



# VOICE OF REASON

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## Is the Wall Crumbling?

by Edd Doerr

“The ‘establishment of religion’ clause of the First Amendment,” the Supreme Court ruled in 1947 in *Everson v. Board of Education*, “means at least this: Neither a state nor the Federal Government can ... pass laws which aid one religion, aid all religions, or prefer one religion over another. ... No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion. ... In the words of Jefferson, the clause against establishment of religion by law was intended to erect ‘a wall of separation between church and state’. ... That wall must be kept high and impregnable. We would not approve the slightest breach.”

The First Amendment owes much to James Madison’s magnificent, seminal 1785 *Memorial and Remonstrance Against Religious Assessments*, which among a list of 15 arguments for church-state separation made this point, “Who does not see that the same authority which can ... can force a citizen to contribute three pence only of his property for the support of any one establishment, may force him to conform to any other establishment in all cases whatsoever.”

Benjamin Franklin put it even more sharply years earlier. “When a religion is good,” he wrote, “I conceive it will support itself; and when it does not support itself, and God does not take care to support it so that its professors [adherents] are obliged to call for help of the civil power, ‘tis a sign, I apprehend, of its being a bad one.”

Our courts generally stuck to the *Everson* position for many years, though the situation heated up when Congress in 1965 passed the Elementary and Secondary Education Act (ESEA), which included some minor tax aid to sectarian private schools. Legal challenges were not forthcoming, however, because of a 1924 Supreme Court precedent that blocked “mere” taxpayers from having “standing” to bring lawsuits. The “standing” question was settled by the Supreme Court in 1968 in the *Flast v. Coben* case challenging New York State tax aid to faith-based schools. The Court approved taxpayer standing but upheld the state law. So it was not until 1971 in *Lemon v. Kurtzman* that the Supreme Court ruled against state aid to church schools in Pennsylvania and Rhode Island.

As late as 1991 in a joint ARL/ACLU lawsuit, *Lamont v. Woods*, the Second Circuit Court of Appeals in New York unanimously found unconstitutional a Reagan-era law that provided U.S. funding for faith-based schools in other countries. The George H. W. Bush administration declined to appeal to the Supreme Court.

But change was in the wind. After Reagan’s election in 1980 the Supreme Court began drifting away from *Everson*, until today, when a slim majority of the justices have not only eviscerated both *Everson* and *Flast* but thumbed their noses at Madison, Jefferson, Franklin and the majority of our constitutional founders. The whole story is told in an extraordinary new book by two law professors.

(*God, Schools, and Government Funding*, by Laurence H. Winer and Nina J. Crimm. Ashgate, 2015, 281 pp., \$119.95).

Winer and Crimm trace in meticulous detail, with over 1,000 footnotes, the evolution (or devolution) of the Supreme Court’s rulings on every conceivable angle for diverting public funds to faith-based private schools, a very gradual process at first but one that accelerated rapidly in recent years to the point where today the financial wall of separation has crumbled to pieces. While the book was written by law professors for law professors and law students (hence the high list price), the basic text is readily accessible to all readers. The authors analyze school vouchers, various forms of tax credit aid, and the latest gimmick, Educational Savings Accounts (ESAs) and their variants, and then dissect how the High Court has undermined the “standing” rights of citizens and taxpayers to even bring challenges to church-state separation violation in the courthouse door.

(Interesting, at least for me, is that the very first page quotes Justice William Brennan’s dissent in the *Valley Forge Christian College v. Americans United* ruling in 1982: “Plainly hostile to the Framers’ understanding of the Establishment Clause, and Flast’s enforcement of that understanding, the Court vents that hostility under the guise of standing, ‘to slam the courthouse door against plaintiffs who [as the Framers intended] are entitled to full consideration of their [Establishment Clause] claims on the merits.’”; I was one of the plaintiffs in that case.)

Also interesting is the authors’ single reference to the neglected 1973 Supreme Court ruling in *Norwood v. Harrison*, a Mississippi textbook loan case in which *Everson* was not dispositive. The Court ruled that since textbook loans “are a form of tangible financial assistance benefitting the schools themselves, ... a state’s constitutional obligation requires it to steer clear not only of operating the old dual system of racially segregated schools but also of giving significant aid to institutions that practice racial or other invidious discrimination.” (Cited

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# RFRA Laws Pit Religion Against Nondiscrimination

Congress passed the Religious Freedom Restoration Act in 1993 that was designed to strengthen the Free Exercise Clause by making government action in religious matters subject to narrow and stringent circumstances. In 1997 the U.S. Supreme Court limited its application to the federal government. As a result 21 states have passed their own versions to apply to state government actions. These states include liberal Connecticut and Rhode Island, as well as eight more conservative Southern states like Louisiana, Mississippi and Tennessee.

The laws are supposed to be a careful attempt to balance competing rights. Baptist Joint Committee executive director Brent Walker explained that “the model language of federal RFRA embodies a delicately balanced formula to address deep conflicts over religious accommodation.” This means, basically, that one person’s religious liberty claims cannot threaten another person’s.

In recent years, however, religious conservatives who are vehemently opposed to same-sex marriage or to statutes banning discrimination by sexual orientation have attempted to pass laws allowing those who oppose gay rights to invoke religious beliefs to justify their action. So-called “Conscience Protection” or “Freedom of Conscience Protection” acts have been introduced in eleven states.

Indiana led the way when Republican Gov. Mike Pence signed into law on March 26 a controversial “religious freedom restoration” law that supposedly protects “persons” from state laws that would “substantially burden” their ability to follow religious beliefs. Pence denied that the bill, which defines persons to include religious institutions, businesses, and associations, would allow for discrimination when he signed it in a private ceremony.

Many businesses headquartered in Indiana opposed the legislation and urged the governor to veto it. The National Collegiate Athletic Association (NCAA), the arm of the college basketball industry based in Indianapolis, warned the governor, “We are especially concerned about how this legislation could affect our student-athletes and employees.” NCAA president Mark Emmert said his group would “work diligently” to make sure athletes and fans are not “negatively impacted by this bill.” Basketball’s Final Four was held in Indianapolis.

The Christian Church (Disciples of Christ), which has its headquarters in Indianapolis, denounced the governor’s action and threatened to move its 2017 national convention from the city. Opposition came from the Indianapolis Chamber of Commerce, engine-maker

Cummins Inc., and Gen Con, a tabletop-game convention, which also threatened to move its summer convention from the state. Other business and sports groups warned that Indiana would be seen as a hostile and non-inclusive place.

ACLU counsel Eunice Rho said, “Religious freedom is a core American value, one that the ACLU has been defending since its founding....We will continue to oppose any attempts to use religion to discriminate.”

The law Pence signed was similar to one vetoed a year ago by Arizona’s Republican Gov. Jan Brewer.

Some states with existing laws are considering amendments to protect those who want to refuse service to gays and lesbians. Oklahoma is considering a bill “prohibiting government from regulating religious entities to provide commercial or social services, employment or benefits, or to solemnize marriages if such actions would be contrary to their religious beliefs regarding sexual orientation.” Missouri is considering extending its RFRA to public colleges, and South Carolina may extend “free exercise during local government proceedings,” which is probably designed to allow sectarian prayer.

These proposals are seen by many as distorting the original purposes of RFRA, which was passed overwhelmingly in Congress and signed by President Bill Clinton. Sarah Warbelow, legal director of the Human Rights Campaign, said she would like to see these laws amended “to clarify that they should not be used to undermine nondiscrimination principles, or to engage in harm against others.”

The original Indiana law (and its Arkansas counterpart) differed in significant ways from the laws passed previously in 19 other states. Jonathan Rauch, a senior fellow at the Brookings Institution, observed in *Time* (April 13), “Today, for the first time, Religious Freedom Restoration Act laws are being passed with the specific intent to discriminate against the specific needs of a specific group. That makes all the difference.”

Garrett Epps, who teaches constitutional law at the University of Baltimore Law School, wrote in *The Atlantic.com*, “The Indiana statute explicitly recognizes that a for-profit corporation has ‘free exercise’ rights matching those of individuals or churches....Second, the Indiana statute explicitly makes a business’s ‘free exercise’ right a defense against a private lawsuit by another person, rather than simply against actions brought by government....Of all the state ‘religious freedom’

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## What's the Matter with New York?

New York City Mayor Bill de Blasio's plan to expand pre-kindergarten programs has run into a wall – the wall of separation, that is.

In order to induce more Jewish, Christian and Muslim schools to participate, the mayor has proposed that midday break periods can be set aside specifically for prayer or religious instruction. Setting aside a prayer break during school raises serious federal as well as state constitutional questions. ARL president Edd Doerr, in a comment published in the *New York Daily News* on March 19, sounded the alarm: "Expanding pre-K programs is great, but public dollars should flow only to those in public schools, as required by Article XI, Section 3 of the New York constitution. Further, while rest breaks are appropriate for the kids, specifically designated prayer breaks would violate the U.S. First Amendment, as the Supreme Court held over 50 years ago."

New York Civil Liberties Union executive director Donna Lieberman concurred, calling the plan "an end run around the separation of church and state" and added, "We have urged the city to audit programs that are sponsored by a religious group to ensure that the prohibition against turning these into religious programs is honored."

Associated Press reporter Karen Matthews explained the mayor's rationale: "Some pre-K classes are in public schools but many are run by religious groups and other community-based organizations under contract to the city. The latest proposal is aimed at increasing the participation of private religious schools, particularly the Orthodox Jewish schools that serve a growing portion of the city's population."

The pre-K program began last fall with 53,000 children, and supporters hope to increase that to 70,000. Schools offering the program are reimbursed an average of \$10,000 a year per pupil.

Another constitutional problem may arise from the optional half hour of religious instruction that takes place in participating Roman Catholic schools before the regular school day begins.

Mayor de Blasio decided on March 4 that two major Muslim holy days, Eid al-Fitr and Eid al-Adha, would be recognized in the city's public school calendar. Muslim activists have spent nine years pressing for the recognition, citing the fact that 10% of the public school population is Muslim (according to a 2008 study by Columbia University). The decision has a political dimension. Wrote *New York Times* reporters Michael Grynbaum and Sharon Otterman, "For Muslim activists, who have spent years trying to raise their political profile, the mayor's announcement was taken as a significant victory, and an indication that they had matured as a constituency with tangible influence on public policy."

New York City becomes the sixth school district to grant students days off for the Muslim holidays. The others include: Burlington, Vermont; Cambridge, Massachusetts; Dearborn, Michigan; and Paterson and South Brunswick, New Jersey.

Asian-American groups also want the mayor to close schools on the Lunar New Year, while Indian-Americans want the Hindu festival of Diwali to be recognized.

Mayor de Blasio also announced on March 30 that his administration will ensure that houses of worship will continue to rent space in public schools on the same basis as secular groups. His office said "While we review and revise the rules, groups currently permitted to use schools for worship will continue to be able to worship on school premises."

The problem is that on the same day the U.S. Supreme Court rejected an appeal of an evangelical church in the Bronx that sought to overturn a ban upheld by the U.S. Court of Appeals for the Second Circuit. The appellate court had held that the city's Department of Education policy banning religious groups from holding worship ser-

vices in schools on weekends was constitutional. Judge Pierre Leval wrote for the majority that the city could conclude "that it runs a substantial risk of incurring a violation of the Establishment Clause by hosting and subsidizing the conduct of religious worship services."

While that decision was being appealed to the U.S. Supreme Court, 72 religious groups held services on school property. Mayor de Blasio insisted that "faith organizations deserve access since they go through the same application process, wait their turn for space, and pay the same rent."

Civil liberties groups were appalled by the mayor's actions. Donna Lieberman, executive director of the New York Civil Liberties Union, said, "They have an obligation to ensure that there is no appearance of official endorsement of any of the religious activities that go on in the schools." ■

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### Wall, *continued from page 1*

in my 1975 article in the *Valparaiso University Law Review*.) As most sectarian private schools do practice some forms of "invidious discrimination," it's unfortunate that *Norwood* remains unused.

The book has its heroes, justices like William Brennan and Hugo Black, and villains, like Antonin Scalia and Clarence Thomas.

This book easily merits five stars and demands the widest possible readership. Nonetheless it is not without an occasional minor glitch. The authors, lawyers and not educators, occasionally mention a certain amount of dissatisfaction with public schools, but do not discuss what many leading educators say our public schools need to improve: more adequate and more equitably distributed funding, smaller classes, wraparound social and medical services, protection of teacher rights, less emphasis on endless testing, an end to the diversion of public funds to special interest private and charter schools, and serious efforts to alleviate the poverty that afflicts one quarter of our school population.

So, with the federal and state courts no longer the staunch defenders of church-state separation, religious liberty and public education they once were, what's to be done? With 90% of our nation's kids in local public schools, to which the annual Gallup/PDK education polls show that the vast majority of Americans give an A or B rating – despite the endless sniping at public schools by conservative media and corporate special interests – all Americans who value our heritage of democratic public education, religious freedom and church-state separation need to make their voices heard. They need to renew their interest in our schools and basic freedoms. They need to be active politically, to elect federal and state legislators and presidents and governors who support those values. They need to stand behind our beleaguered public schools and dedicated teachers. ■

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# Neither Vouchers nor Privatization Will Improve Education

Delaware Gov. Jack Markell warns that candidates for president should concentrate their efforts on improving public education rather than directing public funds to privatization schemes. Vouchers, “the pure example of privatization” have “an unsettled and uneven history that does not support continuing them,” the governor wrote in *Education Week*, April 22.

“Compounding the problem,” he continued, “is that the private and parochial schools that receive tax dollars are, in many cases, not accountable for providing a quality education to young people, particularly those most at risk of falling behind....Public funding for these voucher programs also presents significant policy issues because so many schools affected include a religious component in their curriculum. In general, the government should not be in the business of funding programs or institutions that promote one religion over all others.”

Support for public schools should once again become a focus for

presidential aspirants. “But being against vouchers for these reasons isn’t enough. Political leaders have a responsibility to articulate a clear vision for what an improved public school system looks like.”

Markell suggests that improving public education must include at least the following: “innovative instruction; more rigorous college and career standards; better support and training for our teachers; Advanced Placement courses to challenge students; and investing in high-quality early-childhood programs.”

Finally, “Serving children who arrive at school hungry and from traumatic family situations requires different types of training and community resources” rather than “using taxpayer money on unaccountable programs.”

Markell, a Democrat, is serving his second term as Delaware’s governor and is a former chair of the National Governors Association.

(For other articles on vouchers, see “The Voucher Watch” on page 7). ■

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## Politics, Religion and Demography

A new survey of 35,000 American adults by Pew Research Center shows that those who describe themselves as Christian has declined from 78.4% in 2007 to 70.6% in 2014. The number of religiously unaffiliated rose from 16.1% to 22.8%. Members of non-Christian faiths went up slightly from 4.7% to 5.9%.

All major Christian groups declined, but mainline Protestants (down 3.4%) and Catholics (down 3.1%) lost the greatest share of the population. But even evangelicals dropped 1%, from 26% to 25%.

The nonreligious category is a broad group, with 16% saying they are “nothing in particular” religiously speaking, while 4% are agnostics and 3% atheists. The unaffiliated are strongest in the age bracket of 18 to 29, but they have increased in all age groups. All religious groups, or subgroups, are more ethnically diverse today than in 2007. A majority

of Hindus and Muslims were born abroad, as were nearly 40% of Catholics and Eastern Orthodox Christians.

There was considerable switching among religious groups, and 42% of Americans now identify with a religious or nonreligious tradition different from their childhood. While the nonaffiliated have gained 20% to 30% from other groups, especially Catholics and mainline Protestants, they have also lost nearly half of those who were raised with no religion. Nondenominational church members have grown significantly among evangelicals. The median age in each category may predict future changes: among the nonaffiliated it is 36, compared to 52 for mainline Protestants and 49 for Catholics. Another interesting factor is that “The rise in intermarriage appears to be linked with the growth of the religiously unaffiliated population.”

Above all, “America’s changing religious landscape” may have strong political implications. Democratic identification is dominant among black Protestants, the religiously unaffiliated, Jews and Hispanic Catholics. Republicans are overwhelmingly favored by Mormons and white evangelical Protestants. Mainline Protestants and white Catholics lean slightly toward the GOP. Age, gender, education and marital status affect the political leanings of most religious groups. Democrats are stronger among the young, women, unmarried, and those with post-graduate degrees, while Republicans are stronger among older, married and white voters. While these trends would appear to favor Democrats, voter turnout is a major factor, since Republican-leaning groups have higher turnout rates. (For example, while 23% of adults say they have no religious affiliation, only 12% of voters surveyed in 2014 exit polls said they were “nones.”)

Compared to 1992 party affiliation data, Pew found large Democratic gains among the nonaffiliated and significant Republican gains among evangelicals and Jews. Most groups were unchanged in political loyalties.

Other surveys tend to confirm these trends. In at least 19 states, white Christians are now a minority of the population, a dramatic change from three or four decades ago. This may have political implications, according to the Public Religion Research Institute (PRRI). Its study reports that “white Christians, long understood to be the primary shapers of American politics and culture, are rapidly losing their

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majority status across the country – even in traditionally conservative states.”

PRRI includes evangelical and mainline Protestants, Catholics and Eastern Orthodox Christians as “white Christians.” They also include Mormons, which skews the data from Utah and Idaho.

Hawaii and California have the lowest percentage of white Christians, owing in part to their large Asian-American, Hispanic and other diverse cultures. New Mexico, which has the highest percentage of Hispanic residents, ranks third from the bottom. The West, which also has large nonaffiliated populations, dominates the low-percentage list, including Alaska, Washington, Oregon, Nevada, Arizona and Colorado.

But parts of the Southwest (Texas and Louisiana) and Southeast (Georgia and Florida) have populations that are less than 50% white Christian. The multicultural Northeast also ranks low, with under 50% in New York, New Jersey, Vermont, Maryland and Delaware. The only Midwestern state with under 50% is Illinois. In the last presidential election, 14 of these states were carried by Obama and five by Romney.

Finally, the U.S. Census Bureau’s listing of the 100 fastest growing counties shows that most are in the South or West, and Romney carried 89 of them in 2012.

The Democrats may be helped by demographic projections that the voting-age population of those of Hispanic and Asian descent will increase a couple of percentage points by 2016. Obama won more than 70% of the votes of both communities. ■

## Moving?

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## RFRA, *continued from page 2*

laws I have read, this new statute hints most strongly that it is there to be used as a means of excluding gays and same-sex couples from accessing employment, housing, and public accommodations on the same terms as other people.”

Pressure from Wal-Mart, a retail giant headquartered in the northwestern region of Arkansas, and other businesses convinced Gov. Asa Hutchinson to refuse to sign the law passed in his state without revisions that guaranteed no discrimination against gays and lesbians. Both states, facing mounting opposition from business, education, sports and travel interests quickly adopted “clarifications” and revisions (though some critics say they do not go far enough).

*The New York Times* spoke for many in a March 31 editorial: “The freedom to exercise one’s religion is not under assault in Indiana, or anywhere else in the country. Religious people—including Christians who continue to make up the majority of Americans—may worship however they wish and say whatever they like. But religion should not be allowed to serve as a cover for discrimination in the public sphere.” ■



## Church and State in the Courts

The archdiocese of Milwaukee cannot use the Free Exercise Clause of the First Amendment or the Religious Freedom Restoration Act as protections against claims in its bankruptcy case filed in 2011. This decision by the U.S. Court of Appeals for the Seventh Circuit on March 9 is a setback for church officials who are trying to avoid payments to victims of sexual abuse. At issue is a \$55 million trust fund transferred in 2007 from a general fund, apparently to avoid payments to abuse victims. Church officials have lost previous decisions in the state bankruptcy court and in the Wisconsin Supreme Court, which ruled that officials could be sued for fraud and that insurance coverage did not have to pay if the archdiocese committed fraud.

The Seventh Circuit decision also remanded the case to a federal district under a different judge. They held that the previous judge, Rudolph Randa, should have recused himself because of an ethical conflict of interest. Nine of Randa’s close relatives were buried in the cemeteries affected by his decision allowing the transfer of funds.



A major case involving religious accommodation for employees was heard by the U.S. Supreme Court on February 25. Oral arguments in *Equal Employment Opportunity Commission v. Abercrombie & Fitch Stores, Inc.* revolved around whether a prospective employee, in this case, Samantha Elauf, a Muslim, had to inform her employer that she wore a headscarf for religious reasons. Several justices said there was no evidence that Elauf believed wearing a headscarf violated company policy. The interviewer had an obligation to explain the company’s

policy and to begin a dialogue with the applicant rather than deciding not to hire, suggested Justice Samuel Alito.

A federal district court agreed with Elauf, but the Tenth U.S. Circuit Court of Appeals sided with Abercrombie.

An unusual coalition of liberals (American Civil Liberties Union), moderates (The Baptist Joint Committee for Religious Liberty, the General Conference of Seventh-day Adventists), and conservatives (National Association of Evangelicals, Christian Legal Society) filed friend-of-the-court briefs defending a person’s right to wear a religiously-mandated headscarf at work. Altogether, fourteen groups, including the American Islamic Congress, filed briefs on behalf of Ms. Elauf. BJC general counsel Holly Hollman said, “This case is about making sure prospective employees are not categorically disqualified from work opportunities based upon religion.”

(As we went to press, the Supreme Court ruled in favor of Elauf and returned the case to the Tenth Circuit.)



A California public school district may continue to use yoga in its physical education classes, despite its close ties to Hinduism. A three-judge panel of California’s Fourth District Court of Appeal ruled on April 3 that the practice does not impermissibly advance religion. “The record in this case contains abundant evidence that contemporary yoga is commonly practiced in the United States for reasons that are entirely distinct from religious ideology.”

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



The program is used in the 6,500-student Encinitas Union School District in San Diego County. The case, *Sedlock v. Baird*, differs from a major federal court ruling, *Malnak v. Yogi*. The California court insisted that the program was “devoid of any religious, mystical, or spiritual trappings.”



Religious objections to public policy are not unlimited, according to recent judicial decisions. In February the U.S. Court of Appeals for the Third Circuit agreed with previous rulings of the Sixth and Seventh Circuits upholding the Obama administration’s compromise on contraceptive coverage. Legal reporter Don Byrd wrote, “The court rejected arguments by religious organization plaintiffs that the form certifying its exemption is a substantial burden on religious exercise.” Several religious conservatives claimed that notifying third-parties required their complicity in moral evil. Byrd added that “the four appeals courts to rule on the issue have all agreed that it does not amount to a substantial burden. Other cases are still pending across the country.”

In another case involving a different issue, a Washington State court ruled that a florist in the town of Richland could not claim that her religious beliefs superseded state antidiscrimination laws. Benton County Superior Court Judge Alex Ekstrom ruled on February 18 that Barronelle Stutzman, a florist who refused to provide flowers for a gay couple’s wedding, was in violation of state law despite her claims of religious belief. Associated Press reported, “Ekstrom says the First Amendment protects religious beliefs but not necessarily actions based on those beliefs. He also says the state has the authority to prohibit discrimination.”

A Religious Right group, the Alliance Defending Freedom, said it will appeal the ruling.



The U.S. Court of Appeals for the Seventh Circuit ruled 2-1 on May 19 that the University of Notre Dame’s request to be exempt from the contraceptive mandate compromise was not justified. AP reporter Tom Coyne wrote, “An exemption provided by President Barack Obama’s administration allows Notre Dame to avoid directly paying for contraceptives, and therefore doesn’t force the school to violate its religious beliefs. Notre Dame contends that the law forces it to violate Catholic doctrine, which bars most forms of birth control, by becoming conduits to purchasing contraceptives.” The court did not rule on the merits of the case but refused to allow the university to opt out of the decision temporarily because an injunction would “temporarily cut off contraceptive coverage for hundreds of thousands of women.”

Similar rulings upholding the Obamacare provisions have come from the Third Circuit and the D.C. Circuit, while another is being heard by the Sixth Circuit. *Washington Post* “High Court” reporter Robert Barnes observed, “Three circuit courts of appeals have examined the issue, and they have been unanimous in ruling that the government’s solution of shifting the burden to the groups’ insurers allows women no-cost access to contraceptives without infringing on the religious rights of the objecting nonprofits.”

Many legal observers expect the issue to return to the U.S. Supreme Court in the near future.

A Kentucky state court upheld the right of a printing company owned by conservative Christians to refuse to produce T-shirts promoting a gay pride festival. Circuit Judge James Ishmael reversed an October 2014 decision by a human rights commission in Lexington that found the company’s action against the Gay and Lesbian Service Organization (GLSO) to be a violation of a local statute.

*Christian Science Monitor* staff writer Warren Richey said the case is part of a growing trend nationally. “Lawyers for religious business owners have sought to draw a distinction between selling existing products to people who happen to be gay or lesbian as part of a public accommodation versus engaging in expressive endeavors that promote activities they find religiously offensive. In the Kentucky T-shirt case, an owner of the company, Hands on Originals, declined to accept an order for T-shirts promoting the 2012 Lexington Pride Festival because the event promoted sexual relationships and sexual activities outside of a marriage between one man and one woman.”

The company did refer GLSO to another printer. The judge on April 27 noted in *Hands On Originals v. Lexington-Fayette Urban County Human Rights Commission* that the printer had refused 13 other orders that violated its religious principles.



A federal court allowed Hamilton County, Tennessee (the Chattanooga area), to continue its policy of invocations delivered by clergy at county commission meetings. Invoking the U.S. Supreme Court ruling in *Town of Greece v. Galloway*, the U.S. District Court for the Eastern District of Tennessee held on April 22: “While legislative bodies cannot intentionally discriminate against particular faith systems, they can require that invocation givers have some religious credentials.”

Two local citizens charged that the policy of reserving invocation speakers from “a list of all the religious congregations with an established presence in Hamilton County” was discriminatory. The court, in *Coleman and James v. Hamilton County, Tennessee* rejected that argument.



The Rowan County Board of Commissioners violated the First Amendment by starting each meeting with explicitly Christian prayers, according to a May 4 ruling by a federal court in North Carolina. Judge James Beaty of the U.S. District Court for the Middle District of North Carolina wrote: “When plaintiffs wish to advocate for local issues in front of the board, they should not be faced with the choice between staying seated and unobservant, or acquiescing to the prayer practice of the board... The board’s practice fails to be nondiscriminatory, entangles government with religion, and over time, establishes a pattern of prayers that tends to advance the Christian faith of the elected Commissioners at the expense of any religious affiliation unrepresented by the majority.”

Judge Beaty wrote that the Rowan County practice differed from the ruling generally upholding prayer at similar meetings by the U.S. Supreme Court in *Town of Greece v. Galloway*. “While an all-comers policy is not necessarily required, a nondiscriminatory one is. When all faiths but those of the five elected Commissioners are excluded, the policy inherently discriminates and disfavors religious minorities.” ■



# The Voucher Watch

- Indiana's voucher program "may actually impede student achievement and harm the education system generally," concludes the Center for Tax and Budget Accountability (CTBA), a research institute in Chicago.

CTBA studied a wide range of data from Indiana and found serious deficiencies. "One probable consequence of the Indiana Choice Legislation, therefore, will be the diversion of public, taxpayer dollars away from the state's higher performing public education system to lower performing private religious schools. Because of this, the Indiana Voucher Legislation may actually diminish student achievement in the state over time."

In addition, racial segregation has increased. "Because white children as a percentage of voucher recipients in the 2014-2015 school year exceed the next largest racial group by more than 44 percentage points, Indiana's voucher program will likely lead to increased racial stratification within Indiana's K-12 public schools." The quality of education in the nonpublic schools is questionable. "Because the Indiana Choice Legislation prohibits the state from regulating the 'curriculum content' at private schools that accept vouchers, public taxpayer money will be spent on education of uncertain quality."

Indiana's voucher program has already diverted \$115 million in public funds in this school year. "In context, that means over \$115 million of public, taxpayer money annually will be diverted from potentially enhancing student achievement by following the evidence-based strategy of building capacity in the state's public school system, and instead used to subsidize students attending private schools."

"This is difficult to justify," the report noted, "given that the public revenue spent to subsidize private decisions serves no identifiable public interest."

The Indiana experiment "raises concern that the Indiana voucher program will ultimately have a negative impact on public education generally and on student achievement specifically."

Governor Mike Pence rejected the report's findings.

- Indiana's voucher program has boomed because of new eligibility requirements. More than 29,000 students attend private, mostly religious schools, a 47% increase over last year. "A family of four with an annual household income of up to \$67,200 is eligible, making half of the state's 1.1 million schoolchildren eligible for the program," noted Arianna Prothero in *Education Week*, March 25. Prothero added, "Indiana policymakers have been steadily expanding eligibility and also removed the cap on the number of students who can participate, and made vouchers available to students who were already enrolled in private schools."

While initially billed as a program to help minority students in struggling public schools, the program has changed dramatically, with 51% of voucher students having never attended a public school. Currently 61% of voucher students are white, 16% are Hispanic and 14% are black. The program granted \$116 million in public funds to private school tuition this year compared to \$81 million last year. Catholic schools enroll 70% of all voucher students, who receive up to \$4,800 for tuition.

- The North Carolina Supreme Court heard testimony on February 24 in a case challenging the recently-enacted voucher program euphemistically called the "Opportunity Scholarship Program." The law, enacted as part of the 2013 state budget, appropriated more than \$10 million in public funds, or \$4,200 per student, to attend private schools.

Superior Court Judge Robert H. Hobgood declared the program unconstitutional last August. The Supreme Court allowed the application process for vouchers next year to move forward while it considers the appeal. Those already approved for vouchers in the current school year (2014-15) were allowed to stay in the voucher schools.

Suits challenging the constitutionality of the program were filed in December 2013, and it is those challenges the state's highest court is now deciding. Challengers say the voucher law violates the state constitutional provision requiring that public funds be exclusively used for public schools. The law also violates the constitution's "public purpose" provision, they say.

At the oral testimony, Raleigh civil rights attorney Burton Craig told the court: "North Carolina's voucher program is unique. No other voucher program in the country allows the receipts of vouchers by private schools that can be unaccredited; employ unlicensed uncertified teachers – including teachers who don't even have a high school diploma; employ teachers and staff without performing a criminal background check; teach no science or history; teach only the recitation of religious texts; and discriminate against students with disabilities. In the absence of standards, North Carolina stands in a class of its own."

- Ohio's voucher system, the nation's second largest, has taken \$75 million from public schools under the EdChoice program. But many vouchers remain unused. Citing data released by the Ohio Department of Education on March 6, Diane Ravitch wrote, "The state offers 60,000 vouchers for children and fewer than one-third were used this school year." Furthermore, half the vouchers went to students who had never attended a "failing" public school. Added Ravitch, "They are taking advantage of public money to attend private and religious schools, which their families would be paying for absent the voucher program. So taxpayer dollars are used to subsidize tuition at private and religious schools."

The participating schools tend to be religious and are using vouchers to shore up their programs. St. Mary School in Marion has 40% of its student body on the voucher program. Its principal, Jack Mental, said, "This could be a lifeline to our school."

- Catholic schools are making an enrollment comeback in Wisconsin as a result of the state's \$191 million voucher program. Freelance journalist Marie Rohde, writing in *National Catholic Reporter* (March 27-April 9), said, "Nearly 27,000 students receive vouchers to attend these Catholic schools, and a family of four earning as much as \$78,000 is eligible." She cited the example of St. Anthony School in Milwaukee, whose enrollment has increased from 300 to 2,000 since the state supreme court ruled in 1998 that tax-funded vouchers could be used in religious schools. Kathleen Cepelka, superintendent of the Milwaukee archdiocese schools, told Rohde that without the vouchers, "we would probably be in a purely survival mode."

Cepelka also noted that maintaining a "Catholic identity" is essential. Rohde added, "In most of the schools, Mass is celebrated weekly, but parents can opt out. Prayer is said daily, and religion is taught in the classroom. . . . Cepelka said teachers and administrators are also required to participate in an annual program through Cardinal Stritch University aimed at developing their own faith."

- Pennsylvania's generous tax credit programs may soon grow even larger. Bobby Kerlik, staff reporter for Trib Total Media in Pitts-

*continued on page 8*

## Voucher Watch, *cont. from page 7*

burgh, wrote on March 26: “State leaders from both political parties threw their support behind a bill Thursday that would expand tax credit programs providing public dollars for those who qualify to attend schools, including private ones, outside of their regular public school.” Kerlik added, “A bill in the House would increase the combined budget for the programs from \$150 million in tax credits annually to \$250 million annually.”

The Education Improvement Tax Credit Program began in 2001 and allows businesses a 75% reduction in state taxes for a one-year donation and a 90% reduction for two years. Businesses may give as much as \$750,000 annually. The Opportunity Scholarship Tax Credit Program provided tuition assistance to students to attend private i.e. religious schools if their public school is considered “low achieving.”

Pennsylvania State Education Association spokesperson Wythe Keever called the program “back-door tuition vouchers” and noted a lack of accountability in the program. “In other words, taxpayers pay 75% to 90% of all the funds. That’s revenue to the Pennsylvania general fund that is lost,” he said.

- Alabama’s tax-credit law which allows individuals and corporations to aid private, mostly religious, schools was upheld by the state supreme court in March. Despite the state constitution’s Article XIV, Section 263, which bans public money for “the support of any sectarian or denominational school,” the judges claimed that the state “Accountability Act” sends funds to parents and to scholarship-program donors, not directly to the schools. The “donations” lower the state income tax liability.

- Funding religious schools through vouchers is a bad idea because it will eventually lead to compromising independence for the church schools, says Jennifer Hawks, staff counsel for the Baptist Joint Committee for Religious Liberty. “Increasing government regulation over private religious schools threatens both their autonomy and their religious mission,” she writes in the March issue of *Report from the Capital*.

Vouchers also threaten the religious liberty of all citizens. She argues, “Most private religious schools use religion as a factor in not only who they employ or what they teach but also how they select students. It is not uncommon for private religious schools to have religion as a factor in admission decisions through requirements such as church attendance or membership, a statement of faith from the student and/or parents or a reference letter from a pastor. Having religious criteria for admission puts parents in the untenable position of declaring a religious belief in order to access a government benefit. At a minimum, constitutionally protected religious liberty should prohibit tying government benefits to public professions of faith.”

She concludes, “Expending tax dollars to promote and advance religious education is bad for the government and the schools. Taxpayers should not be forced to financially support the religious teachings and the continuation of religious communities with which they disagree.”

- New York’s Democratic Gov. Andrew Cuomo and Republican Senate Majority Leader John Flanagan have joined forces to promote a costly tax credit proposal to aid private schools, most of which are faith-based. His proposal would allow donors to take a tax credit of 75% of their donations to “nonprofit education foundations” up to \$1 million. The cost to taxpayers would be \$70 million in the first year, but could easily rise to \$150 million or more.

Editorial opinion has been critical. In the state capital the Albany *Times-Union* on May 19 commented acidly, “A governor who perennially complains about schools’ insatiable appetite for money has sud-

## Texas Clergy Urge Rejection of Vouchers

A group of Fort Worth clergy urged the Texas House of Representative to reject Senate Bill 4, which would provide tuition tax credits to donors giving scholarships to private schools. Clergy representing the Baptist, Christian (Disciples of Christ), Episcopal, Methodist and Presbyterian churches, warned readers in the Fort Worth *Star-Telegram* on May 1 that the recently-passed Senate bill is plainly a “private school voucher” scheme that “pick-pockets public coffers.” They said that public education is the “anchor of the common good.”

“Religious liberty is at stake” when legislators “neglect the lawful, public system and violate the Texas Constitution’s Article 7, Section 1....Our state Legislature has repeatedly rejected private school vouchers because they divert public money to religious schools in violation of the First Amendment of the U.S. Constitution, which prohibits any establishment of religion....As a practical matter, vouchers channel public monies to private schools with no public accountability. Private schools could use public money to discriminate on race, gender, religion and special needs. Private schools define and meet their constituency’s needs, but public money must come with public scrutiny.”

In another part of the state, a Baptist minister whose church runs an independent school also criticized the voucher plan. Rev. Kyle Henderson, senior minister of First Baptist Church in Athens, told readers in the *Tyler Morning Telegraph* on March 5:

“These government payouts seek to fill in for faith. They whisper from the shadows that they are the answer to the problems of funding a Christian school....Vouchers and all its versions including ‘school choice options’ rightly come with responsibilities and obligations to the government. These vouchers are either a grab to control faith-based schools or an irresponsible, unaccountable disbursement of public funds. Either the government will start exerting control over faith-based schools, or they will send money to schools that do not have to meet any standards. The only viable choice for a faith-based school is to reject the funds.

“Faith is strong and alive in America because of the freedom of religion and the separation of church and state. In the places where this is not true, the church is an empty shell. Depending on the state for funds is a death sentence for free religion and vibrant faith.”

denly found millions of dollars to burn through for his Parental Choice in Education Act. It’s a public-private partnership of the worst sort—the public pays the tab, private schools and wealthy donors reap the benefits....With the Democratic governor and GOP Senate majority leader pushing hard for this bomb of an idea in the waning days of the legislative session, it falls on the Assembly to remind them that public schools are the public priority. Private schools are just that: private. Taxpayers should not have to prop them up, least of all while the state is hobbling public education.”

The *Jewish Daily Forward* on May 27 reported that 150,000 of the state’s 400,000 nonpublic students attend Orthodox Jewish yeshivas. The paper reminded readers that “a tax credit is the equivalent of cash” and “could deliver millions of dollars per year to cash-strapped Jewish day schools.” Catholic Cardinal Timothy Dolan also avidly supports the plan. ■

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# Updates

## Charters Need More Supervision, Survey Shows

A national survey of 1,000 registered voters shows that Americans want existing charter schools to have accountability and transparency, better training and qualification for teachers, and mechanisms to prevent fraud. They also want to ensure that neighborhood public schools do not lose funding when new charter schools open in their area.

Nearly 89% want those who manage charter schools to open board meetings to parents and the general public, and 88% want state officials to conduct regular audits of charter school finances. Nearly as large a majority want charter school managers to release annual budgets and contracts.

The poll found widespread positive views of public schools (63% rate the quality of schools in their neighborhood excellent or good) and by a 6-1 margin voters express favorable sentiments toward public school teachers. By a 2-1 margin, voters say their public schools are getting better, and 78% do not want public schools to lose funding to charter schools. About 72% want an analysis of the impact a charter school would have on neighborhood public schools before any new charter school is approved. Eighty-nine percent want charter school teachers to have the same level of training and qualifications as public school instructors.

A final finding was that “lack of school choice,” a mantra of charter and voucher school advocates, was the lowest concern of voters regarding education. Only 9% of voters cited this as a concern, much lower than standardized testing, overcrowded classes, and the impact of poverty and hunger on student achievement.

The poll was conducted by GBA Strategies on behalf of the Center for Popular Democracy and In the Public Interest.

## Minnesota Charters Fall Short

The Minneapolis *Star-Tribune* reported on February 17 that the state’s charter schools are not achieving academic success and are falling behind traditional public schools. The paper analyzed data from 128 of the state’s 157 charter schools and found that the academic achievement gulf between white and minority students widened at nearly two-thirds of the schools. Only half of charter school students were proficient in reading compared to 72% of public school students. Reporter Kim McGuire noted, “Between 2011 and 2014, 20 charter schools failed every year to meet the state’s expectations for academic growth each year, signaling that some of Minnesota’s most vulnerable students had stagnated academically....More than half of schools analyzed from 2011 to 2014 were also failing to meet the department’s expectations for academic growth, the gains made from year to year in reading and math.”

## Teachers Back Education about Evolution

The American Federation of Teachers warned against efforts “at the state and federal levels that attempt to use the guise of academic freedom as a means of introducing creationism, intelligent design or evolution denial into science classrooms.”

The March 29 resolution by this national teacher organization also encouraged “science teachers, in presenting evolution and other topics, to understand, respect and communicate the consensus of the

scientific community in order to present the science curriculum effectively to their students.”

Bills that encourage students and teachers to challenge and reject evolution were passed in Louisiana in 2008 and Tennessee in 2011 and have been introduced in other state legislatures. The American Association of University Professors decried this trend: “Such efforts run counter to the overwhelming scientific consensus regarding evolution and are inconsistent with a proper understanding of the meaning of academic freedom.”

## Public Schools Endorsed

The “thorough and efficient system of common schools” clause will stay in the Ohio Constitution. A commission working on a possible constitutional revision, the Ohio Constitutional Modernization Commission (OCMC), voted unanimously on March 12 to retain the clause. The chair of the Education, Public Institutions and Local Government Committee of OCMC had proposed that the clause guaranteeing a sound public school system be eliminated, but a statewide uproar prevented it.

## Religious Restrictions and Hostilities Vary Widely

Among the world’s 25 most populous countries, where five billion people live, religious restrictions are high in Indonesia (the worst nation), Egypt, Pakistan, Russia and Burma (Myanmar). The fewest restrictions or hostilities are found in South Africa. These findings from the Pew Research Center are based on the most recent data from 2013.

Pew researcher Angelina Theodorou explained that in the worst-rated countries “Both the government and society at large impose numerous limits on religious beliefs and practices.”

There was a difference between “restrictions imposed by government,” where China was rated the worst, and “social hostilities involving religion,” where India had the highest level. Government restrictions increased in Turkey, while social hostilities rose in Bangladesh. Interestingly, “The United Kingdom, where government restrictions decreased from a moderate to a low level in 2013, was the only country among the 25 most populous that had a significant decrease in its level of government restrictions on religion.”

The report found that social hostilities increased in the United States. Finally, “Several very populous countries have relatively low levels of restrictions and hostilities – including Brazil, the Democratic Republic of the Congo, Japan, the Philippines and South Africa. South Africa was in the lowest category for both social hostilities and government restrictions.”

## Religion-Based Bills in Congress

In addition to D.C. vouchers and a possible tuition tax-credit proposal from Sen. Marco Rubio (R-FL), Congress is also confronting at least two religion-based bills. The “Child Welfare Provider Inclusion Act” (S 667 and HR 1299) would punish states that sever ties with

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## Updates, *continued from page 9*

religious child welfare agencies that engage in discriminatory actions (such as refusing to allow unmarried couple or gays and lesbians from serving as foster parents). A number of religious agencies have withdrawn from the field in recent years. This bill would allow government funds to continue to flow to groups that deny family placements for religious reasons.

The “Preserve and Protect God in Military Oaths Act” (HR 1425) would deny the branches of the Armed Services the right to become more religiously inclusive in how service members take their oaths. The bill would require them to receive approval from Congress to change the language of their oaths.

### Abortion Law News

- Wisconsin’s law requiring hospital privileges for doctors performing abortions was declared unconstitutional on March 20 by U.S. District Judge William Conley, who held that “The only reasonable conclusion is that the legislation was motivated by an improper purpose, namely to restrict the availability of abortion services in Wisconsin.” He said any benefits to women’s health from the requirement were “substantially outweighed” by the harm done by restricting access. He placed a permanent injunction blocking its enforcement. Gov. Scott Walker signed the law on July 5, 2013, but it was placed on hold until Conley could rule on its constitutionality. Conley’s decision noted, “In particular, the State has failed to meet its burden of demonstrating through credible evidence a link between the admitting privileges requirement and a legitimate health interest.” Planned Parenthood, ACLU, and Affiliated Medical Services brought the suit. Only four centers provide abortions in Wisconsin, and this law would have forced the largest one to close.

- An Alabama law allowing judges to appoint lawyers for fetuses when a minor is seeking judicial permission for abortion was challenged in federal court by the ACLU on March 18. The Alabama law, passed in 2014, is apparently unique.

- Pro-choice legislators are fighting back, though without much success, since 91 of 95 pro-choice measures introduced in state legislatures last year were not enacted. Lawmakers sought to eliminate mandatory counseling for victims of rape and incest and to loosen parental consent laws in a number of states. Megan Thielking wrote in *VOX* on March 12, “State legislators have pushed forward on pro-abortion rights legislation because they worry about the possibility of the Supreme Court revisiting the issue and using that as an opportunity to overturn *Roe v. Wade*.”

- Voters who view abortion as a critical issue increased slightly, from 15% in 2009 to 18% in 2013, according to a Pew poll. (It was 28% in 2006, however.)

- Arizona became the first state to pass a law requiring doctors who perform drug-induced abortions to tell women that the procedure may be reversible. Rick Rojas, writing in *The New York Times* on April 1, noted, “Opponents of abortion see the provision as opening up a new avenue in anti-abortion legislation nationwide. [But] most doctors say the science behind the legislation is unproven or erroneous.” Arizona has also banned insurance plans working in the federal health care exchanges from providing coverage for most abortions.

Arkansas quickly followed Arizona’s lead when Republican Gov. Asa Hutchinson signed a similar law into effect on April 6. (Arizona Gov. Doug Ducey is also a Republican). Criticism of the decisions

came from the American College of Obstetricians and Gynecologists, which issued a statement saying, “Claims of medication abortion reversal are not supported by the body of scientific evidence.”

- Kansas and Oklahoma enacted strict new anti-abortion laws that ban a method routinely used to perform second-trimester abortions. The National Right to Life Committee (NRLC), an old-line anti-choice group, has promised to introduce similar legislation in every state legislature. “Doctors call the laws “deeply disturbing,” and pro-choice advocates have quickly dismissed them as downright unconstitutional,” wrote Sabrina Siddiqui, a political reporter for *The Guardian*. She added, “The anti-abortion movement has made significant gains at the state level, especially after conservatives swept the 2010 midterm elections and used their newfound grasp over statehouses to push a flurry of legislation that chips away at abortion rights.”

Another strategy is to pass 20-week abortion bans, which have become law in Kansas, Missouri, Oklahoma and South Dakota.

Pro-choice groups warn that these proposals are unconstitutional and unjust. The proposals are just “one more bill that chips away at a woman’s access to safe, legal abortion and substitutes a politician’s judgment for that of a medical professional,” said Jennifer Dalven, director of the Reproductive Freedom project at the American Civil Liberties Union.

- As expected, the U.S. House of Representatives passed a bill (H.R. 36) on May 13 that bans abortion after 20 weeks. The 242-184 vote was almost entirely along party lines. Only four Republicans were opposed and only four Democrats were in favor. White House spokesperson Josh Earnest was critical: “The bill continues to add a harsh burden to survivors of sexual assault, rape and incest who are already enduring unimaginable hardship.” The bill’s fate in the Senate is uncertain. President Obama will almost certainly veto the legislation.

### China Disputes Low Religious Freedom Rating

China lodged a protest on May 4 after a U.S. government commission labeled Chinese restrictions on religious freedom “severe and systematic.” The U.S. Commission on International Religious Freedom (USCIRF), created by Congress in 1998, said in its annual report issued April 30 that China allowed “unprecedented violations against Christians, Buddhists and Muslims last year.” China’s angry response was unusual since USCIRF has included China as a “country of particular concern” since 1999. China claimed the U.S. was “using religious issues as an excuse to interfere in China’s internal affairs.”

The USCIRF, which advises the State Department, spoke forthrightly, “By any measure, the horrors of the past year speak volumes about how and why religious freedom and the protection of the rights of vulnerable religious communities matter.” The commission agreed with State that nine nations remain “countries of particular concern.”: Burma, China, Eritrea, Iran, North Korea, Saudi Arabia, Sudan, Turkmenistan and Uzbekistan.

The Commission recommended adding eight countries to the list, citing recent violations of minority rights: Central African Republic, Egypt, Iraq, Nigeria, Pakistan, Syria, Tajikistan and Vietnam.

Ten other countries have also violated religious minority rights, but on a lower scale: Afghanistan, Azerbaijan, Cuba, India, Indonesia, Kazakhstan, Laos, Malaysia, Russia and Turkey.

Finally, the report urges all governments to acknowledge “the full recognition of religious freedom as a sacred human right.” ■

## International Updates

**Berlin:** Muslim women teachers can wear headscarves as long as the practice does not cause disruption in class, Germany's highest court ruled on March 13. The Constitutional Court reversed its own 2003 ban on headscarves. The court held that religious symbols could only be banned when they posed "a concrete risk of disruption in schools." Christine Lueders, head of the federal government's anti-discrimination agency, praised the ruling for "reinforcing religious freedom in Germany," though the German teachers association criticized it for "undermining the principle of religious neutrality."

German schools are under the control of its 16 states, much like Switzerland and Canada, so the ruling will have to be implemented by them. In many states crucifixes and other Christian symbols are commonplace.

**Bucharest:** Romania continues to grapple with the contentious question of religious studies in public schools. A Constitutional Court ruling last November, in an attempt to make sure that religion classes are optional, required parents who wanted their children to study religion to "opt-in." The Orthodox Church, which claims more than 80% of the population, organized a campaign that resulted in 90% enrollment in religion classes for next year.

Problems remain because the other 17 recognized faith groups rarely have enough qualified teachers, leaving the Orthodox Church largely in control of the classroom instruction. Lorelei Mihala, journalist for Romanian National Television, explained to readers of *Transitions Online*: "The Romanian Constitution guarantees the right to study religion in public school, and the education law enshrines religion classes in the core curriculum throughout a student's school life starting from the first year of primary school. But paradoxically, taking part in religion class was optional in what is, after all, a constitutionally secular republic."

Mihala added that the Orthodox Church has regained authority and influence since the fall of Communism: "With the regime's fall in 1989 came a renewal of public displays of faith. The Orthodox Church was the main beneficiary as it regained its old position of moral authority and state benefits began to flow in, a situation that led to criticism and complaints about the wealth of the church, which is financed by the state yet pays no taxes."

**Dublin:** Ireland's resounding approval of same-sex marriage in the May 22 referendum, by 62% on a turnout of 61%, put the Emerald Isle center stage. The 84% Catholic nation became the first country where voters made gay marriage legal. All others accomplished this through parliamentary or judicial venues. The approval won majority support in all regions of Ireland, with 70% support in Dublin, and carried 42 of the 43 electoral areas, losing only one rural jurisdiction in the Irish Midlands by a narrow margin. Catholic Church leaders opposed the referendum, but largely stood back and allowed conservative lay groups to lead the opposition.

Dublin Archbishop Diarmuid Martin said the vote represented "a social revolution," adding, "The church needs to do a reality check right across the board since most of the people who voted yes are products of our Catholic schools for 12 years." All of the nation's political parties endorsed the referendum, and Prime Minister Enda Kenny told the nation, "With today's vote, we have disclosed who we are: a generous, compassionate, bold and joyful people."

The referendum was considered so important that thousands of Irish citizens who live abroad returned home to cast their ballots.

**Kuala Lumpur:** The passage of a strict Shariah law in the northeastern state of Kelantan on March 19 has disrupted Malaysia's poli-

tics. The new law would amend the state's penal code to allow for punishments like caning and stoning for crimes such as alcohol consumption or apostasy. A similar law was passed in 1993 but has not been enforced because it violates the national constitution. The new law must still be approved by the federal parliament.

*International Business Times* commented, "Muslims make up about 60% of the country's 30 million citizens, which include significant Buddhist and Christian religious minority populations. While Islam is Malaysia's official state religion, the country's constitution allows for other religions to be freely practiced."

Reaction to the new law has been critical. An editorial in *Malay Mail Online* March 19 warned, "The eroding of our fundamental freedoms and civil liberties, in the name of religion, affects everyone." The Malaysian Chinese Association lamented, "There will definitely be a crisis when legal institutions are shaped to conform to a particular religion."

**Oslo:** Norway's relatively small Catholic Church was accused of exaggerating its membership numbers in order to obtain more state aid. News sources reported that Norway's Catholic Church claimed to have 140,000 registered members in 2014, more than double the number in 2010, enabling it to receive more than \$6 million in state subsidies. The news service AFP explained, "In Norway, a predominantly Protestant country, the state provides subsidies to organized religions, the size of which is determined by the number of members." Oslo's diocese denied fraudulent intent but admitted that its method used to count registered members was "unsatisfactory and led to some incorrect registrations." Police raided the diocesan offices on February 26 on suspicions of "aggravated fraud."

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### ARL in Action

ARL joined with several dozen educational, religious and civil liberties organizations in the National Coalition for Public Education, asking Congress not to reauthorize the District of Columbia private school voucher program.

In a May 14 letter to the House Oversight and Government Reform Committee, the signers said, "We oppose this and all private school voucher programs because public funds should be spent on public schools, not private schools. But the D.C. program, in particular, has proven ineffective and unaccountable to taxpayers. Not only have multiple Department of Education (USED) studies concluded that the program has failed to improve educational outcomes for participating students, but two U.S. Government Accountability Office (GAO) reports have also identified its repeated management and accountability failures."

The organizations emphasized, "Voucher programs also divert desperately needed resources away from the public school system to fund the education of a few voucher students. The government would better serve our children by using these funds to make the public schools stronger."

In summary, the group cited five overarching points:

1. The D.C. Voucher Program Does Not Improve Academic Achievement
2. The D.C. Voucher Program Lacks Sufficient Oversight
3. Many Participating Schools Are of Poor Quality
4. The D.C. Voucher Program Threatens Civil Rights and Undermines Constitutional Protections
5. The D.C. Voucher Program Does Not Provide Parents Real Choice

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## International Updates, *continued from page 11*

**Ottawa:** Canada's Supreme Court ruled unanimously on April 15 that a town in Quebec cannot open its council meetings with prayer. The nation's highest court held that the nation must be neutral in religious matters and "the state must not interfere in religion and beliefs.... This neutrality requires that the state neither favor nor hinder any particular belief, and the same holds true for non-belief."

The state has a "duty to protect every person's freedom of conscience and religion" and "may not use its powers in such a way as to promote the participation of certain believers or non-believers in public life to the detriment of others." Ron Csillaq, writing in Religion News Service, added, "The court said a nondenominational prayer is still religious in nature and would exclude nonbelievers."

The case dates back to 2007 when a resident of Saguenay, Quebec, objected to an official Catholic prayer in a public setting, and the Quebec Court of Appeals upheld the practice.

**Ottawa:** Prime Minister Stephen Harper's remark on March 13 that the niqab, a face-covering veil worn by some Muslim women, is "rooted in an anti-women culture," was denounced by opponents as Islamophobia. Harper's conservative government is seeking to ban the niqab during the oath of citizenship. His administration has also proposed stricter security legislation to protect Canadians from "jihadist terrorism." National elections are expected in October.

Left-of-center New Democratic Party leader Thomas Mulcair compared Harper to Russian President Vladimir Putin in a radio interview on March 13. The Liberal Party has also criticized Harper's rhetoric. Reuters reported that "the political debate has shifted from security to the place of Muslims in Canadian society, with the niqab as a Conservative vote-winning target."

**Paris:** According to the French journal *La Raison* (Reason), France "diverts" 10 billion euros annually to private schools, 90% of which are faith-based. The journal announced that a national rally would be held on December 5 to push abrogation of the 1959 Debre Law that authorized the aid and to restore the 1905 law separating church and state.

**Riyadh:** An Islamic court sentenced a man to death for renouncing Islam. The decision was announced on February 24 by the *Saudi Gazette*, an English-language daily. Saudi Arabia is dominated by the Wahhabi branch of Sunni Islam and gives Muslim clergy control over the legal system. In the Kingdom Muslim Shariah law requires the death penalty for apostasy and sorcery. Reuters reported, "International rights groups say the Saudi justice system suffers from a lack of transparency and due process, that defendants are often denied basic rights such as legal representation and that sentencing can be arbitrary."

**Rome:** The Italian government and the Vatican signed an agreement on April 1 that will commit both governments to share financial and tax information. Those entities with deposits in the Vatican Bank will now pay taxes on interest income to Italy. "Both states will be able to crack down on money-laundering and other illicit behavior. The treaty is part of the latest effort under Pope Francis to reform the Church's finances," observed Inés San Martín, Vatican correspondent for *Cms:nom.com*.

**Vienna:** Austria, which declared Islam a legally recognized religion in 1912, during the waning days of the Hapsburg Empire, revised its laws in February. The new reform passed by parliament gives Muslims, now 6% of the nation's population, more legal security but bans foreign funding for mosques and imams. This ban may be aimed at

nations that fund extremist versions of Islam. Muslim groups say the ban is discriminatory because international support is permitted for Christian and Jewish groups.

The new law recognizes Muslim religious holidays and requires university training for Islamic chaplains in prisons and the armed forces. Austria's Integration Minister Sebastian Kurz told BBC News, "What we want is to reduce the political influence and control from abroad and we want to give Islam the chance to develop freely within our society and in line with our common European values." Some Muslim countries criticized the law, especially Turkey, which is hardly known as a bastion of religious liberty or equality. Most Austrian Muslims claim Turkish or Bosnian ancestry.

**Yangon:** A New Zealand citizen, Phil Blackwood, was sentenced on March 17 to two and a half years in prison for "insulting religion." His offense was using a psychedelic image of Buddha wearing headphones to promote his bar. He and two Myanmar colleagues said they meant no offense and later apologized. Human rights groups have denounced the verdict as an assault on freedom of expression. The decision points up the rising power of Buddhist extremism. Explained Reuters, "The case comes amid a surge in Buddhist nationalism in Myanmar – which emerged in 2011 from half a century of military rule – with monks forming groups aimed at promoting the country's Buddhist character."

Religious extremists, led by the monk Wirathu, have called on Parliament to pass new laws regulating religious conversions and inter-faith marriages. Wirathu leads a Buddhist nationalist group calling itself the Committee to Protect Race and Religion. ■



## Books and Culture

***God's Bankers: A History of Money and Power at the Vatican***, by Gerald Posner, Simon & Schuster, 2015, 732 pp., \$32.00.

***Potiphar's Wife: The Vatican's Secret and Child Sexual Abuse***, by Kieran Tapsell, ATF Press, 2014, 362 pp., \$52.00.

These two books, covering different topics, explore an international institution that has in the past wielded great influence and power.

The church's complicated, secretive financial buildup is detailed in Gerald Posner's magnificent new book, *God's Bankers*. In exhaustive detail, with 172 pages of documentation, Posner explores the complex history of the Vatican Bank, largely run by clerics with little business background, and its relations with financial institutions worldwide, many of them rather shady, all protected from outside scrutiny by church law and the Vatican's status as a sovereign country. Posner examines the Vatican's traditional anti-Semitism, the possibility that it profited from wealth looted by the Nazis from Jews and other victims of Nazi tyranny, and the apparently widespread practice of money laundering. The book examines the roles of popes from Pius XI in the 1920s until today and leaves open the possibility that things will change significantly under Francis.

Moving on, we come to the history of the Vatican's problems with the sexual abuse of minors, which burst into the open in recent decades. For 1500 years Catholic Church law allowed not only church punishment of sexual abusers but also permitted abusers to be reported to civil authorities. All this shifted rather abruptly in 1922 with a number of changes in canon (church) law designed to protect clergy

abusers at the expense of the vast numbers of sexually abused minors worldwide. This subject is thoroughly analyzed in canon law-trained lawyer Kieran Tapsell's *Potiphar's Wife*. Tapsell's book, with abundant documentation, explores this issue mainly in the U.S., Ireland and Australia.

Tapsell concludes: "Bishops in the United States, Canada and elsewhere have claimed to be unaware of the serious nature of clergy sexual abuse and its impact on victims, but the historical record shows that this is not true. They may not have been aware of the scientific nature of the sexual disorders of these priests or the clinical descriptions of the impact on victims, but they always knew it was criminal and damaging. The 2004 John Jay College survey shows that the American bishops were well aware of the problem as far back as the 1950s, and consistently mishandled it."

Both books easily rate five stars.

—Edd Doerr

***One Nation Under God: How Corporate America Invented Christian America***, by Kevin M. Kruse. Basic Books, 2015, 352 pp., \$29.99.

Those who think the "Christian Nation" idea was propounded by the Founding Fathers and the Constitution's framers are in for a surprise when (or if) they read this excellent interpretive history. Princeton professor Kevin Kruse shows conclusively that elements of corporate America opposed to the Roosevelt New Deal helped promote the thesis that individualist capitalism and conservative Christianity were a perfect fit.

That idea did not sell until the Eisenhower administration made it a basis of public policy and conjoined piety with patriotism, thus changing the "public religion" of the U.S. forever.

It was under Eisenhower, who received the near unanimous backing of corporate interests and conservative religion, that "In God We Trust" was added to the currency and postage stamps, and became the official national U.S. motto. Cabinet meetings began with prayer and the new president wrote a prayer for his inaugural ceremonies. The phrase "under God" was added to the Pledge of Allegiance. "During the Eisenhower era Americans were told, time and time again, that the nation not only should be a Christian nation but also that it had always been one."

Moreover, "White House officials hoped they could use the new laws for political gain." The same was true of the National Prayer Breakfast that began in 1953. These changes, "twin pillars of ceremonial deism," sailed through Congress with nary a word of opposition. Eisenhower broadened his version of "religious nationalism" to include more religions than his conservative Protestant base, thus altering the rhetoric and context of the role of religion in national life.

After being downplayed in the Kennedy-Johnson era, this brand of civil religion returned with a vengeance under Richard Nixon. Weekly White House religious services, broadcast over radio, "originated with Nixon" and his close friend and supporter, Rev. Billy Graham. It was hardly inclusive. "Graham's intervention was vital, as he provided the White House staff with the names of conservative Protestant ministers who would readily answer the president's call.... The White House staff went to great lengths to ensure that clergymen invited to the East Room were conservatives connected to a major political constituency." Almost all were Protestant, with a handful of conservative Jewish and Catholic clergy. Furthermore, "Political concerns also dictated who attended each service.... The congregation was composed of prominent members of the White House and its supporters." Unsurprisingly, "Potential campaign donors were always given preference."

While the original leaders of the corporate-Christian movement

were disappointed that Eisenhower did not repeal the New Deal, they were pleased with the cultural outcome because "it ultimately accomplished more than its corporate creators ever dreamed possible. It convinced a wide range of Americans that their country had been, and should always be, a Christian nation." The Eisenhower era "permanently altered [the nation's] political culture." And while Eisenhower sought a kind of political-religious unity, "Richard Nixon helped complete this polarization of the nation's public religion, using it to advance divisive policies both at home and abroad."

The author accomplishes what he set out to do. "This history reminds us that our public religion is, in large measure, an invention of the modern era." Today's religion-infused politics "speak not to the origins of our nation, but to a specific point in its not-so-distant past."

This is a great book and a profound read.

—Al Menendez

***Liberty's First Crisis: Adams, Jefferson, and the Misfits Who Saved Free Speech***, by Charles Slack. Atlantic Monthly Press, 2015, 340 pp., \$26.00.

Freedom of speech, press, assembly and petition, like religious freedom and church-state separation, were/are intended to be protected by the First Amendment to our Constitution. However, in 1798, less than a decade after the Bill of Rights was adopted, the Federalist controlled Congress and President John Adams enacted the Sedition Act, which was immediately used to prosecute/persecute the slightest printed or spoken utterance that annoyed the Federalist establishment. Even a sitting member of Congress, gutsy Mathew Lyon of Vermont, was subjected to a sort of Star Chamber trial and sent to prison while running for re-election, which he won big while behind bars. Public reaction to these alarming clampdowns on freedom of speech and press led to the crushing of the Federalists and John Adams in the 1800 elections and the rise of Jefferson and the "Republicans" (or Democratic Republicans, not to be confused with today's Republicans).

The whole story is beautifully laid out in Charles Slack's terrific new book, a "five star" opus you just can't put down.

Slack's final chapter fast-forwards to an overview of today's situation, both in the U.S. and internationally. Even in the most advanced modern democracies freedom of expression is being burdened with a newly concocted "right not to be offended" that threatens the prior right. Slack concludes that the U.S. stands virtually alone with its "Parchment Barrier" to safeguard the right to free expression, just short of "yelling Fire! in a crowded theater." He sums up: "The Bill of Rights' first great accomplishment was to formally declare rights off-limits to government meddling." But, the author warns, there are still those in our country, some liberals as well as conservatives, who would tighten down on freedom of expression. It's too bad that our federal and state highest courts have of late shown inadequate devotion to the religious liberty portion of the First Amendment, but that is beyond the scope of this book.

—Edd Doerr

***Religious Freedom in America: Constitutional Roots and Contemporary Challenges***, edited by Allen D. Hertzke, University of Oklahoma Press, 270 pp., \$45.00 cloth, \$24.95 paper.

Religious liberty has been in the news in recent years, and this timely book addresses trends in the interpretation, history and understanding of this uniquely American principle.

Nine essays by scholars in several disciplines elucidate the problems

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

today and the historical contexts. Given the variety of views expressed, some essays are clearly better than others. Two stand-outs are Steven Green's historical essay on the public school prayer controversy in the Nineteenth Century, which "helped lay the foundation for modern "Supreme Court jurisprudence."

Another noteworthy contribution from two sociologists, Robert Martin and Roger Finke, explores how state courts have ruled on free exercise of religion cases from 1981-2011. They conclude that "religious outsiders are disproportionately likely to turn to the courts for protection" but "they are far less likely to receive a favorable ruling in so doing." Furthermore, "when religious minorities receive fewer favorable rulings and appear to receive less protection from the courts, they initiate fewer court actions." It is also difficult to win free exercise cases. "Free exercise claimants lose their cases about 88% of the time, even after all the legislation passed at the state and federal levels aimed at restoring religious freedoms."

Editor Allen Hertzke is professor of political science at the University of Oklahoma and author of a now-classic 1988 book on religious lobbies in Washington, D.C. His introduction, "A Madisonian Framework for Applying Constitutional Principles on Religion" is comprehensive. He laments "the erosion of the intellectual appreciation of the pivotal role of religious liberty in the American constitutional heritage," adding, "This amnesia erodes the legal protections for the autonomy of religious communities, institutions, and individuals in America."

Hertzke argues that "religious freedom is foundational" and "provides real guidance and inspiration in a host of interrelated arenas."

Finally, the American vision of religious freedom has global implications. "When the United States emerged as a global superpower after World War II, it also led the way in enshrining religious freedom as a universal right in international law and remains the global leader in upholding it today."

—*Al Menendez*

***Hoosier School Heist: How Corporations and Theocrats Stole Democracy From Public Education***, by Doug Martin. Brooks Publications, 2014, 211 pp., \$12.99.

Make no mistake, the war on public education is very real and very serious, though curiously far too often well below the radar of the media and the public. For over five decades the battles across America have taken the form of efforts to divert public funds to private schools, the vast majority of them narrow sectarian institutions, through vouchers, tax credits (backdoor vouchers) and other gimmicks. These efforts continue despite the 28 state referenda from coast to coast between 1966 and 2014 in which millions of voters have rejected these efforts by huge margins. (For details see "The Great School Voucher Fraud" at [arlinc.org](http://arlinc.org).) More recently we have seen the rapid escalation of the

charter school movement, in which hordes of non-educator billionaires, conservative foundations and private interests have been scrambling to grab chunks of the nearly \$600 billion annual budget for public education. Charters are nominally public schools that are run by private interests but are seldom required to play by the same reasonable rules as real public schools.

Too little attention is paid by the public and the media to the 2009 and 2014 Stanford University CREDO studies showing that fewer than 20% of charter schools are any better than regular public schools, mainly because they are selective in ways barred to regular public schools, and that nearly 40% are worse. Further, the endless waves of scandals involving charters are also below the radar.

Experienced educator Doug Martin's new book is a treasure trove of detailed information on every single page on the charter and voucher movements. As it happens Indiana is one of the principal epicenters of this pernicious activity, led by Republican governors Mitch Daniels and Mike Pence and a solid Republican legislature, not to mention Tony Bennett, the state's top education official until he was defeated at the polls in 2012 by outspent Democrat and public school teacher Glenda Ritz, now the target of the vindictive Gov. Pence and his accomplices.

While the book centers on Indiana, it covers the nation as a whole, providing abundant documented detail on the wealthy private foundations and donors fueling the charter drive. The author names names and cites dollar amounts. Prominent among the book's villains is Jeb Bush, the former Florida governor, presidential aspirant and failed Miami charter school co-founder whose signature school voucher plan was rejected by Florida voters in 2012 by 55% to 45%. Also criticized is the voucher front group, the Black Alliance for Educational Options, which tries to counter civil rights groups' opposition to siphoning public funds to private schools. Readers can also grasp that the tsunamis of cash spent by the voucher and charter movements dwarf the comparatively modest expenditures of the teacher unions to defend our hard pressed public schools.

This book rates five stars, up there with such other important recent books as those by Diane Ravitch, Mercedes Schneider, David Berliner and Gene Glass, and Chris and Sarah Lubienski.

—*Edd Doerr*

***Bad Faith: When Religious Belief Undermines Modern Medicine***, by Paul A. Offit, M.D. Basic Books, 2015, 253 pp., \$27.99.

Faith can and does kill and injure children. In this important new book pediatrician Paul Offit spells out in abundant, shocking, documented detail how Christian Science and other faith-healing cults actually cause death and injury to countless defenseless children. Equally damaging are Jehovah's Witnesses' opposition to blood transfusions, the current opposition to vaccinations by both conservative religious parents and others, and the opposition to abortion by Catholic and other religious officialdoms. (Before proceeding, let's note that Offit is a mainstream Christian and is not attacking religion generally, which actually strengthens the book.)

Offit shows that American (though not British or Canadian) oversensitivity about not interfering with faith-based opposition to modern medicine has been obstructing efforts to rein in "religious freedom" justifications for allowing parents and cult leaders to deny medical care to children, though Republican and conservative opposition to women's rights of conscience and religious freedom on abortion and contraception goes too often unchallenged. The author makes clear the damage wrought by Nixon henchmen, and Christian Scientists, Haldeman and Ehrlichman when they succeeded in attaching to the Child Abuse Prevention and Treatment Act (CAPTA), a provision giving a free pass to Christian Scientists and other believers in faith-

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healing. Offit also criticizes the U.S. refusal to ratify the UN Convention on the Rights of the Child, a failure that President Obama calls “embarrassing.” (The only other country not to ratify is Somalia.)

Offit also slams the Supreme Court’s narrow 2014 *Hobby Lobby* ruling that allowed employers to impose their “sincere religious belief(s)” on their employees. He asks, “What if companies run by Jehovah’s Witnesses refused coverage for blood transfusions; or Scientologists refused antidepressants; or Muslims, Jews, or Hindus refused medical products containing porcine gelatin, such as anesthetics, intravenous fluids, or pills; or Christian Scientists refused vaccines; or Catholics refused AIDS medications or services for same-sex couples?”

One hero stands out in this must-read book, Rita Swan. Swan is a former Christian Scientist whose son died because of that religion’s opposition to medical science. Swan has for decades headed Children’s Health is a Legal Duty (CHILD), which has fought hard for legislation to protect children from the preventable death and damage from the various forms of faith-healing and too often indifference of lawmakers and ordinary citizens.

This great page-turner easily merits five stars.

—Edd Doerr

### ***The Francis Miracle: Inside the Transformation of the Pope and the Church***, by John L. Allen, Jr., Time Books, 2015, 276 pp., \$27.00.

John L. Allen, Jr., formerly the Vatican correspondent for *National Catholic Reporter* and now associate editor of the *Boston Globe*, has written an insightful, fact-filled study of Pope Francis’s first two years. Allen is cautiously optimistic about the future but warns that the pope’s attempts to reform Vatican finance and to make sexual abuse by clergy a thing of the past are incomplete. Francis has appointed numerous reformers and removed many ultraconservatives from key Vatican posts, it should be noted.

Allen warns that a backlash from liberal Catholics is on the horizon. “At some point, however, those liberals will demand movement from rhetoric to policy, and on that front, many may be disappointed.” The author feels that Francis’s stated support for women has not yet come to fruition. “For many people, including rank-and-file Catholics who believe in gender equality, it is difficult to square Francis’s overall reputation as a maverick and a progressive reformer – plus his specific pledges to enhance the role of women in Catholicism – with his steadfast defense of the status quo when it comes to female priests.”

The pope’s policies “have elicited high expectations.” However, “While there have been steps forward, it’s clear that much work remains to be done.”

Allen gives Francis high marks for his emphasis on human rights and social justice statements, and for moving Vatican diplomacy into new realms that might advance world peace.

—Al Menendez

### ***The Swerve: How the World Became Modern***, by Stephen Greenblatt. W. W. Norton, 2011, 356 pp., \$16.95.

Yaakov Malkin’s 2007 book *Epicurus & Apikorsim* (reviewed in *Voice of Reason* No. 128) tells the fascinating story of how Greek philosopher Epicurus (341-270 BCE) and his Roman poet/“publicist” Lucretius (95-50 BCE) vastly influenced thought in the Greco-Roman empire and may be considered the forerunners of today’s naturalistic humanism. Epicurus was so influential that Jewish religious leaders of the period used his name in Hebrew, Apikoros, to mean “heretic” (plural “apikorsim”) to this day. Malkin then showed that Epicurus and Lucretius, author of the long Epicurean poem “*De rerum natura*” (On the Nature of Things), influenced such influential post-Renaissance thinkers as Spinoza, Locke and Jefferson.

However, even before the collapse of the Roman empire in the late fifth century the recently “established” Christian church began extirpating Epicureanism wherever it possibly could. After the empire’s collapse all that was left of the work of Epicurus and Lucretius were references to their work buried in various Greek and Latin texts. For all practical purposes the two philosophers’ thought and writing were blanked out for an entire millennium. So, how did their work come to influence the modern world?

That is the story that Harvard humanities prof Stephen Greenblatt tells in *The Swerve*, the story of Poggio Bracciolini (1380-1459), Florentine scribe, scholar of Greek and Latin literature, “book hunter,” and lay (emphasis on “lay”) aide to several popes. In 1417, after his boss, Pope John XXIII, was deposed by the Council of Constance, Bracciolini took the time to search through German monasteries for ancient Greek and Latin books written on papyrus or vellum or whatever he could find, books that were endlessly and mindlessly copied for centuries by monks who paid no attention to the content of what they were copying. The Florentine, who knew of Epicurus and Lucretius from their frequent mentions in classical literature but had

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

never actually seen “De rerum natura,” was elated when he actually found a copy of it. He had it copied and sent off to Italy, where more copies were hand reproduced. After Gutenberg invented the printing press in mid-century the book “went viral,” as we would say today, in Latin and in French, German, English and other languages.

Try as it might, the church was unable to dam the flood, and Epicurean/Lucretian thought spread unstopably. And that, writes Greenblatt, is what stimulated the Enlightenment, modern thought, science, and political and philosophical thinking and writing.

*The Sverne* is a great read, a book one can't easily put down, with little sparkles of wit and a wealth of historical knowledge. Let's give it five stars.

—Edd Doerr

***The Future of the Catholic Church with Pope Francis***, by Garry Wills. Viking, 2015, 263 pp., \$27.95.

Historian and staunch Catholic progressive Wills says his book is designed to emphasize how the church has changed repeatedly over the centuries, in order to shape the larger culture and often in response to it. Many of these changes proved to be negative and injurious to church and state.

Wills is critical of absolutism and churchly attempts to dominate society, reminding us, “The harmony of church and state was achieved by interdicts, assassinations and enslavements.” He ridicules the use of natural law, “that slippery concept,” to ban contraception, arguing, “There have been many versions of natural law invoked in various cultures.” (Wills is nothing if not forthright, calling bishops “this dreary group of unmarried men.”)

Most readers will cheer Wills' observation on one contentious issue. “Some Catholics and evangelicals have made opposition to abortion the center of their spiritual life. No dogma is treated with more insistence. This is odd since the matter is nowhere mentioned in the Old Testament or New Testament, or in the early creeds.”

Wills believes Pope Francis will slowly move the church in a more

inclusive and democratic direction. For one thing, Francis “treats women as equals and consults them,” which Wills sees “as a sign of hope for the future.” This may eventually lead to greater roles for women in the church and for more respect for their autonomy in decision making, even though “The official church has been one of history's sturdiest bastions of patriarchy.” Wills admires Pope Francis' emphasis on humility. “That kind of pope bodes well for the future of the Catholic Church.”

—Al Menendez

### Why Tolerance of Religion Is Not Enough

The following are excerpts from this editorial: “The world needs more examples these days of judicious ways of resolving disputes between the right to religious expression and the demands for justice and the common good. Lawmakers in the United States and other countries are debating more measures aimed at balancing religious freedom and any compelling public need as defined by an elected government.”

“The reason to elevate such debates is clear: The world now has more than 50 million people displaced by violence – the most since World War II – with most of them having fled conflicts that involve disputes over religion, such as in Syria, Nigeria, Sri Lanka, and Myanmar (Burma)...Atrocities against people of faith, or in the name of a faith, demand something stronger than tolerance. A person's religious actions and search for truth demand high respect and protection. More leaders must be active rather than passive in preventing coercion of religious expression.”

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