



VOICE OF REASON

Summer 1993

The Newsletter of Americans for Religious Liberty

No. 46

Vouchers, No; Public Schools, Si: Gallup/PDK

Three out of four Americans are opposed to tax support for nonpublic schools, according to the just released Phi Delta Kappa/Gallup Poll of the Public's Attitudes Toward the Public Schools. The 25th annual PDK/Gallup survey even found that nonpublic school parents opposed parochial aid by 55% to 45%. The question used was, "Do you favor or oppose allowing students and parents to choose a private school to attend at public expense?"

On a related question, by 63% to 34% respondents said that private schools accepting tax aid "should be accountable to public school authorities." Public school parents agreed 67% to 31%, but nonpublic school parents, wanting to have their cake and eat it too, disagreed 57% to 40%.

So much for the myth that there is a groundswell of support for voucher or tuition tax credit plans for tax support for or aid to nonpublic schools, about 90% of which are denominational religious institutions.

Choice among public schools within the community was favored 68% to 31% by public school parents, but by only 61% to 38% by nonpublic parents.

Another myth shattered by the PDK/Gallup survey is the one about massive public rejection of public schools. PDK/Gallup found that 68% of public school parents (63% of nonpublic parents) rate the nation's public schools average to excellent: 21% of public and 27% of nonpublic parents rated them D or F.

However, when asked about public schools in their own communities, 84% of public and 78% of nonpublic parents rated them OK to excellent. When asked to rate the school attended by their oldest child, 90% of parents rated them OK to excellent.

When asked to name the biggest problems faced by public schools in their communities, 24% of public school parents rated "lack of proper financial support" the top problem, well ahead of drug abuse (14%), lack of discipline (15%), and fighting/violence/guns (14%).

As for remedying that problem, 90% of those polled (93% of public, 86% of nonpublic parents) favored action "to improve the quality of the public schools in the poorer states and in the poorer communities." (For the entire poll, 64% of the sample had no children in school, 33% were public school parents, 5% were nonpublic parents; the total exceeded 100% as some parents have children in both public and nonpublic schools.) Increasing taxes to help schools in poorer areas was favored by 71% of public school parents, but only 60% of nonpublic parents. There was general agreement, 88%, that spending for public schools should be equalized regardless of whether

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California Vouchers Defeated

California voters on November 2 handed a crushing defeat to the advocates of tax support for sectarian and other private schools. The plan, a proposed amendment to the state constitution called Proposition 174, was defeated by 70% to 30%, or 3,336,763 votes to 1,452,392.

Publication of this newsletter was held up to wait for the results of the referendum.

A complete analysis of the California referendum will be in our next newsletter, due out before the end of the year.

ARL Publishes Four New Studies

Americans for Religious Liberty has published four new studies on church-state issues. All four fill significant gaps in the information readily available on a range of important current controversies. They may be ordered from ARL by mail.

The December Wars: Religious Symbols and Ceremonies in the Public Square, by ARL research director Albert J. Menendez (170 pp., hardback, \$18.95), surveys the history of Christmas and Hanukkah controversies from the fourth century Roman Empire to 1990s America. The book reveals, for instance, that many of the contemporary Americans who decry the removal of religious symbols from government buildings are the grandchildren or great-grandchildren of evangelicals who opposed the celebration of Christmas itself as unbiblical. Loaded with historical, theological, and legal information, *December Wars* relates the annual holiday controversies to the larger context of church-state relations. The book is a gold mine of information not available from any other single source.

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Voucher Threat Undiminished

Despite crushing referendum defeats in California in 1993 and Colorado in 1992, and despite adverse public opinion (from our page 1 report), voucher plans for massive public funding of nonpublic, mostly sectarian, schools will be the subject of intense political efforts for some time to come.

California could well have another referendum on vouchers in November 1994 as backers of this year's failed scheme try to remove some of the numerous bugs from their 1993 model for a rematch.

The Massachusetts legislature, which sits as a constitutional convention, is considering another attempt to amend the state constitution and remove its tight ban on tax aid for religious schools, in spite of resounding defeats for the parochiaiders in referenda in 1982 and 1986. (In all states except Delaware, amendments to state constitutions must be approved by voters in statewide referendum elections. Since 1966 parochiaiders have lost 19 of 20 statewide referenda, winning only a very minor one in South Dakota in 1986 by a small margin.)

Pennsylvania's legislature is being pressured, mainly by Catholic Church officials, to pass a voucher plan. An earlier plan was defeated two years ago.

Wisconsin lawmakers are wrestling with a tuition reimbursement tax credit proposal which would have the same effect as a voucher plan.

Jersey City, New Jersey, mayor Bret Schundler is pushing a voucher plan for his city. A similar movement is taking place in Fairfield, Connecticut, led by private school parents.

Virginia governor-elect George F. Allen favors vouchers and special tax breaks for parents who educate their children at home.

Colorado parochiaiders, though defeated 2 to 1 at the polls in 1992, have begun a new campaign to get a voucher plan on the ballot in 1994.

In Georgia voucher advocates are seeking to implement a state law to provide vouchers which was passed a generation ago to circumvent public school desegregation.

Although the Catholic bishops, Pat Robertson's Christian

Coalition, and other Religious Right activists and groups remain the backbone of the movement to get tax support for private schools, a new, well-healed umbrella organization, Americans for School Choice (ASC), was founded in October to spearhead the effort.

Leaders of the new group include Lamar Alexander, George Bush's secretary of Education; William Bennett, Ronald Reagan's Secretary of Education; Sen. Connie Mack (R-FL); Rep. Dick Arney (R-TX); William Bentley Ball, a Pennsylvania attorney who has long served the interests of the Catholic bishops and a leading parochiaid advocate; Wisconsin Gov. Tommy Thompson (R) and Massachusetts Gov. William Weld (R); and Thomas P. Melady, former U.S. ambassador to Burundi and the Holy See.

ASC plans to build political organizations in at least 25 states in 1994, and to organize voucher initiatives in five target states in 1994 and eight more states in 1996. The group plans legislative initiatives in four states in 1994 and eight other states in 1995.

The new organization plans full scale political campaigns, with ASC providing organizing, communications, research, legal, fundraising, and advertising services for locally based voucher groups.

ASC's board of trustees is to be composed of "individuals who will serve by virtue of having raised or contributed at least \$25,000 annually to the organization." The group says in its introductory brochure that "the bulk of the money to support this organization will come from large donors," in addition to direct mail fundraising.

ASC will probably push for a distortion of the "charter school" idea in addition to campaigning for vouchers. Charter schools generally are elements of local public school districts which, while under public control, are allowed great leeway for experimentation and innovation. However, there have been attempts by Religious Right groups to take over public charter schools and run them rather like religious private schools.

Americans for Religious Liberty has opposed voucher plans since its founding in 1981. ARL has published three books illuminating the issue: *Church Schools and Public Money: The Politics of Parochiaid* (1991), *Visions of Reality: What Funda-*

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Americans for Religious Liberty is a nonprofit public interest educational organization dedicated to preserving the American tradition of religious, intellectual, and personal freedom in a secular democratic state. Membership is open to all who share its purposes. Annual dues are \$25 for individuals, \$30 for families; \$10 for students and limited income.

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amentalist Schools Teach (1993), *Catholic Schools: The Facts* (1993). (See the book ad in this issue.)

As ARL and other groups have repeatedly pointed out, voucher plans violate church-state separation, compel taxpayers to support pervasively religious institutions, threaten public education, diminish public control over public spending, and support the various forms of indoctrination and discrimination common in nonpublic schools. ■

Money Makes No Difference?

Public education bashers like to say that throwing dollars at public schools does not improve education, that money makes no difference. A favorite ploy is to show that the states which spend the least per student on public education, a 1989-90 average of \$3,272 in Utah, Idaho, Mississippi, Arkansas, South Dakota, Louisiana, and Alabama, have

student SAT scores higher (993 average) than those of the states which spend the most per student, a 1989-90 average of \$7,252 in New Jersey, New York, Connecticut, Alaska, Massachusetts, Rhode Island, and Maryland (900 average). Figures don't lie, do they?

Figures don't lie, but they can be manipulated, as the bashers are wont to do. In the low-spending states only 6% of high school seniors took the SAT in 1990 and they were the cream of the crop. In the high-spending states 69% of seniors took the SAT, which takes in a great many students of lower ability and from families with lower incomes. We also know that average SAT scores are about 200 points higher for kids from well-off families than those for kids from low income families.

Money does make a difference. Improving public education requires more money than politicians are willing to spend. Our national priorities do not seem to include the best possible education and the support services that should go with it for every child in America. ■

Commentary

Forward to the Past

With Pope John Paul II scheduled to visit Denver in mid-August, it occurred to me in mid-July that it might be appropriate to write an article about the new Catechism of the Catholic Church which the pope formally approved on October 11, 1992. As the first complete statement of official Catholic Church doctrines and teachings since the Reformation, the new Catechism should be of interest to many who are concerned about the policies and actions of the headquarters of the largest religious body in the U.S. and the world. Notice that I refer to the *leadership* of the Catholic Church, the unelected power structure that actually speaks for only a fraction of the people who identify their religious preference as Catholic.

But—*mirabile dictu!*—when I tried to get a copy of the document, I found that it had not, and still has not, been published in English. The delay is ostensibly due to disagreements over how to deal with gender in the English translation. Maybe, and maybe not. Maybe the delay is/was due to the desire of the Pontiff (why do the media insist on using that ridiculous term that the popes borrowed from the ancient Roman emperors—“pontifex maximus,” the “bridge between heaven and earth”?) to avoid controversy or perhaps even embarrassment in a religious body riven by controversies over birth control, abortion, divorce, ordination of women, the right of priests to marry, the population problem, church finances, clerical child abuse coverups, and the present pope's hard driving conservatism.

While English-speaking Catholics and other interested persons were being denied the opportunity to examine the very latest word in papal dogma, I found it rather simple to get my hands on the 702-page Spanish edition, published in Madrid, before the bookstore responded to a Vatican order to recall the book.

I wrote an op-ed piece about the new Catechism, a real journalistic scoop, but not a single newspaper or weekly would touch it.

Here then is the core of the “scoop” which the other media chose not to use:

“There is much in the new Catechism with which the majority

of both Catholics and non-Catholics would agree, especially regarding social justice issues. But many Catholics and certainly most non-Catholics would disagree with and/or be offended by other portions of the document.

“The following are some of the points of disagreement, particularly as they touch on matters that go beyond personal religious belief, though of course no short article could adequately deal with a subject as vast as the official summary of teachings of the Catholic Church. (The numbers after each citation refer to the 2,865 numbered sections in the Catechism.)

“The task of authentically interpreting the word of God, spoken or written, has been given only to the living Magisterium [teaching authority] of the [Catholic] Church, which it exercises in the name of Jesus Christ, that is to say, to the bishops in communion with the successors of Peter, the bishop of Rome’ (85).

“In an apparent retreat from the spirit of the Second Vatican Council, 1962-65, the Catechism states that, ‘The Roman Pontiff, in effect, has in the Church, by virtue of his functions as Vicar of Christ and Pastor of the whole Church, full, supreme and universal power, which he can exercise with complete liberty’ (882). Further, the bishops ‘have no authority separate from the Roman Pontiff’ (883).

“Priests are required to be celibate (915). The document is silent on the ordination of women.

“For the marriage of a Catholic and a non-Catholic to be valid in the eyes of the Catholic Church, Church permission is required and the Catholic party is required to promise to do all possible to have the children baptized and raised as Catholics (1635). Divorce is not permitted (1644), being considered ‘a grave offense against the natural law’ (2384).

“With regard to family planning, ‘every matrimonial act must remain open to the transmission of life’ (2366), which proscribes all forms of contraception; only ‘periodic continence’ may be used for birth control (2370). Artificial insemination and surrogate motherhood are prohibited (2376, 2377). Human personhood is considered as beginning ‘at the moment of con-

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Forward to the Past

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ception' (2270), abortion is termed a grave wrong subject to excommunication (2272), and the state should not permit abortion (2273).

"Religious liberty may be subjected to 'just limits' by state authorities 'in conformity with the objective moral order' (2109), which somehow is not very reassuring to people of other persuasions.

"Sections 2211 and 2229 say that the state must assure to families 'the means and necessary institutions' for religious education, which obviously means tax subsidies for denominational schools.

"While every religious organization has the right, under the U.S. constitutional arrangement of separation of church and state, to have, to express, and to teach its doctrines and set its own internal rules, public interest is understandably aroused when the largest religious body in the country takes controversial positions which affect the lives of many millions of Americans outside its membership. Concern is heightened further by the fact that this religious body alone has been granted official U.S. government diplomatic recognition since 1984, an arrangement, just reapproved by the U.S. Senate in June with no public discussion, which allows the leader of that church to go over the heads of his church's American adherents to deal directly with our national political leadership.

"It should be saddening to Catholics and non-Catholics alike that this new compilation of the largest church's doctrines seems in both form and substance to retreat from the liberating, progressive spirit of Pope John XXIII and the Second Vatican Council."

Finally, from a public policy point of view the new catechism can be seen as part of a campaign to undermine church-state separation and weaken the rights of conscience of Catholics and non-Catholics alike. ■

— Edd Doerr

Old Whine in New Bottles?

Is the Religious Right changing its colors? Its sense of direction? Is it becoming more moderate, noncontroversial and less sectarian as it seeks wider acceptance? It depends on who is doing the talking and to whom.

Wading into the debate was Ralph Reed, Jr., the thirty-two-year-old *wunderkind* and executive director of Pat Robertson's Christian Coalition. Reed suggested in the Summer 1993 issue of *Policy Review* that fundamentalist Christians and other "pro-family activists" had "limited their effectiveness by concentrating disproportionately on issues such as abortion and homosexuality" and had "put too much emphasis on political solutions to America's social problems." Reed added that "the pro-family movement's political rhetoric has often been policy-thin and value-laden." He also admitted that his movement has "enormous financial resources," which has somehow escaped mention in the Religious Right's numerous fund-raising appeal letters.

Reed urged religious rightists to concentrate on "tax cuts, education vouchers, higher wages, and retirement benefits" and downplay their views on abortion, gay rights and school prayer.

Reed's bosses at the Christian Coalition were not impressed

or amused. At the September annual meeting held in Washington, D.C., Christian Right activists showed little interest in broader social or political agendas. Robertson himself indicated that his movement intended to focus mostly on the social and cultural issues. (Robertson also came out against NAFTA, even though Reed endorsed it.)

The 2,000 activists who attended the Christian Coalition's annual convention left no doubts about where their loyalties lay. They booed the Democratic Party's national chairman, gave lukewarm applause to Jack Kemp, Phil Gramm and Bob Dole. But they stood up and cheered commentator Pat Buchanan and former Secretary of Education William Bennett, who both gave hardline addresses stressing family, culture and religion. Bennett told the gathering not to moderate their divisive positions, while Pat Buchanan encouraged the Religious Right to abandon the GOP if the 1996 platform hedges or modifies the harsh, dogmatic anti-abortion planks of 1992. Said Buchanan, "It's time to found a new party," if Republicans waiver on abortion or other cultural issues like pornography and censorship.

Martin Mawyer, president of the Christian Action Network, which fights gay rights and favors censorship and/or defunding of the National Endowment for the Arts, denounced any attempt to moderate the political stances of the Religious Right. Writing in the *Washington Post* Mawyer accused Reed and others of being "shortsighted and unprincipled." He concluded, "Our goal is not to increase our political power by deceiving the American public through talk of taxes, crime, health care and NAFTA. Our real concerns are abortion, school prayer, and gay rights."

Most observers of the byzantine politics of the Religious Right agree with Mawyer's assessment. This movement is grounded in fundamentalist theology and has no real interest in secular domestic or foreign policy issues, unless a "Biblical mandate or principle" can be discerned.

Even Ralph Reed is beginning to get the message. He told the Christian Coalition gathering that the "pro-life position is a winning position . . . and to do anything to backpedal from that position would be a disaster at the ballot box." In February Reed wrote that the GOP abortion platform position "is likely to change in 1996" and that religious conservatives should be prepared to accept a more moderate statement.

Meanwhile, the Religious Right continues to gnaw away at the Republican Party apparatus, state by state. At least 18 state Republican parties have come under the domination of religious zealotry. ■

— Al Menendez

Oh!

"I want you to just let a wave of intolerance wash over you. I want you to let a wave of hatred wash over you. Yes, hate is good. . . . [I]f a Christian voted for Clinton, he sinned against God. It's that simple. . . . Our goal is a Christian nation. We have a biblical duty, we are called by God, to conquer this country. We don't want equal time. We don't want pluralism."

Randall Terry, founder of Operation Rescue, speaking recently at an anti-choice rally at a church in Indiana.

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Update

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reported death threats to staff, 18% reported bomb threats; 10.3% experienced chemical attacks, 1.8% reported arson. On October 18 federal authorities arrested a Louisiana man in connection with a clinic fire in Houston after his wallet was found on the clinic's roof. In November 14 anti-choice activists convicted of trespassing and blocking pedestrian traffic at Indiana clinics were fined \$7,100 and required to attend a program presented by Planned Parenthood staff. In October police arrested 68 anti-choice demonstrators for blocking Senator Edward Kennedy's office.

Attorney General Janet Reno promised on October 30 to thoroughly investigate violence by anti-choice activists.

On October 5 the Supreme Court rejected the appeal of a New Jersey man who tried to prevent his girlfriend from getting an abortion on the ground that fetuses are persons with rights. The state courts had earlier rejected his claim.

U.S. Surgeon General Dr. Joycelyn Elders, confirmed by the Senate over the objections of anti-choice interests, urged American women to retaliate at the voting booth if Congress votes to leave abortion services out of President Clinton's health care plan.

Wyoming may have a statewide referendum in 1994 on a proposal to ban nearly all abortions and some forms of birth control. Pro-choice groups are in court trying to block the vote on the ground that the initiative violates the U.S. Constitution and that the anti-choice initiators failed to gather enough signatures.

Colorado anti-choice activists are in the state courts challenging the constitutionality of a state law protecting access to clinic entrances.

The proposed merger of St. Clares/Riverside hospital, a Catholic institution, and Dover General in New Jersey will mean the end of abortions at Dover. Similar mergers in other states in recent years have also had the effect of lessening access to abortion services.

As part of an agreement to combine operations with Catholic St. Vincent's Hospital, Community Hospitals Indianapolis will stop providing abortion services. Jewish Hospital in Cincinnati has decided to eliminate nearly all abortion services, leaving only one local hospital which does.

Connecticut Gov. Lowell Weicker has signed into law a bill to ensure access to clinics.

In 1988 Michigan ended nearly all funding of abortions for poor women. A study published in the October *Obstetrics & Gynecology* shows that while the ban saved the state \$6-7 million on abortion procedures, it ran other medical costs up between \$23 million and \$63 million.

Roussel-Uclaf, the French manufacturer of the abortifacient drug RU-486, agreed in April to allow the U.S.-based Population Council to test and market the drug, but as of mid-October Roussel-Uclaf had not yet signed a contract.

The Arthur S. DeMoss Foundation has reportedly spent \$20 million over the last two years airing anti-choice 30-second TV spots.

William Webster, former Missouri attorney general and unsuccessful Republican gubernatorial candidate in 1992, was sentenced to two years in prison in September for using state employees and equipment in his campaign. Webster argued the 1989 Supreme Court case which resulted in a ruling weakening abortion rights.

Catholic Senators Back Elders Nomination

Despite attempts by the Catholic League for Religious and Civil Rights and leading members of the U.S. hierarchy to label President Clinton's nominee for Surgeon General, Dr. Joycelyn Elders, "anti-Catholic" because of her criticism of unnamed "celibate religious leaders," Roman Catholic members of the U.S. Senate ignored the criticism. Catholic Senators voted 15 to 6 in favor of her confirmation in September. (One Catholic Republican, Frank Murkowski of Alaska, did not vote.) The vote generally followed party lines. One Catholic Republican, David Durenberger of Minnesota, voted yes, while one Catholic Democrat, John Breaux of Louisiana, opposed the nomination. Thus, 71% of Catholic Senators, compared to 64% of non-Catholic Senators, supported Dr. Elders, who favors vigorous birth control measures and supports freedom of choice on abortion. She was confirmed by a 65 to 34 vote of the whole Senate despite acrimonious debate. Thirteen Republicans supported her, while four Democrats were opposed.

Girl Scouts Accept Pluralism

Delegates to the Girl Scouts national convention voted 1,560 to 375 on October 23 to allow individual scouts to omit or replace the word "God" in their scout promise in accordance with individual belief. The Girl Scout promise states: "On my honor I will try to serve God and my country, to help people at all times, and to live by the Girl Scout Laws."

Girl Scout leaders said the change recognizes growing religious diversity among the 2.6 million U.S. Girl Scouts.

Former Reagan aide Gary Bauer, now president of the ultra-conservative Family Research Council, said his group opposed the change.

The Boy Scouts of America, on the other hand, continue officially to deny membership to nontheistic or nonreligious boys. California courts have ruled against the discrimination in the case of the Randall twins, while a Chicago federal court ruling favoring the Boy Scouts is on appeal to the Supreme Court.

Meanwhile, the Associated Press has just broken the story that about 1,800 scoutmasters and other volunteers were dismissed by the Boy Scouts between 1971 and 1991 on suspicion of child abuse. California lawyer Michael Rothschild obtained 35,000 pages of files on the subject under a court order last year.

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Introduction by John M. Swomley

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Washington Amendment Approved

In a little publicized referendum in Washington State on November 2, the state's voters approved, 57% to 43%, an amendment to the state constitution to allow counties and public hospital districts to hire chaplains. The phrase "or by a county's or public hospital district's hospital, health care facility, or hospice," was added to the existing provision in the state constitution (Art. I, Sec. 11) which, after prohibiting tax aid for religious institutions or instruction, stipulates that, "Provided, however, that this article shall not be so construed as to forbid the employment by the state of a chaplain for such of the state custodial, correctional or mental institutions as in the discretion of the legislature may seem justified."

Opponents said the measure would weaken the state constitution's otherwise strong church-state separation provisions and allowed personnel decisions based on religion.

Creationism in Vista

Since a bare majority of self-described "biblical literalists" took over the school board in Vista, a town just north of San Diego, they have been seeking a way to get the fundamentalist doctrine of creationism into the district's public schools. Faced with an adverse U.S. Supreme Court ruling in the 1980s and threats of lawsuits, the board voted 3-2 in August to encourage "discussions of divine creation, ultimate purposes, or ultimate causes . . . at appropriate times in the history-social sciences and/or English-language arts curricula." The district's teachers are not cooperating.

One of the creationism promoters on the board is John Tyndall, who is an executive of the Institute for Creation Research, headquartered near Vista. The ICR is the main publisher of creationist textbooks and literature.

ARL executive director Edd Doerr attended a meeting of the Vista board last spring and addressed a meeting of parents upset by the antics of the board majority.

Religious Schools to Lose Grants

Federal officials announced on October 20 that they would no longer provide Pell program higher education grants to 20 schools in New York City and New York's Rockland County. The schools are all associated with the Lubavitch and Satmar sects of Hasidic Judaism. According to the *New York Times*, the schools did not meet the government requirement that their programs lead to "gainful employment in a recognized occupation," and there is evidence that they had falsified applications for federal Pell grants. The 20 schools had been awarded about \$8 million in Pell grants earlier this year.

Robertson's Law

Televangelist-political activist Pat Robertson's law school, Regent University School of Law, which he acquired from the Oral Roberts Law School when it ran out of steam in the 1980s, is in hot water with the American Bar Association and may not receive full accreditation.

All classes at Robertson's school begin with as much as ten minutes of prayer. All faculty members are required every three years to "acknowledge by contract" that they have a "personal relationship" to Jesus, and are required annually to subscribe to a seven-point "statement of faith."

Trouble began in July when Regent dumped Herbert A. Titus as dean. A majority of the faculty filed a formal complaint with the ABA, charging that Titus' dismissal violates the ABA's tenure standards.

Robertson and his trustees reportedly wanted Titus to exchange the deanship for a professional chair with a \$300,000 expense account. Robertson explained that he wanted Titus to become "a Christian Laurence Tribe," referring to the eminent Harvard constitutional law professor.

Stay tuned.

Robertson Must Pay

The Federal Election Commission has ruled that televangelist-politician Pat Robertson must repay the U.S. Treasury \$290,793 for a number of election law violations during his 1988 campaign for the Republican presidential nomination. The FEC also held that Robertson's campaign must return \$105,634 to news media groups overbilled by his organization.

People for the American Way has called on the FEC to investigate Robertson's new political group, Christian Coalition. PAW's Arthur Kropp said recently that, "Many questions have been raised about the political activities of tax-exempt Religious Right organizations."

International

Ottawa: The Canadian Supreme Court ruled unanimously on September 30 that the 1989 Nova Scotia law banning abortion clinics exceeded provincial authority and therefore is no longer in effect. The ruling was another in a long string of victories for Dr. Henry Morgentaler, the most important figure in the development of abortion rights in Canada. In this case the Nova Scotia government admitted that one reason it enacted the law was to keep Dr. Morgentaler out of the province.

Rome: The Vatican announced on October 16 that it would cooperate with Italian magistrates who are reported to suspect that the Vatican bank, the Institute for Works of Religion, may have been used to filter \$56 million in bribes in Italy's corruption scandal. The bank was caught up in 1982 in the collapse of the Banco Ambrosiano, the country's largest bank, which lost \$1.3 billion in bad loans.

Warsaw: Church-state relations continue to deteriorate in Poland. The July signing of a new Concordat between the Polish state and the Catholic Church represents the pinnacle of the Church's return to political influence and power in a nation where 95% of the population are at least nominal adherents.

A Concordat is a treaty between the Holy See and a secular government which regulates the Catholic Church's activities, clarifies its public role, and often guarantees it exclusive rights and privileges not extended to other religious groups. Concordats traditionally reaffirm the right of church schools to exist and often pledge the state to assist them financially. Other areas frequently addressed in concordats include family life, divorce law, birth control and abortion.

The Polish Concordat pledges the state to guarantee provision for religious instruction in state elementary and secondary schools, allows the Church to develop its own program of Catholic education classes in the schools and provides that only teachers authorized by a local bishop will be allowed to teach religion. This provision conflicts with a recent court ruling from

the Constitutional Tribunal, the nation's supreme court, which held that teachers of religion cannot be dismissed at the whim of church authorities.

The State also agrees to make funds available for the restoration and conservation of churches and religious buildings designated as historical or architectural landmarks. Finally, the State will proclaim August 15, the Feast of the Assumption of Mary in the Church's calendar, as a public holiday.

Concern over growing church power in Poland is fueling a voter backlash. The church-backed Catholic Election Coalition received only 6.4% of the vote in the September 19 parliamentary elections. A Democratic left Alliance, which pledged overturn of recent anti-abortion legislation, led the balloting and won the largest number of seats in the new parliament.

Manila: The Catholic Church and the Philippine government, led by President Fidel Ramos, a Protestant, are clashing openly and acrimoniously on the subject of birth control. The Philippines, where 85% of the growing population of 65 million is Catholic, is the largest nation in the world which bans divorce. It has also traditionally made contraception difficult to find. The nation's rate of population growth is 2.48% per annum, the second highest in Asia.

President Ramos has made the widespread use of contraception a cornerstone of his economic policy and has publicly warned that the nation's economic progress could be halted unless the population growth rate is reduced.

Cardinal Jaime Sin, Archbishop of Manila, issued a pastoral letter branding the government policy "anti-life," and encouraged health workers and government officials to refuse to participate in birth control programs. The Ramos government has threatened to fire employees who sabotage the program, as Cardinal Sin suggested.

Dublin: A recent *Irish Times* poll found that 64% of respondents favored ending Ireland's constitutional ban on divorce; 71% said women should have access to information on abortion; 41% said abortion should be legal in cases of threat to a woman's life; 67% opposed the ban on marriage by priests; fewer than 25% opposed abortion under all circumstances.

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Books

The Culture of Disbelief: How American Law and Politics Trivialize Religious Devotion, by Stephen L. Carter, Basic Books, 328 pp., 1993, \$25.

This Yale law professor's provocative book is important mainly because it has been touted by Yale Law alumnus Bill Clinton.

Carter is concerned that "our political and legal cultures treat religious beliefs as arbitrary and unimportant." He writes, "There may have been times in our history when we as a nation have tilted too far in one direction, allowing too much religious sway over politics. But in late-twentieth-century America, despite some loud fears about the influence of the weak and divided Christian right, we are upsetting the balance afresh by tilting too far in the other direction—and the courts are assisting in the effort."

He stresses this point. "Our secular politics is unlikely to become the servant of any single religious tradition; the nation has become too secure in its diversity to allow that travesty to occur. But it is quite possible for religion to become the servant of secular politics." Clearly he underestimates the power of religious militancy and extremism and the impact that religiously intolerant and authoritarian groups are having on the political, educational, and legal frameworks of our society.

Carter is right on some issues but abysmally wrong on others. On the good side he refers to church-state separation as "the durable and vital doctrine that shields our public institutions from religious domination and our religious institutions from government domination." He also affirms that "religions that most need protection seem to receive it least," referring to free exercise claims of minority religious groups under the Rehnquist Supreme Court. He says that "religious pluralism and equality—*never* mere 'toleration'—should be essential parts of what makes American democracy special."

On government-sponsored creches and religious symbols on public property he says, "In a world of religious equality this plain religious preference by the government is insupportable." He worries that "the political process will protect only the mainstream religions, not the many smaller groups that exist at the margins." There is ample evidence to support that view.

Carter criticizes government-sponsored school prayer. "By choosing among possible prayers, and then forcing its choice on impressionable children who look to their schools for guidance, the state in effect coerces religious adherence. . . . The powers of the state should not be used to coerce religious belief, and it is impossible to design a noncoercive approach to school prayer."

Unfortunately, Carter is wrong on many other subjects. A conservative Episcopalian, who sends his children to private religious schools where their religion can be "celebrated and not demeaned," he thinks it unfair for parents not to be able to receive tax support for their children to attend private and church run schools. He buys the argument that there is strong public support for "voucher programs and other tax support for private schools, including religious schools," ignoring the referenda in almost twenty states over the last quarter century that indicate the opposite. Instead, he accepts highly questionable polling data. He also says that private and parochial schools are more integrated than public schools. This statistical sleight of hand is simply not mathematically or rationally correct. In one section it compares apples with oranges. He says that the percentage of black children in Catholic schools in Washington,

D.C., is about the same or slightly lower than that for the city as a whole. He should not compare the Catholic school population to the whole population in Washington, but to its public school population, and he will find that about 64% of Catholic school students are black, compared to 95% in public schools. He also says parents who seek religious education for their children are more concerned with reinforcement of family values than they are in specific religious aspects. Even if that were true, it does not make tax aid to those schools any more constitutionally permissible.

He is also wrong when he says, "our history suggests that the Founders intended to allow states to establish religions, and, certainly did not intend to proscribe state support for religion." Many constitutional scholars have shown this interpretation to be faulty.

In some areas Carter overstates his case. He says, "The potential transformation of the Establishment Clause from guardian of religious liberty into a guarantor of public secularism raises prospects at once dismal and dreadful." There are very few separationists and/or religious or political liberals who would use the Establishment Clause to obliterate religion in America or persecute religious people. Carter claims, "When citizens do act in their public selves as though their faith matters, they risk not only ridicule, but actual punishment." If this were true, why is it that virtually every member of Congress and every state legislature claims a religious affiliation?

Carter wants to preserve church-state separation without "trivializing" faith, but such trivializing is not a constitutional issue. He argues, "Our culture has come to belittle religious devotion, to humiliate believers, and, even if indirectly, to discourage religion as a serious activity," adding that "democracy is best served when the religions are able to act as independent moral voices interposed between the citizen and the state." Carter's fears are exaggerated. After all, in the U.S. more people attend church and are more involved in religious activity than in any other major nation in the world.

Carter is concerned about how religion is taught in public school, as are many thoughtful Americans. He believes that religion deserves a more vital role in the curriculum, and is aware that teaching about it objectively is difficult. But again he overstates his case when he writes, "One problem with the public school curriculum is that the concern to avoid even a hint of forbidden endorsement of religion has led to a climate in which teachers are loath to mention religion." The real situation is much more complicated.

He argues that religion is unfairly excluded from political life but shows no concern that religious based political parties or movements are inherently dangerous to democracy. Carter shows little sensitivity to the dangers of religious oppression in America, evidence of which is found abundantly both in our history and in the history of other nations. He ignores Chief Justice Warren Burger's warning that "political division along religious lines" was one of the principal evils that the First Amendment was designed to prevent.

There are many errors in the book. The *Lee v. Weisman* graduation prayer case came from Rhode Island, not Long Island. The author or his editor apparently does not know the difference between a jeremiad and a jihad. Kansas is no longer a "dry" state, having abolished statewide prohibition in 1958. The Catholic theologian is Richard *McBrien*, not *O'Brien*. The Supreme Court has not upheld tuition reimbursement tax credits, but only limited tax deductions. John Dewey was not anti-religious.

Finally, though Carter's book is stimulating and thoughtful, it is riddled with confused interpretations of fact and history, lapses of logic, and fuzzy thinking. And from the book's extensive notes it is clear that the author relied too heavily on conservative sources.

— *Albert J. Menendez and Edd Doerr*

A Standard for Repair: The Establishment Clause, Equality, and Natural Rights, by T. Jeremy Gunn, Garland Publishing Co., 225 pp., \$45.

In this exhaustively researched, well documented book, attorney Jeremy Gunn answers the increasingly vocal legal revisionists and "accommodationists" who argue that "the 'wall of separation' metaphor is inappropriate for explaining the relationship between religion and government." Gunn shows that although the country's founders did not have a precise definition of the word "establishment," they certainly did not intend that the First Amendment's "establishment clause" should mean what today's "accommodationists," such as Chief Justice Rehnquist, say it means, i.e., that it's OK for government to aid and support religions nonpreferentially.

Gunn traces the development of the Constitution and Bill of Rights and shows that these founding charters are based on the then almost universally held view, expressed in the Declaration of Independence, that a central purpose of government was/is to protect, not grant, the inherent natural equal rights of the people. Thus, today's church-state separationists are far more closely in tune with the constitutional founders' "original intent" than today's ultraconservative and Religious Right "accommodationists."

Gunn makes the telling point that Chief Justice Rehnquist, a leading "accommodationist," in pushing his revisionist view of the establishment clause, used the same sort of logic that Chief Justice Taney used in the 1857 *Dred Scott* ruling upholding slavery.

A Standard for Repair will be most useful to litigators and legal scholars engaged in the increasingly difficult task of defending the Jeffersonian-Madisonian wall of separation.

— *Edd Doerr*

Challenging the Christian Right: The Activist's Handbook, by Frederick Clarkson and Skipp Porteous. Institute for First Amendment Studies, Inc., PO Box 589, Great Barrington, MA 02130, 290 pp., \$20.

This superb guide to the resurgent Christian political right in America is now available in a second edition and is essential for those who wish to keep abreast of the ever changing nature of religious right groups. The authors have brought together a prodigious amount of research and information which are available in no other single source.

(continued on page 12)

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Update

continued from page 11

One of the best features of the book is an analysis of the top ten Christian right groups in terms of their membership, scope, and activities. That section alone is indispensable.

This is a highly recommended and essential reference work. No one should be without it.

— Al Menendez

Shadows of Forgotten Ancestors: A Search for Who We Are, by Carl Sagan and Ann Druyan, Random House, 505 pp., \$23.00.

The Diversity of Life, by Edward O. Wilson, Harvard University Press, 424 pp., \$29.95.

With fundamentalist attacks on teaching evolution continuing and with public knowledge of science at a low ebb, this new book by the Sagans is especially welcome. *Shadows* is a readable, fascinating, extraordinarily comprehensive review of evolution and human origins, with an excellent explication of the genetics of evolution.

Just as extraordinary but of even more pressing importance is Wilson's book. Wilson, the dean of biodiversity studies, gives us a beautifully written, encyclopedic survey of the development of life forms and their diversity on our planet, and sounds a clear warning that human population growth and resource exploitation now seriously threatens not only a large percentage of living plant and animal species but also the survival and health of our species. Like Vice President Al Gore (in his excellent 1992 book *Earth in the Balance: Ecology and the Human Spirit*), Wilson calls for citizen and government action to halt the rapidly accelerating destruction of our global biological environment. We ignore their warnings at our peril.

Both Wilson and Gore make it obvious, though perhaps with inadequate emphasis, that human population growth must be held to levels that can be comfortably sustained indefinitely by the biosphere. This implies that clericalist and other opposition to sensible, humane population control programs is stupid and criminally irresponsible.

Both Sagan and Wilson are members of ARL's National Advisory Board.

— Edd Doerr

Hard Choices, Lost Voices: How the Abortion Conflict Has Divided America, Distorted Constitutional Rights, and Damaged the Country, by Donald P. Judges, Ivan R. Dee, \$25.00.

This book by a University of Arkansas law professor contains a wealth of material on the evolution of U.S. law on the abortion rights question, up to date as of the end of 1992, together with useful material on fetal development and the history of the abortion laws in the U.S. He critiques *Roe v. Wade* and also the series of subsequent rulings which have steadily weakened that *magna carta* of reproductive rights. Curiously, however, he devotes little attention to the core of the abortion rights controversy, the effort by religious ultraconservatives to have government impose their restrictive views on all women by law. And while the author alludes to Carl Sagan's excellent *Parade* article on the light that science sheds on the question of fetal "personhood," he ignores more extensive treatments of that subject, such as ARL's book *Abortion Rights and Fetal 'Personhood'* (1989), some of the science material of which was incorporated in an important *amicus curiae* brief to the

Supreme Court in the 1989 *Webster* case signed by twelve Nobel laureate biologists and 155 other scientists.

The author makes it clear that the legal support for the fundamental right to freedom of conscience on abortion has been seriously eroded by conservative Supreme Court justices like Rehnquist, White, and Scalia.

— Edd Doerr

No Longer Exiles: The Religious New Right in American Politics, edited by Michael Cromartie, Ethics and Public Policy Center, 153 pp., \$18.95.

Four political scientists and historians take a careful look at the religious right and the American political landscape today. These essays, and the published responses of several observers, appeared originally as addresses at a 1990 conference sponsored by a conservative Washington think tank (and the book's publisher).

All agree that division within the ranks of the Christian Right, reflecting the political and theological diversity of its major constituencies, has reduced its potential influence. It can point to few major victories on the national level. But all agree that religious rightists have seized the initiative in many local areas over highly visible and contentious issues that continue to engage the public.

The University of Wisconsin's Robert Booth Fowler argues that "the reality of pluralism in the modern United States" is "the greatest challenge" that the Religious Right faces. University of Virginia sociologist James Davison Hunter is convinced that "the new Christian Right has been more concerned with enforcing public morality through legal and political means than with cultivating public virtue."

— Al Menendez

A History of Christianity in the United States and Canada, by Mark A. Noll, Eerdmans, 576 pp., \$29.95.

Professor Noll has done an admirable job of telling the story of Christianity's role in North American history. His volume deserves commendation because he includes a major treatment of Canada, whose religious history is quite different from that of the U.S. Noll also devotes considerable attention to the French and Spanish colonial period of our history, usually ignored by other historians.

— Al Menendez

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