do so does not make him America's first Catholic president – an argument so absurd as to be laughable. Rather, it makes Mr. Bush, a Methodist church member in good standing, an embarrassment to the long heritage of U.S. democracy.

This confirms our judgment about Senator Santorum, a very confused and misguided young man, whose prominence in the national Republican Party speaks volumes about that party's misuse of religion for political gain.

Santorum continues to show little restraint in his fulminations. He recently called a fellow Catholic senator, Tom Daschle, a "rabid dog." In an article in *Crisis* magazine, he labeled those who favor the teaching of evolution in school biology class as "guilty of propagating their own secular brand of religion in schools, that is, a militant atheism . . ." No wonder the *Boston Globe*'s sagacious columnist Ellen Goodman said the senator represents "the Shiite wing of the Republican party, or, if you prefer, the Taliban Republicans."

Visit ARL's Web Site

You can now visit Americans for Religious Liberty's internet website: **arlinc.org**. The site contains information about the organization, books available on church-state issues, and reprints of important articles. New material will be added as available.

Court Packing

The Bush administration has from day one sought to impose a new vision of jurisprudence on America's federal court system. There are 179 authorized judgeships in the federal appeals court system, with 25 present vacancies. Of the 154 presently sitting judges, 83 were appointed by Republican presidents and 71 by Democrats. The president and his advisers, completely ignoring the close 2000 presidential election and a sharp division in Congress, have labored to fill up the federal courts with like-minded ultra-conservatives. This strategy, one of the most outrageous in U.S. history, will seriously weaken basic American constitutional liberties. Many of these nominees, sent to Congress by an in-your-face method of selection, are unsympathetic to personal freedom and privacy, to church-state separation and freedom of conscience. Many of them represent corporate interests and show little or no interest in the rights of the disadvantaged or of minorities. On national security and immigration issues, many are outright nativists and supporters of harsh government policies designed and implemented by the extreme right wing of the Republican Party, to whom almost all of the nominees belong. They are likely to reverse the gains of the past half-century in women's workplace and employment security, and reproductive freedoms.

They are likely to support a larger public role for powerful religious groups at the expense of individual conscience and the rights of religious dissenters and members of disfavored religious minorities.

In short, the record of this administration on judicial appointments is nothing less than disastrous. True, the Democrats in the Senate have tried to defeat or filibuster some of the more egregious appointments, though they should have refused to confirm Mississippi Judge Charles Pickering, who clearly favored his co-religionists in several court decisions and is now likely to do so at the appellate level. This should become a major issue in next year's presidential and congressional elections.

If it is not, the Democrats will have lost an important opportunity to reverse a trend that is harmful to American constitutional liberties.

The President could have avoided this tragedy if he had appointed responsible, middle of the road judges and some Democrats to the judiciary, considering the controversial nature of his election and the belief, held by many in this country and abroad, that he should not in fact be the 43rd President of the United States. He could have made his judicial selections with some reference to the importance of an independent judiciary in our constitutional separation-of-powers system. But he revealed himself to be what many had feared: a rigid ideologue and a captive of the religious and political right bent on radical change that will seriously weaken the American experiment in liberty and self-government.

Safeguarding 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, add ARL to your Will, or, include ARL as a beneficiary in a life insurance policy. Bequests and insurance proceeds to ARL are tax deductible.

Please contact us if you would like further information.

Americans for Religious Liberty
1777 T Street, NW • Washington, DC 20009 • 301-260-2988

Are Religious Liberty Rankings Tainted?

For the second straight year the U.S. State Department has refused to designate U.S. Middle East ally Saudi Arabia as a "country of particular concern" for its treatment of religious minorities. An "Annual Report on International Religious Freedom" has been required by an official U.S. commission since the passage in 1998 by Congress of the International Religious Freedom Act. This annual report, based mostly on reports from U.S. embassy staffs, is submitted to the Committee on Foreign Relations (U.S. Senate) and the Committee on International Relations (U.S. House of Representatives). It is supposed to result in sanctions or pressures on countries which are harassing their citizens in religious matters.

This year's annual report lists the usual suspects: China, Iran, Iraq, Burma, North Korea and Sudan. These six nations have the worst records of discrimination against either religious minorities or against all religions. In some respects, the list is perplexing. While Iran is clearly a repressive "Islamic Republic," it does provide seats in its parliament for Christians and Zoroastrians.

Iraq has a vigorous and ancient Christian community, the Chaldean Catholic Church, whose liturgy is celebrated in Aramaic, the very language spoken by Jesus. Are these two countries really among the worst?

Then comes the real surprise. Saudi Arabia, which ruthlessly suppresses any religious expression other than Wahabbi Islam, has been left off the list for several years. It is arguably the worst nation on earth in regard to religious oppression. All non-Muslim worship is forbidden, even in private residences and even among the thousands of foreign workers who help the kingdom's economy. As recently as March 15, the country's defense minister, Prince Sultan, said in Riyadh, the capital, that no places of non-Muslim worship would ever be allowed in the nation which is home to the holiest shrines of Islam, Mecca and Medina. Prince Sultan said, "Those who want to establish churches are fanatics. There are no churches – not in the past, the present or future. Whoever said that [referring to complaints from abroad] must shut up and be ashamed."

A U.S. State Department spokesperson admitted that Saudi Arabia "came close" to being added to this year's list but said the Bush administration has decided to work with Saudi officials behind the scenes to improve the level of religious freedom.

Critics say the decision is hypocritical and is related only to the nation's oil fields and to its decision to assist U.S. war efforts in the region.

The *Washington Post* commented acidly, "But leaving Saudi Arabia off the list is a particular affront to fact and logic. In the desert kingdom, as the human rights report details, no religion other than Islam may be practiced in public; churches and synagogues are illegal. Non-Muslim worshipers, in fact, can be lashed, and proselytizing for any non-Muslim faith is illegal. Muslims who convert to other religions can be executed. And even those who advance Muslim teachings not sanctioned by the government are imprisoned. Shiite Muslims are discriminated against, and their clerics have been detained for long periods; their testimony can be excluded in court. People are arrested, even put to death, for practicing 'magic.' What does it mean to have a list of egregious violators of religious liberty and not include Saudi Arabia?

"State Department spokesman Richard Boucher acknowledged that Saudi Arabia 'came very close to the threshold.' But he said the government's experts concluded unanimously that it was better to hold off and work with the monarchy to improve matters. One wonders whether Saudi Arabia and Uzbekistan would have been granted such a reprieve had they not been important American allies.

"To the extent the government contrives ways to keep American

allies off its list, the designation process is a political joke. The law permits the president to waive the sanctions that being on the list normally triggers if America's national interests so require. But whether a country belongs on the list at all should be an empirical, not a political, question. The human rights report has become valuable over the years as it has become less political; it now describes honestly the human rights conditions in countries around the world – whatever their relations with the United States may be. The same honesty should determine designations of gross violators of religious liberty. It may be necessary to deal with evil governments. It is never necessary to pretend they are not evil."

Once again, the Bush administration shows that its concern for religion is tainted by politics.

Is Secretary Paige on the Right Page?

U.S. Secretary of Education Rod Paige's remarks in an early April telephone interview (reported by Baptist Press on April 7) raise questions as to his suitability to be the nation's top education official.

Among other things, Mr. Paige said he "would prefer to have a child in a school that has a strong appreciation for the values of the Christian community." He added that "Religious values are wonderful values that we should embrace in our daily lives," that "Christian schools . . . are growing [as] a result of a strong value system," and that he is puzzled by "the animosity to God in public school settings."

Mr. Paige said that "a parent should be free to select a school that meets [a] child's needs, whether it's private, home school or public," an apparent reference to the Bush administration's and Paige's own support for voucher plans to provide tax support to faith-based schools.

Asked about those who disagree with his position that religion has a place in the nation's public schools, Mr. Paige replied, "I would offer critics my prayers."

Is Mr. Paige suggesting that all religious values are wonderful? What about those of the Taliban? Or of the many textbooks commonly used in Christian day schools that inculcate disrespect for values and traditions outside Christian fundamentalism? The values taught in many Christian day schools are exposed in Albert J. Menendez' groundbreaking 1993 book *Visions of Reality: What Fundamentalist Schools Teach* and Frances R.A. Paterson's 2003 book *Democracy and Intolerance: Christian School Curricula, School Choice, and Public Policy*.

Are Christian schools growing? Only if Catholic schools are not considered "Christian." The fact is that faith-based elementary and secondary school enrollment is lower now than in 1965, both in actual numbers and in percentage of total enrollment. Mr. Paige should know this. Catholic school enrollment slid from 5.5 million to about 2.5 million due in part to the Supreme Court's 1962-63 rulings against Protestant religious exercises in about half of the country's school districts. Conservative Protestant school growth has come nowhere near matching the loss.

Is there "animosity to God in public school settings"? No! In keeping with the constitutional mandate that government be neutral with regard to religion and in recognition of our school population's astonishing religious diversity, the U.S. Supreme Court has wisely and properly insisted on public school religious neutrality. Neutrality is not hostility or animosity.

As Mr. Paige surely knows, his predecessor, Clinton Education Secretary Richard Riley, issued almost universally respected guidelines to all 15,000 school districts in 1995 spelling out what public schools may and may not do with regard to religion. These guidelines answered the vast bulk of the questions raised by local school administrators.

It is not at all clear just what Mr. Paige's views are on the place of religion in public education and his office has declined to fill in the blanks. But the hints he has dropped, coupled with his strong backing for tax support of faith-based schools, suggest that he is being disingenuous in saying, in response to the furor over his remarks cited above, that "I understand completely and respect the separation of church and state." With regard to tax aid to faith-based schools, Mr. Paige is at odds with the two-thirds of American voters who have for 35 years rejected such misuse of public funds.

Yes, public education in this country needs some help. But what Mr. Paige and the Bush administration are pushing is not the answer. If Mr. Paige cannot be an undiluted supporter of public schools, maybe he is in the wrong job.

A National Day of Prayer?

By every measure, Americans are among the most religious people on earth. About 90% say they pray daily, 95% believe in some kind of Supreme Being, almost two-thirds are members of a local religious congregation and about 40% say they attend services every week. More religious communities have found a place of welcome in the United States than in any other country in history.

Why then do we need the government to tell us to pray on the first Thursday in May, as required by an act passed by Congress and signed by President Truman in 1952? While participation is voluntary, such acts of government become institutionalized.

In this land of remarkable religious diversity and vitality such mandates by officialdom are unnecessary and, frankly, disturbing. It is sometimes perplexing how this could pass constitutional muster, when it clearly is "a law respecting an establishment of religion" prohibited by the First Amendment of the Bill of Rights.

Another reason why thoughtful Americans of every religious persuasion (including those who do not choose to participate in any organized religion) should be wary of this National Day of Prayer is that it has become politicized and has been captured by a vocal and powerful segment within America's faith communities. At the White House East Room ceremony on May 2, 2002, Shirley Dobson, "the chairwoman" of the National Day of Prayer Task Force, told the invited guests, "We are grateful to have a president who honors God and recognizes the need for prayer." As President Bush looked on, she added, "May the Lord put a shield of protection around you, your family, and the nation."

Adding his voice to the increasingly partisan ceremony, U.S. Senate chaplain Lloyd John Ogilvie said, "We pray for nothing less than a spiritual awakening in America and an unprecedented unity in Congress." While this was supposed to represent humor of a sort, and most of the 200 guests laughed, it may come across as decidedly unfunny to Americans who are not Republican conservatives or evangelical Protestants – the groups which formed the vast majority of the attendees at the 51st National Day of Prayer event at the White House.

Both the President and the First Lady added to the evangelical tone. Laura Bush praised her husband as a man "strong enough to bear the burdens and humble enough to ask God for help," while the President claimed that "a great people must spend time on bended knee in humility, reaching for wisdom in the presence of the Almighty."

This domination of a national event by the Religious Right is a clear violation of the spirit of tolerance and inclusion so often invoked by this President but so often ignored by him. It speaks volumes about exclusion and intolerance. And there is no reason to think that future events will be any less partisan and sectarian.

Congress should rethink whether such a requirement is in keeping with our highest principles and our constitutional framework. And religious people should consider: When prayer becomes political, is it really prayer?

Congress is not doing a very good job dealing with the things voters have asked it to do, in taxation policy, Medicare and Social Security protection, balancing the budget, or questions relating to national security, international affairs, the global economy and the environment. Why, then, should it engage in religious activities, where it has no competence and no constitutional place. The same could be asked of the White House.

The American people are quite capable of deciding when and how to pray without government encouragement.

Update

VMI Prayer Unconstitutional

The conservative U.S. Court of Appeals for the Fourth Circuit ruled on April 28 that prayers before dinner at the Virginia Military Institute (VMI) violate the Constitution. The unanimous three-judge panel upheld a federal district court ruling in January that held the ceremony was a "state-sponsored religious exercise" and thus violated the First Amendment ban on religious establishment. The case is *Mellen* v. *Bunting*.

The appeals court held that requiring participation in pre-dinner prayers constituted a "coercive atmosphere," holding, "In this context, VMI's cadets are plainly coerced into participating in a religious exercise." "Simply put, VMI's prayer exacts an unconstitutional toll on the consciences of religious objectors," Judge Robert B. King wrote in the 28-page opinion. The prayer "sends the unequivocal message that VMI, as an institution, endorses religious expressions embodied in the prayer," King wrote. "The prayer takes a particular view of religion, one that is monotheistic, patriarchal, and indebted to Judeo-Christian values and conventions of worship."

The American Civil Liberties Union (ACLU) filed the suit against the state-financed school in May, 2002, on behalf of two cadets, Neil Mellen and Paul Knick. Kent Willis, executive director of the ACLU of Virginia, called the decision "precedent-setting in the sense that the Supreme Court has not yet addressed this." The Supreme Court has forbidden state-sponsored prayers in public elementary and secondary schools and has invalidated state-sponsored religious exercises at graduation ceremonies and before high school football games. In 1972 a federal court struck down required chapel attendance at the U.S. military academies.

Virginia's Republican Attorney General Jerry W. Kilgore said he would seek an immediate review of the decision by the entire Fourth Circuit. (The state's governor and lieutenant governor are Democrats and apparently had no input into the attorney general's decision to ask for a rehearing.)

The pre-dinner prayers began about 50 years ago. A cadet chaplain, picked by the chaplain's office, recites a prayer that invokes the name of God but does not mention Jesus. Prayers change daily.

Bush's Faith-Based Bill Flops

Congress is moving toward final approval of what was supposed to be a showcase of George Bush's "compassionate conservative" agenda, an ambitious initiative of funding religious charities with public funds. But something happened on the way toward the U.S. Senate's overwhelming passage of the now-renamed CARE Act on April 9: The bill is nothing like what the president proposed two years ago. The Senate adamantly refused to cave in to the House-passed version, favored by the president, that would have allowed religious discrimination in hiring and proselytism by religious providers. The chief Senate sponsor, Rick Santorum (R-PA) agreed to remove the House provisions, thus leaving the CARE Act a skeleton of its former self.

The CARE Act allows those 70% of taxpayers who do not file a long form (because they do not have sufficient deductions) to deduct just their charitable and religious contributions from their taxable income. This provision has won wide support because it helps lower and middle income taxpayers. The final CARE Act version has scaled even this section down to $6.3 billion in expected revenue losses, far lower than

the original price tag ($90 billion). Unless religious conservatives and right-wing Republicans try to revive the original bill in the House, which is considered very unlikely, the CARE Act will be all that President Bush gets during this Congress.

Many religious conservatives lost interest in the legislation, once they realized that they could not promote their distinctive religious beliefs at government expense or hire only fellow believers. Still, University of Texas professor Marvin Olasky, the originator of the idea, said, "I applaud the passage of the bill, but it's a shadow of what was hoped for." Other conservatives see this as an incremental step toward full funding of religious charities by government. President Bush's executive orders have clearly advanced the charitable choice concept at the bureaucratic level, and his increasingly hardline judicial nominations make future approval of more controversial legislation more likely.

Pledge Ruling Upheld by Ninth Circuit

The U.S. Circuit Court of Appeals for the Ninth Circuit let stand on February 28 a ruling banning teacher-led recitation of the Pledge of Allegiance in public schools. The issue in that case, decided 2-1 last June by a panel of the San Francisco-based appeals court, was the phrase "under God" that had been added to the pledge by Congress in 1954.

The new ruling, opposed by 9 of the court's 24 judges, did not strike down the 1954 federal law but barred schools from sponsoring the pledge. The appellate ruling affects nine Western states (Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon and Washington). It bans teacher-led recitation of the pledge by 9.6 million schoolchildren in those states.

Congress criticized the ruling last June, and resolutions calling for its rejection passed the Senate unanimously and the House with only three dissenting votes. The local school district, Elk Grove Unified School District, sued in the original complaint in district court by Michael A. Newdow of Sacramento, is urging the Supreme Court to hear the case. Attorney General John D. Ashcroft is expected to appeal the decision to the nation's highest court. California Governor Gray Davis also urged a Supreme Court reversal.

Congress moved swiftly to counter the ruling. Senator Mary Landrieu (D-LA) introduced Senate Joint Resolution 7 on March 3, and it has been referred to the Senate Judiciary Committee. It says:

"A reference to God in the Pledge of Allegiance or on United States currency shall not be construed as affecting the establishment of religion under the first article of amendment of this Constitution."

Some observers suggest that the Landrieu amendment is designed to head off even more extreme and comprehensive assaults on the First Amendment that might emanate from the Religious Right-dominated Republican Party. In fact, an amendment was introduced in the House by Rep. Ernest Istook (R-OK), which provides: "To secure the people's right to acknowledge God according to the dictates of conscience, the people retain the right to pray and to recognize their religious beliefs, heritage, and traditions on public property, including schools." The new Istook amendment is similar to an earlier Istook amendment, defeated in the House in 1998, intended to reinstate government-sponsored school prayer and to allow voucher aid to nonpublic schools.

Christian Prison Programs Challenged

Two lawsuits filed in federal court in Iowa on February 12 charge that state-financed evangelical indoctrination programs in the Iowa prison system violate the Constitution's requirement of separation of church and state.

The plaintiff in one suit is Jerry D. Ashburn, a Mormon inmate at the Newton Correctional Facility in Newton, Iowa, who contends that the program, run by Watergate felon Charles W. Colson, discriminates against his faith. The other suit was filed by relatives of three inmates who argued that they are being forced to finance a program in which they do not believe. Colson's Prison Fellowship runs a program called Inner Change, which is financed in part by charges added to telephone calls to and from the prison. Since Iowa first contracted with Inner Change in 1999, the state has provided $880,000 to the program.

Inner Change is clearly a pervasively sectarian program run by and for evangelicals that seeks to convert prisoners to evangelical Protestant Christianity. The prisoners are presented with an intensive curriculum of prayer, Bible study courses, and mentoring provided by volunteers from local evangelical churches.

Two features of the program are considered especially offensive and may render it constitutionally infirm. One is that teachers must sign a statement of faith that they believe in "Biblical literalism." Lawsuits argue that this is employment discrimination. The second is that prisoners who enter the program receive privileges not available to other inmates, a state inducement to embrace a particular religious position, according to critics and plaintiffs. Participants in the 18-month-long program live together in one cellblock and are given keys to other cell doors, free phone calls, and access to large-screen televisions and computers.

Defenders of the program, which has also been adopted in prisons in Minnesota, Kansas, and Texas (where it was enthusiastically endorsed by then-Governor George W. Bush), say that the program is voluntary and that state money is used only for the secular parts of the program. But potential members are told that they will "find new life in Christ and personal transformation." Brochures advertising Inner Change say also that "all programming – all day, every day – is Christ-centered." Inner Change includes vocational skills courses, substance abuse counseling and job placement services. The suits were supported by Americans United for Separation of Church and State.

Maryland Kills Abuse Bill

Maryland lawmakers rejected a bill that would have expanded child abuse reporting requirements for clergy because critics, led by Cardinal Theodore McCarrick, said it would violate the ancient practice of the "seal" of confession. There is long precedent in American law, going back to a New York supreme court ruling in 1811, that information uncovered in the sacramental act of confession or penance cannot be revealed to civil authorities.

Cardinal McCarrick, the archbishop of Washington, DC, which includes several Maryland counties, and the Maryland Catholic Conference vigorously opposed the bill. McCarrick said on February 26 that he would "instruct all priests in the archdiocese of Washington to ignore it" and would himself "willingly, if not gladly, go to jail." Lawmakers in the Maryland General Assembly were deluged by calls opposing the act. A unanimous vote against the proposal on February 28 in the Senate Judiciary Proceedings Committee sealed the bill's fate.

Maryland's current law requires all citizens to report suspected child abuse but contains a broad exemption for clergy members of all faiths. Some states extend the exemption to psychologists and counselors. Child abuse prevention advocates supported the proposal and criticized the church for its aggressive lobbying activities. Catholic officials said they have instructed all clerical and lay employees to report any abuse they learn of outside the confessional. Eliot Mincberg, legal director of People For the American Way, said the state would have to write a law "narrowly drawn to serve a compelling state interest and one

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that did not directly confront the rights of Catholics to practice their religion in accord with their church's doctrine."

Maryland legislators are still debating a bill to raise the age at which victims of alleged child abuse may file civil suits from the present age of 21 to 33. The Maryland Catholic Conference also opposes that proposal.

At present, 33 states require clergy to report child sexual abuse to the civil authorities, and two of them require information obtained in confession to be reported. *The Washington Post* said on March 3 that the "law is generally on Cardinal McCarrick's side in the clergy-pertinent privilege." But the paper's editors said the church should not oppose extending the statute of limitations on civil suits. "The statute of limitations should be extended, allowing Maryland to catch up to psychological research demonstrating the long period it sometimes takes for victims to press charges. The church need not see the legal authorities as the enemy."

Bush Nominates Religious Right Judge

On April 9 President Bush named Alabama attorney general William Pryor to the U.S. Court of Appeals for the Eleventh Circuit. Pryor is an aggressive advocate of religious majoritarianism and has asserted that "matters about life and death and freedom and religion" should be decided "by the people and their elected representatives," not in the courts. He has denounced Supreme Court decisions preserving church-state separation as "errors." In a speech defending Alabama Supreme Court Judge Roy Moore's advocacy of Ten Commandments plaques in courtrooms and public buildings, Pryor said, "God has chosen, through his son Jesus Christ, this time and this place for all Christians to save our country and save our courts."

Pryor opposes abortion rights, claiming that the Supreme Court "ripped out the life of millions of unborn children" with its 1973 *Roe* v. *Wade* ruling. Pryor is an extreme state's rights advocate and opposes federal anti-discrimination laws. He also defended Alabama's refusal to offer drivers license exams in any language other than English.

Opposition to Pryor's nomination is likely to increase during the coming months.

Religious Bias on the Rise

Cases alleging religious bias in the private sector workplace increased by 21% last year, according to data from the Equal Employment Opportunity Commission (EEOC). There were 2,572 allegations of employment discrimination based on religious bias filed before the federal agency in 2002. Complaints from Muslim employees more than doubled, from 328 in 2001 to 765 in 2002. EEOC actions have led to payments of more than $1.2 million to 80 Muslim workers who were victims of employer religious discrimination.

Among the companies found guilty of anti-Muslim discrimination were J.P. Morgan, Chase, the Norwegian American Hospital in Chicago, and Stockton Steel of California. In the California case, four Pakistani-American machine operators were openly ridiculed for their daily prayers, given the poorest jobs, and called "camel jockeys" and "ragheads" by fellow employees. A North Carolina medical clinic ordered a nurse not to wear a head scarf and fired her when she refused to comply.

Nearly 30% of all religious discrimination cases now involve Muslim employees.

Saudi-Vatican-CIA Axis?

According to former CIA field officer Robert Baer, the Saudi government (essentially a family enterprise) "secretly" placed $10 million in a Vatican City bank in the early 1980s, as a token of gratitude for the U.S. having sold AWACs air-defense technology to the kingdom. The money was "deposited at the request of William Casey, then-director of the CIA, . . . to be used by Italy's Christian Democratic Party. . . ." Baer related this in his article, "The Fall of the House of Sa'ud" in the May 2003 *Atlantic Monthly,* which was adapted from his book, *Sleeping With the Devil*, to be published by Crown in June.

Eugenie Scott Honored

Anthropologist Eugenie C. Scott, a member of ARL's National Advisory Board and executive director of the National Center for Science Education, has been awarded the California Science Teachers Association Margaret Nicholson Distinguished Service Award. Scott is a leading figure in the efforts to prevent the dilution of science teaching in public schools by the intrusion of fundamentalist "creationism."

House Okays Religious Discrimination

The U.S. House of Representatives took a great step backward on May 8 when it passed a bill that would allow faith-based organizations that provide federally funded job training to discriminate in hiring on the basis of religion. The party-line 220-204 vote was part of the reauthorization of the 1998 Workforce Investment Act, which provides $6.6 billion in job training programs. The Senate may not be willing to go along with this change. As *The Washington Post* commented editorially, "The real question is how engaged the government should be in the first place with groups whose religious missions are hard to separate from the secular functions the government wishes them to serve. Can America have a partnership between federal agencies and religious groups that harnesses the promise of faith-based action without the government sponsoring religious doctrine, coercing its citizens or otherwise endorsing religion?"

Workplace Religious Freedom Act Introduced

An unusual pair of senators, Democratic presidential aspirant John Kerry, a Massachusetts liberal, and Rick Santorum, a Pennsylvania Neanderthal Republican, has introduced "The Workplace Religious Freedom Act," now awaiting action in a Senate committee. The bill is designed to protect religious expression in the workplace by requiring employers to "reasonably accommodate" employees who wish to wear religious insignia or to take time off for worship services.

Current federal law mandates that employers allow religious expression that "does not impose an undue hardship" on the employer. But critics say employers are increasingly taking a hardline position against accommodating employee religious needs. The coalition supporting the bill is led by the American Jewish Committee, the General Conference of Seventh-day Adventists, the National Council of Churches, and some Muslim and Baptist groups. Supporters also say that federal courts have a mixed or spotty record in the enforcement of religious expression rights by adherents of minority religions.

Opposing the measure is an unlikely coalition of business lobbyists and the American Civil Liberties Union (ACLU). ACLU legislative counsel Christopher Anders said the bill is too broad in its application and would allow proselytizing by employees to other co-workers.

Arizona Governor Vetoes Religious Exemption Bill

Arizona Governor Janet Napolitano vetoed a bill that would have expanded religious exemptions under a state law requiring employer-paid health insurance plans to cover prescriptions for contraceptives. The law presently allows exemptions for religious groups that hire within their religious traditions and provide goods and services related to that religion. The bill vetoed by Napolitano would have expanded exemptions to all social service agencies affiliated with religious groups and was supported by the Arizona Catholic Conference and opposed by Planned Parenthood.

Voucher Analysis Faulty

Princeton University economist Alan B. Krueger recently concluded that Harvard professor Paul E. Peterson's 2000 study of school vouchers was gravely flawed. His reanalysis of the original data used by Peterson to promote vouchers showed the claims that black students benefited significantly from voucher schools is false. Krueger found that the test scores for 292 of 811 African American students were not included in the original Peterson study. Krueger concluded that black students in the New York City study made no test score gains in voucher-supported schools. Latino and white students showed no gains, either, and Peterson had acknowledged that fact. But Peterson received national attention for his claim that black students had made real progress under the voucher experimental plan. Krueger told *New York Times* reporter Michael Winerip, "This appeared to be high-quality work [the Peterson study], but it teaches you not to believe anything until the data are made available." Peterson, meanwhile, refused interviews, saying, "It's not appropriate to talk about complex methodologies in the news media." Right.

Supreme Court Refuses Challenge to Kosher Ruling

On February 25 the U.S. Supreme Court declined to hear an appeal of a Second U.S. Circuit Court of Appeals decision last year that declared New York's kosher laws violated the First Amendment. The appeals court ruling, which now stands, overturned a 1915 state law that defined kosher foods as those "prepared in accordance with Orthodox Hebrew religious requirements." The court held that such laws "excessively entangle religion and government" because they take sides in a religious conflict and require the state to take a position on religious doctrine.

A state agency, headed by a rabbi, has been enforcing the statute by giving a seal of approval to kosher manufacturers. Rabbi Luzer Weiss, director of the Division of Kosher Law Enforcement, claimed that non-Orthodox Jews accepted his determinations. Conservative Jews disputed that finding, and the original challenge to the law came from a butcher in Commack whose certification came from a Conservative rabbi.

Governor George Pataki moved immediately to try to replace the religious criteria with more neutral language such as "consumer expectations and trade standards."

The Supremes on Church and State

On April 28 the U.S. Supreme Court declined to hear a challenge to a Fourth Circuit ruling that South Carolina may obtain abortion files for use in public license hearings of clinics, despite its violation of federal privacy laws. South Carolina argued that the state could make the names of patients public. A federal court in Arizona held a similar law violates privacy rights, and the Ninth Circuit is considering an appeal from the state. The high court also turned down Kentucky's appeal from a ruling forbidding display of the Ten Commandments on the state capitol grounds. Ten other states had joined the Kentucky appeal.

Catholic Bishops Reaffirm Support for Vouchers

Bishop Wilton D. Gregory, the president of the U.S. Conference of Catholic Bishops, reaffirmed the bishops' support for publicly financed voucher programs for private and parochial schools. Gregory told delegates to the 100th annual convention of the National Catholic Educational Association (NCEA) in April that "this probably will be a long and difficult struggle for us." The NCEA reaffirmed its 1992 endorsement of "vouchers, tax credits and scholarships" to facilitate attendance at Catholic schools.

International

Brussels: The question of whether the new constitution of the European Union – soon to include 25 nations – should mention God and/or Christianity is heating up. The bloc of the European Peoples Party (the former Christian Democrats) wants the Preamble to mention God and wants an article to say: "The Union values include the values of those who believe in God as the source of truth, justice, good and beauty as well as of those who do not share such a belief but respect these universal values arising from other sources."

The Vatican is the main supporter of this move, and the committee drafting the constitution is chaired by former French president Valery Giscard D'Estaing, who favors it. This position was boosted by support from the Russian and Greek Orthodox hierarchies. Metropolitan Kirill, head of the External Church Relations Department of the Moscow Patriarchate, said his church favors "a reference to the Christian heritage of the European Union, as well as to other religious traditions and secular thoughts and ideas."

Opposition is being led by the European Humanist Federation, based in Brussels. A spokesperson, Gert van Eeckhout, asked the delegates to "preserve the separation of church and state at all costs." Keith Porteous Wood, executive director of the National Secular Society of the United Kingdom, warned, "The fundamental difficulty with religion being accorded special respect or religious institutions being given privileged access is that doing so disturbs the equilibrium of the scales of democracy." A final draft is due some time this year.

Jerusalem: The highest-ranking Roman Catholic official in Israel, Archbishop Michel Sabbah, the Latin Patriarch, has accused the Israeli government of targeting Catholic seminarians and clergy with entry and visa restrictions. Sabbah says the refusal of visas to more than 90 clerics denies religious freedom to 50,000 Catholics and other Christians residing in Gaza and the West Bank. His charges have been taken up by the Vatican nuncio (ambassador) to Israel and by the U.S. Conference of Catholic Bishops (USCCB), who complained formally to the U.S. Commission on International Religious Freedom and to the U.S. ambassador-at-large for international religious freedom. Bishop John Ricard, chairman for international policy at the USCCB, asked the Israeli government "to quickly remedy this exclusionary practice."

Israel's government vehemently denies the charges, blaming problems on "the tense security situation." Mark Regev, a spokesman for the Israeli Embassy in Washington, DC, told *Insight* magazine in April that "there is no policy to deny Catholics the right to enter Israel. Quite the

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contrary, we encourage people to visit and make pilgrimages." He skirted the question of visa denials for clergy, but admitted, "I can understand why the church is writing letters." Rev. Drew Christiansen, a Jesuit counselor at the USCCB, told *Insight* that the Israeli Embassy had informed him that nothing would change until the ultra-religious Shas Party was no longer in control of the Ministry of Interior, which grants visas.

Mount Athos, Greece: A group of ultraconservative monks have challenged authorities of both church and state in a dispute that has turned ugly since January 28. The 116 monks in the Esphigmenon Monastery, one of 20 self-governing religious communities on Mount Athos, have defied eviction orders served on them by Greek civil authorities and by the Ecumenical Patriarch of Constantinople, the "first among equals" in the Eastern Orthodox faith. For decades the hard-line conservatives at Esphigmenon have defied the other 19 monasteries, accusing the majority of betraying Orthodoxy by being too ecumenical and tolerant of non-Orthodox Christians.

The Greek constitution recognizes Mount Athos as a self-governing autonomous region, headed by an elected parliament of monks known as the Holy Community. A Greek civil governor and a small police force provide the secular government for the 1,610 monks (up from a low of 1,146 in 1972) who reside on what has traditionally been called "the Holy Mountain" for a thousand years. The constitution recognizes the spiritual jurisdiction of the patriarchate of Constantinople – not the Greek Orthodox leaders. An article in the constitution says that "heterodox or schismatic persons shall be prohibited from dwelling therein." The present Patriarch, Bartholomew I, has mandated the ouster of the dissidents.

The diehard monks have filed suit in Greece's highest court, the Council of State, seeking an injunction against the eviction order. Such cases usually take six months to a year before a decision is rendered. The Esphigmenon monks have also claimed that their religious freedom is being violated. Greece is a member of the European Union and is a signatory to treaties guaranteeing civil and religious liberty. The dissident monks, ranging in age from 20 to 98, have stored provisions allowing them to withstand a siege, but police authorities are reluctant to mount a full-scale raid against them. A police blockade prevents them from leaving their monastery to buy food, fuel or medicine. The standoff remains around the thousand-year-old building, over which flies a defiant banner proclaiming "Orthodoxy or Death."

English historian Graham Speake, in his new book, *Mount Athos: Renewal in Paradise* (Yale University Press), writes that, "Athos is the spiritual heart of Orthodoxy." If so, the heart is in serious trouble.

In mid-March Greece's highest court, the Council of State, lifted the police siege and indicated it would rule on the eviction order in October.

New Delhi: The Allahabad High Court ruled on March 5 that India's state-run Archaeological Survey must begin digging in the northern town of Ayodhya to see if a Muslim mosque, destroyed by a Hindu mob in 1992, was built over an ancient Hindu temple honoring the alleged birthplace of the Hindu god Ram. The archeologists have one month to report their findings, which may eventually lead to a definitive ruling by India's Supreme Court. The issue has fueled tensions between India's Hindus (85% of the population) and Muslims (12% of the population). Hindu zealots razed the mosque, built in the 16th century, and erected a makeshift temple in 1992. Riots that year killed more than 3,000 people across India. More than 1,000 died in interreligious violence in 2002. The archeological findings and a Supreme Court decision could profoundly affect the course of interfaith relations in the world's second most populous nation.

Sydney: The Anglican archbishop who was named governor general of Australia two years ago resigned, or "stood aside" in Australian parlance, after charges were filed against him that he raped a 20-year-old woman at a church camp in 1966. Peter Hollingworth, the Anglican archbishop, was also scored by an Anglican commission report that he protected pedophile priests when he was archbishop of Queensland. The low-key 471-page report released in May said Hollingworth's actions in several sexual abuse cases were "suspect" and "untenable." On May 11 Hollingworth stepped down, averting a scandal that threatened to bring down the government of Prime Minister John Howard, a conservative and one of a handful of world leaders to support George Bush's war on Iraq. Polls showed that 76% of Australians wanted Hollingworth to step down, even before a woman named him and other priests in a sexual abuse civil lawsuit filed earlier this year. The woman in question committed suicide in April.

Prime Minister Howard was widely criticized for mixing church and state when he appointed Hollingworth in 2001 to the curious post of governor general, a ceremonial position that represents the British monarch in this former British colony. Reportedly, Queen Elizabeth II told Howard in London in May that she would "accept Hollingworth's resignation," forcing the Prime Minister to act.

Books and Culture

Democracy and Intolerance: Christian School Curricula, School Choice, and Public Policy, by Frances R.A. Paterson, Phi Delta Kappa Educational Foundation, 199 pp., 2003, $19.95.

In 1993 Americans for Religious Liberty and Prometheus Books published ARL associate director Al Menendez' groundbreaking book, *Visions of Reality: What Fundamentalist Schools Teach,* the first full-length study of the textbooks commonly used in the fundamentalist so-called "Christian" day schools likely to benefit from vouchers or other programs for diverting public funds to nonpublic schools. Now, ten years on, we have Frances Paterson's excellent book, which is essentially a follow-up and update of Menendez' book.

Paterson, an attorney with a doctorate in education law who teaches at Valdosta State University in Georgia, has examined the texts most often used in "Christian" day schools (a designation that suggests that Catholics and Catholic schools are not really Christian). She finds that the texts intentionally mix opinion and fact, actively promote a fundamentalist and politically ultraconservative agenda, and are saturated with material denigrating Catholicism and all nonevangelical faiths.

Paterson concludes not only that the textbooks make it abundantly clear why these sectarian schools should not be supported by exactions from all taxpayers, including the great many whose religions are attacked in the texts, but also that, even without tax aid, the schools using these texts indoctrinate students in such a way as to stimulate religious and political intolerance. The author's case against vouchers or their analogs is solid and persuasive.

The book's only deficiency is the absence of treatment of how fundamentalist school textbooks denigrate science and scientists, a topic covered in Menendez' book.

Paterson and Phi Delta Kappa deserve high praise for this timely, important book.

— Edd Doerr

Voucher Wars: Waging the Legal Battle Over School Choice, by Clint Bolick, Cato Institute, 279 pp., 2003, $12.00.

This thoroughly unpleasant book is more about the author's colossal ego than about school vouchers. Bolick, of course, is one of the lead lawyers in the drive to get judicial approval for diverting public funds to sectarian schools. His book will interest those who want to get inside the head of a key voucher litigator, to understand the voucher promoters' strategies, or to get a list of the dramatis personae of the voucher movement.

Bolick and his book fairly bristle with hostility, if not actual hatred, toward public schools (sneeringly dubbed "government schools"), church-state separation, the ACLU, People for the American Way, the NAACP, teacher unions, judges and attorneys who disagree, and long-deceased Maine Senator James G. Blaine (see Al Menendez' article about Blaine in this issue).

One of the book's numerous defects is its failure even to mention, much less to refute, the numerous public policy objections to school vouchers. Attorneys may find useful Bolick's discussion of pro-voucher strategy.

— Edd Doerr

Moral Reconstruction: Christian Lobbyists and the Federal Legislation of Morality, 1865-1920, by Gaines M. Foster, University of North Carolina Press, 318 pp., $19.95 paperback.

Between 1865 and 1920, Congress was deluged by bills seeking "moral reconstruction" of the nation along Christian lines and promoted by "Christian lobbyists." What was the result? According to Foster, a professor of history at Louisiana State University, the record is mixed but forms "a useful historical context" for evaluating today's Religious Right. He writes, "Congress prohibited the interstate circulation of prizefight films, lottery tickets, obscene material, and information about or goods designed to be used for birth control or abortion. Congress forced Mormons to abandon polygamy. It attacked prostitution, put the nation's last legal lottery company out of business, made narcotics contraband, and stopped the manufacture and sale of alcohol. . . . Moreover, federal moral legislation, in many instances reinforced by state and, in the case of the movies, voluntary regulation helped mold the public culture of the United States during the first half of the twentieth century, especially on matters relating to sexuality."

This was accomplished, says the author, by "a loose alliance of individuals and organizations here labeled the Christian lobby." The Christian lobby was entirely Protestant and led by the evangelical wing of Protestantism – Baptists, Methodists, Presbyterians, Congregationalists and Disciples of Christ.

However, Congress refused to enact most of the legislation promoted by the Christian lobby. Of the 1,538 bills advocating "moral legislation" that were introduced in Congress between 1841 and 1921, just 102, or less than 7%, passed. Writes Foster, "Despite appeals by the Christian lobbyists, Congress never enacted a federal Sunday law, prohibition on the sale of cigarettes, comprehensive antigambling legislation, or a commission to censor motion pictures. On two moral issues on which Congress did act, polygamy and divorce, it refused repeated requests for a constitutional amendment to make them a federal responsibility. Only in the case of Prohibition did Congress endorse, and the states concur in, a change in organic law."

To appease the early Christian Right, Congress did allow some symbolic gestures, such as retaining "In God We Trust" on coins, closing the Chicago World's Fair on Sundays, and passing some "moral"

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We generally do not publish reviews of ARL publications, but we thought readers would appreciate the following review from the prestigious American Reference Books Annual 2003 (ARBA), Volume 34.

Great Quotations on Religious Freedom. Albert J. Menendez and Edd Doerr, eds. Buffalo, N.Y., Prometheus Books, 2002. 250 p. index. ISBN 1-57392-941-7.

Here is a fine array of quotations, limited to one broad subject area, and culled from the reading, investigation, and experience of the two editors. Numerous books of general quotations and books of religious quotations include entries about religious freedom; however, an examination of a dozen such books did not reveal a significant overlap of Menendez' and Doerr's book within any other single collection. This book includes many long quotations not likely to be found elsewhere except in the original sources. Sources include letters, addresses, statements, religious and political documents, court rulings, congressional testimony, and many other materials.

Browsing through this book induces an overall impression of a foray into current issues of religious freedom, although certainly many quotations from earlier times have also been included. The contents page lists 30 subject headings. Examples include: Abortion Rights, Blue Laws, Charitable Choice, Christmas Symbols on Public Property, Parochiaid (Government Aid to Sectarian Schools), Separation of Church and State, Tolerance, and Toleration. Within the text of the book and under each subject heading, quotations are arranged alphabetically by the original source of the quotation, usually a speaker, a writer, or an organization. This works as a manageable arrangement since each subject section is short enough to scan with the eye quickly. Quotations are numbered straight through the book.

Appendixes form a large section of the book (pp. 175-242). The appendixes are mostly lists of quotations on special subjects. The last two consist of group statements, with a list of signers or endorsers at the end of each. The appendixes are titled "Judicial Quotes," "James Madison," "Thomas Jefferson," "Opponents of Religious Liberty," "A Shared Vision," and "Religion in the Public Schools." The index at the end of the book includes, among other things, names, legal cases, organizations, documents, and other titled source materials. Entries are indexed by quotation number instead of page number.

This book will be a nice addition to any collection of quotation books. It should be of particular interest to people concerned about the dynamics of politics, religion, and freedom, and to people who professionally or informally address issues of religious freedom.

— Dorothy Jones

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legislation for the District of Columbia, the U.S. territories and the Post Office.

Most importantly, however, Congress "altogether refused to establish the religious authority of the federal government and never acknowledged the authority of God or the Bible." Successive Congresses repeatedly refused to pass a "Christian Amendment" to the Constitution that was backed by many Christian conservatives, especially Presbyterians. It would have made the U.S. a Protestant theocracy.

This is an outstanding example of original historical scholarship and deserves a wide reading audience, especially since U.S. society is still torn between what Foster calls "moral behavior and moral order" and "personal liberty, moral suasion, and moral choice."

— Al Menendez

Who Are the Christians in the Middle East?, by Betty Jane Bailey and J. Martin Bailey, William B. Eerdmans Publishing Co., 215 pp., $20.00.

The Baileys have contributed to the Middle East dialogue by describing the historical role of Christianity in the region of its birth. They also sort out the remarkable diversity of the Christian minority (10-12 million adherents in a region of 150 million Muslims) in a series of informative and well-written profiles.

The Eastern Orthodox "family" includes more than five million believers in the ancient patriarchates of Constantinople, Antioch, Alexandria, Jerusalem and Cyprus. The Oriental Orthodox churches include the Coptic Church in Egypt and the Armenian Apostolic Church. These churches split at the time of the Council of Chalcedon in 451. Another ancient church, the Assyrian Church of the East, declared itself independent before the third church council at Ephesus in 431. The Catholic churches include the Latin Church (or Roman Catholic), the Greek-Melkite Church, the Maronite Church of Lebanon, and smaller bodies which united with Rome in the 16th and 18th centuries. Finally, numerous Protestant groups, established in the 19th and 20th centuries, have a small following.

While all Christian groups jealously guard their own doctrines and liturgy, they are united by a common fear. Write the Baileys, "Political Islam threatens all Arab Christians. Its goal is to establish a Muslim religious state. In such a state Christians would be no better than resident aliens, guests or, at best, second-class citizens." It is no surprise that the ancient Christian communities are declining as a percentage of the total population. Perhaps a third or more have departed during the past two decades. In many moderate Muslim states, however, Christians have learned to survive centuries of minority status.

The Christian population in Israel has also declined. The authors add, "A variety of national policies have led both Christians and Muslims in areas controlled by Israel to feel unwelcome in the land of their birth."

The authors include Cyprus, Turkey, the Sudan, the Persian Gulf and the Maghreb (Arab North Africa) in their informative and fact-filled survey. How many people know, for example, that the apostle Bartholomew brought Christianity to Arabia, the apostle Barnabas was the first bishop in Cyprus, and that there are 1.6 million Episcopalians in Sudan?

— Al Menendez

A fine organization called the Pennsylvania Alliance for Democracy has just made available a small book, *Church-State Separation: A Keystone to Peace* by its co-founder, former president and present board member, Clark Moeller. Moeller's book "evaluates the benefits of church-state separation," seeing the concept and its implementation in the U.S. as essential to an enlightened, democratic nation. As he writes, "The continued integrity of church-state separation is vital to all civil rights, not only our freedom of religion." Moeller also looks at six causes of the erosion of religious liberty in the U.S. He concludes that "church-state separation has achieved the best record of maintaining peace among people of different faiths" and "has proven to be the most effective strategy for protecting religious liberty."

This well-documented and heavily footnoted study is available on the web at www.padnet.org/CSSmoeller2.pdf.

This timely volume is a model for what other state civil liberties organizations should consider publishing.

The *Wilson Quarterly's* winter 2003 issue is called "Holy Wars" and includes generally stimulating essays on religion and government in Iran, Europe, India and the U.S. The essay on America, Hugh Heclo's "The Wall That Never Was" is the weakest contribution, all but sneering at religious neutrality by government, lamenting our strong tradition of church-state separation and claiming that more religion in public life "can increase the fundamental humaneness of society because religion is a powerful foundation for moral behavior." He adds, "If traditional religion is absent from the public arena, humanity will invoke secular religion to satisfy its quest for meaning." A book-length spinoff of Heclo's thesis will be reviewed in the next issue of *Voice of Reason*.

— Al Menendez