



VOICE OF REASON

The Journal of Americans for Religious Liberty

2010, No. 4 [113]

Religious Affiliations in the 112th Congress: Gains and Losses

Catholics still rank first in Congressional representation as they have since 1964, but their 151 seats represent a decline of perhaps ten members, depending on recounts. This is the largest decline for Catholics since modern record keeping began in 1947.

Baptists placed second with 71 members, only one short of their record set in 2000 and 2004. Methodists were third with 48 members, their all time low. There were 46 Presbyterians, an increase of two, and 39 Jews, a loss of five. Episcopalians were up one to 37, while Lutherans hit 26, an increase of three and an all time high. There were 25 nondenominational "Protestants," an increase of one, and 22 nondenominational "Christians," an increase of six. Mormons numbered 14, a gain of one. The Eastern Orthodox contingent numbered six, a decline of two, and the United Church of Christ membership remained at five. Religiously unaffiliated members declined by one to five. Buddhists increased to three, while numerous smaller groups had one or two members. Unitarian Universalists were reduced to two. (See Chart 1).

(This compilation is based on 529 certified results as of press time. There are six still to-be-decided races. The final count will be reported in our next issue.)

The historic patterns between religion and geography are alive and well. Roman Catholics are strongest in New England (18 of 34, or 53%), and the Mid-Atlantic regions (36 of 67 or 54%).

Jewish members are most likely to represent districts in California (9) and New York (7). There are two Jewish representatives from Connecticut, Florida, Michigan and New Jersey.

Washington State has become something of a stronghold for the nondenominational "Protestant" and "Christian" categories, designations chosen by five of the state's nine House members. There are six "Protestants" from California. Nondenominational Christians are strong in Indiana.

Baptists are concentrated in the South (38 of their 71 members) and hold a majority of seats in Arkansas, Mississippi and Georgia. But heavily Baptist Tennessee has no Baptist Congressman. Baptists tend to fall into two distinct groups: 21 African American Democrats are found in all regions while 34 are white Southern Baptist Republicans, mostly in the South.

Methodists are strongly represented in Texas and Ohio. Half the delegations from Kansas and Nebraska belong to the Methodist church. Presbyterians are distributed throughout the country and are particularly strong in Delaware, West Virginia and Wyoming, where they are the majority of members. They have four members from California and North Carolina and three from Florida, Missouri, Tennessee, and Virginia.

Episcopalians are strongest in Florida, where six members belong to this tradition. Just over half of Episcopalians (19 of 37) come from the South. There are three Episcopalians from Texas and Virginia, and two

from Georgia, New Jersey, Oregon, and Tennessee.

Lutherans are historically Midwestern and still have their highest members from Minnesota (4) and Wisconsin (3). But Lutherans were elected in 20 states, the majority of them in the West or Midwest. The 14 Mormons are concentrated in Utah (5), Idaho (3) and California (2). Coleen Hanabusa became the third Buddhist elected to Congress, making the Hawaii House delegation all Buddhist and all female.

Race, religion and party are somewhat related. The South has seen almost total vanishing of white Baptist Democrats, culminating in this fact: Not one white Democrat now represents the Deep South states of Alabama, Louisiana, Mississippi and South Carolina—the four states where Strom Thurmond, Barry Goldwater and George Wallace ran strongest decades ago. Each state has one black Democratic congressman—while all others are white Republicans. Only one white Democrat remains in Arkansas and Georgia. The long-anticipated realignment of the white South seems to have

been completed in 2010, as Southern Republicans outnumber Southern Democrats in the House 94-37. The rest of the nation is almost

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Religion and the Exit Polls

The sweeping Republican triumph in the House was reflected in the trends among religious groups. The National Exit Poll of 17,504 voters found increases of 6% to 12% in Republican support among all religious groups (except Black Protestants), from white evangelicals to the nonaffiliated. It was particularly pronounced among white voters, who were 78% of all voters.

The usual divisions predominated. Among white evangelicals 78% voted Republican, up 8% over 2008. White "mainline" or non-evangelical Protestants supported GOP candidates 58% to 40%, a 7% gain. White Catholics went Republican 59% to 39%, a shift of seven points. The GOP gains among Catholics and mainline Protestants were significant in the drubbing Democrats received throughout the Midwest, in suburban Pennsylvania and in Upstate New York.

Even religiously unaffiliated voters gave the Republicans a seven-point gain, though Democrats won 66% to 32%. Voters of "other" religions stuck with the Democrats 73% to 25%, though that was still lower than in recent elections. The Jewish sample (2%) was too small for analysts to make a credible observation, but pre-election polls from Pew and the American Jewish Committee showed a 13% gain in Republican identification since 2008. Nearly 33% of Jewish voters said they were Republicans, up from 20% in just two years, while Democrats declined from 72% to 60%. Two independent Jewish surveys put the Republican vote between 31% and 37%.

Hispanic/Latino voters remained Democratic by 64% to 34%, which showed a relatively modest 4% Republican gain. There was no breakdown between Latino Catholics and Protestants, though Latino Catholics favored Barack Obama and the Democrats by a 3-1 margin in 2008, while Hispanic Protestants, who supported George Bush in 2004, gave Obama a small majority.

All white voters shifted nine points toward the Republicans, while black voters moved 1% in the opposite direction, favoring Democrats by a 10-1 margin. The election of two African American Republicans in the South, Tim Scott in South Carolina, and Allen West in Florida, did not nudge the national black vote toward the Republicans. And even though Hispanic Republicans won a U.S. Senate seat in Florida, the governorships of Nevada and New Mexico, and five U.S. House seats, the overall shift to Republicans among Latinos (4%) was only about half the shift among white voters. While Marco Rubio swept the Hispanic vote in Florida (55% in a three-way race), Brian Sandoval won only a third of Hispanics in Nevada. He owes his election as governor to white voters.

The immigration issue, specifically the widespread anti-immigrant rhetoric from many Republicans and Tea Party advocates, may have slowed any Republican growth among Hispanics. Mark Hugo Lopez, associate director of the Pew Hispanic Center, wrote, "In many state races, Republican candidates won the white non-Hispanic vote while Democratic candidates won the Latino vote."

The electorate in 2010 remained about the same as in previous elections, religiously speaking: 25% white evangelical Protestants, 19% white Catholics, 19% white mainline Protestants, 9% Black Protestants, 6% Hispanic Catholic, 12% no affiliation, 8% other religions (including Hispanic Protestants) and 2% Jewish.

(Note: Exit polls in congressional elections have been criticized for not being quite as precise as in presidential years, since there are some congressional districts where only one major party candidate was running. Not all states had exit polls in governor or senate races. New Mexico, for example, the most Hispanic state in the nation, had no exit poll in the governor's race, where the first Latina woman was elected. Inexplicable!)

— *Al Menendez*

Tea Party and Religious Right: Not So Far Apart?

The Tea Party Movement (TPM) has been seen as a wholly secular rump movement within the GOP, pulling the party to the right on economic issues, its primary area of concern. But one scholar, Mark Silk, editor of *Religion in the News*, published by the Greenberg Center at Trinity College, challenges that conventional wisdom. In the Summer 2010 issue, Silk writes, "Cast your eye over Tea Party candidates and you will find nary a dissenter from the orthodox Religious Right positions." He continued, "In Kentucky, James Dobson switched his endorsement when he determined that Tea Party candidate Rand Paul was sufficiently pro-life, and made Paul the runaway victor in the Republican senatorial primary. In Nevada, Tea Partier Sharron Angle, who secured the GOP nomination to oppose Harry Reid, is a Southern Baptist convert who does not hesitate to claim that God had chosen her for this mission. Sometime Alaska Gov. Sarah Palin and Minnesota Rep. Michelle Bachmann have no difficulty doffing and donning their Tea Party and

Voice of Reason is the quarterly journal of Americans for Religious Liberty, PO Box 6656, Silver Spring, MD 20916 (telephone 301-260-2988; fax 301-260-2989); e-mail: arlinc@verizon.net; website: www.arlinc.org). The journal is sent to all contributors to ARL.

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Americans for Religious Liberty is a nonprofit public interest educational 501(c)(3) organization dedicated to preserving the American tradition of religious, intellectual, and personal freedom in a secular democratic state. Membership is open to all who share its purposes. Annual dues are \$25 for individuals, \$35 for families, \$15 for students and limited income. Our IRS ID number is 36-3118921.

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religious right hats; indeed, it's hard to tell the hats apart."

Silk adds, "TPM supporters are 10 times more likely to identify as Republicans than as Democrats – and are less likely than Americans as a whole to favor the creation of a new political party. They are 50 percent more likely to be evangelical, half as likely to claim no religion." He concludes, "In sum, at the moment, the TPM looks like little more than the old religious right writ large and done up for the Great Recession. Only when the economy recovers will we be able to tell if it is actually something new under the sun."

A national survey conducted by the nonpartisan Public Religion Research Institute confirms Silk's observations. After polling 3,013 adults in September 2010, the Institute's American Values Survey found that nearly half (47%) of those who consider themselves part of the Tea Party movement are also supportive of the Religious Right. Most Tea Party supporters are conservative, not libertarian, on social issues. Nearly two-thirds (63%) say abortion should be "illegal in all or most cases." Only 18% support same-sex marriage compared to 43% of all adults.

On these issues Tea Party supporters are closer to Republicans than to Democrats or Independents, which is not surprising since 76% identify with or lean toward the Republican Party, and 83% said they would probably vote Republican in the midterm elections.

The Tea Party supporters are overwhelmingly white and male, and are older and more prosperous than all voters. They are also far more likely to live in the South.

In comparison to that segment of voters who are "Christian conservatives," the Tea Partiers are still more male, white, elderly and relatively wealthier. Both groups are overrepresented in the South and underrepresented elsewhere, particularly in the Northeast. There are race and ethnic differences between the two right-leaning groups. Nearly 27% of Christian conservatives are Black, Hispanic or Asian, while only 13% of Tea Party supporters belong to these minority groups.

Almost 36% of Tea Partiers are white evangelical Protestants compared to 21% of all Americans. Church attendance is higher (46% claim weekly attendance at religious services) among Tea Party identifiers than among the general population (36% weekly). Interestingly, 15% of Tea Party supporters are religiously unaffiliated, which is not much different from the 19% of the general population.

Tea Partiers seem nostalgic for an earlier America, since 55% agree that "America is a Christian nation," which is even higher than the 43% of white evangelicals and 42% of the general public who concur. Almost half (48%) of Tea Party supporters say they "worry that public officials do not pay enough attention to religion" compared to 34% of all Americans. This suggests that Tea Partiers are largely sympathetic to symbolic forms of civil religion.

As befits their demographic profile, Tea Party supporters are more likely than others to agree that "minorities get too much government attention" and that "immigrants are a burden on the country." Even white evangelicals are not that unsympathetic to minorities and immigrants. ■

Coloradans Reject "Personhood" Amendment

With mostly complete returns, Colorado voters again rejected a constitutional amendment that would have defined personhood in such a way that almost all abortions and some forms of birth control would be outlawed. The vote was 71% to 29% (1,142,075 to 477,634).

Every county rejected the amendment. In multicultural, religiously pluralistic areas like Boulder, Denver, and Aspen, the no vote reached

83%. In San Miguel County, a very liberal area often described as "the granola belt," the no vote was 85%, highest in the state. San Miguel voters had given Ralph Nader 20% of their 2000 presidential vote.

Ski resort areas were about 80% opposed, and small college-oriented counties topped 70% in opposition, as did the populous Denver suburbs. The state's wealthy Republican bastion, Douglas County, voted 66% no. Lake County, an old German Catholic area, voted 74% no.

The deeply conservative Hispanic Catholic rural areas in the Sangre de Cristo Mountains turned in 55% to 66% no votes (Conejos, Costilla, Huerfano and Las Animas Counties). Pueblo, a small town with a large Latino community, voted 66% against the amendment. Even the evangelical epicenter town of Colorado Springs (El Paso County) voted 59% to 41% no.

Two years ago Colorado voters rejected a similar proposal by 73% to 27%.

The Colorado personhood vote may have helped reelect Democratic Sen. Michael Bennet, who narrowly defeated his GOP challenger Ken Buck by one percentage point. Bennet stressed his pro-choice position, while Buck reiterated that he opposed abortion even in cases of rape and incest. In a state where Democrats lost two House seats and have fallen behind Republicans in party registration, the Bennet win is seen as significant as well as the overwhelming rejection of Tom Tancredo, an anti-immigration zealot, in the governor's race. ■

Editorial

Warning: Bumpy Road Ahead

This year's midterm elections have made our work much more difficult and much more necessary. It is more difficult because the Religious Right is certain to use the Republican triumph in the House to advance their agenda of religious division, intolerance, and hostility to church-state separation. Already, moves are afoot to reintroduce the District of Columbia school voucher program, which could be used as a model for other proposals detrimental to public education and religious freedom. There will surely be new attempts to restrict reproductive freedom, to weaken court jurisdiction over school prayer and religion-in-schools questions. After lying low for two years, the radical right zealots are back—and they know they will receive a more favorable hearing from committee and subcommittee chairmen. These ominous trends will affect state legislatures and school boards, where assaults on the integrity of science teaching and the requirements for religious neutrality are certain.

This issue of *Voice of Reason* shows the depth of research and comprehensive coverage long provided to our members by ARL's experienced team. Other publications provide facts. We are able to provide context for facts because of our many decades of experience. There is no substitute for analysis and breadth of knowledge to help readers understand the significance of rapidly changing events. Our coverage of politics, the law, and books cannot be found elsewhere.

The work of ARL is more necessary than ever. That is where you come in. For nearly thirty years we have relied on the generosity of individual donors to keep our vital work a reality. We appreciate your continued support in these difficult times. No donation is too large and none is too small.

—Edd Doerr

Religious Affiliations, *continued from page 1*

evenly divided between the parties.

There are considerable religious differences between Hispanic Democrats and Republicans. All 17 Hispanic Democrats are Catholic, while three of five Hispanic Republicans are Protestant. And no one seems to know for sure what religion Sen. Marco Rubio of Florida espouses. CQ lists him as a Roman Catholic, the religion of his Cuban exile family, but Wikipedia and ProjectVoteSmart.com say he attends an evangelical church, Christ Fellowship Church, a Southern Baptist-related congregation in the Miami suburb of West Kendall.

Women still have a much larger impact on the Democratic ranks, where they are roughly a quarter of members, compared to the Republicans, where women are about 10%. Women declined from 90 to 87, the first decline since the 1970s. Democrats dropped from a 3-1 margin to a 2-1 margin over Republicans among women legislators, or from 69-21 to 59-28.

There are only five members of the 112th Congress who are religiously unaffiliated, which represents about 1%. Since 12% to 14% of voters claim no religious affiliation, the “nones” are underrepresented in the halls of Congress. This may be because, as a 2010 Pew Research Center poll found, 61% of Americans said it is “important for members of Congress to have strong religious beliefs,” with 34% disagreeing. This view was endorsed by 77% of Republicans, 58% of Independents and 55% of Democrats, and by 76% of conservatives, 59% of moderates and 42% of liberals.

Among white evangelicals 83% thought members should have strong religious beliefs, as did 71% of black Protestants, 66% of Catholics, 64% of mainline Protestants and 61% of Hispanic Catholics. Even 30% of religiously unaffiliated voters endorsed this preference. Amazingly, 15% of those who said they were atheists or agnostics also wanted strongly religious persons in Congress.

Church attendance was a factor on this issue, as 79% of weekly churchgoers endorsed this view compared to 58% of occasional attendees and 41% of those who seldom or never attend religious services.

Another poll conducted by The Pert Group for the First Amendment Center found that 60% of Protestants, 44% of Catholics and 17% of the nonreligious said that “a candidate’s religious affiliation was important in their voting choice.”

Republicans gained among all religious groups (see Chart 2). Their

Chart 1: Religious Affiliations, 112th Congress

Groups (5 or more members)	Total	Democrat	Republican	Senate	House
Catholic	151	82	69	23	128
Baptist	71	26	45	8	63
Methodist	48	17	31	11	37
Presbyterian	46	16	30	14	32
Jewish	39*	36	1	12	27
Episcopalian	37	13	24	6	31
Lutheran	26	11	15	4	22
“Protestant”	25	5	20	3	22
“Christian”	22	7	15	3	19
Mormon	14	3	11	5	9
Eastern Orthodox	6	2	4	1	5
Unaffiliated	5	5	0	0	5
United Church of Christ	5	3	2	4	1

* Two independents

(Note: This compilation is based on the 529 certified results. Six seats are still in the process of recounts or tabulating late ballots. The final results will appear in our next issue.)

largest gains were among Lutherans and Catholics, two relatively middle-of-the-road swing constituencies. The 19% GOP gain among Lutherans in Congress and 16% gain among Catholics reflect the huge Republican-swing in the Midwest and Rust Belt states. Strong Republican gains came among Methodists, Baptists and nondenominational Protestants. Smaller Republican gains came among their strongest group (Mormons) and weakest (Jews). Modest gains came among Episcopalians and Presbyterians.

This is reflected in the raw data. The 113-48 Democratic lead among Catholics in the 111th Congress drops to 82-69. The 34-34 dead heat among Baptists has swung 45-26 Republican. The 27-26 Democratic edge among Methodists has become 31-17 Republican. Lutherans, who were roughly two to one Democratic during the past decade, are now 15-11 Republican.

In terms of religious influences on the parties, based on number of adherents, Catholics and Jews, especially the latter, have a higher percentage of Democratic members than Republican. Roughly a third (33.9%) of Democrats are Catholics, compared to just under a fourth (23.7%) of Republicans—despite GOP gains among Catholics. Almost 15% of Democratic members are Jewish; less than one third of one percent of Republicans are Jewish.

Among Republicans, nondenominational Protestants and Christians have a stronger influence: 12% of Republicans claim this category compared to only 5% of Democrats. Mormons are 4% of Republicans and 1% of Democrats. All of the major Protestant churches are also relatively stronger in the Republican ranks than among Democrats. Methodists, Presbyterians and Episcopalians combined account for 29% of Republicans and 19% of Democrats. (Buddhists, Muslims, and the nonreligious account for 4% of Democrats but have no members among Republicans.)

Presbyterians and Jews are twice as strongly represented in the Senate as in the House, while Baptists are stronger in the House. Baptists rank fifth in Senate membership but a strong second in the House. Jews rank third in the Senate and sixth in the House. Catholics and nondenominational Protestants and Christians are relatively stronger in the House. Mormons are stronger in the Senate, and four of five United Church of Christ members in Congress hold seats in the Senate. ■

Chart 2: Democrats Decline

Largest Groups	% Democrat 2010	% Democrat 2008	% Change
Catholic	54.3	70.2	-15.9
Baptist	36.6	50.0	-13.4
Methodist	35.4	50.9	-15.5
Presbyterian	34.8	43.2	-8.4
Jewish	92.3	93.2	-0.9
Episcopalian	35.1	44.4	-9.3
“Protestant”	20.0	37.5	-17.5
Lutheran	42.3	60.9	-18.6
“Christian”	31.8	43.8	-12.0
Mormon	21.4	23.1	-1.7

Abortion at the Polls: Still Important

The abortion rights issue remained important in several races in the midterm elections. Writes Kirk Johnson in *The New York Times*: “Abortion rights is the flash point, being wielded by the left in hard-fought races from New York’s contest for governor, to Senate races in Florida and California, as Democratic candidates or groups try to rally their base and attract moderate Republican or independent women – a slice of the electorate that is even more coveted than in years past.”

In New York and Colorado the issue was contentious. Maverick Republican candidate for governor Carl Paladino opposed abortion in almost all instances, responding curtly to interviews that women who are raped “can give up the child for adoption.” He lost by a two to one margin.

In the Colorado Senate race Republican Ken Buck, a Tea Party supporter, opposed abortion even in the cases of rape and incest. Democratic Sen. Michael Bennet emphasized his difference with Buck on this issue in campaign ads. Privacy and individual freedom to make choices are at stake in this race, said the Democratic Senatorial Campaign Committee. Buck was narrowly defeated.

Colorado voters faced a “personhood” amendment. Amendment 62 would not only ban abortion but also in-vitro fertilization. A similar proposal was overwhelmingly rejected by Colorado voters two years ago. Certain forms of contraception could also have been banned under Amendment 62, which would confer legal rights to “every human being from the beginning of biological development.” Republican nominee Buck endorsed this ballot measure earlier but withdrew his support.

Colorado was among the first states to guarantee abortion rights, in 1967, years before *Roe v. Wade*. But voters also made it the first state to ban the use of state funds to finance abortion in a 1984 referendum. In recent years the state has been seen as a pro-choice stronghold, and its state legislature has the highest percentage of women legislators (38%) of any state.

While more than half of voters (55% to 42%) say they want abortion to remain “generally legal” in “all or most circumstances,” there is no agreement about how that will affect individual elections. The 2010 American Values Survey found that 35% of registered voters were “less likely” to vote for a candidate who supports abortion rights, while 30% were more likely and 34% said it made no difference.

Religion is the major defining point since 63% of white evangelicals were less likely to support a pro-choice candidate compared to 13% who were more likely to do so. Only the religiously unaffiliated were more likely (by 55% to 11%) to support a candidate who espoused abortion rights. A majority (56%) of Latino Catholics said the issue made no difference to their voting plans. Black Protestants were also more likely to say that abortion was not a major factor in their vote. Mainline Protestants were about 10% more pro-choice than white Catholics. (The Jewish sample was too small to be included in the final analysis.)

The “intensity factor” could hurt pro-choicers since 69% of those who opposed most abortions said this would make them less likely to support a pro-choice candidate, while only 47% of those who supported abortion rights were more likely to favor a pro-choice candidate.

On the somewhat related issue of stem cell research, Democratic candidates for governor in Iowa and Wisconsin signaled strong support for embryonic stem cell research while their Republican opponents were opposed. In the Florida U.S. Senate race Democrat Kendrick Meek and Independent Charlie Crist supported research but Republican Marco Rubio was opposed. Crist pushed the issue in television ads in September but critics, including the *Tampa Tribune*, noted that Crist

did little or nothing on the issue during his four years as governor.

Alaska voters approved Measure 2, which requires parental notification for abortions, on August 24 by 55% to 45%. Only 28% of registered voters participated since this was a primary election prior to the November general election. Far more Republicans than Democrats voted in the primary, due to the hot race for U.S. Senator, in which Sarah Palin-backed Tea Party candidate Joe Miller upset incumbent Senator Lisa Murkowski. Alaska has far more registered Republicans than Democrats but the 2 to 1 imbalance in the primary may have tipped the scales for the parental notification proposal.

A number (probably a majority) of the newly-elected Republicans are anti-choice. Two of the principal sponsors of the 2003 law banning late-term abortions, Dan Coats of Indiana and Steve Chabot of Ohio have returned to the Senate and House respectively. At least three dozen Republican freshmen emphasized their opposition to abortion rights in the campaign. Only two Republicans, Richard Hanna (New York 24) and Steve Stivers (Ohio 15) said they are pro-choice, though Stivers backtracked and was endorsed by Ohio Right-to-Life, according to the *CQ Guide to the New Congress*. Most newly elected Democrats (the few of them!) are pro-choice. An exception is West Virginia Sen. Joe Manchin, who separated himself from the Obama administration about as far as a Democrat could to win a tough race in his conservative state. ■

The Catholic Decline

The Catholic decline was symbolized perhaps by the death of Sen. Edward Kennedy of Massachusetts in 2009 and the retirement of his son, Rep. Patrick Kennedy of Rhode Island. That seems to signal the end of the Kennedy era in U.S. politics, which began with the 1946 election of John F. Kennedy to Congress from Boston.

Other notable Catholic departures included Diane Watson of California, the only African American female Catholic member, who decided not to seek reelection, and Louisiana Rep. Anh Cao, the only Vietnamese-American Catholic, one of the few Republican incumbents to lose. (His district in New Orleans is overwhelmingly Democratic and African American.)

It may be that most defeated Catholic Democrats were in states particularly hard hit by the Republican tidal wave of 2010. Pennsylvania and Ohio lost four, while Arizona, New York and Colorado lost two. Even in the Deep South, the handful of Catholic Democrats were reduced by the defeats of Gene Taylor in Mississippi and Jim Marshall in Georgia, both “moderates,” who were not seen as conservative enough by constituents. Tom Perriello also lost in southern Virginia, but he was a strong progressive who backed the president’s agenda to the hilt.

While it was a horrendous year for Catholic Democrats, it was a good year for Catholic Republicans. While Catholic Democrats have almost vanished from the South, Catholic Republicans are flourishing. Four North Carolina Republican House members are Catholic, including newly elected Renee Ellmers. Michael Mulvaney, a Catholic Republican, ousted veteran Democrat John Spratt in the Fifth District of South Carolina, which has become a suburb of Charlotte, N.C. Tennessee’s Third District elected Catholic Republican Chuck Fleischmann, who was born in Manhattan!

Pennsylvania, one of the most historically anti-Catholic states, bucked the trend and now has 13 Catholics in its 21-member delegation. Seven are Republicans, a development that would have amazed political observers a generation or two ago. ■

Religion and Politics: Facts and Figures

- An October 21 survey report from the Pew Research Center for the People and the Press found that 15% of voters who attend church regularly receive political information at their place of worship. This is about the same percentage as in 2008 but a good deal less than in 2004, when 27% of churchgoers received political information. Black Protestants were more likely than any other group to report receiving information about political parties or candidates. Fully 36% said they had received information. Among other groups there was little significant difference. (14% of Catholics, 12% of white evangelicals and 9% of mainline Protestants reported receiving political information at church.) Only 5% of churchgoers say that their clergy urged them to vote a certain way.

- Delaware Republican Senate nominee Christine O'Donnell appeared amazed that the U.S. Constitution mandates an institutional separation of church and state. In a public debate with her Democratic opponent on October 19, O'Donnell denied that church-state separation appears in the First Amendment. In the Delaware House race, Republican candidate Glen Urquhart claimed that separation of church and state was a Nazi concept. He told a campaign audience, "The exact phrase 'separation of church and state' came out of Adolph Hitler's mouth. That's where it comes from. So next time your liberal friends talk about the separation of church and state, ask them why they're Nazis."

- Religious belief or the lack of it became an issue in the Kentucky Senate race when Democrat Jack Conway suggested that Republican Rand Paul had questioned the Bible and ridiculed religion while a student at Baylor University. Some observers were surprised that Conway, a Catholic, would question or ridicule another candidate's faith, when Catholics were frequent victims of such political tactics in the past. Paul, a Presbyterian, received support from former presidential candidate Mike Huckabee. Abortion also became an issue in the campaign. Paul called himself a "pro-life Christian" who is "100% pro-life and opposed to all abortions." He added, "During my medical training I refused to participate in abortion training, and I continue to oppose abortion now." Conway hit back, "A woman should have the right to make her own health choices in consultation with her family, doctor, and spiritual adviser. I believe abortion should be

safe, legal and as rare as possible."

- A Pew Forum poll found that 52% of Americans say that churches should stay out of politics while 43% say that churches should express their views on political and social issues. This is largely unchanged since 2008. However, this represents a long-term shift of about 10 percentage points away from political participation by churches. In 1996 a majority endorsed church involvement in political matters. The largest decline came among Black Protestants, whose support for churches in politics has dropped from 69% to 53%.

A majority (56%) of white evangelicals favor church involvement in political matters, while only 35% of mainline Protestants and 37% of Hispanic Catholics are in favor of churches and other houses of worship speaking out on political issues. Republicans (51%) are somewhat more in favor of church political activity than Independents (41%) and Democrats (39%). Conservatives (51%) are more favorable than moderates (42%) or liberals (32%). Weekly churchgoers (54%) are more favorable to church political involvement than occasional attendees (39%) or those who seldom or never attend services (31%).

An overwhelming majority of Americans (70% to 24%) are opposed to church endorsements of specific candidates. A majority of members of all religious groups feel this way.

- Minnesota's Catholic bishops mailed more than 400,000 DVDs to Catholic Church members explaining the church's opposition to same-sex marriage. Critics of the action, including many Catholics, said the DVD campaign constituted an implicit endorsement of Republican gubernatorial candidate Tom Emmer, who opposes same-sex marriage. His two opponents, Democrat Mark Dayton and Independence Party candidate Tom Horner, support same-sex marriage.

Iowa's Catholic bishops urged followers to support a referendum question to convene a state constitutional convention. The Iowa Catholic Conference said, "A 'yes' vote on this measure will allow Catholics and others to work for a marriage amendment to the Iowa constitution. This amendment would affirm the traditional understanding that marriage is a union of one man and one woman." The church and religious conservatives want to repeal the state supreme court's April 2009 legalization of same-sex marriage.

Iowa Voters Oust Judges

Angry religious conservatives wreaked vengeance on the three Iowa Supreme Court justices who legalized same-sex marriage by throwing them out of office. This was the first time an Iowa high court judge had been removed under a system that began in 1962. Under Iowa law, justices come up for "retention" every eight years. Voters either voted yes or no to keep in office Chief Justice Marsha Ternus, Justice David Baker and Justice Michael Streit. All were defeated handily.

Out-of-state groups funded the "No" campaign that was spearheaded by Religious Right leader Bob Vander Plaats, a Sioux City attorney who lost the GOP nomination for governor. He then founded "Iowa For Freedom" to remove the judges because of their April, 2009, decision declaring same-sex marriage legal.

Chief Justice Ternus warned against special interest groups that sought to politicize the judiciary. "[They want] our judges to be servants of this group's ideology, rather than servants of the law. They simply refuse to accept that an impartial, legally sound and fair reading of the law can lead to an unpopular decision."

Vander Plaats, who is closely associated with the powerful Christian Reformed Church, warned, "If the Iowa Supreme Court will do this to

marriage, every one of our freedoms, including gun rights and private property, is in danger of being usurped by activist judges who are unelected officials."

The three ousted judges jointly issued a statement following the vote. "We wish to thank all of the Iowans who voted to retain us for another term. Your support shows that many Iowans value fair and impartial courts. We also want to acknowledge and thank all the Iowans, from across the political spectrum and from different walks of life, who worked tirelessly over the past few months to defend Iowa's high-caliber court system against an unprecedented attack by out-of-state special interest groups. Finally, we hope Iowans will continue to support Iowa's merit selection system for appointing judges. This system helps ensure that judges base their decisions on the law and the Constitution and nothing else. Ultimately, however, the preservation of our state's fair and impartial courts will require more than the integrity and fortitude of individual judges; it will require the steadfast support of the people."

Iowa Supreme Court justices are appointed by the governor from a list of nominees chosen by an impartial nominating commission. ■

Some “Faith-Based” Candidates

Several Republican congressional candidates wore their religions on their sleeves. Tom Graves, who won the GOP nomination in Georgia’s Ninth Congressional District and then was unopposed in November, was typical. He told voters that he would support “our conservative North Georgia values.” The candidate, who made sure everyone knew he attended Belmont Baptist Church in Calhoun, added, “I’ll always be there to defend the sanctity of human life, traditional marriage, and our right to prayer.” He never said who was threatening prayer.

In Florida’s Eighth District (Orlando) state senator Daniel Webster won the Republican nomination by stressing Religious Right issues. He began his campaign on April 20 virtually on the grounds of the First Baptist Church of Central Florida, whose pastor, Rev. Clayton Cloer, made laudatory remarks that could have been construed as an endorsement. The *Florida Baptist Witness* called Webster “a revered pro-family leader.” Webster was promptly endorsed by fellow Baptist and former presidential candidate Mike Huckabee. Webster was victorious.

In Tennessee’s 8th District, encompassing the state’s rural northwest, both candidates stressed religion. Democrat Roy Herron was once a Methodist minister with divinity degrees from Vanderbilt and from St. Andrews University in Scotland. His Republican opponent, farmer and gospel singer Stephen Fincher, who hails from the village of Frog Jump, won the election.

Christine O’Donnell, winner of the Republican U.S. Senate primary in Delaware, calls herself a “born-again Catholic” who has united the Religious Right and the Tea Party movement in her small state that is noted for moderate politics. O’Donnell, who has never held any public office, was once a staffer for fundamentalist Beverly LaHaye’s Concerned Women for America, as well as the founder of a group promoting premarital chastity and abstinence. O’Donnell denounced masturbation and compared pornography to adultery. She was an instantaneous hit at the September 17 Values Voters Conference in Washington, D.C., an annual confab of social issues activists.

A significant number of Republican candidates are members of independent, evangelical megachurches, showing the growing connection between megachurches and the right wing of the Republican Party. They include:

In Arizona’s 8th Congressional District, unsuccessful GOP nominee Jesse Kelly belongs to the Alive Christian Fellowship Church.

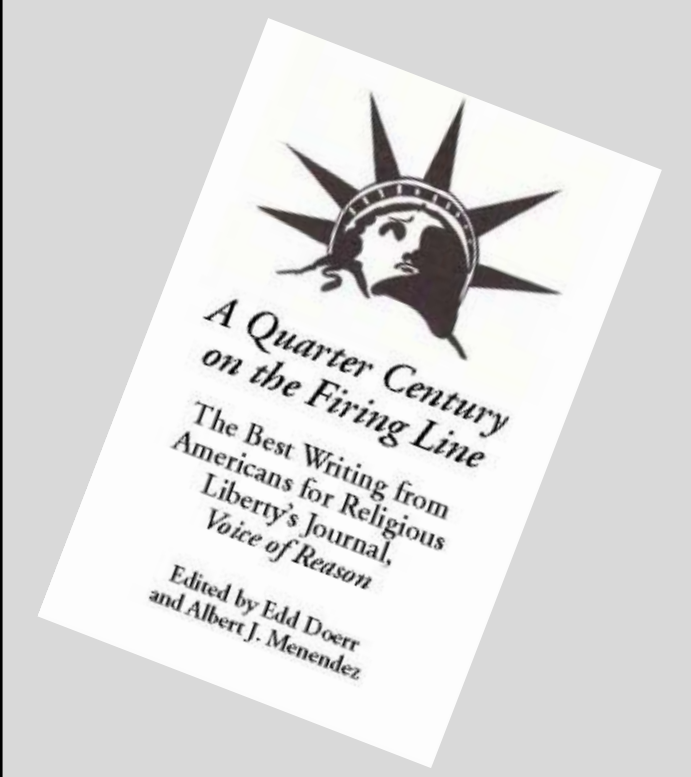
In South Carolina’s 1st District (Charleston), Tim Scott became the first African American Republican elected to Congress from the Deep South since Reconstruction. He belongs to the nondenominational Seacoast Church.

In Florida’s 2nd District, Republican nominee Steve Southerland is a charter member of the Northstar Church in Panama City, a Southern Baptist congregation.

Republican nominee Jackie Walorski Swihart in Indiana’s 2nd District, belongs to Calvary Temple, and attended two evangelical colleges, including Jerry Falwell’s Liberty University. She ultimately lost but ran a strong race.

Nevada GOP Senatorial candidate Sharron Angle converted to the Southern Baptists and belongs to the Sunrise Church in Reno, a Baptist congregation whose website indicates it is a bastion of fundamentalism. Her flamboyant campaign failed to topple Democratic majority leader Harry Reid.

At least two candidates studied in seminaries. Democrat Christopher Coons, running for the Senate in Delaware, received a degree from Yale Divinity School. James Lankford, Republican nominee in Oklahoma’s 5th District, received a M.Div. from Southwestern Baptist Theological Seminary in Fort Worth. Both won. ■



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Okies Say No to Sharia

In one of the more unusual referenda on state ballots November 3, Oklahoma voters by 70% to 30% amended the constitution to prohibit state courts from using or even considering Sharia law in legal proceedings. The sponsor of State Referendum 755, Republican state Rep. Rex Duncan, said American courts are increasingly consulting Sharia law to decide matters pertaining to the Muslim community. He cited no instances to substantiate his claim, but said that Oklahoma’s action “will be felt in other states drowning in liberal judges.”

Two days after the election an Oklahoma Muslim resident, Muneer Awad, filed suit in federal court in Oklahoma City to block implementation of the referendum, which would alter Article 7 of the state constitution. Awad, executive director of the Council on American-Islamic Relations in Oklahoma, asked the court to issue a temporary restraining order and injunction to block certification of the election results by the state election board. The amendment to the constitution would represent “an enduring condemnation of Islam by singling it out for special restrictions,” the suit alleges.

Legal experts have questioned the propriety of the action as well. Fordham University law professor Jim Cohen told ABC News, “Our federal system and our state system [are] in part governed by the concept of separation of powers. It’s far from clear that the Oklahoma legislature can restrict what a separate branch of government can consider in terms of doing its job.” Joseph Thai of the University of Oklahoma College of Law told Associated Press, “There is no plausible dan-

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Okies Say No to Sharia, *cont. from page 7*

ger of international law or Sharia law overtaking the legal system.” The amendment also prohibited “international law” from being considered in Oklahoma courts.

In a quick move U.S. District Judge Vicki Miles-LaGrange issued a temporary restraining order on November 9. The judge said the “amendment does not have a secular purpose” but “inhibits religion and fosters an excessive government entanglement with religion.” Miles-LaGrange noted that the sponsor referred repeatedly to the “Judeo-Christian founding principles of the country.” State courts would be “faced with deter-

mining the content of Sharia law,” and the amendment might adversely affect probate law.

In a nine-page order, the judge ruled, “The Court finds that plaintiff has made a preliminary showing that State Question 755’s amendment is not facially neutral, discriminates against a specific religious belief, and prohibits conduct because it is undertaken for religious reasons. While the public has an interest in the will of the voters being carried out, the Court finds that the public has a more profound and long-term interest in upholding an individual’s constitutional rights.” Another hearing is scheduled for November 22 to determine whether a preliminary injunction is warranted. ■

Some Election Facts

- All three newly elected House members from Arkansas are Baptist Republicans, giving Baptists four of the six Arkansas seats. All four, including newly elected Sen. John Boozman, formerly in the House, are Republicans.
- Both Senators from Connecticut and California are Jewish Democrats. Both Delaware Senators are Presbyterian Democrats, while both Wyoming Senators are Presbyterian Republicans. Both Senators are Catholic in Louisiana, Pennsylvania, Washington and Alaska (if Lisa Murkowski hangs on in her write-in campaign). Both Kansas Senators are Methodists, while both Mississippians are Baptist and both Utah Senators are Mormons.
- A third Buddhist representative, Colleen Hanabusa, won a seat in Honolulu, making the Hawaii House delegation all Buddhist for the first time in history. Hanabusa describes her faith as “more of a philosophy than a religion.”
- Breakaway Episcopalians (called Anglicans) have two representatives, both Republicans, including newly elected Scott Tipton in Colorado and returning Peter Roskam of Illinois.
- Only four Catholic Democrats are in the freshman class of 2010 compared to 33 Catholic Republicans.
- The two new African American Republicans, Tim Scott of South Carolina and Allen West of Florida, are nondenominational Christians.
- Not all Hispanics are Catholics, though the majority are. Raul Labrador, who won Idaho’s First Congressional District for the Republicans, is a Mormon born in Puerto Rico. Labrador’s victory gives

Mormons three of the four seats in Idaho, as well as all five in Utah. Seven of the eight are Republicans. Bill Flores, who won the 17th Congressional District in Texas, is a Baptist Republican.

- While most Baptist Republicans represent Southern districts, a number of freshmen Republicans from the Midwest and West are Baptists. They include Marlin Stutzman of Indiana and Reid Ribble of Wisconsin, a state where Baptists are only 1% of the population.
- One new Republican member seems to be an ideal fit for his district. Bill Huizenga, of Dutch ancestry, lives in the almost completely Dutch town of Zeeland, Michigan, and belongs to the Christian Reformed Church. He also is a graduate of Calvin College, the flagship of Dutch evangelicalism.
- Perhaps the most “churchy” new member is former Congressman Tim Walberg, who regained his Seventh District seat in Michigan. Walberg is a religious school fundraiser, a minister, a graduate of both Fort Wayne Bible College and Wheaton College, as well as a staunch opponent of abortion rights and same-gender marriage.
- Election Day 2010 was a “Bad Day at Black Rock” for Catholic Democratic incumbents, at least 21 of whom were defeated. (Another four are still in tight recounts in California and New York.) Catholic Republicans replaced 15 of them. They reflect what political analyst Sean Michael Winters wrote in the November 13 edition of *The Tablet*, “The election shows the wide gulf between Catholic liberals and Catholic conservatives, who have become almost two separate churches.”



Church and State in the Courts

Arizona’s program that allows taxpayers to contribute up to \$500 annually to organizations that send the funds to private religious schools came under review at the U.S. Supreme Court on November 3. The justices heard oral arguments in a pair of cases in which taxpayers challenged the 1997 Arizona tuition tax credit law, calling it a violation of the Establishment Clause of the U.S. Constitution, as well as a provision in the Arizona Constitution.

Last year Arizona sent \$52.1 million in “scholarships” for 27,500 students in private, mostly faith-based schools. Taxpayers can reduce their state income taxes by \$500 by contributing that amount to about 50 nonprofit scholarship tuition organizations.

Defenders of the program say it meets the constitutional standards set by the Supreme Court in a 2002 case, *Zelman v. Simmons-Harris*,

which upheld a school voucher program in Cleveland, Ohio.

The Ninth U.S. Circuit Court of Appeals ruled against the Arizona law and sent the case back to the lower court with instructions to examine how the law actually operates rather than as it is written. In its instructions, the Ninth Circuit said the program may appear to be neutral but in reality favors religious schools almost exclusively. But the defendants appealed the appellate ruling to the High Court, which agreed to hear the case.

A related legal question is whether taxpayers even have legal standing to bring suit by claiming injury. A 2007 case, *Hein v. Freedom From Religion Foundation*, narrowed taxpayer standing by ruling that taxpayers have standing in Establishment Clause cases only when a legislative body has explicitly authorized an expenditure of government funds

that might aid religion.

It was this argument that apparently persuaded the Obama administration to support the Arizona law. Acting U.S. Solicitor General Neal Katyal told the Supreme Court, "Not a cent of tax money goes to fund religion." He added, "There is no taxpayer standing in this case." Arizona lawyers claimed the program "is a neutral law that results in scholarship programs of private choice." (ARL vigorously disagrees with Katyal.)

The oral arguments in *Arizona Christian School Tuition Organization v. Winn* and *Arizona Department of Revenue v. Winn* were lively. Justice Elena Kagan said she found it "puzzling" that Arizona's tax-credit program is "so much more complicated and unusual" than the more straightforward type upheld in *Zelman*. She also said the Obama administration was advancing a "silly and fictional" interpretation of taxpayer standing.

Justice Sonia Sotomayor observed that it appeared to her that "taxpayer dollars are paying for religion." Justice Antonin Scalia, who is expected to uphold the law, said, "It doesn't favor religion at all," while Justice Samuel Alito thought it was "a very modest tax credit."

The possible swing vote, Justice Anthony Kennedy, worried that the tuition organizations were so involved with government that their decisions amount to "state action" because "the state provides the mechanism through the credit for the funding."

The taxpayers challenging the program said the structure effectively forces parents to send their children to religious schools since the scholarship tuition organizations may exist for the sole benefit of only private religious schools. The largest one benefits Catholic schools in Phoenix. The organizations are not allowed to discriminate on the basis of "race, color, handicap, familial status or national origin." Religion is not mentioned. An estimated 70% of the funds went to faith-based schools last year.

The court could choose to decide that taxpayers had no right to challenge the program, thereby implicitly upholding it, or they could choose to rule on the merits of the case, particularly the Establishment Clause. A ruling is expected in the spring of 2011.

The *Washington Post* and *The New York Times* differed sharply on this case. The *Post*, again breaking with a long tradition of opposing state aid to religious schools, called the Arizona program "a valid choice" that "is driven by a series of private choices that do not involve the government." But *The New York Times* said the program is "a crack in the wall between church and state," adding, "Most scholarships are awarded by school tuition organizations that choose students on the basis of religion, to go to religious schools. Handing out the funds on the basis of religion is unconstitutional."

The case may have considerable national significance. David Masci, senior researcher for the Pew Forum on Religion and Public Life, observed, "If the court rules in favor of Arizona... it would make challenging similar tax plans harder in the future. Such a decision also would give states that have or create similar plans much greater certainty that they could survive a similar constitutional challenge."



A federal appeals court rejected Utah's practice of erecting 12-foot high white crosses on highways to honor deceased highway patrol officers. A three-judge panel of the Tenth U.S. Circuit Court of Appeals held "that these memorials have the impermissible effect of conveying to the reasonable observer the message that the State prefers or otherwise endorses a certain religion. They therefore violate the Establishment Clause of the federal constitution." The August 18 decision reversed a 2007 ruling by a lower federal court upholding the erection of the crosses, saying they communicated a primarily secular message about death.

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First erected by the Utah Highway Patrol Association in 1998, the memorial crosses, now numbering 14, stand on public highway road-sides, near where troopers died in the line of duty.

The appeals court held that the erection of the crosses "may lead the reasonable observer to fear that Christians are likely to receive preferential treatment from the Utah Highway Patrol."

The court also denied that the cross has accrued some secular connotations, similar to Christmas. "Unlike Christmas, which has been widely embraced as a secular holiday... there is no evidence in this case that the cross has been widely embraced by non-Christians as a secular symbol of death," they said.

An unusual twist to this case is that Mormon-majority Utah does not generally use the cross as a symbol. "Cross-revering Christians comprise approximately 18% of the population of Utah," said the justices, who cited agreement about this percentage among the parties to the suit. These factors "do not sufficiently diminish the crosses's message of government's endorsement of Christianity that would be conveyed to a reasonable observer."

The case was remanded to the district court with the instruction "to enter judgment for Plaintiffs consistent with this opinion."

The case, *American Atheists v. Duncan*, received an unusual degree of outside interest and is expected to be appealed to the entire Tenth Circuit or to the U.S. Supreme Court. Several Jewish, civil libertarian, interfaith and liberal religious groups supported the challenge to the district court ruling. Numerous Religious Right and secular Right organizations supported the erection of crosses, as did the states of Colorado, Kansas, New Mexico and Oklahoma, the American Legion, a group of Utah legislators, and the city of Santa Fe.



Plaintiffs against the Vatican dropped a case originally filed in Louisville in 2004. Louisville attorney William McMurry said *O'Bryan v. Holy See* was unlikely to be successful because the Vatican's "sovereign immunity" claim is well-established in American law. Vatican expert John Allen noted in *National Catholic Reporter*, "In a rare stroke of good news for Rome vis-a-vis the sexual abuse crisis, attorneys for three alleged victims in Kentucky have said they're dropping what many analysts regarded as the most serious civil lawsuit against the Holy See in American courts."

The Vatican is not off the hook, however, An Oregon case, *Doe v. Holy See*, is going forward. It rests on the claim that bishops and priests are "no more than Vatican employees." Jeffrey Anderson, attorney for the claimants in this case, said he is going to Rome to depose Vatican officials.

There is some irony here, writes Allen. American canon lawyers asserted in the *O'Bryan* case that bishops maintain considerable autonomy from the Holy See. If this were to become more widely ac-
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Church and State in the Courts, *cont. from page 9*

knowledge, it would return the church to much earlier views on church structure, or ecclesiology, before the Vatican asserted plenipotentiary jurisdiction over local churches.

In yet a third case, U.S. District Judge Rudolph Randa issued an order on September 24 asking for Vatican cooperation in a case involving decades-old allegations of sexual abuse by a now-deceased priest in Wisconsin.



A free speech case with religious liberty implications was heard by the U.S. Supreme Court on October 6. The issue is whether protests by fundamentalist church members at the funerals of American soldiers are protected by the First Amendment, even when the protests involve vile and despicable signs with such sentiments as “God Hates America,” “God Hates Fags,” “Your Son is in Hell.”

For over a dozen years, Rev. Fred Phelps, pastor and founder of Westboro Baptist Church in Topeka, Kansas, has taken church members around the country to picket funerals of soldiers, claiming that God is punishing the United States for allowing homosexuality. As a result, 43 states have passed laws restricting the time and place of funeral picketing. Parents of soldiers, outraged by the disruptions, have filed suits against the church. The Fourth and Eighth Circuits upheld the right to picket funerals, while the Sixth Circuit reached the opposite conclusion. The Supreme Court often takes issues where appeals courts have differed.

In the present case, *Snyder v. Phelps*, an aggrieved parent from Maryland won a district court ruling in 2007, which held that the Westboro members were guilty of intentional infliction of emotional distress, invasion of privacy and civil conspiracy. The conservative-leaning Fourth Circuit Court of Appeals, based in Richmond, overturned that decision in September 2009, citing free speech protections.

The plaintiff, Al Snyder, has received strong support from the attorneys general of 48 states – all except Maine and Virginia – and from 42 U.S. Senators. Among other issues, they say that a military family’s freedom of religion is imperiled by these protests, which amicus briefs have labeled “emotional terrorism.” Supporters of the church say that freedom of speech is the paramount issue, even hateful speech.

How the Supreme Court rules may have far-reaching implications for both freedom of speech and free exercise of religion.



Religious activities of a University of Wisconsin student group cannot be excluded from university funding, the U.S. Court of Appeals for the Seventh Circuit ruled on August 30. The university had funded most of the Badger Catholic’s activities, but demurred at six activities such as religious retreats and evangelical training groups. The appeals court held that the state school had imposed unconstitutional limits on the group by differentiating between solely religious and other activities. The decision might allow greater access to funding for all campus religious organizations.



A three-judge panel of the U.S. First Circuit Court of Appeals upheld a New Hampshire law that requires schools to set aside daily time for voluntary recitation of the Pledge of Allegiance. The Freedom From Religion Foundation, representing parents in the Dresden and Hanover School Districts, appealed a February district court decision that up-

held the statute. The appellate court ruled on November 12 that the “primary effect of the law was not the advancement of religion but the advancement of patriotism.”



School districts may restrict religious music at school concerts. This ruling by the U.S. Court of Appeals for the Third Circuit will stand, since the U.S. Supreme Court declined without comment an appeal of its November 2009 ruling. The South Orange-Maplewood School District in New Jersey held that holiday concerts should not include religious music, though such music could be studied in music classes. The school district stressed that school authorities should have “the discretion to reduce religious content at concerts.” The conservative Thomas More Law Center had urged the High Court to hear the case, *Stratechuk v. Board of Education*, but the justices refused.



A religious charitable organization can fire employees who disagree with its religious beliefs, according to an August 23 ruling by the U.S. Court of Appeals for the Ninth Circuit. The 2-1 decision held that World Vision “is a nonprofit organization whose humanitarian relief efforts flow from a profound sense of religious mission.” Therefore, it is exempt from federal employment law that bans religious discrimination in hiring. Three employees were fired in 2006 for rejecting doctrines held by World Vision. One judge on the three-person panel, Marsha Berzon, dissented, saying, “That interpretation would severely tip the balance away from the pluralistic vision Congress incorporated... toward a society in which employers could self-declare as religious enclaves from which dissenters can be excluded despite their ability to do the assigned secular work as well as religiously acceptable employees.”



The San Diego Superior Court ruled on October 22 that the Catholic Diocese of San Diego had to make 10,000 pages of records dealing with clerical sex abuse available to the public. The records include personnel files of 48 priests who were accused or convicted of sexual abuse in a prior lawsuit. The previously sealed documents include medical records, complaints by parishioners, and correspondence between priests and church administrative officials. In 2007 the diocese paid nearly \$200 million to 144 plaintiffs.



Creationists lost again when the U.S. Supreme Court declined to hear an appeal to a California case involving applicants to college, whose biology classes in evangelical Christian schools were deemed inadequate. The Association of Christian Schools, which lost at the federal appeals and district court levels, wanted the Supreme Court to hear their claim that their students’ rights were violated when the University of California disallowed biology classes permeated with creationism. Both federal courts held that California authorities exercised proper authority in refusing to accept the course work, and the nation’s highest court saw no reason to accept a challenge to those decisions.



A moment of silence law for public school students in Illinois was apparently reinstated by the Seventh U.S. Circuit Court of Appeals on

October 15. A three-judge panel voted 2 to 1 to overturn a 2009 district court ruling that declared the law unconstitutional. The lower court held it was an endorsement of religion and was aimed at introducing prayer in school classrooms. The Seventh Circuit, however, held that the law did not specify that the silent time must be used for prayer, citing legislators who claimed that the law had a secular purpose. "Nothing in the text...limits students' thoughts during the period of silence; the text mandates only one thing—silence," wrote Judge Daniel Manion.

The state attorney general defended the measure, though it is uncertain whether schools will immediately implement the decision. The case, *Sherman v. Koch*, now returns to U.S. District Judge Robert Gettleman. The Illinois State Board of Education is reviewing the decision before recommending changes in daily school procedures.



The Texas Pledge of Allegiance, which includes the words "under God," was held constitutional on October 13 by the Fifth U.S. Circuit Court of Appeals. A Dallas-area couple, David and Shannon Croft, filed suit in 2007 after state legislators added the religious phrase to the pledge that is required in Texas public school classrooms. A federal district court upheld the pledge in 2009, and the Fifth Circuit concurred, denying that the pledge endorses a particular religious belief.



In an unusual move, federal government attorneys in Nashville testified that Islam is a recognized religion entitled to constitutional protection. A suit filed by opponents of a mosque in Rutherford County, Tennessee, charged that county authorities failed to determine whether the proposed Islamic Center of Murfreesboro is entitled to protection under the First Amendment. U.S. Attorney Jerry Martin told the Rutherford County Chancery Court in October, "Plaintiffs' implication that Islam is not a recognized religion by the United States is wrong and is not supported by any authority whatsoever. The right to assemble and worship as you please was literally the genesis of this country." Martin said the Religious Land Use and Institutionalized Persons Act (RLUIPA) of 2000 comes into play in this situation and added that the U.S. Department of Justice supports the county's decision to approve construction of the mosque. The Justice Department's Civil Rights Division is presently investigating a suspicious fire that damaged construction at the site of the future mosque. ■



The Voucher Watch

Washington, D.C., Vouchers May Be Back

House Republican leaders plan to revive the D.C. school voucher program. The expected Republican committee chairmen all support restoration of the recently discontinued program that provided up to \$7,500 for tuitions to attend private schools, many of them faith-based.

John Kline of Minnesota, likely chairman of the House Education and Labor Committee is "very focused on restoring the program," according to his spokesperson Alexa Marrero. Presumptive House Speaker John Boehner is a strong supporter of vouchers, as is Darrell Issa of California, the probable chairman of the House Oversight and Government Reform Subcommittee that regulates District of Columbia affairs.

Incoming D.C. Mayor Vincent Gray opposes public funding for school-voucher programs, as does Delegate Eleanor Holmes Norton.

Among the newly elected Republicans, Tim Scott of South Carolina has made it clear he favors vouchers on a wide scale.

Vouchers became an issue in New York's First Congressional District, where the outcome is still uncertain. Republican Randy Altschuler is a staunch advocate of vouchers, while Democrat Rep. Tim Bishop is opposed. One prominent voucher crusader, Jeanne Allen, who heads a pro-voucher think tank in Washington, D.C., lost a race for the Maryland legislature in the Bethesda area.

Colorado District Considering Vouchers

The school board in Douglas County, Colorado, is considering a massive voucher program, according to *The Denver Post*. The paper reported on November 5 that Douglas County's all-Republican school board will soon propose a voucher system that would give parents 75% of state per-pupil funds to attend nonpublic schools, which in Douglas County are all faith-based.

Douglas County is a high-income suburb south of Denver and is one of the fastest growing counties in the country. Its public schools are considered high-performing and popular with most voters in this staunchly Republican area. But the school board is soon to propose an "Option Certificate Program" developed by the pro-voucher School Choice Task Force.

Colorado enacted a voucher-type pilot program in 2003 but it was ruled unconstitutional by the Colorado Supreme Court the following year on technical, not church-state, grounds. The ruling said the voucher program stripped schools of local control mandated by the state constitution.

If the plan is approved, it would provide nearly \$5,000 per student to attend private schools for the 2011-12 school year. Even this wealthy county cut \$36 million from the school budget this year, eliminating 168 teaching positions and 96 administrative jobs. Fees were increased for school buses.

All six Douglas County private schools are faith-based. Opposition is building. Voucher advocate Van Schoales, director of Education Reform Now, is opposed. "I don't think it would be good for the voucher movement," he said. "It would reinforce people's assumption that vouchers are about religious people trying to get public money."

continued on page 12

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ARL president Edd Doerr, in a letter sent to the *Denver Post*, urged that Douglas County reject the school voucher scheme. He wrote: "I find it astonishing that the Douglas County school board is considering even a small voucher plan. After all, school vouchers violate at least three sections of the Colorado constitution (II,4; V,34; IX,7) and Colorado voters overwhelmingly rejected vouchers in referenda in 1992 and 1998.

"Further, vouchers would not reduce public school costs while actually draining funds from an already pinched school budget.

"Why should anyone be taxed to support faith-based private schools that church members themselves do not care enough to support, especially since these schools separate children by creed?"

Private School Civility Gap Probed

Students attending private religious schools were more likely to have used racist slurs or insults or to have "mistreated someone in the past year because he or she belonged to a different group" than students at public schools or secular private schools. The report, issued by the Josephson Institute Center for Youth Ethics on October 25, surveyed 43,000 high school students.

Students, especially males at private religious schools, were more likely to admit bullying and physical actions against others, as well as drinking alcohol, than students at other schools. Public school students admitted to more "prejudice against certain groups" and the ability to get drugs than students at other schools. On a measurement of eight prejudicial or behavioral actions, students at private religious schools scored high on five of them, public school students on four, and private non-religious schools on one. *New York Times* reporter Charles Blow, whose own children attended both public and private schools, wrote, "While some public schools have issues with academic attainment, it appears that some private schools have issues with tolerance." ■

Updates

Obama Clarifies Faith-Based Policies

President Obama issued an executive order November 17 that clarifies some of the rules governing "partnerships" between the government and faith-based social service groups. The government must give a referral to a secular alternative program if a beneficiary objects to the religious program. Agencies must post rules affecting religious organizations and must list federal grant recipients.

The order, however, allows public funds to go directly to faith-based charities that display religious symbolism on their property and sidesteps the issue of religious-hiring bias.

The order, which implements many of the recommendations made by an advisory council, also requires the government "to monitor and enforce standards regarding the relationship between religion and government in ways that avoid excessive entanglement." Explicit religious activities within the groups must occur "outside of and separately in time and location from programs supported with federal financial assistance."

Texas Education Board Blasts Islam

The Texas State Board of Education, apparently not content with its controversial revisions of social studies standards, demanded that textbook publishers remove allegedly "anti-Christian and pro-Islam biases" from world history texts. Without citing any proof, a seven to six majority instructed publishers to remove pro-Islamic historical references from social studies textbooks, which will be up for renewal in two years.

The Board warned that publishers that fail to make changes will lose the lucrative Texas business. Supporters of the resolution claimed that the U.S. publishing industry was being taken over by "Middle Eastern"

ARL in Action

ARL and its allies in the National Coalition for Public Education (NCPE) urged Congress to reject a private school voucher for military dependent children. Voucher supporters added Section 583 to the National Defense Authorization Act ((S.3454), which funds schools for military personnel. NCPE said the voucher plan is "more likely to undermine than improve the education of special needs students."

Citing multiple studies that vouchers do not improve education, NCPE noted that many private schools "do not have to follow the same inclusionary practices as public schools," thus undermining the fundamental purpose of a civil rights law. "Students accepting vouchers would not necessarily receive all of the services that they are currently receiving in their public school." Parents may also have to pay all tuition and fees above the costs covered by the \$7,500 voucher.

A military voucher program would also affect all military education programs. "A voucher for students of military families would reduce the payments provided under the Federal Impact Aid Program, which currently funds school districts with concentrations of federally-connected students. A voucher for students of military families would reduce the number of military students in the public schools, thereby reducing the percentage of federally-connected students and decreasing the amount of Impact Aid funding provided.

At the same time, even with some students leaving for private schools, public schools would be unable to reduce administrative costs or eliminate teacher positions. Thus, vouchers would place a great financial burden on the local community, which would be left to fund the public schools both with an already low level of state and local tax revenue and with reduced or possibly no Impact Aid whatsoever."

These reductions could also reduce payments to schools on Indian Lands, which have been a protected program since the nineteenth century.

The NCPE statement reminded Congress that any diversion of public funds to private schools will have serious fiscal and constitutional problems. "NCPE believes that instead of sending federal money to private schools, money should instead be invested in the public schools. We also note that despite receiving public money, the participating private schools are not subject to all federal civil rights laws, and do not abide by the same public accountability standards, including those in the No Child Left Behind (NCLB) Act, that all public schools must meet. We also believe that vouchers raise serious religious liberty concerns because when vouchers fund religious schools, taxpayer dollars support the schools' religious education and mission, violating the consciences of those taxpayers who disagree with the religious teachings of those schools."

business interests, such as the Dubai royal family.

All seven socially conservative Republicans supported the resolution while three Democrats and three moderate Republicans opposed it. The resolution would have been defeated if two Democrats, Mary Helen Berlanga and René Nuñez, had voted. Both cited personal business as reasons for their absence.

One board member, Houston Democrat Lawrence Allen, himself a Muslim, called the resolution “offensive” and added, “There is no evidence that [business interests in the Middle East] are buying into our textbook companies. These are baseless accusations, and this resolution is unfair.”

The resolution claimed that “diverse reviewers have repeatedly documented gross pro-Islamic, anti-Christian distortions in social studies texts” and concluded that it “will look to reject future prejudicial social studies submissions that continue to offend Texas law with respect to treatment of the world’s major religious groups by significant inequalities of coverage space-wise and by demonizing or lionizing one or more of them over others.”

A group of Texas pastors joined the Texas Freedom Network and ACLU in denouncing the resolution as unnecessary and absurd.

Newspapers throughout Texas and the United States condemned the board action. A *Los Angeles Times* editorial on September 28 expressed a widespread view. “From the state that brought you the notion that Thomas Jefferson wasn’t an important Founding Father, and that the interning of 100,000 Japanese Americans during World War II had nothing to do with racism, comes another attempt to insert personal prejudice into public school textbooks. This time, the Texas Board of Education is trying to limit references to Islam.... No one could accuse the school board of following in Jefferson’s footsteps. It’s particularly odious to see a government agency, especially one responsible for educating children, single out a religion and seek to diminish its status in world history. The new resolution comes from an apparent misreading of a textbook, one section of which contains more references to Islam than to Christianity. But there are other sections in the book that mention Christianity extensively. Given the board’s history of setting a ‘Christian’ agenda, its attack on a single religion could be challenged in court. Whether the Texas school board likes it or not, the United States’ interaction with Islam has broadened and deepened in recent years. Today’s students will need to understand and deal with these changes as they mature and enter the workforce and civic life. The school board has done a disservice to a major world religion and its followers – and to Texas’ students.”

Stem Cell Research Continues Despite Ruling

Stem cell research, which has expanded under the Obama administration, will continue despite a district court ruling in August that threatened to halt the programs. A three-judge panel of the U.S. Court of Appeals for the District of Columbia ruled on September 9 that it was temporarily lifting the ban, meaning that research could continue until the case is resolved. The resolution of the case may take a year.

White House Press Secretary Robert Gibbs hailed the decision. “President Obama had made stem cell research and the pursuit of groundbreaking treatments and cures a top priority when he took office. We’re heartened that the court will allow National Institutes of Health and their grantees to continue moving forward.”

In August U.S. District Judge Royce Lamberth of the District of Columbia ruled that a 1996 congressional restriction of federal support for all research on embryonic stem cells would prohibit all current research. The prohibition, passed during Newt Gingrich’s stint as Speaker of the House, was modified by President George W. Bush in 2001 and altered further by President Obama in 2009.

Latinos: Less Religious, More Independent

America’s 31 million adult Latinos, the largest minority group in the country, are widely credited with delivering Colorado, Florida, Nevada and New Mexico to Barack Obama in 2008. They may also have tipped the scales in North Carolina and Indiana. A new study from the 2008 Trinity College American Religious Identification Survey (ARIS) shows that the number of Latinos who say they have “no religion,” or identify as non-Christian, doubled from 9% to 18% between 1990 and 2008. The Catholic percentage declined from 66% to 60%, which has been noted repeatedly by observers of American religious demography. But evangelicals have also declined from 25% to 22% over the same time period. The vaunted conversion rates to Protestant Evangelicalism have ground to a halt. Among younger Hispanics and recent immigrants, evangelicals rank third.

Not all of the “no religion” crowd are, strictly speaking, non-religious. A little over 12% of Latinos fall into that category, while 6% prefer another faith.

Politically, both Democrats and Republicans have lost ground in Latino self-identification. Democrats have slipped from 41% to 35%, while Republicans have dropped even more, from 24% to 12%. Independents have grown from 35% to an outright majority 53%. Many of these are recent immigrants or under age 30, suggesting that they have not made up their minds about political preference.

Republicans have begun to lose their edge among evangelical Latinos and have slipped to under 10% support among Catholics and the non-affiliated. Hispanic evangelicals favored Bush and switched to Obama. Catholic Latinos overwhelmingly backed Kerry and Obama, as did the non-affiliated.

Politically engaged Latinos prefer the Democrats 47% to 16% for the GOP, a gap that is widening. Juhem Navarro-Rivera, a research fellow at Trinity College, sees this as a long-range trend that could hurt the GOP over the coming years. In the Summer 2010 issue of *Religion in the News*, he observes, “What explains the marked shift away from the GOP among politically identified Latinos? In part, this reflects the growth of the Nones [non-affiliated], who regardless of race or ethnicity have become a solid Democratic voting bloc. It also has to do with the Republican Party’s embrace of anti-immigrant politics.”

He adds, “Moreover, Trinity-ARIS found that young Latinos are more likely to be Nones than the rest of the Latino population, as likely to be Catholic, and less likely to be evangelical. So even if Republicans hold their own among young Latino evangelicals, this is a shrinking segment of the Latino population.”

Scientists were appalled by Lamberth’s ruling, which could end 24 research projects already underway. NIH director Francis Collins said the federal government had already invested \$546 million in human embryonic stem cell research since 2001. Collins, appointed director of the vast National Institutes of Health by Obama, was critical of the lower court decision. “This decision has the potential to do serious damage to one of the most promising areas of biomedical research, just at the time when we were really gaining momentum. The ruling just pours sand into that engine of discovery,” he said.

The Obama administration has appealed the Lamberth ruling. A
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possible solution could come from Congress, which could revive a measure passed twice before but vetoed by Bush that would legalize and codify stem cell research. But Congress did not take up a proposal by Colorado Democrat Diana DeGette. The midterm election has put many decisions on hold, and the surprising defeat of Republican Rep. Mike Castle in the Delaware Senate primary removes the Republican co-sponsor of the bill to make stem cell research legally protected.

The National Institutes of Health employs 20,000 scientists and staff, funds 325,000 researchers and operates 27 research centers from its Bethesda, Maryland, headquarters. Dr. Francis Collins has vigorously supported and expanded stem cell research studies.

Virginia Prison Chaplains: Only Protestants Need Apply

Virginia's Department of Corrections has come under fire after the *Washington Post* revealed that the state pays only for Protestant chaplains in the state prison system. The state spends \$780,000 yearly for 14 full-time and 19 part-time Baptist, Methodist and Pentecostal chaplains through the Chaplain Service Prison Ministry of Virginia. Catholic and Jewish chaplains are not paid, nor have they ever sought funding. Cecil McFarland, president of the Chaplain Service Prison Ministry, told the *Post*, "My responsibility is to provide chaplains that are Protestant Christians."

A growing number of Muslim inmates may challenge this policy. Volunteer Muslim chaplains minister to an estimated 2,200 Muslim inmates. *Washington Post* staff writer Kevin Sieff said the Old Dominion is unique in its relationship to prison religion. "Because of a 200-year-old interpretation of the state constitution that bars Virginia from doing any faith-based hiring, it is the only state where prison chaplains are contractors, not state employees. And until last year, the department maintained contracts only with Protestant chaplains. Catholic, Jewish and Muslim chaplains could visit correctional facilities to minister to Virginia's 32,000 inmates, but they received no funds from the state."

The growing Muslim population led the Department of Corrections to provide \$25,000 to a subcontractor, the Muslim Chaplain Services of Virginia. One reason for the grant is fear that unsupervised inmates may turn to radical Islam. "The role the Muslim chaplains play is crucial, because prisons can be a breeding ground for Islamic extremism," said Asghar Goraya, executive director of Muslim Chaplain Services of Virginia.

Religion Classes Out

The school board of Fort Wayne, Indiana, voted in August to end weekday religious instruction. The program began in 1944 and was conducted by the Associated Churches of Fort Wayne, a Protestant group. The religion classes had been conducted in trailers on school property, which violates a U.S. Supreme Court ruling in the 1948 *McCullum* case, forbidding on-campus religious education classes in public schools.

ACLU of Indiana filed suit on behalf of a third-grader who was sent to Bible classes without her parents' approval. The school district said it would replace the religious program with a "character education" initiative, also in conjunction with Associated Churches. ACLU legal director Ken Falk said his group would monitor the new program.

Muslims Charge Bias

Allegations of religious discrimination in the workplace have increased 44% in the past five years, according to data released by the Equal Employment Opportunity Commission (EEOC), the federal agency that investigates these charges. Muslim workers have filed four times as many complaints as Catholics, Protestants or Jews. The increase in complaints from Muslim workers from 2004 to 2009 was 58%.

Two EEOC suits filed in August allege a pattern of religious discrimination and hostile workplace environments at two JBS Swift meatpacking plants in Greeley, Colorado, and Grand Island, Nebraska. More than 160 Muslim employees said they were harassed or fired because they sought accommodations for prayer and fasting, particularly during Ramadan.

The harassment was "sufficiently severe or pervasive as to alter the terms and conditions of employment," the EEOC charged. Many of the employees are recent immigrants from Somalia.

Religious Freedom Law's Tenth Anniversary

The Justice Department has concluded that the Religious Land Use and Institutionalized Persons Act (RLUIPA) has "had a positive impact on protecting the religious freedom of a wide range of faith groups, and had a particularly significant impact protecting the religious freedom of minorities."

RLUIPA was signed into law by President Bill Clinton on September 22, 2000, and has resulted in 51 investigations, seven lawsuits, ten amicus briefs, and 71 lawsuits that defended RLUIPA's constitutionality. A significant number of Jewish, Muslim and Buddhist land-use cases were filed, indicating the importance of the law to religious minorities. Eight of the 18 Muslim cases were filed since May, 2010. Half of Christian land-use cases involved racial or ethnic minorities. "The freedom to practice one's faith in peace is among our most cherished rights. RLUIPA has proven to be a powerful tool in combating religious discrimination and ensuring religious freedom for all individuals," said Thomas E. Perez, Assistant Attorney General for the Civil Rights Division.

EEOC announced a lawsuit on September 28 against an Everett, Massachusetts, company for firing a Sikh employee, Frank Mahoney-Burroughs. The employee was called a terrorist by managers at AutoZone and was eventually fired. The Sikh Coalition and the Lawyers Committee for Civil Rights Under Law are representing the former employee, who converted to the Sikh faith. The EEOC is seeking anti-discrimination policies at AutoZone and monetary damages for Mahoney-Burroughs.

New Religious Right Group is Formed

Ralph Reed is back. The no longer so youthful Wunderkind who led the Christian Coalition during the 1990s has founded the Faith and Freedom Coalition to lobby for Religious Right causes and engage the political sector. Reed, who was discredited by some of his financial dealings and was soundly rejected by Georgia Republican voters in 2006, claims his new group would produce five million "scorecards" and 21 million "voters' guides" for the fall elections. He also claims a budget of \$8 million and 350,000 supporters. The Economist said his base is 60% evangelical Protestant, 25% traditionalist Catholic and 15% Orthodox Jewish. Most political observers have learned to take these membership claims with a grain of salt.

International Updates

Bhutan: Even though Bhutan recognizes Buddhism as its official state religion, government authorities have banned Buddhist and Hindu clergy from voting in upcoming elections. The 2008 constitution requires the king to profess Buddhism, mandates that parliament conclude all sessions with Buddhist prayers but also demands that religion remain separate from government. A regulatory body is determining which clergy should be barred from voting, since there was some confusion when the landlocked Himalayan nation first held elections in 2008. An abbot from a Buddhist monastery shares power with a secular official, the prime minister, under a complicated system originating in the 17th century. Religion News Service reported that 75% of the 700,000 Bhutanese citizens are Buddhist and 22% are Hindu. The tiny Christian community may soon receive legal recognition.

Cairo: A bill pending in parliament would make divorce and remarriage for Coptic Christians nearly impossible. It would bar civil judges from making rulings that conflict with church law. There is no civil marriage in Egypt. Couples must abide by laws established for the Muslim majority and for the Christian minority, most of whom belong to the ancient Coptic Church, which claims St. Mark as its founder. Divorce is almost never granted by Coptic Orthodox leaders. Neither is remarriage allowed for the handful of divorced couples. Still, about 12,000 Christian couples have sought civil divorces in recent years, triple the number from two decades ago. Some Copts have converted to other branches of Christianity, mainly evangelical Protestantism, or to Islam, to escape unhappy marriages.

London: Britain's Charity Commission, a quasi-governmental entity that regulates which religious groups can be exempt from United Kingdom taxes, has recognized the ancient pre-Christian Druids. In October, the Druid Network was granted the same status as mainstream religions, including the formally established Church of England. The process of recognition took five years. To be recognized as a religious charity in Britain, a group must believe in a "supreme being or entity," have a degree of cohesion and gravity and a beneficial moral framework. Druids, who originated in the Celtic world, may number 10,000 in Britain today. They are known for their reverence for the natural world. Druid Network leader Phil Ryder welcomed the ruling, observing, "It will go a long way to making Druidry a lot more accessible."

Lucknow, India: An Indian court divided a disputed holy place that has caused violence and death in previous years. The Allahabad High Court ruled on September 30 that the Ayodhya site, revered by both Hindus and Muslims, should be divided between the two groups. The shrine is the former site of a 16th century mosque, but also is the place where Hindus believe the god Rama was born. The court said archaeological evidence showed a Hindu temple had predated the mosque. It granted two thirds of the 64-acre site to Hindus. Both sides said they would appeal to the Supreme Court, though many in both communities accepted the verdict as a reasonable compromise. Hindu nationalists want to build a temple to Rama at the site, 350 miles east of New Delhi, while Muslims want to rebuild a mosque, erected in 1528 but destroyed by Hindus in 1992.

Mexico City: Mexico's Supreme Court has upheld a Mexico City local ordinance allowing adoption by same-sex couples. The nine to two ruling was announced on August 16. Justices indicated that they could not ban adoptions by gay couples once they had already upheld same-sex marriages. Roman Catholic Church leaders were angered and stunned by the decision, and the Catholic Lawyers Association said it would seek impeachment of the nine justices. AP reporter Eduardo

Castillo reported, "The Roman Catholic Church heatedly opposed the law, and the court voted unanimously Monday to condemn comments by Cardinal Juan Sandoval, the archbishop of Guadalajara, who suggested over the weekend that justices may have been paid off by the Mexico City government to favor the law."

Moscow: The Russian government spent \$30 million on Islamic education last year in an attempt to stem the growth of Islamic radicalism. Seven Islamic universities exist in Russia, four of them in the troubled North Caucasus republics, where extremist Islam is rampant. Writes Anna Nemtsova in *Russia Now*: "In an effort to counter the proselytizing of Islamic fundamentalists often funded by foreign governments, the Russian government is underwriting the education of moderate religious leaders and teachers at seven Islamic Universities in Moscow, Tatarstan, Bashkyrkostan and in four North Caucasus republics, including Dagestan."

Funds are distributed by the Russian Ministry of Education and Science. The Kremlin's Fund for the Support of Islamic Culture, Science, and Education will spend an additional \$13 million a year in educational, scholarship and publishing programs.

Moscow: Religious education in Russian schools remains on shaky ground. An experiment in 19 of the nation's 89 regions that began among fourth graders in April revealed resistance to the Russian Orthodox Church's hope to dominate public education. Returns from 16 regions show that only 35% of students (or, more likely, their families) chose instruction in Orthodoxy, while 38% selected a secular ethics course. Another 16% chose a comparative religion course, while the rest selected classes in Islam, Judaism, or Buddhism—the other three "recognized" religions under a 1997 law. Roman Catholics and Protestants are not officially recognized, so their adherents cannot receive instruction in state schools. "The Moscow patriarchate hoped 60% - 80% of children would choose Orthodox education, so these results represent a major setback," commented Canon Michael Bourdeaux, founder of the Keston Institute at Oxford University, which monitors religious developments in Eastern Europe.

Rome: The Italian government impounded \$30 million from the Vatican Bank and placed its two top officials under investigation for money-laundering. The September 21 decision came after the Bank of Italy alerted the government to directives issued by the European Union. The Holy See expressed "perplexity and surprise" and claimed that its transactions were above board. The Vatican Bank, formerly called the Institute for Religious Works, was implicated in the 1980s collapse of an Italian bank, whose chairman, nicknamed "God's banker," died mysteriously in London. Vatican Bank chairman, Ettore Gotti Tedeschi, is a prominent member of Opus Dei. Europe's banks are increasingly troubled. Writes Rachel Donadio in *The New York Times*: "The new investigation appeared to show a more aggressive stance by the Bank of Italy, a player in the complex power dynamics of contemporary Italy." ■

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Books and Culture



Book Talk

Historian Kenneth C. Davis writes in *Smithsonian* (October 2010) that the story of America's long struggle to guarantee religious freedom to all is not well known and should be more widely disseminated. The "storybook version" of the United States "as a bastion of religious tolerance is utterly at odds with the historical record." The battle to make the nation a welcome place for religious believers and dissenters alike took many decades. "The real story of religion in America's past is an often awkward, frequently embarrassing and occasionally bloody tale that most civics books and high-school texts either paper over or shunt to the side. And much of the recent conversation about America's ideal of religious freedom has paid lip service to this comforting tableau."

The ban on religious tests for public office and an ironclad resolve to bar religious establishments and to preserve free exercise of religion should be seen as the culmination of a long and arduous process. "This passage — along with the facts that the Constitution does not mention God or a deity (except for a pro forma 'year of our Lord' date) and that its very first amendment forbids Congress from making laws that would infringe of the free exercise of religion — attests to the founders' resolve that America be a secular republic. The men who fought the Revolution may have thanked Providence and attended church regularly—or not. But they also fought a war against a country in which the head of state was the head of the church. Knowing well the history of religious warfare that led to America's settlement, they clearly understood both the dangers of that system and of sectarian conflict."

American Grace: How Religion Divides and Unites Us, by Robert D. Putnam and David E. Campbell. Simon & Schuster, 2010, 673 pp., \$30.00.

This extraordinary book is indispensable for understanding the religious scene in America since World War II and the growing influence of religion in politics, with particular attention to religio-political polarization and the partisan "God gap." The religious scene embraces the spectrum from the nonreligious and secularists at one end to evangelicals and fundamentalists at the other and everything in between. This analysis applies only to the United States, which is at once more "religious" and more diverse than any other industrialized nation.

Political scientists Robert Putnam and David Campbell portray this scene as a sort of religio-political *aurora borealis*, spanning every conceivable hue and intensity, with the whole changing unevenly over time. Their analysis is based on extensive opinion polling and their blockbuster page turner is stuffed with data and very readable charts. Their portrait of the United States analyzes this almost unimaginably complex scene from every possible viewpoint: age, generation, gender, degree of religiosity, race, class, income level, education, ethnicity, tradition, and all without discussion of theology.

To generalize, the authors show through all this evolving complexity an increasing respect for diversity and tolerance, combined with a gradual decline in religious attendance and precise identification but with increased religio-political polarization and "God gap," with the more intensely religious gravitating toward the Republican pole and the less

intensely religious moving in the Democratic direction. They show that the main issues in the "God gap" are abortion and gay marriage.

While *American Grace* merits an easy five stars, it does contain two noticeable lacunae. While the authors celebrate the growing diversity and tolerance in the United States, they give only a brief, inadequate definition of our constitutional church-state separation. And, curiously, they devote not a single word to the long drawn out, ongoing controversy over school vouchers and the 27 statewide referenda on the subject, an analysis of which would show that opposition to tax aid for faith-based private schools is strong, growing stronger, and runs across the religio-political spectrum. Indeed, their whole book is an argument against using public funds to separate children by creed, ethnicity, class, and ideology.

American Grace could well be the most important book of 2010, one that pundits and politicians ignore at their peril.

— Edd Doerr

Justice Brennan: Liberal Champion, by Seth Stern and Stephen Wermiel. Houghton Mifflin Harcourt, 2010, 674 pp., \$35.00.

This superbly researched, extraordinarily well-written and detailed biography tells us everything you've ever wanted to know about the life and career of William J. Brennan, including the 34 years he spent as a justice of the Supreme Court. Brennan, the authors write, was "a progressive centrist and well-suited temperamentally to the role of strategist at a time when Earl Warren was looking for a judicial partner to help bring about a revolution in constitutional law and American society more generally." He was "a master strategist and consensus builder," which made him "extraordinarily successful in building coalitions."

Brennan's decisions advanced human rights and the dignity of the person throughout his long career. He was committed to "a living constitution [that could] be adapted flexibly to contemporary circumstances" and was not unwilling to advance a progressive agenda that expanded individual rights. Today's court, say the authors, is given to "judicial modesty" and an obsession with originalism, whatever that is.

Brennan took an active role in major church-state rulings, opposing organized school prayer and devotions, statutes requiring creationism in public schools and all forms of state aid to faith-based schools. He was prominent in supporting abortion rights, under the rubrics of conscience and privacy. He wrote many of the great church-state rulings of his time.

Brennan's support for church-state separation stemmed from his conviction that the "Establishment Clause seeks to protect our remarkable and precious religious diversity," a phrase from his dissent in the *Lynch v. Donnelly* case that upheld nativity displays on public property.

From the start, Brennan displeased the zealots of the Right. It is fitting that the only vote cast against his confirmation in the U.S. Senate came from Wisconsin red-baiter and demagogue Joe McCarthy, then at the nadir of his career and only three months from his death.

Brennan's constitutional and legal philosophy and his relationship to Catholicism, especially when his decisions clashed with official church policy, are explored in depth and with sensitivity.

The authors had unusual access to Justice Brennan's personal letters, making this a true insider's account. One author, Stephen Wermiel, professor of constitutional law at American University, conducted more than sixty hours of interviews with the justice before Brennan's death in 1997. Co-author Seth Stern is a reporter for *Congressional Quarterly*.

This is certainly one of the best books of the year.

— Al Menendez

Moving?

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C Street: The Fundamentalist Threat to American Democracy, by Jeff Sharlet. Little, Brown and Co., 2010, 344 pp., \$26.99.

This important book, a sequel to the author's 2008 work, *The Family: The Secret Fundamentalism at the Heart of American Power* (reviewed in *VOR* issue 105), further explores the shadowy outfit of conservative congressmen and others whose tentacles reach throughout our federal government and armed forces.

Although the only highly visible activity of the C Street Family (or Fellowship) is the annual National Prayer Breakfast started in 1953, it has formed bonds with thuggish dictatorships and politicians around the world. Operating "below the radar," it engages in what it calls "benevolent subversion" to extend its influence throughout government and, since the military chaplaincy corps has come to be dominated by fundamentalists, the armed forces.

Investigative reporter Sharlet names names and provides an abundance of detail. "The Family" (or the Fellowship), he writes, pushes a strange hybrid of theocracy, what he calls a sort of "Father Knows Best" variety, trickle-down paternalism, the authority of the Father-God descending down upon us through his chosen, our servant leaders."

Sharlet writes that the C Street movement is "fighting a war of attrition at home, wearing down one of the movement's most hated enemies, secular education, school by school." He adds that some Family leaders are pushing the for-profit charter school movement and suggesting that churches "subsidize the salaries of missionary teachers in public schools." Some even envision "the ending of public schooling altogether." The nationwide budget crunch and the school voucher and charter school movements play into this.

— Edd Doerr

The Religious Test: Why We Must Question the Beliefs of Our Leaders, by Damon Linker. W.W. Norton & Company, 2010, 251 pp., \$25.95.

Mr. Linker's provocative new book urges Americans to ignore the Constitutional ban on religious tests in Article VI and reinstate a new one since "not all theological assumptions are equally compatible with the political order of the United States." He also urges Americans "to do the hard and dirty work of distinguishing between politically benign and politically toxic forms of religion."

He could not be more wrong. His argument makes no sense and would in fact lead to greater religious strife than we now experience. Who, for example, would determine which religious groups are a threat to American democracy? Will there be a kind of high court to determine these matters?

Linker shows no familiarity whatsoever with the debate at the Constitutional Convention concerning religious tests. There was widespread agreement that this was the right thing to do, evincing as it was a complete break with the pattern of religious exclusions and establishments existing in every European country for centuries.

Those few opposed to the ban on religious tests, such as Maryland's Luther Martin and the North Carolina delegation, made bigoted comment about all religions other than Protestant Christianity and warned that "Turks, Jews, Papists and Infidels" should not be allowed to hold public office. The overwhelming sentiment was that a new nation predicated on civil and religious liberty should not restrict office holding based on religious affiliation. (The vote, incidentally, which was by state, was 11½ to 1½ for the ban, with only North Carolina voting no and Maryland divided.)

This revolutionary departure from the norm, backed by most of the nation's Founding Fathers, has proved to be one of stars in our Constitutional constellation, even though voters have occasionally ignored it.

Linker's generalizations about undesirable or inherently undemocratic religions also ignore another fact: Not all adherents to any religion necessarily agree with all of their religion's principles. Furthermore, in-

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dividuals holding the same religious faith often disagree vigorously over political matters. And most would likely place adherence to the Constitution above religious considerations, as John F. Kennedy stressed in his 1960 presidential campaign. Religion alone rarely defines an individual, including candidates for public office, and voters should not assume that all members of a given religious tradition think alike or will come to identical solutions for solving national problems.

The author clearly favors liberal religion, which is, he says, "doctrinally minimal and serves primarily as a repository of moral wisdom and can play a significant public role in a liberal society." But the Constitution does not make that a priority or a requirement for seeking or holding public office. It says there shall be no religious test. Period. No ifs, ands, and butts.

The author is right on one issue. He says that the "new atheists" are just like the "old fundamentalists." Neither recognizes nor respects the right of others to come to any religious conclusions different from their own. Both are "mutually antagonistic forms of illiberalism." He adds, "The last thing America needs is a war of attrition between two mutually exclusive, absolute systems of belief." He endorses instead, "intelligent faith and open-minded doubt." Many would agree with that. But this reader, at least, does not want any tampering with, or reinterpretation of, or watering down of basic constitutional principles such as the absolute and unalterable ban on religious tests for public office.

— Al Menendez

Boiling Mad: Inside Tea Party America, by Kate Zernike. Times Books, Henry Holt and Company, 2010, 243 pp., \$25.00.

New York Times national correspondent Zernike gives readers an up-to-date portrait of the Tea Party movement, showing the kinds of people attracted to it and the underlying motivational factors and political positions generally held by adherents.

Among the book's strongest points is a 35-page summary of the entire *Times* poll on Tea Party members, their attitudes, beliefs and demographic profiles.

Supporters are far whiter (89% of all), more prosperous (31% make more than \$75,000 a year) and better educated (37% are college graduates) than Americans generally. An ethnic difference is pronounced since almost 30% of all Americans are either Hispanic, Asian, or African American, while only 5% of Tea Party supporters belong to these groups.

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Books and Culture, *continued from page 17*

Religiously, the Tea Party crowd is more evangelical (39% compared to 28% of all) and Protestant (61% compared to 52% of all). About half of Tea Party supporters say they attend religious services weekly or almost weekly compared to 35% of all respondents to the poll. The Tea Party group are older (44% are on Medicare and 48% receive Social Security benefits).

Among those who have children currently enrolled in school, 15% of Tea Partiers go to private or faith-based schools compared to 8% of non-supporters, and 5% homeschool their children compared to 1% of all respondents.

On most issues, Tea Partiers are 10% to 20% more conservative than others, though their views on immigration do not differ greatly from all voters.

The Tea Party movement is not likely to create a third party since 66% “usually” or “always” vote Republican and only 5% lean toward the Democrats. Interestingly, 63% receive their primary information about politics and current events from Fox News.

—Al Menendez

Our Patchwork Nation: The Surprising Truth About the “Real” America, by Dante Chinni and James Gimpel. Gotham Books, 2010, 322 pp., \$26.00.

This book, a collaboration by PBS and *The Christian Science Monitor*, explores the new political and cultural demography of the U.S. Building on the concept of “clustering,” i.e. people choose to live among those with similar income, education, and even religious characteristics, the authors break down America into twelve different types of cultures. They are defined by such criteria as academia, military, wealth, isolation, industrialization and number of immigrants. Two are defined by religion, the “Evangelical Epicenters” and “Mormon Outposts,” which are the most politically and culturally conservative regions, or subregions, of a diverse and changing “patchwork” nation. Other reli-

By the Numbers

Predicting how a state will vote for president might be as simple as looking at polls on same-sex marriage. An analysis by *The New York Times* of a CNN poll in August shows how this works.

- The **ten** states with the strongest support for same-sex marriage all supported Obama, while the **ten** states where opposition to same-sex marriage was greatest favored McCain.
- Obama carried **19** of the 20 states where same-sex marriage received the highest support. The only exception was John McCain’s home state of **Arizona**, which ranked 20th in support and had the highest support for gay marriage of any McCain state.
- McCain carried **18** of the 20 states where opposition to gay marriage is most pronounced. The exceptions were **North Carolina** and **Indiana**, which narrowly backed Obama in 2008.
- Support for same-sex marriage is highest (**62%**) in **Massachusetts** and lowest (**22%**) in **Utah**. Acceptance of same-sex marriage has grown in every state except **Utah** since polling on the subject began in 1995.

Source: “Over Time, a Gay Marriage Groundswell,” *The New York Times*, August 22, 2010.

gious groups are more strongly dispersed throughout the nation.

“Religion plays different roles in different community types,” the authors write, adding, “The level of religious adherence in a community is a key component of how that place functions because it directly impacts its power structure.” They continue, “It is not religious adherence that counts per se, but the content of religious teaching, and the extent of religious observance.”

Social issues define the “Evangelical Epicenters” and influence other areas as well. “The Evangelical Epicenters operate in their own political environment. They’re the only community type that’s produced both more voters and more Republican voters in every recent presidential race.”

An appendix indicates the statistical methodology used, and lists all 3,141 counties in the appropriate dozen categories.

—Al Menendez

The Dawn of Religious Freedom in South Carolina, edited by James Lowell Underwood and W. Lewis Burke. University of South Carolina Press, 2006, 222 pp., \$39.95.

One of America’s original colonies, South Carolina’s progress from religious establishment to equality for all faiths is admirably recorded in this collection of historical essays.

The Church of England was established for more than a century, but this proved to be a mixed blessing. “The Church of England was the favorite of the law, receiving both ideological and fiscal support of the government. But it paid a steep price by forfeiting much of its freedom of decision making for a dense maze of regulations.” Other religious groups were disfavored and disadvantaged. The 1778 Constitution replaced the Church of England establishment with “an endorsement of all Protestant churches meeting a broad belief standard,” making the Palmetto State a multiple establishment. Anglican churches continued to have exclusive rights relating to property and “incorporation,” though most other Protestant churches would also be allowed to incorporate. Catholics and Jews, however, remained unprotected and unrecognized.

The Constitution of 1790 granted equality to Jewish and Catholic residents, though it took a real struggle to allow voting rights and the right to seek public office for religious minorities and dissenters. Ironically, clergy were barred from seeking public office so that they would not be “diverted from the great duties of their function.”

The language of the 1790 charter is exemplary. Article 8, Section 1, proclaimed: “The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall, forever hereafter, be allowed within this State to all mankind; provided that the liberty of conscience hereby declared shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.” Historian Underwood notes, “The chief legacy of the 1790 document’s religious freedom article was that there were no longer second-class citizens relegated to a diluted brand of religious freedom.... The new religious freedom provision eliminated all references to establishment of religion whether of a particular denomination or Protestantism in general and explicitly prohibited preferring one religion over another.”

South Carolina was fortunate to have a renowned statesman and presidential candidate, Charles Pinkney, who proposed the federal ban on religious tests that became Article 6 of the federal constitution.

All eight essays as well as the introduction are superb. They explore the legal and constitutional contexts. Several deal with how such minorities as Huguenots, Jews, Catholics, Quakers and evangelical dissenters benefited from South Carolina’s growth toward true religious liberty.

This is a volume that should be read by scholars of religious liberty

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and by all who are interested in how religious liberty became an essential component of American law and culture.

— *Al Menendez*

Red Families v. Blue Families: Legal Polarization and the Creation of Culture, by Naomi Cahn & June Carbone. Oxford University Press, 2010, 288 pp., \$29.95.

An amalgam of demography, sociology, law and politics, this volume, by two law professors, tackles America's culture wars head-on. They argue that the culture war conflicts in recent decades are really about family life and how laws and government decisions affect marriage, divorce and family. Religion, education, income and job security also fit into the equation.

They begin by comparing a multitude of data about marriage patterns, divorce, childbearing age, teenage pregnancy and abortion incidence by regions defined by politics (hence the red versus blue dichotomy, used to differentiate the nation into Democratic and Republican states). "The culture wars started with genuine differences in family structure which intersected with class and ideological divisions."

They continue, "The blue regions of the country, such as the Northeast and the West Coast, have over the last half-century become wealthier, more Democratic, more committed to a later age at family formation, and more tolerant of different family forms. The red states, as they have lost ground economically and socially, have become more Republican, more committed to traditionalist values, and more troubled by divorce and teen and nonmarital births. The conflict between red and blue is, at its core, a disagreement on how to rebuild family support on terms that can be applied to the nation as a whole."

Despite the rhetoric, red states have higher rates of divorce, nonmarital births, early marriages, and a growing rate of failed marriages among those with lower levels of education and income. Blue states are just the opposite, largely because of wealth, education, and more moderate and "modernist" religious culture. Laws reflect the "cultural paradigms" of the states, which are discernible in laws regulating access to abortion, same-sex relationships, (whether civil unions, domestic partnerships, or marriage), and divorce. Ethnicity is also a factor since large African American and Latino populations affect the data in a number of areas.

Politicians and legislators would do well to study these findings. The authors conclude that laws should help families in the workplace through family leave and maternity benefits. More equality in marriage laws and "recognition of a wider variety of relationships" would be steps forward in their view. Two other conclusions are relevant for policy-makers: (1)

"Difficulties in access to contraception affect the abortion rate, and any greater restrictions on abortion would disproportionately disadvantage poorer women, and (2) The real threat to the red family world is declining marriage and high divorce rates for those who do not complete college."

— *Al Menendez*

Jesus and Gin: Evangelicalism, the Roaring Twenties and Today's Culture Wars, by Barry Hankins. Palgrave Macmillan, 2010, 252 pp., \$26.00.

Those who think Religious Right-inspired zealotry began in the 1970s need to read this overview of the 1920s, when an earlier version of conservative religious extremism held sway over the U.S. Some of the battles are eerily modern – evolution and immigration, for example. Religious fundamentalists fought against evolution and for Protestant devotionals and Bible reading in public schools and tried (successfully) to stop almost all immigration from Catholic and Jewish parts of Europe, as well as the non-Christian parts of Asia. Pentecostal and evangelical preachers dominated the airwaves. One preacher from Texas murdered an unarmed Catholic critic and was acquitted by a jury. Prohibition was national policy, supported by both evangelical and liberal Protestants, despite its obvious failures and unintended consequences. Religious prejudice doomed the presidential candidacy of New York Gov. Alfred E. Smith, with Protestant clergy leading the opposition. The newly revived Ku Klux Klan dominated politics from Oregon to Maine, with stops in Colorado and Indiana. Religious hucksters and clowns abounded. Hankins explains what the culture wars of the 1920s were about. "The 1920s saw a culture war between those who believed that community values preceded individual rights and those who believed that individuals had rights that the community could not violate."

The era began appropriately enough with the election of Warren Harding, about whom Hankins writes, "America's first Baptist president wore his religion loosely and his morality not at all. He was the most morally corrupt and wisdom-deficient man ever to occupy the White House."

Hankins makes the interesting observation that "theological liberals" (mostly Protestant) were often "cultural conservatives," favoring Prohibition and strict censorship of books and films. They opposed liberal individualists who stressed the autonomy of private judgment and intellectual freedom. Hankins argues, "The 1920s saw a titanic battle

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Books and Culture, *continued from page 19*

between fundamentalists and liberals in the northern Protestant denominations, with both groups convinced that America would be ruined if the other side won. . . . Ironically, as fundamentalists and liberals battled for the hearts and minds of Americans, neither could have contemplated that this decade was actually the last gasp for Protestant domination. Losing their hegemony in the face of an influx of Catholics and Jews, fundamentalist and liberal Protestants were forced into an uneasy alliance as they came to grips with their diminished control of the culture."

The roots of today's culture wars were clearly observable in the 1920s. "Religion in the 1920s was like religion today—divisive, flamboyant, controversial, and most of all, a central feature of American culture."

—Al Menendez

Empty Pulpits: Ireland's Retreat from Religion, by Malachi O'Doherty. Gill & Macmillan, Ltd., 2008, 254 pp. \$19.00.

The author states his case at the very beginning: "Ireland is almost unique. It is losing its faith much more rapidly than any other European country has done before, without a revolution. . . . There isn't any country in the western world that has swung from such absorption in church life to such indifference so quickly. . . . This collapse of religion, in one of the most conspicuously devout countries of Europe, is both fascinating and pertinent to an understanding of the world we live in."

Ireland proves that institutional religion can collapse in a generation or so, from a multitude of forces both inside the dominant religion and exterior to it. O'Doherty, a journalist based in Belfast, traces the evolution of this decay, which, he says, preceded the revelations of child abuse by clergy. The transition from a rural to an urban society, changes in education, and closer connections to an increasingly secular European continent were factors in the growing disillusionment.

So was the "Catholic reformation of the 1960s," which, instead of renewing and strengthening the church, led to many Catholics choosing to "stop going to church altogether, or disconnecting intellectually." He continues, "Catholic people themselves decide now what it is to be Catholic, and it may include a strange diversity of ideas and practices. The Catholic church no longer regulates the lives of most people in Ireland." As a result, there is "an increasing tension between the institutional church and the secular world."

The new secular Ireland is somewhat inconsistent, since religion still

wields considerable influence on education, social life (weddings and funerals), and public policy. And immigration from more conservative nations in Africa and Eastern Europe may influence future developments. "So where are we going? Ireland's limited secularization is challenged by a strong inflow of believers. The religious culture of the country is diversifying. It is one thing for past Irish governments to bend to the will of Catholic bishops in an almost homogenous religious culture, but the future is multiple and some of the religious principles that migrants are bringing with them are strange and abhorrent and we don't know what to do about them."

This book lacks the historic sweep and the vivid language of Mary Kenny's decade-old *Goodbye to Catholic Ireland*, but it's well worth a read.

—Al Menendez

50 Years Ago

I believe in an America where the separation of church and state is absolute—where no Catholic prelate would tell the President (should he be Catholic) how to act and no Protestant minister would tell his parishioners for whom to vote—where no church or church school is granted any public funds or political preference—and where no man is denied public office merely because his religion differs from the President who might appoint him or the people who might elect him.

I believe in an America that is officially neither Catholic, Protestant, nor Jewish—where no public official either requests or accepts instructions on public policy from the Pope, the National Council of Churches, or any other ecclesiastical source—where no religious body seeks to impose its will directly or indirectly upon the general populace or the public acts of its officials—and where religious liberty is so indivisible that an act against one church is treated as an act against all.

—John F. Kennedy. Address to the Ministerial Association of Greater Houston, September 12, 1960.